

As Introduced

**128th General Assembly
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H. B. No. 41

Representative Gerberry

**Cosponsors: Representatives Hagan, Dyer, Harris, Newcomb, Okey, Yuko,
Dodd, Stebelton, Otterman, Williams, S.**

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A B I L L

To amend section 3770.06 and to enact section 1
3317.0212 of the Revised Code to require that a 2
portion of lottery profits be distributed annually 3
on a per pupil basis to public and chartered 4
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
3317.0212 of the Revised Code be enacted to read as follows: 7

Sec. 3317.0212. (A) As used in this section: 8

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

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

(3) "Student count" means: 16

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

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

(i) The number of students included in the district's formula 20
ADM who were enrolled in a community school, as certified under 21
division (A)(2)(a) of section 3317.03 of the Revised Code and 22
verified by the superintendent of public instruction; 23

(ii) The number of students included in the district's 24
formula ADM who were enrolled in an alternative school under the 25
pilot project scholarship program, as certified under division 26
(A)(2)(b) of that section and verified by the superintendent of 27
public instruction; 28

(iii) The number of students included in the district's 29
formula ADM who were enrolled in a chartered nonpublic school 30
under the educational choice scholarship pilot program, as 31
certified under division (A)(2)(g) of that section and verified by 32
the superintendent of public instruction; 33

(iv) The number of students included in the district's 34
formula ADM who were enrolled in an alternative public provider or 35
registered private provider under the autism scholarship program, 36
as certified under division (A)(2)(h) of that section and verified 37
by the superintendent of public instruction; 38

(v) The number of students included in the district's formula 39
ADM who were enrolled in a science, technology, engineering, and 40
mathematics school, as certified under division (A)(2)(i) of that 41
section and verified by the superintendent of public instruction. 42

(b) For a joint vocational school district, the district's 43
formula ADM for the previous fiscal year; 44

(c) For a community school established under Chapter 3314. of 45
the Revised Code, the number of students reported for the previous 46
fiscal year under divisions (B)(2)(a) and (b) of section 3314.08 47
of the Revised Code, minus the number of the school's students who 48

also were enrolled in a joint vocational school district as 49
certified under division (D)(1) of section 3317.03 of the Revised 50
Code, all on an FTE basis and as verified by the superintendent of 51
public instruction; 52

(d) For a STEM school established under Chapter 3326. of the 53
Revised Code, the number of students reported for the previous 54
fiscal year under division (A) of section 3326.32 of the Revised 55
Code, minus the number of the school's students who also were 56
enrolled in a joint vocational school district as certified under 57
division (D)(1) of section 3317.03 of the Revised Code, all on an 58
FTE basis and as verified by the superintendent of public 59
instruction; 60

(e) For a chartered nonpublic school, the number of students 61
enrolled in the school during the previous fiscal year as reported 62
to the department of education in the manner and by the deadline 63
established by the department of education for purposes of this 64
section. A chartered nonpublic school's "student count" shall be 65
determined on an FTE basis and shall include students enrolled in 66
the school with a scholarship under sections 3313.974 to 3313.979 67
or Chapter 3310. of the Revised Code. 68

(B) On or before August 1, 2009, and on or before the first 69
day of August of each fiscal year thereafter, the department of 70
education shall pay to each entity for which a separate student 71
count is prescribed by division (A)(3)(a), (b), (c), (d), or (e) 72
of this section an amount equal to the entity's student count 73
multiplied by the per pupil distribution amount. The amount paid 74
to an entity under this section is in addition to any other amount 75
calculated and paid to the entity under this chapter or Chapter 76
3310., 3313., 3314., or 3326. of the Revised Code. 77

(C) The amount paid to an entity under this section may be 78
used for any lawful purpose, except for the payment of salaries 79
and benefits, in support of the entity's elementary, secondary, 80

vocational, or special education programs. 81

Sec. 3770.06. (A) There is hereby created the state lottery 82
gross revenue fund, which shall be in the custody of the treasurer 83
of state but shall not be part of the state treasury. All gross 84
revenues received from sales of lottery tickets, fines, fees, and 85
related proceeds in connection with the statewide lottery and all 86
gross proceeds from statewide joint lottery games shall be 87
deposited into the fund. The treasurer of state shall invest any 88
portion of the fund not needed for immediate use in the same 89
manner as, and subject to all provisions of law with respect to 90
the investment of, state funds. The treasurer of state shall 91
disburse money from the fund on order of the director of the state 92
lottery commission or the director's designee. 93

Except for gross proceeds from statewide joint lottery games, 94
all revenues of the state lottery gross revenue fund that are not 95
paid to holders of winning lottery tickets, that are not required 96
to meet short-term prize liabilities, that are not credited to 97
lottery sales agents in the form of bonuses, commissions, or 98
reimbursements, that are not paid to financial institutions to 99
reimburse those institutions for sales agent nonsufficient funds, 100
and that are collected from sales agents for remittance to 101
insurers under contract to provide sales agent bonding services 102
shall be transferred to the state lottery fund, which is hereby 103
created in the state treasury. In addition, all revenues of the 104
state lottery gross revenue fund that represent the gross proceeds 105
from the statewide joint lottery games and that are not paid to 106
holders of winning lottery tickets, that are not required to meet 107
short-term prize liabilities, that are not credited to lottery 108
sales agents in the form of bonuses, commissions, or 109
reimbursements, and that are not necessary to cover operating 110
expenses associated with those games or to otherwise comply with 111
the agreements signed by the governor that the director enters 112

into under division (J) of section 3770.02 of the Revised Code or 113
the rules the commission adopts under division (B)(5) of section 114
3770.03 of the Revised Code shall be transferred to the state 115
lottery fund. All investment earnings of the fund shall be 116
credited to the fund. Moneys shall be disbursed from the fund 117
pursuant to vouchers approved by the director. Total disbursements 118
for monetary prize awards to holders of winning lottery tickets in 119
connection with the statewide lottery and purchases of goods and 120
services awarded as prizes to holders of winning lottery tickets 121
shall be of an amount equal to at least fifty per cent of the 122
total revenue accruing from the sale of lottery tickets. 123

(B)(1) Pursuant to Section 6 of Article XV, Ohio 124
Constitution, there is hereby established in the state treasury 125
the lottery profits education fund. Whenever, in the judgment of 126
the director of budget and management, the amount to the credit of 127
the state lottery fund that does not represent proceeds from 128
statewide joint lottery games is in excess of that needed to meet 129
the maturing obligations of the commission and as working capital 130
for its further operations, the director shall transfer the excess 131
to the lottery profits education fund in connection with the 132
statewide lottery. In addition, whenever, in the judgment of the 133
director of budget and management, the amount to the credit of the 134
state lottery fund that represents proceeds from statewide joint 135
lottery games equals the entire net proceeds of those games as 136
described in division (B)(5) of section 3770.03 of the Revised 137
Code and the rules adopted under that division, the director shall 138
transfer those proceeds to the lottery profits education fund. 139
There shall also be credited to the fund any repayments of moneys 140
loaned from the educational excellence investment fund. Investment 141
earnings of the lottery profits education fund shall be credited 142
to the fund. 143

~~The Subject to division (B)(2) of this section, the~~ lottery 144

profits education fund shall be used solely for the support of 145
elementary, secondary, vocational, and special education programs 146
as determined in appropriations made by the general assembly, or 147
as provided in applicable bond proceedings for the payment of debt 148
service on obligations issued to pay costs of capital facilities, 149
including those for a system of common schools throughout the 150
state pursuant to section 2n of Article VIII, Ohio Constitution. 151
When determining the availability of money in the lottery profits 152
education fund, the director of budget and management may consider 153
all balances and estimated revenues of the fund. 154

(2)(a) As used in this division, "base lottery profits 155
amount" means the total amount appropriated from the lottery 156
profits education fund group for foundation funding for fiscal 157
year 2009. 158

(b) On or before July 15, 2009, and on or before the 159
fifteenth day of July of each fiscal year thereafter, the director 160
of budget and management shall certify to the superintendent of 161
public instruction the amount by which lottery profit transfers 162
into the lottery profits education fund during the previous fiscal 163
year exceeded the sum of (i) the base lottery profits amount plus 164
(ii) the amount paid from the lottery profits education fund 165
during the previous fiscal year for debt service on obligations 166
issued to pay costs of capital facilities, including those for a 167
system of common schools throughout the state pursuant to section 168
2n of Article VIII, Ohio Constitution. That excess amount is the 169
"excess lottery profits amount" that is available for distribution 170
in the current fiscal year. The department of education shall 171
distribute that excess lottery profits amount during the current 172
fiscal year in accordance with section 3317.0212 of the Revised 173
Code. 174

(C) There is hereby established in the state treasury the 175
deferred prizes trust fund. With the approval of the director of 176

budget and management, an amount sufficient to fund annuity prizes 177
shall be transferred from the state lottery fund and credited to 178
the trust fund. The treasurer of state shall credit all earnings 179
arising from investments purchased under this division to the 180
trust fund. Within sixty days after the end of each fiscal year, 181
the treasurer of state shall certify to the director of budget and 182
management whether the actuarial amount of the trust fund is 183
sufficient over the fund's life for continued funding of all 184
remaining deferred prize liabilities as of the last day of the 185
fiscal year just ended. Also, within that sixty days, the director 186
of budget and management shall certify the amount of investment 187
earnings necessary to have been credited to the trust fund during 188
the fiscal year just ending to provide for such continued funding 189
of deferred prizes. Any earnings credited in excess of the latter 190
certified amount shall be transferred to the lottery profits 191
education fund. 192

To provide all or a part of the amounts necessary to fund 193
deferred prizes awarded by the commission in connection with the 194
statewide lottery, the treasurer of state, in consultation with 195
the commission, may invest moneys contained in the deferred prizes 196
trust fund which represents proceeds from the statewide lottery in 197
obligations of the type permitted for the investment of state 198
funds but whose maturities are thirty years or less. 199
Notwithstanding the requirements of any other section of the 200
Revised Code, to provide all or part of the amounts necessary to 201
fund deferred prizes awarded by the commission in connection with 202
statewide joint lottery games, the treasurer of state, in 203
consultation with the commission, may invest moneys in the trust 204
fund which represent proceeds derived from the statewide joint 205
lottery games in accordance with the rules the commission adopts 206
under division (B)(5) of section 3770.03 of the Revised Code. 207
Investments of the trust fund are not subject to the provisions of 208
division (A)(10) of section 135.143 of the Revised Code limiting 209

to twenty-five per cent the amount of the state's total average 210
portfolio that may be invested in debt interests and limiting to 211
one-half of one per cent the amount that may be invested in debt 212
interests of a single issuer. 213

All purchases made under this division shall be effected on a 214
delivery versus payment method and shall be in the custody of the 215
treasurer of state. 216

The treasurer of state may retain an investment advisor, if 217
necessary. The commission shall pay any costs incurred by the 218
treasurer of state in retaining an investment advisor. 219

(D) The auditor of state shall conduct annual audits of all 220
funds and any other audits as the auditor of state or the general 221
assembly considers necessary. The auditor of state may examine all 222
records, files, and other documents of the commission, and records 223
of lottery sales agents that pertain to their activities as 224
agents, for purposes of conducting authorized audits. 225

The state lottery commission shall establish an internal 226
audit program before the beginning of each fiscal year, subject to 227
the approval of the auditor of state. At the end of each fiscal 228
year, the commission shall prepare and submit an annual report to 229
the auditor of state for the auditor of state's review and 230
approval, specifying the internal audit work completed by the end 231
of that fiscal year and reporting on compliance with the annual 232
internal audit program. The form and content of the report shall 233
be prescribed by the auditor of state under division (C) of 234
section 117.20 of the Revised Code. 235

(E) Whenever, in the judgment of the director of budget and 236
management, an amount of net state lottery proceeds is necessary 237
to be applied to the payment of debt service on obligations, all 238
as defined in sections 151.01 and 151.03 of the Revised Code, the 239
director shall transfer that amount directly from the state 240

lottery fund or from the lottery profits education fund to the 241
bond service fund defined in those sections. The provisions of 242
this division are subject to any prior pledges or obligation of 243
those amounts to the payment of bond service charges as defined in 244
division (C) of section 3318.21 of the Revised Code, ~~as referred~~ 245
~~to in division (B) of this section.~~ 246

Section 2. That existing section 3770.06 of the Revised Code 247
is hereby repealed. 248