



Susan Montee, JD, CPA
Missouri State Auditor

ELEMENTARY AND SECONDARY EDUCATION

Gaming Proceeds for Education Fund and Schools First Elementary and Secondary Education Fund

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YELLOW SHEET

Findings in the audit of the Gaming Proceeds for Education Fund and Schools First Elementary and Secondary Education Fund

Changes in Law and Voter-Approved Provisions

Legislation approved by the Missouri General Assembly in 2009 removed key components approved by Missouri voters in 2008, including the requirement to ensure the increased gaming revenues generated by Proposition A would represent additional funding for education. The results of our audit indicate the state complied with both the original and current legal provisions related to the Gaming Proceeds for Education Fund and the Schools First Elementary and Secondary Education Fund (Schools First Fund) for fiscal years 2009 and 2010. However, the state would not have been in compliance with original provisions passed by voters related to fiscal year 2011 appropriations. Had the original legal requirements passed by voters in 2008 remained in effect (and fiscal year 2011 additional gaming revenues equal or exceed 2010 amounts), it appears at least \$20.9 million more would be required to be expended for elementary and secondary education than was appropriated for fiscal year 2011.

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SUSAN MONTEE, JD, CPA
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Honorable Jeremiah W. (Jay) Nixon, Governor
and
Members of the General Assembly
Jefferson City, Missouri

We have audited the Gaming Proceeds for Education Fund and the Schools First Elementary and Secondary Education Improvement Fund (Schools First Fund), as required under Section 313.822, RSMo. The scope of our audit included, but was not necessarily limited to, the 2 years ended June 30, 2010. The objective of our audit was to determine whether the state is in compliance with legal provisions related to the funds.

Our methodology included reviewing written policies and procedures, financial records, and other pertinent documents; interviewing various personnel of the Department of Elementary and Secondary Education, as well as certain external parties; and testing selected transactions. We obtained an understanding of internal controls that are significant within the context of the audit objectives and assessed whether such controls have been properly designed and placed in operation. However, providing an opinion on the effectiveness of internal controls was not an objective of our audit and accordingly, we do not express such an opinion. We also obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of contract, grant agreement, or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

We conducted our audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides such a basis.

While the audit identified no significant noncompliance with current legal provisions, the accompanying Management Advisory Report presents one finding arising from our audit of the Gaming Proceeds for Education Fund and Schools First Fund.



Susan Montee, JD, CPA
State Auditor

The following auditors participated in the preparation of this report:

Director of Audits:	John Luetkemeyer, CPA
Audit Manager:	Mark Ruether, CPA
In-Charge Auditor:	Kimberly Magner, M.Acct.

Gaming Proceeds for Education Fund and Schools First Fund Management Advisory Report State Auditor's Findings

Changes in Law and Voter-Approved Provisions

Legislation approved by the Missouri General Assembly in 2009 removed key components approved by Missouri voters in 2008, including the requirement to ensure the increased gaming revenues generated by Proposition A would represent additional funding for education. The results of our audit indicate the state complied with both the original and current legal provisions related to the Gaming Proceeds for Education Fund and the Schools First Elementary and Secondary Education Fund (Schools First Fund) for fiscal years 2009 and 2010. However, the state would not have been in compliance with original provisions passed by voters related to fiscal year 2011 appropriations.

Proposition A

In 2008, Missouri voters approved Proposition A, an initiative petition known as "The Schools First Elementary and Secondary Education Funding Initiative". This act amended various gaming laws with the purpose of 1) generating additional revenue at the state's riverboat casinos, 2) requiring the additional revenue to be deposited in the Schools First Fund, 3) stipulating the additional revenue constituted new and additional funding, and could not be used to replace existing funding provided for elementary and secondary education, and 4) requiring the State Auditor to perform annual audits of the Gaming Proceeds for Education Fund and the Schools First Fund to evaluate whether appropriations for elementary and secondary education increased and are being used as intended.

Prior to the enactment of Proposition A, the majority of monies deposited into the Gaming Proceeds for Education Fund were required to be transferred to the Classroom Trust Fund and then distributed to all local school districts according to the state funding formula. Proposition A amended this provision, and starting in fiscal year 2009, all excursion gambling boat proceeds deposited in the Gaming Proceeds for Education Fund in excess of the amount transferred to the Classroom Trust Fund for fiscal year 2008, were required to be deposited into the Schools First Fund.

Senate Bill 291

In 2009, the 95th General Assembly passed Senate Bill No. 291, which amended various provisions of Proposition A. Specifically, the bill removed the requirements 1) to transfer additional revenue generated by Proposition A to the Schools First Fund effective July 1, 2010, 2) to consider the additional revenue generated as new and additional funding for elementary and secondary education and not be used to replace existing funding effective July 1, 2009, and 3) for the State Auditor to audit the Schools First Fund.

The bill did not eliminate the audit requirement for the Gaming Proceeds for Education Fund. Section 313.822(3), RSMo, still states:

"The state auditor shall perform an annual audit of the gaming proceeds for education fund, which shall include the evaluation of whether appropriations for elementary and



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secondary education have increased and are being used as intended."

Compliance results

We reviewed the Department of Elementary and Secondary Education (DESE) calculations of amounts transferred to the various funds and total appropriations and related expenditures for elementary and secondary education.

In accordance with the legal requirements of Proposition A, during the fiscal years ended June 30, 2010 and 2009, \$297,314,440 was transferred to the Classroom Trust Fund each year, and \$61,684,318 and \$19,929,408, respectively, was transferred to the Schools First Fund and subsequently distributed to local school districts.

The following tables show total expenditures and appropriations for elementary and secondary education¹ for fiscal years 2008 through 2010:

	Expenditures for Fiscal Years Ended June 30,		
	2008	2009	2010
Total Expenditures	\$ 4,222,706,833	4,295,825,471	4,315,145,372
Less School Fund First Expenditures	0	(19,929,411)	(61,684,318)
All Other Expenditures	\$ 4,222,706,833	4,275,896,060	4,253,461,054

	Appropriations for Fiscal Years Ended June 30,			
	2008	2009	2010	2011
Total Appropriations	\$ 4,268,040,254	4,422,050,513	4,461,663,211	4,263,489,356
Less School Fund First Appropriations	0	(29,592,718)	(108,602,556)	0
All Other Appropriations	\$ 4,268,040,254	4,392,457,795	4,353,060,655	4,263,489,356

As indicated in the tables, appropriations and expenditures from sources other than the Schools First Fund increased for fiscal year 2009. For fiscal year 2010, appropriations and expenditures decreased compared to fiscal year 2009 but were higher than base-year appropriations and expenditures for fiscal year 2008. As a result, the state complied with both the original and current legal provisions related to the Gaming Proceeds for Education Fund and the Schools First Fund for fiscal years 2009 and 2010.

¹ Based on discussions with DESE personnel, DESE expenditures and appropriations from federal funds, trust funds, revolving funds, funds for administration and vocational rehabilitation, and funds for which DESE serves as the fiscal agent (for example, School for the Deaf) were excluded in determining elementary and secondary expenditures and appropriations.



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Appropriations for fiscal year 2011 decreased compared to base-year appropriations for fiscal year 2008. Had the original legal requirements passed by voters in 2008 remained in effect, it appears additional appropriations for elementary and secondary education would be required for fiscal year 2011. Fiscal year 2011 appropriations and related expenditures would have been required to be at least \$4,222,706,833 (fiscal year 2008 expenditures) plus the amount of additional revenue generated by Proposition A during fiscal year 2011 (\$61,684,318 in fiscal year 2010). Therefore, if fiscal year 2011 additional revenues equal or exceed fiscal 2010 amounts, at least \$20.9 million more would be required to be expended for elementary and secondary education than was appropriated for fiscal year 2011.

No future compliance
requirement

As a result of the passage of Senate Bill 291, key safeguards approved by voters to ensure these monies constituted new and additional education funding and did not supplant existing funding, as well as the requirement for the State Auditor to verify the state's compliance with this requirement, were eliminated. Since these key requirements have been eliminated, there appears to be little reason to continue conducting annual audits of the Gaming Proceeds for Education Fund.

Recommendation

The legislature consider re-establishing the safeguards approved by voters in Proposition A.