

OFFICE OF POLICY AND LEGAL ANALYSIS

Date: March 3, 2021
To: Veterans and Legal Affairs Committee
From: Janet Stocco, Legislative Analyst

LD 407 An Act To Improve Education Funding through Lottery Proceeds (Rep. Alley)

SUMMARY

This concept draft proposes to create a new lottery game with proceeds dedicated to support education funding.

ISSUES RAISED / AMENDMENTS PROPOSED AT PUBLIC HEARING

- **Sponsor’s proposal.** The sponsor proposed amending the concept draft to create a special lottery ticket, similar to the ticket established for the benefit of the Maine Outdoor Heritage Fund, the proceeds of which would support scholarship programs for both the Maine Community College System and the University of Maine System. Scholarships would be awarded only to students (1) who are Maine residents; (2) who attend a Maine community college or public university; **and** (3) who commit to living in Maine for a certain period of time after graduation.
 - After the public hearing, the Maine Community College System submitted a statement in which it “agree[d] wholeheartedly with Rep. Alley’s intent, to assure college is affordable to all Maine residents.”
- **BABLO Concerns.** The Bureau of Alcoholic Beverages and Lottery Operations testified that, based on its experience, “developing a new themed game would not generate significant new lottery participation and, in turn, new revenue for the dedicated cause.” At the current time, there is only one special lottery game, which benefits the Maine Outdoor Heritage Fund. (*See attached statutes.*)

ADDITIONAL INFORMATION:

- **Lottery revenue under current law.** Pursuant to 8 M.R.S. § 386 & § 387, lottery agent license fees and proceeds from the sale of lottery tickets may only be used for the following purposes:
 - Disbursement of prizes to holders of winning tickets (must be \geq 45% of the total ticket sales);
 - For lottery-operations expenses of the Bureau of Alcoholic Beverages and Lottery Operations;
 - For payment to the General Fund; and
 - For payment to the Maine Outdoor Heritage Fund. (The net proceeds from the wildlife lottery game of the Maine State Lottery are paid to this fund. *See § 374(5).*)

According to the *State of Maine: Compendium of State Fiscal Information Through Fiscal Year Ending June 30, 2020*, prepared by the Legislature’s Office of Fiscal and Program Review:

- Between 2011 and 2020, the lottery revenue deposited in the General Fund has ranged from a low of \$49.5 million in 2011 to a high of \$64.6 million in 2020. *See* Compendium p. 64.
 - *Education share of General Fund:* According to pages 89-90 of the Compendium, in fiscal year 2020, 37.0% of all General Fund dollars expenditures were for the Department of Education—for General Purpose Aid for Local Schools, Teacher Retirement, Child Development Services and Other Department of Education Programs—while 8.4% of all General Fund expenditures were for Higher Education Institutions and Programs.
- Between 2011 and 2020, the lottery revenue deposited in the Maine Outdoor Heritage Fund has ranged from a low of \$441K in 2017 to a high of \$722K in 2020. *See* Compendium p. 64.

TECHNICAL ISSUES

None identified.

FISCAL IMPACT

Not yet determined.

TITLE 8 : AMUSEMENTS AND SPORTS**CHAPTER 14-A : LOTTERY****§374. Commission; powers and duties**

The commission shall meet with the director, not less than once each month, to adopt and amend rules, subject to the approval of the commissioner, relating to the lotteries; to make recommendations and set policy for state lotteries and to transact other business that may be properly brought before the commission. A lottery under this section may include, but is not limited to, a draw game in which the prize paid to a winning player is calculated as a share of the prize pool. A lottery may not include a draw game that has more than 5 daily drawings and that pays a player a set prize amount based on the wager made by the player and in which the operator keeps all losing wagers, as with the draw game commonly known as keno. Rules adopted by the commission must be adopted in a manner consistent with Title 5, chapter 375.

1. Rules. The rules promulgated by the commission shall include, but not be limited to:

- A. The types of lotteries to be conducted and which, if any, will be sold as part of the Tri-state Lotto Compact under chapter 16;
- B. The price of tickets or shares in the lotteries;
- C. The number and size of the prizes on the winning tickets or shares;
- D. The manner of selecting the winning tickets or shares;
- E. The manner of payment of prizes to the holders of winning tickets or shares;
- F. The frequency of the drawings or selections of winning tickets or shares;
- G. The number or types of locations at which tickets or shares may be sold;
- H. The method to be used in selling tickets or shares and the types of sales promotions that may be conducted utilizing tickets or shares as approved in advance by the commission or the director or the director's designee;
- I. The issuing of licenses to sell tickets or shares to qualified persons who are at least 18 years of age and the denial, suspension and revocation of those licenses;
- J. The license fee to be charged to persons applying for a license;
- K. The manner and amount of compensation to be paid to persons licensed to sell lottery tickets or shares necessary to provide for the adequate availability of tickets or shares to prospective buyers and for the convenience of the general public;
- 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 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
- M. The imprinting on all lottery tickets sold in the State of the overall odds of winning a prize for each game.

2. Meeting requirements. No action of the commission is binding unless 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 immediately transmitted, by and under the certification of the secretary, to the commissioner and to the Governor.

3. Limitation of authority. 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.

5. Wildlife lottery game. No later than January 30, 1996, the commission, in consultation with the Maine Outdoor Heritage Fund Board, shall develop and initiate a wildlife lottery game designed to raise funds for the Maine Outdoor Heritage Fund established pursuant to Title 12, chapter 903, subchapter 6. The sales commission paid to agents for the sale of wildlife lottery game tickets must be one percentage point higher than the sales commission paid to agents for the sale of other instant lottery game tickets. The commission shall provide the net proceeds of this wildlife lottery game to the Maine Outdoor Heritage Fund annually. The commission shall change the wildlife game ticket periodically throughout the year.

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§386. State Lottery Fund; creation

There is created and established a separate fund to be known as the "State Lottery Fund," to be deposited in such depositories as the Treasurer of State may select. These funds shall consist of all revenue received from the sale of lottery tickets or shares, agents' license fees and all other money credited or transferred to that fund from any other fund or source pursuant to law.

§387. State Lottery Fund; appropriation of money

1. Appropriation. The money in the State Lottery Fund may 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;
- C. For payment to the General Fund; and

D. For payment to the Maine Outdoor Heritage Fund pursuant to Title 12, section 10302.

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 State Lottery, shall be the State's share.

TITLE 12 : AMUSEMENTS AND SPORTS

CHAPTER 903: DEPARTMENT OF INLAND FISHERIES AND WILDLIFE

SUBCHAPTER 6: MAINE OUTDOOR HERITAGE FUND

§10302. Fund established

There is established the Maine Outdoor Heritage Fund. The fund consists of revenues received pursuant to Title 8, section 387 and any funds received as contributions from private and public sources. The fund, to be accounted within the department, must be held separate and apart from all other money, funds and accounts. Eligible investment earnings credited to the assets of the fund become part of the

assets of the fund. Any balance remaining in the fund at the end of any fiscal year must be carried forward to the next fiscal year.

[§10303 to §10309](#). These sections of Title 12 establish the percentage of funding from the Maine Outdoor Heritage Fund that should be spent on different categories of projects and establish the Maine Outdoor Heritage Fund Board, which adopts a strategic plan for use of these funds and awards grants of funds to proposals that conform to the strategic plan.