A BILL FOR AN ACT

RELATING TO GENERATION OF STATE REVENUES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The purpose of this Act is to establish a division within the department of budget and finance to oversee participation by Hawaii in the Powerball and Mega Millions multistate lottery games and to allocate income from those games to the general fund.

2 SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER

LOTTERY

§ -1 Definitions. As used in this chapter, unless the context clearly requires otherwise:

"Director" means the executive director of the state lottery division.

"Division" or "state lottery division" means the Hawaii state lottery division established by this chapter and placed within the department of budget and finance.
"Lottery" or "state lottery" means the lottery authorized and operated pursuant to this chapter, which shall be limited to the Powerball and Mega Millions games.

§ -2 Hawaii state lottery division created; executive director; appointment. (a) There is established within the department of budget and finance a Hawaii state lottery division.

(b) The governor shall appoint, with the advice and consent of the senate, an executive director of the division who shall be a person qualified by training and experience to administer the state lottery. The executive director shall:

(1) Serve a term concurrent with that of the governor; and

(2) At the discretion of the governor, undergo a performance review every two years, which shall be provided to the legislature.

(c) Effective July 1, 2019, the director shall be paid a salary set at eighty-seven per cent of the salary of the director of human resources development. The director shall be exempt from chapters 76 and 89 but shall be a member of the state employees' retirement system and shall be eligible to receive benefits of any state and federal employee benefits
program generally applicable to officers and employees of the State, including those under chapter 87A.

(d) The director shall devote the director's entire time and attention to the administration of the state lottery and shall not be engage in any other profession or occupation.

(e) The director may employ persons not subject to chapters 76 and 78 to perform and execute the duties imposed by this chapter.

(f) The director shall not have a pecuniary interest in any contract or agreement to which the division is a party.

§ -3 Division; director; powers and duties. (a) The director shall supervise and administer the operation of the lottery in accordance with this chapter and the rules adopted under this chapter:

(b) The director shall adopt rules in accordance with chapter 91. Rules adopted by the director shall include provisions relating to the following:

(1) Participation in the Powerball and Mega Millions lottery games;

(2) The price of lottery tickets sold, if necessary, and the method to be used in selling lottery tickets;
provided that sales of lottery tickets on the Internet are prohibited;

(3) The type or types of locations at which lottery tickets may be sold;

(4) The licensing of agents to sell or distribute lottery tickets including but not limited to:

(A) Establishing a license application process;

(B) Establishing a license fee and license renewal fee structure;

(C) Prohibiting persons under the age of eighteen from obtaining a license and prohibiting any person who engages exclusively in the business of selling lottery tickets from obtaining a license; and

(D) A complaints review process which may result in the director denying, suspending, or revoking a license, after notice and hearing, for cause.

(5) How license fees shall be collected for deposit into the state lottery revolving fund created under section -15;
Ensuring that in each place authorized to sell lottery tickets and in any advertising or promotion there shall be conspicuously displayed an estimate of the probability of winning;

The manner and amount of compensation, if any, to be paid to licensed sales agents necessary to provide for the adequate availability of lottery tickets to prospective buyers and for the convenience of the public;

The manner of payment of prizes to the holders of winning lottery tickets; and

Matters necessary or desirable for the efficient and economical operation and administration of the lottery and the division.

Each quarter, the director shall certify to the director of finance a full and complete statement of lottery revenues, the value of prize disbursements, and expenses for the preceding quarter.

§ 4 Licenses non-transferable. No license issued by the director to sell or distribute lottery tickets shall be assignable or transferable.
§ -5 Lottery redemption agents. The director may retain lottery redemption agents to perform functions, activities, or services in connection with the operation of the lottery, including direct payment of prizes not exceeding $5,000, as the director deems advisable pursuant to this chapter and the rules adopted under this chapter. The director may make arrangements for payment of reasonable fees for those services.

§ -6 Sale at unauthorized price or by unauthorized person; violation. (a) No person shall sell a lottery ticket at a price other than that fixed by rule. No person other than a licensed lottery sales agent or any employee of a licensed lottery sales agent acting within the scope of the employee's employment shall sell lottery tickets. This section shall not prohibit a person from giving lottery tickets to another person as a gift.

(b) Persons who violate this section shall, for each ticket sold, pay a fine equal to the difference in the price charged for the lottery ticket and the price fixed by rule, to be deposited into the lottery revolving fund established by section -15. The director may impose additional penalties pursuant to section (e).
(c) Any person who knowingly conducts any activity for which a license is required by this chapter or by rule, without the required license, shall pay a fine equal to five times the total of the profits made from the prohibited activity, which shall be deposited into the state lottery revolving fund, and shall be required to perform community service. The amount of community service shall not be less than ten hours or more than one hundred hours.

(d) Any person that purchases a lottery ticket from an unlicensed vendor shall still be entitled to any prizes they may win.

(e) The director shall adopt rules to establish penalties for a licensed agent who violates the division's rules or this chapter; provided that the penalties for a subsequent violation within any twelve-month period shall be more severe than the penalty for a prior violation.

§ -7 Sale to persons using state-issued electronic benefits transfer cards; violation. (a) No licensed lottery sales agent shall sell a lottery ticket to a person using a public assistance voucher issued by any public entity or an
electronic benefits transfer card issued by the department of human services to purchase a lottery ticket.

(b) No licensed lottery sales agent shall sell a lottery ticket during the same transaction in which a person uses either a public assistance voucher issued by any public entity or an electronic benefits transfer card issued by the department of human services.

§ 8 Prosecution; payment of costs. (a) The attorney general and the prosecuting attorneys of the affected county shall have concurrent jurisdiction over any offenses arising out of or in connection with the formation, management, operation, or conduct of the state lottery.

(b) The director shall include, as an expense of the division, all costs incurred by the attorney general or a prosecuting attorney as a result of prosecution of a person pursuant to subsection (a). The director shall authorize reimbursement of prosecution costs on presentation of a certified invoice signed by the attorney general or a prosecuting attorney.

(c) As used in this section, "prosecution costs" may include but are not limited to costs for personnel, expenses,
fees, and other costs necessary in the preparation and
prosecution of a person pursuant to subsection (a).

§ 9 Sales to minors prohibited; exception; penalties.
(a) A lottery ticket shall not be sold to any person under the
age of eighteen; provided that this section shall not be deemed
to prohibit the purchase of a ticket by a person eighteen years
of age or older for the purpose of making a gift to a person
younger than the age of eighteen.
(b) Any licensed lottery sales agent who knowingly sells
or offers to sell a lottery ticket to any person under the age
of eighteen shall forfeit their license to sell or distribute
lottery tickets for a period of one year.

§ 10 Payment of prizes to minor. If the person
entitled to a prize is under the age of eighteen and the prize
is less than $1,000, the director may pay the prize to an adult
member of the minor's family or a guardian of the minor by a
check or draft payable to the order of the minor. If the prize
is $1,000 or more, the director shall pay the 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 a custodian for the minor. The director shall be discharged
of all further liability upon payment of a prize to a minor pursuant to this section.

§ -11 Right to prize not assignable; exceptions. (a) The right of any person to a prize shall not be assignable; provided that:

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

(A) The estate of a deceased prize winner;

(B) The beneficiary of a deceased prize winner; or

(C) A person pursuant to an appropriate judicial order;

(2) Payments to winners in an amount of $1,000 or more shall be subject to setoff pursuant to section -17; and

(3) If a voluntary assignment occurs, the remainder of any annuity, or a portion of the remainder of the annuity may be assigned by a prize winner pursuant to an appropriate judicial order if all of the following conditions are met:

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

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

(C) The parties to the assignment pay a fee, to be
determined by the director, to the division to
defray the expenses incurred by the division in
processing the assignment. Moneys collected by
the division pursuant to this subparagraph shall
be deposited in the state lottery revolving fund
established by section -15.

(b) On receipt of a court order that meets the
requirements of subsection (a)(3), the director shall make the
voluntary assignment.

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

§ -12 Disposition of revenue. (a) All annual revenues
accruing from the sale of lottery tickets or shares and from all
other sources, unless otherwise specified, shall be deposited in
the state lottery revolving fund established by section -15
to be expended for the following:

(1) 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 consulting or
operational services;

(2) Independent audits, which shall be performed annually
in addition to the audits required by section -19;

(3) Payment of compensation to licensed lottery sales
agents necessary to provide for the adequate
availability of lottery tickets or services to
prospective buyers and for the convenience of the
public;

(4) The payment of reasonable fees to lottery redemption
agents as authorized by section -5; and

(5) The purchase or lease of lottery equipment, lottery
tickets, and materials.

(b) Funds necessary to participate in the Powerball and
Mega Millions lottery games shall be deposited in the state
lottery prize revolving fund established by section -17 for payment of prizes to the holders of winning lottery tickets or for the purposes provided for in section -13.

(c) All other revenues accruing from the sale of lottery tickets shall be deposited in the state lottery revolving fund established by section -15 to be used as specified by section -16.

(d) Revenues expended under subsection (a) shall be subject to legislative appropriation.

§ -13 Disposition of unclaimed prize money. Unclaimed prize money for the prize on a winning lottery ticket shall be retained for the person entitled to the prize for one hundred eighty days after the drawing in which the prize was won. If a claim is not made for the money within the applicable period, the money shall be deposited in the state lottery revolving fund established by section -15.

§ -14 Deposit of moneys received by agents from sales; power of director; reports. The director, in the director's discretion, may require any or all licensed lottery sales agents to deposit to the credit of the lottery revolving fund in banks designated by the director of finance, all moneys received by
those agents from the sale of lottery tickets, less the amount, if any, retained as compensation for the sale of the lottery tickets, and to file with the director reports of their receipts and transactions in the sale of lottery tickets in a form and containing the information as the director may require. The director may make any arrangements for any person, including a bank, to perform any functions, activities, or services in connection with the operation of the lottery as the director may deem advisable pursuant to this chapter and the rules of the division.

§ -15 State lottery revolving fund. There is established in the state treasury the state lottery revolving fund consisting of all revenues received from the sale of lottery tickets, fees, or penalties, if any, charged pursuant to this chapter and all other moneys credited or transferred from any other fund or source pursuant to statute, with the exception of those moneys set aside for payment of prizes and deposited as provided in section -17.

§ -16 Use of moneys in state lottery revolving fund; report. (a) The moneys in the state lottery revolving fund shall be expended by the director for the expenses of the
division incurred in carrying out its powers and duties and in
the operation of the lottery.

(b) Any unexpended moneys remaining in the state lottery
revolving fund shall be deposited into the general fund.
§ -17 State lottery prize revolving fund; setoff for
state debts; notification to department of human services. (a)
There is established in the state treasury the state lottery
prize revolving fund. That portion of the gross proceeds of
lottery ticket sales set aside for prizes as necessary for
participation in Mega Millions and Powerball lottery games,
shall be deposited, pursuant to chapter 38, to the credit of the
state lottery prize revolving fund as the division receives
those proceeds and shall be available to the director for
payment of prizes to the holders of winning lottery tickets or
for the purposes provided in section -13. Procedures for
payments to winners from the revolving fund shall be established
by rule. Notwithstanding any rule to the contrary, transfers or
payment to or from the state lottery prize revolving fund, and
deposits into the state lottery prize revolving fund, shall not
be subject to appropriation by the legislature.
(b) Payments to winners that are payable by the director or lottery redemption agents pursuant to this section' in an amount of $1,000 or more shall be subject to setoff under section -18.

(c) The department of human services shall reimburse the division for the cost of providing any information the department requests.

§ -18 Prizes; setoff for debts to state agencies;

definitions. (a) The director shall establish a liability setoff program by which state lottery prize payments pursuant to section -17 may be used to satisfy debts that a person owes the State. The program shall comply with the standards and requirements described in this section.

(b) If a person owes an agency a debt, an agency may notify the director, providing at a minimum the state agency or program identifier; the first name, last name, middle initial, and social security number of the debtor; and the amount of the debt. This information shall be in a form prescribed by the director. Each agency shall certify the information and update the information monthly. No information shall be transmitted by
the department of taxation to the director if the transmission
would violate section 231-1.5.

(c) The director shall match the information submitted by
the agency with persons who are entitled to a state lottery
prize payment in an amount of $1,000 or more. If there is a
match, the director shall set off the amount of the debt from
the prize due and notify the person of the person's right to
appeal to the appropriate court, or to request a review by the
agency pursuant to agency rule. The person shall make the
request or appeal within thirty days after the setoff. If the
setoff accounts for only a portion of the prize due, the
remainder of the prize shall be paid to the person. The
director shall promptly transfer the setoff, less the amount of
the division's fee, to the agency.

(d) If a person requests a review by the agency or
provides the agency with proof that an appeal has been taken to
the appropriate court within thirty days after the setoff and it
is determined that the setoff was made in error under this
section, the agency shall reimburse the person with the interest
as determined pursuant to section 478-2.
(e) The basis for a request for review shall not include the validity of the claim if its validity has been established at an agency hearing, by judicial review in a court of competent jurisdiction, or by final administrative decision, and shall state with specificity why the person claims the obligation does not exist or why the amount of the obligation is incorrect.

(f) The director may prescribe a fee to be collected from each agency utilizing the setoff procedure. The amount of the fee shall reasonably reflect the actual cost of the service provided.

(g) If more than one agency has one or more delinquent accounts for the same person, and the prize is insufficient to satisfy the debt owed to each agency or for each account, the director shall apportion the prize equally among them; provided that a setoff to the department of human services for overdue support shall have priority over all other setoffs.

(h) If the prize is insufficient to satisfy the entire debt, the remainder of the debt may be collected by an agency as provided by law or resubmitted for setoff against any other prize awarded.
(i) An agency shall not enter into an agreement with a debtor for the assignment of any prospective prize to the agency in satisfaction of the debt.

(j) As used in this section, unless the context otherwise requires:

"Agency" means a department, agency, board, commission, or institution of the State. "Agency" also means an entity under contract with the State that provides a service that would otherwise be provided by a department, agency, board, commission, or institution of the State if:

(1) The contract specifically authorizes participation in the liability setoff program;

(2) The department of the attorney general has reviewed the contract and approves of the authorization; and

(3) The participation in the liability setoff program is limited to debts related to the services the entity provides for or on behalf of the State.

"Debt" means an amount of over $100 owed to an agency by a person and may include interest, penalties, charges, costs, fees, or any other amount. "Debt" also includes moneys owed by
a person for overdue support and referred to the department of
human services for collection.

"Overdue support" means a delinquency in court-ordered
payments for support or maintenance of a child or for spousal
maintenance to the parent with whom the child is living if child
support is also being enforced pursuant to an assignment or
application fee filed under title 42 United States Code section
654(6).

§ -19 Audit of accounts. The certified public
accountant hired to perform the annual audit under section
-12(a)(2) shall conduct postaudits of all accounts and
transactions of the division for twelve lottery games per year.
The certified public accountant conducting an audit under this
chapter shall have access and authority to examine any and all
records of the division, its lottery redemption agents, and its
licensed lottery sales agents.

§ -20 Lottery commencement. A lottery shall be
conducted no later than July 1, 2020."

SECTION 3. Section 712-1220, Hawaii Revised Statutes, is
amended by amending the definition of "gambling" to read as
follows:
"Gambling". A person engages in gambling if he stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his control or influence, upon an agreement or understanding that he or someone else will receive something of value in the event of a certain outcome. Gambling does not include: lottery tickets and other items used in playing the Powerball or Mega Millions lottery schemes as overseen by the Hawaii state lottery division pursuant to chapter ___; bona fide business transactions valid under the law of contracts, including but not limited to contracts for the purchase or sale at a future date of securities or commodities [7] and agreements to compensate for loss caused by the happening of chance, including but not limited to contracts of indemnity or guaranty and life, health, or accident insurance."

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of $1,200,000 or so much thereof as may be necessary for fiscal year 2019-2020 and the same sum or so much thereof as may be necessary for fiscal year 2020-2021 for the operations of the Hawaii state lottery division established pursuant to section 2 of this Act.
The sums appropriated shall be expended by the department of budget and finance for the purposes of this Act.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 2019.

INTRODUCED BY:

[Signatures]
Report Title:
Mega Millions; Powerball; State Lottery; Department of Budget and Finance

Description:
Creates a state lottery division within the department of budget and finance with rulemaking authority to implement a state lottery limited to the Powerball and Mega Millions lottery games. Allocates lottery profits to the general fund. Creates lottery and lottery prizes revolving funds. Appropriates funds.

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