

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: SB 286

52nd Legislature, 1st Session, 2015

Tracking Number: .198924.1

Short Title: Forfeited Lottery Prizes to Tuition Fund

Sponsor(s): Senator Michael S. Sanchez

Analyst: Travis Dulany

Date: February 26, 2015

Bill Summary:

SB 286 amends the provisions of the *New Mexico Lottery Act* to require that prizes not claimed within the time period established by the New Mexico Lottery Authority (NMLA) are forfeited and shall be paid to the Lottery Tuition Fund under the *Legislative Lottery Tuition Scholarship Act*.

Fiscal Impact:

SB 286 does not contain an appropriation.

Fiscal Issues:

According to the NMLA:

- as of December 31, 2014, there is approximately \$1.451 million in the New Mexico Lottery's unclaimed prize pool;
- the annual average of unclaimed prizes over the past five years has been \$3.0 million;
- 80 percent of the time, since FY 07, the New Mexico Lottery has had to use unclaimed prize money to supplement net revenues in order to meet its monthly transfer requirement; and
- without unclaimed prizes, the New Mexico Lottery's cash flow will decrease and NMLA will have to borrow money to pay expenses, such as prizes to winners, retailer commissions, vendor and supplier costs, and operating expenses.

The Fiscal Impact Report from the Legislative Finance Committee notes that, although the fiscal impact of SB 286 is difficult to determine, initial transfers of unclaimed prize money to the Lottery Tuition Fund could increase transfers to the fund; however, the long-term impact will likely be negative.

According to the Higher Education Department (HED) Legislative Lottery Scholarship Report from December 2014, total FY 14 revenues for the Legislative Lottery Tuition Scholarship program were approximately \$60.5 million, including nearly \$41 million in NMLA revenues. Meanwhile, FY 14 expenditures for the scholarship program were approximately \$66.8 million.

Substantive Issues:

NMLA asserts the following:

- in the middle of FY 14, the New Mexico Lottery implemented a plan to use unclaimed prizes to enhance prizes in scratcher games;
- scratcher sales between April 2014 and January 2015 have increased 14 percent, or approximately \$5.5 million;
- scratcher sales have been vital to the NMLA's ability to meet monthly transfers to the Legislative Lottery Tuition Scholarship program;
- the prizes in scratcher games currently out for sale have been partially funded from unclaimed prizes;
- if SB 286 is enacted, the New Mexico Lottery will have to pull scratchers from the marketplace, which "will have a crippling effect on sales and, more importantly, reduce the actual dollars returned to the scholarship fund"; and
- without unclaimed prizes to enhance the prize payout, the Instant Scratcher prize payout in New Mexico would be approximately 55 percent, compared to approximately 68 percent in Arizona, Colorado, and Texas.

Conversely, however, the Legislative Lottery Tuition Scholarship has played a significant role in the marketing and public relations campaigns of the New Mexico Lottery since the scholarship's inception in 1996. Traditionally, lottery scholarships have covered 100 percent of tuition for eligible students attending New Mexico public postsecondary educational institutions; however, as scholarship expenditures began to exceed revenues in recent years, measures were taken during the 2014 legislative session to prepare for less-than-100 percent scholarship awards (see "Background," below), and scholarship recipients for the spring 2015 semester are being awarded scholarships equal to 95 percent of institutional average tuition. As the NMLA works toward solutions to increase revenues,¹ any additional funds to cover student scholarships may help to promote the New Mexico Lottery as a service to New Mexico students and potentially aid lottery sales.

Background:

2014 Legislation

Laws 2014, Chapter 80 made a number of changes to the Legislative Lottery Tuition Scholarship program, including:

- student eligibility;
- scholarship award amounts;
- a Lottery Tuition Fund annual average balance; and
- additional distributions to the Lottery Tuition Fund.

Student Eligibility

¹ See SB 355 (2015), *Purchase of Lottery Tickets With Card*.

Two types of students are eligible to receive the Legislative Lottery Tuition Scholarship:

- legacy students, who are full-time resident students who had received the scholarship for three or more semesters by the end of FY 14 under the prior statutory provisions of the scholarship; and
- qualified students, who must either graduate from a public or accredited private New Mexico high school or receive a High School Equivalency Credential while maintaining residency in New Mexico and:
 - either:
 - immediately upon graduation or receipt of a credential be accepted for entrance to and attend a public postsecondary educational institution; **or**
 - within 120 days of completion of a high school curriculum or receipt of a High School Equivalency Credential begin service in the US Armed Forces and within one year of completion of honorable service or medical discharge from the service, attend a public postsecondary educational institution; **and**
 - successfully complete the first semester at a public postsecondary educational institution with a grade point average (GPA) of 2.5 or higher during the first semester of full-time enrollment.

Legacy students may receive the scholarship for a total of eight semesters, provided that the student:

- maintains residency in New Mexico;
- maintains a GPA of 2.5 or higher; and
- completes 12 or more credit hours per semester.

Qualified students may receive the scholarship for a total of seven semesters provided that the student:

- maintains residency in New Mexico;
- maintains a GPA of 2.5 or higher; and
- completes:
 - 15 or more credit hours if the student is attending a four-year public postsecondary educational institution; and
 - 12 or more credit hours if the student is attending a two-year public postsecondary educational institution.

Scholarship Award Amounts

The 2014 legislation requires the following:

- prior to June 1 each year, based on the amount appropriated from the Legislature and on the projected enrollment at all public postsecondary educational institutions, HED must:

- determine the total amount of money available for all tuition scholarships for qualified students;
 - determine the uniform percentage by which to calculate tuition scholarships for qualified students attending any public postsecondary educational institution; and
 - notify all public postsecondary educational institutions of such determinations made by HED; and
- in determining distribution and award amounts for the tuition scholarship program, HED must:
 - maintain the minimum fund balance;
 - distribute to all public postsecondary educational institutions an amount not to exceed the remaining balance in the fund; and
 - distribute to each public postsecondary educational institution an amount based on:
 - the projected enrollment at each comprehensive, research, or state educational institution of qualified students in their second through eighth semesters, including qualified students in their fifth through eighth semesters who transferred from a community college;
 - the projected enrollment at each community college of qualified students in their second through fourth semesters; and
 - a uniform percentage of the average of in-state tuition costs charged by:
 - ✓ research institutions for each research institution;
 - ✓ comprehensive institutions for each comprehensive institution; and
 - ✓ community colleges for each community college.

Although the language in statute requires that HED determine, prior to June 1 of each year, the uniform percentage by which to calculate scholarships for students, HED appears to have determined award amounts on a semester-by-semester basis for FY 15. For fall 2014, students received scholarships equal to 100 percent of the average tuition costs among the different types of institutions; for spring 2015, students are receiving 95 percent of these average tuition costs.²

The sector average tuition costs for academic year 2014-2015 are:

- \$2,519.42 for research institutions;
- \$1,570.86 for comprehensive institutions; and
- \$643.41 for community colleges.

Lottery Tuition Fund Annual Average Balance

The *Legislative Lottery Tuition Scholarship Act* requires that the Lottery Tuition Fund must maintain an annual average balance of \$2.0 million.

² Several institutions have indicated that they will cover the remaining 5.0 percent not covered by the Legislative Lottery Tuition Scholarship.

Additional Distributions to the Lottery Tuition Fund

The 2014 legislation:

- appropriated \$11.0 million from the Student Financial Aid Fund of HED to the Lottery Tuition Fund for expenditure in FY 14 and subsequent fiscal years; and
- provided for, from July 1, 2015 to July 1, 2017, a distribution of 39 percent of the net receipts attributable to the *Liquor Excise Tax* to be made to the Lottery Tuition Fund.

Related Background

Created by legislation enacted in 1996, the Legislative Lottery Tuition Scholarship is a renewable award granted to qualified students beginning in their second semester at a public postsecondary institution in New Mexico. The scholarship covers the cost of tuition only. Students are responsible for additional educational expenses such as student fees, course materials, and housing.

Under the newly enacted *Legislative Lottery Tuition Scholarship Act*, a student must:

- maintain residency in New Mexico;
- have graduated from a public or accredited private New Mexico high school or have obtained a New Mexico High School Equivalency Credential while maintaining New Mexico residency;
- enroll full-time (in at least 15 credit hours, or 12 credit hours for legacy students and community college students) at an eligible New Mexico postsecondary educational institution immediately upon graduation; and
- attain and maintain a GPA of at least 2.5.

State law also provides for specific accommodations with regard to:

- students with disabilities; and
- individuals who either immediately enlist in, or have recently departed from, the US Armed Forces.

Committee Referrals:

SEC/SFC

Related Bills:

HB 209 *Reversion of Special Funds & Review of Funds*

HB 375 *Branch Colleges in Tuition Scholarship*

HB 429 *Lottery Scholarships for Home School*

CS/SB 355 *Purchase of Lottery Tickets with Card*

SB 521 *Lottery Scholarships for Home School*

SB 591 *NM Lottery Employee Bonus & Incentive Amounts*

SB 657 *Lottery Scholarship as Full Scholarship*

SM 108 *Tuition Scholarship Amounts & Notices*