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**LEGISLATIVE EDUCATION STUDY COMMITTEE**  
**BILL ANALYSIS**  
**53rd Legislature, 2nd Session, 2018**

<b>Bill Number</b>	<u>HB147/aHEC/aHAFC/aHFI#3</u>	<b>Sponsor</b>	<u>Smith</u>
<b>Tracking Number</b>	<u>.209579.1</u>	<b>Committee Referrals</b>	<u>HEC/HAFC</u>
<b>Short Title</b>	<u>Transmitting of Lottery Funds</u>		
<b>Analyst</b>	<u>Rogne</u>	<b>Original Date</b>	<u>1/30/18</u>
		<b>Last Updated</b>	<u>2/12/18</u>

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**BILL SUMMARY**

Synopsis of House Floor Amendment #3

House Floor Amendment 3 (HB147/aHEC/aHAFC/aHFI#3) clarifies that unclaimed lottery prizes will not be included in the calculation of the gross revenues required for transfer into the lottery tuition fund.

Synopsis of House Floor Amendment #2

House Floor Amendment 2 (HB147/aHEC/aHAFC/aHFI#2) requires the New Mexico Lottery Authority to transfer 30 percent of the gross revenue from the sale of lottery tickets to the lottery tuition fund each month if the total amount transferred in any fiscal year is less than \$40 million, instead of \$38 million.

Synopsis of House Floor Amendment #1

House Floor Amendment 1 (HB147/aHEC/aHAFC/aHFI#1) limits the operating expenses of the New Mexico Lottery Authority to 15 percent of the lottery's gross annual revenue.

Synopsis of HAFC Amendment

The House Appropriations and Finance Committee amendment to HB147 (HB147/aHEC/aHAFC) requires the New Mexico Lottery Authority to transfer 30 percent of the gross revenue from the sale of lottery tickets to the lottery tuition fund each month if the total amount transferred in any fiscal year is less than \$38 million. The HAFC amendment removes the FY19 through FY23 sunset for this requirement provided by the HEC amendment.

Synopsis of HEC Amendment

The House Education Committee Amendment to HB147 (HB147/aHEC) requires the New Mexico Lottery Authority to transfer 30 percent of the gross revenue from the sale of lottery tickets to the lottery tuition fund each month if the total amount transferred in FY19 through FY23 is less than

\$38 million. This requirement will sunset after FY23. The amendment also provides that unclaimed lottery prizes will be paid into the lottery tuition fund. Additionally, HB147/aHEC makes technical corrections by changing gendered language to neutral language.

Synopsis of Original Bill

House Bill 147 (HB147) amends the New Mexico Lottery Act to eliminate the requirement for the Lottery Authority to transfer at least 30 percent of the gross revenue from the sale of lottery tickets to the lottery tuition fund each month. Instead, HB147 requires the New Mexico Lottery Authority to transmit all net revenues to the lottery tuition fund on a monthly basis via the state treasurer. If the total amount transmitted for any fiscal year is less than \$38 million, the New Mexico Lottery Authority will be required to transmit at least 30 percent of each month’s gross revenue to the lottery tuition fund. The effective date of these provisions is July 1, 2018.

**FISCAL IMPACT**

This bill does not make an appropriation.

If enacted, HB147/aHEC/aHAFC/aHFI#3 will affect the lottery tuition fund. According to the Higher Education Department (HED), in the short term, the change in distribution will have a minimal impact on the lottery tuition fund, although long-term effects on revenues remain unknown.

HB147/aHEC/aHAFC/aHFI#3 requires unclaimed lottery prizes to be paid into the lottery tuition fund though they will not be included in the calculation of gross revenues. According to the New Mexico Lottery Authority’s FY17 audited financial statements, the balance of unclaimed prizes was almost \$2.6 million in FY17.

The following data shows gross revenue; the current 30 percent statutory distribution of gross revenue; net revenues, which under HB147/aHEC/aHAFC/aHFI#3 would replace the current 30 percent distribution of gross revenues unless the amount transmitted into the lottery tuition fund is less than \$40 million annually; and the percentage difference between the 30 percent gross revenue and net revenues for quarters 1-2 (July through December) for FY16 through FY17:

	Q1-Q2 FY16	Q1-Q2 FY17
Gross Revenue	\$63,330.10	\$64,635.70
<b>30% Gross (current requirement)</b>	<b>\$18,999.00</b>	<b>\$19,390.70</b>
<b>Net Revenues (HB147)</b>	<b>\$19,001.40</b>	<b>\$19,393.90</b>
Percentage Difference	0.01%	0.02%

\* New Mexico Lottery Authority did not provide more current data at the time of this analysis.

Source: New Mexico Lottery Authority

According to HED, the change to an annual distribution of net revenue cannot ensure additional revenue from year-to-year.

**SUBSTANTIVE ISSUES**

HB147/aHEC/aHAFC/aHFI#3 eliminates the mandate to transfer at least 30 percent of the gross revenue from lottery ticket sales to the legislative lottery tuition fund provided that the total amount of annual net revenue does not fall below \$40 million, in which case the 30 percent monthly transfers would be reinstated. HB147/aHEC/aHAFC/aHFI#3 also requires unclaimed prize money to be deposited into the lottery tuition fund.

According to HED, over the long term, the 30 percent distribution of lottery tickets revenues averages \$38 million to \$42 million per year.

According to the New Mexico Lottery Authority, by eliminating the 30 percent return requirement, the lottery may increase prizes in scratcher games, which the Authority asserts will ultimately increase sales and allows the lottery’s business operations to be aligned with industry best practices. The Authority is concerned that lottery scratcher sales have declined since the inception of the 30 percent return requirement with the passage of Senate Bill 364 in 2007. National scratcher sales have grown over this period by 45 percent and New Mexico scratcher sales have declined by 21 percent. The Oklahoma lottery recently repealed their 35 percent mandate, and scratcher sales increased 60 percent.

According to the Legislative Finance Committee (LFC), the significant volatility in lottery sales over the last two decades makes it difficult to pinpoint low payouts on scratcher sales as the sole reason for falling revenues. Several other economic and demographic factors are likely to influence ticket sales.

**Current Status of the Legislative Lottery Tuition Fund.** According to the Legislative Lottery Scholarship Report published by HED in December 2017, in FY16 and FY17, the lottery scholarship covered 90 percent of sector average tuition. However, the lottery tuition fund has been shrinking because of a drop in revenues and rising tuition costs. For FY16 and FY17, Laws 2014, Chapter 80, directed a portion of the liquor excise tax to the lottery tuition fund, about \$19 million a year. With the sunset of the liquor excise tax revenue at the end of FY17, the tuition percentage was reduced in FY18 to 60 percent of sector average tuition. A summary of the FY17 lottery tuition fund activity can be found below.

<b>FY17 Lottery Tuition Fund Activity Summary</b>	
<b>Cash Balance Beginning FY17</b>	<b>\$2,219,375</b>
NM Lottery Authority Revenues	\$38,240,313
Liquor Excise Tax Revenue	\$19,419,756
Interest, Voluntary Contributions, Other Misc. Revenue	\$234,161
<b>Subtotal FY17 Revenues + Carry Forward Balance</b>	<b>\$60,113,605</b>
Fall 2016 Lottery Scholarship Payments	(\$26,876,909)
Spring 2017 Lottery Scholarship Payments	(\$31,045,363)
UNM Nursing Summer Payment	(\$130,494)
<b>Subtotal FY17 Expenditures</b>	<b>(\$58,052,766)</b>
<b>Cash Balance Ending FY17</b>	<b>\$2,060,839</b>
	Source: SHARE Financials

To be eligible for the lottery scholarship, students must attend postsecondary full-time up to (1) 16 months after high school graduation or receiving a high school equivalency credential; or (2) 16 months after military service begun within four months of high school graduation or receiving a high school equivalency credential. Qualified students must be residents of New Mexico. Statute defines full-time attendance as 15 or more credit hours per semester for students attending four-year postsecondary institutions, and 12 credit hours for students attending two-year institutions. Pursuant to current statute and rules set forth in 5.7.20 NMAC, students do not receive the lottery scholarship in their first semester of enrollment but instead have an initial

qualifying semester supported by other institutional funds (the Bridge scholarship). Students must complete their first semester with a grade point average (GPA) of 2.5 or better, and maintain a 2.5 GPA or better, to receive the lottery scholarship.

In FY17, there were a total of 28,710 lottery scholarship recipients distributed by sector as follows:

- 20,916 recipients at the research institutions;
- 2,455 recipients at the four-year comprehensive colleges; and
- 5,339 recipients at the two-year independent and branch community colleges.

See Attachment 1 for FY17 student headcount and lottery scholarship recipients by postsecondary educational institution.

### **ADMINISTRATIVE IMPLICATIONS**

The Financial Aid Division at HED administers the lottery tuition fund.

### **TECHNICAL ISSUES**

The title of HB147/aHEC/aHAFC/aHFI#3 still includes “providing a sunset” although the bill was amended in HAFC to remove the sunset. On page 1, line 13, “providing a sunset” should be removed.

### **RELATED BILLS**

Related to HB178, Lottery Scholarship Changes, which provides flat lottery scholarship awards based on the type of postsecondary educational institution, decoupling scholarship amounts from tuition costs.

Related to HB270, Lottery Scholarship Awards & Tuition Costs, which sets different decoupled tuition awards based on the type of postsecondary educational institution.

Related to SB140, Lottery Scholarship Awards & Tuition Costs, which sets different decoupled tuition awards based on the type of postsecondary educational institution and amends language regarding the fund balance in the lottery tuition fund.

### **SOURCES OF INFORMATION**

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

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**FY17 Student Headcount and Lottery Scholarship Recipients**

Institution	Total Student Headcount	Lottery Scholarship Recipients	Scholarship Recipients as Percentages of Total Students
NM Tech	2,920	1,059	36.3%
NMSU	21,068	6,119	29.0%
UNM	36,848	13,738	37.3%
<b>Research Sector Total</b>	<b>60,836</b>	<b>20,916</b>	<b>34.4%</b>
ENMU	6,624	1,443	21.8%
NMHU	3,465	480	13.9%
NNMC	1,556	214	13.8%
WNMU	3,328	318	9.6%
<b>Comprehensive Sector Total</b>	<b>14,972</b>	<b>2,455</b>	<b>16.4%</b>
ENMU-RO	3,423	257	7.5%
ENMU-RU	653	26	4.0%
NMSU-AL	1,779	150	8.4%
NMSU-CA	2,011	140	7.0%
NMSU-DA	9,985	1042	10.4%
NMSU-GR	848	44	5.2%
UNM-GA	3,153	93	3.0%
UNM-LA	932	90	9.7%
UNM-VA	2,363	297	12.6%
CNM	31,066	1,938	6.2%
CCC	3,494	69	2.0%
LCC	1,535	71	4.6%
MCC	803	39	4.9%
NMJC	3,621	190	5.2%
SJC	9,763	466	4.8%
SFCC	5,718	319	5.6%
NMMI	954	12	1.3%
<b>Community College Sector Total</b>	<b>83,639</b>	<b>5,339</b>	<b>6.4%</b>
<b>Grand Total All Sectors</b>	<b>159,447</b>	<b>28,710</b>	<b>18.0%</b>

Source: HED