

**STORAGE NAME:** h247.ei

**DATE:** March 7, 1997

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
EDUCATION INNOVATION  
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**BILL #:** HB 247

**RELATING TO:** Lottery Revenues/Unclaimed State Lottery Prize Money

**SPONSOR(S):** Representative Fasano

**STATUTE(S) AFFECTED:** ss. 24.115, 24.121, 240.40, 240.402, F.S.

**COMPANION BILL(S):** SB 1194

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) EDUCATION INNOVATION
- (2) REGULATED SERVICES
- (3) EDUCATION APPROPRIATIONS
- (4)
- (5)

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**I. SUMMARY:**

The first provision in HB 247 is that unclaimed lottery prize money will be deposited in the State Student Financial Assistance Trust Fund rather than used for future prizes and special prize promotions, which is the current requirement and practice. Ticket sales are expected to decline since the unclaimed prize pool would no longer be available to be used for higher and more frequent prizes and special promotions. The current use results in \$1.26 deposit in the EETF for each \$1.00 of unclaimed prize money. The \$.26 additional revenue and the interest earned on the unclaimed prize money would be lost. The educational programs and projects currently funded through the Educational Enhancement Trust Fund would suffer a decrease in funding as the amount deposited into the trust fund declined as lottery sales declined.

The second provision is the deposit of two percent of gross revenue from the sales of lottery tickets and other earned revenues, excluding application processing fees, in the State Student Financial Assistance Trust Fund. Currently, statutory requirements are that 50 percent of the state lottery revenue is returned to the public in the form of prizes, 38 percent is deposited in the Educational Enhancement Trust Fund and 12 percent is for lottery administrative expenses, which includes expenses for ticket providers, advertising, lottery administration, and retailer compensation. The two percent redirection would come from the administrative expenses category, reducing the 12 percent to 10 percent for administrative expenses. The two percent would probably be taken from retailers in the private sector.

The funds deposited into the State Student Financial Assistance Trust Fund from the unclaimed prize money and the two percent redirection will be allocated to fund the Florida Undergraduate Scholars' Program.

Although the loss to the Educational Enhancement Trust Fund and the amount deposited into the State Student Financial Assistance Trust Fund are indeterminate at this time, the loss would be greater than the deposit.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

In 1986, the voters amended Florida's Constitution to allow state operated lotteries. The Florida Public Education Lottery Act, Chapter 24, F.S., passed in 1987, creates the Department of the Lottery and directs the department to establish and operate the state's lottery. The net proceeds of the lottery games are to be used to "support improvements in public education and not for a substitute for existing resources for public education", per s. 24.102, F.S.

**Lottery Unclaimed Prize Money**

Lottery unclaimed prize money refers to the lottery prize money which is not claimed within a specified time period by the holders of winning lottery tickets. Section 24.115(2), F.S., provides that all unclaimed state lottery prize money be used for future lottery prizes or for special prize promotions.

The amount of unclaimed prize money fluctuates on a daily basis with money becoming unclaimed and flowing in as unclaimed prizes and out as prize supplements for other games or prize promotions. The Department of the Lottery estimates that for the 1996-1997 fiscal year the unclaimed prize money will be approximately \$30 million. The annual amounts can vary from year to year; for example, in 1989 unclaimed was \$300,000, and jumped to \$31 million in 1990. Most of the unclaimed prize money is from small winnings, such as \$3 to \$5. Occasionally, a large jackpot will go unclaimed. The lottery boosts ticket sales by using the unclaimed prize money to fund:

- ▶ Instant game prize pools, enabling the department to offer more attractive games with higher total payouts
- ▶ Special prize promotions such as the Lottomobile promotions.
- ▶ Guarantee on higher jackpots during special promotional periods, such as the Lotto Month promotion, which usually takes place in December, and guarantees \$10 million as a grand prize.

The interest earned on unclaimed prize money is not used for supplementing prizes or special promotion but rather is part of the total interest earned on the department's Administrative Trust Fund. This interest is included in the lottery revenue when calculating the amount to be deposited in the Educational Enhancement Trust Fund. The department estimates that the interest earned on unclaimed prize money is approximately \$140,000 per year.

The position of the Department of Lottery is that more money is generated for the Educational Enhancement Trust Fund by reinvesting unclaimed prize money to provide prize payouts greater than 50 percent of the sales for that game. The result is an increase in prize amounts, frequency of wins, and sale of tickets. As sales increase the amount of revenue for the EETF increases proportionately.

The department has compared the sales data of instant games in which the prize pools were subsidized by unclaimed prize money to the sales data for instant games in which

the prize pools were not subsidized. They minimized game differences such as prize structure, play styles, and the time periods when the tickets were on sale. The difference in the tested games was in the payout percentages for the prize pool. When the sale of tickets was halted, 91.4 percent of the subsidized game tickets were sold as compared to 56 percent of the non-subsidized game tickets.

Other similar comparison tests substantiated the overall results of the first tests. Since 1990, ticket sales of games offering higher prize payout percentages are consistently higher than the games with a 50 percent prize pool. The department's historical data indicates that each \$1.00 of unclaimed prize money reinvested in prizes and promotions generates \$3.32 in ticket sales. Since 38 percent of lottery receipts are deposited in the EETF, each unclaimed dollar translates to a \$1.26 deposit into the EETF. Games with subsidized and, therefore, higher prize pools generate more sales; and, in turn, produce more revenue for deposit into the Educational Enhancement Trust Fund. The conclusion from a House Regulated Industries Committee 1995 report is that supplementing instant game prize pools and funding special promotions, generates significant additional ticket sales and revenue.

#### *Other States*

One study which was conducted tracked Massachusetts's lottery since 1981. Massachusetts law requires that a minimum of 45 percent of lottery sales be used for prizes and a maximum of 15 percent for operating expenses, with the remainder to be turned over to the state. Since 1981, Massachusetts's lottery shifted a higher percentage of its revenue intake into the prize fund, while decreasing the percentages turned over to the state and used for operational costs.

Today, although the percentages turned over to the state and used for operational costs has dropped, the state is receiving nine times the amount it received from the lottery in 1981. The lottery players are winning more prizes and the state is receiving more revenue because the lottery is devoting more dollars to fuel the sales that provide the growth.

Missouri also experienced a 32 percent sales increase when it lifted restrictions on prize money several years ago. Colorado reduced their prize pool by 4.5 percent and subsequently realized a 22 percent decline in instant game sales. New York recently changed its instant game prize percentage to 65 percent and has experienced an increase in sales from \$299 million in 1993-1994 to the point where the sales projection for 1995-1996 is estimated at \$1 billion. Decreasing prize pools is not the way successful lottery states have found to increase lottery revenue for the state.

Of the 37 other states with lotteries, 27 utilize unclaimed prize money for increasing their prize pools.

#### **Allocation of Revenues and Expenditures for Funds for Public Education**

All money received by the Department of the Lottery after payment of prizes and initial compensation paid to retailers is deposited into the Administrative Trust Fund, per 24.120, F.S.

Section 24.121, F.S., provides that:

- ▶ “As nearly as practical” 50 percent of the gross revenue from lottery ticket sales be returned to the public in the form of prizes paid by the department or to the retailers.
- ▶ Each fiscal year, at least 38 percent of the gross revenue is deposited in the Educational Enhancement Trust Fund, which is administered by the Department of Education, to be used to the benefit of public education. Transfers are made at least once a quarter, and must be used to the “benefit of public education.”
- ▶ The remaining 12 percent of the gross revenues from lottery ticket sales is authorized for use by the Department of the Lottery for payment of administrative expenses. These include 5.5 percent for retailer compensation, 3.0 percent for lottery administrative costs, 2.1 percent for ticket providers, and 1.4 percent for advertising. Any unencumbered balance remaining in the Administrative Trust Fund at the end of each fiscal year is transferred to the Education Enhancement Trust Fund.

Section 24.121(5), F.S., designates how lottery funds may be allocated and provides that education programs and purposes may include, but are not limited to, endowment, scholarship, matching funds, direct grants, research and economic development related to education, salary enhancement, contracts with independent institutions to conduct programs consistent with the state master plan for postsecondary education, or any other educational program or purpose deemed desirable by the Legislature. The Legislature is also charged with equitably apportioning EETF moneys among public schools, community colleges, and universities. A portion of these funds, as determined annually by the Legislature, is distributed to each school district and is made available to each public school for enhancing school performance through development and implementation of a school improvement plan.

### **State Student Financial Assistance Trust Fund**

The State Student Financial Assistance Trust Fund is created in s. 240.40, F.S., and is administered by the Department of Education. It is comprised from funds from General Revenue, private donations, and federal receipts for scholarship and grant programs. Individual accounting is established for each funded scholarship and grant program for auditing purposes. End of fiscal year balances remain in the trust fund.

### **Florida Undergraduate Scholars Program**

The Florida Undergraduate Scholars' Program awards scholarships to Florida students who meet one of the following criteria.

- ▶ National Merit Scholar or finalist
- ▶ 3.5 grade point average (GPA)
- ▶ Minimum score as determined by the Department of Education on the Scholastic Aptitude Test (SAT) or American College Test (ACT)
- ▶ Attendance at a home education program for grades 9 through 12 and has minimum score on the SAT or ACT

- ▶ Florida Academic Scholar, pursuant to s. 232.2465, F.S.
- ▶ International Baccalaureate Diploma

Additionally, they must be accepted at an approved Florida institution, be a state resident for at least one year, comply with Selective Service registration requirements, all per s. 240.404, F.S.; and receive a Florida high school diploma or equivalent, file an application during high school senior year, attend institution as full-time student, and be a first time in college student. The award can be retained as long as the student continues to qualify and maintains a cumulative 3.2 GPA.

**B. EFFECT OF PROPOSED CHANGES:**

HB 247 requires unclaimed lottery prize money and two percent of the funds currently used for lottery administrative costs to be deposited in the State Student Financial Assistance Trust Fund. The funds would be accounted for separately and used to fund the Florida Undergraduate Scholars' Program, a trust fund for college scholarships.

**Two Percent of Gross Revenue**

Taking two percent of funds currently used for lottery administrative costs would leave 10 percent in the Administrative Trust Fund to cover the lottery's administrative expenses. To maintain the maximum amount of ticket sales, the 2.1 percent to ticket providers and the 1.4 percent to advertising would not be reduced, according to the Department of the Lottery. Additionally, reducing lottery administration from 3.0 percent would not be possible. Consequently, the 2 percent would be taken from retailers in the private sector.

**Unclaimed Prize Money**

Unclaimed lottery prizes would not be used as prizes in other games and special promotions. Based on the position of the Department of the Lottery, as described in the 1995 Regulated Industries Committee report, this could cause ticket sales to decline, thus resulting in declining transfers to the Educational Enhancement Trust Fund. The amount available for deposit in the EETF would decrease not only from the decline in the sale of tickets resulting from this change, but also from the loss of the additional amount per dollar of unclaimed prize money generated for the trust fund by the current use and from the loss of interest earned on the unclaimed prize money.

Since the use of unclaimed prize money is considered when the department calculates the overall percent of gross revenue which must be used for prizes, eliminating the current use of the unclaimed prize money as prizes would require an adjustment to all prize pools to meet whatever minimum prize percentage is provided in the statute.

The educational programs and projects currently funded through the Educational Enhancement Trust Fund would suffer a decrease in funding as the amount deposited into the trust fund declined as lottery sales declined. If player dissatisfaction continued to rise and sales declined, the loss would continue and increase over time.

Reducing prizes to players creates a negative reaction from players. Without unclaimed prize funds, all instant lottery games would be restricted to a 50 percent prize structure. This would diminish the perceived value of a game, decrease the public interest in that game, and reduce the number of tickets sold for that game. Increasing the prize structure above the 50 percent level helps increase ticket sales because more prizes are available. More prizes lead to more frequent wins for players, which creates excitement and a greater turnover of winnings to buy additional tickets.

As the jackpot size fund grows for LOTTO, so do sales. The opposite is also true. As the size of the jackpot diminishes, sales deteriorate. A reduced prize fund for LOTTO will diminish the jackpot size. The reason people play lottery games is to win prize money. If there is less to win, sales will dwindle. If unclaimed prize money is not reinvested for any portion of time, the public will purchase fewer tickets. Even when the money is reinvested it may take the public some period of time before realizing that prize pools have increased. There is no way of determining how long it would take the public to begin purchasing fewer tickets upon redirecting unclaimed prize money.

The department's position is that decreasing the prize structure to 50 percent will have a negative effect on instant ticket sales. Without the additional prizes, the frequency of winning tickets will be reduced, and the resulting "non-winning" perception of the public and retailer will result in a long-term decrease in sales. The Regulated Industries Committee report states that: "While this belief is shared by most of the lottery industry, it is extremely difficult to prove empirically."

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Not applicable.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

- b. If an agency or program is eliminated or reduced:

Not applicable.

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

(2) what is the cost of such responsibility at the new level/agency?

(3) how is the new agency accountable to the people governed?

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

Not applicable.

- b. Does the bill require or authorize an increase in any fees?

Not applicable.

- c. Does the bill reduce total taxes, both rates and revenues?

Not applicable.

- d. Does the bill reduce total fees, both rates and revenues?

Not applicable.

- e. Does the bill authorize any fee or tax increase by any local government?

Not applicable.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

Not applicable.

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

- (2) Who makes the decisions?

- (3) Are private alternatives permitted?

- (4) Are families required to participate in a program?

- (5) Are families penalized for not participating in a program?

- b. Does the bill directly affect the legal rights and obligations between family members?

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:



- (1) parents and guardians?
- (2) service providers?
- (3) government employees/agencies?

**D. SECTION-BY-SECTION ANALYSIS:**

- Section 1** Changes requirement in s. 24.115, F.S., that unclaimed prize money be used for future prizes or special prize promotions to requirement that unclaimed prize money be deposited in the State Student Financial Assistance Trust Fund.
- Section 2** Amends s. 24.121, F.S., to require that in addition to 38 percent that is currently required to be deposited in the Educational Enhancement Trust Fund, at least 2 percent of gross revenue from lottery ticket sales and other earned revenue shall be deposited in the State Student Financial Assistance Trust Fund before payment of administrative expenses of the department.
- Section 3** Amends s. 240.40, F.S., to provide that unclaimed state lottery prize money and at least 2 percent of revenue from sale of lottery tickets and other earned revenue be deposited in the State Student Financial Assistance Trust Fund. Provides that these funds will be accounted for separately from other funds in the trust fund and used for the Florida Undergraduate Scholars' Program.
- Section 4** Amends s. 240.402, F.S., to provide that an amount equal to the 2 percent of gross revenue from lottery ticket sales and other earned revenue and unclaimed state lottery prize money, which will be deposited in the State Student Financial Assistance Trust Fund, be annually appropriated to fund the Florida Undergraduate Scholars' Program.
- Section 5** Provides for an effective date of July 1, 1997.

**III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:**

**A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:**

**1. Non-recurring Effects:**

The cost to the department in responding to the player complaints and the public relations efforts required to help overcome the negative player response to the decrease in prize pools is indeterminate. If prize pools are reduced, all current games will need to be removed from the market and all remaining inventories will need to be destroyed. In past years, the cost estimate for this inventory loss was

approximately \$4 million and an approximate \$15 million loss to the EETF. However, the department is considering some contractual changes with vendors for the upcoming fiscal year and the amount of loss in inventory and the effect on the EETF is indeterminate at this time.

2. Recurring Effects:

According to The Department of the Lottery, a negative fiscal impact to the EETF would result from unclaimed prize money not being reinvested. The average annual amount of unclaimed prizes is approximately \$30 million; however, the current reinvestment use results in a total of approximately \$36 million being deposited in the EETF. Consequently, this is a loss of \$6 million into the EETF. This does not take into account the loss in sales. Colorado reduced their prize pool by 4.5 percent and subsequently realized a 22 percent decline in instant game sales.

The interest earned on unclaimed prize money is part of the total interest earned on the department's Administrative Trust Fund. This interest is included as revenue in calculating amounts to be transferred to the EETF. The department estimates that the portion of total interest applicable to the unclaimed prize money is approximately \$140,000 annually. If the unclaimed prize money is transferred directly to EETF, this interest would be lost.

Taking two percent of the gross revenue will increase the amount of gross revenue to the state from 38 percent to 40 percent. The effect of this could be a loss of positions, sales, and a net loss to the EETF. However, the amount is indeterminate at this time.

3. Long Run Effects Other Than Normal Growth:

The long term reduction in sales and corresponding reduction in revenue transfers to the EETF is indeterminate.

4. Total Revenues and Expenditures:

The total loss to the Education Enhancement Trust Fund (EETF) due to the reduction in prize pool and the loss due to the two percent increase from 38 to 40 percent in gross revenue to the state is indeterminate at this time. Additionally, the amount which would be deposited in the State Student Financial Assistance Trust Fund (SSFATF) and the amount of funding which would be available for the Florida Undergraduate Scholars' Program is indeterminate at this time. However, loss to the EETF would be greater than the deposit to the SSFATF.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

The amount of lottery revenue in the EETF disbursed to local school districts, community colleges, and state universities would be reduced to the extent that EETF funds are reduced.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Lottery retailers are paid a 5 percent commission plus other incentives on tickets they sell. The anticipated decrease in lottery sales would reduce the amount the retailers receive in retailer commissions. Additionally, if the two percent from gross revenue is taken from the retailer portion, they would lose revenues as a result of the two percent redirection.

2. Direct Private Sector Benefits:

Indeterminate.

3. Effects on Competition, Private Enterprise and Employment Markets:

Indeterminate.

D. FISCAL COMMENTS:

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of counties or municipalities to raise revenue.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties and municipalities.

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V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

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