

HOUSE BILL 441

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

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Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO THE NEW MEXICO LOTTERY AUTHORITY; TYING THE AMOUNT OF BONUSES PAID TO LOTTERY EMPLOYEES ~~hfl~~ ~~AND VENDORS~~ ~~hfl~~ TO THE INCREASE IN THE AMOUNT OF LOTTERY TICKET SALES REVENUES DELIVERED TO THE LOTTERY TUITION FUND; PROVIDING THAT UNCLAIMED AND FORFEITED LOTTERY PRIZES BE PAID INTO THE LOTTERY TUITION FUND; PROHIBITING VIDEO LOTTERY GAMES, MOBILE PHONE GAMES, ANY TYPE OF SPORTS BETTING OR BETTING ON OTHER REAL EVENTS, "PAY AT THE PUMP" AND AUTOMATED TELLER MACHINE DEVICES THAT SELL LOTTERY TICKETS; PROVIDING FOR SEMIANNUAL DEPOSITS TO THE LOTTERY TUITION FUND.

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 6-24-6 NMSA 1978 (being Laws 1995, Chapter 155, Section 6, as amended) is amended to read:

"6-24-6. POWERS OF THE AUTHORITY.--

A. The authority shall have all powers necessary or convenient to carry out and effectuate the purposes and provisions of the New Mexico Lottery Act that are not in conflict with the constitution of New Mexico and that are generally exercised by corporations engaged in entrepreneurial pursuits, including the power to:

- (1) sue and be sued;
- (2) adopt and alter a seal;
- (3) adopt, amend and repeal bylaws, rules, policies and procedures for the conduct of its affairs and its business;
- (4) procure or provide insurance;
- (5) hold copyrights, trademarks and service marks and enforce its rights with respect thereto;
- (6) initiate, supervise and administer the operation of the lottery in accordance with the provisions of the New Mexico Lottery Act and rules, policies and procedures adopted pursuant to that act;
- (7) enter into written agreements or contracts for the operation, participation in or marketing or promotion of a joint lottery or joint lottery games with operators of a lottery:

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(a) in one or more other states;  
(b) in a territory of the United States;  
(c) in one or more political subdivisions of another state or territory of the United States;

(d) in a sovereign nation;  
(e) in an Indian nation, tribe or pueblo located within the United States; or

(f) legally operated outside of the United States;

(8) acquire or lease real property and make improvements thereon and acquire by lease or by purchase personal property, including computers, mechanical, electronic and ~~[on-line]~~ online equipment and terminals and intangible property, including computer programs, systems and software;

(9) enter into contracts to incur debt and borrow money in its own name and enter into financing agreements with the state, with agencies or instrumentalities of the state or with any commercial bank or credit provider;

(10) receive and expend, in accordance with the provisions of the New Mexico Lottery Act, all money received from any lottery or nonlottery source for effectuating the purposes of the New Mexico Lottery Act;

(11) administer oaths, take depositions, issue subpoenas and compel the attendance of witnesses and the

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production of books, papers, documents and other evidence relative to any investigation or proceeding conducted by the authority;

(12) appoint and prescribe the duties of officers, agents and employees of the authority, including professional and administrative staff and personnel, and to fix their compensation, pay their expenses and provide a benefit program, including a retirement plan and a group insurance plan; provided that bonus or incentive compensation committed or paid to an officer, agent or employee shall be calculated based on the increase in the amount of lottery ticket sales revenue transmitted to the state treasurer in a fiscal year for deposit in the lottery tuition fund and shall not be calculated based on the authority's gross revenues or other factors;

(13) select and contract with lottery vendors and lottery retailers; ~~Hfl→provided that bonus or incentive compensation committed or paid to a lottery contractor or lottery vendor shall be calculated based on the increase in the amount of lottery ticket sales revenue transmitted to the state treasurer in a fiscal year for deposit in the lottery tuition fund and shall not be calculated based on the authority's gross revenues or other factors;~~←Hfl

(14) enter into contracts or agreements with state, local or federal law enforcement agencies or private investigators or other persons for the performance of law

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enforcement, background investigations and security checks;

(15) enter into contracts of all types on such terms and conditions as the authority may determine;

(16) establish and maintain banking relationships, including establishment of checking and savings accounts and lines of credit;

(17) advertise and promote the lottery and lottery games;

(18) act as a lottery retailer, conduct promotions that involve the dispensing of lottery tickets and establish and operate a sales facility to sell lottery tickets and any related merchandise; and

(19) adopt, repeal and amend such rules, policies and procedures as necessary to carry out and implement its powers and duties, organize and operate the authority, conduct lottery games and any other matters necessary or desirable for the efficient and effective operation of the lottery and the convenience of the public.

B. The powers enumerated in this section are cumulative of and in addition to those powers enumerated elsewhere in the New Mexico Lottery Act, and no such powers limit or restrict any other powers of the authority."

**SECTION 2.** Section 6-24-21 NMSA 1978 (being Laws 1995, Chapter 155, Section 21, as amended) is amended to read:

"6-24-21. DRAWINGS FOR AND PAYMENT OF PRIZES--UNCLAIMED

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PRIZES--APPLICABILITY OF TAXATION.--

A. All lottery prize drawings shall be open to the public. If the prior written approval of the chief executive officer and the executive vice president for security are obtained, the selection of winning entries may be performed by an employee of the lottery. A member of the board shall not perform the selection of a winning entry. Drawings for a prize of more than five thousand dollars (\$5,000) shall be conducted and videotaped by the security division and witnessed by the internal auditor of the authority or [~~his~~] the internal auditor's designee. Promotional drawings for a prize of less than five thousand dollars (\$5,000) are exempt from the requirements of this subsection if prior written approval is given by the chief executive officer and the executive vice president for security. All lottery drawing equipment used in public drawings to select winning numbers or entries or participants for prizes shall be examined and tested by the chief executive officer's staff and the internal auditor of the authority or [~~his~~] the internal auditor's designee prior to and after each public drawing.

B. Any lottery prize is subject to applicable state taxes. The authority shall report to the state and federal taxing authorities any lottery prize exceeding six hundred dollars (\$600).

C. The authority shall adopt rules, policies and

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procedures to conduct fair and equitable drawings and establish a system of verifying the validity of tickets claimed to win prizes and to effect payment of such prizes; provided that:

(1) no prize shall be paid upon a ticket purchased or sold in violation of the New Mexico Lottery Act. Any such prize shall constitute an unclaimed prize for purposes of this section;

(2) the authority is discharged from all liability upon payment of a prize;

(3) the board may by rule provide for the payment of prizes by lottery retailers, whether or not the lottery retailer sold the winning ticket, whenever the amount of the prize is less than an amount set by board rule. Payment shall not be made directly to a player by a machine or a mechanical or electronic device;

(4) prizes not claimed within the time period established by the authority are forfeited and shall be paid into the [~~prize~~] lottery tuition fund and shall not be included in the calculation of gross revenues required for transmission to the lottery tuition fund pursuant to the provisions of Subsection B of Section 6-24-24 NMSA 1978. No interest is due on a prize when a claim is delayed;

(5) the right to a prize is not assignable, but prizes may be paid to a deceased winner's estate or to a person designated by judicial order;

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(6) until a signature or mark is placed on a ticket in the area designated for signature, a ticket is owned by the bearer of the ticket, but after a signature or mark is placed on a ticket in the area designated for signature, a ticket is owned by the person whose signature or mark appears, and that person is entitled to any prize attributable to the owner; and

(7) the authority is not responsible for lost or stolen tickets."

SECTION 3. Section 6-24-24 NMSA 1978 (being Laws 1995, Chapter 155, Section 24, as amended) is amended to read:

"6-24-24. DISPOSITION OF REVENUE.--

A. As nearly as practical, an amount equal to at least fifty percent of the gross annual revenue from the sale of lottery tickets shall be returned to the public in the form of lottery prizes.

B. ~~[No later than the last business day of each month]~~ The authority shall ~~[transmit]~~ make semiannual deposits to the credit of the lottery tuition fund of at least ~~[twenty-seven percent of the gross revenue of the previous month until December 31, 2008 and at least]~~ thirty percent of the gross revenue of the ~~[previous month thereafter to the state treasurer, who shall deposit it in the lottery tuition fund]~~ authority for the previous semiannual period.

C. Operating expenses of the lottery include all

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costs incurred in the operation and administration of the lottery and all costs resulting from any contracts entered into for the purchase or lease of goods or services required by the lottery, including the costs of supplies, materials, tickets, independent audit services, independent studies, data transmission, advertising, promotion, incentives, public relations, communications, commissions paid to lottery retailers, printing, distribution of tickets, purchases of annuities or investments to be used to pay future installments of winning lottery tickets, debt service and payment of any revenue bonds issued, contingency reserves, transfers to the reserve fund and any other necessary costs incurred in carrying out the provisions of the New Mexico Lottery Act."

SECTION 4. A new section of the New Mexico Lottery Act is enacted to read:

"[NEW MATERIAL] PROHIBITIONS.--

A. The authority is prohibited from:

- (1) offering any style of video lottery game;
- (2) offering any sort of gaming on a mobile phone;
- (3) any type of sports betting or betting on other real events; Hf1→provided that "real events" do not include live drawings or other live events ancillary to lottery games; ←Hf1
- (4) selling lottery tickets through a self-

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service device that is part of or shares a display with or is adjacent to a retail petroleum dispenser; or

(5) selling lottery tickets through a self-service device that is part of or shares a display with an automated teller machine.

B. As used in this section, "video lottery game" means a game that offers the play of casino-style games, including blackjack, craps, keno, dice games, roulette or poker, on an electronic terminal, through a website or by any other means or device."

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