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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
53rd Legislature, 1st Session, 2017

Bill Number	<u>HB250/HBICS/aHFl#1</u>	Sponsor	<u>HBIC</u>
Tracking Number	<u>.206942.1</u>	Committee Referrals	<u>HLEDC/HBIC;SJC/SFC</u>
Short Title	<u>Lottery Employee Bonuses & Unclaimed Prizes</u>		
Analyst	<u>Rogne</u>	Original Date	<u>3/1/17</u>
		Last Updated	<u>3/6/17</u>

BILL SUMMARY

Synopsis of HFl#1 Amendment

The House Floor Amendment to HB250/HBICS fixes a technical issue on page 8, line 13 so that the New Mexico Lottery Authority is prohibited from selling lottery tickets through a self-service device that is a part of or shares a display with an automated teller machine.

Synopsis of Original Bill

The House Business and Industry Committee Substitute for House Bill 250 (HB250/HBICS) amends the New Mexico Lottery Act by tying the amount of bonuses paid to lottery employees and vendors to the amount of lottery ticket revenues delivered to the lottery tuition fund. The bill also requires unclaimed and forfeited lottery prizes to be paid into the lottery tuition fund but not be included in the calculation of gross revenues. Lastly, HB250/HBICS adds a new section to the New Mexico Lottery Act prohibiting the New Mexico Lottery Authority from offering any video lottery game and selling lottery tickets through “pay at the pump” type devices and automated teller machines.

FISCAL IMPACT

HB250/HBICS does not contain an appropriation.

If enacted, HB250/HBICS would affect the lottery tuition fund. Although it is difficult to calculate the fiscal impact of HB250/HBICS in its entirety, an estimated \$2.5 million would be deposited annually into the lottery tuition fund from unclaimed and forfeited lottery prizes. Revenue to the lottery tuition fund was estimated from the New Mexico Lottery Authority’s FY16 audited financial statement that reported unclaimed prizes in the amount of \$2.6 million on June 30, 2016.

Providing bonuses or incentives to lottery employees and vendors tied to the increase in the amount of lottery ticket revenues directed to the lottery tuition fund may provide an incentive to employees and vendors, and thus increase sales.

According to the New Mexico Lottery Authority, if HB250/HBICS passes, the lottery would be required by statute to return 32.5 percent to 33 percent each month to the legislative lottery scholarship fund when combining the 30 percent legal mandate and the unclaimed prizes. Said another way, HB250/HBICS would increase the return to the legislative lottery scholarship fund by 2.5 percent to 3 percent. According to the New Mexico Lottery Authority, they would have to reduce the Scratcher game payout to achieve this return, which would cause Scratcher sales and the return to the legislative lottery scholarship fund to decrease.

Currently, the New Mexico Lottery Authority uses unclaimed prizes to enhance prize payouts for Scratcher games. The unclaimed prize fund is also used by the lottery to pay prizes won early in a game before the game has achieved requisite sales to fund prizes. In addition, the fund is used for specialty games to increase the lottery player base, which results in increased revenues.

According to the New Mexico Lottery Authority, the passage of HB250/HBICS would result in the lottery being unable to meet the statutorily required transfer to the lottery tuition fund, a reduced amount of dollars being transferred, a decrease of the lottery's cash flow, causing the authority to borrow money to pay prizes and pay other expenses. It would also prevent the New Mexico Lottery Authority from keeping up with technological changes. If HB250/HBICS passes, the lottery would have to pull Scratcher games from the marketplace. The New Mexico Lottery Authority noted this would result in lost sales and a reduction in the dollars returned to the scholarship fund by an estimated 10 percent to 15 percent each year.

Further, the New Mexico Lottery Authority noted they have nine to 12 months of Scratcher ticket inventory available for sale at retailer locations and printed, costing approximately \$750 thousand. The prizes in these Scratcher games have been partially funded from unclaimed prizes. If HB250/HBICS passes, the lottery would have to pull these games from the marketplace and shred millions of these tickets.

SUBSTANTIVE ISSUES

HB250/HBICS amends Section 6-24-6 NMSA 1978 directing that any employee or vendor bonuses or incentives paid by the New Mexico Lottery Authority to be calculated based upon the increase in lottery revenues deposited into the lottery tuition fund, and not based on the authority's gross revenues or other factors. It further amends Section 6-24-21 NMSA 1978 directing the New Mexico Lottery Authority to deposit unclaimed, forfeited prize winnings into the lottery tuition fund. HB250/HBICS also replaces the gendered language within the statute, from "his" to the "Internal Auditor" of the New Mexico Lottery Authority. A new section is added to the New Mexico Lottery Act prohibiting any style of video lottery game.

The purpose of the current legislative lottery tuition scholarship is to increase access to postsecondary education, reduce financial burden on students, and increase educational attainment in New Mexico. The legislative lottery tuition scholarship is funded by 30 percent of lottery ticket sales. Laws 2014, Chapter 80, authorizes the Higher Education Department (HED) to set the percentage of sector average tuition the fund can support prior to each fiscal/academic year. Since 2009, the cost of tuition scholarships has outpaced revenues from ticket sales; as a result, the year-end balance of the lottery tuition fund has declined. According to the Legislative Lottery Scholarship Report published by HED in December 2016, the fund paid 90 percent of average tuition in FY16. Tuition payments were reduced from the FY14 peak of \$66 million to \$58.2 million in FY16. A summary of the FY16 lottery tuition fund activity can be found on the following page.

FY16 Lottery Tuition Fund Activity Summary	
Cash Balance Beginning FY16	\$3,402,138
NM Lottery Authority Revenues	\$45,936,991
Liquor Excise Tax Revenue	\$14,626,920
TRD Voluntary Contributions, Other Misc. Revenue	\$11,203
Subtotal FY15 Revenues	\$60,575,114
Fall 2014 Lottery Scholarship Payments	(\$26,733,244)
Spring 2015 Lottery Scholarship Payments	(\$31,437,309)
FY15 Delayed Payment	(\$3,587,324)
Subtotal FY16 Expenditures	(\$58,170,533)
Cash Balance Ending FY16	\$2,219,375
	Source: SHARE Financials

The lottery tuition scholarship fund has experienced strain due to an increase in students’ claiming the scholarship. In FY16 there was a total of 29,143 lottery scholarship recipients compared with 16,168 in FY00. Attachment A depicts FY16 student headcount and lottery scholarship recipients.

ADMINISTRATIVE IMPLICATIONS

The Financial Aid Division at HED administers the lottery tuition fund. According to HED, HB250/HBICS does not provide a methodology for calculation of bonuses based upon increases in distributions to the lottery tuition fund. Lottery ticket revenue is volatile and monthly distributions to the fund can vary by 15 percent or more. Clarification is needed regarding how a net increase in revenues to the Lottery Tuition Fund is measured, for example, from year to year, average monthly revenue, rolling average, or other metric.

OTHER SIGNIFICANT ISSUES

For FY16 and FY17, 39 percent of the liquor excise tax revenue is directed to the lottery tuition fund, pursuant to subsection C of 7-1-6.40 NMSA 1978. However, the lottery tuition fund’s liquor excise tax revenue enacted in Laws 2014, Chapter 80 (SB347) will sunset June 30, 2017.

RELATED BILLS

HB194, Lottery Scholarship Full & Need-Based, a bill which makes the lottery tuition scholarship a full scholarship awarded based on financial need.

HB237/HTRCS, Liquor Tax to Lottery Scholarship Fund, a bill providing for the extension of the distribution of the liquor excise tax revenues to the lottery tuition fund and reduction of the percentage of distribution to 30 percent.

SB188, Disabilities Students Lottery Scholarships, a bill allowing certain New Mexico students with disabilities to receive legislative lottery tuition scholarships.

Related to SB192/aSFC, Transfer of Lottery Funds, a bill eliminating the 30 percent monthly transfer of gross revenue to the lottery tuition fund and adding new language that all estimated net revenue from the sale of lottery games shall be transferred to the lottery tuition fund.

SOURCES OF INFORMATION

- LESC Files
- Higher Education Department
- Northern New Mexico College
- New Mexico Lottery Authority

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FY16 Student Headcount and Lottery Scholarship Recipients			
Institution	Student Headcount	Lottery Scholarship Recipients	Scholarship Recipients of Percentages of Total Students
NM Tech	2,530	1,069	42.3%
NMSU	17,931	6,486	36.2%
UNM	31,542	13,956	44.2%
Research Sector Total	52,003	21,511	41.4%
ENMU	8,008	1,526	19.1%
NMHU	4,346	484	11.1%
NNMC	1,489	206	13.8%
WNMU	4,385	328	7.5%
Comprehensive Sector Total	18,228	2,544	14.0%
ENMU-RO	3,738	246	6.6%
ENMU-RU	1,121	31	2.8%
NMSU-AL	3,238	82	2.5%
NMSU-CA	3,257	118	3.6%
NMSU-DA	10,912	888	8.1%
NMSU-GR	1,787	29	1.6%
UNM-GA	3,201	87	2.7%
UNM-LA	1,935	79	4.1%
UNM-VA	3,536	314	8.9%
CNM	38,109	2,066	5.4%
CCC	5,964	96	1.6%
LCC	2,045	76	3.7%
MCC	1,336	31	2.3%
NMJC	4,430	165	3.7%
SJC	11,612	405	3.5%
SFCC	9,124	285	3.1%
NMMI	631	0	0.0%
Community College Sector Total	108,430	5,088	4.7%
Grand Total All Sectors	178,661	29,143	16.3%
			Source: HED