

### **5:9-1. Short title**

This act shall be known and may be cited as the "State Lottery Law."

L.1970, c. 13, s. 1, eff. Feb. 16, 1970.

### **5:9-2. Purpose of act**

This act is enacted to implement the amendment of Article IV, Section VII, paragraph 2, of the Constitution of New Jersey, approved by the people in the general election of November, 1969, and to carry out the mandate thereof by establishing a lottery to be operated by the State, the entire net proceeds of which are to be used for State institutions and State aid for education.

L.1970, c. 13, s. 2, eff. Feb. 16, 1970.

### **5:9-3 Definitions.**

3. For the purposes of this act:
  - a. "Commission" shall mean the State Lottery Commission established by this act.
  - b. "Division" shall mean the Division of the State Lottery created by this act.
  - c. "Lottery" or "State lottery" shall mean the lottery established and operated pursuant to this act and includes all lottery games organized or conducted by the division prior to and after the effective date of P.L.2017, c.98 (C.5:9-22.5 et al.).
  - d. "Director" shall mean the Director of the Division of the State Lottery.

L.1970, c.13, s.3; amended 2017, c.98, s.9.

### **5:9-4. Division of the state lottery; establishment**

There is hereby established in the Department of the Treasury a Division of the State Lottery, which shall include a State Lottery Commission and a director.

L.1970, c. 13, s. 4, eff. Feb. 16, 1970.

### **5:9-5 State lottery commission; members.**

5. The commission shall consist of the State Treasurer and six public members, all of whom shall be residents of this State and all of whom shall be appointed by the Governor by and with the advice and consent of the Senate. No more than three of the six public members shall be members of the same political party. The public members shall be appointed for terms of 5 years, except that of the members first appointed, one shall be appointed for a term of 1 year, one for a term of 2 years, one for a term of 3 years, one for a term of 4 years, and one for a term of 5 years, commencing as of the date of their appointment by the Governor. The term of each of the members first appointed shall be designated by the Governor. The term of the additional public member appointed pursuant to this 1983 amendatory act shall be five years. The members shall annually elect one of the public members as chairman of the commission and shall also annually elect one of the public members as vice chairman of the commission.

During the term of the lottery contribution made pursuant to section 4 of P.L.2017, c.98 (C.5:9-22.8), the commission shall consist of the State Treasurer, the Director of the Division of Investment, and five public members, all of whom shall be residents of this State, and all of whom shall be appointed by the Governor with the advice and consent of the Senate. No more than three of the five public members shall be members of the same political party. When the lottery contribution begins, the Governor shall select one public member, who is serving on the effective date of P.L.2017, c.98 (C.5:9-22.5 et al.), for termination of the member's service. Members of the commission serving on the date of enactment of the "Lottery Enterprise Contribution Act," P.L.2017, c.98 (C.5:9-22.5 et al.), not terminated by the Governor shall continue to serve for the remainder of their terms.

Any vacancy in the commission occurring for any reason other than the expiration of term shall be filled for the unexpired term in the same manner as the original appointment.

Any public member of the commission may be removed from office by the Governor, for cause, upon notice and opportunity to be heard at a public hearing.

The public members of the commission shall receive no salaries but shall be allowed reasonable expenses incurred in the performance of their official duties in an amount not exceeding \$5,000.00 per annum in the case of the chairman, and \$3,500.00 in the case of each of the other commissioners.

The Director of the Division of Investment and the State Treasurer may each designate an officer or employee of the Division of Investment or the Department of the Treasury, respectively, to represent the director or the Treasurer at meetings of the commission, who may lawfully vote and otherwise act on behalf of the Treasurer and the director, respectively. Any designation shall be in writing, delivered to the commission and filed with the Secretary of State and shall continue in effect, unless by its terms it is made for a fixed period, until revoked or amended in the same manner as provided for the designation.

L.1970, c.13, s.5; amended 1983, c.60, s.1; 2017, c.98, s.10.

#### **5:9-6. Director of division**

The division shall be under the immediate supervision and direction of a director, who shall be a person qualified by training and experience to direct the work of such division. The director shall be appointed by the Governor, by and with the advice and consent of the Senate, and shall serve at the pleasure of the Governor.

Any vacancy occurring in the office of the director shall be filled in the same manner as the original appointment.

The director of said division shall devote his entire time and attention to the duties of his office and shall not be engaged in any other profession or occupation. He shall receive such salary as shall be provided by law.

L.1970, c. 13, s. 6, eff. Feb. 16, 1970.

**5:9-7 Commission; powers and duties.**

7. The commission shall have the power, and it shall be its duty:

a. After full and thorough study of the report and recommendations of the State Lottery Planning Commission established pursuant to Joint Resolution Number 11, approved November 20, 1969, and such other pertinent information as may be available, to promulgate such rules and regulations governing the establishment and operation of a State lottery as it deems necessary and desirable in order that the mandate of the people expressed in their approval of the amendment to Article IV, Section VII, paragraph 2, of the Constitution in the general election of November, 1969, may be fully implemented, in order that such a lottery shall be initiated at the earliest feasible and practicable time, and in order that such lottery shall produce the maximum amount of net proceeds for State institutions and State aid for education consonant with the dignity of the State and the general welfare of the people. Such rules and regulations may include, but shall not be limited to, the following:

- (1) The type of lottery to be conducted.
- (2) The price, or prices, of tickets or shares in the lottery.
- (3) The number and sizes of the prizes on the winning tickets or shares.
- (4) The manner of selecting the winning tickets or shares.
- (5) The manner of payment of prizes to the holders of winning tickets or shares, including, subject to the approval of the State Treasurer, provision for payment of prizes not to exceed \$599.00 by agents licensed hereunder out of moneys received from sales of tickets or shares.
- (6) The frequency of the drawings or selections of winning tickets or shares, without limitation.
- (7) Without limit as to number, the type or types of locations at which tickets or shares may be sold.
- (8) The method to be used in selling tickets or shares.
- (9) The licensing of agents to sell tickets or shares, provided that no person under the age of 21 shall be licensed as an agent.
- (10) The manner and amount of compensation, if any, to be paid licensed sales agents necessary to provide for the adequate availability of tickets or shares to prospective buyers and for the convenience of the public.
- (11) The apportionment of the total proceeds accruing from the sale of lottery tickets or

shares and from all other sources among (a) the payment of prizes to the holders of winning tickets or shares, (b) the payment of costs incurred in the operation and administration of the lottery, including the expenses of the division and the costs resulting from any contract or contracts entered into for promotional, advertising, or operational services or for the purchase or lease of lottery equipment and materials, (c) for the repayment of the money appropriated to the State Lottery Fund pursuant to section 23 of this act, and (d) for transfer to the general fund for State institutions and State aid for education, provided, however, that no less than 30% of the total proceeds accruing from the sale of lottery tickets or shares shall be dedicated to (d) above.

During the term of the lottery contribution made pursuant to section 4 of P.L.2017, c.98 (C.5:9-22.8), the apportionment of the total proceeds accruing from the sale of lottery tickets or shares and from all other sources among (a) the payment of prizes to the holders of winning tickets or shares, (b) the payment of costs incurred in the operation and administration of the Lottery Enterprise, as defined in section 3 of P.L.2017, c.98 (C.5:9-22.7), including the expenses of the division and the costs resulting from any contract or contracts entered into for promotional, advertising, or operational services for the purchase or lease of lottery equipment and materials, and (c) for transfer to the investment account of Common Pension Fund L, for the benefit of retirement systems, as provided in the "Lottery Enterprise Contribution Act," P.L.2017, c.98 (C.5:9-22.5 et al.), provided, however, that no less than 30 percent of the proceeds accruing from the sale of lottery tickets or shares shall be dedicated to the investment account under (c) above.

Notwithstanding the provisions of this section or any other law, rule, or regulation to the contrary, the required dedications to the investment account under (c) above shall be decreased to not less than 27 percent of the proceeds accruing from the sale of lottery tickets or shares, commencing with State Fiscal Year 2026. For the purposes of this section, "base fiscal year" refers to State Fiscal Year 2025.

Commencing with the fourth fiscal year following the base fiscal year, the following shall apply:

(i) if the average annual total sales of lottery tickets or shares and the total revenues accruing from the sale of lottery tickets or shares of the three consecutive fiscal years following the base fiscal year are equal to or greater than those figures from the base fiscal year, then the required dedications to the investment account under (c) above shall be permanently decreased to not less than 27 percent of the proceeds accruing from the sale of lottery tickets or shares, except as otherwise provided by subparagraph (iii) of this paragraph; or

(ii) if the average annual total sales of lottery tickets or shares and the total revenues accruing from the sale of lottery tickets or shares of the three consecutive fiscal years following the base fiscal year are less than those figures from the base fiscal year, then the required dedications to the investment account under (c) above shall be permanently reverted to not less than 30 percent of the proceeds accruing from the sale of lottery tickets or shares.

(iii) Commencing with the fourth fiscal year following the base fiscal year, if, at any time, the required dedications to the investment account under (c) above have been decreased to

27 percent of the proceeds accruing from the sale of lottery tickets or shares, and the State fails to make the full annual required contribution for the benefit of retirement systems as recommended in the annual actuarial valuations of the retirement systems, then the Director of the Division of the State Lottery shall procure and conduct a third-party review of the apportionment of proceeds to evaluate the effect of reducing the required dedications, and if that review determines that the reduction from 30 percent to 27 percent has not resulted in higher transfers to the investment account under (c) above, then the required dedications to the investment account under (c) above shall be permanently reverted to not less than 30 percent of the proceeds accruing from the sale of lottery tickets or shares. Such reversion shall become effective in the second fiscal year following the fiscal year containing the shortfall and no further reviews shall be conducted in subsequent fiscal years if such reversion occurs.

(12) Such other matters necessary or desirable for the efficient and economical operation and administration of the lottery and the Lottery Enterprise and for the convenience of the purchasers of tickets or shares and the holders of winning tickets or shares.

Notwithstanding the provisions of any other law to the contrary, no rule or regulation establishing a lottery game shall be considered an "administrative rule" or "rule" pursuant to P.L.1968, c.410 (C.52:14B-1 et seq.).

b. To amend, repeal, or supplement any such rules and regulations from time to time as it deems necessary or desirable, and to establish by regulation that holders of winning tickets or shares may choose to remain anonymous indefinitely and that the identity of a holder choosing such option shall not be included under materials available to public inspection pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.). Nothing in this subsection shall be construed to prevent the conduct of data exchange among authorized State entities for the purpose of implementing the provisions of P.L.1991, c.384 (C.5:9-13.1 et seq.) concerning the collection of child support arrears or certain public assistance overpayments; P.L.1997, c.306 (C.5:9-13.10 et seq.) concerning the collection of delinquent or defaulted student loan payments; P.L.2007, c.106 (C.5:9-13.17 et seq.) concerning the payment of certain debts to State agencies; or of any other law providing for the collection of any debts or other payments from lottery winnings. Notwithstanding any provision of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the commission may adopt, immediately upon filing with the Office of Administrative Law, such regulations as are necessary to implement the provisions of the "Lottery Enterprise Contribution Act," P.L.2017, c.98 (C.5:9-22.5 et al.), which shall be effective for a period not to exceed 12 months following adoption and may thereafter be amended, adopted, or readopted by the commission in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

c. To advise and make recommendations to the director regarding the operation and administration of the lottery and the Lottery Enterprise.

d. To report monthly to the Governor and the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), and during the lottery contribution, to the Director of the Division of Investment, the total lottery proceeds, prize disbursements, and other expenses for the preceding month, and to make an annual report, which shall include a full and complete

statement of lottery proceeds, prize disbursements, and other expenses, to the Governor, the Legislature, and during the lottery contribution, the Director of the Division of Investment, including such recommendations for changes in this act as it deems necessary or desirable.

e. To report immediately to the Governor and the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), and during the lottery contribution, to the Director of the Division of Investment, any matters which shall require immediate changes in the laws of this State in order to prevent abuses and evasions of this act or rules and regulations promulgated thereunder or to rectify undesirable conditions in connection with the administration or operation of the lottery and the Lottery Enterprise.

f. To carry on a continuous study and investigation of the lottery and the Lottery Enterprise throughout the State, which may include requiring a financial or operational audit of the Lottery Enterprise, (1) for the purpose of ascertaining any defects in this act or in the rules and regulations issued thereunder by reason whereof any abuses in the administration and operation of the lottery and the Lottery Enterprise or any evasion of this act or the rules and regulations may arise or be practiced, (2) for the purpose of formulating recommendations for changes in this act and the rules and regulations promulgated thereunder to prevent such abuses and evasions, (3) to guard against the use of this act and the rules and regulations issued thereunder as a cloak for the carrying on of organized gambling and crime, and (4) to insure that said law and rules and regulations shall be in such form and be so administered as to serve the true purposes of this act and the "Lottery Enterprise Contribution Act," P.L.2017, c.98 (C.5:9-22.5 et al.).

g. To make a continuous study and investigation of (1) the operation and the administration of similar laws which may be in effect in other states or countries, (2) any literature on the subject which from time to time may be published or available, (3) any Federal laws which may affect the operation of the lottery and the Lottery Enterprise, and (4) the reaction of New Jersey residents to existing and potential features of the lottery and the Lottery Enterprise, with a view to recommending or effecting changes that will tend to serve the purposes of this act.

L.1970, c.13, s.7; amended 1977, c.169; 1981, c.182, s.1; 2017, c.98, s.11; 2019, c.402; 2025, c.82.

### **5:9-7.1. Video machines**

Notwithstanding any other provision of law to the contrary, no lottery or type of lottery or lottery game shall be authorized or conducted which uses any video mechanical, electrical or other video device, contrivance or machine which, upon the insertion by the participant of a coin, token or similar object therein, or upon payment of any consideration whatsoever, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to receive cash, tokens to be exchanged for cash, or any other prize, whether the payoff is made automatically from the machine or in any other manner whatsoever.

L.1983, c. 80, s. 1, eff. March 1, 1983.

**5:9-8 Director; powers and duties.**

8. The director shall have the power, and it shall be his duty to:
  - a. Supervise and administer the operation of the lottery and the Lottery Enterprise in accordance with the provisions of this act and the "Lottery Enterprise Contribution Act," P.L.2017, c.98 (C.5:9-22.5 et al.), and with the rules and regulations of the commission.
  - b. Subject to the approval of the commission, appoint such deputy directors as may be required to carry out the functions and duties of the division, which deputy directors shall be in the unclassified service of the civil service.
  - c. Subject to the approval of the commission and Title 11A of the New Jersey Statutes, Civil Service, appoint such professional, technical and clerical assistants and employees as may be necessary to perform the duties imposed upon  
the division by this act and the "Lottery Enterprise Contribution Act," P.L.2017, c.98 (C.5:9-22.5 et al.).
  - d. Act as secretary and executive officer of the commission.
  - e. In accordance with the provisions of this act and the rules and regulations of the commission, to license as agents to sell lottery tickets such persons as in his opinion will best serve the public convenience and promote the sale of tickets or shares. The director may require a bond from every licensed agent, in such amount as provided in the rules and regulations of the commission. Every licensed agent shall prominently display his license, or a copy thereof, as provided in the rules and regulations of the commission.
  - f. Shall confer regularly as necessary or desirable and not less than once every month with the commission on the operation and administration of the lottery and the Lottery Enterprise; shall make available for inspection by the commission, upon request, all books, records, files, and other information and documents of the division; shall advise the commission and recommend such matters as he deems necessary and advisable to improve the operation and administration of the lottery and the Lottery Enterprise.
  - g. Suspend or revoke any license issued pursuant to this act or the rules and regulations promulgated thereunder.
  - h. Subject to the approval of the commission and the applicable laws relating to public contracts, to act on behalf of the commission as using agency with respect to purchases made by the Division of Purchase and Property of goods and services required in the operation of the lottery and the Lottery Enterprise.
  - i. To certify monthly to the State Treasurer, the commission, and during the term of the lottery contribution made pursuant to section 4 of P.L.2017, c.98 (C.5:9-22.8), the Director of

the Division of Investment, a full and complete statement of lottery proceeds, prize disbursements and other expenses for the preceding month.

j. During the term of the lottery contribution, operate, manage, conduct, and control the retained assets and the retained liabilities, as each term is defined in the "Lottery Enterprise Contribution Act," P.L.2017, c.98 (C.5:9-22.5 et al.).

L.1970, c.13, s.8; amended 1983, c.60, s.2; 2017, c.98, s.12.

#### **5:9-9. Meetings of commission; quorum; transmission of minutes to governor and return**

No action of the commission shall be binding unless taken at a meeting at which at least four of the seven members are present and shall vote in favor thereof. The minutes of every meeting of the commission, including any rules and regulations promulgated by the commission or any amendments, revisions, supplements or repeal thereof, shall be forthwith transmitted, by and under the certification of the secretary thereof, to the Governor at the Executive Chamber, State House, Trenton. The Governor shall, within 10 days after said minutes shall have been so delivered, cause the same to be returned to the commission, either with or without his veto of any action therein recited as having been taken by the commission. If the Governor shall not return the minutes within said 10 days, any action recited therein shall have force and effect according to the wording thereof.

L.1970, c. 13, s. 9, eff. Feb. 16, 1970. Amended by L.1983, c. 60, s. 3, eff. Feb. 7, 1983.

#### **5:9-10. Subpoenas; failure to appear**

The commission shall have the power to issue subpoenas to compel the attendance of witnesses and the production of documents, papers, books, records and other evidence before it in any matter over which it has jurisdiction, control or supervision. The commission shall have the power to administer oaths and affirmations to persons whose testimony is required. If a person subpoenaed to attend in any such proceeding or hearing fails to obey the command of the subpoena without reasonable cause, or if a person in attendance in any such proceeding or hearing refuses, without lawful cause, to be examined or to answer a legal or pertinent question or to exhibit any book, account, record or other document when ordered so to do by the commission, the commission may apply to any judge of the Superior Court, upon proof by affidavit of the facts, for an order returnable in not less than 2 nor more than 10 days, or as the court shall prescribe, directing such person to show cause before the court why he should not comply with such subpoena or such order.

Upon return of the order, the court before whom the matter shall come on for hearing shall examine such person under oath, and if the court shall determine, after giving such person an opportunity to be heard, that he refused without legal excuse to comply with such subpoena or such order of the director, the court may order such person to comply therewith forthwith and any failure to obey the order of the court may be punished as a contempt of the Superior Court.

L.1970, c. 13, s. 10, eff. Feb. 16, 1970.

#### **5:9-11. Lottery sales agents; licensing**

No license as an agent to sell lottery tickets or shares shall be issued to any person to engage in business exclusively as a lottery sales agent. Before issuing such license the director shall consider such factors as (a) the financial responsibility and security of the person and his business or activity, (b) the accessibility of his place of business or activity to the public, (c) the sufficiency of existing licenses to serve the public convenience, and (d) the volume of expected sales.

For the purposes of this section, the term "person" shall be construed to mean and include an individual, association, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. "Person" shall also be construed to mean and include all departments, commissions, agencies and instrumentalities of the State, including counties and municipalities and agencies and instrumentalities thereof.

L.1970, c. 13, s. 11, eff. Feb. 16, 1970.

#### **5:9-12. Lottery sales agents; authority to act**

Notwithstanding any other provision of law, any person licensed as provided in this act is hereby authorized and empowered to act as a lottery sales agent.

L.1970, c. 13, s. 12, eff. Feb. 16, 1970.

#### **5:9-12.1. Additional sanctions against licensees**

In addition to any penalty, fine or term of imprisonment authorized by law, the commission shall, after appropriate hearings and factual determinations, have the authority to impose the following sanctions upon any person licensed pursuant to P.L.1970, c. 13 (C. 5:9-1 et seq.):

- a. Assess such civil penalties as may be necessary to punish misconduct and to deter future violations, which penalties may not exceed \$10,000.00;
- b. Order restitution of any moneys or property unlawfully obtained or retained by a licensee;
- c. Enter a cease and desist order which specifies the conduct which is to be discontinued, altered or implemented by the licensee;
- d. Issue letters of reprimand or censure, which letters shall be made a permanent part of the file of each licensee so sanctioned; or
- e. Impose any or all of the foregoing sanctions in combination with each other.

L.1983, c. 429, s. 1, eff. Jan. 5, 1984.

#### **5:9-13 Assignment of prizes drawn; procedure.**

13. a. The right of any person to a prize drawn shall not be assignable, except as

permitted by this section.

b. The payment of any prize drawn may be paid to the estate of a deceased prize winner upon receipt by the State Lottery of a certified copy of an order appointing an executor or an administrator.

c. Any person may be assigned and paid the prize to which the winner is entitled pursuant to a judicial order of the New Jersey Superior Court or a federal court having jurisdiction over property located in this State provided that the order pertains to claims of ownership in the prize drawn, division of marital property in divorce actions, bankruptcy, child support, appointment of a guardian or conservator, or distribution of an estate.

d. Any person may be assigned and paid a prize to which the winner is entitled pursuant to a judicial order of the New Jersey Superior Court or a federal court having jurisdiction over property located in this State provided that the order contains at least the following findings:

(1) the full legal name, address, social security number or taxpayer identification number and, if applicable, resident alien number of the winner;

(2) the full legal name, address, social security number or taxpayer identification number and, if applicable, resident alien number of the assignee;

(3) the date on which the winner won the prize;

(4) the date on which the winner claimed the prize;

(5) the gross amount of the prize drawn before application of withholding taxes;

(6) the gross amount of payments to be made to the winner by the State Lottery before application of withholding taxes;

(7) the dates of the payments to be assigned and the amount of the specific payments to be assigned on each date;

(8) the identity of the winner's spouse, if any, and the interest of the spouse in the prize;

(9) the identity of any other co-owner, claimant or lienholder and the amount of the interests, liens, security interests, prior assignments or offsets asserted by such party;

(10) that the interest rate or discount rate, as applicable, and all fees and costs and other material terms relating to the assignment are expressly and clearly included in all material documents and in all documents that include any obligations of the prize winner;

(11) that the interest rate or discount rate, as applicable, associated with the assignment does not indicate overreaching or exploitation, does not exceed current usury rates, and does not

violate any laws of usury of this State;

(12) that the winner has reviewed and understands the terms of the assignment;

(13) that the winner understands that the winner will not receive the prize payments, or portions thereof, for the years assigned;

(14) that the winner has agreed to the assignment of the winner's own free will without undue influence or duress;

(15) that the winner has retained, and consulted with, independent legal counsel who has advised the winner of the winner's legal rights and obligations;

(16) that the winner has retained, and consulted with, an independent tax advisor concerning the tax consequences of the assignment;

(17) that the winner does not seek assignment for purposes of evading creditors, judgments or obligations for child support; and

(18) that the winner has certified that the winner does not have a child support obligation, or if the winner has a child support obligation, that no arrearage is due and that the winner is not obligated to repay any public assistance benefits.

e. Before a winner is legally bound, by agreement, contract or otherwise, and prior to the issuance of an order pursuant to subsection d. of this section, the assignee shall provide the winner with all material documents which shall be binding on the assignor, including documents evidencing obligations of the winner, and a written notice recommending that the winner obtain independent counsel before signing any document which shall be binding on the assignor. All documents shall include a notice of the assignor's right to cancel the agreement which shall be located in immediate proximity to all spaces reserved for the signature of the winner in bold-faced type of at least 10 points and which shall provide as follows:

"You have the right to cancel this assignment without any cost to you until midnight three business days after the day on which you have signed an agreement to assign all or a portion of your prize.

Cancellation occurs when you give notice by regular first class mail, postage prepaid, to the assignee at the address listed at the top of the first page of this document that you wish to cancel the assignment. Notice is deemed given when deposited in a mailbox."

f. If the State Lottery determines that a judicial order granting an assignment, issued pursuant to subsection d. of this section, is complete and correct in all respects, the State Lottery shall, not later than 10 days after receiving a true and correct copy of the filed judicial order, send the winner and the assignee written confirmation of receipt of the court-ordered assignment and of the State Lottery's intent to rely thereon in making future payments to the assignee named in the order. The State Lottery shall, thereafter, make all payments in accordance with the

judicial order. No change in the terms of any assignment shall be effective unless made pursuant to a subsequent judicial order.

g. The State Lottery may impose a reasonable fee on an assignor to defray any direct or indirect administrative expenses associated with an assignment.

h. A winner shall not be permitted to assign the last two annual prize payments.

i. The State Lottery and the State are not parties to assignment proceedings, except that, the State may intervene as necessary to protect the State's interest in monies owed to the State.

j. The State Lottery and the State shall comply with, and rely upon, a judicial order in distributing payments subject to that order.

k. A winner may pledge or grant a security interest in all or part of a prize as collateral for repayment of a loan pursuant to a judicial order containing the findings required by subsection d. of this section which the court deems relevant to the pledge or grant.

l. Except where inconsistent with the provisions of this section, the New Jersey consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.), shall apply to all transactions under this section.

m. The court shall cease to approve assignments pursuant to subsection d. of this section if:

(1) the United States Internal Revenue Service issues a technical rule letter, revenue ruling, or other public ruling in which it is determined that because of the right of assignment provided by subsection d. of this section, prizewinners who do not exercise the right to assign prize payments would be subject to an immediate income tax liability for the value of the entire prize rather than annual income tax liability for each installment when received; or

(2) a court of competent jurisdiction issues a published decision holding that because of the right of assignment provided by subsection d. of this section, prizewinners who do not exercise the right to assign prize payments would be subject to an immediate income tax liability for the value of the entire prize rather than annual income tax liability for each installment when received.

n. Upon receipt, the director shall immediately file a copy of a letter or ruling of the United States Internal Revenue Service or a published decision of a court of competent jurisdiction, described in subsection m. of this section, with the Secretary of State. No assignment shall be approved pursuant to subsection d. of this section after the date of such filing.

o. Notwithstanding the provisions of this section, any lottery prize assignment or loan transaction which has been approved by a New Jersey Superior Court pursuant to section 13

of P.L.1970, c.13 (C.5:9-13) on or before May 15, 1998, regardless of whether such an order has been or is the subject of an appeal, shall, upon joint written agreement of the parties, be deemed a binding assignment or transaction and shall be honored by the Division of the State Lottery.

p. No change in the terms of any assignment shall be effective unless made pursuant to a subsequent court order under this section.

q. A voluntary assignment shall not include or cover payments, or portions of payments, that are subject to the offset pursuant to P.L.1991, c.384 (C.5:9-13.1 et seq.), P.L.1997, c. 306 (C.5:9-13.10 et seq.), or any other law unless appropriate provisions are made to satisfy the obligations giving rise to the offset.

r. No lottery assignee shall directly or indirectly recommend or facilitate the hiring of any lawyer or accountant to assist the assignor in determining the appropriateness of the proposed assignment. Further, the assignee shall not offer prior to the closing tax or investment advice.

s. The director, commissioners and employees of the Division of the State Lottery shall be discharged of any and all liability upon payment of a prize drawn pursuant to this section.

L.1970,c.13,s.13; amended 1998, c.103.

### **5:9-13.1 Initiation of data exchange; prohibition on assignments, certain.**

1. a. The Director of the Division of the State Lottery in the Department of the Treasury and the Director of the Division of Family Development in the Department of Human Services shall initiate an ongoing data exchange in the Office of Telecommunications and Information Systems in the Department of the Treasury before a payment is made of a State lottery prize in excess of \$600.

b. A delinquent Title IV-D obligor who is an annuity award winner shall be prohibited from assigning the annuity award.

L.1991,c.384,s.1; amended 1995, c.333; 1998, c.1, s.32.

### **5:9-13.2 Provision of child support arrears and public assistance overpayment lists.**

2. The Commissioner of Human Services shall periodically supply the Office of Telecommunications and Information Systems with a list of:

a. those individuals in arrears of a court ordered child support obligation; and

b. those former recipients of Aid to Families with Dependent Children, pursuant to P.L.1959, c.86 (C.44:10-1 et seq.) or Work First New Jersey, pursuant to P.L.1997, c.38 (C.44:10-55 et seq.), food stamp benefits issued pursuant to Pub.L. 95-113, Title XIII (7 U.S.C. s.2011 et seq.), or low-income home energy assistance benefits issued pursuant to Pub.L. 97-35, Title XXVI (42 U.S.C. s.8621 et seq.) who incurred an overpayment which has not been repaid.

L.1991,c.384,s.2; amended 1998, c.1, s.33.

**5:9-13.3. Provision of list of prize winners**

3. The Director of the Division of the State Lottery shall promptly provide the Office of Telecommunications and Information Systems with a prize winners list, which shall include the prize claimant's name, address and social security number and the amount of the pending payment.

L.1991,c.384,s.3.

**5:9-13.4 Cross check of social security numbers with lottery list.**

4. The Office of Telecommunications and Information Systems shall cross check the lottery list with the data supplied by the Commissioner of Human Services for a social security number match. If a match is made, the Office of Telecommunications and Information Systems shall notify the Commissioner of Human Services.

L.1991,c.384,s.4; amended 1998, c.1, s.34.

**5:9-13.5 Withholding of certain lottery winnings.**

5. If a lottery prize claimant is in arrears of a child support order, or is a former recipient of Aid to Families with Dependent Children or Work First New Jersey, food stamp benefits or low-income home energy assistance benefits who has incurred an overpayment which has not been repaid, the Department of Human Services shall promptly notify the Department of the Treasury and the Division of the State Lottery of the claimant's name, address, social security number and amount due on an arrears child support order or the amount due on an overpayment. The Department of the Treasury shall withhold this amount from the pending lottery payment and transmit same to the Department of Human Services or the Probation Division, as the case may be, in accordance with regulations promulgated by the State Treasurer.

L.1991,c.384,s.5; amended 1998, c.1, s.35.

**5:9-13.6 Lien on lottery proceeds.**

The county welfare agency which provided the public assistance benefits or the Probation Division, acting as agent for the child support payee, shall have a lien on the proceeds of the State lottery prize in an amount equal to the amount of child support arrearage or the amount of overpayment incurred.

The lien imposed by this act shall be enforceable in the Superior Court.

L.1991,c.384,s.6; amended 1998, c.1, s.36.

**5:9-13.7. Remaining funds paid to claimant**

7. Any of the claimant's lottery prize funds remaining after withholding pursuant to the lien established pursuant to this act shall be paid to the claimant in accordance with lottery procedures.

L.1991,c.384,s.7.

**5:9-13.8. Rules, regulations; hearing; confidentiality**

8. The State Treasurer shall promulgate, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary to effectuate the purposes of this act including, but not limited to, regulations providing for prompt notice to any prize winner from whose award the Department of the Treasury seeks to withhold funds, of the amount to be withheld and the reason therefor and providing the prize winners with the opportunity for a hearing upon request prior to the disposition of any funds. For the purposes of this act, "prompt notice" shall mean notice within 14 days or less.

The State Treasurer shall also provide by regulation, safeguards against the disclosure or inappropriate use of any personally identifiable information regarding any person obtained pursuant to this act.

L.1991,c.384,s.8.

**5:9-13.9 Implementation costs.**

9. The costs associated with or necessary for the implementation of P.L.1991, c.384 (C.5:9-13.1 et seq.) shall be borne by the Department of Human Services.

L.1991,c.384,s.9; amended 1998, c.1, s.37.

**5:9-13.10 Ongoing data exchange on student assistance.**

1. The Director of the Division of the State Lottery in the Department of the Treasury and the Executive Director of the Office of Student Assistance in, but not of, the Department of the Treasury shall initiate an ongoing data exchange in the Office of Telecommunications and Information Systems in the Department of the Treasury before a payment is made of a State lottery prize in excess of \$1,000.

L.1997,c.306,s.1.

**5:9-13.11 List of individuals in default of student loan.**

2. The Executive Director of the Office of Student Assistance shall periodically supply the Office of Telecommunications and Information Systems with a list of those individuals in default of student loan repayments to the Office of Student Assistance.

L.1997,c.306,s.2.

**5:9-13.12 Provision of list of lottery prize winners.**

3. The Director of the Division of the State Lottery shall promptly provide the Office of Telecommunications and Information Systems with a prize winners list, which shall

include the prize claimant's name, address and social security number and the amount of the pending payment.

L.1997,c.306,s.3.

#### **5:9-13.13 Cross-checking of lottery list.**

4. The Office of Telecommunications and Information Systems shall cross check the lottery list with the data supplied by the Executive Director of the Office of Student Assistance for a social security number match. If a match is made, the Office of Telecommunications and Information Systems shall notify the Office of Student Assistance.

L.1997,c.306,s.4.

#### **5:9-13.14 Notification; withholding of lottery prize.**

5. If a lottery prize claimant is on the list of individuals in default of a student loan as reported pursuant to section 2 of P.L.1997, c.306 (C.5:9-13.11), the Office of Student Assistance shall promptly notify the Department of the Treasury and the Division of the State Lottery of the claimant's name, address, social security number and the outstanding amount of the student loan. The Department of the Treasury shall withhold this amount from the pending lottery payment and transmit same to the Office of Student Assistance after withholding any appropriate amounts for State or federal income taxes or for such other withholdings as may be required under State or federal law . If the amount of the student loan outstanding is greater than the amount available from the lottery payment, the entire amount available shall be transmitted to the Office of Student Assistance.

L.1997,c.306,s.5.

#### **5:9-13.15 Payment of remainder of prize to claimant.**

6. Any of the claimant's lottery prize funds remaining after withholding pursuant to section 5 of P.L.1997, c.306 (C.5:9-13.14) shall be paid to the claimant in accordance with lottery procedures.

L.1997,c.306,s.6.

#### **5:9-13.16 Rules, regulations, safeguards against disclosure, inappropriate use of information.**

7. The State Treasurer, in consultation with the Office of Student Assistance, shall promulgate, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary to effectuate the purposes of this act including, but not limited to, regulations providing for prompt notice to any prize winner from whose award the Department of the Treasury seeks to withhold funds, of the amount to be withheld and the reason therefor and providing the prize winners with the opportunity for a hearing upon request prior to the disposition of any funds. For the purposes of this act, "prompt

notice" shall mean notice within 14 days or less.

The State Treasurer shall also provide by regulation, safeguards against the disclosure or inappropriate use of any personally identifiable information regarding any person obtained pursuant to this act.

L.1997,c.306,s.7.

### **5:9-13.17 Offset of certain lottery prizes required for payment of certain debts to State agencies.**

1. a. Whenever any claimant of a lottery prize greater than \$600 is indebted to any agency or institution of State Government, including, but not limited to the Victims of Crime Compensation Agency for the portion of an assessment ordered pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) for deposit in the Victims of Crime Compensation Agency Account or restitution ordered to be paid to the agency pursuant to N.J.S.2C:44-2 for deposit in the Victims of Crime Compensation Agency Account, or for child support under Title IV-A, Title IV-D, or Title IV-E of the federal Social Security Act (42 U.S.C. s.601 et seq.), or other indebtedness in accordance with section 1 of P.L.1995, c.290 (C.2A:17-56.11b) the Department of the Treasury shall apply or cause to be applied to the lottery prize as much as is necessary to satisfy the indebtedness. Child support indebtedness shall take precedence over all other indebtedness. The Department of the Treasury shall retain a percentage of the proceeds of any collection setoff as shall be necessary to provide for any expenses of the collection effort.

b. A State department or agency which is owed a debt shall notify the Department of the Treasury of the existence of the debt and shall request that the Department of the Treasury execute a setoff as provided for in this section.

L.2007, c.106, s.1.

### **5:9-13.18 Regulations.**

2. The Department of the Treasury shall promulgate regulations concerning the procedures and methods to be employed by all agencies and institutions in the executive branch in the collection or the setting off of delinquent accounts. The regulations shall be consistent with all federal requirements or limitations regarding any information utilized in any collection or setoff, and shall in addition provide for due notice to the debtor and opportunity for a hearing upon request prior to any setoff and safeguards against the disclosure or inappropriate use of any personally identifiable information regarding the debtor obtained or maintained pursuant to this act.

L.2007, c.106, s.2.

### **5:9-14. Sale above fixed price; unlicensed sales; gifts**

No person shall sell a ticket or share at a price greater than that fixed by rule or regulation of the commission. No person other than a licensed lottery sales agent shall sell lottery tickets or

shares, except that nothing in this section shall be construed to prevent any person from giving lottery tickets or shares to another as a gift.

Any person convicted of violating this section shall be guilty of a misdemeanor.

L.1970, c. 13, s. 14, eff. Feb. 16, 1970.

#### **5:9-14.1. State lottery ticket; false or fraudulent making, forgery, alteration or counterfeiting**

Any person who falsely or fraudulently makes, forges, alters or counterfeits, or causes or procures to be made, forged, altered or counterfeited, any New Jersey State Lottery ticket, or any part thereof, prepared and prescribed by the Director of the Division of the State Lottery or by the State Lottery Commission under the authority of the act to which this act is a supplement, or who knowingly and willfully utters, publishes, passes or tenders as true, any such forged, altered or counterfeited New Jersey State Lottery ticket shall be guilty of a misdemeanor. If any person with intent to defraud secures, manufactures or causes to be secured or manufactured, or has in his possession any counterfeit New Jersey State Lottery ticket or device, he shall be guilty of a misdemeanor.

L.1973, c. 173, s. 1, eff. June 7, 1973.

#### **5:9-14.2 Fraudulent use of SSN to collect lottery winnings, fourth degree crime.**

1. Any person who fraudulently uses a social security number that is not that person's social security number to collect lottery winnings to evade detection for the purposes of section 1 of P.L.2007, c.106 (C.5:9-13.17), or any other law requiring an offset of indebtedness or liability against lottery winnings, shall be guilty of a crime of the fourth degree. Nothing in this section shall be deemed to limit the authority or discretion of the State to charge or prosecute any person for theft under N.J.S.2C:20-3, theft by deception under N.J.S.2C:20-4, or for any other offense.

L.2015, c.259, s.1.

#### **5:9-14.3 Lottery courier services.**

1. a. For the purposes of this act, "courier service" means a person or business entity that is registered with the State Lottery Commission to purchase State Lottery tickets on behalf of individuals within the State and deliver those tickets to those individuals in the State as a for-profit service.

b. (1) Upon receipt of an application from a courier service, the commission shall register and authorize the courier service to purchase and deliver State lottery tickets within the State of New Jersey. The registration of any courier service shall include, but shall not be limited to, a check of credit reporting sources, other State departments and agencies, and criminal justice agencies. The commission shall substantiate the moral character and integrity of the owners, operators, directors, key personnel, and couriers of a courier service that submits a registration application.

(2) The commission shall supervise registered courier services in a manner necessary to ensure that the integrity and reputation of the New Jersey lottery is maintained. The commission shall accept complaints concerning such services and investigate those complaints. The commission shall investigate suspected violations of the statutes and regulations by such services and impose sanctions for violations. The commission may suspend or revoke the registration of a courier service for violations or for such other reasons as shall be set forth in the rules and regulations promulgated by the commission.

(3) In accordance with the rules and regulation promulgated by the commission, a registered courier service shall maintain an Internet site and shall display prominently on that site:

a warning of the risk of being defrauded if purchasing lottery tickets through a courier service that is not registered by the commission;

the identical gambling addiction warning required of licensed New Jersey casinos; and  
information on how to seek help for a gambling problem through education, by telephone, from the Internet, or by other electronic means.

(4) In accordance with the rules and regulations promulgated by the commission, a registered courier service shall safeguard the personal information, including credit card numbers, and properly verify the age and physical location of customers utilizing the service.

(5) In accordance with the rules and regulations promulgated by the commission, the courier service shall be permitted to redeem a lottery ticket on behalf of a customer utilizing the service in a manner that is secure for that customer and transparent to the public.

c. In lieu of delivery of a purchased lottery ticket to a customer utilizing the courier service, a courier service may store such ticket on behalf of that customer, with the customer's consent, if the courier service provides an electronic receipt of the ticket purchased with the numbers of the ticket shown on the receipt. A customer utilizing the courier service shall have the option at all times to obtain the ticket for the purpose of redemption. A courier service storing a ticket on behalf of a customer shall maintain a secure database of all stored lottery tickets, linked to the respective customers. The courier service shall notify the customer of a winning ticket value and maximum prize within 24 hours of a drawing. The commission shall conduct, and a courier service shall submit as a condition of registration, to random audits of the database.

d. No portion or percentage of lottery winnings shall be charged, accepted, given, or payable to the courier service as a fee for the purchase or delivery or for the redemption of a ticket.

The operation of a registered courier service shall not constitute a violation of N.J.S.2C:37-2 or N.J.S.2C:37-3, or the sale of lottery tickets. The charging of a fee by a courier service for the purchase and delivery of a ticket shall not constitute a violation of section 14 of

P.L.1970, c.13 (C.5:9-14).

A courier service shall not be licensed as a lottery sales agent under section 11 of P.L.1970, c.13 (C.5:9-11).

e. A person or business entity operating a lottery courier service without being registered and authorized by the commission pursuant to this section shall be guilty of a crime of the third degree.

f. The commission shall promulgate rules and regulations, pursuant to the "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et seq.), as may be needed to effectuate the provisions of this section.

L.2017, c.11, s.1.

#### **5:9-14.4 Purchase of lottery tickets through decoupled debit.**

1. a. For the purposes of this act, P.L.2019, c.155, "decoupled debit" means an electronic fund transfer by an entity that does not hold the enrolled user's bank account and uses the automated clearing house network to debit the user's checking account for the settlement of transactions.

b. Notwithstanding the provisions of any other law, rule, or regulation to the contrary, a licensed lottery sales agent operating in this State may accept decoupled debit as a form of payment from patrons for the purchase of lottery tickets.

c. The State Lottery Commission shall promulgate rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as may be needed to effectuate the provisions of this act.

L.2019, c.155, s.1.

#### **5:9-15. Sales to person under eighteen years; gifts**

No ticket or share shall be sold to any person under the age of 18, but this shall not be deemed to prohibit the purchase of a ticket or share for the purpose of making a gift by a person 18 years of age or older to a person less than that age. Any licensee who knowingly sells or offers to sell a lottery ticket or share to any person under the age of 18 is a disorderly person.

L.1970, c. 13, s. 15, eff. Feb. 16, 1970.

#### **5:9-16. Persons prohibited from purchasing tickets or shares**

No ticket or share shall be purchased by, and no prize shall be paid to any of the following persons: any officer or employee of the division or to any spouse, child, brother, sister or parent residing as a member of the same household in the principal place of abode of any of the foregoing persons.

L.1970, c. 13, s. 16, eff. Feb. 16, 1970.

**5:9-17 Unclaimed prize money.**

17. Unclaimed prize money for the prize on a winning ticket or share shall be retained by the director for the person entitled thereto for 1 year after the drawing in which the prize was won. If no claim is made for said money within such year, the prize money shall be allocated to State institutions and State aid for education in the same manner as lottery proceeds are allocated for such purposes under this act.

L.1970, c.13, s.17; amended 2017, c.98, s.13.

**5:9-18 Deposit of receipts; reports.**

18. The director may, in his discretion, require any or all lottery sales agents to deposit to the credit of the operations account of Common Pension Fund L, as provided in the "Lottery Enterprise Contribution Act," P.L.2017, c.98 (C.5:9-22.5 et al.) during the term of the lottery contribution made pursuant to section 4 of P.L.2017, c.98 (C.5:9-22.8), and otherwise deposit to the credit of the State Lottery Fund in banks, designated by the State Treasurer all moneys received by such agents from the sale of lottery tickets or shares, less the amount, if any, retained as compensation for the sale of the tickets or shares, and to file with the director or his designated agents reports of their receipts and transactions in the sale of lottery tickets in such form and containing such information as he may require. The director may make such arrangements for any person, including a bank, to perform such functions, activities or services in connection with the operation of the lottery as he may deem advisable pursuant to this act and the rules and regulations of the commission, and such functions, activities or services shall constitute lawful functions, activities and services of such person.

L.1970, c.13, s.18; amended 2017, c.98, s.14.

**5:9-19. Other laws; applicability**

No other law providing any penalty or disability for the sale of lottery tickets or any acts done in connection with a lottery shall apply to the sale of tickets or shares performed pursuant to this act.

L.1970, c. 13, s. 19, eff. Feb. 16, 1970.

**5:9-20. Persons under eighteen years; payment of prizes**

If the person entitled to a prize or any winning ticket is under the age of 18 years, and such prize is less than \$5,000.00, the director may direct payment of the prize by delivery to an adult member of the minor's family or a guardian of the minor of a check or draft payable to the order of such minor. If the person entitled to a prize or any winning ticket is under the age of 18 years, and such prize is \$5,000.00 or more, the director may direct payment to such minor by depositing the amount of the prize in any bank to the credit of an adult member of the minor's family or a guardian of the minor as custodian for such minor. The person so named as custodian shall have the same duties and powers as a person designated as a custodian in a manner prescribed by the "New Jersey Uniform Gifts to Minors Act," P.L.1963, chapter 177 (C. 46:38-13 et seq.) and for the purposes of this section the terms "adult member of a minor's

family," "guardian of a minor" and "bank" shall have the same meaning as in said act. The director shall be discharged of all further liability upon payment of a prize to a minor pursuant to this section.

L.1970, c. 13, s. 20, eff. Feb. 16, 1970.

#### **5:9-21 State lottery fund, certain proceeds diverted to Common Pension Fund L.**

21. There is hereby created and established in the Department of the Treasury a separate fund, to be known as the "State Lottery Fund," to be deposited in such depositories as the State Treasurer may select. Such fund shall consist of all proceeds received from the sale of lottery tickets or shares, and all other moneys credited or transferred thereto from any other fund or source pursuant to law.

During the term of the lottery contribution made pursuant to section 4 of P.L.2017, c.98 (C.5:9-22.8), no proceeds received from the sale of lottery tickets or shares, and no other moneys credited or transferred to the Lottery Enterprise, as defined as section 3 of P.L.2017, c.98 (C.5:9-22.7), from any other fund or source, shall be deposited into the State Lottery Fund, and instead all such amounts shall be deposited into the operations account of Common Pension Fund L, established pursuant to the "Lottery Enterprise Contribution Act," P.L.2017, c.98 (C.5:9-22.5 et al.).

L.1970, c.13, s.21; amended 2017, c.98, s.15.

#### **5:9-22 Appropriation of moneys; report; publication.**

22. The moneys in said State Lottery Fund shall be appropriated only (a) for the payment of prizes to the holders of winning lottery tickets or shares, (b) for the expenses of the division in its operation of the lottery, (c) for State institutions and State aid for education as shall be provided by law, and (d) for the repayment to the general treasury of the amount appropriated to the fund pursuant to section 23 of this act.

On or about March 15 and September 15 of each year, the State Treasurer shall publish in at least 10 newspapers circulating generally in the State a report accounting for the total revenues received in the State Lottery Fund and the specific amounts of money appropriated therefrom for specific expenditures during the preceding six months ending December 31 and June 30.

During the term of the lottery contribution made pursuant to section 4 of P.L.2017, c.98 (C.5:9-22.8), the moneys in the operations account of Common Pension Fund L, established pursuant to section 6 of P.L.2017, c.98 (C.5:9-22.10), shall be used only (a) for the payment of prizes to the holders of winning lottery tickets or shares, (b) for the expenses of the division in its operation of the lottery and the Lottery Enterprise, as defined in section 3 of P.L.2017, c.98 (C.5:9-22.7), and (c) for transfer to the investment account of Common Pension Fund L for the benefit of the retirement systems.

L.1970, c.13, s.22; amended 1984, c.136, s.1; 2017, c.98, s.16.

#### **5:9-22.1. Eligibility for lottery proceeds**

1. For the purposes of P.L.1970, c.13 (C.5:9-1 et seq.), any program of education approved by the Department of Education or by institutions of higher education licensed by the Commission on Higher Education which is intended, in whole or in part, to serve citizens of this State of the age of 65 years or over, shall be considered eligible for State aid from the net proceeds of any State lottery, as shall be provided by law.

L.1987,c.222,s.1; amended 1994,c.48,s.295.

#### **5:9-22.2. State aid for higher education facilities trust fund**

10. For the purposes of P.L.1970, c.13 (C.5:9-1 et seq.), any trust fund established to provide grants to New Jersey's public and private institutions of higher education for the construction, reconstruction, development, extension, and improvement of instructional, laboratory, communication, and research facilities shall be considered eligible for State aid from the net proceeds of any State lottery, as shall be provided by law.

L.1993,c.375,s.10.

#### **5:9-22.3 County juvenile offender rehabilitation programs eligible for State aid**

10. For the purposes of P.L.1970, c.13 (C.5:9-1 et seq.), a juvenile offender rehabilitation program established and maintained pursuant to the provisions of P.L.1997, c.81 (C.30:8-61 et al.) shall be considered an education program eligible for State aid, to the extent permitted by law, from the net proceeds of any State lottery; provided, however, no such program, regardless of whether that program is established and maintained by one county or by two or more counties, shall receive in any fiscal year an amount of State aid under the provisions of this section more than either the actual cost of the program or \$1,000,000, whichever is less.

L.1997,c.81, s.10.

#### **5:9-22.4 Higher education capital improvement, eligibility for State aid through lottery proceeds.**

9. For the purposes of P.L.1970, c.13 (C.5:9-1 et seq.), any capital improvement fund established to provide grants to New Jersey's four-year public and private institutions of higher education for the renewal, renovation, improvement, expansion, construction, and reconstruction of facilities and technology infrastructure shall be considered eligible for State aid from the net proceeds of the State lottery, as shall be provided by law.

L.1999,c.217,s.9.

#### **5:9-22.5 Short title.**

1. This act shall be known and may be cited as the "Lottery Enterprise Contribution Act."

L.2017, c.98, s.1.

#### **5:9-22.6 Findings, declarations relative to State lottery contributions.**

2. The Legislature finds and declares that:

a. The State Lottery, as established by and operated pursuant to Article IV, Section VII, paragraph 2 of the Constitution of the State of New Jersey and the "State Lottery Law," P.L.1970, c.13 (C.5:9-1 et seq.), is a valuable asset of the State of New Jersey.

b. The Lottery Enterprise has been and is a business-like entity, consisting of all of the assets, properties, interests, and rights of every nature and kind, tangible and intangible, of the State useful or necessary to operate the State Lottery.

c. The Division of the State Lottery in the Department of the Treasury is constantly evolving the brand, marketing, and game offerings of the Lottery Enterprise in order to retain existing players and attract new ones.

d. The Lottery Enterprise, as operated by the Division of the State Lottery, is recognized as one of the most profitable and well-operated lotteries in the United States and the world. The division operates the Lottery Enterprise in a manner that is consonant with the dignity of the State and general welfare of its people, as demonstrated by the division having earned the highest level of achievement in responsible gaming, and having received the Best Innovation in Responsible Gambling Award from the World Lottery Association in November 2016.

e. The continued operation, management, conduct, and control of the Lottery Enterprise by the Division of the State Lottery is necessary for the Lottery Enterprise to remain operating at these high standards, consistent with the "State Lottery Law," P.L.1970, c.13 (C.5:9-1 et seq.), and with applicable federal law.

f. The Teachers' Pension and Annuity Fund, the Public Employees' Retirement System, and the Police and Firemen's Retirement System are established as qualified governmental defined benefit plans pursuant to sections 401(a) and 414(d) of the federal Internal Revenue Code of 1986 (26 U.S.C. ss.401(a) and 414(d)), as amended, and exempt under section 501(a) of the federal Internal Revenue Code of 1986 (26 U.S.C. s.501(a)), as amended, and such other provision of the federal Internal Revenue Code, as applicable, regulations of the United States Department of the Treasury, and other guidance of the federal Internal Revenue Service, and this act, P.L.2017, c.98 (C.5:9-22.5 et al.). The contribution of the Lottery Enterprise to these retirement systems is intended to comply with all requirements of the federal Internal Revenue Code governing the tax qualified status of the retirement systems, and this act shall at all times be applied and construed in a manner consistent with all such requirements.

g. The members of the Teachers' Pension and Annuity Fund are serving or have served as teachers, educators, and administrators in the schools of this State and are eligible members of the retirement system, and contributing the Lottery Enterprise for their benefit pursuant to this act constitutes State aid for education within the meaning of Article IV, Section VII, paragraph 2 of the State Constitution.

h. Some of the members of the Public Employees' Retirement System are serving or have served as employees of State institutions defined in R.S.30:1-7, but excluding adult or

juvenile correctional facilities or institutions, or are serving or have served as employees of public institutions of higher education, and are eligible members of the retirement system, and contributing the Lottery Enterprise for their benefit pursuant to this act constitutes support for State institutions and State aid for education within the meaning of Article IV, Section VII, paragraph 2 of the State Constitution.

i. Some of the members of the Police and Firemen's Retirement System are serving or have served as employees of State institutions defined in R.S.30:1-7, but excluding adult or juvenile correctional facilities or institutions, or are serving or have served as employees of public institutions of higher education, and are eligible members of the retirement system, and contributing the Lottery Enterprise for their benefit pursuant to this act constitutes support for State institutions and State aid for education within the meaning of Article IV, Section VII, paragraph 2 of the State Constitution.

j. The New Jersey Supreme Court has recognized the compelling need for action to solve the tenuous state of New Jersey's pension funding, observing that "the State must get its financial house in order."

k. The New Jersey Pension and Health Benefit Study Commission emphasized the dire condition of the public employee pension systems, which continues to be a matter of grave concern for public employees, retirees, their families, and all of the residents of this State. The commission found that "by any measure, the amount of the unfunded liability is grievous."

l. The contribution of the Lottery Enterprise to the retirement systems pursuant to and in the manner contemplated by this act is in the public interest in alleviating the underfunded status of such retirement systems.

m. The State, pursuant to a competitive process, engaged an independent valuation service provider to conduct a review and due diligence of the Lottery Enterprise, including its cash flows, operating history, legal structure, and projections, and the independent valuation service provider issued a report which represents its opinion as to the valuation of the Lottery Enterprise.

n. The allocable percentages established in section 5 of this act were determined based on: (1) the relative percentages of the total actuarial accrued liabilities of the retirement systems; (2) the relative percentages of the total actuarial accrued liabilities of the eligible member portions of such retirement systems; (3) the relative percentages of the total unfunded actuarially accrued liabilities of the retirement systems; (4) the relative percentages of the total unfunded actuarially accrued liabilities of the eligible member portions of such retirement systems; (5) the relative percentages of the total number of members in each retirement system; and (6) the relative percentages of eligible members participating in each such retirement system.

o. Following the lottery contribution, the Division of the State Lottery will operate, manage, conduct, and control the Lottery Enterprise with a goal of maximizing net proceeds for the benefit of the retirement systems, consonant with the dignity of the State and general welfare of its people.

L.2017, c.98, s.2.

**5:9-22.7 Definitions relative to State lottery contributions.**

3. As used in this act, P.L.2017, c.98 (C.5:9-22.5 et al.):

"Adult or juvenile correctional facilities or institutions" means adult or juvenile correctional facilities or institutions as defined pursuant to section 8 of P.L.1976, c.98 (C.30:1B-8).

"Eligible members" means:

(1) individuals who are serving or who have served in positions eligible for participation in the Teachers' Pension and Annuity Fund;

(2) individuals who are serving or who have served in positions eligible for participation in the Public Employees' Retirement System and who are serving or have served as employees of State institutions described or listed in R.S.30:1-7, State institutions no longer in operation as identified by the State Treasurer, or any facilities, institutions, or veterans homes established for any similar purpose, but excluding adult or juvenile correctional facilities or institutions, or who are serving or have served as employees of public institutions of higher education; and

(3) individuals who are serving or who have served in positions eligible for participation in the Police and Firemen's Retirement System and who are serving or have served as employees of State institutions described or listed in R.S.30:1-7, State institutions no longer in operation as identified by the State Treasurer, or any facilities, institutions, or veterans homes established for any similar purpose, but excluding adult or juvenile correctional facilities or institutions, or who are serving or have served as employees of public institutions of higher education.

"Lottery Enterprise" means the lottery established pursuant to the "State Lottery Law," P.L.1970, c.13 (C.5:9-1 et seq.), and all of the assets, properties, interests, and rights of every nature and kind, tangible and intangible, presently existing or acquired in the future, useful or necessary to operate the State Lottery, including, without limitation: inventory; supplies; equipment; furnishings; fixtures; computers and other electronic equipment; other personal property; real property and rights therein; trademarks and trademark applications; logos; trade names; patents and patent applications; other intellectual property rights; customer lists; going concern value; goodwill; sales records; copies of business books and records; monetary management systems; accounting systems; licenses; permits; contracts and contract rights; rights to take assignment of contracts and related receipts and revenues; accounts receivable; designs; technical data and information; sales materials; the right to merchandising in the State and to sell lottery products in the State; all accounts payable and liabilities related to the foregoing; and all ancillary or necessary appurtenances to the foregoing; provided, however, that Lottery Enterprise excludes all retained assets and retained liabilities.

"Retained assets" means those assets and rights of or related to the Lottery Enterprise that relate to the operation of the Lottery Enterprise necessary to satisfy liabilities arising on or prior to the lottery contribution effective date as specified in the Memorandum of Lottery Contribution under section 4 of this act, and cash, annuities, and other similar assets specified in the Memorandum of Lottery Contribution.

"Retained liabilities" means those liabilities, encumbrances, and obligations of or related to the Lottery Enterprise that relate to the operation of the Lottery Enterprise on or prior to the lottery contribution effective date as specified in the Memorandum of Lottery Contribution under section 4 of this act.

"Retirement systems" means one or more of the following governmental organizations within the meaning of 18 U.S.C. s.1307(a)(2)(A), as amended, and other applicable law:

- (1) the Teachers' Pension and Annuity Fund, established pursuant to N.J.S.18A:66-1 et seq.;
- (2) the Public Employees' Retirement System, established pursuant to P.L.1954, c.84 (C.43:15A-7 et seq.); and
- (3) the Police and Firemen's Retirement System, established pursuant to P.L.1944, c.255 (C.43:16A-2 et seq.).

"Special asset" means the Lottery Enterprise, including the operations account but excluding the investment account.

"State institutions" means long-term care facilities, institutions, and psychiatric facilities of this State, as described or listed in R.S.30:1-7 and long-term care facilities, institutions, and psychiatric facilities of this State no longer in operation as identified by the State Treasurer.

L.2017, c.98, s.3.

#### **5:9-22.8 Contributions to the lottery enterprise to benefit retirement systems; memorandum of Lottery Contribution.**

4. a. The State Treasurer shall make a contribution of the Lottery Enterprise for a period of 30 years for the benefit of the retirement systems, which shall be deposited in Common Pension Fund L in accordance with this act, P.L.2017, c.98 (C.5:9-22.5 et al.), and the Memorandum of Lottery Contribution required under this section.

b. The Division of the State Lottery shall operate, manage, conduct, and control the Lottery Enterprise with a goal of maximizing net proceeds for the benefit of the retirement systems, consonant with the dignity of the State and the general welfare of the people.

c. The lottery contribution shall be subject to (1) a royalty-free, exclusive license with all substantial rights including the right to sublicense, from Common Pension Fund L, established pursuant to section 6 of this act, to the Division of the State Lottery during the lottery

contribution for all trademarks and trademark applications, logos, tradenames, and other intellectual property rights owned or used by or in connection with the Lottery Enterprise, whether existing on the effective date of this act or subsequently acquired or created; and (2) any existing licenses or sublicenses granted prior to the effective date of this act by the Division of the State Lottery to third parties for any and all trademarks and trademark applications, logos, tradenames, and other intellectual property rights owned or used by, or in connection with, the Lottery Enterprise.

d. The State Treasurer shall prepare, execute, and deliver the Memorandum of Lottery Contribution, and such certificates and other documents as the State Treasurer determines are consistent with this act and are reasonably necessary to evidence or effectuate the lottery contribution. The State Treasurer may amend or supplement the Memorandum of Lottery Contribution, including to correct deficiencies or errors therein.

e. The Memorandum of Lottery Contribution shall contain:

(1) the lottery contribution effective date;

(2) a transition period of up to 180 days and transition procedures reasonably necessary to ensure that operations of the Lottery Enterprise are not materially disrupted as a result of the lottery contribution;

(3) a detailed description or list of all of the assets and liabilities of the Lottery Enterprise;

(4) a description of the retained assets and retained liabilities; and

(5) such other provisions as the State Treasurer determines in the Treasurer's sole discretion are useful and necessary to make the lottery contribution in a manner consistent with this act.

f. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the State Treasurer shall provide the Memorandum of Lottery Contribution to the Office of Administrative Law, and the Office of Administrative Law shall publish the Memorandum of Lottery Contribution in the New Jersey Register.

g. The retirement systems shall not be required or permitted to pay any expenses incurred by the State Treasurer, the Division of the State Lottery, or the Division of Investment in the Department of the Treasury in connection with the making of the lottery contribution pursuant to this act.

h. During the lottery contribution, all new assets acquired by or for the Lottery Enterprise shall be owned by Common Pension Fund L for the benefit of the retirement systems, except those assets, including licenses or similar rights in or to multistate lottery games, which may only be held, licensed, acquired, or procured by the Division of the State Lottery and which relate to the Lottery Enterprise, in which case such assets shall be held, licensed, acquired, or

procured by the Division of the State Lottery on behalf of and for the benefit of Common Pension Fund L.

i. The Director of the Division of Investment shall acknowledge receipt of the lottery contribution to the retirement systems and of the Memorandum of Lottery Contribution, and shall deposit the lottery contribution into Common Pension Fund L.

j. Following the lottery contribution, the Division of the State Lottery shall operate, manage, conduct, and control the Lottery Enterprise in accordance with the "State Lottery Law," P.L.1970, c.13 (C.5:9-1 et seq.), and with applicable federal law, including the applicable requirements of the federal Internal Revenue Code.

k. At the expiration of the lottery contribution, the Lottery Enterprise, exclusive of all proceeds attributable to the operation of the Lottery Enterprise prior to the expiration of the lottery contribution, shall be returned to the Division of the State Lottery. Prior to that time, the State Treasurer shall, in coordination with the Division of Investment and the Division of the State Lottery, provide for and enter into any agreements or arrangements necessary or advisable for the orderly return of the Lottery Enterprise, exclusive of such proceeds, as provided in the Memorandum of Lottery Contribution. Such arrangements shall include a transition period of up to 180 days following the expiration of the lottery contribution, during which the proceeds of the Lottery Enterprise may continue to be deposited into the operations account established in section 6 of this act, and other transition arrangements reasonably necessary to ensure that operations of the Lottery Enterprise are not materially disrupted as a result of the expiration of the lottery contribution.

l. The State Treasurer shall execute the Memorandum of Lottery Contribution, and the Director of the Division of Investment shall acknowledge receipt of the lottery contribution, on or before December 31, 2017.

L.2017, c.98, s.4.

### **5:9-22.9 Value of Lottery Enterprise.**

5. a. For the purposes of this act, P.L.2017, c.98 (C.5:9-22.5 et al.), the Lottery Enterprise shall be valued at \$13,535,000,000, as that value was determined by the independent valuation service provider engaged by the State.

b. The lottery contribution and all proceeds of the Lottery Enterprise shall be allocated among the retirement systems in the allocable percentages as follows: 77.78 percent for the Teachers' Pension and Annuity Fund, established pursuant to N.J.S.18A:66-1 et seq.; 21.02 percent for the Public Employees' Retirement System, established pursuant to P.L.1954, c.84 (C.43:15A-7 et seq.); and 1.20 percent for the Police and Firemen's Retirement System, established pursuant to P.L.1944, c.255 (C.43:16A-2 et seq.), which have been determined based on (1) the relative percentages of the total actuarial accrued liabilities of the retirement systems; (2) the relative percentages of the total actuarial accrued liabilities of the eligible member portions of such retirement systems; (3) the relative percentages of the total unfunded actuarially accrued liabilities of the retirement systems; (4) the relative percentages of the total unfunded

actuarially accrued liabilities of the eligible member portions of such retirement systems; (5) the relative percentages of the total number of members in each retirement system; and (6) the relative percentages of eligible members participating in each such retirement system. Each retirement system shall have an initial equitable interest in Common Pension Fund L, established pursuant to section 6 of this act, equal to its allocable percentage of the entire lottery contribution made on its behalf.

L.2017, c.98, s.5.

**5:9-22.10 Common Pension Fund established; subaccounts.**

6. a. In order to receive the lottery contribution on behalf of the retirement systems, a Common Pension Fund L is hereby established within the Division of Investment in the Department of the Treasury. Common Pension Fund L shall constitute part of each retirement system and the participating trust through which each retirement system is funded. Only the retirement systems and the trusts through which they are funded shall have an interest in Common Pension Fund L. Common Pension Fund L shall satisfy the requirements of section 401(a)(24) of the federal Internal Revenue Code of 1986 (26 U.S.C. s.401(a)(24)), as amended, in accordance with Revenue Ruling 81-100, as amended by Revenue Ruling 2004-67 and Revenue Ruling 2011-1, and the requirements for exemption under section 501(a) of the federal Internal Revenue Code of 1986 (26 U.S.C. s.501(a)), as amended. Consistent with section 401(a)(24) of the federal Internal Revenue Code of 1986 (26 U.S.C. s.401(a)(24)), as amended, regulations of the United States Department of the Treasury, and other guidance of the federal Internal Revenue Service, each retirement system shall participate in Common Pension Fund L.

No part of the corpus or income of Common Pension Fund L that equitably belongs to a retirement system or a trust of the retirement system may be used for or diverted to any purpose other than for the exclusive benefit of the members or beneficiaries entitled to benefits under such retirement system or trust of the retirement system. No retirement system or trust of a retirement system may assign any part of its equity or interest in Common Pension Fund L.

b. Upon receipt of the lottery contribution, the Director of the Division of Investment shall:

- (1) invest and manage all assets in the investment account;
- (2) make distributions of proceeds and investment earnings thereon from the investment account into investment vehicles managed by the Division of Investment for the sole benefit of the retirement systems; and
- (3) make distributions of proceeds and investment earnings thereon from the investment account to the retirement systems from Common Pension Fund L to be used by each retirement system for any legitimate purpose of such retirement system, provided that any distribution under this part (3) shall be made on a simultaneous and pro rata basis to the retirement systems, which pro rata basis shall be based on each retirement system's relative equitable interest in the lottery contribution.

c. Upon the establishment of Common Pension Fund L, there shall be established two subaccounts therein as the operations account and investment account for the following purposes.

(1) The gross proceeds of the Lottery Enterprise shall be deposited into an operations account. The Division of the State Lottery solely shall manage the operations account and shall make deposits therein, invest amounts therein, make requisition and payment for costs incurred in the operation and administration of the Lottery Enterprise, including reimbursements of funds used to pay such expenses, and payment for lottery sales agent commissions, certain prizes paid by lottery sales agents, costs resulting from any contract or contracts entered into for promotional, advertising, or operational services, or for the purchase or lease of lottery equipment and materials for the Lottery Enterprise therefrom, hold reserves for payment of prizes and other purposes related to the operation of the Lottery Enterprise, and otherwise manage the operations account. All proceeds of the Lottery Enterprise deposited in the operations account shall be qualified plan assets subject to the requirements of sections 401(a) and 501(a) of the federal Internal Revenue Code of 1986 (26 U.S.C. ss.401(a) and 501(a)), as amended, but shall not be assets managed by the Division of Investment for the benefit of the retirement systems under N.J.S.18A:66-61, section 14 of P.L.1944, c.255 (C.43:16A-14), or section 32 of P.L.1954, c.84 (C.43:15A-32) until any such assets have been transferred from the operations account to the investment account.

(2) Proceeds in amounts determined by the Division of the State Lottery shall be transferred from the operations account to the investment account on a periodic basis and such proceeds shall constitute the net proceeds of the Lottery Enterprise. Such proceeds transferred together with all investments thereof and investment earnings thereon shall be available solely to and for the benefit of the retirement systems in the allocable percentages specified in section 5 of this act, P.L.2017, c.98 (C.5:9-22.9). The investment account shall be managed and invested by the Director of the Division of Investment pursuant to the authority, responsibilities, and duties set forth in P.L.1950, c.271 (C.52:18A-79 et seq.), subject to the oversight of the State Investment Council, pursuant to the authority of P.L.1950, c.270 (C.52:18A-79 et seq.). The Director of the Division of Investment shall have full discretion to distribute proceeds and all investments thereof and investment earnings thereon from the investment account into investment vehicles managed by the Division of Investment on behalf of the retirement systems. The investment account may be further subdivided into subaccounts in the discretion of the Director of the Division of Investment for purposes of investing in different types of investments.

(3) Notwithstanding any provision of this act or any other provision of law to the contrary, the Director of the Division of Investment and the State Investment Council shall not have any responsibility for the operations account of Common Pension Fund L and shall not be liable for any claims, demands, suits, actions, damages, judgments, costs, charges, or expenses, including court costs or attorneys' fees in any way related to such account. Notwithstanding the establishment of Common Pension Fund L in the Division of Investment, the Director of the Division of Investment, the Division of Investment, and the State Investment Council shall not have any authority to manage the Lottery Enterprise or the operations account.

d. The portion of the lottery contribution allocated to each retirement system shall increase the funded ratio with respect to eligible members of such retirement system, provided, however, all amounts in the investment account, to the extent of the interest of each retirement system therein, may be distributed by the Director of the Division of Investment to the retirement systems from Common Pension Fund L and used by each retirement system for any legitimate purpose of such retirement system, provided that any such distribution shall be made on a simultaneous and pro rata basis to the retirement systems, which pro rata basis shall be based on each retirement system's relative equitable interest in the lottery contribution. For the purpose of this subsection, the funded ratio shall be the ratio of the actuarial value of assets plus the value of the special asset, determined in accordance with section 38 of P.L.2010, c.1 (C.43:3C-14), to the actuarially determined accrued liabilities expressed as a percentage.

L.2017, c.98, s.6.

#### **5:9-22.11 Construction of act.**

7. Nothing in this act, P.L.2017, c.98 (C.5:9-22.5 et al.), shall be construed as a waiver of the sovereign immunity of the State or a relinquishment of the sovereign powers of the State. The Superior Court of New Jersey shall have exclusive original jurisdiction and venue over all matters arising from this act.

L.2017, c.98, s.7.

#### **5:9-22.12 Liberal construction; severability.**

8. This act, P.L.2017, c.98 (C.5:9-22.5 et al.), shall be construed liberally. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provisions or applications, and to this end the provisions of this act are declared to be severable.

L.2017, c.98, s.8.

#### **5:9-23. Emergency Transportation Tax Act; prizes exempt**

The prizes received pursuant to the provisions of this act shall be exempt from the "Emergency Transportation Tax Act" (P.L.1961, c. 32).

L.1970, c. 13, s. 24, eff. Feb. 16, 1970.

#### **5:9-24. Annual post-audit**

The State Auditor shall conduct an annual post-audit of all accounts and transactions of the division and such other special post-audits as he may be directed to conduct pursuant to chapter 24 of Title 52 of the Revised Statutes.

L.1970, c. 13, s. 25, eff. Feb. 16, 1970.

#### **5:9-25. Severability**

If any clause, sentence, paragraph, subdivision, section, provision or other portion of this act or the application thereof to any person or circumstances is held to be invalid, such holding shall

not affect, impair or invalidate the remainder of this act or the application of such portion held invalid to any other person or circumstances, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, provision or other portion thereof directly involved in such holding or to the person and circumstances therein involved. If any provision of this act is inconsistent with, in conflict with, or contrary to any other provision of law, such provision of this act shall prevail over such other provision and such other provision shall be deemed to have been amended, superseded or repealed to the extent of such inconsistency, conflict and contrariety.

L.1970, c. 13, s. 26, eff. Feb. 16, 1970.