

JAN 18 2019

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 legislature finds that Hawaii consistently
2 places in the bottom half of state education rankings and it has
3 the highest rate of homelessness of any state in the nation.
4 Education and homeless programs are in dire need of funding but
5 to replenish the general fund and provide education and homeless
6 programs the financial support they need, has become a
7 tremendous challenge for the State. Thus, to provide adequate
8 funding for those causes, additional sources of income for the
9 State are required.

10 The purpose of this Act is to establish a division within
11 the department of budget and finance to oversee Hawaii
12 participation in the Powerball and Mega Millions multistate
13 lottery games and to allocate income from those games to
14 education, homeless programs, and the general fund.

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



1 "CHAPTER
2 LOTTERY

3 § -1 Definitions. As used in this chapter, unless the
4 context clearly requires otherwise:

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

7 "Division" or "state lottery division" means the Hawaii
8 state lottery division established by this chapter and placed
9 within the department of budget and finance.

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

13 § -2 Hawaii state lottery division created; executive
14 director; appointment. (a) There is established within the
15 department of budget and finance a Hawaii state lottery
16 division.

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

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



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

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

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

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

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

20 § -3 Division; director; powers and duties. (a) The
21 director shall supervise and administer the operation of the



1 lottery in accordance with this chapter and the rules adopted
2 under this chapter.

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

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

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

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

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

16 (A) Establishing a license application process;

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

19 (C) Prohibiting persons under the age of eighteen
20 from obtaining a license and prohibiting any
21 person who engages exclusively in the business of



1 selling lottery tickets from obtaining a license;

2 and

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

6 (5) How license fees shall be collected for deposit into
7 the state lottery revolving fund created under section
8 -15;

9 (6) Ensuring that in each place authorized to sell lottery
10 tickets and in any advertising or promotion there
11 shall be conspicuously displayed an estimate of the
12 probability of winning;

13 (7) The manner and amount of compensation, if any, to be
14 paid to licensed sales agents necessary to provide for
15 the adequate availability of lottery tickets to
16 prospective buyers and for the convenience of the
17 public;

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



1 (9) Matters necessary or desirable for the efficient and
2 economical operation and administration of the lottery
3 and the division.

4 (c) Each quarter, the director shall certify to the
5 director of finance a full and complete statement of lottery
6 revenues, the value of prize disbursements, and expenses for the
7 preceding quarter.

8 § -4 **Licenses non-transferable.** No license issued by
9 the director to sell or distribute lottery tickets shall be
10 assignable or transferable.

11 § -5 **Lottery redemption agents.** The director may retain
12 lottery redemption agents to perform functions, activities, or
13 services in connection with the operation of the lottery,
14 including direct payment of prizes not exceeding \$5,000, as the
15 director deems advisable pursuant to this chapter and the rules
16 adopted under this chapter. The director may make arrangements
17 for payment of reasonable fees for those services.

18 § -6 **Sale at unauthorized price or by unauthorized**
19 **person; violation.** (a) No person shall sell a lottery ticket
20 at a price other than that fixed by rule. No person other than
21 a licensed lottery sales agent or any employee of a licensed



1 lottery sales agent acting within the scope of the employee's
2 employment shall sell lottery tickets. This section shall not
3 prohibit a person from giving lottery tickets to another person
4 as a gift.

5 (b) Persons who violate this section shall, for each
6 ticket sold, pay a fine equal to the difference in the price
7 charged for the lottery ticket and the price fixed by rule, to
8 be deposited into the lottery revolving fund established by
9 section -15. The director may impose additional penalties
10 pursuant to section (e).

11 (c) Any person who knowingly conducts any activity for
12 which a license is required by this chapter or by rule, without
13 the required license, shall pay a fine equal to five times the
14 total of the profits made from the prohibited activity, which
15 shall be deposited into the state lottery revolving fund, and
16 shall be required to perform community service. The amount of
17 community service shall not be less than ten hours or more than
18 one hundred hours.

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



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

6 § -7 Sale to persons using state-issued electronic
7 benefits transfer cards; violation. (a) No licensed lottery
8 sales agent shall sell a lottery ticket to a person using a
9 public assistance voucher issued by any public entity or an
10 electronic benefits transfer card issued by the department of
11 human services to purchase a lottery ticket.

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

17 § -8 Prosecution; payment of costs. (a) The attorney
18 general and the prosecuting attorneys of the affected county
19 shall have concurrent jurisdiction over any offenses arising out
20 of or in connection with the formation, management, operation,
21 or conduct of the state lottery.



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

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

12 § -9 Sales to minors prohibited; exception; penalties.

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

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



1 § -10 **Payment of prizes to minor.** If the person
2 entitled to a prize is under the age of eighteen and the prize
3 is less than \$1,000, the director may pay the prize to an adult
4 member of the minor's family or a guardian of the minor by a
5 check or draft payable to the order of the minor. If the prize
6 is \$1,000 or more, the director shall pay the minor by
7 depositing the amount of the prize in any bank to the credit of
8 an adult member of the minor's family or a guardian of the minor
9 as a custodian for the minor. The director shall be discharged
10 of all further liability upon payment of a prize to a minor
11 pursuant to this section.

12 § -11 **Right to prize not assignable; exceptions.** (a)
13 The right of any person to a prize shall not be assignable;
14 provided that:

- 15 (1) Payment of any prize drawn or the remainder of any
16 annuity purchased may be paid to any of the following:
- 17 (A) The estate of a deceased prize winner;
 - 18 (B) The beneficiary of a deceased prize winner; or
 - 19 (C) A person pursuant to an appropriate judicial
20 order;



- 1 (2) Payments to winners in an amount of \$1,000 or more
- 2 shall be subject to setoff pursuant to section -17;
- 3 and
- 4 (3) If a voluntary assignment occurs, the remainder of any
- 5 annuity, or a portion of the remainder of the annuity
- 6 may be assigned by a prize winner pursuant to an
- 7 appropriate judicial order if all of the following
- 8 conditions are met:
- 9 (A) The prize winner provides an affidavit to the
- 10 court to the effect that the affiant is of sound
- 11 mind, not acting under duress, and has received
- 12 independent financial and tax advice concerning
- 13 the assignment;
- 14 (B) The prize winner pays the assignee a lump sum
- 15 under the assignment agreement for all amounts
- 16 that are due to the prize winner on or before the
- 17 date that the assignment takes effect; and
- 18 (C) The parties to the assignment pay a fee, to be
- 19 determined by the director, to the division to
- 20 defray the expenses incurred by the division in
- 21 processing the assignment. Moneys collected by



1 the division pursuant to this subparagraph shall
2 be deposited in the state lottery revolving fund
3 established by section -15.

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

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

9 **§ -12 Disposition of revenue.** (a) All annual revenues
10 accruing from the sale of lottery tickets or shares and from all
11 other sources, unless otherwise specified, shall be deposited in
12 the state lottery revolving fund established by section -15
13 to be expended for the following:

14 (1) The payment of costs incurred in the operation and
15 administration of the lottery, including the expenses
16 of the division and the costs resulting from any
17 contract or contracts entered into for consulting or
18 operational services;

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



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

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

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

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

15 (c) All other revenues accruing from the sale of lottery
16 tickets shall be deposited in the state lottery revolving fund
17 established by section -15 to be used as specified by section
18 -16.

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



1 **§ -13 Disposition of unclaimed prize money.** Unclaimed
2 prize money for the prize on a winning lottery ticket shall be
3 retained for the person entitled to the prize for one hundred
4 eighty days after the drawing in which the prize was won. If a
5 claim is not made for the money within the applicable period,
6 the money shall be evenly split between the department of human
7 services, for housing and sheltering the homeless, and the
8 department of education.

9 **§ -14 Deposit of moneys received by agents from sales;**
10 **power of director; reports.** The director, in the director's
11 discretion, may require any or all licensed lottery sales agents
12 to deposit to the credit of the lottery revolving fund in banks
13 designated by the director of finance, all moneys received by
14 those agents from the sale of lottery tickets, less the amount,
15 if any, retained as compensation for the sale of the lottery
16 tickets, and to file with the director reports of their receipts
17 and transactions in the sale of lottery tickets in a form and
18 containing the information as the director may require. The
19 director may make any arrangements for any person, including a
20 bank, to perform any functions, activities, or services in
21 connection with the operation of the lottery as the director may



1 deem advisable pursuant to this chapter and the rules of the
2 division.

3 **§ -15 State lottery revolving fund.** There is
4 established in the state treasury the state lottery revolving
5 fund consisting of all revenues received from the sale of
6 lottery tickets, fees, or penalties, if any, charged pursuant to
7 this chapter and all other moneys credited or transferred from
8 any other fund or source pursuant to statute, with the exception
9 of those moneys set aside for payment of prizes and deposited as
10 provided in section -17.

11 **§ -16 Use of moneys in state lottery revolving fund;**
12 **report.** (a) The moneys in the state lottery revolving fund
13 shall be expended by the director for the expenses of the
14 division incurred in carrying out its powers and duties and in
15 the operation of the lottery.

16 (b) Any unexpended moneys remaining in the state lottery
17 revolving fund shall be distributed as follows:

18 (1) Fifty per cent shall be distributed to the department
19 of education;



1 (2) Twenty-five per cent shall be distributed to the
2 department of human services for the housing or
3 sheltering of the homeless; and

4 (3) Twenty-five per cent shall be deposited into the
5 general fund.

6 § -17 State lottery prize revolving fund; setoff for
7 state debts; notification to department of human services. (a)
8 There is established in the state treasury the state lottery
9 prize revolving fund. That portion of the gross proceeds of
10 lottery ticket sales set aside for prizes as necessary for
11 participation in Mega Millions and Powerball lottery games,
12 shall be deposited, pursuant to chapter 38, to the credit of the
13 state lottery prize revolving fund as the division receives
14 those proceeds and shall be available to the director for
15 payment of prizes to the holders of winning lottery tickets or
16 for the purposes provided in section -13. Procedures for
17 payments to winners from the revolving fund shall be established
18 by rule. Notwithstanding any rule to the contrary, transfers or
19 payment to or from the state lottery prize revolving fund, and
20 deposits into the state lottery prize revolving fund, shall not
21 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.



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:

A handwritten signature in black ink, appearing to read "Dan Kuhl", is written over a horizontal line. The signature is stylized and cursive.

S.B. NO. 896

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 education, homeless programs, and the general fund. Creates lottery and lottery prizes revolving funds. Appropriates funds.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

