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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/30/16

SPONSOR Sanchez, M. LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Forfeited Lottery Prizes To Scholarship Fund SB 79

ANALYST Dulany

### REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18	FY19	FY20		
See "Fiscal Implications"					Recurring	Lottery Tuition Fund

Parenthesis ( ) indicate revenue decreases

Conflicts with Senate Bill 180

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Lottery Authority (NMLA)  
Higher Education Department (HED)

### SUMMARY

#### Synopsis of Bill

Senate Bill 79 amends the New Mexico Lottery Act to require forfeited prizes to be transferred to the lottery tuition fund.

### FISCAL IMPLICATIONS

According to NMLA:

- currently, there is about \$1 million in the unclaimed prize pool;
- the annual average of unclaimed prizes over the past five years has been \$2.85 million;
- the authority uses unclaimed prizes to enhance prize payouts for scratcher games;
- NMLA also uses the unclaimed prize pool to pay prizes won early in a game before the game has achieved requisite sales to fund prizes as well as specialty games to increase the player base;

- Since FY07, 82 percent of the time, NMLA has had to use unclaimed prize money to supplement net revenues in order to return statutorily mandated net revenues to the lottery tuition fund;
- without unclaimed prizes, NMLA’s cash flow will decrease and the authority will have to borrow money to pay expenses, such as prizes to winners, retailer commissions, vendors, suppliers, and operating expenses.

NMLA asserts the use of unclaimed prizes to enhance scratcher prize payouts translates to increased ticket sales and increased revenues to the lottery tuition fund. Without the ability to use unclaimed prize money for scratcher prize payouts, NMLA indicates, scratcher games partially funded from unclaimed prizes would have to be pulled from the marketplace and a negative impact on lottery scholarships would occur. NMLA further states, “If SB 78 passes, the lottery would reduce its annual estimated return to include unclaimed prize transfers.”

The Legislative Lottery Tuition Scholarship Act requires the Higher Education Department to determine the uniform percentage by which to calculate tuition scholarships for qualified students attending postsecondary institutions based on available money. In FY16, the uniform percentage set by the department is 90 percent of sector average tuition. Based on current revenues, LFC staff estimate the uniform percent in FY17 could be 88.2 percent of sector average tuition, assuming a three percent tuition increase and steady enrollment. Assuming an additional \$2.85 million, which is the five-year average of unclaimed prizes, LFC staff estimate this uniform percentage could increase to 92.4 percent in FY17 (see “Attachment”). This LFC staff estimate is consistent with HED’s suggested calculation. The department states each additional \$1 million in revenue would increase the sector average tuition percentage by about 1.5 percent.

It is important to note the secretary of higher education is responsible for setting the uniform percentage for lottery scholarship awards. LFC staff calculated this estimated impact on the scholarship program for discussion purposes only.

Another potential outcome is that the bill could have no impact on the transfer to the lottery tuition fund. Current law requires the lottery to transfer 30 percent of gross revenues to the lottery tuition fund, and gross revenues are calculated as operating and non-operating revenues. Game expenses and operating expenses may total 70 percent of gross revenues. Unclaimed prizes are unpaid game expenses and therefore do not increase or decrease gross revenues. As a result, the required transfer (defined as a percentage of gross revenues) could potentially be unchanged. However, it is unclear whether the transfer of unclaimed prize money is to be transferred to the lottery tuition fund in addition to the 30 percent of gross revenue pursuant to 6-24-24 (C) NMSA 1978.

## **SIGNIFICANT ISSUES**

The New Mexico Lottery Act requires NMLA to transmit monthly at least 30 percent of the gross revenue of the previous month to the State Treasury to be deposited in the lottery tuition fund. A 2007 amendment to the act increased this share from 27 percent starting January 1, 2009. NMLA has reported this increased transfer requirement strained its ability to operate effectively and meet its statutory requirements. The authority asserts New Mexico is one of few states specifying a mandatory transfer of revenue and ranks 38<sup>th</sup> out of 42 states allowing the sale of

instant prize tickets, such as scratchers, while states without a required transfer rank higher in per capita sales.

The authority reports gross revenue has declined from \$148.8 million in FY07 to \$137.1 million in FY15. NMLA has offset reductions in revenue through cost saving measures such as a reduction from 68 FTE in FY07 to 53.75 FTE in FY15, conversion to a vendor system that is anticipated to save \$4.0 million over the life of the eight-year contract, and rent savings of \$243 thousand per year.

NMLA reports large prize pool sales remain volatile year to year, while instant prize ticket sales have picked up in the last two fiscal years. More specifically, the two largest prize pool games – Powerball and Mega Millions – experienced an \$8.5 million, or 18 percent, decrease in sales between FY14 and FY15. A 14.5 percent increase in instant price ticket sales and a reduction in retailer fees helped to offset the large prize pool sales drop.

While scholarship expenditures have been increasing, revenue transfers from the lottery have remained relatively flat, averaging \$41.7 million since FY12, with a peak of \$43.7 million in FY13 thanks to a large run-up of the Powerball jackpot. FY15 revenue transfers were \$41.1 million.

Legislative action has provided temporary support for the lottery tuition fund in recent years through nonrecurring general fund appropriations -- \$2.9 million in FY14 and \$11.5 million in FY15 -- and by channeling about \$18 million in liquor excise tax revenue to the fund each year through FY17. A statute change in 2014 attempted to reduce lottery scholarship expenditures by reducing the number of scholarship semesters from eight to seven and requiring incoming recipients to enroll in 15 credit hours. In the event of insufficient funds for full awards, the awards are reduced to pay a uniform percentage of average tuition per sector – research, comprehensive, and community college. For FY16, the lottery scholarship pays 90 percent of sector average tuition.

## **ADMINISTRATIVE IMPLICATIONS**

NMLA suggests it will incur increased costs to pull instant scratcher games funded partially through unclaimed prizes from the marketplace if SB 79 is enacted; however, no cost estimate is given.

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**Legislative Lottery Tuition Scholarship Program: Current Status and Projections**  
(in thousands of dollars)

	FY14	FY15	FY16	FY17		
	Actuals	Actuals	Updated LFC Estimate	SB 79 Scenario	Current Revenue Sources	100% Tuition Award Scenario
<b>Revenues</b>						
Lottery Revenues	\$41,353.8	\$41,121.3	\$41,000.0	\$42,000.0	\$42,000.0	\$42,000.0
Lottery Tuition Fund Beginning Balance	\$18,798.0	\$12,526.1	\$3,343.5	\$2,449.4	\$2,449.4	\$2,449.4
Unclaimed Prize Pool	\$0.0	\$0.0	\$0.0	\$2,850.0	\$0.0	\$0.0
Tobacco Settlement Fund Revenues	\$5,281.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
Special General Fund Appropriation	\$0.0	\$11,500.0	\$0.0	\$0.0	\$0.0	\$0.0
Transfer Student Financial Aid - Special Program Fund Balance to Lottery Tuition Fund	\$11,000.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
Special Nonrecurring General Fund Appropriation	\$2,900.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
Liquor Excise Tax Distribution	\$0.0	\$0.0	\$17,979.0	\$18,000.0	\$18,000.0	\$18,000.0
<b>Available Revenues</b>	<b>\$79,332.8</b>	<b>\$65,147.4</b>	<b>\$62,322.5</b>	<b>\$65,299.4</b>	<b>\$62,449.4</b>	<b>\$62,449.4</b>
<b>Expenditures</b>						
<b>Scholarships - Percent of Tuition Awarded</b>		<i>100% of avg. fall tuition, 95% of spring tuition</i>	<i>90% of est. avg. sector tuition</i>	<i>92.4% of est. avg. sector tuition</i>	<i>88.2% est. avg. sector tuition</i>	<i>100% of est. avg sector tuition</i>
Research Awards	\$58,445.4	\$54,189.0	\$52,213.5	\$55,237.4	\$52,704.3	\$59,755.5
Comprehensive Awards	\$4,530.5	\$4,221.0	\$4,620.7	\$4,865.1	\$4,664.1	\$5,288.1
Two-year Awards	\$3,843.2	\$3,393.8	\$3,038.9	\$3,196.6	\$3,080.9	\$3,621.7
<b>Total Expenditures</b>	<b>\$66,819.2</b>	<b>\$61,803.9</b>	<b>\$59,873.1</b>	<b>\$63,299.1</b>	<b>\$60,449.4</b>	<b>\$68,665.3</b>
<b>Est. Year-End Lottery Tuition Fund Balance (Available Revenues - Expenditures)</b>	<b>\$12,526.1</b>	<b>\$3,343.5</b>	<b>\$2,449.4</b>	<b>\$2,000.3</b>	<b>\$2,000.0</b>	<b>(\$6,215.9)</b>
<b>Less Statutory Minimum</b>						<b>(\$2,000.0)</b>
<b>Est. Over/Under</b>			<b>\$2,449.4</b>	<b>\$2,000.3</b>	<b>\$2,000.0</b>	<b>(\$8,215.9)</b>

Source: Higher Education Department and LFC Files

Notes:

- (1) FY17 estimates assume 3 percent tuition increase and flat enrollment with FY16.
- (2) Enrollment estimates for FY16 and FY17 are based on fall 2015 actual and spring 2016 institutional estimates.
- (3) FY17 SB 79 scenario estimate based on prior five-year unclaimed prize pool average balance, as noted by New Mexico Lottery Authority.