

Below is a draft resolution that Precinct 27 Delegate Ann Loikow proposes to introduce:

The Ward Three Democratic Committee

**Resolution on the Lottery Board and Internet Gambling
January 19, 2012**

Whereas, in a letter dated December 17, 2010, commenting on a bill to authorize internet gambling in the District of Columbia, the D.C. Attorney General indicated his concern there was "no detailed on-line gaming implementation plan for review, no feedback from the public gained through public hearings, and no hard answers to a bevy of thorny legal issues" raised by the proposed Lottery Modernization Act of 2010 (Act); and

Whereas, on December 21, 2010, the D.C. Chief Financial Officer (CFO) echoed the concern that no consensus exists on whether various federal gambling statutes applied, and added that there was "implementation risk" in that the contractor had no internet gambling experience in the United States, where implementation on a state or local level raises different issues than full nationwide implementation, and that the Office of Revenue Analysis did not have access to sufficient data for checks on the plausibility, reliability, or validity of the revenue estimates presented to the Council; and

Whereas, on December 21, 2010, the Council nevertheless approved the Act, a meager 24 line addition to the Fiscal Year 2011 Supplemental Budget Support Act of 2010, making the District of Columbia the first jurisdiction in the United States to legalize internet gambling; and

Whereas the Act is vague and incomplete, in that it does not define the terms used as to what is being authorized or even require that regulations implementing it be issued; and

Whereas the Mayor, in response to issues raised at the Ward 3 Democratic Committee's (Committee) November 29, 2011 meeting, asked the D.C. Auditor to look into concerns about the CFO's and D.C. Lottery and Charitable Games Control Board's (Lottery Board) possible lack of legal authority over the operations of the Lottery Board as a D.C. agency because there have been no Board members since 1996 when the District of Columbia Financial Responsibility and Management Assistance Authority (Control Board) incompletely put the Lottery Board under the CFO, a change not made permanent until Congress in 2006 enacted Public Law 109-356 to amend the Home Rule Charter, without amending Title 3, Chapter 13 of the D.C. Code (the law creating the Lottery Board) to delete the requirement that a five member board direct the agency and its staff; and

Whereas the D.C. Auditor, in its December 13, 2011 audit report on the Lottery Board, found that "Title 3, Chapter 13 of the D.C. Code does not reflect the Lottery Board's actual organizational structure," and recommended that the Council amend the D.C. Code to ensure conformity with the Charter as amended by Congress in 2006; and

Whereas D.C. Code § 3-1303 says that the Board appoints the executive Director who "serves

subject to the direction and supervision of the Board" and, under D.C. Code § 3-1303(a), as amended by D.C. Law 17-108, the "Jobs for D.C. Residents Amendment Act of 2007," the Executive Director is specifically required to be a D.C. resident or forfeit his position; and

Whereas the Lottery Board's Executive Director has been running the agency since 1996 in the absence of a Board and the current Executive Director, who was appointed in 2009, may not be legally qualified to hold that position since he is a resident of Maryland, and has been so since he was appointed by the CFO; and

Whereas there is evidence that the public has not been adequately informed about the issues raised by internet gambling because, although the Lottery Board held poorly noticed "community meetings" on internet gambling this fall, no written implementation plan or proposed regulations, other than a short proposal on "demonstration games," have been made public and significant legal, operational, oversight, economic and social issues have not been addressed at all; and

Whereas these significant legal and implementation issues threaten to undermine the operations of the Lottery Board, and most particularly the implementation of internet gambling, potentially exposing the Lottery Board, the CFO and the D.C. government to significant financial liability:

Now, therefore, be it resolved that the Committee strongly urges the Council to:

(1) Approve Bill 19-474, the "Lottery Amendment Repeal Act of 2011," after amending it to explicitly repeal the Lottery Modernization Act of 2010 and substituting "interactive and internet gambling" for "online gaming" in line 29; and

(2) Prohibit the CFO and the Executive Director of the Lottery Board from entering into any new programs or operations until such time as the Council has reviewed Title 3, Chapter 13 of the D.C. Code (the Lottery Board's statute) and Title II of Public Law 109-356 (Congress's 2006 amendment to the Home Rule Charter regarding the CFO's independence and powers and authorities, codified as D.C. Code § 1-204.24-26) and revised them to be consistent with each other and clearly state who runs the Lottery Board and what their powers and authority regarding the activities of the Lottery Board are; and

(3) If the Council wants to authorize the Lottery Board to offer internet gambling, develop a much more detailed piece of legislation, after full and substantive public hearings, that addresses the many legal, operational, oversight, economic and social issues raised by internet gambling and that requires that there be a detailed implementation plan and detailed regulations in place before such internet gambling begins.

Be it further resolved that the Chair of the Ward three Democratic Committee is authorized to testify at the January 26, 2012 Hearing on Bill 19-474 before the Council's Committee on Finance and Revenue and take such other actions as needed to implement this resolution.