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# MEMORANDUM

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**To:** Human Services Subcommittee of the Joint Committee on Ways and Means

**From:** Laurie Byerly, Legislative Fiscal Office  
503-986-1833

**Date:** June 18, 2015

**Subject:** HB 2393 - Relating to recovery from lottery prize of overpayment of public benefits  
Work Session Recommendation

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House Bill 2393 requires the Oregon State Lottery to hold a lottery prize in excess of \$600 that is owed to person that has not repaid overpayment of certain public benefits issued by the Department of Human Services (DHS) and the Oregon Health Authority (OHA). The Lottery would inform DHS and OHA of the winnings for those agencies to initiate garnishment proceedings, if applicable.

The measure previously had committee hearings in House Human Services and Housing on 2/25/15 and in House Judiciary on 3/10/15 and 4/10/15. The measure, the original staff measure summary, and fiscal impact statement are available on OLIS.

For 2015-17, the bill has a fiscal impact of \$105,762 General Fund and \$99,138 Federal Funds, the bulk of which is for one-time costs to establish a data exchange and match system between Lottery and DHS/OHA. Ongoing costs are estimated to be a little over \$40,000 a biennium with biennial estimated overpayment recoveries projected to be in excess of \$200,000 total funds. Funding will be included in the DHS budget bill, HB 5026, in the Office of Payment Accuracy and Recovery within the Shared Services program.

The measure is recommended to be moved to the Full Committee on Joint Ways and Means.

## Amendment

The proposed -A3 amendment clarifies that recovery of overpayments from prize payments is available for those overpayments for which a final order of overpayment has been issued under the authority provided by ORS Chapter 183.

**Motion: I move the -A3 amendment to HB 2393.**

## Measure as Modified

The measure, as amended, is recommended to be moved to the Full Committee on Joint Ways and Means.

**Motion: I move HB 2393 to the Joint Committee on Ways and Means with a “do pass” recommendation, as amended.**

**Assignment of Carriers**

Full: \_\_\_\_\_

1<sup>st</sup> Chamber: \_\_\_\_\_

2<sup>nd</sup> Chamber: \_\_\_\_\_

**FISCAL IMPACT OF PROPOSED LEGISLATION****Measure: HB 2393 - A3**Seventy-Eighth Oregon Legislative Assembly – 2015 Regular Session  
Legislative Fiscal Office**Only Impacts on Original or Engrossed  
Versions are Considered Official**Prepared by: Kim To  
Reviewed by: Laurie Byerly, Linda Ames, Steve Bender  
Date: 6/17/2015**Measure Description:**

Requires Oregon State Lottery to hold lottery prize in excess of \$600 that is owed to person that has not repaid overpayment of public assistance or medical assistance benefits.

**Government Unit(s) Affected:**

Department of Human Services (DHS), Oregon Health Authority (OHA), Oregon State Lottery

**Summary of Expenditure Impact:**

|  | 2015-17 Biennium | 2017-19 Biennium |
|--|------------------|------------------|
| <b>EXPENDITURES</b>                    |                  |                  |
| General Fund                           | \$105,762        | \$24,012         |
| Federal Funds                          | 99,138           | 17,388           |
| <b>Total Expenditures</b>              | <b>\$204,900</b> | <b>\$41,400</b>  |
| <b>REVENUES</b>                        |                  |                  |
| State Share                            | \$27,042         | \$27,042         |
| Federal Share                          | 182,910          | 182,910          |
| <b>Total Projected Recovered Funds</b> | <b>\$209,952</b> | <b>\$209,952</b> |
| <b>NET IMPACT</b>                      | <b>\$5,052</b>   | <b>\$168,552</b> |

**Local Government Mandate:**

This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

**Analysis:**

House Bill 2393 requires the Oregon State Lottery Commission to develop rules to hold lottery prizes in excess of \$600 in order to ascertain if the individuals entitled to these winnings have received an overpayment of assistance for which the Department of Human Services (DHS) or the Oregon Health Authority (OHA) is authorized to, and has issued, a final order for overpayment. The Lottery is required to inform DHS and OHA of these individuals, and to place a hold on these winnings for 30 days, or until DHS or OHA has notified the Lottery that a garnishment proceeding will not be initiated, whichever is shortest. These requirements apply to overpayment of assistance first issued on or after the January 16, 2016 effective date. The bill directs the Lottery, OHA and DHS to enter into an agreement to establish and manage this data exchange. The bill specifies that payment of any past-due child support has priority over the recovery of any overpayment of assistance. The – A3 amendment rewords language regarding overpayment and issuance of final order. The – A3 amendment does not change the fiscal determination.

Note that under current practice, Video Lottery<sup>SM</sup> prizes of up to \$1,250 can be paid directly by Video Lottery<sup>SM</sup> retailers at the retail location. These prizes are generally not paid at Lottery Headquarters, and as such would not be subject to the process specified in the bill.

### Oregon State Lottery

The bill requires the Oregon State Lottery Commission to establish and operate a data match system using automated data exchanges with DHS and OHA to identify individuals who have received an overpayment of assistance for which a final order for overpayment has been issued. Lottery estimates the initial one-time cost to establish this data exchange and match system to be approximately \$163,500 General Funds. This amount includes staff time, programming charges, as well as legal and equipment expenses. Lottery estimates the on-going information technology cost of maintaining the system to be approximately \$19,800 General Fund per biennium. In addition, Lottery estimates that the cost to process the garnishment and remit funds to be approximately \$100 per claim. Based on DHS and OHA projections of 9 claims per month, the claim cost would total \$21,600 General Fund per biennium.

In accordance with the Oregon Constitution, Lottery's administrative funds can only be used for the administration of the lottery. As such, if this bill passes, DHS/OHA will enter into an agreement with Lottery to pay the one-time costs to establish the system, as well as the on-going monthly expense, and the cost per claim.

### Department of Human Services (DHS), Oregon Health Authority (OHA)

The Office of Payment Accuracy and Recovery (OPAR) reports that there is currently a total of \$56,665,083 in overpayments of benefits to 23,419 DHS/OHA clients. Based on July 2010 – June 2012 data from the May 2013 Secretary of State audit of Public Assistance, OPAR extrapolates that there could potentially be 9 data matches to the Lottery system per month at an average of \$972 per claim (\$8,748 per month / \$209,952 per biennium). Based on OPAR's analysis of recovery, 12.88% (27,042) of Total Funds will be attributed to the State, and 87.12% (\$182,910) to Federal recovery.

**PRELIMINARY STAFF MEASURE SUMMARY****Joint Committee On Ways and Means****Fiscal:** Fiscal impact issued**Revenue:** Has minimal revenue impact**Action Date:****Action:****Meeting Dates:****Prepared By:** Laurie Byerly, Budget Analyst**WHAT THE MEASURE DOES:**

Requires Oregon State Lottery Commission to hold payment of lottery prizes in excess of \$600 to recipients who have received overpayment of supplemental nutritional assistance, public assistance, or medical assistance and for which a warrant has been issued. Specifies 30-day hold on payments. Requires notification of hold to person and agency. Requires disbursement of prize if agency does not initiate garnishment proceeding within 30-days' time or upon notification from agency that garnishment action will not be initiated. Requires development of data match system. Prioritizes recovery of past-due child support amounts over recovery of overpayments of support. Applies to warrants issued after effective date of Act.

**ISSUES DISCUSSED:****EFFECT OF COMMITTEE AMENDMENT:**

Amendment clarifies that recovery of these overpayments through Lottery prize payments is available for those overpayments for which a final order of overpayment has been issued by the Department of Human Services or Oregon Health Authority under the authority provided by ORS Chapter 183, and not just those for which a warrant has been issued under ORS 411.703.

**BACKGROUND:**

If an individual has received an overpayment of some form of public assistance, such as supplemental nutrition assistance (SNAP), or medical care, the Department of Human Services (DHS) or the Oregon Health Authority (OHA) may request repayment of the overpayment. The individual has an opportunity for a contested case hearing. If the payment is not received within the specified time, the agency may issue a warrant for the overpayment. The warrant is the same process as used for recording tax deficiencies and must be recorded with a county clerk. The warrant must include the principal amount of the overpayment, the interest due, and other costs. Upon the proper execution of the warrant, the agency may initiate garnishment proceedings against the individual.

House Bill 2393 requires the Oregon State Lottery Commission to develop and operate a data matching system with OHA and DHS to identify persons who have received overpayment of public assistance and who have won more than \$600 in lottery prizes. The measure requires the Lottery to check the names of all persons claiming prizes over \$600 with the database and to place a hold on any names matching a warrant of overpayment. If a match is made, the payment must be held. The Lottery would then notify the individual and the agency with the warrant. The agency then has 30-days to initiate garnishment, in which case the Lottery will continue to hold the payment, or to inform the Lottery that it will not pursue garnishment. At the time of notification of not pursuing garnishment, or at the end of the 30-day period, the Lottery must pay the prize to the person.

HB 2393-A3  
(LC 914)  
6/9/15 (BHC/dfy/ps)

**PROPOSED AMENDMENTS TO  
A-ENGROSSED HOUSE BILL 2393**

1 On page 2 of the printed A-engrossed bill, line 6, after “which” delete the  
2 rest of the line and insert “a final order for overpayment has been issued by  
3 the department or the authority under ORS chapter 183.”.

4 Delete lines 13 through 15.

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