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

<b>Bill Number</b>	<u>SB192/aSFC/aHAFC</u>	<b>Sponsor</b>	<u>Senator Smith &amp; Representative McCamley</u>
<b>Tracking Number</b>	<u>.206158.1</u>	<b>Committee Referrals</b>	<u>SCORC/SFC;HEC/HAFC</u>
<b>Short Title</b>	<u>Transfer of Lottery Funds</u>		
<b>Analyst</b>	<u>Rogne</u>	<b>Original Date</b>	<u>2/8/17</u>
		<b>Last Updated</b>	<u>3/16/17</u>

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**BILL SUMMARY**

Synopsis of HAFC Amendment

The House Appropriations and Finance Committee amendment to SB192 as amended (SB192/aSFC/aHAFC) caps the transfer of total net revenue from the lottery authority to the lottery tuition fund at \$38 million through June 30, 2022. In addition, the amendment permanently eliminates the requirement to transfer at least 30 percent of the gross revenue from lottery sales to the lottery tuition fund each month.

Synopsis of Senate Message to the House

The Senate Message to the House removes the emergency clause from SB192/aSFC.

Synopsis of SFC Amendment

The Senate Finance Committee (SFC) amendment to Senate Bill 192 (SB192/aSFC) temporarily eliminates the 30 percent monthly transfer from the sale of lottery games upon the 2017 effective date of the legislation through June 30, 2022.

\*SB192/aSFC contains an emergency clause.

Synopsis of Original Bill

Senate Bill 192 (SB192) amends the New Mexico Lottery Act to eliminate the requirement to transfer at least 30 percent of the gross revenue from lottery sales to the lottery tuition fund each month. Instead, SB192 requires the New Mexico Lottery Authority to transmit all net revenue to the lottery tuition fund on a monthly basis via the state treasurer, provided that the total amount of annual net revenue would be transmitted no later than August 1 following the end of that fiscal year. The effective date of these provisions is July 1, 2017.

**FISCAL IMPACT**

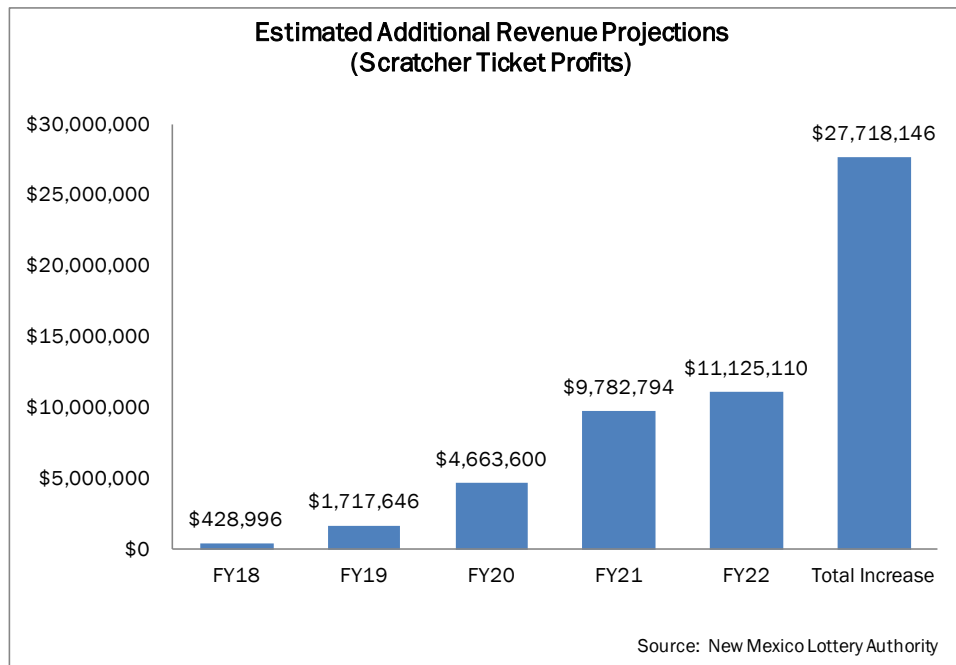
SB192/aSFC/aHAFC does not contain an appropriation. If enacted, SB192/aSFC/aHAFC would affect the lottery tuition fund.

According to the Higher Education Department (HED), in the short term the change in distribution from 30 percent gross revenue to net return will have minimal impact on the lottery tuition fund. HED currently bases projections for the legislative lottery tuition scholarship on the monthly transfer of funds from the New Mexico Lottery Authority.

Difference between 30% Gross Revenue and Net Revenue/Return (dollars in thousands)		
	Q1-Q2 FY16	Q1-Q2 FY17
Gross Revenue	\$63,330.10	\$64,635.70
30% Gross	\$18,999.00	\$19,390.70
Net Return	\$19,001.40	\$19,393.90
Percentage Difference	0.0125%	0.0164%

Source: New Mexico Lottery Authority

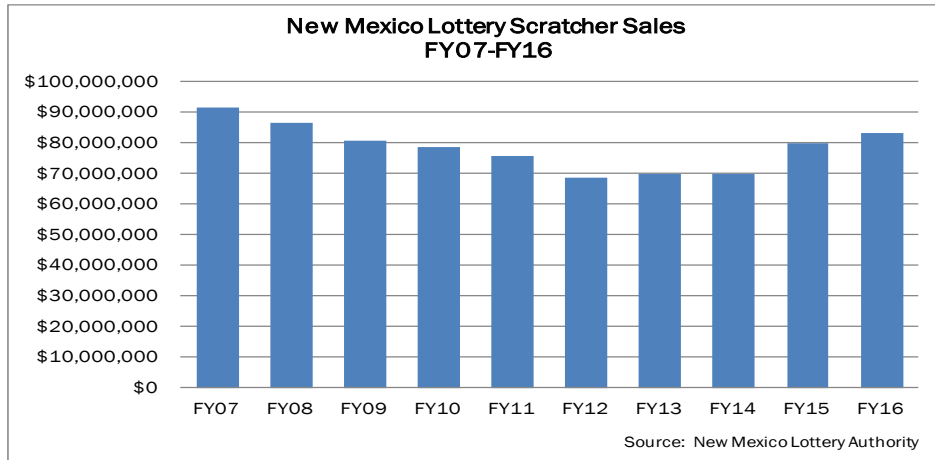
According to the New Mexico Lottery Authority, by eliminating the 30 percent return requirement, the lottery would be able to increase prizes for Scratcher games, which would ultimately increase the actual dollars returned for deposit into the lottery tuition fund, allowing the lottery’s business operations to be aligned with industry best practices. Based on Scratcher game projections, an increase in overall profitability of an additional \$11.1 million by FY22 is expected, resulting in 40.7 percent growth in Scratcher revenue.



The New Mexico Lottery Authority noted that Senate Bill 364, passed in March 2007, required a fixed percentage of lottery gross revenues be returned to the state beginning July 2007. The Lottery Authority was forced to reduce costs by \$6.5 million and responded by cutting budgets, operations and expenses. The bulk of the budget cuts came from reduced Scratcher prize payouts. In the last nine years, an average 60 percent of Lottery Scratcher sales have been paid

to players as prizes, one of the lowest prize payouts in the nation. In states with growing Scratcher sales, 65 percent to 76 percent of Scratcher sales are paid as prizes.

According to the New Mexico Lottery Authority, between FY04 and FY07, New Mexico Lottery Scratcher sales grew approximately 4.6 percent a year. In FY07, Scratcher sales hit a peak of \$91.4 million. Between FY07 and FY14 with the implementation of SB364, Scratcher annual sales decreased approximately 24 percent. The Lottery Authority decreased administrative cost and increased prize payouts in both FY15 and FY16. As a result, the Lottery Authority was able to increase Scratcher sales by 19 percent resulting in approximately \$7 million in additional revenue return to the Legislative Lottery Scholarship Fund.



The Lottery Authority noted this increase in prize payout cannot be sustained in FY17 because of increased online vendor costs coupled with the mandated percentage return. Thus, Scratcher sales have once again decreased in FY17 to \$35.7 million year to date as of December 2016 and are projected to be only \$70 million for the entire fiscal year. This decrease in Scratcher sales in FY17 will result in a reduction of the net revenue return to the legislative lottery tuition scholarship of approximately \$4 million in FY17. Since 2007, the falling Scratcher sales have resulted in a projected loss of approximately \$35 million to \$50 million in revenue to legislative lottery tuition scholarships.

According to the New Mexico Lottery Authority, if Scratcher sales had followed industry trends from FY07 to FY14, the Lottery Authority’s gross revenue would have been substantially greater (see Attachment A, Scratcher Sales Analysis FY07-FY14, from IGT Global Solutions Corporation, one of New Mexico Lottery Authority’s instant ticket providers). The Lottery Authority noted future growth in sales and revenue for scholarships will only be possible if the Lottery Act is amended to eliminate the 30 percent mandated return to the lottery Legislative Lottery Scholarship Fund.

## SUBSTANTIVE ISSUES

The purpose of the 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 currently funded by 30 percent of lottery ticket sales. 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. The lottery tuition fund must maintain an annual

average balance of \$2 million pursuant to Section 21-21N-5 NMSA 1978. 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 below.

<b>FY16 Lottery Tuition Fund Activity Summary</b>	
<b>Cash Balance Beginning FY16</b>	\$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
<b>Subtotal FY15 Revenues</b>	\$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)
<b>Subtotal FY16 Expenditures</b>	(\$58,170,533)
<b>Cash Balance Ending FY16</b>	\$2,219,375
	Source: SHARE Financials

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

In FY16 there was a total of 29,143 lottery scholarship recipients compared with 16,168 in FY00. Attachment B depicts FY16 student headcount and lottery scholarship recipients.

**RELATED BILLS**

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

CS/CS/HB237/HTRCS/HFICS/HFI#1, Liquor Tax to Lottery Scholarship Fund, a bill providing for the extension of the liquor excise tax revenues to the lottery tuition fund and reduction of the percentage of distribution to 30 percent.

CS/HB250/HBICS/HFI#1, Lottery Employee Bonuses & Unclaimed Prizes, requires unclaimed and forfeited prizes to be paid into the lottery tuition fund and ties the amount of bonuses paid to lottery employees and vendors to the amount of ticket sale revenues delivered to the lottery tuition fund.

SB188, Disabilities Students Lottery Scholarships, a bill amending the Legislative Lottery Tuition Scholarship Act to include eligibility for students with disabilities that had to leave the state to receive an education and otherwise meets the definition of “qualified student.”

**SOURCES OF INFORMATION**

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

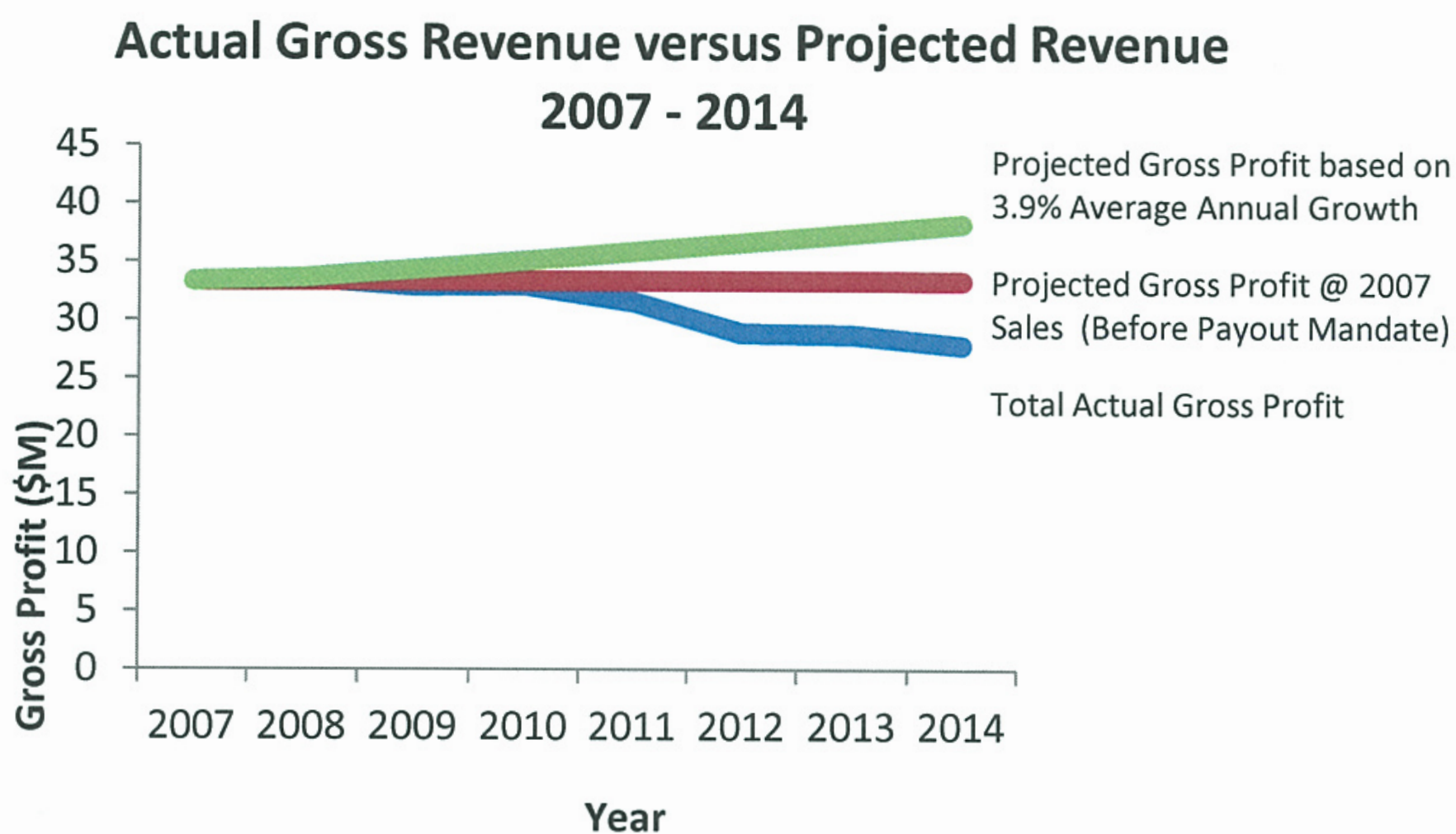
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### Scratcher Sales Analysis FY07 – FY14

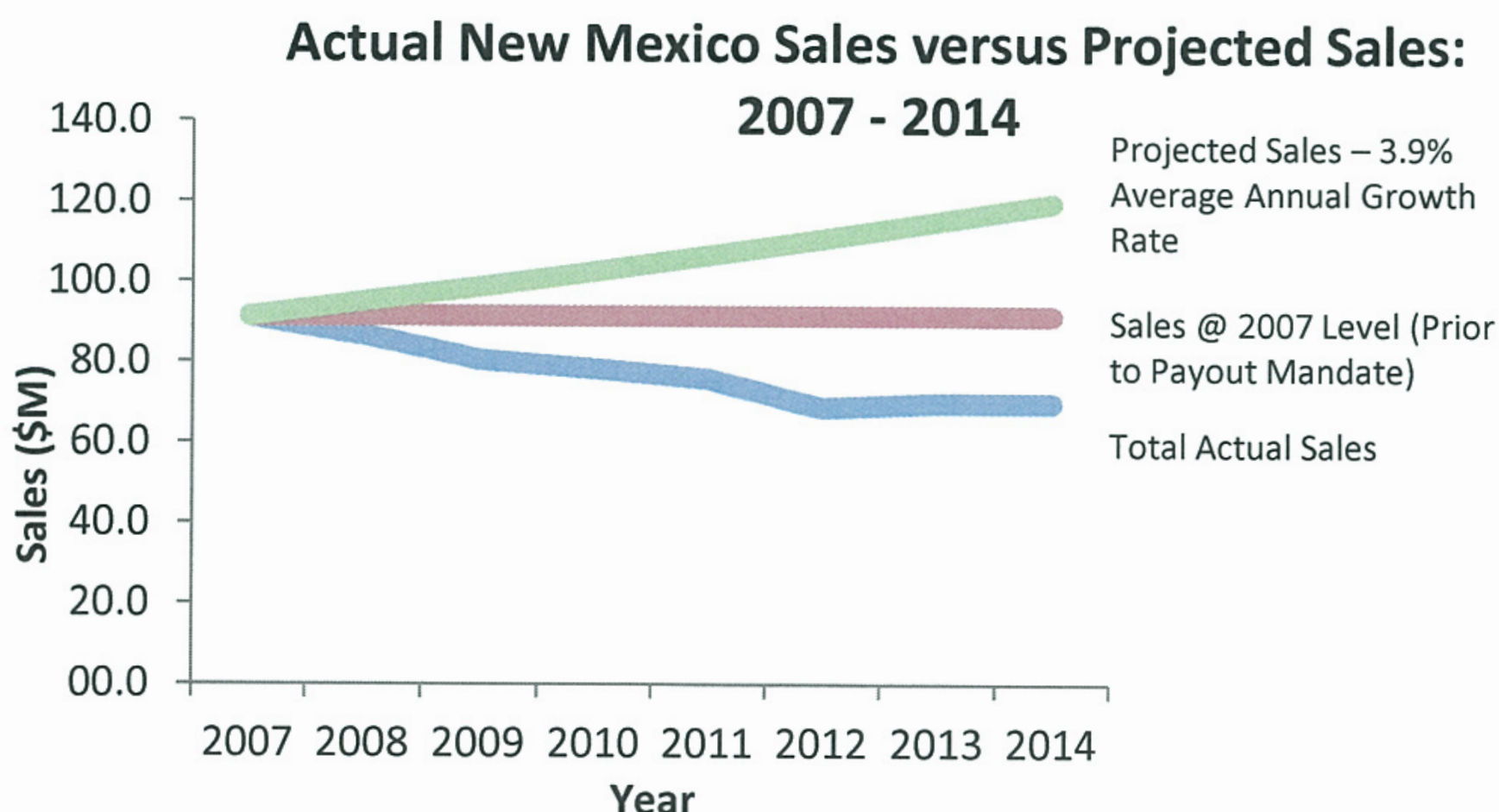
If scratcher sales had followed industry trends from FY07-FY14, the Lottery’s gross revenue would have been substantially greater, but the 30% requirement adversely impacted sales. During the period since the percentage mandate was enacted, scratcher sales for the remainder of the US industry grew at an average annual growth rate of 3.9%.

If NM’s sales moved with the industry, the Lottery would have realized more than \$217 million in additional sales and approximately \$35- \$50 million more in revenues.

If NM’s sales had remained at 2007 levels, the lottery would have realized nearly \$110 million in additional sales and approximately \$17 million more in profits.



- Cumulative Revenue Loss Versus 2007 – 2014 Industry Sales Growth Levels: **-\$34.8M**
- Cumulative Revenue Loss Versus 2007 Peak Sales Levels: **-\$16.9M**



- Cumulative Sales Loss Versus 2007 – 2014 Industry Sales Growth Levels: **-\$217.7M**
- Cumulative Sales Loss Versus 2007 Peak Sales Levels: **-\$109.7M**

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%
<b>Research Sector Total</b>	<b>52,003</b>	<b>21,511</b>	<b>41.4%</b>
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%
<b>Comprehensive Sector Total</b>	<b>18,228</b>	<b>2,544</b>	<b>14.0%</b>
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%
<b>Community College Sector Total</b>	<b>108,430</b>	<b>5,088</b>	<b>4.7%</b>
<b>Grand Total All Sectors</b>	<b>178,661</b>	<b>29,143</b>	<b>16.3%</b>
			Source: HED