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HOUSE BILL 256

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
2000**

INTRODUCED BY
Joe Nestor Chavez

AN ACT

RELATING TO REVENUE; CHANGING THE DISTRIBUTION OF LOTTERY
REVENUE TO INCREASE MONEY AVAILABLE FOR LOTTERY SCHOLARSHIPS;
DISTRIBUTING GAMING TAX REVENUE TO THE PUBLIC SCHOOL CAPITAL
OUTLAY FUND; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 6-24-3 NMSA 1978 (being Laws 1995,
Chapter 155, Section 3) is amended to read:

"6-24-3. PURPOSES.--The purposes of the New Mexico
Lottery Act are to:

A. establish and provide for the conduct of a fair
and honest lottery for the entertainment of the public; and

B. provide the maximum amount of revenues, without
imposing additional taxes or using other state revenues, for

~~[the purposes of:~~

~~(1) funding critical capital outlay needs of~~

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1 ~~the public schools; and~~

2 (2)] providing tuition assistance to
3 resident undergraduates at New Mexico post-secondary
4 educational institutions."

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

7 "6-24-23. LOTTERY TUITION FUND CREATED--PURPOSE.--

8 A. The "lottery tuition fund" is created in the
9 state treasury. The fund shall be administered by the
10 commission on higher education. Earnings from investment of
11 the fund shall accrue to the credit of the fund. Any balance
12 in the fund at the end of any fiscal year shall remain in the
13 fund for appropriation by the legislature as provided in this
14 section.

15 B. ~~[After appropriation, if any, by the~~
16 ~~legislature for scholarships pursuant to Subsection C of~~
17 ~~Section 21-1-2 NMSA 1978]~~ The [remaining] money in the
18 lottery tuition fund is appropriated to the commission on
19 higher education for distribution to New Mexico's public
20 post-secondary educational institutions to provide tuition
21 assistance for New Mexico resident undergraduates as provided
22 by law."

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

25 "6-24-24. DISPOSITION OF REVENUE.--

 A. As nearly as [practical] practicable, an amount
equal to at least fifty percent of the gross annual revenues

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1 from the sale of lottery tickets shall be returned to the
2 public in the form of lottery prizes.

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

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

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Lottery Act.

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

Section 4. Section 6-24-27 NMSA 1978 (being Laws 1995, Chapter 155, Section 27) is amended to read:

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

A. The board shall:

(1) submit quarterly and annual reports to the governor, legislative finance committee and lottery oversight committee disclosing the total lottery revenue, prizes, commissions, ticket costs, operating expenses and net revenues of the authority during the reporting period and, in the annual report, describe the organizational structure of the authority and summarize the functions performed by each organizational division within the authority;

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

6 (3) use the state government fiscal year.

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

16 C. The board shall contract with an independent
17 certified public accountant or firm for an annual financial
18 audit of the authority. The certified public accountant or
19 firm shall have no financial interest in any lottery
20 contractor. The certified public accountant or firm shall
21 present an audit report no later than March 1 for the prior
22 fiscal year. The certified public accountant or firm shall
23 evaluate the internal auditing controls in effect during the
24 audit period. The cost of this financial audit shall be an
25 operating expense of the authority. The legislative finance
committee may, at any time, order an audit of any phase of
the operations of the authority, at the expense of the

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1 authority, and shall receive a copy of the annual independent
2 financial audit. A copy of any audit performed by the
3 certified public accountant or ordered by the legislative
4 finance committee shall be transmitted to the governor, the
5 speaker of the house of representatives, the president pro
6 tempore of the senate, the legislative finance committee and
7 the lottery oversight committee."

8 Section 5. A new section of the Tax Administration Act
9 is enacted to read:

10 "[NEW MATERIAL] DISTRIBUTION OF GAMING TAX REVENUE TO
11 LOTTERY TUITION FUND.--A distribution pursuant to Section
12 7-1-6.1 NMSA 1978 shall be made to the public school capital
13 outlay fund in an amount equal to the net receipts
14 attributable to the gaming tax."

15 Section 6. Section 21-1-2 NMSA 1978 (being Laws 1970,
16 Chapter 9, Section 1, as amended) is amended to read:

17 "21-1-2. MATRICULATION AND TUITION FEES.--

18 A. Except as otherwise provided in this section
19 and in Section 21-1-4.3 NMSA 1978, the boards of regents of
20 the university of New Mexico, New Mexico state university,
21 New Mexico highlands university, western New Mexico
22 university, eastern New Mexico university, New Mexico
23 military institute, New Mexico institute of mining and
24 technology and New Mexico junior college shall establish and
25 charge matriculation fees and tuition fees as follows:

(1) each student shall be charged a
matriculation fee of not less than five dollars (\$5.00) upon

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1 enrolling in each institution;

2 (2) each student who is a resident of New
3 Mexico shall be charged a tuition fee of not less than twenty
4 dollars (\$20.00) a year;

5 (3) each student who is not a resident of
6 New Mexico shall be charged a tuition fee of not less than
7 fifty dollars (\$50.00) a year;

8 (4) each student shall be charged a tuition
9 fee of not less than ten dollars (\$10.00) for each summer
10 session; and

11 (5) each student may be charged a tuition
12 fee for extension courses.

13 B. Except as otherwise provided in this section
14 and in Section 21-1-4.3 NMSA 1978, the board of regents of
15 northern New Mexico state school shall establish and charge
16 each student a matriculation fee and a tuition fee.

17 C. The board of regents of each institution may
18 establish and grant gratis scholarships to students who are
19 residents of New Mexico in an amount not to exceed the
20 matriculation fee or tuition and fees, or both. [~~Except as~~
21 ~~provided~~] These scholarships are in addition to the lottery
22 tuition scholarships authorized in Section 21-1-4.3 NMSA
23 1978. The number of scholarships established and granted
24 pursuant to this subsection shall not exceed three percent of
25 the preceding fall semester enrollment in each institution
and shall not be established and granted for summer sessions.
The president of each institution shall select and recommend

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1 to the board of regents of his institution, as recipients of
2 scholarships, students who possess good moral character and
3 satisfactory initiative, scholastic standing and personality.
4 At least thirty-three and one-third percent of the gratis
5 scholarships established and granted by each board of regents
6 each year shall be granted on the basis of financial need.

7 D. The board of regents of each institution set
8 out in this subsection may establish and grant, in addition
9 to those scholarships provided for in Subsection C of this
10 section, athletic scholarships for tuition and fees. In no
11 event shall the board of regents of any institution be
12 allowed to award scholarships for tuition and fees for more
13 than the number of athletic scholarships set out in this
14 subsection and in no event shall more than seventy-five
15 percent of the scholarships granted be for out-of-state
16 residents:

17 (1) the board of regents of the university
18 of New Mexico may grant up to two hundred ninety-three
19 athletic scholarships;

20 (2) the board of regents of New Mexico state
21 university may grant up to two hundred seventy athletic
22 scholarships;

23 (3) the boards of regents of New Mexico
24 highlands university, eastern New Mexico university and
25 western New Mexico university may each grant up to one
hundred forty athletic scholarships; and

(4) the board of regents of New Mexico

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1 junior college may grant up to fifty-two athletic
2 scholarships.

3 E. In the event that the number of athletic
4 scholarships exceeds the number of athletic scholarships
5 permitted that institution by regulations and bylaws of the
6 national collegiate athletic association or the national
7 association of intercollegiate athletics of which that
8 institution is a member, the appropriate board of regents
9 shall reduce the number of authorized tuition scholarships to
10 comply with association rules and regulations.

11 F. Matriculation fees and tuition fees shall be
12 fixed and made payable as directed by the board of regents of
13 each institution, collected by the officers of each
14 institution and accounted for as are other funds of the
15 institutions. Matriculation fees shall be charged only once
16 for each institution in which a student enrolls."

17 Section 7. EFFECTIVE DATE.--The effective date of the
18 provisions of this act is July 1, 2000.