

## Assembly Bill No. 142

### CHAPTER 13

An act to amend, repeal, and add Sections 8880.4, 8880.63, and 8880.64 of, and to add and repeal Section 8880.4.5 of, the Government Code, relating to the California State Lottery, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 8, 2010. Filed with  
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#### LEGISLATIVE COUNSEL'S DIGEST

AB 142, Hayashi. California State Lottery.

(1) The California State Lottery Act of 1984, enacted by initiative, authorizes a California State Lottery and provides for its operation and administration by the California State Lottery Commission and the Director of the California State Lottery, with certain limitations. The act requires that not less than 84% of the total annual revenues from the sale of state lottery tickets or shares be returned to the public in the form of prizes and net revenues to benefit public education, and that no more than 16% of those revenues be used for expenses of the lottery. The act further specifies that, of that 84%, 50% of the total annual lottery revenues be returned to the public in the form of prizes, and that at least 34% of those revenues be allocated to the benefit of public education. The act establishes the State Lottery Fund, a continuously appropriated fund for carrying out the purposes of the act.

This bill would require revenues of the state lottery to be allocated so as to maximize the amount of funding allocated to public education, and would require that not less than 87% of the total annual revenues of the state lottery be returned to the public, and no more than 13% be used for lottery expenses. The bill would further specify that, of that 87%, not less than 50% of the total annual lottery revenues, in an amount to be determined by the commission, be returned to the public in the form of prizes. The bill would require the commission to establish the percentage to be allocated to the benefit of public education at a level that maximizes the total net revenues allocated to the benefit of public education. By changing these allocations, the bill would change the purposes for which the funds of a continuously appropriated fund may be appropriated, and thereby would make an appropriation. The bill would make other conforming changes.

This bill would require the lottery, following the end of each full fiscal year, to calculate and report to the Controller and to the Legislature the amount of total net revenues allocated to the benefit of public education from the California State Lottery Education Fund for that fiscal year. The bill would require the Controller, if in any one of the first 5 full fiscal years

after the enactment of this measure, the Controller determines that specified events occur, to notify the Legislature and the Governor, and post that notification on the Controller's Internet Web site. The bill would then provide for the repeal of the changes made by this measure on the following January 1, and the prior law to be restored. If those events do not occur, the bill would require the commission, when setting the percentage to be allocated to the benefit of public education, to ensure that net revenues allocated to public schools are at least as much as were allocated on average in the prior 5 fiscal years, and increased in proportion to any upward increases in lottery net revenues. The bill would require the Controller, at the end of the first 5 full fiscal years following enactment of this measure, to convene a lottery review group to report to the Legislature, no later than December 31 following the final fiscal year, on whether the amendments made by this measure have furthered the purposes of the California State Lottery Act of 1984 as intended.

(2) The California State Lottery Act of 1984, an initiative measure, specifies that none of its provisions may be changed except to further its purpose by a bill passed by a  $\frac{2}{3}$  vote of each house of the Legislature and signed by the Governor.

This bill would declare that it furthers the purpose of the act and would require a  $\frac{2}{3}$  vote as an amendment of that act.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 8880.4 of the Government Code is amended to read:

8880.4. Revenues of the state lottery shall be allocated so as to maximize the amount of funding allocated to public education, including from the first full fiscal year following enactment of the act adding Section 8880.4.5, as follows:

(a) Not less than 87 percent of the total annual revenues from the sale of state lottery tickets or shares shall be returned to the public in the form of prizes and net revenues to benefit public education.

(1) The commission shall determine the percentage of total annual revenues that shall be returned to the public in the form of prizes as described in this chapter, however the percentage shall not be less than 50 percent of the total revenues.

(2) (A) The percentage of the total annual revenues to be allocated to the benefit of public education, as specified in Section 8880.5, shall be established by the commission at a level that maximizes the total net revenues allocated to the benefit of public education.

(B) However, for the 1998–99 fiscal year and each fiscal year thereafter, 50 percent of any increase in the amount calculated pursuant to this

paragraph from the amount calculated in the 1997–98 fiscal year shall be allocated to school districts and community college districts for the purchase of instructional materials, on the basis of an equal amount per unit of average daily attendance, as defined by law, and through a fair and equitable distribution system across grade levels.

(3) All unclaimed prize money shall revert to the benefit of public education, as provided for in subdivision (e) of Section 8880.32.

(4) All of the interest earned upon funds held in the State Lottery Fund shall be allocated to the benefit of public education, as specified in Section 8880.5. This interest is in addition to, and shall not be considered as any part of, the total annual revenues that are required to be allocated for the benefit of public education as specified in paragraph (2).

(5) No more than 13 percent of the total annual revenues shall be allocated for payment of expenses of the lottery as described in this chapter. To the extent that expenses of the lottery are less than 13 percent of the total annual revenues, any surplus funds also shall be allocated to the benefit of public education, as specified in this section or in Section 8880.5.

(b) Funds allocated for the benefit of public education pursuant to subdivision (a) are in addition to other funds appropriated or required under existing constitutional reservations for educational purposes. No program shall have the amount appropriated to support that program reduced as a result of funds allocated pursuant to subdivision (a). Funds allocated for the benefit of public education pursuant to subdivision (a) shall not supplant funds committed for child development programs.

(c) None of the following shall be considered revenues for the purposes of this section:

(1) Revenues recorded as a result of a nonmonetary exchange. “Nonmonetary exchange” means a reciprocal transfer, in compliance with generally accepted accounting principles, between the lottery and another entity that results in the lottery acquiring assets or services and the lottery providing assets or services.

(2) Reimbursements received by the lottery for the cost of goods or services provided by the lottery that are less than or equal to the cost of the same goods or services provided by the lottery.

(d) Reimbursements received in excess of the cost of the same goods and services provided by the lottery, as specified in paragraph (2) of subdivision (c), are not a part of the total annual revenues required to be allocated for the benefit of public education, as specified in paragraph (2) of subdivision (a). However, this amount shall be allocated for the benefit of public education as specified in Section 8880.5.

(e) This section shall remain in effect only until December 31 of the year of notification from the Controller to the Legislature and the Governor that the events described in paragraphs (1) and (2) of subdivision (c) of Section 8880.4.5 have occurred, and as of that date is repealed, unless a later enacted statute, that is enacted before December 31 of that year, deletes or extends that date.

SEC. 2. Section 8880.4 is added to the Government Code, to read:

8880.4. Revenues of the state lottery shall be allocated as follows:

(a) Not less than 84 percent of the total annual revenues from the sale of state lottery tickets or shares shall be returned to the public in the form of prizes and net revenues to benefit public education.

(1) Fifty percent of the total annual revenues shall be returned to the public in the form of prizes as described in this chapter.

(2) At least 34 percent of the total annual revenues shall be allocated to the benefit of public education, as specified in Section 8880.5. However, for the 1998–99 fiscal year and each fiscal year thereafter, 50 percent of any increase in the amount calculated pursuant to this paragraph from the amount calculated in the 1997–98 fiscal year shall be allocated to school districts and community college districts for the purchase of instructional materials, on the basis of an equal amount per unit of average daily attendance, as defined by law, and through a fair and equitable distribution system across grade levels.

(3) All unclaimed prize money shall revert to the benefit of public education, as provided for in subdivision (e) of Section 8880.32.

(4) All of the interest earned upon funds held in the State Lottery Fund shall be allocated to the benefit of public education, as specified in Section 8880.5. This interest is in addition to, and shall not be considered as any part of, the 34 percent of the total annual revenues that is required to be allocated for the benefit of public education as specified in paragraph (2).

(5) No more than 16 percent of the total annual revenues shall be allocated for payment of expenses of the lottery as described in this chapter. To the extent that expenses of the lottery are less than 16 percent of the total annual revenues, any surplus funds also shall be allocated to the benefit of public education, as specified in this section or in Section 8880.5.

(b) Funds allocated for the benefit of public education pursuant to subdivision (a) are in addition to other funds appropriated or required under existing constitutional reservations for educational purposes. No program shall have the amount appropriated to support that program reduced as a result of funds allocated pursuant to subdivision (a). Funds allocated for the benefit of public education pursuant to subdivision (a) shall not supplant funds committed for child development programs.

(c) None of the following shall be considered revenues for the purposes of this section:

(1) Revenues recorded as a result of a nonmonetary exchange. “Nonmonetary exchange” means a reciprocal transfer, in compliance with generally accepted accounting principles, between the lottery and another entity that results in the lottery acquiring assets or services and the lottery providing assets or services.

(2) Reimbursements received by the lottery for the cost of goods or services provided by the lottery that are less than or equal to the cost of the same goods or services provided by the lottery.

(d) Reimbursements received in excess of the cost of the same goods and services provided by the lottery, as specified in paragraph (2) of subdivision (c), are not a part of the 34 percent of total annual revenues

required to be allocated for the benefit of public education, as specified in paragraph (2) of subdivision (a). However, this amount shall be allocated for the benefit of public education as specified in Section 8880.5.

(e) This section shall become operative on January 1 of the year following notification from the Controller to the Legislature and the Governor that the events described in paragraphs (1) and (2) of subdivision (c) of Section 8880.4.5 have occurred.

SEC. 3. Section 8880.4.5 is added to the Government Code, to read:

8880.4.5. (a) Following the end of each full fiscal year, the commission shall calculate and report to the Controller and to the Legislature the amount of total net revenues allocated to the benefit of public education from the California State Lottery Education Fund for that fiscal year.

(b) To ensure increases in lottery net revenues allocated to public education, if in any one of the first five full fiscal years after the enactment of the act adding this section, the Controller determines that both of the events described in paragraphs (1) and (2) of subdivision (c) occur, then the Controller shall notify the Legislature and the Governor, and post that notification on the Controller's Internet Web site, and on January 1 of the following year, both of the following shall occur:

(1) The amendments made to Sections 8880.4, 8880.63, and 8880.64 by the act adding this section shall become inoperative.

(2) Sections 8880.4, 8880.63, and 8880.64, as they existed prior to the effective date of the act adding this section shall become operative.

(c) No later than September 1 following each of the first five fiscal years in which the amendments made by the act adding this section are in effect, the Controller shall report to the Legislature whether either of the following occurred in the prior fiscal year:

(1) The total net revenues allocated to the benefit of public education from the California State Lottery Education Fund are less than the total net revenues allocated to the benefit of public education in the last full fiscal year prior to the enactment of the act adding this section.

(2) The annual average of total net revenues allocated to the benefit of public education from the California State Lottery Education Fund after the enactment of the act adding this section is less than the total net revenues allocated to the benefit of public education in the last full fiscal year prior to the enactment of the act adding this section, adjusted for an annual growth rate of 1.8 percent or the actual growth rate of lottery revenues since enactment of the act adding this section, whichever is greater.

(d) If the conditions specified in subdivision (c) do not occur, then in subsequent fiscal years, to ensure continued growth in lottery net revenues allocated to public education, the commission, when setting the percentage required in subparagraph (A) of paragraph (2) of subdivision (a) of Section 8880.4, shall ensure that net revenues allocated to public schools are at least as much as were allocated on average in the prior five fiscal years, and increased in proportion to any upward increases in lottery net revenues.

(e) At the end of the first five full fiscal years following enactment of the act adding this section, the Controller shall convene a lottery review

group to consist of the Controller, the Superintendent of Public Instruction, and the chairperson of the commission. The review group shall report to the Legislature, no later than December 31 following the final fiscal year, on whether the amendments made by the act adding this section have furthered the purposes of the California State Lottery Act of 1984 as intended.

(f) This section shall remain in effect only until December 31 of the year of notification from the Controller to the Legislature and the Governor that the events described in paragraphs (1) and (2) of subdivision (c) have occurred, and as of that date is repealed, unless a later enacted statute, that is enacted before December 31 of that year, deletes or extends that date.

SEC. 4. Section 8880.63 of the Government Code is amended to read:

8880.63. (a) As nearly as practical, at least 50 percent of the total projected revenue, computed on a fiscal-year basis, accruing from the sales of all lottery tickets or shares shall be apportioned for payment of prizes.

(b) This section shall remain in effect only until December 31 of the year of notification from the Controller to the Legislature and the Governor that the events described in paragraphs (1) and (2) of subdivision (c) of Section 8880.4.5 have occurred, and as of that date is repealed, unless a later enacted statute, that is enacted before December 31 of that year, deletes or extends that date.

SEC. 5. Section 8880.63 is added to the Government Code, to read:

8880.63. (a) As nearly as practical, 50 percent of the total projected revenue, computed on a fiscal-year basis, accruing from the sales of all lottery tickets or shares shall be apportioned for payment of prizes.

(b) This section shall become operative on January 1 of the year following notification from the Controller to the Legislature and the Governor that the events described in paragraphs (1) and (2) of subdivision (c) of Section 8880.4.5 have occurred.

SEC. 6. Section 8880.64 of the Government Code is amended to read:

8880.64. (a) Expenses of the lottery shall include all costs incurred in the operation and administration of the lottery and all costs resulting from any contracts entered into for the purchase or lease of goods and services required by the lottery, including, but not limited to, the costs of supplies, materials, tickets, independent audit services, independent studies, data transmission, advertising, promotion, incentives, public relations, communications, compensation paid to the lottery game retailers, bonding for lottery game retailers, printing, distribution of tickets or shares, reimbursement of costs of services provided to the lottery by other governmental entities, and for the costs of any other goods and services necessary for effectuating the purposes of this chapter. As a promotional expense, the commission may supplement the prize pool of a game or games upon its determination that a supplement will benefit the public purpose of this chapter.

(b) (1) Not more than 13 percent of the total annual revenues accruing from the sale of all lottery tickets and shares from all lottery games shall be expended for the payment of the expenses of the lottery.

(2) Expenses recorded as a result of a nonmonetary exchange shall not be considered an expense for the purposes of Section 8880.4 and this section. “Nonmonetary exchange” means a reciprocal transfer, in compliance with generally accepted accounting principles, between the lottery and another entity that results in the lottery acquiring assets or services and the lottery providing assets or services.

(c) This section shall remain in effect only until December 31 of the year of notification from the Controller to the Legislature and the Governor that the events described in paragraphs (1) and (2) of subdivision (c) of Section 8880.4.5 have occurred, and as of that date is repealed, unless a later enacted statute, that is enacted before December 31 of that year, deletes or extends that date.

SEC. 7. Section 8880.64 is added to the Government Code, to read:

8880.64. (a) Expenses of the lottery shall include all costs incurred in the operation and administration of the lottery and all costs resulting from any contracts entered into for the purchase or lease of goods and services required by the lottery, including, but not limited to, the costs of supplies, materials, tickets, independent audit services, independent studies, data transmission, advertising, promotion, incentives, public relations, communications, compensation paid to the lottery game retailers, bonding for lottery game retailers, printing, distribution of tickets or shares, reimbursement of costs of services provided to the lottery by other governmental entities, and for the costs of any other goods and services necessary for effectuating the purposes of this chapter. As a promotional expense, the commission may supplement the prize pool of a game or games upon its determination that a supplement will benefit the public purpose of this chapter.

(b) (1) Not more than 16 percent of the total annual revenues accruing from the sale of all lottery tickets and shares from all lottery games shall be expended for the payment of the expenses of the lottery.

(2) Expenses recorded as a result of a nonmonetary exchange shall not be considered an expense for the purposes of Section 8880.4 and this section. “Nonmonetary exchange” means a reciprocal transfer, in compliance with generally accepted accounting principles, between the lottery and another entity that results in the lottery acquiring assets or services and the lottery providing assets or services.

(c) This section shall become operative on January 1 of the year following notification from the Controller to the Legislature and the Governor that the events described in paragraphs (1) and (2) of subdivision (c) of Section 8880.4.5 have occurred.

SEC. 8. The Legislature finds and declares that this act furthers the purpose of the California State Lottery Act of 1984, enacted by Proposition 37 at the November 6, 1984, statewide general election, which is to maximize lottery revenues available to supplement funding for public education. In the past 10 years, lottery revenues have grown at a much lower rate than has state spending on education. The experience of other states demonstrates that increasing the share of sales revenues allocated to prizes increases

lottery ticket sales sufficient to increase the total net revenues available to the lottery's beneficiary, which in California is public education. Thus, the purpose of this act is to increase lottery net revenues available to supplement funding for public education, and to maximize the amount of the increase in total net revenues generated by the lottery that are made available to public education.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Because the state is currently in a fiscal crisis, and this act will generate much needed revenue, it is necessary that this act take effect immediately.