

S.B. NO. 1518

1 "Lottery" or "state lottery" means the lottery authorized
2 and operated pursuant to this chapter, which shall be limited to
3 the Powerball and Mega Millions games.

4 § -2 Hawaii state lottery division created; executive
5 director; appointment. (a) There is established within the
6 department of budget and finance a Hawaii state lottery
7 division.

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

- 12 (1) Serve a term concurrent with that of the governor; and
13 (2) At the discretion of the governor, undergo a
14 performance review every two years, which shall be
15 provided to the legislature.

16 (c) Effective July 1, 2019, the director shall be paid a
17 salary set at eighty-seven per cent of the salary of the
18 director of human resources development. The director shall be
19 exempt from chapters 76 and 89 but shall be a member of the
20 state employees' retirement system and shall be eligible to
21 receive benefits of any state and federal employee benefits



1 program generally applicable to officers and employees of the
2 State, including those under chapter 87A.

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

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

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

11 § -3 Division; director; powers and duties. (a) The
12 director shall supervise and administer the operation of the
13 lottery in accordance with this chapter and the rules adopted
14 under this chapter:

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

- 18 (1) Participation in the Powerball and Mega Millions
19 lottery games;
- 20 (2) The price of lottery tickets sold, if necessary, and
21 the method to be used in selling lottery tickets;



1 provided that sales of lottery tickets on the Internet
2 are prohibited;

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

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

7 (A) Establishing a license application process;

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

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

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

18 (5) How license fees shall be collected for deposit into
19 the state lottery revolving fund created under section

20 -15;



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1 (6) Ensuring that in each place authorized to sell lottery
2 tickets and in any advertising or promotion there
3 shall be conspicuously displayed an estimate of the
4 probability of winning;

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

10 (8) The manner of payment of prizes to the holders of
11 winning lottery tickets; and

12 (9) Matters necessary or desirable for the efficient and
13 economical operation and administration of the lottery
14 and the division.

15 (c) Each quarter, the director shall certify to the
16 director of finance a full and complete statement of lottery
17 revenues, the value of prize disbursements, and expenses for the
18 preceding quarter.

19 § -4 **Licenses non-transferable.** No license issued by
20 the director to sell or distribute lottery tickets shall be
21 assignable or transferable.



1 § -5 **Lottery redemption agents.** The director may retain
2 lottery redemption agents to perform functions, activities, or
3 services in connection with the operation of the lottery,
4 including direct payment of prizes not exceeding \$5,000, as the
5 director deems advisable pursuant to this chapter and the rules
6 adopted under this chapter. The director may make arrangements
7 for payment of reasonable fees for those services.

8 § -6 **Sale at unauthorized price or by unauthorized**
9 **person; violation.** (a) No person shall sell a lottery ticket
10 at a price other than that fixed by rule. No person other than
11 a licensed lottery sales agent or any employee of a licensed
12 lottery sales agent acting within the scope of the employee's
13 employment shall sell lottery tickets. This section shall not
14 prohibit a person from giving lottery tickets to another person
15 as a gift.

16 (b) Persons who violate this section shall, for each
17 ticket sold, pay a fine equal to the difference in the price
18 charged for the lottery ticket and the price fixed by rule, to
19 be deposited into the lottery revolving fund established by
20 section -15. The director may impose additional penalties
21 pursuant to section (e).



1 (c) Any person who knowingly conducts any activity for
2 which a license is required by this chapter or by rule, without
3 the required license, shall pay a fine equal to five times the
4 total of the profits made from the prohibited activity, which
5 shall be deposited into the state lottery revolving fund, and
6 shall be required to perform community service. The amount of
7 community service shall not be less than ten hours or more than
8 one hundred hours.

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

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

17 § -7 Sale to persons using state-issued electronic
18 benefits transfer cards; violation. (a) No licensed lottery
19 sales agent shall sell a lottery ticket to a person using a
20 public assistance voucher issued by any public entity or an



1 electronic benefits transfer card issued by the department of
2 human services to purchase a lottery ticket.

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

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

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

20 (c) As used in this section, "prosecution costs" may
21 include but are not limited to costs for personnel, expenses,



1 fees, and other costs necessary in the preparation and
2 prosecution of a person pursuant to subsection (a).

3 § -9 Sales to minors prohibited; exception; penalties.

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

9 (b) Any licensed lottery sales agent who knowingly sells
10 or offers to sell a lottery ticket to any person under the age
11 of eighteen shall forfeit their license to sell or distribute
12 lottery tickets for a period of one year.

13 § -10 Payment of prizes to minor. If the person
14 entitled to a prize is under the age of eighteen and the prize
15 is less than \$1,000, the director may pay the prize to an adult
16 member of the minor's family or a guardian of the minor by a
17 check or draft payable to the order of the minor. If the prize
18 is \$1,000 or more, the director shall pay the minor by
19 depositing the amount of the prize in any bank to the credit of
20 an adult member of the minor's family or a guardian of the minor
21 as a custodian for the minor. The director shall be discharged



1 of all further liability upon payment of a prize to a minor
2 pursuant to this section.

3 § -11 Right to prize not assignable; exceptions. (a)

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

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

8 (A) The estate of a deceased prize winner;

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

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

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

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

20 (A) The prize winner provides an affidavit to the
21 court to the effect that the affiant is of sound



1 mind, not acting under duress, and has received
2 independent financial and tax advice concerning
3 the assignment;

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

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

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

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

20 § -12 **Disposition of revenue.** (a) All annual revenues
21 accruing from the sale of lottery tickets or shares and from all



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1 other sources, unless otherwise specified, shall be deposited in
2 the state lottery revolving fund established by section -15
3 to be expended for the following:

4 (1) The payment of costs incurred in the operation and
5 administration of the lottery, including the expenses
6 of the division and the costs resulting from any
7 contract or contracts entered into for consulting or
8 operational services;

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

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

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

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

20 (b) Funds necessary to participate in the Powerball and
21 Mega Millions lottery games shall be deposited in the state



1 lottery prize revolving fund established by section -17 for
2 payment of prizes to the holders of winning lottery tickets or
3 for the purposes provided for in section -13.

4 (c) All other revenues accruing from the sale of lottery
5 tickets shall be deposited in the state lottery revolving fund
6 established by section -15 to be used as specified by section
7 -16.

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

10 § -13 **Disposition of unclaimed prize money.** Unclaimed
11 prize money for the prize on a winning lottery ticket shall be
12 retained for the person entitled to the prize for one hundred
13 eighty days after the drawing in which the prize was won. If a
14 claim is not made for the money within the applicable period,
15 the money shall be deposited in the state lottery revolving fund
16 established by section -15.

17 § -14 **Deposit of moneys received by agents from sales;**
18 **power of director; reports.** The director, in the director's
19 discretion, may require any or all licensed lottery sales agents
20 to deposit to the credit of the lottery revolving fund in banks
21 designated by the director of finance, all moneys received by



1 those agents from the sale of lottery tickets, less the amount,
2 if any, retained as compensation for the sale of the lottery
3 tickets, and to file with the director reports of their receipts
4 and transactions in the sale of lottery tickets in a form and
5 containing the information as the director may require. The
6 director may make any arrangements for any person, including a
7 bank, to perform any functions, activities, or services in
8 connection with the operation of the lottery as the director may
9 deem advisable pursuant to this chapter and the rules of the
10 division.

11 **§ -15 State lottery revolving fund.** There is
12 established in the state treasury the state lottery revolving
13 fund consisting of all revenues received from the sale of
14 lottery tickets, fees, or penalties, if any, charged pursuant to
15 this chapter and all other moneys credited or transferred from
16 any other fund or source pursuant to statute, with the exception
17 of those moneys set aside for payment of prizes and deposited as
18 provided in section -17.

19 **§ -16 Use of moneys in state lottery revolving fund;**
20 **report.** (a) The moneys in the state lottery revolving fund
21 shall be expended by the director for the expenses of the



1 division incurred in carrying out its powers and duties and in
2 the operation of the lottery.

3 (b) Any unexpended moneys remaining in the state lottery
4 revolving fund shall be deposited into the general fund.

5 § -17 State lottery prize revolving fund; setoff for
6 state debts; notification to department of human services. (a)
7 There is established in the state treasury the state lottery
8 prize revolving fund. That portion of the gross proceeds of
9 lottery ticket sales set aside for prizes as necessary for
10 participation in Mega Millions and Powerball lottery games,
11 shall be deposited, pursuant to chapter 38, to the credit of the
12 state lottery prize revolving fund as the division receives
13 those proceeds and shall be available to the director for
14 payment of prizes to the holders of winning lottery tickets or
15 for the purposes provided in section -13. Procedures for
16 payments to winners from the revolving fund shall be established
17 by rule. Notwithstanding any rule to the contrary, transfers or
18 payment to or from the state lottery prize revolving fund, and
19 deposits into the state lottery prize revolving fund, shall not
20 be subject to appropriation by the legislature.



1 (b) Payments to winners that are payable by the director
2 or lottery redemption agents pursuant to this section' in an
3 amount of \$1,000 or more shall be subject to setoff under
4 section -18.

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

8 § -18 Prizes; setoff for debts to state agencies;
9 definitions. (a) The director shall establish a liability
10 setoff program by which state lottery prize payments pursuant to
11 section -17 may be used to satisfy debts that a person owes
12 the State. The program shall comply with the standards and
13 requirements described in this section.

14 (b) If a person owes an agency a debt, an agency may
15 notify the director, providing at a minimum the state agency or
16 program identifier; the first name, last name, middle initial,
17 and social security number of the debtor; and the amount of the
18 debt. This information shall be in a form prescribed by the
19 director. Each agency shall certify the information and update
20 the information monthly. No information shall be transmitted by



1 the department of taxation to the director if the transmission
2 would violate section 231-1.5.

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

15 (d) If a person requests a review by the agency or
16 provides the agency with proof that an appeal has been taken to
17 the appropriate court within thirty days after the setoff and it
18 is determined that the setoff was made in error under this
19 section, the agency shall reimburse the person with the interest
20 as determined pursuant to section 478-2.



1 (e) The basis for a request for review shall not include
2 the validity of the claim if its validity has been established
3 at an agency hearing, by judicial review in a court of competent
4 jurisdiction, or by final administrative decision, and shall
5 state with specificity why the person claims the obligation does
6 not exist or why the amount of the obligation is incorrect.

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

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

17 (h) If the prize is insufficient to satisfy the entire
18 debt, the remainder of the debt may be collected by an agency as
19 provided by law or resubmitted for setoff against any other
20 prize awarded.



1 (i) An agency shall not enter into an agreement with a
2 debtor for the assignment of any prospective prize to the agency
3 in satisfaction of the debt.

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

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

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

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

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

18 "Debt" means an amount of over \$100 owed to an agency by a
19 person and may include interest, penalties, charges, costs,
20 fees, or any other amount. "Debt" also includes moneys owed by



1 a person for overdue support and referred to the department of
2 human services for collection.

3 "Overdue support" means a delinquency in court-ordered
4 payments for support or maintenance of a child or for spousal
5 maintenance to the parent with whom the child is living if child
6 support is also being enforced pursuant to an assignment or
7 application fee filed under title 42 United States Code section
8 654(6).

9 § -19 **Audit of accounts.** The certified public
10 accountant hired to perform the annual audit under section
11 -12(a)(2) shall conduct postaudits of all accounts and
12 transactions of the division for twelve lottery games per year.
13 The certified public accountant conducting an audit under this
14 chapter shall have access and authority to examine any and all
15 records of the division, its lottery redemption agents, and its
16 licensed lottery sales agents.

17 § -20 **Lottery commencement.** A lottery shall be
18 conducted no later than July 1, 2020."

19 SECTION 3. Section 712-1220, Hawaii Revised Statutes, is
20 amended by amending the definition of "gambling" to read as
21 follows:



1 ""Gambling". A person engages in gambling if he stakes or
2 risks something of value upon the outcome of a contest of chance
3 or a future contingent event not under his control or influence,
4 upon an agreement or understanding that he or someone else will
5 receive something of value in the event of a certain outcome.
6 Gambling does not include: lottery tickets and other items used
7 in playing the Powerball or Mega Millions lottery schemes as
8 overseen by the Hawaii state lottery division pursuant to
9 chapter ; bona fide business transactions valid under the law
10 of contracts, including but not limited to contracts for the
11 purchase or sale at a future date of securities or
12 commodities[7]; and agreements to compensate for loss caused by
13 the happening of chance, including but not limited to contracts
14 of indemnity or guaranty and life, health, or accident
15 insurance."

16 SECTION 4. There is appropriated out of the general
17 revenues of the State of Hawaii the sum of \$1,200,000 or so much
18 thereof as may be necessary for fiscal year 2019-2020 and the
19 same sum or so much thereof as may be necessary for fiscal year
20 2020-2021 for the operations of the Hawaii state lottery
21 division established pursuant to section 2 of this Act.



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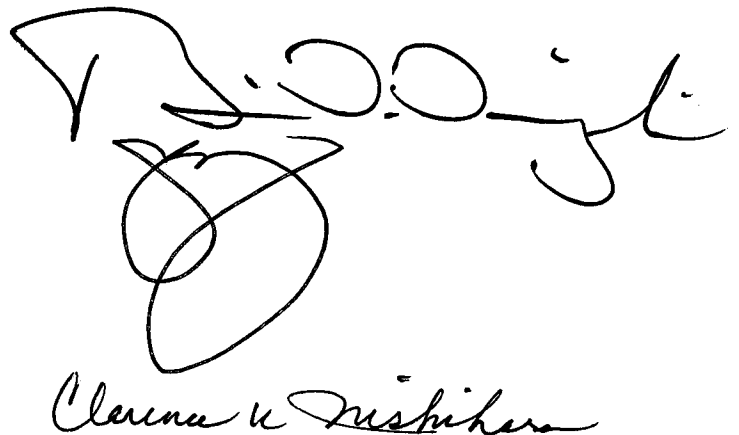
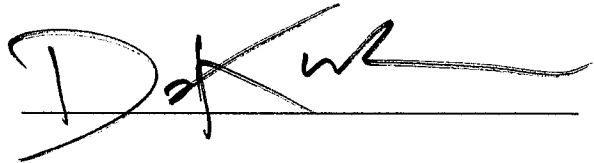
1 The sums appropriated shall be expended by the department
2 of budget and finance for the purposes of this Act.

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

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

6

INTRODUCED BY:



Clara K. Rushikera



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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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