

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 1031

S. P. 299

In Senate, March 12, 1975

Referred to Committee on Appropriations and Financial Affairs. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Danton of York.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT Relating to the Maine State Lottery Law.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 5 MRSA § 1507-A is enacted to read:

§ 1507-A. Governor's Emergency Lottery Social Services Reserve Fund;
created

There is created and established a separate fund to be known as the "Governor's Emergency Lottery Social Services Reserve Fund" to be deposited in such depositories as the Treasurer of State may select. Such funds shall consist of all moneys received, if any, as unencumbered surplus from the Lottery Fund for the Elderly credited and transferred to the Governor pursuant to Title 36, section 6150.

The Governor, with the advice and consent of the Council, may allocate from the Governor's Emergency Lottery Social Services Reserve Fund, as herein created and established, amounts not to exceed in total the balance amount credited to the fund pursuant to Title 36, section 6150. Such allocations may be made to meet any social service expense arising out of some social service emergency requiring an expenditure of money not provided by the Legislature, by the State Department of Health and Welfare or such other state social service agencies as the Legislature may from time to time create. The Governor and Council shall determine the necessity for such allocations. All such allocations shall be supported by a statement of fact setting forth the necessity for the allocation.

The State Controller shall carry the unexpended balance of this fund from year to year and he shall report in his official annual financial report at the

close of each fiscal year a statement showing the current balance of the fund and all transfers made from the fund for the fiscal period.

Sec. 2. 8 MRSA § 351, 3rd and 4th ¶¶, as enacted by PL 1973, c. 570, § 1, are repealed and the following enacted in place thereof:

Any member of the commission may be removed from office by the Governor if such member is absent from 3 consecutive regularly scheduled monthly meetings or 6 such meetings in any fiscal year, or for other cause, upon notice and opportunity to be heard at a public hearing.

The members of the commission shall receive no salaries but shall be allowed reasonable expenses in the performance of their official duties not exceeding \$5,000 per year in the case of the chairman, and \$3,500 in the case of each of the other commissioners. These expenses shall include a per diem of \$25 for each commission meeting attended, not to exceed 20 such meetings in any fiscal year, and such other reasonable expenses incurred in attendance and travel to and from such meetings.

Sec. 3. 8 MRSA § 352, last ¶, as enacted by PL 1973, c. 570, § 1, is repealed and the following enacted in place thereof:

The director shall devote his entire time and attention to the duties of his office.

Sec. 4. 8 MRSA § 353, sub-§ 1, ¶ J, as enacted by PL 1973, c. 570, § 1, is repealed and the following enacted in place thereof:

J. The license fee to be charged to agents;

Sec. 5. 8 MRSA § 353, sub-§ 1, ¶ L, as last amended by PL 1973, c. 788, § 32, is further amended to read:

L. The apportionment of the total annual revenue accruing from the sale of lottery tickets or shares and from all other sources for the payment of prizes to the holders of winning tickets or shares, for the payment of costs incurred in the operation and administration of the lotteries, including the expense of the commission and the costs resulting from any contract or contracts entered into for promotional, advertising, consulting or operational services or for the purchase or lease of lottery equipment and materials, for the repayment of the moneys appropriated to the State Lottery Fund and for transfer to the ~~General Fund~~ **State Tax Assessor**.

Sec. 6. 8 MRSA § 355, sub-§ 1, first sentence, as enacted by PL 1973, c. 570, § 1, is repealed and the following enacted in place thereof:

A license as an agent to sell lottery tickets or shares may be issued by the director to any qualified person.

Sec. 7. 8 MRSA § 366, sub-§ 1, ¶ C, as enacted by PL 1973, c. 570, § 1, is repealed and the following enacted in place thereof:

C. For payment to the State Tax Assessor for distribution to the elderly pursuant to Title 36, chapter 902, "Lottery Fund for the Elderly Act."

Sec. 8. 8 MRSA § 366, last ¶, as enacted by PL 1973, c. 570, § 1, is repealed.

Sec. 9. 8 MRSA § 366, sub-§ 2 is enacted to read:

2. **Apportionment.** The moneys in said State Lottery Fund shall be apportioned so that not less than 45% of the total ticket sales received in the lottery will be disbursed as prizes to holders of winning tickets. All other moneys, less reasonable costs for the proper administration of the state lottery, will be the State's share.

At the close of each fiscal year, or as soon thereafter as is practicable, the State's share, less \$100,000, which shall be retained in the State Lottery Fund to cover the carry-over expenses of the division in its continued operation of the lottery, shall be transferred to the State Tax Assessor for distribution to the elderly pursuant to Title 36, chapter 902, "Lottery Fund for the Elderly Act."

Sec. 10. 36 MRSA Pt. 10 is enacted to read:

PART 10

LOTTERY FUND FOR THE ELDERLY ACT

CHAPTER 902

LOTTERY FUND FOR THE ELDERLY

§ 6131. Short title

This Part may be cited as the "Lottery Fund for the Elderly Act."

§ 6132. Purpose

The purpose of this Part is to provide relief, through a system of grants, to certain elderly persons who are citizens of Maine.

§ 6133. Definitions

1. **Claimant.** "Claimant" means a person who has filed a claim under this Part and was domiciled in the State during the calendar year preceding the year in which he files claim for relief under this Part.

2. **Income.** "Income" means the sum of Maine adjusted gross income determined in accordance with Part 8, the amount of capital gains excluded from adjusted gross income, alimony, support money, nontaxable strike benefits, the gross amount of any pension or annuity including railroad retirement benefits, all payments received under the Federal Social Security Act, state unemployment insurance laws, veterans disability pensions, nontaxable interest received from the Federal Government or any of its instrumentalities, workmen's compensation and the gross amount of "loss of time" insurance, cash public assistance and relief, but not including relief granted under this Part; chapter 901, The Elderly Householders Tax and Rent Refund Act; the 1974 State Supplemental Income Act, Title 22, chapters 855-A to 855-D; or gifts from nongovernmental sources or surplus foods, food stamps, fuel, fuel stamps or other relief in kind supplied by a governmental agency.

3. **Unencumbered surplus.** "Unencumbered surplus" means the amount remaining on or after November 1st of each fiscal year in the Lottery Fund

for the Elderly after deduction of all unpaid certified claims not escheated to the State.

4. Year for which relief is requested. "Year for which relief is requested" means the calendar year preceding that in which the claim is filed.

§ 6134. Claim is personal

The right to file claim under this Part shall be personal to the claimant and shall not survive his death, but such right may be exercised on behalf of a claimant by his legal guardian or attorney-in-fact. If a claimant dies after having filed a timely claim, the claim may be paid by the State Tax Assessor, in accordance with such procedures as he may establish, to the claimant's executor or administrator, but if neither is appointed and qualified within 2 years of the filing of the claim, the amount of the claim shall escheat to the State.

§ 6135. Claim to be paid from Lottery Fund for the Elderly

After certification by the State Tax Assessor, the amount of the claim shall be established and shall be paid to the claimant from the Lottery Fund for the Elderly established by this Part and Title 8, section 366. No interest shall be allowed on any payment made to a claimant pursuant to this Part.

§ 6135-A. Formula to establish amount of claim

The State Tax Assessor shall determine the amount of each claim certified and payable pursuant to section 6135 by dividing the total balance amount credited to and existing in the "Lottery Fund for the Elderly" by a total number of certified claims. The balance amount of the fund and the total number of certified claims shall be determined as of August 1st.

§ 6135-B. Name of fund to appear on face of check

All checks issued in the name of the State of Maine in payment of a claim under this Part shall state on their face that such funds are paid from the "Lottery Fund for the Elderly."

§ 6136. Filing date

No claim shall be paid unless the claim is filed with the State Bureau of Taxation on or before April 15th.

§ 6137. Income limitation

No claim otherwise allowable shall be granted to individual claimants with income in excess of \$3,500 or married claimants with joint income of \$4,500 in the year for which relief is requested.

§ 6138. Net asset limitation

A claimant may not have net assets, excluding the value of the homestead, consisting of real estate, bank accounts, cash and securities or other in the net value of more than \$20,000.

§ 6139. Amount of claim

No claim payment shall exceed \$200.

§ 6140. Age limitation

No claim shall be granted which is otherwise allowable under this Part, unless the claimant shall have attained the age of 65 during the year for which relief is requested.

§ 6141. Benefit limitation

Payment of claims under this Part shall be limited by the balance amount credited to the "Lottery Fund for the Elderly" pursuant to section 6142 and Title 8, section 366.

§ 6142. Lottery Fund for the Elderly; creation

There is created and established a separate fund to be known as the "Lottery Fund for the Elderly" to be deposited in such depositories as the Treasurer of State may select. Such fund shall consist of all moneys received from the state's share of the State Lottery credited and transferred to the State Tax Assessor pursuant to Title 8, section 366.

§ 6143. Administration

The State Tax Assessor shall make available suitable forms with instructions for claimants. The claim shall be in such form as the State Tax Assessor may prescribe and shall be signed by the claimant under pains and penalties of perjury.

§ 6144. Audit of claim

If on the audit of any claim filed under this Part, the State Tax Assessor determines the amount to have been incorrectly determined, he shall redetermine the claim and notify the claimant of the redetermination and his reasons for it. The redetermination shall be final unless appealed to the State Tax Assessor within 30 days of notice.

§ 6145. Denial of claim

If it is determined that a claim is excessive and was filed with fraudulent intent, the claim shall be disallowed in full and if the claim has been paid, the amount paid may be recovered by assessment, and the assessment shall bear interest from the date of payment or credit of the claim, until refunded or paid, at the rate of 1% per month. The claimant in such case, and any person who assisted in the preparation or filing of such excessive claim or supplied information upon which such excessive claim was prepared, with fraudulent intent, is guilty of a misdemeanor. If it is determined that a claim is excessive and was negligently prepared, 10% of the corrected claim shall be disallowed, and if the claim has been paid, the proper portion of any amount paid shall be similarly recovered by assessment, and the assessment shall bear interest at 1% per month from the date of payment until refunded.

§ 6146. Appeals

Any person aggrieved by the denial of relief claimed under this Part, except when denial is based upon late filing of claim for relief or exhaustion of the balance amount of funds credited to the "Lottery Fund for the Elderly" for payment of claims under this Part, may appeal the denial to the Administrative Court by filing a petition with the Administrative Court Judge within 30 days after such denial.

§ 6147. Disallowance of certain claims

A claim shall be disallowed, if the State Tax Assessor finds:

1. That the funds credited to the "Lottery Fund for the Elderly" have been exhausted; or
2. That claimant has transferred income or assets which would otherwise disqualify him under this Part if such income or assets were retained by him, for the purpose of receiving benefits under this Part.

§ 6148. Extension of time for filing claims

In case of sickness, absence or other disability or if in his judgment good cause exists, the State Tax Assessor may extend, for a period not to exceed 90 days, the time for filing a claim.

§ 6149. Protection from loss of benefits

It is the intent of the Legislature that any claim paid under this chapter shall supplement any benefits paid under aid to the elderly or any program which succeeds or supplants it. The Department of Health and Welfare shall take any such action as may be necessary to assure that recipients of aid to the elderly shall continue to receive as high a percentage of their current assistance as may be possible. To carry out this legislative directive, the department shall utilize all the state funds expected to be saved by a reduction in benefits to recipients of aid to the elderly resulting from this chapter to raise the standards of aid to the elderly at a total cost in state funds equivalent to the savings in state funds which would be expected as a result of this chapter.

§ 6150. Surplus

By November 1st of each fiscal year, or as soon thereafter as is practicable, the State Tax Assessor shall report the amount of all unpaid certified claims, not escheated to the State pursuant to section 6134, payable from the Lottery Fund for the Elderly. Whereupon, the Treasurer of State shall deduct such amount from the current balance of the fund and transfer the then remaining unencumbered surplus to the Governor for distribution pursuant to Title 5, section 1507-A.

STATEMENT OF FACT

The purposes of this bill are to clarify certain heretofore vague or ambiguous sections of the law relating to the State Lottery; to establish a "Lottery

Fund for the Elderly” to disburse the state’s share of lottery moneys in an equitable and beneficial manner to elderly citizens of the State of Maine and to establish a “Governor’s Emergency Lottery Social Services Reserve Fund” to provide a fund for emergency expenditures for otherwise unprovided social services for Maine’s less fortunate citizens.