

# MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION  
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE  
4

5 Legislative Document

No. 1958

6  
7 H.P. 1389

House of Representatives, January 31, 1986

8 Approved for introduction by a majority of the Legislative Council  
pursuant to Joint Rule 26.

9 Reference to the Committee on State Government suggested and ordered  
printed.

10 EDWIN H. PERT, Clerk

Presented by Representative Murphy of Kennebunk.

Cosponsored by Representative Whitcomb of Waldo and Senator Perkins  
of Hancock.

11  
12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-SIX  
16

17 AN ACT to Place the State Lottery Commission  
18 and the Director of State Lotteries  
19 within the Department of Finance and  
20 Administration.  
21

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

24 Sec. 1. 5 MRSA §283, sub-§4, as repealed and re-  
25 placed by PL 1977, c. 674, §4, is amended to read:

26 4. Bureau of Purchases. Bureau of Purchases, the  
27 head of which shall be the State Purchasing Agent,  
28 who shall be appointed by the commissioner-;

29 Sec. 2. 5 MRSA §283, §6, as enacted by PL 1971,  
30 c. 615, §3, is amended to read:

31 6. Bureau of Alcoholic Beverages. The Bureau of  
32 Alcoholic Beverages, the head of which shall be the  
33 State Director of Alcoholic Beverages-;

1       Sec. 3. 5 MRSA §283, sub-§8, as enacted by PL  
2       1975, c. 322, §1, is amended to read:

3       8. Bureau of Central Computer Services. Bureau  
4       of Central Computer Services, the head of which shall  
5       be the Director of Central Computer Services ap-  
6       pointed subject to the Personnel Law; and

7       Sec. 4. 5 MRSA §293, sub-§9 is enacted to read:

8       9. State Lottery Bureau. The State Lottery Bu-  
9       reau, the head of which shall be the Director of  
10      State Lotteries.

11      Sec. 5. 5 MRSA §12004, sub-§8, ¶A, sub-¶10 is  
12      repealed and the following enacted in its place:

13      (10) Finance   State Lottery   Legislative    8 MRSA §351  
14                      Commission       Per Diem

15      Sec. 6. 8 MRSA c. 14, as amended, is repealed.

16      Sec. 7. 8 MRSA c. 14-A is enacted to read:

17                               CHAPTER 14-A

18                               LOTTERY

19      §371. Definitions

20      As used in this chapter, unless the context indi-  
21      cates otherwise, the following terms have the follow-  
22      ing meanings.

23      1. Bureau. "Bureau" means the State Lottery Bu-  
24      reau.

25      2. Commission. "Commission" means the State  
26      Lottery Commission.

27      3. Commissioner. "Commissioner" means the Commis-  
28      sioner of Finance and Administration.

29      4. Director. "Director" means the Director of  
30      State Lotteries.

1           5. Person. "Person" means an individual, asso-  
2           ciation, corporation, club, trust, estate, society,  
3           company, receiver, trustee, assignee, referee or oth-  
4           er person acting in a fiduciary or representative ca-  
5           pacity, whether appointed by a court or otherwise,  
6           and any combination of individuals. "Person" means  
7           all departments, commissions, agencies and instrumen-  
8           talities of the State, including counties and munici-  
9           palities and agencies and instrumentalities thereof.

10       §372. State Lottery Bureau

11           The State Lottery Bureau is established within  
12           the Department of Finance and Administration to carry  
13           out the purposes of this chapter.

14       §373. Director

15           The executive head of the bureau shall be the di-  
16           rector.

17           1. Appointment; qualifications. The director  
18           must be a person qualified by training and experience  
19           to direct the State Lotteries. The director shall be  
20           appointed by the Governor, subject to review by the  
21           joint standing committee of the Legislature having  
22           jurisdiction over legal affairs and to confirmation  
23           by the Senate and shall serve during the pleasure of  
24           the Governor. Any vacancy occurring in the office of  
25           the director shall be filled in the same manner as  
26           the original appointment. The director shall devote  
27           his entire time and attention to the duties of his  
28           office.

29           2. Powers and duties. The director shall have  
30           the following powers and duties:

31           A. Supervise the operation of lotteries in ac-  
32           cordance with this chapter and with the rules  
33           promulgated under this chapter;

34           B. Act as the chief administrative officer, hav-  
35           ing general charge of the office and records and  
36           to employ such personnel as may be necessary to  
37           fulfill the purposes of this chapter. The person-  
38           nel shall be employed with the approval of the  
39           commissioner and subject to the Personnel Law,

1 except for the deputy director who shall be ap-  
2 pointed by and serve at the pleasure of the di-  
3 rector;

4 C. Act as executive secretary of the commission;

5 D. In accordance with this chapter and the rules  
6 promulgated under this chapter, license as agents  
7 to sell lottery tickets such persons, as in his  
8 opinion, who will best serve the public conve-  
9 nience and promote the sale of tickets or shares.  
10 The director may require a bond from every li-  
11 icensed agent in such amount as provided by rule.  
12 Every licensed agent shall prominently display  
13 his license, or a copy thereof, as provided by  
14 rule;

15 E. Confer regularly as necessary or desirable  
16 and not less than once each month with the com-  
17 mission and the commissioner on the operation and  
18 administration of the lotteries; make available  
19 for inspection by the commission, upon request,  
20 all books, records, files and other information  
21 and documents of the commission; advise the com-  
22 mission and commissioner and recommend such mat-  
23 ters as he deems necessary and advisable to im-  
24 prove the operation and administration of the  
25 lotteries;

26 F. Recommend to the commission that it seek to  
27 suspend or revoke in a manner consistent with the  
28 Maine Administrative Procedure Act, Title 5,  
29 chapter 375, any license issued pursuant to this  
30 chapter or the rules promulgated thereunder;

31 G. Subject to the approval of the commissioner  
32 and to any applicable laws relating to public  
33 contracts, enter into contracts for the operation  
34 of the lotteries, or any part thereof, and into  
35 contracts for the promotion of the lotteries. All  
36 contracts shall be awarded to the lowest respon-  
37 sible bidder and shall be let for a period not to  
38 exceed 3 years. No contract awarded or entered  
39 into by the director may be assigned by the hold-  
40 er thereof, except by specific approval of the  
41 commissioner;

1       H. Certify monthly to the Treasurer of State,  
2       the commission, the commissioner and to the Gov-  
3       ernor a full and complete statement of lottery  
4       revenues, prize disbursements and other expenses  
5       for the preceding month; submit an annual report,  
6       through the commissioner and with his approval,  
7       which shall include a full and complete statement  
8       of lottery revenues, prize disbursements and ex-  
9       penditures, to the Governor and the Legislature, to-  
10       gether with recommendations for changes in this  
11       chapter; and

12       I. Carry on a continuous study and investigation  
13       of the lotteries throughout the State, and the  
14       operation and administration of similar laws  
15       which may be in effect in other states or coun-  
16       tries.

17       §374. State Lottery Commission

18       The State Lottery Commission, established by Ti-  
19       tle 5, section 12004, subsection 8, shall consist of  
20       5 members, all of whom shall be citizens and resi-  
21       dents of this State, all of whom shall be appointed  
22       by the Governor and all of whom shall be subject to  
23       review by the joint standing committee of the Legis-  
24       lature having jurisdiction over legal affairs and to  
25       confirmation by the Senate. No more than 3 of the 5  
26       members may be members of the same political party.  
27       The members shall be appointed for terms of 5 years.  
28       The members shall annually elect one of them as  
29       chairman of the commission.

30       Any vacancy in the commission, occurring for any  
31       reason other than the expiration of term, shall be  
32       filled for the unexpired term in the same manner as  
33       the original appointment.

34       Any member of the commission may be removed from  
35       office by the Governor if that member is absent from  
36       3 consecutive regularly scheduled monthly meetings or  
37       6 meetings in any fiscal year, or for other cause,  
38       upon notice and opportunity to be heard at a public  
39       hearing.

40       The members of the commission shall receive no  
41       salaries and shall be compensated as provided in Ti-

1 tle 5, chapter 379. In addition, the commission mem-  
2 bers shall not be compensated for more than 20 meet-  
3 ings per year.

4 §375. Commission; powers and duties

5 The commission shall meet with the director, not  
6 less than once each month, for the purpose of promul-  
7 gating and amending, subject to approval of the com-  
8 missioner, rules relating to the lotteries, to make  
9 recommendations and set policy for state lotteries,  
10 to approve or reject reports of the director and to  
11 transact other business that may be properly brought  
12 before the commission. Rules adopted by the commis-  
13 sion shall be adopted in a manner consistent with the  
14 Maine Administrative Procedure Act, Title 5, chapter  
15 375.

16 1. Rules. The rules promulgated by the commis-  
17 sion shall include, but not be limited to:

18 A. The types of lotteries to be conducted;

19 B. The price of tickets or shares in the lotter-  
20 ies;

21 C. The number and size of the prizes on the  
22 winning tickets or shares;

23 D. The manner of selecting the winning tickets  
24 or shares;

25 E. The manner of payment of prizes to the hold-  
26 ers of winning tickets or shares;

27 F. The frequency of the drawings or selections  
28 of winning tickets or shares;

29 G. The number or types of locations at which  
30 tickets or shares may be sold;

31 H. The method to be used in selling tickets or  
32 shares;

33 I. The licensing of agents to sell tickets or  
34 shares, but a person under the age of 18 shall  
35 not be licensed as an agent;

1           J. The license fee to be charged to agents;

2           K. The manner and amount of compensation to be  
3           paid licensed sales agents necessary to provide  
4           for the adequate availability of tickets or  
5           shares to prospective buyers and for the convenience of the general public; and  
6

7           L. The apportionment of the total annual revenue  
8           accruing from the sale of lottery tickets or  
9           shares and from all other sources for the payment  
10          of prizes to the holders of winning tickets or  
11          shares, for the payment of costs incurred in the  
12          operation and administration of the lotteries,  
13          including the expenses of the commission and the  
14          costs resulting from any contract or contracts  
15          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 money appropriated to the State Lottery Fund and for transfer to the General Fund for distribution pursuant to section 387.  
21

22          No action of the commission is binding unless  
23          taken at a meeting at which at least 3 of the 5 members are present and vote in favor of the action. The minutes of every meeting of the commission, including any rules promulgated by the commission or any amendments, revisions, supplements or repeals, shall be forthwith transmitted, by and under the certification of the secretary, to the commissioner for his approval or disapproval and to the Governor.  
30

31          The commission and the bureau shall have no authority to regulate, control or otherwise supervise the operation or conduct of the amusement commonly known as "Beano" or "Bingo," as defined in Title 17, section 311.  
35

36          §376. Lottery sales agent; licensing

37               1. Factors. A license as an agent to sell lottery tickets or shares may be issued by the director to any qualified person. Before issuing the license, the director shall consider such factors as:  
40



1        A. The financial responsibility and security of  
2        the person and his business or activity;

3        B. The accessibility of his place of business or  
4        activity to the public;

5        C. The sufficiency of existing licensees to  
6        serve the public convenience; and

7        D. The volume of expected sales.

8        §377. Authority to act

9        Notwithstanding any other provision of law, any  
10       person licensed as provided in this chapter is autho-  
11       rized and empowered to act as a lottery sales agent.

12       §378. Assignment of prizes

13       No right of any person to a prize drawn may be  
14       assignable, except that payment of any prize drawn  
15       may be paid to the estate of a deceased prize winner,  
16       and except that any person pursuant to an appropriate  
17       judicial order may be paid the prize to which the  
18       winner is entitled. The bureau shall be discharged of  
19       all further liability upon payment of a prize pursu-  
20       ant to this section.

21       §379. Sales above fixed price; unlicensed sales;  
22       gifts

23       No person may sell a ticket or share at a price  
24       greater than that fixed by rule. No person other  
25       than a licensed lottery sales agent may sell lottery  
26       tickets or shares, except that nothing in this sec-  
27       tion prevents any person from giving lottery tickets  
28       or shares to another as a gift.

29       Any person convicted of violating this section  
30       shall be guilty of a misdemeanor.

31       §380. Sales to person under 18 years; gifts

32       No ticket or share may be sold to any person un-  
33       der the age of 18 years, but this shall not be deemed  
34       to prohibit the purchase of a ticket or share for the  
35       purpose of making a gift by a person 18 years of age

1 or older to a person less than that age. Any licensee  
2 who knowingly sells or offers to sell a lottery tick-  
3 et or share to any person under the age of 18 shall,  
4 upon conviction, be guilty of a misdemeanor.

5 §381. Persons prohibited from purchasing tickets or  
6 shares

7 No ticket or share may be purchased by, and no  
8 prize may be paid to, any of the following persons:  
9 Any officer or employee of the commission or bureau  
10 or to any spouse, child, brother, sister or parent  
11 residing as a member of the same household in the  
12 principal place of abode of any of the foregoing per-  
13 sons.

14 §382. Unclaimed prize money

15 Unclaimed prize money for the prize on a winning  
16 ticket or share shall be retained by the director for  
17 the person entitled to it for one year after the  
18 drawing in which the prize was won. If no claim is  
19 made for the money within that year, the prize money  
20 shall be reallocated as prizes in the form of special  
21 promotions.

22 §383. Deposit of receipts; reports

23 The director may require any and all lottery  
24 sales agents to deposit to the credit of the State  
25 Lottery Fund in banks designated by the Treasurer of  
26 State all money received by the agents from the sale  
27 of lottery tickets or shares, less the amount, if  
28 any, retained as compensation for the sale of tickets  
29 or shares, and to file with the director or his des-  
30 ignated agents reports of their receipts and transac-  
31 tions in the sale of lottery tickets in such form and  
32 containing such information as he may require. The  
33 director may make such arrangements for any person,  
34 including a bank, to perform the functions, activi-  
35 ties or services in connection with the operation of  
36 the lottery as he may deem advisable pursuant to this  
37 chapter and the rules of the commission, and such  
38 functions, activities or services shall constitute  
39 lawful functions, activities and services of that  
40 person.

1     §384. Other laws; applicability

2         No other law providing any penalty or disability  
3 for the sale of lottery tickets or any acts done in  
4 connection with a lottery applies to the sale of  
5 tickets or shares performed pursuant to this chapter.

6     §385. Persons under 18 years; payment of prizes

7         If the person entitled to a prize or any winning  
8 ticket is under the age of 18 years, and the prize is  
9 less than \$5,000, the director may direct payment of  
10 the prize by delivery, to an adult member of the  
11 minor's family or a guardian of the minor, of a check  
12 or draft payable to the order of the minor. If the  
13 person entitled to a prize or any ticket is under the  
14 age of 18 years, and the prize is \$5,000 or more, the  
15 director may direct payment to the minor by deposit-  
16 ing the amount of the prize in any bank to the credit  
17 of an adult member of the minor's family or guardian  
18 of the minor as custodian for the minor. The person  
19 so named as custodian shall have the same duties and  
20 powers as a person designated as a custodian in a  
21 manner prescribed by the "Maine Uniform Gifts to Mi-  
22 nors Act," and for purposes of this section the terms  
23 "adult member of a minor's family," "guardian of a  
24 minor" and "bank" shall have the same meaning as in  
25 that Act. The director shall be relieved of all fur-  
26 ther liability upon payment of a prize to a minor  
27 pursuant to this section.

28     §386. State Lottery Fund; creation

29         There is created and established a separate fund  
30 to be known as the "State Lottery Fund," to be depos-  
31 ited in the depositories as the Treasurer of State  
32 may select. These funds shall consist of all revenue  
33 received from the sale of lottery tickets or shares,  
34 agents' license fees and all other money credited or  
35 transferred thereto from any other fund or source  
36 pursuant to law.

37     §387. State Lottery Fund; appropriation of money

38         1. Appropriation. The money in the State Lottery  
39 Fund shall be appropriated only:

A. For the payment of prizes to the holders of  
winning lottery tickets or shares;

B. For the expense of the division in its operation of the lottery; and

C. For payment to the General Fund.

2. Apportionment. The money in the 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 money, less reasonable costs for the proper administration of the fund State Lottery, will be the State's share.

§388. Maine State Income Tax; prizes exempt

The prizes received pursuant to this chapter  
shall be exempt from the Maine State Income Tax.

Sec. 8. Transition clause. All existing rules of the State Lottery Commission currently in effect and operation shall continue in effect until rescinded, amended or changed.

All assets, liabilities, revenues, funds, property and personnel of the State Lottery Commission shall be transferred to the State Lottery Bureau by the State Controller.

Members of the State Lottery Commission serving on the effective date of this Act shall continue to serve the remainder of their terms as members of the commission established by this Act.

## STATEMENT OF FACT

This bill places the duties and functions of the Lottery Director and State Lottery Commission within the executive department of Finance and Administration.

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