

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

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Susan McMurray:

This bill yanks the tax relief fund tax credit and transfers the funds that would have funded that credit to the lottery fund, thus providing additional property tax relief.

Please note, however, that this amendment raises a constitutional issue as to whether the moneys transferred from the general fund to the lottery fund may be used toward payment of the lottery and gaming credit as it is currently distributed. Under current law, the lottery and gaming credit is paid from the net proceeds of the lottery. Under article IV, section 24 (6) (a), of the constitution, these net lottery proceeds are not subject to the Uniformity Clause of article VIII, section 1, of the constitution. All other state funds distributed for property tax relief are subject to the uniformity requirement.

It is unclear whether general program revenue transferred to the lottery fund may be considered net proceeds of the lottery. A court may find that the general program revenue transferred under this amendment does not qualify as net proceeds of the lottery and thus is subject to the Uniformity Clause. As the lottery and gaming credit is not distributed uniformly under current law, if a court held that the general program revenue is subject to the Uniformity Clause, using the money transferred from the general fund toward payment of the lottery and gaming credit would be unconstitutional.

Please review this amendment carefully to make sure it achieves your intent. If you have any questions, please feel free to contact us.

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