

1 "Ticket" means a lottery ticket.

2 § -2 State lottery commission; establishment;
3 membership; terms; vacancies; chair; quorum. (a) There is
4 established the state lottery commission to consist of five
5 members appointed by the governor with the consent of the
6 senate, pursuant to section 26-34. The governor shall designate
7 one member of the commission to serve as chairperson. A
8 majority of the members shall constitute a quorum for the
9 transaction of business.

10 (b) Notwithstanding any other law to the contrary, members
11 shall be compensated \$2,000 per year and shall be reimbursed for
12 actual costs incurred in carrying out the duties of the
13 commission, including travel expenses.

14 (c) The lottery commission shall be attached to the
15 department of commerce and consumer affairs for administrative
16 purposes.

17 § -3 Powers and duties of commission; when legislative
18 approval required. The commission shall have the following
19 powers and duties:

20 (1) Adopt, amend, or repeal rules pursuant to chapter 91
21 governing the establishment and operation of a state



1 lottery, so as to begin operation of the lottery as
2 soon as practicable and to produce the maximum amount
3 of net revenues for the State consistent with the
4 dignity of the State, as well as any other rules the
5 commission deems necessary or desirable. The rules
6 shall include but not be limited to the following:

7 (A) The type of lottery to be conducted, which may
8 include the selling of lottery tickets; provided
9 that the tickets may not be sold over the
10 Internet. The use of electronic or mechanical
11 devices or video terminals that allow for
12 individual play against those devices or
13 terminals shall be prohibited;

14 (B) The price or prices of tickets in each game;

15 (C) The numbers and sizes of the prizes on the
16 winning tickets;

17 (D) The manner and time of payment of prizes to the
18 holder of winning tickets which, at the
19 director's option, may be paid in lump sum
20 amounts or by installments over a period of
21 years;



- 1 (E) The frequency of the lottery games;
- 2 (F) Without limit as to number, the type or types of
- 3 locations at which tickets may be sold;
- 4 (G) The method to be used in selling tickets, except
- 5 as limited by subparagraph (A);
- 6 (H) The licensing of agents to sell or distribute
- 7 tickets, except that a person under the age of
- 8 eighteen shall not be licensed as an agent;
- 9 (I) The manner and amount of compensation, if any, to
- 10 be paid to licensed sales agents necessary to
- 11 provide for the adequate availability of tickets
- 12 to prospective buyers and for the convenience of
- 13 the public;
- 14 (J) The apportionment of the total revenues accruing
- 15 from the sale of tickets and from all other
- 16 sources among:
 - 17 (i) The payment of prizes to the holders of
 - 18 winning tickets, which shall not be less
 - 19 than forty-five per cent of the gross annual
 - 20 revenue from the lottery;



- 1 (ii) Transfers to the lottery administrative
- 2 account created under section -25; and
- 3 (iii) Transfers to the school facilities and
- 4 operations special fund created under
- 5 section 302A- , the university facilities
- 6 and operations special fund created under
- 7 section 304A- , and the general fund; and
- 8 (K) Any other matters necessary or desirable for the
- 9 efficient and economical operation and
- 10 administration of a state lottery and for the
- 11 convenience of the purchasers of tickets and the
- 12 holders of winning tickets;
- 13 (2) Ensure that in each place authorized to sell tickets,
- 14 on the back of each ticket and in any advertising or
- 15 promotion, there shall be conspicuously displayed an
- 16 estimate of the probability of purchasing a winning
- 17 ticket; and
- 18 (3) Advise and make recommendations to the director for
- 19 the operation and administration of the lottery.
- 20 § -4 **New games.** (a) The lottery commission shall
- 21 conduct new games intended to generate additional moneys



1 sufficient to cover the distributions under section -22. No
2 game may be conducted under this section before January 1, 2019.

3 (b) For the purposes of this section, the lottery may
4 accept and market prize promotions provided in conjunction with
5 private-sector marketing efforts.

6 § -5 Director; appointment; salary; duties. (a) The
7 governor shall appoint the director with the consent of the
8 senate. The director shall receive a salary to be determined by
9 the governor, which shall not be more than ninety per cent of
10 the salary of the governor.

11 (b) The director shall:

12 (1) Supervise and administer the operation of the lottery
13 in accordance with this chapter and the rules of the
14 commission;

15 (2) Without regard to chapters 76 and 89, appoint deputy
16 and assistant directors that may be required to carry
17 out the functions and duties of the director;

18 (3) Appoint professional, technical, and clerical
19 assistants and employees that may be necessary to
20 perform the duties imposed by this chapter; provided
21 that chapters 76 and 89 shall not apply to any



1 employees engaged in undercover audit, investigative
2 work, or security operations but shall apply to other
3 employees appointed by the director;

4 (4) In accordance with this chapter and the rules adopted
5 by the commission, license as agents to sell or
6 distribute tickets any persons, in the director's
7 opinion, that will best serve the public convenience
8 and promote the sale of tickets. The director may
9 require a bond from any licensed agent, in any amount
10 provided in the rules of the commission. Every
11 licensed agent shall prominently display a license, or
12 a copy, as provided in the rules of the commission.
13 License fees may be established by the commission,
14 and, if established, shall be deposited in the state
15 lottery account created under section -21;

16 (5) Confer regularly as necessary or desirable with the
17 commission on the operation and administration of the
18 lottery; upon request, make available for inspection
19 by the commission all books, records, files, and other
20 information and documents of the lottery; and advise
21 the commission and recommend on any matters that the



- 1 director deems necessary and advisable to improve the
2 operation and administration of the lottery;
- 3 (6) Enter into contracts for the operation of the lottery,
4 or any part thereof, and for the promotion of the
5 lottery. No contract awarded or entered into by the
6 director may be assigned by the holder except by
7 specific approval of the commission; provided that
8 nothing in this chapter shall authorize the director
9 to enter into public contracts for the regular and
10 permanent administration of the lottery after the
11 initial development and implementation;
- 12 (7) Certify quarterly to the director of finance and the
13 commission a full and complete statement of lottery
14 revenues, prize disbursements, and other expenses for
15 the preceding quarter;
- 16 (8) Carry on a continuous evaluation of the lottery
17 throughout the State to:
- 18 (A) Identify any defects in this chapter or rules
19 adopted pursuant thereto that may give rise to
20 any abuse in the administration and operation of
21 the lottery or any evasion of this chapter or



1 rules adopted pursuant thereto that may lead to
2 the proliferation of illegal activity;

3 (B) Recommend any amendments to this chapter or rules
4 adopted pursuant thereto necessary to prevent
5 abuses and evasions; and

6 (C) Ensure that this chapter and rules adopted
7 pursuant thereto are administered in a manner
8 that serves the true intent of this chapter;

9 (9) Have all enforcement powers necessary to implement
10 this chapter; and

11 (10) Perform all other actions necessary to carry out the
12 purposes of this chapter.

13 § -6 Licenses for lottery sales agents. (a) No license
14 as an agent to sell tickets shall be issued to any person to
15 engage in business exclusively as a lottery sales agent. Before
16 issuing a license, the director shall consider the following
17 factors:

18 (1) Financial responsibility and security of the person
19 and the person's business or activity;

20 (2) Accessibility of the person's place of business or
21 activity to the public;



1 (3) Sufficiency of existing licenses to serve the public
2 convenience; and

3 (4) Volume of expected sales.

4 (b) For purposes of this section, the term "person":

5 (1) Means an individual, association, corporation, club,
6 trust, estate, society, company, joint stock company,
7 receiver, trustee, assignee, referee, or any other
8 person acting in a fiduciary or representative
9 capacity, whether appointed by a court or otherwise,
10 and any combination of individuals; and

11 (2) Does not mean any department, commission, agency, or
12 instrumentality of the State, or any county or agency
13 or instrumentality thereof.

14 § -7 License as authority to act. Any person licensed
15 pursuant to this chapter is authorized to act as a lottery sales
16 agent.

17 § -8 Denial, suspension, and revocation of licenses.

18 (a) The director may deny an application for or suspend or
19 revoke, after notice and hearing, any license issued pursuant to
20 this chapter. A license may be temporarily suspended by the
21 director without prior notice, pending any prosecution,



1 investigation, or hearing. A license may be suspended or
2 revoked or an application may be denied by the director for one
3 or more of the following reasons:

4 (1) Failure to:

5 (A) Account for tickets received or the proceeds of
6 the sale of tickets;

7 (B) File a bond if required by the director;

8 (C) File any return or report or to keep records or
9 to pay any tax required by this chapter; or

10 (D) Comply with the instructions of the director
11 concerning the licensed activity;

12 (2) For a violation of this chapter or rules adopted
13 pursuant to this chapter;

14 (3) Fraud, deceit, misrepresentation, or conduct
15 prejudicial to public confidence in the state lottery;

16 (4) Ticket sales by the licensee that are insufficient to
17 meet administrative costs;

18 (5) Insufficient need where public convenience is
19 adequately served by other licensees; or



1 (6) A material change, after issuance of the license, with
2 respect to any matters required to be considered by
3 the director under section -6.

4 (b) For the purpose of reviewing any application for a
5 license and for considering the denial, suspension, or
6 revocation of any license, the director may consider any prior
7 criminal conduct of the applicant or licensee.

8 § -9 Right to prize not assignable; exceptions. (a)

9 The right of any person to a prize shall not be assignable;
10 provided that:

11 (1) Payment of any prize drawn or the remainder of any
12 annuity purchased may be paid to any of the following:

- 13 (A) The estate of a deceased prize winner;
- 14 (B) The beneficiary of a deceased prize winner; or
- 15 (C) A person pursuant to an appropriate judicial
16 order;

17 (2) Payments to winners in an amount exceeding \$600 are
18 subject to setoff pursuant to section -24; and

19 (3) If a voluntary assignment occurs, the remainder of any
20 annuity, or a portion of the remainder of the annuity,
21 may be assigned by a prize winner pursuant to an



1 appropriate judicial order if all of the following
2 conditions are met:

3 (A) The prize winner provides an affidavit to the
4 court to the effect that the affiant is of sound
5 mind, not acting under duress, and has received
6 independent financial and tax advice concerning
7 the assignment;

8 (B) The assignee pays the prize winner a lump sum
9 under the assignment agreement for all amounts
10 that are due to the prize winner on or before the
11 date that the assignment takes effect; and

12 (C) The parties to the assignment pay a fee to the
13 commission to defray the expenses incurred by the
14 commission in processing the assignment. The
15 commission shall determine the amount of the fee.
16 Moneys collected by the commission pursuant to
17 this subparagraph shall be deposited in the
18 lottery administrative account established by
19 section -25.



1 (b) The director shall make a voluntary assignment upon
2 receipt of a court order that meets the requirements of
3 subsection (a) (3).

4 (c) The commission and director shall be discharged of all
5 further liability upon payment of a prize pursuant to this
6 section.

7 § -10 Maximum price of ticket limited; sale by other
8 than licensed agent prohibited. A person shall not sell a
9 ticket at a price greater than that fixed by rule of the
10 commission. No person other than a licensed lottery sales agent
11 shall sell tickets, except that nothing in this section prevents
12 any person from giving tickets to another person as a gift.

13 § -11 Sale to minor prohibited; exception; penalties.

14 (a) A ticket shall not be sold to any person under the age of
15 eighteen; provided that this shall not be deemed to prohibit the
16 purchase of a ticket for the purpose of making a gift by a
17 person eighteen years of age or older to a person younger than
18 the age of eighteen.

19 (b) Any licensee who knowingly sells or offers to sell a
20 ticket to any person under the age of eighteen shall be guilty
21 of a misdemeanor.



1 (c) A person under the age of eighteen who directly
2 purchases a ticket in violation of this section shall be guilty
3 of a misdemeanor. No prize shall be paid to that person and the
4 prize money otherwise payable on the ticket shall be treated as
5 unclaimed pursuant to section -17.

6 § -12 Prohibited acts; penalty. (a) A person shall not
7 alter or forge a ticket. A person shall not claim a lottery
8 prize or share of a lottery prize by means of fraud, deceit, or
9 misrepresentation. A person shall not conspire with, aid, abet,
10 or agree to aid another person or persons to claim a lottery
11 prize or share of a lottery prize by means of fraud, deceit, or
12 misrepresentation.

13 (b) A violation of this section shall be a class B felony.

14 § -13 Penalty for unlicensed activity. (a) A person
15 who conducts any activity for which a license is required by
16 this chapter or by rule of the commission, without the required
17 license, shall be guilty of a class B felony.

18 (b) Any corporation that conducts any activity for which a
19 license is required by this chapter or by rule of the
20 commission, without the required license, may be punished by



1 forfeiture of its corporate charter, in addition to the other
2 penalties set forth in this section.

3 § -14 Penalty for false or misleading statement or entry
4 or failure to produce documents. Any person, in any application
5 for a license or in any book or record required to be maintained
6 or in any report required to be submitted, who makes any false
7 or misleading statement, or makes any false or misleading entry
8 or wilfully fails to maintain or make any entry required to be
9 maintained or made, or who wilfully refuses to produce for
10 inspection any book, record, or document required to be
11 maintained or made by federal or state law shall be guilty of a
12 misdemeanor and, notwithstanding section 706-640, shall be
13 subject to a fine of not less than \$ but not more
14 than \$.

15 § -15 Penalty for violation of chapter; exceptions. Any
16 person who commits a violation of this chapter, or any rule
17 adopted pursuant to this chapter, for which no penalty is
18 otherwise provided, or who knowingly causes, aids, abets, or
19 conspires with another to cause any person to violate this
20 chapter or the rules adopted pursuant thereto, shall be guilty
21 of a class C felony.



1 § -16 Persons prohibited from purchasing tickets or
2 receiving prizes; penalty. (a) A ticket shall not be purchased
3 by, and a prize shall not be paid to any member of the
4 commission, the director, or an employee of the lottery or to
5 any spouse, child, brother, sister, or parent residing as a
6 member of the same household in the principal place of abode of
7 any member of the commission, the director, or an employee of
8 the lottery.

9 (b) A violation of this section is a misdemeanor.

10 § -17 Unclaimed prizes. Unclaimed prizes shall be
11 retained in the state lottery account established by section
12 -21 for the person entitled thereto for one hundred eighty
13 days after the official end of the game. If no claim is made
14 for the prize within this time, all rights to the prize shall be
15 extinguished, and the prize shall be retained in the state
16 lottery account established by section -21 for further use as
17 prizes, except that one-third of all unclaimed prize money shall
18 be deposited in the state general fund.

19 § -18 Deposit of moneys received by agents from sales;
20 power of director; reports. The director, in the director's
21 discretion, may require any or all lottery sales agents to



1 deposit to the credit of the state lottery account in banks
2 designated by the director of finance, all moneys received by
3 those agents from the sale of tickets, less the amount, if any,
4 retained as compensation for the sale of the tickets, and to
5 file with the director reports of their receipts and
6 transactions in the sale of tickets in a form and containing the
7 information as the director may require. The director may make
8 any arrangements for any person, including a bank, to perform
9 any functions, activities, or services in connection with the
10 operation of the lottery as the director may deem advisable
11 pursuant to this chapter and the rules of the commission, and
12 the functions, activities, or services shall constitute lawful
13 functions, activities, and services of that person.

14 § -19 Other law inapplicable to sale of tickets. No
15 other law providing any penalty for the sale of tickets or any
16 acts done in connection with a lottery shall apply to the sale
17 of tickets performed pursuant to this chapter.

18 § -20 Payment of prizes to minor. If the person
19 entitled to a prize is a minor under the age of eighteen and the
20 prize is less than \$5,000, the director may pay the prize to an
21 adult member of the minor's family or a guardian of the minor by



1 a check or draft payable to the order of the minor; provided
2 that, if the prize is \$5,000 or more, the director shall pay the
3 minor by depositing the amount of the prize in any bank to the
4 credit of an adult member of the minor's family or a guardian of
5 the minor as custodian for the minor. The commission and the
6 director shall be discharged of all further liability upon
7 payment of a prize to a minor pursuant to this section.

8 § -21 State lottery account; established. There is
9 established a separate account outside the state treasury, to be
10 known as the state lottery account. The account shall be
11 managed, maintained, and controlled by the commission and shall
12 consist of all revenues received from the sale of tickets, and
13 all other moneys credited or transferred to the account from any
14 other fund or source. No appropriation shall be required to
15 expend moneys from the account, if the moneys are being expended
16 or transferred in accordance with section -22.

17 § -22 Use of moneys in state lottery account limited.
18 The state lottery account shall be used only for the following
19 purposes:

20 (1) The payment of prizes to the holders of winning
21 tickets;



1 (2) Depositing ten per cent of all revenues received from
 2 the sale of tickets, and all other moneys credited or
 3 transferred thereto from any other fund or source
 4 pursuant to law into the lottery administrative
 5 account created under section -25;

6 (3) Depositing, into each of the following funds, ten per
 7 cent of all revenues received from the sale of tickets
 8 and all other moneys credited or transferred thereto
 9 from any other fund or source pursuant to law:

10 (A) The school facilities and operations special fund
 11 created by section 302A- ;

12 (B) The university facilities and operations special
 13 fund created by section 304A- ; and

14 (C) The general fund;

15 (4) The purchase and promotion of tickets and game-related
 16 services; and

17 (5) The payment of agent compensation.

18 § -23 **Methods for payment of prizes by installments.** If
 19 the director decides to pay any prize by installments over a
 20 period of years, the director shall select, for any specific
 21 lottery, only one of the following methods:



1 (1) The director may enter into a contract with any
2 financially responsible person or firm providing for
3 the payment of the installments; or

4 (2) The director may establish and maintain a reserve
5 account into which shall be placed sufficient moneys
6 for the director to pay installments as they become
7 due. The reserve account shall be maintained as a
8 separate and independent account outside the state
9 treasury.

10 § -24 Debts owed to state agency or counties; debt
11 information to lottery commission; prize setoff against debts.

12 (a) Any state agency or county that maintains records of debts
13 owed to the State or a county, or that the State is authorized
14 to enforce or collect, may submit debt information to the
15 director in a format specified by the director. State agencies
16 or counties submitting debt information shall provide updates to
17 the director no less than monthly and shall be solely
18 responsible for the accuracy of the information.

19 (b) The director shall include the debt information
20 submitted by state agencies or counties in its validation and
21 prize payment process. The director shall delay payment of a



1 prize exceeding \$600 for a period not to exceed two working
2 days, to any person owing a debt to a state agency or county
3 pursuant to the information submitted in subsection (a). The
4 lottery shall contact the state agency or county providing the
5 debt information to verify the debt. The prize shall be paid to
6 the claimant if the debt is not verified by the submitting state
7 agency or county within two working days. If the debt is
8 verified, the prize shall be disbursed pursuant to subsection
9 (c).

10 (c) Prior to disbursement, any lottery prize exceeding
11 \$600 shall be set off against any debts owed by the prize winner
12 to the State or a county, or that the State is authorized to
13 enforce or collect.

14 § -25 Lottery administrative account created. There is
15 established the lottery administrative account in the state
16 treasury. The account shall be managed, controlled, and
17 maintained by the director. Moneys in the account shall be used
18 to cover administrative expenses incurred in the operation and
19 administration of the lottery.

20 § -26 Annual audit. The auditor shall conduct an annual
21 audit of all accounts and transactions of the lottery and any



1 other special audits that the auditor may be directed to
2 conduct.

3 § -27 Investigations authorized. The attorney general
4 may investigate violations by the commission, the director, or
5 the director's employees, licensees, or agents of this chapter
6 and other state laws.

7 § -28 Review by director of finance. (a) The director
8 of finance may conduct periodic reviews of the state lottery and
9 the commission as are necessary to ensure that:

- 10 (1) The manner and timeliness of prize payments are
11 consistent with this chapter;
- 12 (2) The apportionment of total revenues from the sale of
13 tickets and from all other sources is consistent with
14 this chapter;
- 15 (3) The manner and type of lottery being conducted and
16 incidental expenses are the most efficient and cost-
17 effective; and
- 18 (4) The commission is not incurring unnecessary operating
19 and administrative costs.

20 (b) In conducting a review under this section, the
21 director of finance may inspect the books, documents, and



1 records of the commission. Upon completion of the review, the
 2 director of finance shall report all irregularities discovered
 3 to the attorney general, the legislature, and the state auditor.
 4 In its report, the director of finance shall recommend any
 5 corrective actions that may be necessary to ensure the most
 6 efficient and cost-effective operation of the lottery.

7 § -29 Verification by certified public accountant. The
 8 director of finance shall contract with a certified public
 9 accountant, in accordance with chapter 103D, to verify that:

- 10 (1) The manner of selecting the tickets complies with this
- 11 chapter; and
- 12 (2) The manner and timeliness of prize payments comply
- 13 with this chapter.

14 The cost of procuring these services shall be paid from the
 15 lottery administrative account.

16 § -30 Enforcement powers of director. The director
 17 shall have the power to enforce this chapter and other state
 18 laws relating to the conduct of or participation in lottery
 19 activities and the manufacturing, importation, transportation,
 20 distribution, possession, and sale of equipment or paraphernalia
 21 used or for use in connection with the lottery. In carrying out



1 the director's enforcement authority, the director or
 2 enforcement officers appointed by the director may investigate
 3 violations of and apply for and execute all warrants and service
 4 of process issued by the courts, and arrest, without a warrant,
 5 any person or persons found in violation of any of the criminal
 6 provisions of this chapter. To the extent set forth in this
 7 section, the director may obtain information from and provide
 8 information to other law enforcement agencies.

9 § -31 Construction. This chapter shall be liberally
 10 construed to carry out the purposes and policies of this
 11 chapter."

12 SECTION 3. Chapter 302A, Hawaii Revised Statutes, is
 13 amended by adding a new section to part VI, subpart A, to be
 14 appropriately designated and to read as follows:

15 "§302A- School facilities and operations special fund.

16 The school facilities and operations special fund is created
 17 within the state treasury to be administered by the department.

18 The special fund may receive deposits from the state lottery
 19 account created under section -21. Moneys may be

20 appropriated from the special fund for the design, construction,



1 maintenance, or repair of school facilities, or for school
2 operations, upon approval by the legislature."

3 SECTION 4. Chapter 304A, Hawaii Revised Statutes, is
4 amended by adding a new section to part V, subpart C, to be
5 appropriately designated and to read as follows:

6 "§304A- University facilities and operations special
7 fund. The university facilities and operations special fund is
8 created within the state treasury to be administered by the
9 university. The special fund may receive deposits from the
10 state lottery account created under section -21. Moneys may
11 be appropriated from the special fund for the design,
12 construction, maintenance, or repair of university facilities,
13 or for university operations, upon approval by the legislature."

14 SECTION 5. Section 712-1220, Hawaii Revised Statutes, is
15 amended by amending the definition of "gambling" to read:

16 ""Gambling". A person engages in gambling if [~~he~~] the
17 person stakes or risks something of value upon the outcome of a
18 contest of chance or a future contingent event not under [~~his~~]
19 the person's control or influence, upon an agreement or
20 understanding that [~~he~~] the person or someone else will receive



1 something of value in the event of a certain outcome. Gambling
2 does not include [~~bona~~]:

3 (a) Bona fide business transactions valid under the law of
4 contracts[~~7~~] including but not limited to contracts
5 for the purchase or sale at a future date of
6 securities or commodities[~~7~~ and agreements];

7 (b) Agreements to compensate for loss caused by the
8 happening of chance[~~7~~] including but not limited to
9 contracts of indemnity or guaranty and life, health,
10 or accident insurance[~~7~~]; or

11 (c) The state lottery established by chapter _____."

12 SECTION 6. If any provision of this Act, or the
13 application thereof to any person or circumstance is held
14 invalid, the invalidity does not affect other provisions or
15 applications of the Act, which can be given effect without the
16 invalid provision or application, and to this end the provisions
17 of this Act are severable.

18 SECTION 7. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.



1 SECTION 8. This Act shall take effect upon its approval.

2

INTRODUCED BY: Jakobi Orin

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JAN 22 2018



H.B. NO. 2240

Report Title:

State Lottery; Public Education; Special Funds

Description:

Creates state lottery, state lottery commission, and state lottery account. Requires certain percentages of lottery revenues to be deposited into the lottery administrative account managed by the director of the state lottery and into the general fund and new special funds to be administered by the Department of Education and the University of Hawaii.

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