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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/18/13  
 SPONSOR HEC LAST UPDATED 02/25/13 HB 309/HECS  
 SHORT TITLE Lottery Scholarship Program Solvency SB \_\_\_\_\_  
 ANALYST Hartzler-Toon

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		\$100.0	\$100.0	\$200.0	Recurring	Legislative Tuition Fund or General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates Appropriation in the General Appropriation Act, Higher Education, Higher Education Department, Student Financial Aid

### SOURCES OF INFORMATION

LFC Files

#### Responses Received

Higher Education Department (HED)  
 University of New Mexico Student Association (UNMSA)  
 New Mexico State University (NMSU)  
 New Mexico Lottery Authority (NMLA)

### SUMMARY

#### Synopsis of Bill

The House Education Committee substitute for House Bill 309 proposes to establish the Legislative Lottery Tuition Scholarship Act, repealing statutory provisions referring to the Legislative Lottery Scholarship Program (Sections 21-1-4.3, 21-1-4.4 and 21-16-10.1 NMSA 1978). The bill provides for scholarship and other awards based on student achievement. The bill also extends solvency of the lottery tuition fund by, among other things, requiring an annual average \$10 million fund balance.

### FISCAL IMPLICATIONS

The bill does not contain an appropriation. The bill requires the lottery tuition fund maintain an annual average balance of \$10 million in the lottery tuition fund. Any unexpended or

unencumbered fund balance remaining at the end of FY14 would not revert to the general fund but would remain in the lottery tuition fund for appropriation in later years.

Assuming historic demand levels and without additional revenues or changes to current law, the Higher Education Department (HED) will reduce all legislative lottery scholarship amounts for FY14 pursuant to NMAC 5.7.20.10.

## **SIGNIFICANT ISSUES**

The legislative lottery scholarship fund relies on revenues from lottery sales and increasingly on fund balance to meet annual scholarship expenses. During the last few fiscal years, lottery scholarship expenses have increased steadily, \$47.2 million in FY10, \$53.3 million in FY11, \$58.2 million in FY12, and an estimated \$59 million in FY13. The Legislative Finance Committee (LFC) and HED projects that in FY14, without any changes to the scholarship program or additional revenues, lottery revenues and fund balance would be not sufficient to meet total scholarship expenses in FY14. The LFC and HED estimate an additional \$5 million to \$16 million in revenues would be needed to meet 100 percent of tuition scholarships in FY14. See Attachment A, *Financial Plan Pursuant to Proposed Lottery Scholarships, HB 309/HECCS*.

During the last two legislative sessions, the Legislative Education Study Committee (LESC) and the LFC have held many hearings on the legislative lottery scholarship program, options for improving program solvency, and the impacts of possible options on the recipient pool. The scholarship program is merit-based and does not consider an eligible student's financial need, though some scholarship recipients receive additional federal, state, institutional, or other merit-based and need-based aid to meet college costs. The Legislature, the HED, institutions, and others have considered program changes such as raising eligibility requirements, including higher grade point averages, heavier semester course loads, and means-testing; reducing the maximum number of scholarship semesters; and reducing the scholarship amount. Most of these options reduce the pool of eligible students, particularly disadvantaged students. The Legislature and others have studied additional revenue options; however, no additional single revenue sources keep pace with increasing tuition costs.

The HEC substitute for HB 309 repeals existing references to the legislative lottery scholarship, and creates the Legislative Lottery Tuition Scholarship Act. The Act does the following

Section 2 establishes definitions pertaining to the Act. Key definitions include those pertaining to

- scholarships: the “basic tuition scholarship” and “supplemental tuition scholarship.”
- students: “full time” status (12 credits per semester) and “qualified student.”
- student-based performance awards: “the graduating year award” and “junior year award.”

Section 3 establishes student eligibility requirements for the lottery scholarship. This section requires that students maintain a 2.5 grade point average (on a 4.0 scale) to receive the scholarship, in addition to other eligibility requirements. The term of the scholarship is for seven semesters for most recipients, though it remains 8 semesters for current recipients who have received five or more semesters of aid while attending a four-year institution and is 5 semesters for current recipients who have received three or more semesters of aid.

The bill adds the requirement that students must complete the Free Application for Federal Student Aid (FAFSA), to demonstrate an attempt to secure additional federal and state aid, and requires a student demonstrate financial need to receive a junior or graduating year award.

This section requires that all other state and institutional scholarships and grants-in-aid be subtracted from the tuition total before the basic and supplemental lottery scholarships are applied. The LFC cannot determine the fiscal impacts of this provision. If institutions did not change policies awarding institutional aid, it is possible that this provision may reduce scholarship expenditures and improve lottery tuition fund solvency. However, if institutions redirect policies distributing institutional aid to non-lottery eligible students, there may no impact on the lottery tuition fund.

The bill maintains current law regarding lottery scholarship requirements for disabled students.

Section 4 establishes the scholarship and additional awards programs. This section creates a basic tuition scholarship, with students attending research institutions eligible to receive up to \$1,200 per semester, those attending comprehensive institutions eligible to receive up to \$700 per semester, and those attending community college eligible to receive 100 percent of tuition per semester. In addition, the HED may issue supplemental tuition scholarships to qualified students if all basic tuition scholarships, junior year awards, and graduating year awards are made and the lottery tuition fund is projected to have an annual average balance greater than \$10 million. The HED will calculate supplemental award awards in proportion to the basic tuition scholarship amounts. See Attachment A, lines 6-23.

This section also creates two student-performance based awards: the junior year award and graduating year award. Qualified students who receive the basic tuition scholarship may receive either the junior year or graduating year award if the student demonstrates financial need and met the requirements for achieving junior status and graduating. The award amounts (both junior year and graduating year awards) are \$1,000 for students attending research institutions and \$600 for students attending comprehensive institutions. A student who graduates from a community college is eligible to receive a graduating year award for up to \$600 or the cost of attendance at the college, whichever amount is less. See Attachment A, lines 24-41.

This section expressly authorizes the HED to reduce basic tuition scholarships if the lottery tuition fund does not have sufficient revenues to satisfy the total basic tuition scholarship award and annual average \$10 million fund balance.

Section 5 This section makes language establishing the tuition lottery fund consistent with current appropriation practices. It also adds a requirement that the fund maintain an annual average balance of \$10 million. See Attachment A, line 43.

Section 6 requires the HED to provide an annual report to the governor and Legislature on the status of the fund, scholarship recipients' academic progress, distribution of scholarships and awards, and any other information deemed relevant.

Sections 7 and 8 repeal

- Section 21-13-10(C) – (F) NMSA 1978, pertaining to independent community college boards' roles and responsibilities for the legislative lottery scholarship program;
- Sections 21-1-4.3 and 4.4 NMSA 1978, constitutionally-created institutions boards of regents' roles and responsibilities for the current legislative lottery scholarship program;

- Section 21-16-10.1 NMSA 1978, vocational and technical schools’ governing boards’ roles and responsibilities for the current lottery scholarship program.

Section 9 includes an emergency clause, making the law effectively immediately upon enactment and signature by the governor.

## **PERFORMANCE IMPLICATIONS**

The HED currently reports the total number of legislative lottery scholarship recipients annually as part of its Accountability in Government Act (AGA) measures. The bill would require the Department to report this information and distribution of junior year and graduating semester awards by institution and the status of the lottery fund.

The junior year and graduating semester awards support the state’s efforts to align state funding with statewide educational goals. To increase college completion rates, national studies, including a pilot study at the University of New Mexico, recognize the increasing importance of linking student financial aid with student academic progress. The Brookings Institute’s Brown Center on Education Policy’s *Beyond Need and Merit: Strengthening State Grant Programs* supports program efforts, including incentive grants, further timely completion, provide assistance to those with financial need, and maintain access to postsecondary institutions.

## **ADMINISTRATIVE IMPLICATIONS**

The bill limits junior year and graduating semester awards to those who demonstrate “financial need,” defined as “completing the FAFSA and having unmet need after state and institutional grant aid has been awarded. This requirement will increase the number of students submitting this application, generating an additional effort for institutional financial aid offices.

Further, the bill makes the lottery scholarship the last state grant aid to be applied towards tuition costs. For students attending research or comprehensive institutions, the bill would award the lottery scholarship after “all other state and institutional scholarships and grants-in-aid, except loans.” This structure would not harm students receiving Pell grants, nor would it require students to take out loans before all grant aid is awarded.

The HED’s administrative responsibilities would increase under this bill. The Department would be required to amend existing and implementing new rules governing the program, would implement processes for reviewing institutional reports on student eligibility and awarding of scholarships and the student performance awards, and complete an annual report for the governor and Legislature. The FIR estimates that the HED will incur an additional \$100 thousand in annual expenses, whether in personal services and employee benefits or contractual services categories. These expenses could be paid with revenues included in the HED’s operating budget for student financial aid or from the lottery tuition fund, provided the fund’s statutory uses were expanded to include administering the legislative lottery scholarship program.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

House Bill 309 relates to

- HB 27, Expanding Lottery Scholarship Eligibility
- HB 28, Lottery Scholarships at Tribal Colleges

- HB 586, Lottery Scholarship Requirements
- SB 392, Lottery Tuition Fund Distributions
- SB 451, Lottery Scholarship Requirements and Debt

Currently, the General Appropriation Act appropriates revenues and fund balance from the lottery tuition fund for lottery scholarships. HB 2 included an appropriation to the HED's student financial aid program for \$60.2 million in other state funds category for lottery scholarships; this amount is based on FY12 actual scholarship expenses and an average 2012-13 tuition increase of 4 percent. The HED recently reported that FY13 scholarship expenses will total approximately \$59 million.

### **TECHNICAL ISSUES**

The HEC committee substitute addressed many of the technical comments raised by the HED and others. While the substitute does not define "junior status" by credit hour requirements to address the varying standard by institutions, the HED may promulgate rules defining "junior status."

### **OTHER SUBSTANTIVE ISSUES**

Federal, state, and tribal governments; institutions; and other private sources provide financial assistance to students. The lottery scholarship is one of many state-funded, student aid programs. Revisions to this program should be reviewed so that all sources and types (grant or loan) of financial aid are considered.

One such federal aid program, the American Opportunity Tax Credit, as amended, allows families to deduct the cost of tuition, books, fees, or other related educational expenses, from their federal taxes. This credit and the Lifetime Learning Tax Credit are claimed by those who owe taxes, generally by families with higher household annual incomes. New Mexico's legislative lottery scholarship families cannot take full advantage of these tax credits because the state scholarship program covers the cost of tuition. Both tax credits were extended through December 31, 2013 under the American Taxpayer Relief Act.

### **ALTERNATIVES**

HB 309 proposes a scheduled reduction of scholarship awards and implements a performance-based awards component to encourage students to complete their programs within eight semesters. Alternative approaches to lottery solvency could include

- (1) make no changes to the legislative lottery scholarship program and supplementing lottery fund revenues with additional revenues. Assuming the fund balance is depleted in FY14, an estimated \$25 million would be necessary to meet FY15 expenses.
- (2) maintain eligibility requirements and continuing to index scholarship amounts to tuition levels but, on an annual basis, reducing available scholarship amounts to a percent of tuition, as limited to available revenues;
- (3) maintain lottery scholarship amounts but changing eligibility requirements to reduce the eligible pool of students (example, raising grade point average, increasing the number of credits required to maintain full-time status; means-testing).

Students generally support (1) maintaining the scholarship level and finding additional revenues to meet demand or (2) connecting award levels and college placement with higher rates of high school achievement.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Under current law, the HED has authority to annually adjust the scholarship amount. Without additional revenues, the HED would reduce the scholarship amount to one that is less a student's full tuition amount for either or both the fall 2013 and spring 2014 semesters.

Should the HED seek to collect data on existing scholarship recipients' financial need, the HED could require students to complete the free application for federal student aid.

### **POSSIBLE QUESTIONS**

Should eligibility requirements for the legislative lottery scholarship award be changed? If so, would such proposed changes

- improve or threaten fund solvency?
- Impact the pool of eligible students, particularly low-income students?
- Increase or further student academic progress or graduation?

Are other revenue sources available to mitigate lower tuition awards and make changes in awards more predictable?

What are the impacts of requiring additional credit hours per semester on student achievement, student progress, and graduation? Are the impacts the same for all students or are there disparate impacts on students based on one's financial need?

THT/blm:svb

**Financial Plan Pursuant to Proposed Lottery Scholarship, HB 309, HEC CS**

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	(in thousands)									
	FY10 Actuals AY 09-10	FY11 Actuals AY 10-11	FY12 Unaud., Unadj. Actuals AY11-12	FY13 Est. AY12-13	FY14 Est. AY13-14	FY15 Est. AY14-15	FY16 Est. AY15-16	FY17 Est. AY16-17	FY18 Est. AY17-18	FY19 Est. AY18-19
<b>1 Sources</b>										
2 Lottery Revenue	\$43,609.0	\$41,307.0	\$41,328.0	\$40,513.0	\$39,936.0	\$39,936.0	\$39,936.0	\$39,936.0	\$39,936.0	\$39,936.0
3 Interest Income	\$101.9	\$8.3	\$8.3	\$8.1	\$8.0	\$8.0	\$8.0	\$8.0	\$8.0	\$8.0
4 Fund Balance		\$11,938.2	\$16,828.0	\$18,039.8	\$8,660.8	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
<b>5 Total Sources</b>	<b>\$43,710.9</b>	<b>\$53,253.5</b>	<b>\$58,164.3</b>	<b>\$58,560.9</b>	<b>\$48,604.8</b>	<b>\$39,944.0</b>	<b>\$39,944.0</b>	<b>\$39,944.0</b>	<b>\$39,944.0</b>	<b>\$39,944.0</b>
<b>6 Uses</b>										
<b>7 Scholarships</b>										
<b>8 Research Universities</b>										
9 Base Scholarship - Award (\$)					\$ 2,400	\$ 2,400	\$ 2,400	\$ 2,400	\$ 2,400	\$ 2,400
10 Base Scholarship Expenditure (thous.)	\$41,338.5	\$46,455.4	\$50,453.8	\$51,607.9	\$27,830.4	\$27,830.4	\$25,743.1	\$25,743.1	\$25,743.1	\$25,743.1
11 Supplemental Scholarship - Award (\$)					\$1,163	\$341	\$434	\$424	\$414	\$403
12 Supplemental Scholarship Expenditure (thous.)					\$13,491.8	\$3,956.1	\$5,035.8	\$4,919.2	\$4,799.2	\$4,675.5
13 Total Scholarship - Award (\$)					\$3,563	\$2,741	\$2,834	\$2,824	\$2,814	\$2,803
14 Total Scholarship Expenditure (thous.)	\$41,338.5	\$46,455.4	\$50,453.8	\$51,607.9	\$41,322.2	\$31,786.5	\$30,778.9	\$30,662.3	\$30,542.3	\$30,418.7
<b>15 4-Year Comprehensive Institutions</b>										
16 Base Scholarship - Award (\$)					\$ 1,400	\$ 1,400	\$ 1,400	\$ 1,400	\$ 1,400	\$ 1,400
17 Base Scholarship Expenditure (thous.)	\$3,061.0	\$3,446.1	\$3,980.2	\$3,111.6	\$2,240.0	\$2,240.0	\$2,072.0	\$2,072.0	\$2,072.0	\$2,072.0
18 Supplemental Scholarship - Award (\$)					\$679	\$199	\$253	\$247	\$241	\$235
19 Supplemental Scholarship Expenditure (thous.)					\$1,085.9	\$318.4	\$405.3	\$395.9	\$386.3	\$376.3
20 Total Scholarship - Award (\$)					\$2,079	\$1,599	\$1,653	\$1,647	\$1,641	\$1,635
21 Total Scholarship Expenditure	\$3,061.0	\$3,446.1	\$3,980.2	\$3,111.6	\$3,325.9	\$2,558.4	\$2,477.3	\$2,467.9	\$2,458.3	\$2,448.3
<b>22 Two Year Colleges</b>	<b>\$2,815.9</b>	<b>\$3,351.9</b>	<b>\$3,730.3</b>	<b>\$3,841.4</b>	<b>\$3,956.6</b>	<b>\$4,075.3</b>	<b>\$4,197.6</b>	<b>\$4,323.5</b>	<b>\$4,453.2</b>	<b>\$4,586.8</b>
<b>23 Subtotal Scholarships</b>	<b>\$47,215.4</b>	<b>\$53,253.5</b>	<b>\$58,164.3</b>	<b>\$58,560.9</b>	<b>\$48,604.8</b>	<b>\$38,420.3</b>	<b>\$37,453.8</b>	<b>\$37,453.8</b>	<b>\$37,453.8</b>	<b>\$37,453.8</b>
<b>24 Outcomes Funding - Junior Award</b>										
<b>25 Academic Progress (promotion to junior status at research universities)</b>										
26 Award amount (\$)	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$1,000.0	\$1,000.0	\$1,000.0	\$1,000.0	\$1,000.0
27 Amount Awarded (\$ thousands)	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$1,187.9	\$1,187.9	\$1,187.9	\$1,187.9	\$1,187.9
<b>28 Academic Progress (promotion to junior status at 4-year comprehensive institutions)</b>										
29 Award amount (\$)	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$600.0	\$600.0	\$600.0	\$600.0	\$600.0
30 Amount Awarded (\$ thousands)	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$94.8	\$94.8	\$94.8	\$94.8	\$94.8
<b>31 Outcomes Funding - Graduation</b>										
<b>32 Graduation from 2-year Institutions</b>										
33 Award amount (\$)	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$600.0	\$600.0	\$600.0	\$600.0	\$600.0
34 Amount Awarded (\$ thousands)	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$241.0	\$241.0	\$241.0	\$241.0	\$241.0
<b>35 Graduation from Research Universities</b>										
36 Award amount (\$)	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$1,000.0	\$1,000.0	\$1,000.0	\$1,000.0
37 Amount Awarded (\$ thousands)	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$893.4	\$893.4	\$893.4	\$893.4
<b>38 Graduation from 4-year Comprehensive Institutions</b>										
39 Award amount (\$)	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$600.0	\$600.0	\$600.0	\$600.0
40 Amount Awarded (\$ thousands)	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$73.1	\$73.1	\$73.1	\$73.1
<b>41 Subtotal Outcomes Funding</b>	<b>\$0.0</b>	<b>\$0.0</b>	<b>\$0.0</b>	<b>\$0.0</b>	<b>\$0.0</b>	<b>\$1,523.7</b>	<b>\$2,490.2</b>	<b>\$2,490.2</b>	<b>\$2,490.2</b>	<b>\$2,490.2</b>
<b>42 Total Uses</b>	<b>\$47,215.4</b>	<b>\$53,253.5</b>	<b>\$58,164.3</b>	<b>\$58,560.9</b>	<b>\$48,604.8</b>	<b>\$39,944.0</b>	<b>\$39,944.0</b>	<b>\$39,944.0</b>	<b>\$39,944.0</b>	<b>\$39,944.0</b>
<b>43 Year End Balance</b>	<b>\$65,466.8</b>	<b>\$53,528.6</b>	<b>\$36,700.6</b>	<b>\$18,660.8</b>	<b>\$10,000.0</b>	<b>\$10,000.0</b>	<b>\$10,000.0</b>	<b>\$10,000.0</b>	<b>\$10,000.0</b>	<b>\$10,000.0</b>