

MAINE STATE LEGISLATURE

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(Filing No. S-463)

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STATE OF MAINE
SENATE
115TH LEGISLATURE
FIRST SPECIAL SESSION

SENATE AMENDMENT "E" to H.P. 1387, L.D. 1976, Bill, "An Act to Make Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1991, June 30, 1992 and June 30, 1993"

Amend the bill in Part N by striking out all of sections N-1 to N-4 and sections N-18 to N-24.

Further amend the bill by striking out all of Parts WW to DDD.

Further amend the bill by inserting before the emergency clause the following:

PART TTT

Sec. TTT-1. 8 MRSA §372, sub-§2, ¶H, as enacted by PL 1987, c. 505, §2, is amended to read:

H. Certify monthly to the Treasurer of State, the commission and the commissioner a full and complete statement of lottery revenues, prize disbursements and other expenses for the preceding month; submit an annual report, subject to the approval of the commission, which shall must include a full and complete statement of lottery revenues, prize disbursements and expenses, to the Governor and the Legislature, together with recommendations for changes in this chapter; and

Sec. TTT-2. 8 MRSA §372, sub-§2, ¶I, as amended by PL 1989, c. 879, §1 and affected by §4, is further amended to read:

I. Carry on a continuous study and investigation of the lotteries throughout the State and the operation and administration of similar laws that may be in effect in

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2 other states or countries. The director, subject to the
3 prior approval of the commission, may enter into a written
4 agreement with the Multi-State Lottery Association, known as
5 Lotto*America, for the operation, marketing and promotion of
6 a joint lottery or joint lottery games with other states.

8 Before the director may enter into a final agreement with
9 Lotto*America under this paragraph, a hearing open to the
10 public must be held. The hearing is not subject to the
11 requirements of the Maine Administrative Procedure Act,
12 Title 5, chapter 375. The director shall provide at least
13 30 days' public notice before the hearing may be held.
14 Notice must be given by publication at least twice in a
15 newspaper of general circulation in the State. If a final
16 agreement with Lotto*America is entered into, the director
17 shall submit monthly financial reports to the joint standing
18 committee of the Legislature having jurisdiction over
19 appropriations and financial affairs. These reports must
20 include statements of net profits to the General Fund and
21 the costs to the State for operating, marketing and
22 promoting Lotto*America.

24 Any final agreement entered into with Lotto*America must
25 provide that the director has the authority to terminate the
26 agreement upon the provision of reasonable notice, not to
27 exceed 6 months. The final agreement must further provide
28 that the director may terminate the agreement at any time,
29 without prior notice, in the event that the director's
30 authority is withdrawn or limited by law; and

32 **Sec. TTT-3. 8 MRSA §372, sub-§2, ¶J is enacted to read:**

34 J. Carry out the duties assigned to the State Lottery
35 Director under Title 17, chapter 16, including development
36 and maintenance of a central computer system to monitor
37 licensed video lottery terminals and coordinating and
38 cooperating with the Chief of the State Police in
39 implementing and enforcing that chapter.

40 **Sec. TTT-4. 8 MRSA §374, sub-§1, ¶¶K and L, as enacted by PL**
41 **1987, c. 505, §2, are amended to read:**

42 K. The manner and amount of compensation to be paid
43 licensed sales agents necessary to provide for the adequate
44 availability of tickets or shares to prospective buyers and
45 for the convenience of the general public; and

46 L. The apportionment of the total annual revenue accruing
47 from the sale of lottery tickets or shares and from all
48 other sources for the payment of prizes to the holders of
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winning tickets or shares; for the payment of costs incurred in the operation and administration of the lotteries, including the expenses 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 money appropriated to the State Lottery Fund; and for transfer to the General Fund for distribution pursuant to section 387-; and

Sec. TTT-5. 8 MRSA §374, sub-§1, ¶M is enacted to read:

M. Rules to administer and enforce Title 17, chapter 16, which may be adopted jointly with the Chief of the State Police.

Sec. TTT-6. 17 MRSA §348 is enacted to read:

§348. Applicability

Except as expressly provided in chapter 16, this chapter does not apply to video lottery terminals.

Sec. TTT-7. 17 MRSA c.16 is enacted to read:

CHAPTER 16

VIDEO LOTTERY TERMINALS

SUBCHAPTER I

GENERAL PROVISIONS

§361. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Associated equipment. "Associated equipment" means any proprietary device, machine or part used in the manufacture or maintenance of a video lottery terminal, including but not limited to integrated circuit chips, printed wired assemblies, printed wired boards, printing mechanisms, video display monitors and metering devices.

2. Drug abuser. "Drug abuser" has the same meaning as set forth in Title 5, section 20003, subsection 10.

3. Drug addict. "Drug addict" has the same meaning as set forth in Title 5, section 20003, subsection 11.

SENATE AMENDMENT

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2 4. Drug-dependent person. "Drug-dependent person" has the
3 same meaning as set forth in Title 5, section 20003, subsection
4 12.

6 5. Formal charging instrument. "Formal charging
7 instrument" means a complaint, indictment, information, juvenile
8 petition or other formal written accusation against a person for
9 some criminal or juvenile offense.

10 6. Fugitive from justice. "Fugitive from justice" has the
11 same meaning as set forth in Title 15, section 201, subsection 4.

12 7. Licensee. "Licensee" means a person licensed by the
13 Chief of the State Police to operate a video lottery terminal.

14 8. Net terminal income. "Net terminal income" means money
15 inserted into a video lottery terminal minus credits paid out in
16 cash.

17 9. Operate. "Operate" means to offer for public use.

18 10. Payback value. "Payback value" means the value of
19 credits granted to players by a video lottery terminal compared
20 to the value of money inserted into the terminal by players,
21 calculated on an annual basis.

22 11. Person. "Person" means an individual, corporation,
23 association or partnership.

24 12. Reckless or negligent conduct. "Reckless or negligent
25 conduct" means that the applicant, either consciously
26 disregarding or failing to be aware of a risk that the
27 applicant's conduct would cause such a result, engaged in conduct
28 that in fact created a substantial risk of death, serious bodily
29 injury or bodily injury to another human being and the
30 applicant's disregard or failure to be aware of that risk, when
31 viewed in light of the nature and purpose of the applicant's
32 conduct and the circumstances known to the applicant, involved a
33 deviation from the standard of conduct that a reasonable and
34 prudent person would observe in the same situation.

35 13. Uniform location agreement. "Uniform location
36 agreement" means a written agreement between a licensee and a
37 video lottery terminal distributor that governs the terms and
38 conditions of the placement of video lottery terminals on the
39 premises of the licensee and that is on a form developed by the
40 Chief of the State Police.

41 14. Video lottery terminal. "Video lottery terminal" means
42 a machine that, upon insertion of coin or currency, is available

2 to play or simulate the play of a video game authorized by the
3 Chief of the State Police, including but not limited to poker,
4 keno and blackjack, utilizing a video display and microprocessor
5 in which by chance the player may receive free games or credits
6 that may be redeemed for cash. "Video lottery terminal" does not
7 include a machine that directly dispenses coins, cash or tokens.

8 15. Video lottery terminal distributor. "Video lottery
9 terminal distributor" means a person who owns video lottery
10 terminals and who distributes or places video lottery terminals
11 or associated equipment for use in this State.

12 16. Video lottery terminal manufacturer. "Video lottery
13 terminal manufacturer" means a person who assembles or produces
14 video lottery terminals or associated equipment for sale or use
15 in this State.

16 17. Video lottery terminal wholesaler. "Video lottery
17 terminal wholesaler" means a person who sells video lottery
18 terminals or associated equipment for distribution in this State.

19 §362. License required

20 A person may not manufacture, distribute, sell, operate or
21 place a video lottery terminal for use in this State unless the
22 person is licensed to do so by the Chief of the State Police. A
23 person may not place for public use or operate a video lottery
24 terminal in this State unless the machine is licensed by the
25 Chief of the State Police.

26 §363. Administration and enforcement

27 The Chief of the State Police and the State Lottery Director
28 shall administer and enforce the provisions of this chapter as
29 specified in this chapter.

30 §364. Powers and duties of the Chief of the State Police

31 1. Powers. In addition to powers conferred by any other
32 provision of law, the Chief of the State Police may:

33 A. Regulate, supervise and exercise general control over
34 the operation of video lottery terminals;

35 B. Investigate the direct or indirect ownership or control
36 of any licensee;

37 C. Adopt rules necessary to administer and enforce this
38 chapter, including the power to jointly adopt rules with the
39 State Lottery Commission;

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D. In any investigation conducted under this chapter, issue subpoenas to compel the attendance of witnesses and the production of evidence relevant to any fact at issue; and

E. Approve or disapprove terms and conditions of uniform local agreements.

2. Duties. The Chief of the State Police shall:

A. Investigate or cause to be investigated all complaints made to the State Police and all violations of this chapter or the rules adopted under this chapter;

B. Adopt rules to prevent undesirable conduct relating to the operation of video lottery terminals, including the following:

(1) The practice of any fraud or deception upon a player of a video lottery terminal;

(2) The presence of a video lottery terminal in or at premises that may be unsafe due to fire hazard or other such conditions;

(3) The use of obscene advertising;

(4) The solicitation on a public way of persons to play video lottery terminals;

(5) The infiltration of organized crime into the operation of video lottery terminals or into the distributing of the terminals;

(6) The presence of disorderly persons in a location where video lottery terminals are in use; or

(7) The use of the word "casino" to describe any video lottery terminal licensed under this chapter or as the name or any part of the name of the licensed premises or of a portion of the premises where the video lottery terminal is located;

C. Direct the State Lottery Director to disable any video lottery terminal if the Chief of the State Police has reason to believe that:

(1) A person has illegally tampered with the terminal;

(2) The funds from the terminal have not been distributed, deposited or allocated in accordance with

section 383; or

(3) The terminal does not meet the licensure requirements of this chapter; and

D. In accordance with the Maine Administrative Procedure Act develop industry standards for uniform location agreements to be used as the basis of agreements between distributors and licensees.

§365. Powers and duties of State Lottery Director

1. Powers. In addition to powers conferred by any other provision of law, the State Lottery Director may:

A. Propose to the State Lottery Commission for adoption rules necessary to administer and enforce this chapter, including rules to be adopted jointly with the Chief of the State Police; and

B. Subject to approval of the State Lottery Commission and to any applicable laws relating to public contracts, enter into a contract for performance of the director's duties under this chapter. All contracts must be awarded in accordance with rules adopted by the Department of Administration pursuant to Title 5, chapters 141 to 145 and Title 5, sections 1812 and 1813. A contract awarded or entered into by the director may not be assigned by the holder of the contract, except by specific approval of the commission.

2. Duties. The State Lottery Director shall:

A. Develop, install and test an on-line real-time central computer system with continuous polling to all licensed video lottery terminal locations and terminals to provide auditing program information. The communications system may not limit participation to only one manufacturer of video lottery terminals by either the cost in implementing the necessary program modifications to communicate or the inability to communicate with the central communications system;

B. Maintain and monitor the central computer system to ensure compliance with this chapter;

C. Attempt to determine the cause of any video lottery terminal malfunction detected by the central computer system and notify the Chief of the State Police of any suspected tampering with a video lottery terminal or any other violation of this chapter or the rules adopted under this

SENATE AMENDMENT

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chapter;

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D. Cause the central computer system to disable a video lottery terminal as directed by the Chief of the State Police in accordance with section 364;

E. Collect funds due the State under section 383 and deposit them in the Video Lottery Fund established in section 384;

F. Immediately notify the Chief of the State Police of the failure of any distributor to comply with section 383;

G. Certify monthly to the Treasurer of State, the State Lottery Commission and the Commissioner of Finance a full and complete statement of all video lottery terminal revenue, credits disbursed by licensees, administrative expenses and the allocation of net terminal income for the preceding month;

H. Submit by January 15th an annual report to the Governor and the joint standing committee of the Legislature having jurisdiction over legal affairs of video lottery terminal revenue, credits disbursed by licensees, administrative expenses and the allocation of net terminal income for the preceding year;

I. Prepare and submit to the Commissioner of Finance a budget for the program's administration; and

J. Cooperate with the Chief of the State Police in implementing and enforcing the provisions of this chapter.

§366. Applicability of chapter 14

Except as expressly provided in this chapter, chapter 14 does not apply to video lottery terminals.

SUBCHAPTER II

LICENSING

§371. License to operate

1. Eligible persons. The Chief of the State Police may issue a license to operate a video lottery terminal to a person licensed to sell liquor for consumption on the premises where sold.

2 2. Qualifications for individual license. An individual
3 may be issued a license to operate a video lottery terminal if
4 the individual is eligible for a license under subsection 1 and
5 the individual:

6 A. Is of good moral character, determined pursuant to
7 subsection 4;

8 B. Is current in payment of all taxes, interest and
9 penalties owed to the State or to a municipality, excluding
10 items under formal dispute or appeal pursuant to applicable
11 statutes or ordinances;

12 C. Has not been convicted of a crime punishable by one year
13 or more of imprisonment in any jurisdiction unless at least
14 10 years have passed since satisfactory completion of the
15 sentence or probation imposed by the court for the crime;

16 D. Has not been convicted of a violation of this chapter or
17 chapter 14;

18 E. Is not a fugitive from justice, a drug abuser, a drug
19 addict, a drug-dependent person, an illegal alien, or a
20 person who was dishonorably discharged from the military
21 forces within 5 years prior to the date of application;

22 F. Has completed the application form and complied with the
23 requirements of section 374;

24 G. Has sufficient financial assets to meet the financial
25 obligations imposed by this chapter and a method acceptable
26 to the Chief of the State Police for meeting those
27 obligations; and

28 H. Has not knowingly made a false statement of material
29 fact to the Chief of the State Police in applying for a
30 license under this chapter or chapter 14.

31 3. Qualifications for partnership, corporation or
32 association license. A partnership may be licensed to operate a
33 video lottery terminal if the partnership is eligible for a
34 license under subsection 1 and the partnership was organized in
35 this State, the partnership meets the qualifications of
36 subsection 2, paragraphs B to G and each partner of the
37 partnership meets all the requirements of subsection 2. A
38 corporation or association may be licensed to operate a video
39 lottery terminal if the association or corporation is eligible
40 for a license under subsection 1 and the corporation or
41 association was organized in this State, the corporation or
42 association meets the qualifications of subsection 2, paragraphs
43 B to G.

2 B to G and each officer, director and owner of any interest of
3 the corporation or association meets all the requirements of
4 subsection 2.

6 4. Determination of good moral character. The Chief of the
7 State Police shall make a determination of moral character solely
8 on the basis of information recorded by governmental entities
9 within 5 years of receipt of the application, including, but not
10 limited to, the following matters:

12 A. Information of record relative to incidents of abuse by
13 the applicant of family or household members, provided
14 pursuant to Title 19, section 770, subsection 1;

16 B. Information of record relative to convictions of the
17 applicant for crimes punishable by imprisonment for less
18 than one year or adjudications of the applicant for juvenile
19 offenses involving conduct that, if committed by an adult,
20 are punishable by imprisonment for less than one year;

22 C. Information of record indicating that the applicant has
23 engaged in reckless or negligent conduct;

24 D. Information of record relative to adjudications of the
25 applicant for civil violations; and

26 E. Information of record regarding charges against the
27 applicant for any crime in any jurisdiction.

30 5. Municipal permit required. The Chief of the State
31 Police may not issue a license to operate a video lottery
32 terminal to any person who has not obtained a special
33 entertainment permit for video lottery terminals, pursuant to
34 Title 28-A, section 1054, from the municipality in which the
35 video lottery terminal will be located.

36 6. Placement of terminals. No more than 3 video lottery
37 terminals may be placed on the premises of a licensee. A
38 terminal may not be placed in any location other than the
39 premises of the licensee. A terminal must be placed in an area
40 of the premises separated by a physical barrier from any part of
41 the premises not dedicated to the operation of video lottery
42 terminals. This area must be clearly labelled as an area that
43 persons under the age of 21 may not enter. The area must be
44 located and designed to permit the licensee or an agent of the
45 licensee to see and control the area at all times to ensure
46 compliance with the provisions of this chapter.

48 7. Uniform location agreement. Each video lottery terminal
49 must be subject to a uniform location agreement between the
50 licensee and the municipality in which the terminal is located.

2 distributor and the licensee. A copy of the agreement must be
3 submitted to the Chief of the State Police. The Chief of the
4 State Police may approve or disapprove any uniform location
5 agreement. If the uniform location agreement is disapproved, the
6 Chief of the State Police must provide written reasons for the
7 denial. The uniform location agreement is the complete and sole
8 agreement between the licensee and the distributor regarding
9 video lottery terminals. No other agreement between the licensee
10 and the distributor is legally binding.

11 8. Appeal to commissioner. Any distributor or licensee
12 denied approval of a uniform location agreement may appeal the
13 decision of the Chief of the State Police to the Commissioner of
14 Public Safety. The commissioner shall hold a hearing to include
15 the distributor, the licensee and the Chief of the State Police
16 or the chief's designee prior to rendering a decision on the
17 appeal. The commissioner shall render a decision within 30 days
18 of the hearing.

19 9. Disclosure of other contracts and agreements. A
20 distributor shall disclose to the Chief of the State Police any
21 other contracts or agreements that the distributor or a
22 subsidiary of the distributor has made with a licensee.
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24 10. Incentives prohibited. A distributor may not offer an
25 incentive to a licensee to accept placement of a video lottery
26 terminal on the premises of the licensee and a licensee may not
27 solicit such an incentive. For purposes of this subsection,
28 "incentive" means any consideration, including a premium or bonus
29 in cash, an advance payment of the licensee's share of net
30 terminal income or merchandise. "Incentive" does not include the
31 licensee's share of net terminal income provided for in section
32 383. A person who violates this subsection is guilty of a Class
33 C crime and that person's license, if any, is revoked and the
34 right to apply for a license under this chapter is precluded.
35

36 §372. Licensing of terminals
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38 1. License required. A video lottery terminal may not be
39 placed for public use or operated in this State unless the
40 terminal is licensed by the Chief of the State Police. The
41 terminal license must be prominently displayed on the terminal.
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43 2. Requirements for license. To be licensed, a video
44 lottery terminal:
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46 A. May only offer games permitted by the Chief of the State
47 Police;
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2 B. May not have any means of manipulation that affect the
random probabilities of winning a game;

4 C. Must have one or more mechanisms that accept coin or
cash in the form of bills and that are designed to prevent a
6 person from obtaining credits without paying;

8 D. Must be designed to suspend operation until reset if a
person attempts, by physical or other tampering, to obtain
10 credits without paying;

12 E. Must have nonresettable meters housed in a readily
accessible locked terminal area that keep a permanent record
14 of all cash inserted into the terminal, credits awarded by
the terminal, credits played for video games and credits
16 distributed by tickets made by the terminal's printer;

18 F. Must be capable of printing a ticket voucher stating the
value of the credits for the player at the completion of
20 each video game; the time of day in 24-hour format showing
hours and minutes; the date; the terminal's serial number;
22 the sequential number of the ticket vouchers; and an
encrypted validation number from which the validity of the
24 credits may be determined;

26 G. Must have accounting software that keeps an electronic
record of information that includes, but is not limited to,
28 the following: total cash inserted into the terminal; total
credits awarded by the terminal, total credits played for
30 video games and total credits distributed by tickets made by
the terminal's printer; and the payback percentage of each
32 video game; and

34 H. Must be linked to the on-line central communications
system developed under sections 364 and 365 to provide
36 continuous auditing program information.

38 3. Amount of play; payback value. A video lottery
terminal may be played for a minimum of 25¢ and a maximum of \$2
40 in a single game. The maximum prize awarded may not exceed the
value of \$1,000. The payback value of each type of game offered
42 by each terminal must be at least 80%.

44 4. Examination of prototypes. The Chief of the State
Police and the Attorney General shall examine prototypes of video
46 lottery terminals and associated equipment of manufacturers
seeking a license as required in this chapter. The Chief of the
48 State Police shall require the manufacturer seeking the
examination and approval of the video lottery terminal or
50 associated equipment to pay the anticipated actual cost of the

2 examination before the examination occurs. After the examination
3 occurs, the Chief of the State Police shall refund overpayments
4 or charge and collect amounts sufficient to reimburse the Chief
5 of the State Police for underpayments of actual cost. The Chief
6 of the State Police may contract for the examinations of video
7 lottery terminals and associated equipment as required by this
8 section.

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10 5. **Unlicensed terminal subject to confiscation.** Any
11 terminal that is not licensed as required by this section is
12 contraband and a public nuisance and is subject to confiscation
13 by any law enforcement officer.

14 6. **Ownership of terminals.** A person may not place or
15 operate a video lottery terminal for public use in this State if
16 the terminal is owned by a person other than a video lottery
17 terminal distributor licensed under this chapter. A video
18 lottery terminal distributor may not own more than 400 video
19 lottery terminals licensed in this State or more than 15% of the
20 total number of video lottery terminals licensed in this State,
21 whichever is greater.

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23 7. **Transition computer link.** Notwithstanding subsection 2,
24 paragraph H, a terminal that is not linked to the on-line
25 computer system developed under sections 364 and 365 may be
26 licensed and operated during the transition period, provided the
27 terminal is linked to the central computer system with dial-up
28 polling pending conversion to continuous polling. For purposes
29 of this section, the transition period is the 6-month period
30 beginning on the date on which a licensed terminal is first
31 operated in the State.

32 **§373. Licensing of manufacturer, distributor, wholesaler**

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35 1. **Qualifications.** To be licensed as a video lottery
36 terminal manufacturer, distributor or wholesaler, a person must
37 meet the qualifications set forth in section 371, excluding
38 subsection 1. Any individual applying for a license, any partner
39 of a partnership, or any officer, director or holder of any
40 ownership interest of a corporation or association applying for a
41 license as a manufacturer, distributor or wholesaler must submit
42 to a background investigation by the Chief of the State Police to
43 verify the applicant's compliance with the requirements of
44 section 371, excluding subsection 1.

45
46 2. **Levels of license; prohibition against multiple**
47 **licenses.** A person licensed as a video lottery terminal
48 manufacturer or wholesaler has a Level 1 license. A person
49 licensed as a video lottery terminal distributor has a Level 2
50 license. A licensee has a Level 3 license. A person may not
hold more than one level of license.

2 §374. Applications

4 1. Form. An application for a license required under this
6 chapter must be on the form provided by the Chief of the State
8 Police. The application must be signed by the individual
10 applicant or by a duly authorized officer of the partnership,
12 corporation or association applying for the license. The
application must contain the following information regarding the
individual applicant and each officer, director, partner or owner
of any interest in a corporation, partnership or association
applying for a license:

14 A. Full name:

16 B. Full current address and addresses for the prior 5 years:

18 C. A record of previous issuances of, refusals to issue and
20 revocations of a license under this chapter; and

22 D. Answers to the following questions posed in
substantially the following form:

24 (1) "Is there a formal charging instrument now pending
26 against you in this or any other jurisdiction for a
crime that is punishable by imprisonment for one year
or more?"

28 (2) "Is there a formal charging instrument now pending
30 against you in this or any other jurisdiction for a
juvenile offense that involves conduct that, if
32 committed by an adult, would be punishable by
imprisonment for one year or more?"

34 (3) "Have you ever been convicted of a crime described
36 in subparagraph (1) or adjudicated as having committed
a juvenile offense as described in subparagraph (2)?"

38 (4) "Are you a fugitive from justice?"

40 (5) "Are you a drug abuser, drug addict or
42 drug-dependent person?"

44 (6) "Have you been dishonorably discharged from the
46 military forces within the past 5 years?"

48 (7) "Are you an illegal alien?"

50 (8) "To your knowledge, have you been the subject of
an investigation by any law enforcement agency within

2 the past 5 years regarding the alleged abuse by you of
3 family or household members?"

4 (9) "Have you been convicted within the past 5 years
5 of crimes punishable by imprisonment of less than one
6 year?"

8 (10) "Have you been adjudged within the past 5 years
9 to have committed juvenile offenses involving conduct
10 that, if committed by an adult, would be punishable by
11 imprisonment of less than one year?"

12 (11) "To your knowledge, have you engaged within the
13 past 5 years in reckless or negligent conduct that has
14 been the subject of an investigation by a governmental
15 entity?"

18 2. Signature as certification. The applicant, by affixing
19 the applicant's signature to the application, certifies the
20 following:

22 A. That the statements made in the application and any
23 documents made a part of the application are true and
24 correct;

26 B. That the applicant understands that an affirmative
27 answer to one or more of the questions in subsection 1,
28 paragraph D, subparagraphs (3) to (7) is cause for refusal;

30 C. That the applicant understands that the answers to
31 questions in subsection 1, paragraph D are used by the Chief
32 of the State Police, along with other information, in
33 judging good moral character and an affirmative answer to
34 one or more of those questions may be cause for refusal to
35 issue a license; and

36 D. That the applicant understands that knowingly making any
37 false statement in the application or any document made a
38 part of the application is grounds for a refusal to issue a
39 license or revocation or suspension of a license.

42 3. Consent to review records. At the request of the Chief
43 of the State Police, the applicant shall take whatever action is
44 necessary to permit the Chief of the State Police to examine
45 accounts and records in the applicant's possession, under the
46 applicant's control or under the control of 3rd persons but
47 accessible by consent of the applicant, and must authorize all
48 3rd parties in possession or in control of those accounts or
49 records to allow the Chief of the State Police or a designee to
50 examine the accounts and records as the Chief of the State Police
determines necessary to ascertain:

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- 2 A. Whether the information supplied on the application or
4 any documents made a part of the application is true and
 correct;
- 6 B. Whether each of the requirements of this section has
 been met; or
- 8 C. Whether the applicant meets the requirements for
10 licensure under this chapter.

12 This requirement includes taking whatever action is necessary to
14 permit the Chief of the State Police or a designee to have access
16 to confidential records held by banks, the courts, law
 enforcement agencies and the military for the purposes stated in
 this subsection.

18 4. Notification of municipal officers. An applicant for a
20 license to operate a video lottery terminal must send a copy of
22 the application to the officers of the municipality in which the
24 terminal will be operated. The applicant must certify in the
 application that the copy has been sent and must list the names
 and addresses of the persons to whom the copy was sent.

26 §375. Fees; term of license; transferability

28 1. Fees. The annual fee for a license issued under this
 chapter is as follows:

- 30 A. A license for a video lottery terminal manufacturer is
32 \$5,000;
- 34 B. A license for a video lottery terminal wholesaler is
 \$5,000;
- 36 C. A license for a video lottery terminal distributor is
38 \$5,000; and
- 40 D. A license to operate a video lottery terminal is \$500
 per terminal.

42 In addition to the annual license fee, the Chief of the State
44 Police may charge a one-time application fee for a license
46 described in paragraph A, B or C in an amount equal to the actual
48 cost of processing the application and performing any background
 investigations, but not to exceed \$500. All fees collected
 pursuant to this section must be deposited directly to the
 General Fund.

50 2. Term of license. All licenses issued by the Chief of

2 the State Police under this chapter are effective for one year
3 and are renewable annually, unless sooner revoked pursuant to
4 section 376.

5 3. Nontransferable. A license issued under this chapter is
6 not transferable or assignable.

7 §376. Actions relating to licenses

8 1. Suspension or revocation of license; refusal to renew.
9 The Chief of the State Police may refuse to renew a license after
10 a hearing in accordance with the Maine Administrative Procedure
11 Act. The Administrative Court may suspend or revoke a license
12 issued under this chapter. The Chief of the State Police may
13 refuse to renew a license and the Administrative Court may revoke
14 or suspend a license for just cause, including any of the
15 following:

16 A. The person made or caused to be made a false statement
17 of material fact in obtaining a license under this chapter
18 or in connection with service rendered within the scope of
19 the license issued;

20 B. The person or the person's agent violated any provision
21 of this chapter or any rule adopted under this chapter; or

22 C. The holder of a license under this chapter becomes
23 ineligible to hold that license.

24 2. Ineligibility period following refusal to issue or renew
25 or revocation of license. A person may not apply to the Chief of
26 the State Police for any license under this chapter less than 2
27 years after the Chief of the State Police refused to issue or
28 renew a license under this chapter or less than 2 years after the
29 Administrative Court revoked a license issued to the person under
30 this chapter.

31 SUBCHAPTER III

32 TERMINAL OPERATION; ALLOCATION OF FUNDS

33 §381. Limits on terminal use

34 1. Hours of play. A licensee may not permit a person to
35 play a video lottery terminal at any time other than during legal
36 hours for the on-premises consumption of liquor.

37 2. Age of player. A licensee may not permit a person under
38 21 years of age to play a video lottery terminal.

2 3. Time and money limits imposed by licensee. A licensee
3 may impose a daily limit on the amount of time or money spent by
4 an individual playing the video lottery terminals on the
5 licensee's premises.

6 §382. Payment of credits by licensee

7 A licensee shall redeem credits for players who earn credits
8 on terminals located on the premises of that licensee, in
9 accordance with rules adopted jointly by the Chief of the State
10 Police and the State Lottery Director. If a person receives a
11 credit redeemable for more than \$500, the licensee shall require
12 the person to complete a form listing the person's name, address
13 and social security number. The licensee shall promptly send the
14 form to the Bureau of Taxation.

15 §383. Allocation of funds

16 1. Distributor responsible. A video lottery terminal
17 distributor shall collect and allocate funds from video lottery
18 terminals owned by the distributor in accordance with this
19 section.

20 2. Allocation of net terminal income. The distributor
21 shall allocate 38.75% of net terminal income to the State, 30.0%
22 of net terminal income to the licensee on whose premises the
23 terminal is located and 31.25% of net terminal income to the
24 distributor.

25 3. Priority of payment to State. If funds collected from a
26 video lottery terminal are not sufficient to pay the amounts due
27 the State, the distributor and the licensee, the distributor
28 shall reduce the amount allocated to the distributor, the
29 licensee or both. The distributor may not reduce the amount
30 allocated to the State.

31 4. Deposit of state funds. Each distributor shall maintain
32 a bank account accessible by the State for the deposit of funds
33 owed to the State under this chapter. The distributor shall
34 deposit in that account the State's share of the net terminal
35 income attributable to terminals owned by the distributor during
36 the first 15 days of each month not later than the 22nd day of
37 the month. The distributor shall deposit in that account the
38 State's share of net terminal income attributable to terminals
39 owned by the distributor between the 16th and the last day of
40 each month not later than the 7th day of the next month. If the
41 day on which funds must be deposited is not a business day, the
42 funds must be deposited on the next business day after that date.

2 5. Use of state share. At the end of each fiscal year
3 beginning after June 30, 1993, the Treasurer of State shall
4 transfer to the Local Government Fund created in Title 30-A,
5 section 5681 an amount equal to 20% of the state share of net
6 terminal income derived from video lottery terminals during that
7 fiscal year, net of state administrative costs.

8 6. Failure to deposit funds. A distributor who fails to
9 comply with this section commits a Class C crime. The license of
10 that person may be revoked by the Administrative Court and the
11 terminals to which the undeposited funds are attributable may be
12 disabled by the State Lottery Director at the direction of the
13 Chief of the State Police.

14 7. Late payments. All payments not remitted when due must
15 be paid together with a penalty assessment on the unpaid balance
16 at a rate of 1.5% per month.

17 §384. Video Lottery Fund

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20 1. Fund created. There is created and established a
21 separate fund to be known as the "Video Lottery Fund" to be
22 deposited in such depositories as the Treasurer of State may
23 select. The fund consists of all revenue payable to the State
24 pursuant to section 383 and all other money credited or
25 transferred to the fund from any other fund or source pursuant to
26 law.

27 2. Use of money. The money in the Video Lottery Fund may
28 be appropriated or allocated only:

29 A. For expenses incurred in implementing or enforcing this
30 chapter:

31 B. For payment to the Local Government Fund pursuant to
32 section 383; and

33 C. For payment to the General Fund.

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37 3. Committee review of allocation. The State Lottery
38 Director shall submit to the joint standing committee of the
39 Legislature having jurisdiction over legal affairs for review all
40 proposals for allocations from the Video Lottery Fund. The
41 proposed allocations for each fiscal year must be submitted by
42 the first of January preceding the start of the fiscal year.

43 §385. Use of proceeds by nonprofit organizations

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47 Section 335 applies to the use of proceeds from video
48 lottery terminals by any organization eligible to receive a
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license under section 332, except that the organization is not prohibited from using the proceeds to pay salaries, wages or remuneration to its employees. An organization eligible to receive a license under section 332 must file with the Chief of the State Police a disposition of funds form prescribed by the Chief of the State Police detailing the disposition of proceeds received from video lottery terminals. Every statement on the form must be made under oath by an officer of the organization.

SUBCHAPTER IV

ENFORCEMENT AND PENALTIES

§391. Reports; records

1. **Reports; records.** The Chief of the State Police or the State Lottery Director shall require from any licensed distributor, manufacturer, wholesaler or licensee whatever records and reports the chief or the director considers necessary for the administration and enforcement of this chapter.

2. **Location.** A license holder shall maintain all records required by this chapter or by rules adopted under this chapter at the primary business office within this State of the license holder or on the premises where the video lottery terminal is operated. In the case of a video lottery terminal manufacturer or wholesaler, the records must be maintained at the primary business office of the manufacturer or wholesaler. The primary business office must be designated by the license holder in the license application. All records must be open to inspection by the Chief of the State Police, the State Lottery Director or the designee of either of them and a license holder may not refuse the Chief of the State Police, the State Lottery Director or the designee of either of them the right to inspect or audit the records. Refusal to permit inspection or audit of the records is not a crime under this chapter, but does constitute grounds for revocation of the license.

§392. Access to premises, equipment, records

A person holding a license under this chapter shall permit the Chief of the State Police or the chief's designee to inspect any equipment, prizes, records or items and materials used or to be used in the operation of any video lottery terminal manufactured, owned, distributed or operated by that person. A person holding a license under this chapter shall consent in writing to the examination of all accounts, bank accounts and records in the license holder's possession or under the license holder's control and shall authorize all 3rd parties in possession or in control of those accounts or records to allow

the Chief of the State Police or the chief's designee to examine the accounts and records as the chief determines necessary.

§393. Contempt

If a witness refuses to obey a subpoena issued by the Chief of the State Police or to give any evidence relevant to proper inquiry by the chief, the Attorney General may petition the Superior Court in the county where the refusal occurred to find the witness in contempt. The Attorney General shall cause to be served on the witness an order requiring that witness to appear before the Superior Court to show cause why that witness should not be adjudged in contempt. The court shall, in a summary manner, hear the evidence and, if it is such as to warrant the court to do so, punish the witness in the same manner and to the same extent as for contempt committed before the Superior Court or with reference to the process of the Superior Court.

§394. Violations

1. Crimes by licensees. A licensee who performs any of the following acts commits a Class D crime:

A. Permitting a person under 21 years of age to play a video lottery terminal licensed pursuant to this chapter; or

B. Permitting a person to play a video lottery terminal licensed pursuant to this chapter at a time other than during the legal hours for the on-premises consumption of liquor.

2. Class C crimes by any person. A person who performs any of the following acts commits a Class C crime:

A. Tampering with a video lottery terminal with intent to interfere with the proper operation of that terminal;

B. Manipulating or intending to manipulate the outcome, payoff or operation of a video lottery terminal by physical tampering or any other means;

C. Manufacturing, distributing, selling, operating or placing a video lottery terminal for use in this State without a license; or

D. Placing for public use or operating an unlicensed video lottery terminal in this State.

3. Class D crimes by any person. A person who violates any provision of this chapter or any rule adopted under this chapter

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for which a specific penalty is not provided commits a Class D crime.

Sec. TTT-8. 25 MRSA §3902, sub-§4 is enacted to read:

4. Notice of violation of video lottery law. A liquor enforcement officer who notices a violation of any provision of Title 17, chapter 16 shall promptly notify the Chief of the State Police of the violation.

Sec. TTT-9. 28-A MRSA §807 is enacted to read:

§807. Notice to Chief of the State Police

The commission shall notify the Chief of the State Police of the suspension or revocation of any license issued under this chapter. The commission shall also notify the Chief of the State Police of any investigation of a violation of any provision of this Title.

Sec. TTT-10. 28-A MRSA §1054, sub-§11, ¶C is enacted to read:

C. A municipality may not combine a permit to operate a video lottery terminal, as defined in Title 17, section 361, with any other permit. The fee for a permit to operate a video lottery terminal may not be higher than the fee for any other special entertainment permit issued by the municipality.

Sec. TTT-11. Working capital advance. The State Controller is authorized to advance to the Department of Finance, Bureau of the Lottery, Video Lottery Fund, \$250,000 from the General Fund Unappropriated Surplus, to be used for any necessary start-up costs associated with the implementation of a system of video lottery terminals in the State pursuant to the Maine Revised Statutes, Title 8, section 372, subsection 2 and Title 17, chapter 16. Funds advanced for this purpose must be returned to the General Fund Unappropriated Surplus no later than June 30, 1992.

Sec. TTT-12. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1991-92 1992-93

PUBLIC SAFETY, DEPARTMENT OF

State Police

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Licensing Division

Positions	(5.0)	(5.0)
Personal Services	\$208,167	\$234,612
All Other	32,568	28,170
Capital Expenditures	57,836	
TOTAL	<u>\$298,571</u>	<u>\$262,782</u>

Provides funds for 3 detective positions and 2 clerical positions to perform the background check and licensing of video lottery terminal manufacturers, wholesalers, distributors and operators. General Fund revenues from license fees are projected to be \$1,412,000 in fiscal year 1991-92 and \$1,920,000 in fiscal year 1992-93.

Liquor Enforcement

Positions	(2.0)	(2.0)
Personal Services	\$61,058	\$73,429
All Other	13,895	8,530
Capital Expenditures	36,554	
TOTAL	<u>\$111,507</u>	<u>\$81,959</u>

Provides funds for 2 additional liquor enforcement officers, beginning September 1, 1991, to perform the necessary oversight of video lottery terminal licensees.

**DEPARTMENT OF PUBLIC SAFETY
TOTAL**

<u>\$410,078</u>	<u>\$344,741</u>
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Sec. TTT-13. Allocation of funds. In order to provide for the necessary expenses of operation and administration of the Department of Finance, Bureau of the Lottery, Video Lottery Terminals, the following amounts, or as much as may be necessary, are allocated from the revenues derived from operations of the Video Lottery Fund.

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1991-92 1992-93

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FINANCE, DEPARTMENT OF

**Bureau of the Lottery -
Video Lottery Terminals**

Positions - Other Count	(2.0)	(2.0)
Personal Services	\$52,458	\$69,843
All Other	1,280,059	3,408,082

Provides funds for a project coordinator position effective August 1, 1991 and an Accountant II position effective November 1, 1991 to fulfill the mandated responsibilities of the lottery, as well as contract telecommunications costs and legal services provided by the Attorney General.

**DEPARTMENT OF FINANCE
TOTAL**

\$1,332,517 \$3,477,925

Sec. TTT-14. Allotments required. Upon receipt of allotments duly approved by the Governor, based upon work programs submitted to the State Budget Officer, the State Controller shall authorize expenditures from these allocations on the basis of these allotments and not otherwise.

Sec. TTT-15. Adjustments to allocations. Allocations may be increased or adjusted by the State Budget Officer with the approval of the Governor to cover specifically those adjustments determined to be necessary under any salary plan approved by the Legislature, and those reclassifications or range changes that have been approved by the Department of Administration and submitted for legislative review prior to the effective date of this Act.

PART UUU

36 MRSA §5228, sub-§5, as amended by PL 1991, c. 9, Pt. DD, §§2 and 3, is repealed and the following enacted in its place:

5. Amount of installment. The amount of estimated tax to be paid in a taxable year by a taxpayer is to be paid in installments by the dates established in this Part. The amount of the estimated tax must be paid as follows.

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A. The 4th and 6th month payments must each be an amount equal to 35% of the total estimated tax liability.

B. The 9th and 12th month payments must each be an amount equal to 15% of the total estimated tax liability.

C. The taxpayer is exempt from the amounts in paragraphs A and B if:

(1) The taxpayer establishes by adequate record the actual distribution of tax liability and allowable credits, or both. In this case, the amount of the installment payments should be adjusted accordingly and be determined in accordance with the portion of the taxpayer's estimated tax liability applicable to that portion of the taxpayer's taxable year completed by the close of the month preceding the installment's due date less estimated tax payments already made for the taxable year; or

(2) The taxpayer is a farmer or fisherman in which case a single installment is required.

A penalty accrues automatically on underpayments of the required installment amount for the period of underpayment at the rate provided pursuant to section 186. For cause, the State Tax Assessor may waive or abate all or any part of the penalty.

PART VVV

Sec. VVV-1. 36 MRSA §1760, sub-§9-D, as amended by PL 1989, c. 875, Pt. E, §47, is repealed.

Sec. VVV-2. 36 MRSA §1760, sub-§12-A, as enacted by PL 1989, c. 871, §11, is repealed.

Sec. VVV-3. 36 MRSA §1760, sub-§31, as amended by PL 1989, c. 501, Pt. V, §§4 and 5, is repealed.

Sec. VVV-4. 36 MRSA §1760, sub-§74, as enacted by PL 1989, c. 871, §15, is repealed.

Sec. VVV-5. 36 MRSA §1760-C is enacted to read:

§1760-C. Property used in production

Sales of tangible personal property, other than fuel or electricity, that becomes an ingredient or component part of, or

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2 that is consumed or destroyed or loses its identity directly and
3 primarily in either the production of tangible personal property
4 for later sale or lease, other than lease for use in this State,
5 or the production of tangible personal property pursuant to a
6 contract with the Federal Government or any agency of the Federal
7 Government are subject to a 1% sales tax rate. Tangible personal
8 property is "consumed or destroyed" or "loses its identity" in
9 that production if it has a normal physical life expectancy of
10 less than one year as a usable item in the use to which it is
11 applied.

12 Sec. VVV-6. 36 MRSA §1765, sub-§7, as amended by PL 1989, c.
13 533, §9, is repealed.

14 Sec. VVV-7. 36 MRSA §2621-A, sub-§3, as affected by PL 1989,
15 c. 875, Pt. E, §59, is repealed.

16 Sec. VVV-8. 36 MRSA §5102, sub-§6-A, as enacted by PL 1987,
17 c. 841, §1, is repealed.

18 Sec. VVV-9. 36 MRSA §5102, sub-§8, as amended by PL 1987, c.
19 841, §2, is further amended to read:

20 8. **Maine net income.** "Maine net income" means, for any
21 taxable year for any corporate taxpayer, the taxable income of
22 that taxpayer for that taxable year under the laws of the United
23 States as modified by section 5200-A and apportionable to this
24 State under chapter 821. To the extent that it derives from a
25 unitary business carried on by 2 or more members of an affiliated
26 group, the Maine net income of a corporation shall--be is
27 determined by apportioning that part of the federal taxable
28 income of the entire group which that derives from the unitary
29 business,--~~except-income-of-an-80-20-corporation.~~

30 Sec. VVV-10. 36 MRSA §5200-A, sub-§2, ¶G, as amended by PL
31 1989, c. 880, Pt. G, §8, is repealed.

32 Sec. VVV-11. 36 MRSA §5219-E, as enacted by PL 1991, c. 377,
33 §21, is repealed.

34 PART WWW

35 **Revision clause; repeal.** The Revisor of Statutes shall change
36 references to the Department of Economic and Community
37 Development that appear in the Maine Revised Statutes to the
38 appropriate agency of state government or repeal the appropriate
39 statutory provision when necessary.

PART XXX

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Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1991-92	1992-93
MAINE DEVELOPMENT FOUNDATION		
Maine Development Foundation		
All Other	(\$188,501)	(\$201,310)
Deappropriates funds appropriated in other Parts of this Act.		
MAINE DEVELOPMENT FOUNDATION TOTAL	<u>(\$188,501)</u>	<u>(\$201,310)</u>
ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF		
Positions	(-56.0)	(-56.0)
Personal Services	(\$2,497,595)	(\$2,663,600)
All Other	(6,351,855)	(5,725,911)
Capital Expenditures	(30,133)	(6,030)
Deappropriates funds appropriated in other Parts of this Act.		
DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT TOTAL	<u>(\$8,879,583)</u>	<u>(\$8,395,541)</u>

FISCAL NOTE

This amendment eliminates those parts of the bill that raise new tax revenue amounting to \$288,900,000. It offsets this loss by eliminating certain tax exemptions and incorporating the video lottery proposal amounting to new net General Fund revenue of \$288,900,000. Therefore, there is no net impact to the General Fund as a result of this amendment.

SENATE AMENDMENT

R. of S.


STATEMENT OF FACT

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This amendment eliminates the new tax revenue provisions of the budget and replaces that revenue with the following:

1. Elimination of the Department of Economic and Community Development and the Maine Development Foundation;
2. Establishment of the video lottery proposals;
3. Acceleration of corporation income tax collections;
4. Elimination of the sales tax exemption on electricity used in manufacturing;
5. Elimination of the investment tax credit;
6. Elimination of the railroad investment tax credit;
7. Elimination of the sales tax exemption on the value of trade-in credits;
8. Elimination of the sales tax exemption on machinery, equipment and repair parts;
9. Elimination of the sales tax exemption on packaging materials;
10. Elimination of 20% of the sales tax exemption on components used in manufacturing; and
11. Elimination of the income tax exemption for 80-20 corporations and foreign dividend exclusions.

Therefore, the amendment achieves a balanced budget without raising new taxes.

(Senator BOST)
SPONSORED BY: 

COUNTY: Penobscot

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(7/12/91) (Filing No. S-463)