Save Now, Win Later:* Removing Statutory Barriers to Prize-Linked Savings Initiatives

* SaveNow, WinLater is the name of the prize-linked savings initiative launched by the nonprofit Impact Alabama.

I. INTRODUCTION

In February of 2010, Billie June Smith received exciting news.[1] As the lucky winner of a statewide drawing, this elderly woman was awarded a giant check for $100,000.[2] Billie June's good fortune cost her nothing, for she did not spend any money on the winning ticket. Instead, she became eligible for the grand prize when she decided to save for her retirement at her local credit union.[3]

Billie June was the inaugural grand-prize winner of "Save to Win," an innovative pilot program that launched in 2009 to test a concept known as prize-linked savings.[4] In partnership with the nonprofit Doorways to Dreams, eight credit unions in the Michigan Credit Union League ("MCUL") introduced account options to their members that were designed to "make savings fun."[5] These prize-linked savings ("PLS")[6] products incorporated an exciting element of chance that rewarded a consumer's decision to save. By opening a twelve-month share certificate worth a minimum of $25, consumers earned one entry into a grand-prize drawing.[7] Each additional deposit of $25 generated a duplicate entry, and participants were penalized for withdrawing their savings too quickly.[8] In addition to the chance to

1. *See Save to Win: 2009 Final Project Results*, http://perma.cc/6YBN-GMSD (d2dfund.org, archived Feb. 16, 2014) (describing the unique contest terms and spotlighting Billie June).

2. *See* LakeTrustCreditUnion, *2009 Save to Win Grand Prize*, http://perma.cc/5N4U-EESY (youtube.com, archived Feb. 16, 2014) (recording Billie June's reaction to receipt of her award).

3. *Id.*

4. *Save to Win: 2009 Final Project Results*, *supra* note 1, at 7.

5. *Id.* at 9; *see also Prize-Linked Savings: An Opportunity to Save, While Having Fun*, http://perma.cc/YR4X-PNJX (d2dfund.org, archived Feb. 16, 2014) (articulating the common marketing phrase "making savings fun").

6. This Note abbreviates "prize-linked savings" to "PLS" whenever the phrase appears in its adjectival form.

7. *Save to Win: 2009 Final Project Results*, *supra* note 1, at 9. As described in Part III.C, share certificates at a credit union are the functional equivalent of certificates of deposit at a traditional bank.

8. *Id.*

win monetary prizes, participants also accumulated interest on their federally insured share certificates according to rates set by each credit union.[9] Credit unions advertised the initiative as a no-lose opportunity.[10]

Over 11,500 Michigan residents opened PLS accounts in the inaugural year of the Save to Win program.[11] Even under conservative estimates, participating consumers collectively deposited over $8.5 million in PLS accounts.[12] These results indicate that prize-linked savings can effectively incentivize individuals to set aside money that they would otherwise spend. The low dollar amount required for each entry was designed to attract participants with low-to-moderate incomes, and the pilot program gained significant consumer popularity.[13] In the years since Billie June received the first jackpot prize, Save to Win has expanded its PLS program.[14] Today, the MCUL proclaims the program's unique benefits with a simple slogan: "When you Save to Win you not only get a chance at winning . . . , but you walk away with the deposits you made over the year – plus interest."[15]

The remarkable success of Michigan's Save to Win program demonstrates that prize-linked savings has tremendous potential as a device to encourage Americans to save. This Note analyzes various PLS models and explores opportunities to reproduce such programs nationwide. Part II explains the PLS concept, its longstanding international history, and its promise as an effective incentive to save. Part III considers various institutions that could promote PLS initiatives in the United States, identifies legal challenges that hinder such innovation, and highlights credit unions as particularly suitable vehicles for widespread PLS expansion. Part IV develops a strategy that credit unions can use to promote programs like Save to Win in states that currently disallow prize-linked savings. Part IV also

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9. *See id.; see also NCUA Share Insurance Fund Information, Reports, and Statements*, http://perma.cc/JS7N-Y34D (ncua.gov, archived Feb. 17, 2014) (describing that the National Credit Union Administration insures the accounts of members in federal-chartered and most state-chartered credit unions).

10. *See It's Time to . . . Save To Win, How it Works*, http://perma.cc/K7M2-5WQD (mi.savetowin.org, archived Feb. 16, 2014).

11. *Save to Win: 2009 Final Project Results*, *supra* note 1, at 5.

12. *Id.* at 5, 14.

13. *Id.*

14. *See* Joanna Smith-Ramani et al., *Playing the Savings Game: A Prize-Linked Savings Report* 6, http://perma.cc/65BS-3UPY (d2dfund.org, archived Feb. 16, 2014) (noting that Save to Win has expanded to fifty-eight participating credit unions).

15. *It's Time to . . . Save To Win, How it Works*, *supra* note 10.

proposes certain legislative provisions that could guide future development of PLS promotions in the United States.

II. The History and Promise of Prize-Linked Savings

Although prize-linked savings has only recently received significant attention in the United States, financial innovators in other nations began incorporating the concept centuries ago.[16] Inspired by this historical tradition, economists have devoted several decades to researching PLS initiatives worldwide and advocating their incorporation into the U.S. financial market.[17] Part II.A illuminates the concept of prize-linked savings, and Part II.B provides an overview of its international and domestic history. Part II.C describes the appeal of prize-linked savings for consumers, identifies how it can encourage low-income saving, and highlights its desirability for financial institutions.

A. The Structure of Prize-Linked Savings Accounts

Financial and governmental institutions use prize-linked savings as a strategy to incentivize individual savings by incorporating an element of excitement and chance.[18] The sponsoring institution—referred to hereafter as the PLS "vehicle"[19]—offers a product that provides individuals the chance to win a large prize based on their decision to invest in savings accounts or bonds.[20]

16. *See, e.g.*, Mauro F. Guillén & Adrian E. Tschoegl, *Banking on Gambling: Banks and Lottery-Linked Deposit Accounts*, 21 J. FIN. SERVICES RES. 219, 225–29 (2002) (discussing prize-linked savings programs from around the world).

17. Most notable among proponents for prize-linked savings is Peter Tufano, a renowned economist and former dean of the Harvard Business School. Tufano is also the founder of Doorways to Dreams, a nonprofit organization dedicated to building "a world where the financial system promotes lasting social and economic prosperity for every family." *D2D's Mission and Vision*, http://perma.cc/A22S-P7J8 (d2dfund.org, archived Feb. 16, 2014).

18. *See, e.g.*, *Prize-Linked Savings*, *supra* note 5, at 2. The term "lottery-linked savings" also appears in financial literature to discuss the same concept. *See, e.g.*, Peter Tufano & Daniel Schneider, *Using Financial Innovation to Support Savers: From Coercion to Excitement*, *in* THE INSUFFICIENT FUNDS: SAVINGS, ASSETS, CREDIT, AND BANKING AMONG LOW-INCOME HOUSEHOLDS 149, 176–77 (Rebecca M. Blank & Michael S. Barr eds., 2009).

19. *See* Tufano & Schneider, *supra* note 18, at 179–80 (suggesting, as explored below in Part III, that the prize-linked savings concept is compatible with a wide range of sponsoring institutions).

20. *See id.* at 176–77; *see also* Peter Tufano et al., *Consumer Demand for Prize-Linked Savings: A Preliminary Analysis* 3 (Harvard Bus. Sch., Working Paper No. 08-061, 2008), *available at* http://perma.cc/L8HD-CAWK (describing the standard prize-linked savings structure.

Although the particular details of PLS programs vary, most of these initiatives follow the same basic structure. Upon depositing a designated minimum amount into a PLS account, individual savers receive the opportunity to win a predetermined monetary prize.[21] Moreover, individuals often receive an additional entry into the prize drawing for every multiple of the designated minimum that they deposit within the specified contest time frame.[22] This additive device strategically rewards increased savings by improving the saver's odds of winning. Moreover, PLS contests often contain limitations that discourage withdrawal,[23] and PLS initiatives have witnessed sustained participation and high "rollover" levels (i.e., consumers tend to reopen share certificates or certificates of deposit after the initial twelve-month term).[24] High rollover rates confirm that PLS accounts incentivize saving for the long term by maintaining the thrill of a lottery.[25]

Of course, PLS initiatives differ from traditional lotteries in important ways. When an individual purchases a lottery ticket, he or she must *spend* money for one fleeting chance to "win big." Lottery awards represent only a small percentage of ticket revenues, and losing participants receive nothing beyond the entertainment value of their gamble.[26] In contrast, by depositing in a PLS account, individuals *save* money and are guaranteed, at minimum, the full return of their principal investment.[27]

21. *See, e.g.*, *Prize-Linked Savings*, *supra* note 5, at 2; *see also* Guillén & Tschoegl, *supra* note 16, at 219.

22. Guillén & Tschoegl, *supra* note 16, at 219. For instance, Michigan's "Save to Win" program set a minimum deposit amount of $25. Thus, if a member of a participating credit union deposited $75 into a PLS account, that individual received three entries into the grand prize drawing. *Save to Win: 2009 Final Project Results*, *supra* note 1, at 9.

23. For instance, Michigan's inaugural Save to Win program permitted only one withdrawal a year "to encourage sustained saving." *Save to Win: 2009 Final Project Results*, *supra* note 1, at 9.

24. *See, e.g.*, Melanie Kwon Duch, *Save to Win: Highlights from Michigan 2012*, http://perma.cc/MT6X-2VUV (d2dfund.org, archived Feb. 16, 2014) (reporting an 82% rollover rate for the Michigan Save to Win program from 2011 into 2012, with "80% still open in December 2012").

25. *Id.*

26. *See, e.g.*, Ronald J. Rychlak, *Lotteries, Revenues and Social Costs: A Historical Examination of State-Sponsored Gambling*, 34 B.C. L. REV. 11, 49–50 (1992) (noting that in states with government-sponsored lotteries, "[Lotteries] only transfer funds from ticket purchasers to the lucky winners . . . . The state receives money from losing players . . . .").

27. *See, e.g.*, *Prize-Linked Savings*, *supra* note 5, at 2 (noting that a defining feature of prize-linked instruments is that "[e]veryone who saves maintains their deposits").

This win-win phenomenon is possible because the program's grand prizes are drawn from a portion of the interest earned on the deposited funds.[28] The interest rates offered by PLS accounts vary from program to program.[29] Some programs may offer relatively low interest rates, while others may ask participants to forego fixed interest payments entirely in exchange for the prize opportunity.[30] Regardless of the precise form, the guaranteed return of principal is a defining feature of PLS accounts. In other words, the savers "buy" the opportunity to participate in the PLS lottery by foregoing a portion of the fixed interest payments that would otherwise be received from a traditional savings account.[31] In this innovative game of chance, the savers "gamble" for the opportunity to receive a grand prize that is, in actuality, just a disproportionately high interest return on their investments.[32]

The most successful PLS programs rely on empirical evidence about consumer behavior and incorporate features designed to attract and maintain savers.[33] For instance, studies report that individuals prefer multiple opportunities to win smaller prizes rather than less frequent opportunities to win higher amounts.[34] Similarly, activity-based incentives—like adding entries based on the *frequency* of deposits rather than the *volume* of savings—are often more appealing to consumers and thus more effective in encouraging savings.[35] Accordingly, initiatives that offer frequent small prizes and the possibility of increasing the odds of winning "combat account holders' fatigue by reinforcing their continued interest despite the rarity of big wins."[36] For these reasons, Michigan's Save to Win program has altered its contest terms in the years since Billie June won her grand prize.[37] Instead of offering one $100,000 prize, the program now promises ten annual $10,000 prizes along with smaller monthly

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28. Guillén & Tschoegl, *supra* note 16, at 219.

29. *Id.*

30. *Id.*

31. *Id.*

32. *Id.*

33. *See* Smith-Ramani et al., *supra* note 14, at 11 (applauding the flexibility of PLS programs that willingly adjusted program terms in order to attract a broader consumer base).

34. *Id.*; *see also* Heidi Boyd & Nick Maynard, *Prize-Linked Savings and Financially Vulnerable Americans: Insights from a Five-State Study* 14–15, http://perma.cc/BV7X-T5AQ (d2dfund.org, archived Feb. 16, 2014) (recommending that PLS programs embrace empirical findings about consumer behavior).

35. Boyd & Maynard, *supra* note 34, at 14–15.

36. Guillén & Tschoegl, *supra* note 16, at 223.

37. Smith-Ramani et al., *supra* note 14, at 11.

prizes.[38] The MCUL continuously responds to survey data about savers' preferences, and their adjustments have sustained the success of Save to Win.[39] Since the pilot program launched in 2009, the number of participating credit unions has grown from eight to fifty-eight, and "over 25,000 unique [PLS accounts have saved] more than $40 million from 2009-2011."[40]

B. The History and Prevalence of Prize-Linked Savings

1. International Programs

Currently offered in twenty-two nations worldwide,[41] PLS initiatives have a well-developed history. The marriage of gambling and savings first appeared in 1694 when the British government introduced its Million Adventure.[42] During the program's sixteen-year tenure, investors purchased tickets for £10 for the chance to win over two thousand prizes, ranging from £10 to £1,000, per year.[43] The Million Adventure differed from contemporary lotteries in that it not only offered ticket holders prizes, but it also promised a guaranteed return of £1 per year.[44] Historians estimate that the Million Adventure "attracted tens of thousands of adventurers," which greatly outnumbered participants in rival lotteries and debt-financing ventures.[45] The Million Adventure ultimately met its demise when wartime expenses rendered the state unable to make the promised payments.[46] Nonetheless, the Million Adventure paved the way for the United Kingdom's current PLS venture: Premium Bonds.[47]

Run by the National Savings and Investments ("NS&I"), an executive agency in the United Kingdom akin to the U.S. Treasury,

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38. *Id.*

39. *Id.* at 6, 11.

40. *Id.* at 6.

41. *See* Boyd & Maynard, *supra* note 34, at 3 (referencing the international context of prize-linked savings).

42. Anne L. Murphy, *Lotteries in the 1690s: Investment or Gamble?*, 12 FIN. HIST. REV. 227, 230–31 (2005).

43. *Id.* at 231.

44. *Id.*

45. *Id.*

46. *Id.* at 231–32.

47. *See* Melissa Schettini Kearney et al., *Making Savers Winners: An Overview of Prize-Linked Savings Products*, *in* FINANCIAL LITERACY: IMPLICATIONS FOR RETIREMENT SECURITY AND THE FINANCIAL MARKETPLACE 7, 9–12 (Olivia S. Mitchell & Annamaria Lusardi eds., 2011). (discussing both the Million Adventure and the current British Premium Bond program).

the Premium Bond program began in the 1950s with the slogan "Savings with a Thrill!"[48] This public program is backed by the government and closely follows the general PLS structure detailed in Part II.A. Winning bondholders receive tax-free prizes comprised of the "interest on the total value of all eligible bonds."[49] The NS&I reports that at the end of 2012, citizens had invested more than £43 billion in over 22 million outstanding Premium Bonds.[50] In January 2013, for example, lucky bondholders received over £55 million in prizes, though many are still unclaimed.[51]

Outside of the United Kingdom, other nations also have experience with prize-linked savings. Sweden[52] and Kenya[53] currently issue government-sponsored PLS bonds, and Japan[54] and Pakistan[55] have used them in the past. Likewise, private financial institutions across the globe have launched PLS initiatives. Nations with private vehicles include Japan, Turkey, Germany, and Spain.[56] Commercial banks use this strategy in Latin America, with Banco Bilboa Vizcaya engineering PLS programs in Venezuela, Argentina, Mexico and Columbia.[57]

Indonesia is particularly interesting because it has PLS initiatives that are designed to attract the financially vulnerable.[58] For instance, the Bank Rakyat Indonesia began offering PLS accounts

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48. *Id.* at 9.

49. *Id.* at 10; *see also Our Savings and Investments*, *Premium Bonds: A £1 Million Jackpot Every Month*, http://perma.cc/RL9V-XHGH (nsandi.com, archived Feb. 16, 2014).

50. *Media Centre*, *New Millionaire from London in January's Jackpot Drawing*, http://perma.cc/LHM9-ZJSK (nsandi.com, archived Feb. 16, 2014).

51. *Id.*

52. *See* Guillén & Tschoegl, *supra* note 16, at 226 (reporting that the Swedish government has offered lottery-linked bonds since 1918).

53. *See id.* at 227 (highlighting the Premium Bond Scheme administered by the Kenya Post Office Savings Bank since 1978).

54. *See id.* at 226 ("[T]he Japanese government offered [prize-linked bonds] after World War II . . . .").

55. *Id.* at 227. In response to a liquidity crunch in the wake of 1998 Pakistani nuclear testing expenses, a government-owned bank issued prize-linked savings accounts, and several private and public banks launched similar programs. Currently, the State Bank of Pakistan forbids prize-linked products *within* Pakistan but with certain exceptions. For an interesting summary of prize-linked savings in Pakistan and the role of the Council on Islamic Ideology, see *id.* at 228–29.

56. *See id.* at 226–27 (describing lottery-linked accounts by the Japanese Jonan Shinkin Bank, the Turkish Demirbank, and the Spanish Banco Santander, as well as the PS Sparen und Gewinnen or gewinnsparen accounts offered by private German banks).

57. *See id.*; *see also* Kearney et al., *supra* note 47, at 8 (highlighting current examples of PLS account s worldwide).

58. Kearney et al., *supra* note 47, at 12–14.

in 1986 through its Simpanan Pedesaan Rural Savings Project ("SIMPEDES").[59] Account holders are eligible for semi-annual lottery drawings, and SIMPEDES has quickly become the nation's most popular savings product.[60] This initiative has been praised as hugely successful, particularly "in the field of savings mobilization."[61]

2. Domestic Programs

In the United States, a handful of PLS programs have appeared within the last decade.[62] Doorways to Dreams, the nonprofit organization founded by economist and Harvard Business School professor Peter Tufano, has been instrumental in encouraging this wave of innovation.[63] As the foremost champion of prize-linked savings, Doorways to Dreams has worked tirelessly in partnership with other organizations to develop PLS initiatives across both the nonprofit and private financial sectors.[64]

Although perhaps unexpected, nonprofit organizations have been effective engines for the growth of prize-linked savings in the United States.[65] Of course, most nonprofit organizations are not legally authorized to be depositories for consumer investments.[66] Nonetheless, given their remarkable fundraising abilities, many nonprofits have provided the award money for PLS initiatives.[67] These nonprofits must partner with an institution capable of accepting

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59. KLAUS MAURER, CONSULTATIVE GROUP TO ASSIST THE POOREST: WORKING GROUP ON SAVINGS MOBILIZATION, BANK RAKYAT INDONESIA (BRI); INDONESIA (CASE STUDY), at vi, 6–7 (1999), *available at* http://perma.cc/GNW3-9NJ6.

60. *See id.* at 14–15 (noting that SIMPEDES accounts amount to 76.1% of all BRI instruments).

61. *Id.* at 30.

62. *See, e.g.*, *Prize-Linked Savings: Overview*, http://perma.cc/JZ5U-PBF8 (d2dfund.org, archived Feb. 16, 2014) (recognizing recent PLS programs in the United States).

63. Nick Maynard, *Prize-Based Savings: Product Innovation to Make Saving Fun*, http://perma.cc/TB6L-9PL7 (d2dfund.org, archived Feb. 16, 2014); *see also The D2D Story,* http://perma.cc/E4JH-8P5X (d2dfund.org, Feb. 16, 2014) (describing the history and founding of Doorways to Dreams).

64. *See Overview*, http://perma.cc/4DVK-3ZWC (d2dfund.org, archived Feb. 16, 2014) (describing Doorways to Dreams' mission to improve the "financial opportunity and security of low and moderate income consumers"); *see also Prize-Linked Savings: Overview*, *supra* note 62 (highlighting the role of Doorways to Dreams in recent PLS programs).

65. *See* Smith-Ramani et al., *supra* note 14, at 15 (highlighting the success of nonprofits such as Impact Alabama and the Maryland CASH campaign).

66. *See* 12 U.S.C. § 24 (Seventh) (2012) (authorizing national banks alone to receive deposits).

67. *Id.*

deposits and safeguarding investments in order to complete the structure of prize-linked savings.

Nonprofits engaged in PLS initiatives have focused particularly on "Tax Time Savings"—a policy facilitated by changes to IRS forms that enables taxpayers to directly purchase U.S. Treasury bonds with their tax refunds.[68] For instance, Impact Alabama, a nonprofit dedicated to antipoverty programs, secured over $20,000 in private donations in 2011 to offer a PLS promotion in conjunction with its Volunteer Income Tax Assistance initiative.[69] For every $50 that they invested in U.S. Treasury bonds, taxpayers became eligible to receive prize money (provided and awarded by Impact Alabama).[70] Similarly, a network of nonprofit organizations known as the Maryland CASH campaign offered a prize-linked savings program with an additional twist.[71] Whenever taxpayers invested at least $50 in U.S. Treasury bonds, they received not only a ticket for the grand prize but also a "customized scratch-off ticket for a chance to win five or ten dollars cash instantly."[72] The innovative efforts by these nonprofits should be applauded. Studies confirm that nonprofit organizations have been pivotal in encouraging nonsavers to invest rather than consume.[73]

PLS programs have not been limited to the nonprofit sector; several private institutions have experimented with them as well. In partnership with Doorways to Dreams, Centra Credit Union in Indiana launched the first PLS product in the United States in 2006.[74] Next, Doorways to Dreams helped launch Michigan's Save to Win in

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68. *Tax Time Savings*, http://perma.cc/XLG8-AYMG (d2dfund.org, archived Feb. 16, 2014). PLS programs that center around Tax-Time Savings are complicated by the government's January 2012 transition from paper to electronic bonds. *Id.* The PLS programs discussed in this section were not affected by that policy change.

69. *See* Val Walton, *Tornado Victim Wins $10,000 in Savings Bond Contests*, http://perma.cc/33YD-FLKL (al.com, archived Feb. 16, 2014) (spotlighting the winner of Impact Alabama's inaugural prize-linked savings sweepstakes).

70. *See id.* (describing the conditions of the Impact Alabama contest).

71. *See* Smith-Ramani et al., *supra* note 14, at 15 (describing the terms of the Maryland CASH Campaign's PLS contest).

72. *Id.* Very few states exempt nonprofit organizations from prohibitions on lotteries; legality remains an important concern for these organizations. As such, both of the above initiatives were intentionally designed as sweepstakes and carefully avoided characterization as lotteries. *See id.* at 15 n.17.

73. STEPHEN BROBECK, CONSUMER FED'N OF AM., THE ESSENTIAL ROLE OF BANKS AND CREDIT UNIONS IN FACILITATING LOWER-INCOME HOUSEHOLD SAVING FOR EMERGENCIES 6–7 (2008), *available at* http://perma.cc/QTM6-GKRD (noting that most successful attempts to encourage low-to-moderate income individuals to save have been led by partnerships between nonprofit organizations and financial institutions).

74. *Id.*

2009,[75] building upon its experience working with Centra Credit Union on improving consumer demand, targeted marketing, and prize design.[76] The success of the Michigan initiative, in turn, prompted replica Save to Win programs in Nebraska,[77] North Carolina,[78] and Washington.[79]

As explored further in Part IV, the legitimacy of these Save to Win programs turned upon specific PLS-enabling statutes from the legislatures in each state.[80] Connecticut,[81] Maryland,[82] Maine,[83] and Rhode Island[84] have amended their banking and gaming laws to allow credit unions and other financial institutions to host PLS initiatives. Unfortunately, however, lobbying efforts by PLS advocates have not always been so successful. For instance, a New York bill—proposing amendments to banking laws to "author[ize] credit unions to conduct savings promotion prize giveaways"[85]—was recently vetoed by the governor, despite overwhelming approval in both the state assembly and senate.[86] Legal barriers currently limit the prevalence of PLS programs in many other states as well. Nevertheless, there is an opportunity for facilitative change, as discussed in Part IV.

C. The Potential Societal Benefits of Prize-Linked Savings

Especially after the recent financial crisis, many Americans live paycheck to paycheck, and unexpected expenses from car repairs

75. *See It's Time to . . . Save to Win*, http://perma.cc/XJK6-VD3N (mi.savetowin.org, archived Feb. 16, 2014).

76. *See id.*

77. *See It's Time to . . . Save to Win Nebraska*, http://perma.cc/V27S-P7A5 (ne.savetowin.org, archived Feb. 16, 2014).

78. *See It's Time to . . . Save to Win North Carolina*, http://perma.cc/G5LH-6QE8 (nc.savetowin.org, archived Feb. 16, 2014).

79. *See It's Time to . . . Save to Win Washington*, http://perma.cc/4BWY-PKQX (wa.savetowin.org, archived Feb. 16, 2014).

80. MICH. COMP. LAWS ANN. § 490.411; NEB. REV. STAT. § 9-701; N.C. GEN. STAT. § 54-109.64; WASH. REV. CODE §§ 9.46.0356, 19.170.030.

81. CONN. GEN. STAT. P.A. 13-96 § 1.

82. MD. CODE ANN., FIN. INST. §§ 6-716, 1-101(g).

83. ME. REV. STAT. tit. 17 § 1831(5), (14-A).

84. R.I. GEN. LAWS § 19-5-29.

85. S. 5145, Reg. Sess. (N.Y. 2013) (vetoed by Veto Memo 229 on Sept. 27, 2013).

86. *See S 5145 New York Senate Bill*, http://perma.cc/KA85-VGY8 (openstates.org, archived Feb. 17, 2014) (reporting legislative approval of S 5145 by the New York State Assembly as 138 "yes" votes, two "no" votes and three "other" votes; and by the New York State Senate as 62 "yes" votes and one "other" vote). After the governor's veto, New York State Senator Andrew Lanza introduced a similar bill to on March 12, 2014. *See S 6805 New York Senate Bill*, http://perma.cc/S5XR-VCJ5 (open.nysenate.gov, archived Mar. 25, 2014).

to medical bills can send a family spiraling into fiscal ruin.[87] People who habitually save money have a safety net when these financial crises occur, but low-income families often do not have the luxury of choosing restraint over consumption.[88] In fact, one study found that 25% of surveyed individuals lacked the financial capacity to cope with emergencies and could not "come up with $2,000 in 30 days."[89] Furthermore, an additional 19% could only survive such urgent financial pressure by selling their assets or obtaining payday loans that too often involve the dangers of predatory lending.[90] Moreover, surveys administered by the Federal Deposit Insurance Corporation ("FDIC") reveal that approximately 10% of American families are *unbanked*, "meaning that they do not have access to banks," and that many more are *underbanked*, meaning they "are not fully participating in the mainstream financial system."[91]

This reality has prompted antipoverty activists and nonprofit organizations to challenge traditional investment norms and advocate for creative solutions that promote savings.[92] Prize-linked savings is prominent among the suggested strategies to reduce the number of unbanked Americans.[93] Proponents predict that PLS programs would also appeal to "nonsavers"—individuals who have not already purchased savings or investment products.[94] Research confirms this intuitive belief.[95] Because prize-linked options appeal to nonsavers

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87. *E.g.*, *Prize-Linked Savings*, *supra* note 5, at 1.

88. *See id.* ("Personal savings have been on a decline in the US for the last two decades. In early 2008 the personal savings rate fell to just 0.1% [and though it has increased following the recession], it is still lower for low and middle-income families.").

89. Annamaria Lusardi et al., *Financially Fragile Households: Evidence and Implications*, at 2 (Nat'l Bureau of Econ. Research, Working Paper No. 17072, 2011), *available at* http://perma.cc/F9PN-P6KZ.

90. *Id.*

91. Susan Burhouse & Barbara Ryan, *Findings from the FDIC Survey of Bank Efforts to Serve the Unbanked and Underbanked*, 3 FDIC Q. 39, 39 (2009).

92. For more information about the mission and inspiring accomplishments of D2D, see *The D2D Story*, *supra* note 63.

93. *See* Timothy Flacke, *2011-2014 D2D Strategic Plan: Innovation for Economic Inclusion* 10–11, http://perma.cc/XU49-35HV (d2dfund.org, archived Feb. 16, 2014) (including prize-linked savings among other innovative strategies to improve financial literacy in the United States).

94. *See* Tufano et al., *supra* note 20, at 8 (noting the common belief among issuers that PLS products had particular appeal among nonsavers).

95. *See id.* at 8, 22 (reporting findings that "among [surveyed] nonsavers, 65% expressed an interest in the [prize-linked savings] product. Among savers, only 48% expressed an interest"); *see also Save to Win: 2009 Final Project Results*, *supra* note 1, at 15 ("Of those [2009 Save to Win participants] completing the survey, 56% of Save to Win certificate holders reported that they had not saved regularly before opening the Save to Win account.").

and the most financially vulnerable, this innovative device promises to particularly benefit low-income individuals.[96]

Proponents boast that the basic structure of prize-linked savings—a certain return on the principal investment plus an exciting opportunity to win significant prizes—offers tremendous appeal to consumers.[97] Prize-linked savings does not purport to replace traditional savings accounts; instead it offers an engaging alternative for individuals who would otherwise direct their funds towards immediate consumption.[98] PLS products are safe investments, and the maintenance of the principal is attractive for loss-averse individuals.[99] Moreover, PLS products capitalize upon "the behavioral phenomena that investors may avoid large gambles, but will take on small ones."[100] In other words, consumers, fueled by excessive optimism in the face of low probability, are willing to risk small amounts (in the form of foregone interest) for the large gain of a contest jackpot.[101] Advocates therefore contend that the win-win nature of prize-linked savings is guaranteed to facilitate demand.[102] Pilot PLS contests have verified this prediction. For instance, in Michigan, financially vulnerable individuals participating in Save to Win constituted "over 40 thousand unique account holders . . . [saving] $72.2 million," with sustained account activity and high rollover rates.[103]

Advocates also assert that PLS accounts are an attractive alternative to traditional lottery tickets.[104] Although state-sponsored lotteries can play an important role in funding public education,[105] lotteries come at a significant social cost.[106] For instance, studies show

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96. Tufano et al., *supra* note 20, at 8.

97. *See id.* at 6–7 (analyzing the appeal of prize-linked savings to consumers).

98. *Id.*

99. *Id.* at 7.

100. *Id.* at 8.

101. *Id.*

102. *Id.* at 6–7.

103. *See* Melanie Kwon Duch, *supra* note 24, at 1–2 (recounting data of Michigan's Save to Win program from 2009 to 2012, and noting the rollover rates from 2011 to 2012 in the following amounts for categories of financially vulnerable accountholders: 94% for "Asset Poor," 93% for Low-to-Moderate Income, 92% for "Single With Dependents," 94% for "Non-Savers," and 94% for "Non-Financially Vulnerable").

104. *A Winning Proposition: Creating Economic Opportunities Through the State Lottery*, http://perma.cc/GNZ5-2U3L (d2dfund.org, archived Mar. 16, 2014).

105. *Id.* at 3.

106. *See, e.g.*, Melissa Schettini Kearney, *State Lotteries and Consumer Behavior* 2 (Nat'l Bureau of Econ. Research, Working Paper No. 9330, 2002), *available at* http://perma.cc/GR5U-QXET (noting that critics abhor state lotteries as exploitative of consumers and institutions that "prey on minorities and the poor").

that low-income individuals devote a higher percentage of their resources to lottery tickets than individuals in higher income brackets.[107] Because of this discrepancy, critics often describe state lotteries as "a regressive tax on the poor."[108] Perhaps this disparity can be explained by the fact that low-income individuals, despite the miniscule odds of winning the lottery, have no other way to quickly obtain a large sum of money.[109] In fact, a survey reported that "21% of Americans, and 38% of those with incomes below $25,000, think that winning the lottery represents the most practical way for them to accumulate several hundred thousand dollars."[110] Prize-linked savings can change this perception, providing an entertaining, but safer alternative to squandering money on lottery tickets.[111]

Programs like Save to Win are not only desirable to consumers, but they are also attractive from the perspective of the vehicles that would offer the PLS products. Financial institutions stand to gain from prize-linked savings because the game-like structure will attract a larger, untapped consumer base.[112]

In addition to attracting new customers, issuing vehicles have other economic incentives to offer PLS accounts. For instance, issuers can offer low returns on PLS accounts because PLS customers choose to forego some or all fixed interest returns in exchange for the chance to win.[113] When the total prize distribution is less than the aggregate amount that would otherwise be paid in interest, the issuing institution stands to gain.[114] PLS vehicles are thus able to set interest rates and prize amounts that will be mutually beneficial to the participating consumer and the issuing institution. PLS vehicles can

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107. *See id.* at 7 (reporting statistical data implying "that on average, low-income households spend a larger percentage of their wealth on lottery tickets than other households").

108. Patricia Kathryn Carlton, *All Bets Are Off: An Examination of Alabama's Proposed Lottery and the Educational Inadequacies It Was Intended to Remedy*, 51 ALA. L. REV. 753, 779 (2000).

109. Kearney et al., *supra* note 47, at 4.

110. Lusardi et al., *supra* note 89, at 13 (quoting Press Release, Consumer Federation of America, How Americans View Personal Wealth vs. How Financial Planners View This Wealth (Jan. 9, 2006)).

111. *See* Kearney et al., *supra* note 47, at 5 (describing the appeal of prize-linked savings as an appealing alternative to traditional lotteries).

112. *See, e.g.*, Guillén & Tschoegl, *supra* note 16, at 220 ("The issuers' incentive to offer the accounts or bonds is that savers like the lottery feature . . . .").

113. *See id.* at 223 (suggesting that PLS issuers can offer nominal interest rates because consumers overestimate their odds of winning and are thereby willing to accept lower returns in exchange for contest eligibility).

114. *See id.* at 220 (explaining that PLS issuers benefit "[w]hen the lottery is not a 'fair game' that is, when the expected value of a ticket is less than the foregone interest").

also institute program limitations that discourage early withdrawal of funds—such as a contest rule that disqualifies participants who make more than one withdrawal per year.[115] In addition, the high rollover rates for PLS contests suggest that these innovative products generate repeat customers.[116] In short, prize-linked savings programs have high supply-side appeal, which helps explain their popularity globally.

Despite the emergence of PLS programs in some states and their clear theoretical appeal, legal roadblocks have limited the availability of prize-linked savings in the United States.[117] As explored in Part III, it is important that PLS advocates first determine what institution is the most suitable vehicle for this innovative strategy. Moreover, as discussed in Part IV, careful legal compliance and strategic legislative proposals will be necessary to bring about the tremendous potential benefits that PLS programs could have in the United States.

III. POTENTIAL VEHICLES FOR PRIZE-LINKED SAVINGS PRODUCTS

As explained in Part II.B, many diverse institutions have experimented with PLS products,[118] and innovation should be encouraged across private, nonprofit, and public sectors alike.[119] Nonetheless, advocates and policy makers should consider what institutions would most effectively incorporate PLS programs. This Part analyzes which institutions could legally issue PLS products and suggests that credit unions are the most appropriate vehicle.

Many different institutions—including the U.S. Treasury, state governments, and private entities like banks and credit unions—could implement PLS programs in the United States.[120] Yet these institutions are not equally suited for efficient, large-scale expansion of prize-linked savings.[121] For instance, vehicles differ in their abilities

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115. *See, e.g.*, *Save to Win: 2009 Final Project Results*, *supra* note 1, at 9 (noting that Michigan's Save to Win program employed this rule "to encourage sustained saving").

116. *See, e.g.*, Melanie Kwon Duch, *supra* note 24, at 1–2 (reporting high rollover levels for Michigan's Save to Win program).

117. *See Prize-Linked Savings*, *supra* note 5, at 4 (discussing the existing barriers to widespread expansion of prize-linked savings).

118. *See id.* at 4 (applauding existing PLS programs).

119. *See* Smith-Ramani et al., *supra* note 14, at 23 (asserting that all potential vehicles for PLS products are "worth pursuing").

120. *See id.* (noting that varied PLS products can be distributed through different channels).

121. *See id.* (evaluating various prize-linked savings models based on "Effectiveness: [w]hat is the potential for consumer impact?" and "Efficiency: [i]s this a sustainable product for providers?").

to structure, market, and ensure the stability of PLS products. Beyond these practical details, however, the regulatory landscape is also different for each potential vehicle.

Most critically, no vehicle can launch a PLS program unless the law allows it.[122] Gaming and lottery activities are often heavily regulated on the state level, and many states flatly prohibit lotteries and other types of gaming and gambling.[123] While the statutes vary by state, the term "lottery" typically encompasses any "event in which a prize is awarded based on chance, where entry is gained by giving something of value."[124] Some statutes use the term "raffle" instead of "lottery," but they prohibit the same types of programs.[125] Of the forty-three states with government-sponsored lotteries,[126] most of these programs are specifically authorized as narrow exceptions to broad bans on lotteries.[127] Thus, any new initiative, like a PLS program, risks being declared illegal.[128]

To avoid classification as an illegal *lottery*, vehicles could characterize their PLS program as a *sweepstakes*, which can be described generally as "a game of chance in which entry is open to all entrants *without* any payment or other consideration."[129] In many states, the distinction between lotteries and sweepstakes depends on the participant's consideration: if eligibility depends on opening a savings account with the issuing vehicle, the program may be deemed a lottery or raffle.[130] To be considered a sweepstakes, a participant's

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122. *See Prize-Linked Savings*, *supra* note 5, at 3–4 (emphasizing the legal barriers that must be removed to facilitate expansion of prize-linked savings).

123. *See* Rychlak, *supra* note 26, at 44, 47 (explaining that state-sponsored lotteries operate under narrow exceptions to broad prohibitions against gaming and gambling that exist in most states).

124. *Save to Win: 2009 Final Project Results*, *supra* note 1, at 24.

125. *See, e.g.*, MICH. COMP. LAWS. ANN. § 490.411 (establishing that "[i]f authorized by the credit union board, a domestic credit union may conduct a savings promotion raffle").

126. *See Lottery Results*, http://perma.cc/36UM-LUFN (usa.gov, archived Feb. 16, 2014) (noting that "43 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands" have state-run lotteries).

127. *See* Rychlak, *supra* note 26, at 44, 47 (noting that by the late 1800s "lotteries were prohibited in most states by constitutional provisions" and that most modern state lotteries were authorized by particularized legislation that did not amend general prohibitions on lotteries).

128. *See, e.g.*, Barber v. Jefferson Cnty. Racing Ass'n, 960 So. 2d 599, 609–15 (Ala. 2006) (holding dog-racing course and gaming equipment fell within definition of illegal lottery).

129. *Save to Win: 2009 Final Project Results*, *supra* note 1, at 24 (emphasis added). A 2006 pilot program by the Centra Credit Union in Indiana was designed as a sweepstakes to avoid legal challenges. For more on Centra's program, see Kearney et al., *supra* note 47, at 16.

130. *Compare* ALA. CODE § 13A-12-20 (defining prohibited lotteries as "an unlawful gambling scheme in which . . . players pay or agree to pay something of value for chances"), *with id.* § 8-19D-1 (defining permissible sweepstakes as "[a] legal contest or game where anything of

eligibility for prizes cannot depend directly on giving monetary consideration like a savings deposit.[131] Unfortunately, however, this mechanical change undermines the overall goal of prize-linked savings, as it eliminates the incentive to make new deposits.[132] Ultimately, structuring a PLS contest as a sweepstakes is not a viable solution to the legal complications in states that prohibit private lottery activity.

Accordingly, lottery prohibitions remain a significant barrier to PLS programs in the absence of specific authorizing legislation. Potential vehicles must address these legal challenges before launching any PLS programs.[133] Furthermore, some vehicles face additional legal barriers due to their unique regulatory environment. In the end, the success of PLS programs will require potential vehicles to obey and possibly change the applicable legal rules.[134]

A. Public Institutions Require Significant Popular Support

Governmental entities in the United States could incorporate prize-linked savings into existing public ventures. Such programs could begin at the national level with the U.S. Treasury Department or the local level with existing state lotteries. Government-issued PLS products would require specific legislative authorization, but PLS advocates may struggle to secure it.

On the federal level, the Treasury Department could replicate the Premium Bond Program in the United Kingdom by offering a product that combines the excitement of a lottery with the security of investing in Treasury securities.[135] These prize-linked options would mimic the basic structure outlined in Part II.A, but the central financial instrument would be a U.S. savings bond backed by the full

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value is distributed by lot or chance" without additional reference to consideration); *see also Save to Win: 2009 Final Project Results*, *supra* note 1, at 24.

131. *See, e.g.,* VT. STAT. ANN. tit. 13, § 2143b (authorizing "sweepstakes, provided that persons who enter the contest or game of chance are not required to venture money or other valuable things.").

132. *See* Kearney et al., *supra* note 47, at 18 (observing that PLS programs modeled as sweepstakes "permit non-savers to win").

133. *See Prize-Linked Savings*, *supra* note 5, at 4 (recalling legal roadblocks that complicate development of PLS programs in the United States).

134. *See supra* Part II.B.

135. *See supra* Part II.B (describing the government-sponsored PLS program that has been offered in the United Kingdom since the 1950s).

faith and credit of the federal government.[136] Under this model, citizens purchasing government bonds would forego interest payments in exchange for grand-prize eligibility.[137] Although such a program is certainly feasible, the implementation of a nationwide program would pose a costly administrative challenge. Moreover, Treasury officials have expressed reluctance about pursuing federal PLS legislation that could undermine state gaming laws.[138]

At the state level, advocates are encouraging state lotteries to incorporate PLS products into their existing infrastructure.[139] State lotteries already possess the legal authority to offer prize-linked savings, given that their unique exemption from gambling laws provides monopoly power over gaming activities in their state.[140] Furthermore, proponents of this model argue that governments have a legitimate interest in encouraging savings behavior and that state lotteries "have a long history of being employed by the state to raise funds for positive public policy outcomes."[141] Adding savings programs to existing state lotteries is a creative and promising avenue if prize-linked savings gains traction in the future.

For now, however, state lottery commissioners have not been convinced to adopt this strategy. In fact, the director of the New York Lottery concluded, after extensive research on the possibility of partnering with Doorways to Dreams, that a PLS game was not financially viable.[142] Because a significant portion of the money derived from lottery ticket sales is funneled to state budgets,[143]

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136. For instance, program engineers could incorporate the lottery element into the foundational structure of Series EE Savings Bonds and Series I Savings Bonds. For a description of the bonds currently available, see *Comparing EE Bonds and I Bonds*, http://perma.cc/5QQ2-29CZ (treasurydirect.gov, archived Feb. 16, 2014).

137. Guillén & Tschoegl, *supra* note 16, at 219 (discussing the basic structure of PLS bonds).

138. *See, e.g.*, Stephen J. Dubner, *Who Could Say No to a "No-Lose-Lottery"?*, http://perma.cc/KQW8-8EMD (freakonomics.com, archived Feb. 16, 2014) (reporting an interview of Michael Barr, the former Assistant Secretary for Financial Institutions for the U.S. Treasury and announcing the U.S. Treasury's reluctance to "wage war" on long-standing state lottery law).

139. *See A Winning Proposition*, *supra* note 104.

140. *See id.* at 3 (highlighting the "unique" legal position of state lotteries).

141. *Id.* at 2–3.

142. *See Who Could Say No to a "No-Lose Lottery"?*, http://perma.cc/8TJ6-DWQH (freakonomics.com, archived Feb. 16, 2014) (podcast discussion with director of the New York Lottery, Gordon Medenica, who reportedly "couldn't make the math work" after consideration of lottery-sponsored prize-linked savings).

143. *See, e.g.*, *Lottery Payouts and State Revenue, 2010*, http://perma.cc/ZAG6-MGBH (ncsl.org, archived Feb. 8, 2014) (analyzing most recent data available and reporting that, in the aggregate, state lotteries in the U.S. paid out 61.7% in prizes, spent 4.8% on administration, and maintained 33.4% of revenue for use by states).

legislatures in the forty-three states that currently run lotteries[144] would likely not endorse a competing game—especially one designed to encourage savings rather than raise revenue.[145] In addition, the seven states without public lotteries are even less likely to embrace public PLS contests, since they have decided to eschew such games altogether.[146] Thus, in order to overcome opposition to state-sponsored PLS initiatives, advocates need to mobilize substantial political support.

Although governmental PLS programs have been successful in other parts of the world, the political and legal environment in the United States impedes their development. Of course, governmental PLS programs, wherever they may arise, should be welcomed. Nonetheless, prize-linked savings probably cannot achieve widespread expansion without private vehicles.

B. Banks Face Substantial Legal Barriers

Banks and credit unions are prominent among the potential PLS vehicles discussed by advocates.[147] Unlike politicians who are accountable to disparate interests, financial institutions primarily cater to consumers and are not limited by reelection concerns. Financial institutions are free to launch programs to attract new business, and they have a strong economic incentive to do so.[148]

If it were legally viable, banks would likely be effective vehicles for launching PLS initiatives, as demonstrated by the success of Banco Bilboa Vizcaya and other international commercial banks.[149] Unfortunately, federal banking regulations virtually eliminate this option in the United States.[150] Banks are some of the most highly regulated institutions in the United States, and they are subject to the

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144. *See id.* (showing all states except Alabama, Alaska, Hawaii, Mississippi, Nevada, Utah, and Wyoming have a state lottery).

145. *See, e.g.*, Dubner, *supra* note 138 (predicting lottery officials will not support PLS contests); *Who Could Say No to a "No-Lose Lottery"?*, *supra* note 142 (podcast interviewing state lottery directors Gordon Medenica of New York and Leo DiBenigno of Florida and highlighting that neither embraces prize-linked savings).

146. For instance, Alabama voters rejected a 1999 lottery referendum by a 54% vote. *See Alabama Voters Reject Education Lottery*, http://perma.cc/UL4N-M9S5 (usatoday.com, archived Feb. 16, 2014).

147. *See Prize-Linked Savings*, *supra* note 5, at 3 (evaluating various PLS vehicles).

148. *See, e.g.*, Guillén & Tschoegl, *supra* note 16, at 223 (analyzing the appeal of PLS accounts from the perspective of financial institutions).

149. *See supra* Part II.B.

150. *Prize-Linked Savings*, *supra* note 5, at 4.

fragmented and overlapping jurisdiction of multiple federal agencies, including the Federal Reserve Board,[151] the Office of the Comptroller of the Currency,[152] and the FDIC.[153] Federal statutes expressly prohibit national- and state-chartered banks from operating a lottery, and banks cannot even "announce, advertise, or publicize the existence of any lottery."[154] Banks cannot therefore sponsor PLS programs without substantial changes in federal banking laws. Given the trend toward *increasing* federal regulation of banks after the recent financial crisis,[155] this is unlikely.

Despite these substantial regulatory barriers, PLS advocates are educating federal policymakers about the potential benefits of prize-linked savings. In 2009, the FDIC's Advisory Committee on Economic Inclusion announced its intention to study the potential benefits of prize-linked savings for low-income individuals.[156] Nevertheless, though the Advisory Committee heard a report from Peter Tufano (who chaired the Subcommittee on Prize-Linked Savings), the FDIC took no action to facilitate PLS initiatives by federally insured banks.[157] More recently, in October of 2013, Senator Jerry Moran of Kansas and Congressman Derek Kilmer of Washington introduced "The American Savings Promotion Act," a bill that would remove federal statutory barriers currently prohibiting banks from offering PLS initiatives.[158] Should this proposed legislation

151. *See, e.g.,* 12 U.S.C. §§ 248, 248-1 (2012) (enumerating the powers of the Board of Governors of the Federal Reserve System, and authorizing the Board of Governors to promulgate regulations).

152. *See id.* § 1 (establishing the Office of the Comptroller of the Currency as a bureau within the Treasury Department charged "with assuring the safety and soundness of, and compliance with laws and regulations" of financial institutions under its jurisdiction).

153. *See id.* §§ 1811(a), 1828 (establishing the agency authority of the Federal Deposit Insurance Corporation).

154. *See id.* § 25a (prohibiting national banks from participating in lottery related activity); *id.* § 339 (prohibiting state banks that are members of the Federal Reserve System from the same); *id.* § 1829a (prohibiting state nonmember banks from the same).

155. *See, e.g.*, Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. § 5301 (2012) (instituting major reforms and introducing increased federal regulation of banks and other financial institutions); *see also* Jan Bissett & Margi Heinen, *Are You Occupied by Dodd-Frank?*, 91 MICH. B.J. 50, 50 (2012) (discussing the "avalanche of regulation" for financial institutions promulgated pursuant to the Dodd-Frank Act in the wake of the recent recession).

156. Press Release, Fed. Deposit Ins. Corp., FDIC Advisory Committee to Explore Prize-Linked Savings, Outreach to Underserved and Low-Income Consumers (July 23, 2009), *available at* http://perma.cc/8VZG-3MG2.

157. *Id.*; *see also FDIC Advisory Committee on Economic Inclusion (ComE-IN) Meeting*, http://perma.cc/G8S2-7FZZ (fdic.gov, archived Feb. 16, 2014).

158. American Savings Promotion Act, S. 1597, 113th Cong. (2013) (as referred to S. Comm. on Banking, Hous. & Urban Affiars, Oct. 29, 2013); American Savings Promotion Act, H.R. 3374,

be successful, it would be a great victory for prize-linked savings. In the meantime, however, banks cannot legally offer PLS contests.

C. Credit Unions Have the Most Promise

Although banks do not currently have the authority to launch PLS programs, the legal restrictions on credit unions are more flexible. As a preliminary matter, it is helpful to highlight some basic differences in terminology used to describe credit unions versus traditional banks.[159] Whereas bank customers are "account holders" with "certificates of deposit" or "savings accounts," credit union customers are "members" who hold a "share certificate" or "share account."[160] There are key structural differences as well: banks are for-profit institutions ultimately beholden to shareholder interests, but credit unions are nonprofits that use their retained earnings to provide favorable interest rates and other benefits for members.[161] Because banks and credit unions receive different forms of federal insurance, they exist within different regulatory spheres.[162]

Credit unions are under the jurisdiction of the National Credit Union Association ("NCUA").[163] Unlike federal banking law, the Federal Credit Union Act does not prohibit savings promotions or lotteries.[164] Moreover, the NCUA has promulgated regulations that enable credit unions to conduct raffles for marketing purposes.[165] Given this flexible regulatory scheme, credit unions could launch

113th Cong. (2013) (as referred to H.R. Subcomm. on Crime, Terrorism, Homeland Sec., and Investigations, Jan. 9, 2014).

159. *See* Debbie Dragon, *The Differences Between Credit Unions and Banks*, http://perma.cc/P223-TZPP (depositaccounts.com, archived Feb. 16, 2014).

160. *Id.*

161. *Id.*

162. While the FDIC is an independent federal agency that insures the deposits made in banks up to at least $250,000, the National Credit Union Administration is the independent federal agency that insures the accounts of members in federal and (most) state-chartered credit unions. *See NCUA Share Insurance Fund Information, Reports, and Statements*, *supra* note 9. *Compare* Federal Credit Union Act, 12 U.S.C. § 1751 (2012) (establishing the NCUA), *with* Federal Deposit Insurance Act, 12 U.S.C. § 1811(a) (establishing the FDIC).

163. Federal Credit Union Act, 12 U.S.C. § 1766 (authorizing the National Credit Union Association Board to regulate federally chartered credit unions).

164. *See id.* §§ 1752–95k (containing no such prohibition); *see also Save to Win: 2009 Final Project Results*, *supra* note 1, at 7 (noting the legal viability of PLS programs sponsored by credit unions).

165. 12 C.F.R. § 721.3(i) (2014) (including "promotional activities such as raffles" within marketing activities that are "preapproved as incidental powers" of credit unions); *see also Save to Win: 2009 Project Results*, *supra* note 1, at 7 (recognizing that credit unions legally possess this important capability).

initiatives like Michigan's Save to Win program without any lobbying on the federal level.

In the realm of state law, however, gaming laws vary significantly and pose legal problems for credit unions contemplating prize-linked savings.[166] Nevertheless, PLS advocates in a handful of states have successfully lobbied for statutory amendments that enable credit unions to conduct savings promotions.[167] Within the last three years, state legislatures in Connecticut, Maine, North Carolina, Washington, Nebraska, Rhode Island, and Maryland amended their relevant laws to authorize PLS programs under the label "savings promotion raffles."[168] These legislative changes reflect the combined efforts of Doorways to Dreams, state credit union leagues, and antipoverty nonprofits.[169] Credit unions have responded quickly to these amendments, and Save to Win programs are already underway in Nebraska, North Carolina, and Washington.[170] Moreover, bills recently introduced in Indiana and Oregon further demonstrate a growing trend among states willing to authorize credit union PLS programs.[171]

In sum, credit unions emerge as the best option among the available PLS vehicles. No PLS program can succeed if it is illegal, and credit unions have more legal flexibility than public institutions and private banks. Credit unions have an additional advantage in that they can learn from and build upon the MCUL's success with the Save to Win program in Michigan.

Despite the emergence of credit union PLS programs in some states, most jurisdictions retain significant legal roadblocks. Credit unions in these jurisdictions are not powerless, however. Determined

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166. *Save to Win: 2009 Project Results*, *supra* note 1, at 7; *see also supra* Part II.A (describing the implications of state gaming laws that prohibit lottery activity).

167. *Legislative Success*, http://perma.cc/Y7GC-3FQA (d2dfund.org, archived Feb. 17, 2014).

168. CONN. GEN. STAT. P.A. 13-96 § 1; ME. REV. STAT. tit. 17, § 1831(5), (14-A); N.C. GEN. STAT. § 54-109.64; WASH. REV. CODE § 9.46.0356; NEB. REV. STAT. § 9-701; R.I. GEN. LAWS § 19-5-29; MD. CODE ANN., FIN. INST. § 6-716.

169. *See Legislative Success*, *supra* note 167 (highlighting the roles of various credit union leagues and nonprofit organizations).

170. *See supra* notes 86–89; Matt Halvorson, *Two Washington Credit Unions Approve Prize Linked Savings Programs*, http://perma.cc/6GPS-U6MX (nwcua.org, archived Feb. 16, 2014).

171. Indiana House Bill 1235—to authorize credit unions to conduct savings promotion raffles—passed in both houses of the state legislature on March 12, 2014 and awaits the governor's signature. *See House Bill 1235*, http://perma.cc/4C5K-6HES (iga.in.gov, archived Mar. 25, 2014). In Oregon, a bill has been introduced that would require the Oregon State Lottery to establish a work group to study the "feasibility of allowing financial institutions to offer prize-linked savings accounts under [the] authority of [the] Oregon State Lottery." *See HB 4079 A*, http://perma.cc/B9JR-LW2F (olis.leg.state.or.us, archived Mar. 25, 2014).

organizations should lobby state policymakers for legislative change.[172]

IV. OBTAINING ENABLING LEGISLATION: PRACTICAL AND LEGAL CONCERNS

Prize-linked savings is steadily gaining the attention of financial innovators across the United States. The time is ripe for credit unions—the most promising PLS vehicles—to further advance this movement.[173] Because PLS products will attract new savers, legislative changes that facilitate this new opportunity are in credit unions' collective best interest.[174] Accordingly, credit unions must become better organized and more proactive about obtaining legislative reform.[175] Collaboration among credit unions will not only generate more political attention, but it will also improve the legislative process by incorporating the creative insights of many different organizations.

Those that lobby for PLS-enabling legislation should anticipate opposition. Furthermore, PLS advocates must carefully consider the effectiveness of preexisting state legislation authorizing PLS contests. Accordingly, Part IV.A first identifies the common arguments against prize-linked savings. Next, Part IV.B compares the technical provisions of the enabling legislation in the states that already allow PLS programs. Finally, Part IV.C develops a framework that drafters can build on in order to ensure the proper implementation of savings promotions.

A. Anticipating and Responding to Opposition

Although prize-linked savings strongly appeals to consumers, credit unions, and antipoverty advocates,[176] efforts to achieve enabling legislation will likely encounter opposition from groups invested in the

172. *See Save to Win: 2009 Project Results*, *supra* note 1, at 10 (suggesting pursuit of enabling legislation as an alternative to structuring PLS programs as sweepstakes).

173. Jim Rubenstein, *Savings Raffle Campaigns Show Progress Nationally*, http://perma.cc/6T3R-6ZA4 (cutimes.com, archived Feb. 16, 2014).

174. *See supra* Parts II.A & III.A.

175. *See generally* DAVID P. BARON, BUSINESS AND ITS ENVIRONMENT 2 (7th ed. 2013) (emphasizing that business management teams must give due attention to the critically important effects of the "non-market environment"—defined as "composed of the social, political, and legal arrangements that structure interactions outside of, but in conjunction with, markets and contracts").

176. *See supra* Part II.A.

status quo. The precise political landscape differs from state to state, but PLS advocates should expect resistance from powerful interest groups. But rather than becoming discouraged, PLS advocates should anticipate opposition and devise strategies to effectively respond.[177]

Prize-linked savings programs will likely face resistance from three major interest groups. First, some antigambling groups broadly oppose all games of chance. These groups already accuse both state-run and private lotteries of causing various social problems.[178] They contend that lotteries encourage "pathological gambling" and lead to irresponsible spending habits and even bankruptcies.[179] These fears are amplified when it comes to children, and critics complain that the easy access and widespread advertising of lottery games glorifies gambling as an alternative to hard work.[180]

Fierce lottery opponents could distort the public's perception and undermine PLS initiatives that actually *build* positive saving habits.[181] Therefore, credit unions cannot passively assume that the general public will recognize and appreciate the advantages of PLS products. Instead, they should actively disseminate accurate information about the promising features of PLS instruments to consumers and state legislators alike.[182] By carefully distinguishing PLS programs from traditional lotteries, advocates will assuage antigambling concerns and attract more support from state lawmakers.

Second, existing state-sponsored lotteries are powerful institutions that may resist PLS enabling legislation.[183] As described in Part III, most state-sponsored lotteries operate under narrow

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177. *See* BARON, *supra* note 175, at 45 (suggesting that business management teams predict the actions of the various interests that comprise the nonmarket environment as an important stage in developing a nonmarket strategy).

178. *See, e.g.*, Carlton, *supra* note 108, at 780 (highlighting the opinion of lottery opponents that such games of chance have adverse social effects).

179. *Id.* at 780.

180. *See, e.g.*, Rychlak, *supra* note 26, at 69–70. Such fears motivate laws in several states that criminalize sale of lottery tickets to minors. *E.g.*, TENN. CODE ANN. § 4-51-122(5)(c) (Tennessee law prohibiting the sale of state lottery tickets to individuals under the age of eighteen); COLO. REV. STAT. § 24-35-214 (Colorado law making it unlawful to sell a lottery ticket to any person under eighteen).

181. *See supra* Part II.C.

182. *See* BARON, *supra* note 175, at 195–97 (arguing that lobbying governmental officials is an important part of any business's strategy to effect political and legal change). Information about the basic structure of PLS accounts would be designated as "technical information" within Professor Baron's framework. *Id* at 197.

183. *See, e.g.*, Dubner, *supra* note 138 (identifying state lottery officials as likely opponents of private PLS initiatives).

exceptions to lottery prohibitions.[184] These statutory exceptions effectively grant monopoly power to state-run lotteries, and lottery officials are not likely to give that up without a fight.[185] Credit unions should expect resistance because PLS initiatives are "risk-free" programs that may attract habitual lottery players. Moreover, politicians often defend public lotteries as an important revenue source and a necessary tool to stay economically competitive with neighboring states.[186] Therefore, because PLS contests may pose unwelcome competition for established lotteries,[187] proponents may face an uphill battle in many state legislatures. In states with powerful pro-lottery groups, PLS advocates should actively seek compromise. Accordingly, if credit unions willingly embrace the kind of limiting provisions discussed in Part IV.C below, prize-linked savings will appear far less threatening to existing lotteries.

Finally, PLS advocates may also encounter push back from consumer groups that are wary of fraudulent activity by financial institutions. PLS products may seem too good to be true, and credit unions will likely promote them to financially vulnerable consumers. The enticement of grand prize drawings may induce deposits from individuals who do not fully understand the mechanics of PLS accounts. Specifically, consumers may not adequately appreciate that they are sacrificing a portion of the interest that they could otherwise earn from a traditional savings account.[188] Of course, PLS initiatives do not discourage traditional certificates of deposit but instead are designed to encourage saving behavior among nonsavers, who would otherwise just resort to immediate consumption.[189] Nonetheless, consumer groups will likely demand that credit unions set minimum interest rates and fully explain the mechanics of PLS accounts.

Consumer advocates may have additional concerns about the fairness of PLS programs and the mechanisms for delivering prizes.

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184. *See* Rychlak, *supra* note 26, at 42, 47 (evaluating the legal climate surrounding state-sponsored lotteries).

185. *See, e.g.*, Dubner, *supra* note 138 (interviewing a state official of Florida's state-sponsored lottery).

186. *See* Rychlak, *supra* note 26, at 42, 47 (evaluating the legal climate surrounding state-sponsored lotteries).

187. *See, e.g.*, Dubner, *supra* note 138 (referring to PLS contests as a "natural rival" of state run lotteries that bring in "an annual profit of $17.9 billion").

188. *See supra* Part II.A (describing the typical structure for PLS accounts).

189. *See, e.g.*, Tufano et al., *supra* note 20, at 8 (highlighting the appeal of prize-linked savings for nonsavers and unbanked Americans); *see also Save to Win: 2009 Final Project Results*, *supra* note 1, at 15 (reporting that a majority of Save to Win participants had not been regular savers before opening the PLS account).

Interest groups may insist on some guarantee that credit unions will actually distribute the prizes promised in their marketing materials.[190] Similarly, policymakers may distrust PLS initiatives unless there are rules preventing individuals from "gaming the system" and receiving contest entries without saving any additional money.[191]

These consumer-protection criticisms of PLS contests are certainly valid. Credit unions can resolve these concerns and help legitimize prize-linked savings by establishing clearly structured program terms. Credit unions must make clarity the utmost priority in their marketing materials. Credit unions should likewise develop ethical standards, disclosure policies, and mission statements that promise to use PLS programs to promote the best interests of their members. Furthermore, credit unions can gain credibility by taking the initiative and proposing statutory limitations and government regulations of PLS initiatives.[192]

By anticipating pushback from antigambling interests, state lottery officials, and consumer advocacy groups, PLS proponents can develop legislative proposals that preempt many of the common concerns with prize-linked savings. When credit unions and their allies remain mindful of the opposition, they can make strategic concessions that will facilitate ultimate political success. If credit unions demonstrate their amenability to statutory restrictions and government monitoring, PLS programs may not incite an aggressive response from opposing groups. Part IV.C provides model provisions that could be used to facilitate expansion of PLS programs while addressing critics' concerns.

B. Examining Existing State Legislation

Campaigns to facilitate prize-linked savings will be most successful when credit unions and their allies become directly involved in the legislative process. By drafting and proposing their own compromise bills, PLS advocates can avoid political backlash and

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190. For an analogous example of sweepstakes fraud, see Press Release, Fed. Trade Comm'n, FTC Sues to Stop Massive Sweepstakes Scam (Sept. 23, 2013), *available at* http://perma.cc/DP3S-XJ4C.

191. PLS program terms that disqualify participants for withdrawing funds can eliminate this concern. *See, e.g.*, *Save to Win: 2009 Final Project Results*, *supra* note 1, at 9 (noting that Michigan's Save to Win program allowed only one withdrawal per year).

192. Part V of this Note outlines model provisions to effectively accommodate consumer protectionist concerns.

more readily achieve their goals. In drafting new proposals, PLS advocates should first examine the enabling amendments already enacted in Connecticut, Maine, Maryland, Michigan, Nebraska, North Carolina, Rhode Island, and Washington.[193] This Section compares and contrasts the technical provisions adopted by these states. Part IV.C then identifies the most effective provisions and suggests a form of model legislation that would best placate opposition and facilitate the development of prize-linked savings.

Currently, the authorizing legislation in most states refers to PLS programs as "savings promotions raffles" and focuses on adjustments in gaming and finance laws.[194] While no two enabling provisions are identical, there are common themes among all eight states. The following discussion summarizes these major themes, and the Appendix at the end of this Note includes a table of existing legislation that highlights the key provisions of each state's statute.

Statutory authorization for PLS raffles may take various forms. Both Maine and Nebraska enable credit unions to conduct savings promotions by exempting them from state antigambling laws.[195] Maine explicitly excludes "savings promotions raffles" from the definition of "games of chance," which are otherwise prohibited.[196] Similarly, Nebraska inserts "savings promotion raffles" into the definition of "gift enterprise"—a term used to describe conduct that does not fall under the prohibition on gambling.[197] In contrast, six states—Connecticut, Maryland, Michigan, North Carolina, Rhode Island, and Washington—directly authorize credit unions to conduct savings promotion raffles.[198] Ultimately, the manner in which prize-linked savings is authorized in each state necessarily depends upon the existing statutory framework.

Once savings promotion raffles are directly authorized, states generally impose certain requirements on their operation. The enabling statutes all narrowly define the term "savings promotion raffle" in a manner consistent with the following: a "contest conducted

193. CONN. GEN. STAT. P.A. 13-96 § 1; ME. REV. STAT. tit. 17 § 1831(5), (14-A); MD. CODE ANN., FIN. INST. § 6-716; MICH. COMP. LAWS ANN. § 490.411; NEB. REV. STAT. § 9-701; N.C. GEN. STAT. § 54-109.64; R.I. GEN. LAWS § 19-5-29; WASH. REV. CODE § 9.46.0356.

194. *Id.*

195. ME. REV. STAT. tit. 17 § 1831(5), (14-A); NEB. REV. STAT. § 9-701.

196. ME. REV. STAT. tit. 17 § 1831(5), (14-A).

197. NEB. REV. STAT. § 9-701.

198. CONN. GEN. STAT. P.A. 13-96 § 1; MD. CODE ANN., FIN. INST. § 6-716; MICH. COMP. LAWS ANN. § 490.411; N.C. GEN. STAT. § 54-109.64; R.I. GEN. LAWS § 19-5-29; WASH. REV. CODE § 9.46.0356 (including credit unions in the statutory definition of "financial institutions").

by a credit union . . . in which a chance of winning a designated prize is obtained by the deposit of a specified amount of money in a savings account."[199] In addition, each state specifies that either (1) minimum deposits must be the "sole consideration" for contest entry[200] or (2) no additional fees may be charged for participation.[201] Moreover, five states require PLS contests to give each entry an equal chance of being drawn.[202]

Beyond these basic provisions, some state legislatures have imposed still more program requirements. For instance, Connecticut requires consumers to be eighteen years old to participate in savings promotion raffles,[203] and Maryland limits eligibility to "adult" residents of the state.[204] Washington participants may only receive prizes if they retain the minimum deposit amount in their PLS account for "at least twelve months."[205] Maine imposes several detailed program requirements, specifying that PLS raffles may be "offered no more than 2 times per year," the "total of the designated prizes for each raffle [may] not exceed $1,000," and PLS savings accounts must "provid[e] interest at a comparable rate to other savings accounts" offered by the credit union.[206]

Most states that currently allow PLS products also require credit unions to satisfy record keeping standards and other duties. Six of these states require credit unions to maintain books and records of their activities in order to facilitate audits.[207] Five states protect existing credit union members by establishing, with slight variations in language, that PLS programs must not jeopardize the "safe and sound" operation—or, in Rhode Island, "financial soundness"—of the

199. *See, e.g.* NEB. REV. STAT. § 9-701.

200. CONN. GEN. STAT. P.A. 13-96 § 1; ME. REV. STAT. tit. 17 § 1831(5), (14-A); MICH. COMP. LAWS ANN. § 490.411; N.C. GEN. STAT. § 54-109.64; R.I. GEN. LAWS § 19-5-29.

201. MD. CODE ANN., FIN. INST. § 6-716; NEB. REV. STAT. § 9-701; WASH. REV. CODE § 9.46.0356.

202. CONN. GEN. STAT. P.A. 13-96 § 1; MD. CODE ANN., FIN. INST. § 6-716; MICH. COMP. LAWS ANN. § 490.411; NEB. REV. STAT. § 9-701; R.I. GEN. LAWS § 19-5-29.

203. CONN. GEN. STAT. P.A. 13-96 § 1.

204. MD. CODE ANN., FIN. INST. § 6-716.

205. WASH. REV. CODE § 9.46.0356.

206. ME. REV. STAT. tit. 17 § 1831(5), (14-A).

207. CONN. GEN. STAT. P.A. 13-96 § 1; MICH. COMP. LAWS ANN. § 490.411; N.C. GEN. STAT. § 54-109.64; R.I. GEN. LAWS § 19-5-29; WASH. REV. CODE § 9.46.0356. Maryland requires maintenance of books and records but does not contain language referencing an audit. MD. CODE ANN., FIN. INST. § 6-716. Maine and Nebraska do not contain books and records requirements. ME. REV. STAT. tit. 17 § 1831(5), (14-A); NEB. REV. STAT. § 9-701.

credit union.[208] Only Nebraska goes so far as to impose a duty upon credit unions to pay out all of the prizes that they offer during a PLS program.[209]

Furthermore, PLS states each require some element of program transparency. The statutes vary significantly, however, in the extent to which express disclosure is required (if at all). Michigan and Rhode Island merely require that permissible savings promotion raffles do not "mislead credit union members."[210] Notably, these provisions do not require active disclosure, and they fail to indicate whether protection extends to *prospective* customers who may be attracted by PLS products but are not yet members of the credit union. In contrast, Nebraska establishes that credit union members may not "print, publish, or circulate literature or advertising material . . . which is false, deceptive, or misleading."[211] Nebraska's statute does not address *current* credit union members, who still have a financial interest in the actions of their credit union even if they do not personally enter the PLS raffle.[212]

The remaining five states mandate varying degrees of direct disclosure by credit unions. Maine requires disclosure of the "terms and conditions of the promotion,"[213] Connecticut adds that such disclosure must be provided to "each of its share account holders,"[214] and North Carolina further mandates full disclosure to "account holders and prospective account holders."[215] Maryland requires credit unions to publicly post and disclose in any promotional materials the following information: the terms and conditions of the contest, a

208. *See* MD. CODE ANN., FIN. INST. § 6-716 (requiring that raffles must not harm Maryland "credit union[s]' ability to operate in a safe and sound manner"); MICH. COMP. LAWS ANN. § 490.411 (establishing that Michigan credit unions must not conduct raffle in a manner that "jeopardizes the [credit unions'] safety and soundness"); N.C. GEN. STAT. § 54-109.64 (establishing that North Carolina credit unions must conduct savings promotion raffles in a "safe and sound manner"); R.I. GEN. LAWS § 19-5-29 (establishing that savings promotion raffles in Rhode Island must not "jeopardize" a credit union's "safety and financial soundness"); WASH. REV. CODE § 9.46.0356 (establishing that Washington credit unions must not conduct savings promotion raffles in an "unsafe and unsound or imprudent manner").

209. NEB. REV. STAT. § 9-701(3)(c) ("An operator shall not . . . [f]ail to award prizes offered.").

210. MICH. COMP. LAWS ANN. § 490.411; R.I. GEN. LAWS § 19-5-29. Maryland law also establishes that the PLS contest must not "mislead credit union members," but this is amplified by additional disclosure requirements. MD. CODE ANN., FIN. INST. § 6-716.

211. NEB. REV. STAT. § 9-701(3)(b).

212. *See, e.g.*, Dragon, *supra* note 159 (explaining that credit unions return all earnings to their members in the form of higher interest rates or possibly dividends).

213. ME. REV. STAT. tit. 17 § 1831(5), (14-A).

214. CONN. GEN. STAT. P.A. 13-96 § 1(b).

215. N.C. GEN. STAT. § 54-109.64.

disclaimer that no purchase is necessary, and a notice that the number of entries determines the odds of winning.[216] Washington also specifies exactly what must be disclosed and requires that the odds be disclosed "in ratio form, based on the total number of prizes to be awarded and the total number of offers distributed."[217]

Finally, certain states have adopted mechanisms for governmental oversight of PLS programs. Neither Maine nor North Carolina specifically monitor savings promotion raffles, though credit unions in both states are subject to occasional review by administrative bodies.[218] Maryland makes savings promotion raffles subject to the approval of the Commissioner of Financial Regulation,[219] and Connecticut requires that the Banking Commissioner first determine the "secure financial integrity" of each credit union seeking to conduct a PLS contest.[220] Maryland, Michigan, Nebraska, Rhode Island, and Washington authorize particular governmental agencies to investigate savings promotion raffles, and the agency can then bring an enforcement action against programs that violate the statutory requirements.[221]

Of all the states with PLS enabling legislation, Rhode Island requires the most direct governmental oversight. A credit union seeking to conduct PLS raffles in Rhode Island must first provide the Department of Business Regulation with "written notice of its intent" to do so.[222] The notice must include an attestation that the contest complies with all state, federal, and NCUA laws and regulations; that the raffle will be conducted "in a manner that is fair and non-discriminatory to all credit union members"; and that no "adverse

216. MD. CODE ANN., FIN. INST. § 6-716(c).

217. WASH. REV. CODE § 19.170.030.

218. *See, e.g.*, ME. REV. STAT. tit. 9-B § 221 (The Superintendant of Financial Institutions "shall examine each financial institution" organized under Maine law "at least once every 36 months or more frequently as the superintendent determines"); N.C. GEN. STAT. § 54-109.10–11 (the Administrator of the Credit Union Division of the North Carolina Department of Commerce authorized "to examine at least once a year and oftener if . . . deemed necessary, all credit unions").

219. MD. CODE ANN., FIN. INST. § 6-716(b).

220. CONN. GEN. STAT. P.A. 13-96 § 1(b).

221. MD. CODE ANN., FIN. INST. § 6-716(b) (Commissioner of Financial Regulation); MICH. COMP. LAWS ANN. § 490.411 (Commissioner of the Office of Financial Insurance Services); NEB. REV. STAT. § 9-701 (Nebraska Department of Revenue); R.I. GEN. LAWS § 19-5-29 (Director of the Department of Business Regulation); WASH. REV. CODE § 9.46.0356 (Director of Financial Institutions).

222. R.I. GEN. LAWS § 19-5-29(a).

impact on the financial condition of the credit union" will result from the contest.[223]

C. Drafting New Enabling Legislation

As PLS advocates draft proposals in the remaining forty-two states, they should draw on the limiting and monitoring provisions of existing legislation. State legislatures must incorporate certain features to ensure proper implementation of prize-linked savings. Accordingly, this Section analyzes the desirability of required program terms, additional contest limitations, recordkeeping duties, required disclosures, and governmental oversight of PLS programs.

1. Authorization and Required Program Terms

As a preliminary matter, state legislators can most effectively regulate PLS initiatives with statutes that explicitly permit credit unions to offer savings promotion raffles. As described in Part IV.B, eight states have accomplished this in one of two ways: specifically exempting PLS contests from prohibitions on gambling or directly authorizing certain financial institutions to run PLS contests.[224] Admittedly, some other jurisdictions have gaming and banking laws that may already permit PLS initiatives. For instance, laws in Arizona and Georgia arguably do not forbid PLS activity, though the credit unions in those states have not yet tested this possibility.[225] Nonetheless, even where legislative change is not *necessary*, an explicit authorization of PLS programs is still *prudent*. Statutory amendments signify the legislature's intent to allow PLS initiatives, and explicit permission will remove the legal uncertainty that currently deters credit unions from hosting these programs. Moreover,

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223. *Id.*

224. *See supra* Part IV.B (highlighting that Maine and Nebraska exclude PLS programs from prohibitions on gambling, and that Connecticut, Maryland, Michigan, North Carolina, Rhode Island and Washington have enacted statutes that directly authorize savings promotion raffles).

225. ARIZ. REV. STAT. ANN. § 13-3302 (excluding from antigambling laws raffles operated by qualified nonprofits, which may include credit unions, subject to restrictions); GA. CODE ANN. § 16-12-22.1 (authorizing nonprofits qualified under 501(c) of the IRC (credit unions qualify under 501(c)(14)(A) to obtain a license to operate raffles); GA. CODE ANN. § 7-1-650(6) (allowing Georgia credit unions to undergo activities not otherwise prohibited by state law with governmental approval). Close interpretation of statutory provisions regarding lotteries and credit unions in other states may reveal that additional jurisdictions would not need legislative change to enable credit union PLS promotions.

express enabling legislation provides an efficient avenue for states to simultaneously introduce regulations and program limitations that will prevent potential abuses of prize-linked savings.

If states do decide to enact PLS-enabling legislation, statutes must be drafted according to each state's particular gaming and banking laws. In other words, some statutes will be drafted as an exemption from the gaming laws, while others will directly grant credit unions the authority to operate PLS programs.

More importantly, states must carefully choose which program requirements and limitations to incorporate into the authorizing legislation. For instance, state legislatures should clearly articulate the basic structure of PLS programs and choose deposits as the sole criterion for prize eligibility. Any one of the existing state statutes described in Part IV.B and outlined in the Appendix would be an adequate model. In addition, states should clarify that all program entries have an equal chance of winning prizes, just like five states currently require.[226] This provision is particularly important to ensuring the fairness of PLS programs.

Similarly, drafters can use the definition section to limit the class of consumers eligible to participate in PLS drawings. Some states may want to prevent minors from participating in PLS contests—perhaps out of a paternalistic concern that younger individuals cannot understand the programs or a fear that savings lotteries glorify gambling.[227] Connecticut and Maryland, for example, define program participants as "eligible credit union members" who have reached a particular age.[228] States should not, however, establish an age limit for PLS programs that *exceeds* the age limit for traditional state lottery games.[229] Because saving money with a PLS initiative is a responsible *alternative* to consuming lottery tickets, states should at least equalize the availability of the two options.

226. CONN. GEN. STAT. P.A. 13-96 § 1; MD. CODE ANN., FIN. INST. § 6-716; MICH. COMP. LAWS ANN. § 490.411; NEB. REV. STAT. § 9-701; R.I. GEN. LAWS § 19-5-29.

227. *See supra* Part IV.B (identifying the concerns of interest groups who may oppose PLS initiatives out of general distaste for behavior that resembles gambling).

228. CONN. GEN. STAT. P.A. 13-96 § 1; MD. CODE ANN., FIN. INST. § 6-716.

229. *See, e.g.*, TENN. CODE ANN. § 4-51-122(5)(c) (prohibiting the sale of state lottery tickets to individuals under the age of eighteen); COLO. REV. STAT. § 24-35-214 (making it unlawful to sell a lottery ticket to any person under eighteen).

2. Further Contest Limitations

After defining the basic mandatory terms, states have an opportunity to further control the development of PLS contests by requiring that credit unions adopt additional program terms. For instance, state policymakers may prefer to limit the number of annual drawings, cap the value of grand-prize offerings, or prohibit withdrawal of deposits. States may directly incorporate such program restrictions into the enabling legislation[230] or delegate promulgation of the precise rules to an agency.[231]

Admittedly, state-imposed restrictions may frustrate efforts to maximize the potential benefits of prize-linked savings. As mentioned in Part II, PLS initiatives have proven most successful when credit unions maintain the flexibility to adjust the frequency and value of prizes in response to consumer preferences.[232] Accordingly, some states may prefer a minimalist approach to regulation, leaving the PLS vehicles with a greater degree of flexibility and creativity.[233] In states that choose to regulate with a heavy hand, however, credit unions should embrace program restrictions that assuage the concerns of PLS opponents because compromise ultimately improves the likelihood that PLS-enabling legislation will be enacted. The following Subsections evaluate the benefits and drawbacks of imposing certain restrictions on PLS programs.

i. Limited Number of Permissible Drawings

Some states may elect to follow Maine in allowing only a limited number of savings promotion raffles by a single credit union in a given year.[234] Such restrictions are not unprecedented; several states

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230. *See, e.g.*, ME. REV. STAT. tit. 17 § 1831(5), (14-A) (limiting frequency and amount of prizes and requiring that interest on PLS accounts be "comparable" to other accounts); WASH. REV. CODE §§ 9.46.0356, 19.170.030 (requiring that eligible participants maintain deposit for "at least twelve months").

231. *See, e.g.*, CONN. GEN. STAT. P.A. 13-96 § 1 (authorizing the Banking Commissioner to regulate savings promotion raffles); NEB. REV. STAT. § 9-701(5)(a) (authorizing the Department of Revenue to regulate savings promotion raffles).

232. *See, e.g.*, Smith-Ramani et al., *supra* note 14, at 11 (reporting that the 2012 Save to Win program in Michigan changed its prize structure to offer more frequent prizes of smaller value in response to findings from previous years and data about consumer preferences).

233. *See* Part VI: Appendix (Maryland, Michigan, North Carolina, and Rhode Island impose none of the restrictions discussed in this section, nor do they authorize regulators to impose further program limitations).

234. *See* ME. REV. STAT. tit. 17 § 1831(5), (14-A) (establishing that permissible PLS contests may be offered no more than twice per year).

control the frequency of charitable raffles in a similar manner.[235] Allowing PLS contests only twice a year, for example, might make such initiatives less threatening to state lotteries, which often offer daily drawings and instant games.[236]

On the other hand, narrow authorizations significantly limit the ability of PLS vehicles to structure contests in ways that respond to consumer preferences. For instance, the existing Save to Win programs[237] offer both annual and monthly prizes in order to continually engage savers and to compensate for the low odds of winning.[238] In fact, over the course of five years, credit unions in Michigan have repeatedly adjusted the prize structure of Save to Win to accommodate program expansion.[239] States that value this kind of flexibility may want to follow Washington's lead and explicitly authorize both annual and monthly prizes.[240]

ii. Caps on Prize Values

States must similarly decide whether or not to establish the maximum dollar amount that a credit union may offer in prizes—either in a single drawing or in the aggregate throughout the year.[241] Value caps can minimize competition with state lotteries and prevent overexcitement among consumers who may misunderstand program trade-offs.[242] Caps on prize amounts may also maximize the portion of interest that inures to consumers rather than the jackpot pool.[243]

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235. *See, e.g.*, TEX. OCC. CODE ANN. § 2002.052 (establishing a limit of two raffles per year by charities).

236. *See, e.g.*, *How to Play*, http://perma.cc/VL3Z-3UFX (tnlottery.com, archived Feb. 16, 2014) (providing the frequent schedule for drawing-style games, instant games and scratch-off games for the Tennessee Lottery); *Games*, http://perma.cc/V3RL-RSGX (galottery.com, Feb. 16, 2014) (similarly listing omnipresent lottery options, including daily contest drawings).

237. In partnership with Doorways to Dreams, Save to Win programs have launched in Michigan, Nebraska, North Carolina and Washington. *See supra* notes 86–89 (providing program details for each state).

238. *See, e.g.*, *Building Financial Security Through Fun: Findings from Save to Win Expansion*, http://perma.cc/V9AD-82CY (d2dfund.org, archived Feb. 16, 2014) (noting the diversity of prize designs for Save to Win programs and highlighting Michigan and Nebraska); *see also* Guillén & Tschoegl, *supra* note 16, at 223 (suggesting that frequent prize offerings prevent consumer disinterest caused by low odds of winning).

239. *Building Financial Security Through Fun*, *supra* note 238, at 6.

240. *See* WASH. REV. CODE § 9.46.0356(1)(b) (authorizing annual and monthly drawings).

241. Maine alone has included a statutory prize maximum, indicating that the total of prizes per permissible PLS raffle cannot exceed $1,000. *See* ME. REV. STAT. tit. 17 § 1831(5), (14-A).

242. *See supra* Part IV.A (noting that PLS contests may threaten existing state lotteries and highlighting consumer protectionist concerns).

243. *See supra* Part II.A (describing mechanics of PLS programs).

Moreover, prize caps may protect the stability of credit unions by preventing them from overpledging prize money and potentially harming existing members.[244] Instead of flat caps on PLS prize amounts, states could impose heightened requirements when prizes exceed a certain value. For instance, the vetoed PLS-enabling bill in New York would have established more stringent filing and reporting requirements on credit unions that offered prizes in excess of $5,000.[245] Such a policy would indirectly limit jackpot amounts: because greater prize values trigger additional regulatory costs, credit unions have a monetary incentive to offer reduced amounts.

Maximum prize amounts nevertheless curb the flexibility of PLS vehicles to respond to market preferences. Limits on the value of grand prizes may also make savings raffles less attractive to consumers and thereby undermine the purpose of authorizing prize-linked savings in the first place. Accordingly, some states may simply trust the private sector and allow credit unions to set their own amounts.[246]

iii. Prohibitions on Withdrawal

Because prize-linked savings purports to encourage lasting financial habits, the most effective programs will discourage participants from immediately withdrawing their savings. At the same time, PLS programs mostly appeal to low-income populations, who are particularly vulnerable to financial crises and may need access to their invested funds.[247] Thus, programs must strive to strike a balance between these competing concerns. The Washington legislature decided to disqualify any participants who withdraw their base deposit within twelve months of entering the contest.[248] Other

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244. Governments have long had an interest in preventing bank and credit union failure, as indicated by the existence of federal deposit insurance. A state imposed prize cap would supplement the federal NCUA regulations. *See NCUA Share Insurance Fund Information, Reports, and Statements, supra* note 9 (highlighting NCUA's regulatory role).

245. S. 5145, Reg. Sess. (N.Y. 2013) (vetoed by Veto Memo 229 on Sept. 27, 2013); *see also* N.Y. GEN. BUS. § 369-e(4) (referenced in S. 5145 and requiring heightened requirements where prizes exceed $5,000).

246. This more relaxed approach has been taken by Connecticut, Maryland, Michigan, Nebraska, North Carolina, Rhode Island, and Washington. *See* Part VI Appendix: Existing State Legislation on Prize-Linked Savings.

247. *See supra* Part III.C (describing the potential for PLS initiatives to improve savings habits among the financially vulnerable).

248. WASH. REV. CODE §§ 9.46.0356, 19.170.030.

states have no such restrictions and thereby allow the directors of PLS initiatives to set their own withdrawal policies.[249]

This Note recommends that state legislatures refrain from statutory prohibitions on withdrawal of PLS deposits. Credit unions will likely develop withdrawal penalties on their own, as they, like most financial institutions, have an economic incentive to maintain the consistency of their accounts.[250] For instance, the Nebraska Save to Win program established a disqualifying withdrawal penalty, though it was less restrictive than Washington's outright prohibition, and fewer than 1% of Nebraskan contest participants withdrew their deposits each month.[251] Moreover, because private institutions have access to consumer data, they are better equipped than state legislatures to experiment with penalty structures to keep accountholders engaged in long-term saving.[252] In the event that state policymakers insist upon defining the withdrawal penalties, however, this Note urges against Washington's blanket restriction. Instead, states would be better off allowing at least one withdrawal before a participant loses eligibility, as this model has proven successful in Michigan.[253]

3. Recordkeeping Standards and Other Duties

After defining the program terms, state policymakers should also establish recordkeeping standards for PLS vehicles to follow. States should follow the majority of jurisdictions that require credit unions to maintain records that are "sufficient to facilitate an

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249. No withdrawal terms have been statutorily prescribed by Connecticut, Maryland, Maine, Michigan, Nebraska, North Carolina, or Rhode Island. *See* Part VI Appendix: Existing State Legislation on Prize-Linked Savings.

250. Withdrawal penalties serve as disincentive for the phenomenon known as a "bank run," which is equally applicable in the context of a credit union. For an explanation of bank runs, see Jonathan R. Macey & Geoffrey P. Miller, *Bank Failures, Risk Monitoring, and the Market for Bank Control*, 88 COLUM. L. REV. 1153, 1156 (1988) (explaining that depository institutions are often highly leveraged with a higher portion of liabilities in deposits that are available upon demand while assets are "relatively illiquid" such that the institution is not "able to pay off all depositors instantaneously).

251. *Building Financial Security Through Fun, supra* note 238, at 3.

252. *See, e.g.*, *id.* at 7 (expressing the intention of PLS advocates to continually experiment with best practices in program design in order to best facilitate savings behavior).

253. *See Save to Win: 2009 Final Project Results*, *supra* note 1, at 9 (describing the success of Michigan's inaugural Save to Win program, which disqualified participants with more than one withdrawal from the twelve month share certificate).

audit."[254] This standard ensures that any agencies that oversee PLS programs can adequately detect and punish fraudulent activity. An overly specific records requirement may unduly burden credit unions, but credit unions should be required to maintain records for PLS programs that are at least comparable to their other accounts. In addition, states should explicitly require credit unions to keep identifying information about prizewinners for income tax purposes.[255]

As explained in Part IV.A, consumer protection groups may worry that credit unions might not ever actually distribute prize money.[256] Thus, state policymakers should consider imposing further accounting duties. For example, states could replicate Nebraska and statutorily require credit unions to "not fail to award prizes offered."[257] Although this duty may seem to serve consumers' best interests, such a provision may also have the unintended effect of binding credit unions to pay out prizes that could drain their resources and endanger the assets of other members. Imagine, for instance, that a PLS program advertises a prize of $1,000 but overestimated the number of participants willing to play. Should an insufficient number of consumers invest in share certificates, the aggregate interest accumulated may fail to fund the promised reward. In this scenario, a statutory duty to pay the offered prizes would force the credit union to allocate funds from other sources to the detriment of the institution's overall stability.

Because an outright duty to pay offered prizes may have these unintended consequences, states should consider an alternative solution to protect consumers. Instead, states could require credit unions to maintain a separate account for the pooled interest on PLS accounts that funds program prizes.[258] Any duty to pay out prizes could then attach to that separate account; credit unions would be required to annually distribute all of the earmarked funds as prizes to

254. CONN. GEN. STAT. P.A. 13-96 § 1; MICH. COMP. LAWS ANN. § 490.411; N.C. GEN. STAT. § 54-109.64; R.I. GEN. LAWS § 19-5-29; WASH. REV. CODE § 9.46.0356. Maryland requires maintenance of books and records but does not reference an audit. MD. CODE ANN., FIN. INST. § 6-716.

255. *See* Treas. Reg. § 1.74-1 (1960) (indicating that any amount received as a prize or award is included in gross income for federal income tax purposes).

256. *See supra* Part IV.A (identifying predictable reactions to prize-linked savings from consumer advocates).

257. NEB. REV. STAT. § 9-701.

258. For instance, the vetoed New York legislation would have required maintenance of a separate trust account wherever the PLS prize exceeded $5,000. *See* S. 5145, Reg. Sess. (NY 2013) (vetoed by Veto Memo 229 on Sept. 27, 2013); *see also* N.Y. GEN. BUS. § 369-e(4) (referenced in S. 5145 and requiring a special trust account for prizes exceeding $5,000).

contest participants (but not funds from other sources). This slight variation on the duty found in Nebraska's law serves the twin goals of ensuring prize distributions to PLS customers and safeguarding other credit union members.

4. Required Disclosures

As analyzed in Part IV.B, the eight states with PLS-enabling statutes require disclosure of contest terms with varying degrees of specificity. Although overly detailed disclosure requirements may become unduly burdensome, a high degree of transparency is warranted when PLS products are introduced for the first time. Therefore it is critical for policymakers to carefully address both the *substance* and the *audience* of disclosures.

Mandatory public disclosures not only deter credit unions from committing fraud but also facilitate public awareness of the relatively new and unknown phenomenon of prize-linked savings. States should therefore require PLS vehicles to disclose key program information, including the number of participating consumers, the likelihood of winning, the formulas used to determine prize amounts, and the documentation proving the prize money was delivered. Washington's PLS laws provide a useful example for policymakers looking to draft substantive disclosure requirements.[259] In addition, consumer protection would be better served if state laws also required disclosure of the precise portion of interest payments that are diverted to jackpot pools, the existence of any withdrawal penalties, and the tax consequences of receiving prize awards.

Beyond the substantive requirements, state policymakers should also clarify to whom these disclosure duties are owed. As highlighted in Part IV.B, existing state statutes do not consistently reference both *prospective* and *current* credit union members in their disclosure provisions.[260] Moreover, prohibitions against misleading and false advertising require disclosure only indirectly; such simple provisions do not oblige PLS vehicles to actively reveal particular program mechanics.[261] Because PLS products are nontraditional

259. WASH. REV. CODE § 19.170.030.

260. *Compare* MICH. COMP. LAWS ANN. § 490.411 (reference to credit union members does not require disclosure to prospective PLS customers), *and* R.I. GEN. LAWS § 19-5-29 (same), *with* NEB. REV. STAT. § 9-701 (prohibition against false and misleading advertising fails to require any disclosure to existing credit union members).

261. *See* MICH. COMP. LAWS ANN. § 490.411; NEB. REV. STAT. § 9-701; R.I. GEN. LAWS § 19-5-29.

financial instruments, this Note advises that statutes explicitly require direct disclosure. Specifically, this Note argues that substantive information be provided not only to potential PLS customers but also to nonparticipating credit union members who have a legitimate financial interest in credit union affairs.[262] The precise manner of disclosure—whether displayed at the credit unions, distributed to customers when they open share certificates, or included in credit union annual reports—is perhaps best determined by regulators who are more familiar with the practices of financial institutions in their state.

5. Governmental Oversight and Enforcement

Finally, PLS-enabling legislation should incorporate an enforcement mechanism to ensure that credit unions comply with the appropriate requirements and regulations. In pursuit of the most effective enforcement strategy, policymakers should empower a designated executive agency to monitor savings promotions and to issue cease and desist orders for violations of statutory requirements.[263] In the absence of explicit oversight provisions, all of the aforementioned requirements would lack actual force. Especially in states where opposition to PLS programs is significant, policymakers may prefer to enact stronger enforcement mechanisms. For example, states particularly concerned about the possibility of fraudulent activity by credit unions should follow Nebraska and make violations of the enabling statute punishable with fines.[264]

As noted in Part IV.B, credit unions in Rhode Island must file a notice of intent and an attestation of legal compliance with the relevant regulations before they can launch a savings promotion raffle.[265] This is an ideal model for states that want to closely guide the development of prize-linked savings. But even states that prefer less stringent regulation of PLS initiatives should consider the Rhode Island method. States could also require credit unions to pay fees with

262. *See, e.g.*, Dragon, *supra* note 159 (describing the common ownership structure of nonprofit credit unions and the financial interests of credit union members).

263. CONN. GEN. STAT. P.A. 13-96 § 1 (Banking Commissioner); MD. CODE ANN., FIN. INST. § 6-716 (Commissioner of Financial Regulation); MICH. COMP. LAWS ANN. § 490.411 (Commissioner of Office of Financial Insurance Services); NEB. REV. STAT. § 9-701 (Department of Revenue); R.I. GEN. LAWS § 19-5-29 (Department of Business Regulation); WASH. REV. CODE § 9.46.0356 (Director of Financial Institutions).

264. NEB. REV. STAT. § 9-701.

265. R.I. GEN. LAWS § 19-5-29(a).

each of these filings. The money collected from such fees could fund the oversight and enforcement measures taken by the state agency with jurisdiction over PLS contests.

Overall, state policymakers must adjust to their unique political landscapes when drafting PLS-enabling legislation. This Part has outlined a general framework to guide future legislation, and the model provisions are designed to placate opposition, assuage legitimate concerns, and enable states to effectively regulate PLS programs. Of course, the precise format and terms of enabling legislation will vary from state to state. For instance, some legislatures will enact very detailed statutory requirements while others may authorize an administrative agency to promulgate regulations addressing specific program details. Regardless of the ultimate regulatory form, state policymakers should remain thoughtful about the consequences that each provision will have on the future development of prize-linked savings.

V. CONCLUSION

Prize-linked savings capitalizes upon the rare alignment of prudent financial behavior and an exciting game of chance. Championed by antipoverty advocates such as Peter Tufano and Doorways to Dreams, this innovative concept is a creative response to the needs of financially vulnerable Americans who all too often lack the savings they need to protect themselves against unpredictable emergencies. The most basic PLS structure gives consumers a win-win chance to receive monetary prizes, where the only cost of entering the contest is the deposit of a minimum amount with a guaranteed return of the principal plus interest.

Though PLS programs have a deep international history, they have only recently gained traction in the United States. Federal and state gaming prohibitions are partially to blame for the slow development of domestic PLS contests, as savings raffles fall squarely within longstanding bans on lottery activity. There are many potential PLS vehicles, from governmental entities to private financial institutions such as banks and credit unions. In the current regulatory climate, credit unions have the most flexibility to launch PLS programs, though state gaming laws remain a frustrating roadblock. Nonetheless, often in partnership with Doorways to Dreams, PLS advocates in some states have successfully lobbied for PLS-enabling legislation. Credit unions in the remaining states must actively develop a strategy to encourage their legislatures to follow suit.

By anticipating the groups who will likely oppose prize-linked savings (such as antigambling interests, existing state lotteries, and consumer advocacy groups), PLS advocates can preempt their criticisms by offering proposals that adequately address their concerns. Drawing on existing PLS statutes, other states can borrow certain provisions while adjusting or discarding others to best suit their needs. This Note has suggested a framework that policymakers can use to draft the ideal legislation.

The precise language enacted in future PLS-enabling legislation should reflect the policy choices of a given jurisdiction. State lawmakers should prescribe the level of government regulation that appropriately responds to the political demands of their constituents. Where, for instance, state lotteries or consumer advocacy groups have a significant voice, state legislators should narrowly authorize PLS programs and incorporate substantive limitations. Where such critics are less prominent, however, state lawmakers should leave ample room for PLS vehicles to innovate and experiment with the contest terms. No matter what regulatory approach is taken, credit unions and other PLS advocates should willingly embrace regulatory provisions that make enabling legislation more politically attainable. As prize-linked savings gains momentum in the United States, properly drafted state laws will ensure the careful and controlled development of this promising economic phenomenon.

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* Doctor of Jurisprudence, Vanderbilt Law School, Class of 2014. I am deeply thankful for the hard work and thoughtful contribution of the members of the *Vanderbilt Law Review*. I am greatly indebted to my friends and coworkers at Impact Alabama, where I first witnessed the benefits of prize-linked savings. Most of all, I am grateful for the love and support of my family.

VI. APPENDIX: EXISTING STATE LEGISLATION ON PRIZE-LINKED SAVINGS

State	Authorization	Required Terms	Contest Limitations	Records & Duties	Disclosure & Advertising	Enforcement
Connecticut[266]	Credit unions and community banks with "secure financial integrity" authorized to conduct savings promotion raffles	- Participant must be 18 - Each entry in raffle has equal chance to be drawn - Deposit of specified minimum amount as "sole consideration"		Must "maintain records sufficient to facilitate audit"	Must fully disclose the "terms and conditions" of the raffle to "each of its share account holders"	Banking Commissioner determines "secure financial integrity" and may adopt regulations of such raffles, though none have been promulgated
Maine[267]	Savings promotion raffles by credit unions excluded from prohibited games of chance	Deposit of specified minimum amount as "sole consideration"	- Offered no more than twice per year - Total of prizes per raffle cannot exceed $1,000 - Interest at "comparable rate" to other accounts		Must disclose the "terms and conditions of the promotion"	
Maryland[268]	Credit unions authorized to conduct savings promotion raffles	- Participants must be "adult" residents of MD - Each entry in raffle has equal chance to be drawn - Beyond deposit of specified minimum amount, no fee or purchase necessary		- Must "maintain books and records" - Raffle must not harm "credit union's ability to operate in a safe and sound manner"	- Must post at offering location and disclose in all materials that no purchase is necessary and the formula for determining odds of winning - Must not mislead credit union's members	- Raffle subject to approval of Commissioner of Financial Regulation - Commissioner may "examine conduct" of raffle and may issue cease and desist order if violate requirements

266. CONN. GEN. STAT. P.A. 13-96 § 1 (2013).
267. ME. REV. STAT. tit. 17 § 1831(5), (14-A) (2013).
268. MD. CODE ANN., FIN. INST. §§ 6-716, 1-101(g) (West 2013).

State	Authorization	Required Terms	Contest Limitations	Records & Duties	Disclosure & Advertising	Enforcement
Michigan[269]	"If authorized by the credit union board," a credit union may conduct a savings promotion raffle	- Each entry in raffle has equal chance to be drawn - Deposit of specified minimum amount must be "sole consideration"		- Must "maintain books and records sufficient to facilitate audit" - Must not conduct raffle in manner that "jeopardizes [credit union's] safety and soundness"	Must not mislead credit union members	-Commissioner of Office of Financial Insurance Services may "examine the conduct" of raffle and may issue cease and desist order if violate requirements
Nebraska[270]	Savings promotion raffles by credit unions authorized as "gift enterprises. . .in which the elements of chance and prize are present"	- Each entry has "equal chance of winning" - Must not require entry fee beyond deposit of specified minimum amount		Must not "fail to award prizes offered"	Must not advertise in "false, deceptive or misleading" manner	- Department of Revenue may regulate raffles and other "gift enterprises" and may bring action for violations - Violations of requirements constitute misdemeanor, punishable by fine
North Carolina[271]	Credit unions authorized to conduct savings promotion raffles	Deposit of specified minimum amount must be "sole consideration"		- Must "maintain records sufficient to facilitate audit" - Must conduct in "safe and sound manner"	Must "fully disclose the terms and conditions of [raffle] to account holders and prospective account holders"	

269. MICH. COMP. LAWS ANN. § 490.411 (West 2013).
270. NEB. REV. STAT. § 9-701 (2013).
271. N.C. GEN. STAT. § 54-109.64 (2013).

State	Authorization	Required Terms	Contest Limitations	Records & Duties	Disclosure & Advertising	Enforcement
Rhode Island[272]	Credit unions authorized to conduct savings promotion raffles	- Each entry in raffle has equal chance to be drawn - Deposit of specific minimum amount must be "sole consideration"		- Must "maintain records sufficient to facilitate audit" - Must not jeopardize credit union's "safety and financial soundness"	Must not mislead credit union members	- Must provide written notice of intent to conduct raffle to Department of Business Regulation - Notice of intent must include attestation of compliance with all laws and regulations, fairness to credit union members, and that the raffle will have "no adverse impact on the financial condition" of credit union - Director of Department can examine raffle and issue cease and desist order if violations found
Washington[273]	Financial institutions authorized to conduct "promotional contests of chance"	Beyond deposit of specified minimum amount, no fee or purchase necessary	Participants must "retain funds" in specified account "for at least twelve months"	- Must "maintain records sufficient to facilitate audit" - Must not conduct in "unsafe and unsound or imprudent manner" or in manner likely to result in reputational harm	- Must disclose the odds participant has of winning prize, in ratio form, based on total number of prizes and total number of entries - Contest cannot be conducted via the internet	Director of Financial Institutions may examine records and may issue cease and desist order for violations of statutory requirements
Connecticut[274]	Credit unions and community banks with "secure financial integrity" authorized to conduct savings promotion raffles	- Participant must be 18 - Each entry in raffle has equal chance to be drawn - Deposit of specified minimum amount as "sole consideration"		Must "maintain records sufficient to facilitate audit"	Must fully disclose the "terms and conditions" of the raffle to "each of its share account holders"	Banking Commissioner determines "secure financial integrity" and may adopt regulations of such raffles, though none have been promulgated

272. R.I. GEN. LAWS § 19-5-29 (2013).
273. WASH. REV. CODE §§ 9.46.0356, 19.170.030 (2013).

State	Authorization	Required Terms	Contest Limitations	Records & Duties	Disclosure & Advertising	Enforcement
Maine[275]	Savings promotion raffles by credit unions excluded from prohibited games of chance	Deposit of specified minimum amount as "sole consideration"	- Offered no more than twice per year - Total of prizes per raffle cannot exceed $1,000 - Interest at "comparable rate" to other accounts		Must disclose the "terms and conditions of the promotion"	
Maryland[276]	Credit unions authorized to conduct savings promotion raffles	- Participants must be "adult" residents of MD - Each entry in raffle has equal chance to be drawn - Beyond deposit of specified minimum amount, no fee or purchase necessary		- Must "maintain books and records" - Raffle must not harm "credit union's ability to operate in a safe and sound manner"	- Must post at offering location and disclose in all materials that no purchase is necessary and the formula for determining odds of winning - Must not mislead credit union's members	- Raffle subject to approval of Commissioner of Financial Regulation - Commissioner may "examine conduct" of raffle and may issue cease and desist order if violate requirements
Michigan[277]	"If authorized by the credit union board," a credit union may conduct a savings promotion raffle	- Each entry in raffle has equal chance to be drawn - Deposit of specified minimum amount must be "sole consideration"		- Must "maintain books and records sufficient to facilitate audit" - Must not conduct raffle in manner that "jeopardizes [credit union's] safety and soundness"	Must not mislead credit union members	-Commissioner of Office of Financial Insurance Services may "examine the conduct" of raffle and may issue cease and desist order if violate requirements

274. CONN. GEN. STAT. P.A. 13-96 § 1 (2013).
275. ME. REV. STAT. tit. 17 § 1831(5), (14-A) (2013).
276. MD. CODE ANN., FIN. INST. §§ 6-716, 1-101(g) (West 2013).
277. MICH. COMP. LAWS ANN. § 490.411 (West 2013).

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North Carolina[279]	Credit unions authorized to conduct savings promotion raffles	Deposit of specified minimum amount must be "sole consideration"		- Must "maintain records sufficient to facilitate audit" - Must conduct in "safe and sound manner"	Must "fully disclose the terms and conditions of [raffle] to account holders and prospective account holders"	
Rhode Island[280]	Credit unions authorized to conduct savings promotion raffles	- Each entry in raffle has equal chance to be drawn - Deposit of specific minimum amount must be "sole consideration"		- Must "maintain records sufficient to facilitate audit" - Must not jeopardize credit union's "safety and financial soundness"	Must not mislead credit union members	- Must provide written notice of intent to conduct raffle to Department of Business Regulation - Notice of intent must include attestation of compliance with all laws and regulations, fairness to credit union members, and that the raffle will have "no adverse impact on the financial condition" of credit union - Director of Department can examine raffle and issue cease and desist order if violations found

278. NEB. REV. STAT. § 9-701 (2013).
279. N.C. GEN. STAT. § 54-109.64 (2013).

State	Authorization	Required Terms	Contest Limitations	Records & Duties	Disclosure & Advertising	Enforcement
Washington[281]	Financial institutions authorized to conduct "promotional contests of chance"	Beyond deposit of specified minimum amount, no fee or purchase necessary	Participants must "retain funds" in specified account "for at least twelve months"	- Must "maintain records sufficient to facilitate audit" - Must not conduct in "unsafe and unsound or imprudent manner" or in manner likely to result in reputational harm	- Must disclose the odds participant has of winning prize, in ratio form, based on total number of prizes and total number of entries - Contest cannot be conducted via the internet	Director of Financial Institutions may examine records and may issue cease and desist order for violations of statutory requirements

280. R.I. GEN. LAWS § 19-5-29 (2013).
281. WASH. REV. CODE §§ 9.46.0356, 19.170.030 (2013).