F I S C A L   I M P A C T   R E P O R T

ORIGINAL DATE 2/25/15
SPONSOR SCORC **LAST UPDATED** 3/18/15 **HB**

SHORT TITLE Purchase of Lottery Tickets with Card **SB** 355/SCORCS

ANALYST Peterson/van Moorsel

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY15	**FY16**	**FY17**	**FY18**	**FY19**		
	Zero to negative in short run – See "Fiscal Implications"				Recurring	Lottery Tuition Fund

(Parenthesis ( ) indicate revenue decreases

Relates to Laws 2014 Chapter 80, and SB 286 – Forfeited Prizes to Lottery Fund.
Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From
New Mexico Department of Higher Education (HED)
New Mexico Lottery Authority (NMLA)
Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

Senate Corporations Committee substitute for Senate Bill 355 amends the New Mexico Lottery Act to:

- clarify that lottery tickets may be purchased with a debit card.
- authorize lottery ticket purchases with a credit card if the purchase is $20 dollars or less;
- allow NMLA to contract for a period of up to ten years for instant ticket printing and computer gaming systems to achieve maximum pricing efficiencies."; and
- require the lottery to transfer the net revenues from the sale of games to the lottery tuition fund on a monthly bases. Current law requires the transfer of 30 percent of the gross revenues on a minthly basis.
- although removing the 30 percent transfer requirement, add a minimum revenue transfer requirement - by the last day of each July, NMLA must have transmitted, for the previous fiscal year, no less than the total amount transmitted in fiscal year 2015.

The effective date of the bill is July 1, 2015.

FISCAL IMPLICATIONS

The measures in this bill could provide the NMLA with more flexibility and opportunities to reduce operating costs, and could increase lottery sales. As a result, the bill could contribute to in additional transfers of revenue to the lottery tuition fund in the long run after potential short-run reduction in net revenue.

Because the revenue impacts depend on both gross lottery revenues and the percentage of which the NMLA ends up transmitting to the lottery tuition fund, the exact impact is indeterminate.

Removing the 30 percent transfer requirement allows the authority to increase prize payout percentage and allocate more revenue toward other efforts to increase lottery sales. These efforts, over time, may enable the lottery to increase net revenue, thereby increasing the transfer to the lottery tuition fund.

However, there is likely to be a negative revenue impact in the short run. Removing the requirement that NMLA transfer 30 percent of gross lottery revenues in favor of requiring a transfer of the net revenue assumes that net revenue will be less than 30 percent of gross revenue. This analysis does not expect NMLA's increases in the prize payout percentage and other expenses to boost sales to have an immediate positive impact on sales in sufficient magnitude to offset the reduced net percentage of gross revenues that is transferred to the lottery tuition fund.

The requirement that NMLA transfer no less than the FY15 transfer to the lottery tuition fund places a floor on the downside risk to lottery revenue transfers. However, it also limits NMLA's ability to increase prize payout percentages and other expenses, as the minimum transfer of FY15 revenues acts as an effective percentage transfer requirement. For example:

- Assuming NMLA transfers $40 million to the lottery tuition fund, per the 30 percent requirement, this would indicate gross revenue of $133.3 million.

- In FY16 the minimum transfer to the lottery tuition fund would, statutorily, have to be at least $40 million.
  - If gross revenue remains flat compared with FY15, the effective net transfer would remain 30 percent.
  - If gross revenue increases and NMLA still transfers $40 million, the effective transfer percentage will have decreased.
  - However, if sales had increased and the 30 percent requirement been in place, the transfer would have been more than $40 million. This scenario describes a possible negative impact of the bill.

	FY15	FY16		FY17	
	Current	Current	SB355	Current	SB355
Gross Revenues	$133.3	$146.7	$146.7	$161.3	$161.3
Transfer	$40.0	$44.0	$40.0	$48.4	$40.0
Percent of Gross Revenue transferred	30.0%	30.0%	27.3%	30.0%	24.8%

SIGNIFICANT ISSUES

NMLA projects a 0.25 percent sales growth with the purchase of lottery tickets by credit or debit card with a three to five year growth cycle. The authority projects net sales may increase between two and four percent as a result (see attachment, provided by NMLA, which project impacts on sales and profits). NMLA notes that industrywide contracts for instant ticket printing services and computerized gaming systems are going up. NMLA currently pays $2.1 million (1.5 percent) of net sales to its gaming system vendor and 1.55 percent ($1.2 million) of net scratcher sales.

NMLA recommends that in order to become more attractive to potential contract bidders and to maximize pricing efficiencies, the authority would benefit from being able to to enter into contracts for up to ten years. NMLA contends a ten year contract would assist vendors to recover their equipment/installations investments over a longer contract cycle and would reduce the lottery's vendor cost. NMLA additionally points out that if the procurement code language in the Lottery Act had not been amended in 2007, which changed the lottery's ability to enter into a ten-year contract, the lottery, based on FY14 ticket sales, would have conservatively netted an additional $7 million to the scholarship fund.

DFA reports the majority of states prohibit the use of credit cards for the purchase of lottery tickets for the reason that compulsive gamblers could accumulate unmanageable amounts of debt. The cap of $20 on credit card purchases may not prevent potential purchasers from making large cumulative lottery purchases on credit as they may visit multiple locations to make multiple purchases.

General purchase trends indicate a shifting consumer preference from cash and check to credit and debit cards as well as mobile payment options. Increased flexibility in purchasing options may improve the ease at which consumers may purchase lottery tickets and increase lottery ticket purchases. Some states such as Illinois and Minnesota allow for online purchases which can process credit card and debit card payments.

DFA adds that The bill would allow NMLA to enter into contracts for a period of up to 10 years. NMLA contracts are not reviewed by the Contracts Review Bureau at the Department of Finance and Administration. However, current law states professional contracts cannot extend beyond four years. Some agencies have exceptions for longer contract periods such as the Risk Management Division at the General Services Department, which allows longer-term contracts for legal issues that take time to work through the court process. General Service contracts cannot extend beyond 8 years. While the NMLA might receive some cost savings by extending contracts to 10 years, NMLA would not be required to request proposals but every 10 years which could actually limit cost savings. NMLA might not be getting the best deal if proposals are only requested every 10 years.

OTHER SUBSTANTIVE ISSUES

The Legislative Lottery Scholarship (LLS) relies on revenues from lottery ticket sales and prior year fund balance to meet annual scholarship expenses. The purpose of the LLS is to provide tuition assistance for qualified students pursuant to the Lottery Tuition Scholarship Act. Since 2009, the cost of tuition scholarships has been outpaced revenues from ticket sales, thus the year-end balance of the Lottery Tuition Fund (LTF) has declined significantly in recent years.

The GAA of 2014 included $11 million in other state funds for FY 14 and FY 15, and $11.5 million in recurring general fund support for FY 15. In addition, Chapter 80 provides for approximately $18 million to $19 million in revenues from the general fund share of liquor excise tax revenues in both FY 16 and FY 17.

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 creates a statutory minimum transfer of gross revenues at 27 percent, and then increased this share to 30 percent starting January 1, 2009.

NMLA reports this increased transfer requirement strained its ability to operate effectively and meet its statutory requirements. Since 2009, NMLA has eliminated retailer and employee sales incentives, reduced staffing from 68 to 54 FTE, reduced its advertising budget by $1 million (33 percent), and reduced the prize payout percentage. The FY 07 prize payout for instant games was 63 percent; and NMLA reports it was reduced to 59 percent by FY 13. Since decreasing the payout percentage, instant game sales decreased from $91.4 million in FY 07 to under $70 million in FY 14. Between FY 04 and FY 07, New Mexico Lottery Scratcher sales grew approximately 4.6 percent a year. In FY 2007, Scratcher sales hit a peak of $91.4 million. Between FY 07 and FY 14 Scratcher sales have fallen approximately 24 percent, as follows:

- $86.6 million in FY 2008
- $80.6 million in FY 2009
- $78.4 million in FY 2010
- $75.8 million in FY 2011
- $68.7 million in FY 2012
- $69.9 million in FY 2013
- $69.8 million in FY 2014

NMLA has taken steps to bring back lapsed players, bring in new players, and increase sales by increasing its FY15 advertising budget to by $200 thousand to $2.5 million and prize payout percentage to just over 60 percent.

NMLA recommends the Legislature reconsider the requirement that 30 percent of gross revenue be transferred to the lottery tuition fund. The requirement may have resulted in fewer sales and reduced revenues for education. Any reduction in the required return percentage may reduce lottery revenues in the short term, because players may not immediately respond to higher payouts and increase sales. However, the added flexibility may enable the authority to operate more efficiently. The authority has already implemented significant cost reductions to meet the 30 percent return requirement, such as staff reductions, but it should continue to seek cost savings. Further, the authority's marketing division may be able to spur increased lottery sales by targeting areas of the state with less-than-optimal sales, or through other creative approaches.

Reconsidering the 30 percent revenue transfer requirement, attaining further cost savings, and investigating different marketing approaches would be timely because the lottery scholarship, as currently structured, is successful but not sustainable. Expenses from the lottery tuition fund have risen rapidly due to rising tuition costs and an increasing number of recipients. Between

FY08 and FY14, tuition payments from the fund to institutions of higher education have increased by 72 percent, or nearly $28 million, with nearly $24 million of this growth occurring at the research institutions. During this period, the number of students receiving the lottery scholarship increased by 19 percent, with no research institutions experiencing 57 percent growth in scholarships received.

While scholarship expenditures have been increasing, revenue transfers from the lottery have been relatively flat, averaging $42.2 million in FY10-FY14, with a peak of $43.7 million in FY13 thanks to a large run-up in the Powerball jackpot. FY14 revenue transfers were $40.9 million.

Legislative action has provided temporary support for the lottery tuition fund through a nonrecurring appropriation and by channeling liquor excise tax revenue to the fund for several years. A statute change also attempted to reduce lottery scholarship expenditures by reducing the number of scholarship semesters from eight to seven, requiring incoming recipients to enroll in 15 credit hours, and requiring a 2.5 GPA to qualify. Finally, in the event of insufficient scholarship funds, the awards are reduced by the percentage of the funding shortfall. These additional revenue solutions are only temporary, however, and increased lottery revenue to the fund would benefit the scholarship program.

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