

1 HOUSE BILL 441

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 Jason C. Harper and Matthew McQueen

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10 AN ACT

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

21
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

25 "6-24-6. POWERS OF THE AUTHORITY.--

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

7 (1) sue and be sued;

8 (2) adopt and alter a seal;

9 (3) adopt, amend and repeal bylaws, rules,
10 policies and procedures for the conduct of its affairs and its
11 business;

12 (4) procure or provide insurance;

13 (5) hold copyrights, trademarks and service
14 marks and enforce its rights with respect thereto;

15 (6) initiate, supervise and administer the
16 operation of the lottery in accordance with the provisions of
17 the New Mexico Lottery Act and rules, policies and procedures
18 adopted pursuant to that act;

19 (7) enter into written agreements or contracts
20 for the operation, participation in or marketing or promotion
21 of a joint lottery or joint lottery games with operators of a
22 lottery:

23 (a) in one or more other states;

24 (b) in a territory of the United States;

25 (c) in one or more political

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1 subdivisions of another state or territory of the United
2 States;

3 (d) in a sovereign nation;

4 (e) in an Indian nation, tribe or pueblo
5 located within the United States; or

6 (f) legally operated outside of the
7 United States;

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

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

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

21 (11) administer oaths, take depositions, issue
22 subpoenas and compel the attendance of witnesses and the
23 production of books, papers, documents and other evidence
24 relative to any investigation or proceeding conducted by the
25 authority;

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

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

20 (14) enter into contracts or agreements with
21 state, local or federal law enforcement agencies or private
22 investigators or other persons for the performance of law
23 enforcement, background investigations and security checks;

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

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

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

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

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

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

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

22 "6-24-21. DRAWINGS FOR AND PAYMENT OF PRIZES--UNCLAIMED
23 PRIZES--APPLICABILITY OF TAXATION.--

24 A. All lottery prize drawings shall be open to the
25 public. If the prior written approval of the chief executive

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

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

22 C. The authority shall adopt rules, policies and
23 procedures to conduct fair and equitable drawings and establish
24 a system of verifying the validity of tickets claimed to win
25 prizes and to effect payment of such prizes; provided that:

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

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

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

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

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

23 (6) until a signature or mark is placed on a
24 ticket in the area designated for signature, a ticket is owned
25 by the bearer of the ticket, but after a signature or mark is

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1 placed on a ticket in the area designated for signature, a
2 ticket is owned by the person whose signature or mark appears,
3 and that person is entitled to any prize attributable to the
4 owner; and

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

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

9 "6-24-24. DISPOSITION OF REVENUE.--

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

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

22 C. Operating expenses of the lottery include all
23 costs incurred in the operation and administration of the
24 lottery and all costs resulting from any contracts entered into
25 for the purchase or lease of goods or services required by the

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1 lottery, including the costs of supplies, materials, tickets,
2 independent audit services, independent studies, data
3 transmission, advertising, promotion, incentives, public
4 relations, communications, commissions paid to lottery
5 retailers, printing, distribution of tickets, purchases of
6 annuities or investments to be used to pay future installments
7 of winning lottery tickets, debt service and payment of any
8 revenue bonds issued, contingency reserves, transfers to the
9 reserve fund and any other necessary costs incurred in carrying
10 out the provisions of the New Mexico Lottery Act."

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

13 "[NEW MATERIAL] PROHIBITIONS.--

14 A. The authority is prohibited from:

- 15 (1) offering any style of video lottery game;
16 (2) offering any sort of gaming on a mobile
17 phone;
18 (3) any type of sports betting or betting on
19 other real events;
20 (4) selling lottery tickets through a self-
21 service device that is part of or shares a display with or is
22 adjacent to a retail petroleum dispenser; or
23 (5) selling lottery tickets through a self-
24 service device that is part of or shares a display with an
25 automated teller machine.

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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."