

**As Introduced**

**131st General Assembly**

**Regular Session**

**2015-2016**

**H. B. No. 44**

**Representative Gerberry  
Cosponsors: Representative Lepore-Hagan**

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**A BILL**

To amend section 3770.06 and to enact section 1  
3317.54 of the Revised Code to require that a 2  
portion of lottery profits be distributed 3  
annually on a per pupil basis to public and 4  
chartered nonpublic schools. 5

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 3770.06 be amended and section 6  
3317.54 of the Revised Code be enacted to read as follows: 7

**Sec. 3317.54.** (A) As used in this section: 8

(1) "Chartered nonpublic school" has the same meaning as 9  
in section 3310.01 of the Revised Code. 10

(2) "Per pupil distribution amount" means the excess 11  
lottery profits amount, determined under division (B) (2) (b) of 12  
section 3770.06 of the Revised Code, divided by the sum of the 13  
student counts for all entities for which student counts are 14  
prescribed by division (A) (3) of this section. 15

(3) "Student count" means: 16

(a) For a city, exempted village, or local school 17

district, the district's formula ADM for the previous fiscal 18  
year, minus the following: 19

(i) The number of students included in the district's 20  
formula ADM who were enrolled in a community school in the 21  
previous fiscal year, as determined by the department of 22  
education using the information compiled under division (A) (2) 23  
(a) of section 3317.03 of the Revised Code; 24

(ii) The number of students included in the district's 25  
formula ADM who were enrolled in an alternative school under the 26  
pilot project scholarship program in the previous fiscal year, 27  
as determined by the department using the information compiled 28  
under division (A) (2) (b) of that section; 29

(iii) The number of students included in the district's 30  
formula ADM who were enrolled in a chartered nonpublic school 31  
under the educational choice scholarship pilot program in the 32  
previous fiscal year, as determined by the department using the 33  
information compiled under division (A) (2) (g) of that section; 34

(iv) The number of students included in the district's 35  
formula ADM who were enrolled in an alternative public provider 36  
or registered private provider under either the autism 37  
scholarship program or the Jon Peterson special needs 38  
scholarship program in the previous fiscal year, as determined 39  
by the department using the information compiled under division 40  
(A) (2) (h) of that section; 41

(v) The number of students included in the district's 42  
formula ADM who were enrolled in a science, technology, 43  
engineering, and mathematics school in the previous fiscal year, 44  
as determined by the department using the information compiled 45  
under division (A) (2) (i) of that section. 46

(b) For a joint vocational school district, the district's 47  
formula ADM for the previous fiscal year; 48

(c) For a community school established under Chapter 3314. 49  
of the Revised Code, the number of students reported for the 50  
previous fiscal year under divisions (B)(2)(a) and (b) of 51  
section 3314.08 of the Revised Code, minus the number of the 52  
school's students who also were enrolled in a joint vocational 53  
school district as certified under division (D)(1) of section 54  
3317.03 of the Revised Code, all on an FTE basis and as verified 55  
by the superintendent of public instruction; 56

(d) For a STEM school established under Chapter 3326. of 57  
the Revised Code, the number of students reported for the 58  
previous fiscal year under division (A) of section 3326.32 of 59  
the Revised Code, minus the number of the school's students who 60  
also were enrolled in a joint vocational school district as 61  
certified under division (D)(1) of section 3317.03 of the 62  
Revised Code, all on an FTE basis and as verified by the 63  
superintendent of public instruction; 64

(e) For a chartered nonpublic school, the number of 65  
students enrolled in the school during the previous fiscal year 66  
as reported to the department of education in the manner and by 67  
the deadline established by the department of education for 68  
purposes of this section. A chartered nonpublic school's 69  
"student count" shall be determined on an FTE basis and shall 70  
include students enrolled in the school with a scholarship under 71  
sections 3313.974 to 3313.979 or Chapter 3310. of the Revised 72  
Code. 73

(B) On or before August 1, 2017, and on or before the 74  
first day of August of each fiscal year thereafter, the 75  
department shall pay to each entity for which a separate student 76

count is prescribed by division (A) (3) (a), (b), (c), (d), or (e) 77  
of this section an amount equal to the entity's student count 78  
multiplied by the per pupil distribution amount. The amount paid 79  
to an entity under this section is in addition to any other 80  
amount calculated and paid to the entity under this chapter or 81  
Chapter 3310., 3313., 3314., or 3326. of the Revised Code. 82

(C) The amount paid to an entity under this section may be 83  
used for any lawful purpose, except for the payment of salaries 84  
and benefits, in support of the entity's elementary, secondary, 85  
vocational, or special education programs. 86

**Sec. 3770.06.** (A) There is hereby created the state 87  
lottery gross revenue fund, which shall be in the custody of the 88  
treasurer of state but shall not be part of the state treasury. 89  
All gross revenues received from sales of lottery tickets, 90  
fines, fees, and related proceeds in connection with the 91  
statewide lottery and all gross proceeds from statewide joint 92  
lottery games shall be deposited into the fund. The treasurer of 93  
state shall invest any portion of the fund not needed for 94  
immediate use in the same manner as, and subject to all 95  
provisions of law with respect to the investment of, state 96  
funds. The treasurer of state shall disburse money from the fund 97  
on order of the director of the state lottery commission or the 98  
director's designee. 99

Except for gross proceeds from statewide joint lottery 100  
games, all revenues of the state lottery gross revenue fund that 101  
are not paid to holders of winning lottery tickets, that are not 102  
required to meet short-term prize liabilities, that are not 103  
credited to lottery sales agents in the form of bonuses, 104  
commissions, or reimbursements, that are not paid to financial 105  
institutions to reimburse those institutions for sales agent 106

nonsufficient funds, and that are collected from sales agents 107  
for remittance to insurers under contract to provide sales agent 108  
bonding services shall be transferred to the state lottery fund, 109  
which is hereby created in the state treasury. In addition, all 110  
revenues of the state lottery gross revenue fund that represent 111  
the gross proceeds from the statewide joint lottery games and 112  
that are not paid to holders of winning lottery tickets, that 113  
are not required to meet short-term prize liabilities, that are 114  
not credited to lottery sales agents in the form of bonuses, 115  
commissions, or reimbursements, and that are not necessary to 116  
cover operating expenses associated with those games or to 117  
otherwise comply with the agreements signed by the governor that 118  
the director enters into under division (J) of section 3770.02 119  
of the Revised Code or the rules the commission adopts under 120  
division (B) (5) of section 3770.03 of the Revised Code shall be 121  
transferred to the state lottery fund. All investment earnings 122  
of the fund shall be credited to the fund. Moneys shall be 123  
disbursed from the fund pursuant to vouchers approved by the 124  
director. Total disbursements for monetary prize awards to 125  
holders of winning lottery tickets in connection with the 126  
statewide lottery and purchases of goods and services awarded as 127  
prizes to holders of winning lottery tickets shall be of an 128  
amount equal to at least fifty per cent of the total revenue 129  
accruing from the sale of lottery tickets. 130

(B) (1) Pursuant to Section 6 of Article XV, Ohio 131  
Constitution, there is hereby established in the state treasury 132  
the lottery profits education fund. Whenever, in the judgment of 133  
the director of the state lottery commission, the amount to the 134  
credit of the state lottery fund that does not represent 135  
proceeds from statewide joint lottery games is in excess of that 136  
needed to meet the maturing obligations of the commission and as 137

working capital for its further operations, the director of the 138  
state lottery commission shall recommend the amount of the 139  
excess to be transferred to the lottery profits education fund, 140  
and the director of budget and management may transfer the 141  
excess to the lottery profits education fund in connection with 142  
the statewide lottery. In addition, whenever, in the judgment of 143  
the director of the state lottery commission, the amount to the 144  
credit of the state lottery fund that represents proceeds from 145  
statewide joint lottery games equals the entire net proceeds of 146  
those games as described in division (B) (5) of section 3770.03 147  
of the Revised Code and the rules adopted under that division, 148  
the director of the state lottery commission shall recommend the 149  
amount of the proceeds to be transferred to the lottery profits 150  
education fund, and the director of budget and management may 151  
transfer those proceeds to the lottery profits education fund. 152  
Investment earnings of the lottery profits education fund shall 153  
be credited to the fund. 154

~~The~~ Subject to division (B) (2) of this section, the 155  
lottery profits education fund shall be used solely for the 156  
support of elementary, secondary, vocational, and special 157  
education programs as determined in appropriations made by the 158  
general assembly, or as provided in applicable bond proceedings 159  
for the payment of debt service on obligations issued to pay 160  
costs of capital facilities, including those for a system of 161  
common schools throughout the state pursuant to section 2n of 162  
Article VIII, Ohio Constitution. When determining the 163  
availability of money in the lottery profits education fund, the 164  
director of budget and management may consider all balances and 165  
estimated revenues of the fund. 166

(2) (a) As used in this division, "base lottery profits 167  
amount" means the total amount appropriated from the lottery 168

profits education fund group for fiscal year 2017. 169

(b) On or before July 15, 2017, and on or before the 170  
fifteenth day of July of each fiscal year thereafter, the 171  
director of budget and management shall certify to the 172  
superintendent of public instruction the amount by which lottery 173  
profit transfers into the lottery profits education fund during 174  
the previous fiscal year exceeded the sum of (i) the base 175  
lottery profits amount plus (ii) the amount paid from the 176  
lottery profits education fund during the previous fiscal year 177  
for debt service on obligations issued to pay costs of capital 178  
facilities, including those for a system of common schools 179  
throughout the state pursuant to section 2n of Article VIII, 180  
Ohio Constitution. That excess amount is the "excess lottery 181  
profits amount" that is available for distribution in the 182  
current fiscal year. The department of education shall 183  
distribute that excess lottery profits amount during the current 184  
fiscal year in accordance with section 3317.54 of the Revised 185  
Code. 186

(C) There is hereby established in the state treasury the 187  
deferred prizes trust fund. With the approval of the director of 188  
budget and management, an amount sufficient to fund annuity 189  
prizes shall be transferred from the state lottery fund and 190  
credited to the trust fund. The treasurer of state shall credit 191  
all earnings arising from investments purchased under this 192  
division to the trust fund. Within sixty days after the end of 193  
each fiscal year, the treasurer of state shall certify to the 194  
director of budget and management whether the actuarial amount 195  
of the trust fund is sufficient over the fund's life for 196  
continued funding of all remaining deferred prize liabilities as 197  
of the last day of the fiscal year just ended. Also, within that 198  
sixty days, the director of budget and management shall certify 199

the amount of investment earnings necessary to have been 200  
credited to the trust fund during the fiscal year just ending to 201  
provide for such continued funding of deferred prizes. Any 202  
earnings credited in excess of the latter certified amount shall 203  
be transferred to the lottery profits education fund. 204

To provide all or a part of the amounts necessary to fund 205  
deferred prizes awarded by the commission in connection with the 206  
statewide lottery, the treasurer of state, in consultation with 207  
the commission, may invest moneys contained in the deferred 208  
prizes trust fund which represents proceeds from the statewide 209  
lottery in obligations of the type permitted for the investment 210  
of state funds but whose maturities are thirty years or less. 211  
Notwithstanding the requirements of any other section of the 212  
Revised Code, to provide all or part of the amounts necessary to 213  
fund deferred prizes awarded by the commission in connection 214  
with statewide joint lottery games, the treasurer of state, in 215  
consultation with the commission, may invest moneys in the trust 216  
fund which represent proceeds derived from the statewide joint 217  
lottery games in accordance with the rules the commission adopts 218  
under division (B) (5) of section 3770.03 of the Revised Code. 219  
Investments of the trust fund are not subject to the provisions 220  
of division (A) (10) of section 135.143 of the Revised Code 221  
limiting to twenty-five per cent the amount of the state's total 222  
average portfolio that may be invested in debt interests other 223  
than commercial paper and limiting to five per cent the amount 224  
that may be invested in debt interests, including commercial 225  
paper, of a single issuer. 226

All purchases made under this division shall be effected 227  
on a delivery versus payment method and shall be in the custody 228  
of the treasurer of state. 229



The treasurer of state may retain an investment advisor, 230  
if necessary. The commission shall pay any costs incurred by the 231  
treasurer of state in retaining an investment advisor. 232

(D) The auditor of state shall conduct annual audits of 233  
all funds and any other audits as the auditor of state or the 234  
general assembly considers necessary. The auditor of state may 235  
examine all records, files, and other documents of the 236  
commission, and records of lottery sales agents that pertain to 237  
their activities as agents, for purposes of conducting 238  
authorized audits. 239

(E) The state lottery commission shall establish an 240  
internal audit plan before the beginning of each fiscal year, 241  
subject to the approval of the office of internal audit in the 242  
office of budget and management. At the end of each fiscal year, 243  
the commission shall prepare and submit an annual report to the 244  
office of internal audit for the office's review and approval, 245  
specifying the internal audit work completed by the end of that 246  
fiscal year and reporting on compliance with the annual internal 247  
audit plan. 248

(F) Whenever, in the judgment of the director of budget 249  
and management, an amount of net state lottery proceeds is 250  
necessary to be applied to the payment of debt service on 251  
obligations, all as defined in sections 151.01 and 151.03 of the 252  
Revised Code, the director shall transfer that amount directly 253  
from the state lottery fund or from the lottery profits 254  
education fund to the bond service fund defined in those 255  
sections. The provisions of this division are subject to any 256  
prior pledges or obligation of those amounts to the payment of 257  
bond service charges as defined in division (C) of section 258  
3318.21 of the Revised Code, ~~as referred to in division (B) of~~ 259

~~this section.~~

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**Section 2.** That existing section 3770.06 of the Revised  
Code is hereby repealed.

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