A BILL FOR AN ACT

RELATING TO A STATE LOTTERY.

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

SECTION 1. The purpose of this Act is to establish the state lottery commission and allow lottery proceeds to be used to fund university and public school facilities for the overall betterment of the State.

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

"CHAPTER
STATE LOTTERY
§ -1 Definitions. For the purposes of this chapter, unless the context clearly requires otherwise:
"Administrative account" means the lottery administrative account established under section -26.
"Commission" means the state lottery commission established under section -3.
"Director" means the director of the state lottery established by this chapter.
"Lottery" or "state lottery" means the lottery established and operated pursuant to this chapter.

"Ticket" means a lottery ticket.

§ -2 Hawaii state lottery task force. (a) There is established a Hawaii state lottery task force within the department of accounting and general services for administrative purposes. The purpose of the task force is to examine the creation and sustainability of a state lottery, the proceeds of which would be used to address funding issues for university and public education.

(b) The task force shall begin no later than January 1, 2020, and shall cease after December 31, 2024.

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

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

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

§ 4 Powers and duties of commission; rules. (a) The commission shall have the following powers and duties:

(1) Adopt, amend, or repeal rules pursuant to chapter 91 governing the establishment and operation of a state lottery, so as to begin operation of the lottery as soon as practicable and to produce the maximum amount of net revenues for the State consistent with the dignity of the State, as well as any other rules the commission deems necessary or desirable;

(2) Ensure that in each place authorized to sell tickets, on the back of each ticket and in any advertising or promotion, there shall be conspicuously displayed an estimate of the probability of purchasing a winning ticket; and

(3) Advise and make recommendations to the director for the operation and administration of the lottery.
(b) Rules adopted pursuant to chapter 91 shall include:

1. The type of lottery to be conducted, which may include the selling of lottery tickets; provided that the tickets may not be sold over the Internet and the use of electronic or mechanical devices or video terminals that allow for individual play against those devices or terminals shall be prohibited;

2. The price or prices of tickets in each game;

3. The numbers and sizes of the prizes on the winning tickets;

4. The manner and time of payment of prizes to the holder of winning tickets which, at the director's option, may be paid in lump sum amounts or by installments over a period of years;

5. The frequency of the lottery games;

6. Without limit as to number, the type or types of locations at which tickets may be sold;

7. The method to be used in selling tickets, except as limited by paragraph (1);
(8) The licensing of agents to sell or distribute tickets, except that a person under the age of eighteen shall not be licensed as an agent;

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

(10) The apportionment of the total revenues accruing from the sale of tickets and from all other sources among:

(A) The payment of prizes to the holders of winning tickets, which shall not be less than forty-five per cent of the gross annual revenue from the lottery;

(B) Transfers to the administrative account; and

(C) Transfers to the school facilities and operations special fund established pursuant to section 302A-, university facilities and operations fund established pursuant to section 304A-, and the general fund; and

(11) Any other matters necessary or desirable for the efficient and economical operation and administration
of a state lottery and for the convenience of the purchasers of tickets and the holders of winning tickets.

§ 5 New games. (a) The lottery commission shall conduct new games intended to generate additional moneys sufficient to cover the distributions under section 22. No game may be conducted under this section before January 1, 2020.

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

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

(b) The director shall:

(1) Supervise and administer the operation of the lottery in accordance with this chapter and the rules of the commission;
Without regard to chapters 76 and 89, appoint deputy
and assistant directors that may be required to carry
out the functions and duties of the director;

Appoint professional, technical, and clerical
assistants and employees that may be necessary to
perform the duties imposed by this chapter; provided
that chapters 76 and 89 shall not apply to any
employees engaged in undercover audit, investigative
work, or security operations but shall apply to other
employees appointed by the director;

In accordance with this chapter and the rules adopted
by the commission, license any persons as agents to
sell or distribute tickets who in the director's
opinion will best serve the public convenience and
promote the sale of tickets. The director may require
a bond from any licensed agent, in any amount provided
in the rules of the commission. Every licensed agent
shall prominently display a license, or a copy, as
provided in the rules of the commission. License fees
may be established by the commission, and, if
established, shall be deposited in the state lottery account created under section -22;

(5) Confer regularly as necessary or desirable with the commission on the operation and administration of the lottery; upon request, make available for inspection by the commission all books, records, files, and other information and documents of the lottery; and advise the commission and make recommendations on any matters that the director deems necessary and advisable to improve the operation and administration of the lottery;

(6) Enter into contracts for the operation of the lottery, or any part thereof, and for the promotion of the lottery. No contract awarded or entered into by the director may be assigned by the holder except by specific approval of the commission; provided that nothing in this chapter shall authorize the director to enter into public contracts for the regular and permanent administration of the lottery after the initial development and implementation;
(7) Certify quarterly to the director of finance and the commission a full and complete statement of lottery revenues, prize disbursements, and other expenses for the preceding quarter;

(8) Carry on a continuous evaluation of the lottery throughout the State to:

(A) Identify any defects in this chapter or rules adopted pursuant thereto that may give rise to any abuse in the administration and operation of the lottery or any evasion of this chapter or rules adopted pursuant thereto that may lead to the proliferation of illegal activity;

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

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

(9) Have all enforcement powers necessary to implement this chapter; and
(10) Perform all other actions necessary to carry out the purposes of this chapter.

§ 7 Licenses for lottery sales agents. (a) No license as an agent to sell tickets shall be exclusively issued to any one person to act as a lottery sales agent. Before issuing a license, the director shall consider the following factors:

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

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

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

(4) Volume of expected sales.

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

(1) Means 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; and
(2) Does not mean any department, commission, agency, or
instrumentality of the State, or any county or agency
or instrumentality thereof.

§ 8 License as authority to act. Any person licensed
pursuant to this chapter is authorized to act as a lottery sales
agent.

§ 9 Denial, suspension, and revocation of licenses.
(a) The director may deny an application for or suspend or
revoke, after notice and hearing, any license issued pursuant to
this chapter. A license may be temporarily suspended by the
director without prior notice, pending any prosecution,
investigation, or hearing. A license may be suspended or
revoked or an application may be denied by the director for one
or more of the following reasons:

(1) Failure to:

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

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

(C) File any return or report or to keep records or
to pay any tax required by this chapter; or
(D) Comply with the instructions of the director concerning the licensed activity;

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

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

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

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

(6) A material change, after issuance of the license, with respect to any matters required to be considered by the director under section 7.

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

§ -10 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 exceeding $600 shall be subject to setoff pursuant to section -25; 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 assignee pays the prize winner 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 the
commission to defray the expenses incurred by the
commission in processing the assignment. The
commission shall determine the amount of the fee.
Moneys collected by the commission pursuant to
this subparagraph shall be deposited in the
administrative account.
(b) The director shall make a voluntary assignment upon
receipt of a court order that meets the requirements of
subsection (a)(3).
(c) The commission and director shall be discharged of all
further liability upon payment of a prize pursuant to this
section.
§ -11 Maximum price of ticket limited; sale by other
than licensed agent prohibited. A person shall not sell a
ticket at a price greater than that fixed by rule of the
commission. No person other than a licensed lottery sales agent
shall sell tickets, except that nothing in this section shall
prevent any person from giving tickets to another person as a
gift.
§ -12 Sale to minor prohibited; exception; penalties.
(a) A ticket shall not be sold to any person under the age of
eighteen; provided that this shall not be deemed to prohibit the
purchase of a ticket for the purpose of making a gift by a
person eighteen years of age or older to a person younger than
the age of eighteen.
(b) Any licensee who knowingly sells or offers to sell a
ticket to any person under the age of eighteen shall be guilty
of a misdemeanor.
(c) A person under the age of eighteen who directly
purchases a ticket in violation of this section shall be guilty
of a misdemeanor. No prize shall be paid to that person and the
prize money otherwise payable on the ticket shall be treated as
unclaimed pursuant to section -18.
§ -13 Prohibited acts; penalty. (a) A person shall not
alter or forge a ticket. A person shall not claim a lottery
prize or share of a lottery prize by means of fraud, deceit, or
misrepresentation. A person shall not conspire with, aid, abet,
or agree to aid another person or persons to claim a lottery
prize or share of a lottery prize by means of fraud, deceit, or misrepresentation.

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

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

(b) Any corporation that conducts any activity for which a license is required by this chapter or by rule of the commission, without the required license, may be punished by forfeiture of its corporate charter, in addition to the other penalties set forth in this section.

§ -15 Penalty for false or misleading statement or entry or failure to produce documents. Any person, in any application for a license or in any book or record required to be maintained or in any report required to be submitted, who makes any false or misleading statement, or makes any false or misleading entry or wilfully fails to maintain or make any entry required to be maintained or made, or who wilfully refuses to produce for inspection any book, record, or document required to be maintained or made by federal or state law shall be guilty of a
misdemeanor and, notwithstanding section 706-640, shall be
subject to a fine of not less than $ but not more than

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

(b) This chapter shall be exempt from gambling offenses
under part III of chapter 712.

§ 17 Persons prohibited from purchasing tickets or
receiving prizes; penalty. (a) A ticket shall not be purchased
by, and a prize shall not be paid to any member of the
commission, the director, or an employee of the lottery 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 member of the commission, the director, or an employee of
the lottery.

(b) A violation of this section shall be a misdemeanor.
§ 18 Unclaimed prizes. Unclaimed prizes shall be retained in the state lottery account established by section -22 for the person entitled thereto for one hundred eighty days after the official end of the game. If no claim is made for the prize within this time, all rights to the prize shall be extinguished, and the prize shall be retained in the state lottery account established by section -22 for further use as prizes, except that fifty per cent of all unclaimed prize money shall be deposited into the school facilities and operations special fund established under section 36-.

§ 19 Deposit of moneys received by agents from sales; power of director; reports. The director, in the director's discretion, may require any or all lottery sales agents to deposit to the credit of the state lottery account in banks designated by the director of finance, all moneys received by those agents from the sale of tickets, less the amount, if any, retained as compensation for the sale of the tickets, and to file with the director reports of their receipts and transactions in the sale of 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 commission, and
the functions, activities, or services shall constitute lawful
functions, activities, and services of that person.

§ -20 Other law inapplicable to sale of tickets. No
other law providing any penalty for the sale of tickets or any
acts done in connection with a lottery shall apply to the sale
of tickets performed pursuant to this chapter.

§ -21 Payment of prizes to minor. If the person
entitled to a prize is a minor under the age of eighteen and the
prize is less than $5,000, 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; provided
that, if the prize is $5,000 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 custodian for the minor. The commission and the
director shall be discharged of all further liability upon
payment of a prize to a minor pursuant to this section.
§ -22 State lottery account; established. There is established a separate account outside the state treasury, to be known as the state lottery account. The account shall be managed, maintained, and controlled by the commission and shall consist of all revenues received from the sale of tickets, and all other moneys credited or transferred to the account from any other fund or source. No appropriation shall be required to expend moneys from the account, if the moneys are being expended or transferred in accordance with section -23.

§ -23 Use of moneys in state lottery account limited. The state lottery account shall be used only for the following purposes:

1. The payment of prizes to the holders of winning tickets;
2. Depositing ten per cent of all revenues received from the sale of tickets, and all other moneys credited or transferred thereto from any other fund or source pursuant to law into the administrative account;
3. Depositing forty per cent of all revenues received from the sale of tickets and all other moneys credited or transferred thereto from any other fund or source
pursuant to law into each of the following funds equally:

(A) The school facilities and operations special fund established pursuant to section 302A-1;

(B) The university facilities and operations special fund established pursuant to section 304A-1; and

(C) The general fund;

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

(5) The payment of agent compensation.

§ -24 Methods for payment of prizes by installments. If the director decides to pay any prize by installments over a period of years, the director shall select, for any specific lottery, only one of the following methods:

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

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

§ -25 Debts owed to state agency or counties; debt information to lottery commission; prize setoff against debts.

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

(b) The director shall include the debt information submitted by state agencies or counties in its validation and prize payment process. The director shall delay payment of a prize exceeding $600 for a period not to exceed two working days, to any person owing a debt to a state agency or county pursuant to the information submitted in subsection (a). The lottery shall contact the state agency or county providing the debt information to verify the debt. The prize shall be paid to the claimant if the debt is not verified by the submitting state agency or county within two working days. If the debt is
verified, the prize shall be disbursed pursuant to subsection
(c).

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

§ -26 Lottery administrative account; establishment.

There is established the lottery administrative account in the
state treasury. The account shall be managed, controlled, and
maintained by the director. Moneys in the account shall be used
to cover administrative expenses incurred in the operation and
administration of the lottery.

§ -27 Annual audit. The auditor shall conduct an annual
audit of all accounts and transactions of the lottery and any
other special audits that the auditor may be directed to
conduct.

§ -28 Investigations authorized. The attorney general
may investigate violations by the commission, the director, or
the director's employees, licensees, or agents of this chapter
and other state laws.
§ -29 Review by director of finance. (a) The director of finance may conduct periodic reviews of the state lottery and the commission as are necessary to ensure that:

1. The manner and timeliness of prize payments are consistent with this chapter;
2. The apportionment of total revenues from the sale of tickets and from all other sources is consistent with this chapter;
3. The manner and type of lottery being conducted and incidental expenses are the most efficient and cost-effective; and
4. The commission is not incurring unnecessary operating and administrative costs.

(b) In conducting a review under this section, the director of finance may inspect the books, documents, and records of the commission. Upon completion of the review, the director of finance shall report all irregularities discovered to the attorney general, the legislature, and the state auditor. In its report, the director of finance shall recommend any corrective actions that may be necessary to ensure the most efficient and cost-effective operation of the lottery.
§ -30 Verification by certified public accountant. The director of finance shall contract with a certified public accountant, in accordance with chapter 103D, to verify that:

(1) The manner of selecting the tickets complies with this chapter; and

(2) The manner and timeliness of prize payments comply with this chapter.

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

§ -31 Enforcement powers of director. The director shall have the power to enforce this chapter and other state laws relating to the conduct of or participation in lottery activities and the manufacturing, importation, transportation, distribution, possession, and sale of equipment or paraphernalia used or for use in connection with the lottery. In carrying out the director's enforcement authority, the director or enforcement officers appointed by the director may investigate violations of and apply for and execute all warrants and service of process issued by the courts, and arrest, without a warrant, any person or persons found in violation of any of the criminal provisions of this chapter. To the extent set forth in this
section, the director may obtain information from and provide
information to other law enforcement agencies.

§ -32 Construction. This chapter shall be liberally
construed to carry out the purposes and policies of this
chapter."

SECTION 3. Chapter 36, Hawaii Revised Statutes, is amended
by adding a new section to be appropriately designated and to
read as follows:

"§302A- School facilities and operations special fund.
There is created in the state treasury the school facilities and
operations special fund. The special fund may receive deposits
from the state lottery account established pursuant to section
-22. Moneys shall be used solely for the design,
construction, maintenance, or repair of school facilities and
for school operations. Appropriations or authorizations from
the special fund shall be expended by the superintendent, upon
approval by the legislature."

SECTION 4. Chapter 304A, Hawaii Revised Statutes, is
amended by adding a new section to be appropriately designated
and to read as follows:
"§304A—University facilities and operations special fund. There is created in the state treasury the university facilities and operations special fund. The special fund may receive deposits from the state lottery account established pursuant to section -22. Moneys shall be used solely for the design, construction, maintenance, or repair of university facilities and for university operations. Appropriations or authorizations from the special fund shall be expended by the university, upon approval by the legislature."

SECTION 5. 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] the person stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under [his] the person's control or influence, upon an agreement or understanding that [he] the person or someone else will receive something of value in the event of a certain outcome. Gambling does not include [bena]:

(a) 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;

(b) 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; or

(c) The state lottery established under chapter "

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

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

SECTION 8. This Act shall take effect upon its approval.
Report Title:
State Lottery; Public Education; Special Fund

Description:
Creates a state lottery to begin by 1/1/2020. Creates the state lottery commission, state lottery account, and lottery administration account. Requires certain amounts of lottery revenues to be deposited into the administrative account, general fund, and special funds for university and public school facilities and operations.

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