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HOUSE BILL 8

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

SAMUEL F. VIGIL

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

RELATING TO PUBLIC SCHOOLS; CHANGING THE DISPOSITION OF STATE
LOTTERY REVENUES TO EARMARK SIXTY PERCENT OF NET REVENUES FOR
DISTRIBUTION TO PUBLIC SCHOOLS FOR CAPITAL OUTLAY EXPENDITURES
PURSUANT TO THE PUBLIC SCHOOL CAPITAL IMPROVEMENTS ACT AND FOR
EDUCATIONAL TECHNOLOGY PURSUANT TO THE TECHNOLOGY FOR EDUCATION
ACT; MAKING AN APPROPRIATION.

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

Section 1. A new section of the New Mexico Lottery Act is
enacted to read:

"[NEW MATERIAL] LOTTERY PUBLIC SCHOOL CAPITAL FUND
CREATED-- PURPOSES. --

A. The "lottery public school capital fund" is
created in the state treasury. The fund shall be administered
by the state department of public education. Earnings from

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1 investment of the fund shall accrue to the credit of the fund.
2 Any balance in the fund at the end of any fiscal year shall
3 remain in the fund for use solely for the purposes of the fund.

4 B. Money in the lottery public school capital fund
5 shall be used only to carry out the provisions of the Public
6 School Capital Improvements Act and the Technology for Education
7 Act and is appropriated for those purposes. Annually the state
8 department of public education shall determine the amount needed
9 for distribution to school districts pursuant to the Public
10 School Capital Improvements Act and shall determine the balance
11 in the lottery public school capital fund on August 1. Upon the
12 determination of the amount to be distributed and the fund
13 balance as of August 1, the department shall transfer that
14 amount from that balance to the public school capital
15 improvements fund for distribution to school districts pursuant
16 to the Public School Capital Improvements Act. Any portion of
17 the August 1 balance remaining in the lottery public school
18 capital fund after the annual distribution to the public school
19 capital improvements fund shall be transferred to the
20 educational technology fund for expenditure in accordance with
21 the provisions of the Technology for Education Act. "

22 Section 2. Section 6-24-24 NMSA 1978 (being Laws 1995,
23 Chapter 155, Section 24) is amended to read:

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

25 A. As nearly as practical, an amount equal to at

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1 least fifty percent of the gross annual revenues from the sale
2 of lottery tickets shall be returned to the public in the form
3 of lottery prizes.

4 B. The authority shall transmit all net revenues to
5 the state treasurer who shall deposit sixty percent of the
6 revenues in the lottery public school capital [~~outlay~~] fund for
7 expenditure pursuant to the provisions of the Public School
8 Capital [~~Outlay~~] Improvements Act and the Technology for
9 Education Act and forty percent in the lottery tuition fund.
10 Estimated net revenues shall be transmitted monthly to the state
11 treasurer for deposit in the funds, provided the total amount of
12 annual net revenues for the fiscal year shall be transmitted no
13 later than August 1 [~~each~~] of the following fiscal year.

14 C. In determining net revenues, operating expenses
15 of the lottery include all costs incurred in the operation and
16 administration of the lottery and all costs resulting from any
17 contracts entered into for the purchase or lease of goods or
18 services required by the lottery, including [~~but not limited to~~]
19 the costs of supplies, materials, tickets, independent audit
20 services, independent studies, data transmission, advertising,
21 promotion, incentives, public relations, ~~communications,~~
22 commissions paid to lottery retailers, printing, distribution of
23 tickets, purchases of annuities or investments to be used to pay
24 future installments of winning lottery tickets, debt service and
25 payment of any revenue bonds issued, contingency reserves,

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1 transfers to the reserve fund and any other necessary costs
2 incurred in carrying out the provisions of the New Mexico
3 Lottery Act.

4 D. An amount up to two percent of the gross annual
5 revenues shall be set aside as a reserve fund to cover bonuses
6 and incentive plans for lottery retailers, special promotions
7 for retailers, purchasing special promotional giveaways,
8 sponsoring special promotional events, compulsive gambling
9 rehabilitation and such other purposes as the board deems
10 necessary to maintain the integrity and meet the revenue goals
11 of the lottery. The board shall report annually to the governor
12 and each regular session of the legislature on the use of the
13 money in the reserve fund. Any balance in excess of fifty
14 thousand dollars (\$50,000) at the end of any fiscal year shall
15 be transferred to the lottery tuition fund."

16 Section 3. Section 6-24-27 NMSA 1978 (being Laws 1995,
17 Chapter 155, Section 27) is amended to read:

18 "6-24-27. REVENUE AND BUDGET REPORTS--RECORDS--INDEPENDENT
19 AUDITS.--

20 A. The board shall:

21 (1) submit quarterly and annual reports to the
22 governor, legislative finance committee and lottery oversight
23 committee disclosing the total lottery revenue, prizes,
24 commissions, ticket costs, operating expenses and net revenues
25 of the authority during the reporting period and, in the annual

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1 report, describe the organizational structure of the authority
2 and summarize the functions performed by each organizational
3 division within the authority;

4 (2) maintain weekly or more frequent records of
5 lottery transactions, including the distribution of lottery
6 tickets to retailers, revenue received, claims for prizes,
7 prizes paid, prizes forfeited and other financial transactions
8 of the authority; and

9 (3) use the state government fiscal year.

10 B. The board shall provide, for informational
11 purposes, to the department of finance and administration and
12 the legislative finance committee, by December 1 of each year, a
13 copy of the annual proposed operating budget for the authority
14 for the succeeding fiscal year. This budget proposal shall also
15 be accompanied by an estimate of the net revenues to be
16 deposited in the [~~public school capital outlay fund~~] lottery
17 public school capital fund and the lottery tuition fund for the
18 current and succeeding fiscal years.

19 C. The board shall contract with an independent
20 certified public accountant or firm for an annual financial
21 audit of the authority. The certified public accountant or firm
22 shall have no financial interest in any lottery contractor. The
23 certified public accountant or firm shall present an audit
24 report no later than March 1 for the prior fiscal year. The
25 certified public accountant or firm shall evaluate the internal

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1 auditing controls in effect during the audit period. The cost
2 of this financial audit shall be an operating expense of the
3 authority. The legislative finance committee may, at any time,
4 order an audit of any phase of the operations of the authority,
5 at the expense of the authority, and shall receive a copy of the
6 annual independent financial audit. A copy of any audit
7 performed by the certified public accountant or ordered by the
8 legislative finance committee shall be transmitted to the
9 governor, the speaker of the house of representatives, the
10 president pro tempore of the senate, the legislative finance
11 committee and the lottery oversight committee."

12 Section 4. Section 22-15A-9 NMSA 1978 (being Laws 1994,
13 Chapter 96, Section 9) is amended to read:

14 "22-15A-9. EDUCATIONAL TECHNOLOGY FUND-- DISTRIBUTION. --

15 A. Upon annual review and approval of a school
16 district's educational technology plan, the bureau shall
17 determine a separate distribution from the educational
18 technology fund for each school district.

19 B. On or before July 31 of each year, the bureau
20 shall distribute money in the educational technology fund
21 directly to each school district in an amount equal to ninety
22 percent of the district's estimated entitlement as determined by
23 the projected membership for the school year. A school
24 district's entitlement is that portion of the total amount of
25 the annual appropriation that the projected membership bears to

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1 the projected membership of the state. Kindergarten membership
2 shall be calculated on a one-half full-time equivalent basis.

3 C. On or before January 30 of each year, the bureau
4 shall recompute each entitlement using the final funded
5 membership for that year and shall allocate the balance of the
6 annual appropriation adjusting for any over- or under-projection
7 of membership.

8 D. Any school district receiving funding pursuant to
9 the Technology for Education Act is responsible for the
10 purchase, distribution, use and maintenance of educational
11 technology.

12 E. As used in this section:

13 (1) "annual appropriation" means for a fiscal
14 year the sum of appropriations to the educational technology
15 fund for the fiscal year and state lottery revenues distributed
16 to the fund in that fiscal year; and

17 (2) "membership" means the total enrollment of
18 qualified students, as defined in the Public School Finance Act,
19 on the current roll of class or school on a specified day. The
20 current roll is established by the addition of original entries
21 and re-entries minus withdrawals. Withdrawal of students, in
22 addition to students formally withdrawn from the public school,
23 includes students absent from the public school for as many as
24 ten consecutive school days."

25 Section 5. Section 22-25-9 NMSA 1978 (being Laws 1975

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1 (S.S.), Chapter 5, Section 9, as amended by Laws 1988, Chapter
2 64, Section 44 and also by Laws 1988, Chapter 66, Section 2) is
3 amended to read:

4 "22-25-9. STATE DISTRIBUTION TO DISTRICT IMPOSING TAX
5 UNDER CERTAIN CIRCUMSTANCES. --

6 A. The ~~[director]~~ state superintendent shall
7 distribute to any school district that has imposed a tax under
8 the Public School Capital Improvements Act an amount from the
9 public school capital improvements fund that is equal to the
10 amount by which the revenue estimated to be received from the
11 imposed tax, at the rate certified by the department of finance
12 and administration in accordance with Section 22-25-7 NMSA 1978,
13 assuming a one hundred percent collection rate, is less than an
14 amount calculated by multiplying the district's first forty-
15 days' total program units times thirty-five dollars (\$35.00) and
16 further multiplying the product obtained by the tax rate
17 approved by the qualified electors in the most recent election
18 on the question of imposing a tax under the Public School
19 Capital Improvements Act. The distribution shall be made each
20 year that the tax is imposed in accordance with Section 22-25-7
21 NMSA 1978; provided that no state distribution from the public
22 school capital improvements fund may be used for capital
23 improvements to any administration building of a school
24 district. In the event that sufficient funds are not available
25 in the public school capital improvements fund to make the state

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1 distribution provided for in this ~~[section]~~ subsection, the
2 dollar per program unit figure shall be reduced as necessary.

3 B. After calculating the amounts to be distributed
4 to school districts in Subsection A of this section, the state
5 superintendent shall make the same calculation for the same
6 school districts using forty-five dollars (\$45.00) as the dollar
7 per program unit multiplier. Based on that calculation, the
8 state superintendent shall make a distribution from the lottery
9 public school capital fund to any school district that qualifies
10 for a distribution in an amount that is equal to the amount of
11 the difference between using thirty-five dollars (\$35.00) and
12 forty-five dollars (\$45.00) as the multiplier in the calculation
13 in Subsection A of this section. This amount shall be
14 distributed to the school district at the same time as and
15 subject to the provisions of the distributions in Subsection A
16 of this section. In the event that sufficient funds are not
17 available from the balance on August 1 in the lottery public
18 school capital fund to make the distributions provided for in
19 this subsection, the dollar per program unit multiplier shall be
20 reduced as necessary."

21 Section 6. EFFECTIVE DATE. -- The effective date of the
22 provisions of this act is July 1, 1997.