

1 "Lottery" or "state lottery" means the lottery established
2 and operated pursuant to this chapter.

3 "Ticket" means a lottery ticket.

4 § -2 Hawaii state lottery task force. (a) There is
5 established a Hawaii state lottery task force within the
6 department of accounting and general services for administrative
7 purposes. The purpose of the task force is to examine the
8 creation and sustainability of a state lottery, the proceeds of
9 which would be used to address funding issues for university and
10 public education.

11 (b) The task force shall begin no later than January 1,
12 2022, and shall cease after December 31, 2026.

13 § -3 State lottery commission; establishment;
14 membership; chair; quorum. (a) There is established the state
15 lottery commission to consist of five members appointed by the
16 governor, with the advice and consent of the senate, pursuant to
17 section 26-34. The governor shall designate one member of the
18 commission to serve as chairperson. A majority of the members
19 shall constitute a quorum for the transaction of business.

20 (b) Notwithstanding any other law to the contrary, members
21 shall be compensated \$2,000 per year and shall be reimbursed for



1 actual costs incurred in carrying out the duties of the
2 commission, including travel expenses.

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

6 § -4 Powers and duties of commission; rules. (a) The
7 commission shall have the following powers and duties:

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

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

20 (3) Advise and make recommendations to the director for
21 the operation and administration of the lottery.



- 1 (b) Rules adopted pursuant to chapter 91 shall include:
- 2 (1) The type of lottery to be conducted, which may include
- 3 the selling of lottery tickets; provided that the
- 4 tickets may not be sold over the Internet and the use
- 5 of electronic or mechanical devices or video terminals
- 6 that allow for individual play against those devices
- 7 or terminals shall be prohibited;
- 8 (2) The price or prices of tickets in each game;
- 9 (3) The numbers and sizes of the prizes on the winning
- 10 tickets;
- 11 (4) The manner and time of payment of prizes to the holder
- 12 of winning tickets which, at the director's option,
- 13 may be paid in lump sum amounts or by installments
- 14 over a period of years;
- 15 (5) The frequency of the lottery games;
- 16 (6) Without limit as to number, the type or types of
- 17 locations at which tickets may be sold;
- 18 (7) The method to be used in selling tickets, except as
- 19 limited by paragraph (1);



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- 1 (8) The licensing of agents to sell or distribute tickets,
2 except that a person under the age of eighteen shall
3 not be licensed as an agent;
- 4 (9) The manner and amount of compensation, if any, to be
5 paid to licensed sales agents necessary to provide for
6 the adequate availability of tickets to prospective
7 buyers and for the convenience of the public;
- 8 (10) The apportionment of the total revenues accruing from
9 the sale of tickets and from all other sources among:
 - 10 (A) The payment of prizes to the holders of winning
11 tickets, which shall not be less than forty-five
12 per cent of the gross annual revenue from the
13 lottery;
 - 14 (B) Transfers to the administrative account; and
 - 15 (C) Transfers to the school operations special fund
16 established pursuant to section 302A- ,
17 university facilities and operations special fund
18 established pursuant to section 304A- , and the
19 general fund; and
- 20 (11) Any other matters necessary or desirable for the
21 efficient and economical operation and administration



1 of a state lottery and for the convenience of the
2 purchasers of tickets and the holders of winning
3 tickets.

4 § -5 **New games.** (a) The lottery commission shall
5 conduct new games intended to generate additional moneys
6 sufficient to cover the distributions under section -22. No
7 game may be conducted under this section before January 1, 2022.

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

11 § -6 **Director; appointment; salary; duties.** (a) The
12 governor shall appoint the director with the advice and consent
13 of the senate. The director shall receive a salary to be
14 determined by the governor, which shall not be more than ninety
15 per cent of the salary of the governor.

16 (b) The director shall:

17 (1) Supervise and administer the operation of the lottery
18 in accordance with this chapter and the rules of the
19 commission;



- 1 (2) Without regard to chapters 76 and 89, appoint deputy
2 and assistant directors that may be required to carry
3 out the functions and duties of the director;
- 4 (3) Appoint professional, technical, and clerical
5 assistants and employees that may be necessary to
6 perform the duties imposed by this chapter; provided
7 that chapters 76 and 89 shall not apply to any
8 employees engaged in undercover audit, investigative
9 work, or security operations but shall apply to other
10 employees appointed by the director;
- 11 (4) In accordance with this chapter and the rules adopted
12 by the commission, license any persons as agents to
13 sell or distribute tickets who in the director's
14 opinion will best serve the public convenience and
15 promote the sale of tickets. The director may require
16 a bond from any licensed agent, in any amount provided
17 in the rules of the commission. Every licensed agent
18 shall prominently display a license, or a copy, as
19 provided in the rules of the commission. License fees
20 may be established by the commission, and, if



1 established, shall be deposited in the state lottery
2 account created under section -22;

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

12 (6) Enter into contracts for the operation of the lottery,
13 or any part thereof, and for the promotion of the
14 lottery. No contract awarded or entered into by the
15 director may be assigned by the holder except by
16 specific approval of the commission; provided that
17 nothing in this chapter shall authorize the director
18 to enter into public contracts for the regular and
19 permanent administration of the lottery after the
20 initial development and implementation;



- 1 (7) Certify quarterly to the director of finance and the
2 commission a full and complete statement of lottery
3 revenues, prize disbursements, and other expenses for
4 the preceding quarter;
- 5 (8) Carry on a continuous evaluation of the lottery
6 throughout the State to:
- 7 (A) Identify any defects in this chapter or rules
8 adopted pursuant thereto that may give rise to
9 any abuse in the administration and operation of
10 the lottery or any evasion of this chapter or
11 rules adopted pursuant thereto that may lead to
12 the proliferation of illegal activity;
- 13 (B) Recommend any amendments to this chapter or rules
14 adopted pursuant thereto necessary to prevent
15 abuses and evasions; and
- 16 (C) Ensure that this chapter and rules adopted
17 pursuant thereto are administered in a manner
18 that serves the true intent of this chapter;
- 19 (9) Have all enforcement powers necessary to implement
20 this chapter; and



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

3 § -7 Licenses for lottery sales agents. (a) No license
4 as an agent to sell tickets shall be exclusively issued to any
5 one person to act as a lottery sales agent. Before issuing a
6 license, the director shall consider the following factors:

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

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

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

13 (4) Volume of expected sales.

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

15 (1) Means an individual, association, corporation, club,
16 trust, estate, society, company, joint stock company,
17 receiver, trustee, assignee, referee, or any other
18 person acting in a fiduciary or representative
19 capacity, whether appointed by a court or otherwise,
20 and any combination of individuals; and



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

4 § -8 License as authority to act. Any person licensed
5 pursuant to this chapter is authorized to act as a lottery sales
6 agent.

7 § -9 Denial, suspension, and revocation of licenses.

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

15 (1) Failure to:

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

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

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



- 1 (D) Comply with the instructions of the director
- 2 concerning the licensed activity;
- 3 (2) For a violation of this chapter or rules adopted
- 4 pursuant to this chapter;
- 5 (3) Fraud, deceit, misrepresentation, or conduct
- 6 prejudicial to public confidence in the state lottery;
- 7 (4) Ticket sales by the licensee that are insufficient to
- 8 meet administrative costs;
- 9 (5) Insufficient need where public convenience is
- 10 adequately served by other licensees; or
- 11 (6) A material change, after issuance of the license, with
- 12 respect to any matters required to be considered by
- 13 the director under section -7.
- 14 (b) For the purpose of reviewing any application for a
- 15 license and for considering the denial, suspension, or
- 16 revocation of any license, the director may consider any prior
- 17 criminal conduct of the applicant or licensee.

18 § -10 Right to prize not assignable; exceptions. (a)

19 The right of any person to a prize shall not be assignable;

20 provided that:



- 1 (1) Payment of any prize drawn or the remainder of any
2 annuity purchased may be paid to any of the following:
3 (A) The estate of a deceased prize winner;
4 (B) The beneficiary of a deceased prize winner; or
5 (C) A person pursuant to an appropriate judicial
6 order;
- 7 (2) Payments to winners in an amount exceeding \$600 shall
8 be subject to setoff pursuant to section -25; and
- 9 (3) If a voluntary assignment occurs, the remainder of any
10 annuity, or a portion of the remainder of the annuity,
11 may be assigned by a prize winner pursuant to an
12 appropriate judicial order if all of the following
13 conditions are met:
- 14 (A) The prize winner provides an affidavit to the
15 court to the effect that the affiant is of sound
16 mind, not acting under duress, and has received
17 independent financial and tax advice concerning
18 the assignment;
- 19 (B) The assignee pays the prize winner a lump sum
20 under the assignment agreement for all amounts



1 that are due to the prize winner on or before the
2 date that the assignment takes effect; and

3 (C) The parties to the assignment pay a fee to the
4 commission to defray the expenses incurred by the
5 commission in processing the assignment. The
6 commission shall determine the amount of the fee.
7 Moneys collected by the commission pursuant to
8 this subparagraph shall be deposited in the
9 administrative account.

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

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

16 § -11 **Maximum price of ticket limited; sale by other**
17 **than licensed agent prohibited.** A person shall not sell a
18 ticket at a price greater than that fixed by rule of the
19 commission. No person other than a licensed lottery sales agent
20 shall sell tickets, except that nothing in this section shall



1 prevent any person from giving tickets to another person as a
2 gift.

3 **§ -12 Sale to minor prohibited; exception; penalties.**

4 (a) A ticket shall not be sold to any person under the age of
5 eighteen; provided that this shall not be deemed to prohibit the
6 purchase of a ticket for the purpose of making a gift by a
7 person eighteen years of age or older to a person younger than
8 the age of eighteen.

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

12 (c) A person under the age of eighteen who directly
13 purchases a ticket in violation of this section shall be guilty
14 of a misdemeanor. No prize shall be paid to that person and the
15 prize money otherwise payable on the ticket shall be treated as
16 unclaimed pursuant to section -18.

17 **§ -13 Prohibited acts; penalty.** (a) A person shall not
18 alter or forge a ticket. A person shall not claim a lottery
19 prize or share of a lottery prize by means of fraud, deceit, or
20 misrepresentation. A person shall not conspire with, aid, abet,
21 or agree to aid another person or persons to claim a lottery



1 prize or share of a lottery prize by means of fraud, deceit, or
2 misrepresentation.

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

4 **§ -14 Penalty for unlicensed activity.** (a) A person
5 who conducts any activity for which a license is required by
6 this chapter or by rule of the commission, without the required
7 license, shall be guilty of a class B felony.

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

13 **§ -15 Penalty for false or misleading statement or entry**
14 **or failure to produce documents.** Any person, in any application
15 for a license or in any book or record required to be maintained
16 or in any report required to be submitted, who makes any false
17 or misleading statement, or makes any false or misleading entry
18 or wilfully fails to maintain or make any entry required to be
19 maintained or made, or who wilfully refuses to produce for
20 inspection any book, record, or document required to be
21 maintained or made by federal or state law shall be guilty of a



1 **§ -18 Unclaimed prizes.** Unclaimed prizes shall be
2 retained in the state lottery account established by section
3 -22 for the person entitled thereto for one hundred eighty
4 days after the official end of the game. If no claim is made
5 for the prize within this time, all rights to the prize shall be
6 extinguished, and the prize shall be retained in the state
7 lottery account established by section -22 for further use as
8 prizes, except that fifty per cent of all unclaimed prize money
9 shall be deposited into the school operations special fund
10 established under section 302A- .

11 **§ -19 Deposit of moneys received by agents from sales;**
12 **power of director; reports.** The director, in the director's
13 discretion, may require any or all lottery sales agents to
14 deposit to the credit of the state lottery account in banks
15 designated by the director of finance, all moneys received by
16 those agents from the sale of tickets, less the amount, if any,
17 retained as compensation for the sale of the tickets, and to
18 file with the director reports of their receipts and
19 transactions in the sale of tickets in a form and containing the
20 information as the director may require. The director may make
21 any arrangements for any person, including a bank, to perform



1 any functions, activities, or services in connection with the
2 operation of the lottery as the director may deem advisable
3 pursuant to this chapter and the rules of the commission, and
4 the functions, activities, or services shall constitute lawful
5 functions, activities, and services of that person.

6 **§ -20 Other law inapplicable to sale of tickets.** No
7 other law providing any penalty for the sale of tickets or any
8 acts done in connection with a lottery shall apply to the sale
9 of tickets performed pursuant to this chapter.

10 **§ -21 Payment of prizes to minor.** If the person
11 entitled to a prize is a minor under the age of eighteen and the
12 prize is less than \$5,000, the director may pay the prize to an
13 adult member of the minor's family or a guardian of the minor by
14 a check or draft payable to the order of the minor; provided
15 that, if the prize is \$5,000 or more, the director shall pay the
16 minor by depositing the amount of the prize in any bank to the
17 credit of an adult member of the minor's family or a guardian of
18 the minor as custodian for the minor. The commission and the
19 director shall be discharged of all further liability upon
20 payment of a prize to a minor pursuant to this section.



1 **§ -22 State lottery account; established.** There is
2 established a separate account outside the state treasury, to be
3 known as the state lottery account. The account shall be
4 managed, maintained, and controlled by the commission and shall
5 consist of all revenues received from the sale of tickets and
6 all other moneys credited or transferred to the account from any
7 other fund or source. No appropriation shall be required to
8 expend moneys from the account, if the moneys are being expended
9 or transferred in accordance with section -23.

10 **§ -23 Use of moneys in state lottery account limited.**

11 The state lottery account shall be used only for the following
12 purposes:

- 13 (1) The payment of prizes to the holders of winning
14 tickets;
- 15 (2) Depositing ten per cent of all revenues received from
16 the sale of tickets and all other moneys credited or
17 transferred thereto from any other fund or source
18 pursuant to law into the administrative account;
- 19 (3) Depositing forty per cent of all revenues received
20 from the sale of tickets and all other moneys credited
21 or transferred thereto from any other fund or source



1 pursuant to law into each of the following funds
2 equally:

3 (A) The school operations special fund established
4 pursuant to section 302A- ;

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

7 (C) The general fund;

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

10 (5) The payment of agent compensation.

11 § -24 **Methods for payment of prizes by installments.** If
12 the director decides to pay any prize by installments over a
13 period of years, the director shall select, for any specific
14 lottery, only one of the following methods:

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

18 (2) The director may establish and maintain a reserve
19 account into which shall be placed sufficient moneys
20 for the director to pay installments as they become
21 due. The reserve account shall be maintained as a



1 separate and independent account outside the state
2 treasury.

3 § -25 Debts owed to state agency or counties; debt
4 information to lottery commission; prize setoff against debts.

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

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



1 verified, the prize shall be disbursed pursuant to subsection
2 (c).

3 (c) Prior to disbursement, any lottery prize exceeding
4 \$600 shall be set off against any debts owed by the prize winner
5 to the State or a county, or that the State is authorized to
6 enforce or collect.

7 **§ -26 Lottery administrative account; establishment.**

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

13 **§ -27 Annual audit.** The auditor shall conduct an annual
14 audit of all accounts and transactions of the lottery and any
15 other special audits that the auditor may be directed to
16 conduct.

17 **§ -28 Investigations authorized.** The attorney general
18 may investigate violations by the commission, the director, or
19 the director's employees, licensees, or agents of this chapter
20 and other state laws.



1 § -29 Review by director of finance. (a) The director
2 of finance may conduct periodic reviews of the state lottery and
3 the commission as are necessary to ensure that:

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

14 (b) In conducting a review under this section, the
15 director of finance may inspect the books, documents, and
16 records of the commission. Upon completion of the review, the
17 director of finance shall report all irregularities discovered
18 to the attorney general, the legislature, and the state auditor.
19 In its report, the director of finance shall recommend any
20 corrective actions that may be necessary to ensure the most
21 efficient and cost-effective operation of the lottery.



1 **§ -30 Verification by certified public accountant.** The
2 director of finance shall contract with a certified public
3 accountant, in accordance with chapter 103D, to verify that:

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

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

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

10 **§ -31 Enforcement powers of director.** The director
11 shall have the power to enforce this chapter and other state
12 laws relating to the conduct of or participation in lottery
13 activities and the manufacturing, importation, transportation,
14 distribution, possession, and sale of equipment or paraphernalia
15 used or for use in connection with the lottery. In carrying out
16 the director's enforcement authority, the director or
17 enforcement officers appointed by the director may investigate
18 violations of and apply for and execute all warrants and service
19 of process issued by the courts, and arrest, without a warrant,
20 any person or persons suspected or found to be in violation of
21 any of the criminal provisions of this chapter; provided that



1 probable cause exists prior to an arrest. To the extent set
2 forth in this section, the director may obtain information from
3 and provide information to other law enforcement agencies.

4 § -32 Construction. This chapter shall be liberally
5 construed to carry out the purposes and policies of this
6 chapter."

7 SECTION 3. Chapter 302A, Hawaii Revised Statutes, is
8 amended by adding a new section to be appropriately designated
9 and to read as follows:

10 "§302A- School operations special fund. There is
11 created in the state treasury the school operations special
12 fund. The special fund may receive deposits from the state
13 lottery account established pursuant to section -22. Moneys
14 shall be used solely for the purpose of school operations.
15 Appropriations or authorizations by the legislature from the
16 special fund shall be expended by the superintendent."

17 SECTION 4. Chapter 304A, Hawaii Revised Statutes, is
18 amended by adding a new section to be appropriately designated
19 and to read as follows:

20 "§304A- University facilities and operations special
21 fund. There is created in the state treasury the university



1 facilities and operations special fund. The special fund may
2 receive deposits from the state lottery account established
3 pursuant to section -22. Moneys shall be used solely for the
4 design, construction, maintenance, or repair of university
5 facilities and for university operations. Appropriations or
6 authorizations by the legislature from the special fund shall be
7 expended by the university."

8 SECTION 5. Section 712-1220, Hawaii Revised Statutes, is
9 amended by amending the definition of "gambling" to read as
10 follows:

11 "Gambling". A person engages in gambling if [~~he~~] the
12 person stakes or risks something of value upon the outcome of a
13 contest of chance or a future contingent event not under [~~his~~]
14 the person's control or influence, upon an agreement or
15 understanding that [~~he~~] the person or someone else will receive
16 something of value in the event of a certain outcome. Gambling
17 does not include [~~bona~~]:

18 (a) Bona fide business transactions valid under the law of
19 contracts, including but not limited to contracts for
20 the purchase or sale at a future date of securities or
21 commodities [~~, and agreements~~];



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1 (b) Agreements to compensate for loss caused by the
2 happening of chance, including but not limited to
3 contracts of indemnity or guaranty and life, health,
4 or accident insurance[-] or

5 (c) The state lottery established under chapter ."

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

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

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

15

INTRODUCED BY: *Michelle R. Tidani*



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Report Title:

State Lottery; Public Education; Special Fund

Description:

Creates a state lottery to begin by 1/1/2022. 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 facilities and operations and public school operations.

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