

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: *SB 150

51st Legislature, 2nd Session, 2014

Tracking Number: .195176.3

Short Title: Lottery Scholarship Solvency

**Sponsor(s): Senators John Arthur Smith and Stuart Ingle and
Representative Luciano “Lucky” Varela**

Analyst: Travis Dulany

Date: February 9, 2014

FOR THE LEGISLATIVE FINANCE COMMITTEE

Bill Summary:

SB 150 makes two appropriations; adds new material to create the *Legislative Lottery Tuition Scholarship Act*; amends provisions relating to the Lottery Tuition Fund (Fund) and the *Community College Act*; and repeals three sections of current law in Chapter 21, *State and Private Education Institutions*.

Among its provisions, the bill:

- provides a distinction between various postsecondary institutions:
 - community colleges are defined as branch community colleges of a state educational institution, community colleges established pursuant to the *Community College Act*, or technical and vocational institutes established pursuant to the *Technical and Vocational Institute Act*;
 - comprehensive institutions include Eastern New Mexico University, Western New Mexico University, New Mexico Highlands University, or Northern New Mexico College;
 - research institutions include the University of New Mexico, New Mexico State University (NMSU), or the New Mexico Institute of Mining and Technology (NM Tech); and
 - state educational institution includes those institutions enumerated in Article XII, Section 11 of the Constitution of New Mexico;
- for legacy students:
 - defines “legacy student” as a student who has received the scholarship pursuant to prior provisions of the Legislative Lottery Scholarship for three or more semesters by the end of FY 14; and
 - allows legacy students to maintain their scholarship at the full value of tuition for a total of eight semesters as long as the student maintains a 2.5 grade point average (GPA) and completes 12 credit hours or more per semester;

- for qualified students:
 - defines “qualified student” as a full-time resident student who graduated from a public or accredited private New Mexico high school or who received a high school equivalency credential (HSEC) while maintaining residency in New Mexico who:
 - immediately upon graduation or receipt of a HSEC was accepted for entrance to and attended a public postsecondary institution; or
 - within 120 days of completion of a high school curriculum or receipt of a HSEC began service in the US Armed Forces and within one year of completion of honorable service or medical discharge attended a public postsecondary institution;
 - requires 15 credit hours or more for a student attending a four-year institution and 12 credit hours or more for a student attending a two-year institution;
 - requires a 2.75 GPA;
 - limits the scholarship to seven semesters; and
 - sets per semester tuition scholarship levels at:
 - up to \$2,100 for a student at a research or state educational institution;
 - up to \$1,000 for a student at a comprehensive institution; and
 - up to \$800, or the full amount of tuition for in-district tuition charged at a community college, whichever is less, for a student at a community college;
- provides certain exceptions for students with disabilities;
- requires the Higher Education Department (HED) to:
 - prior to May 1 of each year and based on the amount appropriated by the Legislature from the Fund and projected enrollment:
 - determine the amount of money available for tuition scholarships;
 - determine the amount of money available for each tuition scholarship; and
 - notify all public postsecondary educational institutions of those determinations;
 - promulgate rules, which are to be distributed to the boards of regents and governing boards of postsecondary institutions by May 1 and October 1 of each year, setting forth explicit criteria in accordance with the *Legislative Lottery Tuition Scholarship Act* for:
 - student qualification and continuing eligibility; and
 - calculating any increase or reduction in the tuition scholarship award amount; and
 - report by September 1 of each year to the Legislative Finance Committee (LFC) and the Department of Finance and Administration certain data related to the Legislative Lottery Scholarship;
- allows for the reduction of tuition scholarship amounts for qualified students (not legacy students) if the balance of the Fund is not sufficient to pay the tuition scholarship levels noted above; and

- amends the statute relating to the Fund to:
 - reflect changes in the *Legislative Lottery Tuition Scholarship Act*; and
 - set a minimum annual average balance of \$2.0 million.

Finally, SB 150 repeals the following sections of current law:

- Section 21-1-4.3, *Legislative Lottery Scholarships Authorized; Certain Educational Institutions*;
- Section 21-1-4.4, *Commission on Higher Education [Higher Education Department]; Determination of Tuition Scholarships; Use of Lottery Tuition Fund*; and
- Section 21-16-10.1, *Legislative Lottery Scholarships Authorized*.

*SB 150 contains an emergency clause.

Fiscal Impact:

\$2.9 million is appropriated from the General Fund to the Lottery Tuition Fund for expenditure in FY 15 and subsequent fiscal years to supplement the Fund and provide tuition scholarships for **legacy students**. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert.

\$8.0 million is appropriated from the General Fund to the Lottery Tuition Fund for expenditure in FY 15 and subsequent fiscal years to supplement the Fund and provide tuition scholarships for **qualified students**. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert.

Fiscal Issues:

According to the Fiscal Impact Report from LFC:

- the appropriation of \$2.9 million contained in the bill for legacy students is a *nonrecurring* expense to the General Fund, while the \$8.0 million appropriation contained in the bill for qualified students is a *recurring* expense to the General Fund; and
- data received from HED in January show changes in FY 15 projections regarding the costs for the legacy student provision and savings from changes to the scholarship:
 - the legacy provision is now estimated to cost closer to \$6.6 million; and
 - savings to the Fund from decoupling awards from tuition, raising the GPA requirements, and increasing credit hour minimums are estimated to be slightly higher than previously estimated, and, consequently, with these solvency provisions, no sanding of flat awards should be required;

According to HED:

- approximately 40 percent of current Legislative Lottery Scholarship recipients are in their fourth semester or beyond (legacy students under the provisions of SB 150);
- it would take approximately two and a half years for legacy students to cycle out of the scholarship;

- based on the timing of receipt of lottery proceeds and the disbursements thereof, HED recommends a minimum balance of \$10.0 million in the fund as opposed to the \$2.0 million proposed in SB 150; and
- the September 1 reporting requirements in the bill may not coordinate with other reporting systems already in place for higher education institutions, and a November 1 reporting date would facilitate completeness and accuracy of the requested reports.

The bill analysis from the NM Tech indicates that the \$2,100 lottery scholarship that students at the institution would receive under the provisions of SB 150 covers approximately 83 percent of tuition; however, the institution also points out that students in five to 10 years from now will be paying a much higher percentage of tuition. NM Tech suggests an escalation clause that could be tied to the consumer price index.

Alternatively, legislation that was introduced but did not pass in the 2013 legislative session proposed additional scholarship amounts based on money available in the Fund. The legislation would have set a minimum balance and allowed for a balance over that minimum to be distributed for tuition scholarships.

Both NM Tech and NMSU report that the additional reporting requirements under Section 6 of the bill would require additional staff time at the postsecondary institutions.

Technical Issues:

“Full time” in Section 2 of the bill is defined as “the maintenance of 15 or more credit hours each semester of the regular academic year in a public postsecondary educational institution,” which includes community colleges; however, Section 3 provides for a qualified student (i.e. a “full-time resident student”) at a two-year institution to receive the Legislative Lottery Scholarship if the student completes 12 credit hours per semester.

Substantive Issues:

Provisions in current law state that:

- based on the amount appropriated by the Legislature from the Fund and on the projected enrollment at all public postsecondary educational institutions, the secretary of higher education is to establish the percentage of tuition that is to be awarded for students who qualify for the scholarship; and
- the percentage of tuition awarded is to be the same for each institution, regardless of the actual cost of tuition at each institution.

Traditionally, this percentage has been 100 percent of tuition. SB 150 sets a specific scholarship award amount independent of tuition. A list of per semester tuition charged at all of the New Mexico public postsecondary institutions for academic year 2013-2014, categorized by institution type, is attached.

Background:

Lottery Scholarship Fund Solvency Work Group

The solvency of the Legislative Lottery Scholarship program has been a topic of concern in recent years. Expenditures have exceeded revenues, resulting in a depletion of the Fund. Expenses grew from \$53.3 million in FY 11 to a projected \$67.5 million for the current fiscal year, meanwhile revenues have remained between \$3.09 million to \$42.0 million.

During the 2013 legislative session, the Senate passed SM 101, *Lottery Scholarship Fund Solvency Work Group*, which requested HED to form a work group of various stakeholders, including the Director of the Legislative Education Study Committee (LESC) staff, to study the solvency of the Fund and present the work group's recommendations to the Legislature by December 1, 2013. The work group met several times throughout the 2013 interim and considered a number of methods for addressing Fund solvency, including:

- increased requirements for GPA and credit hours;
- front-end or back-end loading of tuition scholarships (e.g. providing full tuition scholarships during the first years of postsecondary education and reducing award amounts during the junior and senior years);
- decoupling the award amounts from tuition;
- limiting the scholarship to seven semesters instead of four consecutive years;
- awarding scholarships based on need; and
- awarding the lottery scholarship only after other scholarships and aid have been awarded.

LESC staff also provided a number of revenue options for the work group's consideration.

Ultimately, the work group did not come to a consensus on any particular recommendations.

Other Related Background

Created by legislation enacted in 1996, the Legislative Lottery Scholarship is a renewable, full-tuition award granted to qualifying students beginning in their second semester at a public postsecondary institution in New Mexico. The scholarship covers the cost of tuition only. Students are responsible for additional educational expenses such as student fees, course materials, and housing.

To qualify for the scholarship a student must:

- be a New Mexico resident;
- have graduated from a New Mexico public or accredited private school or have obtained a New Mexico graduate equivalent diploma;
- enroll full-time (in at least 12 credit hours) at an eligible New Mexico public college or university, in the first regular semester immediately following high school graduation; and
- obtain and maintain a cumulative GPA of at least 2.5.

State law also provides for specific accommodations with regard to:

- students with disabilities; and
- individuals who either immediately enlist in, or have recently departed from, the US Armed Forces.

Committee Referrals:

SCC/SEC/SJC/SFC

Related Bills:

SB 141 *Limit Lottery Scholarship Tuition Increases*

SB 146 *Lottery Tuition Rates & Definitions*

*SB 327 *Lottery Tuition Fund Act & Solvency*

*SB 379 *Lottery Tuition Fund Solvency*

SM 23 *Tribal College Lottery Scholarship Exclusion* (Identical to HM 37)

HB 145 *Lottery Scholarship Changes*

*HB 254 *Lottery Scholarship Solvency*

*HB 263 *Lottery Scholarship Changes*

HB 348 *Legislative Lottery Tuition Waiver Act*

HM 37 *Tribal College Lottery Scholarship Exclusion* (Identical to SM 23)

2013-2014 Full-Time Tuition by Institution

Institution	2013-2014 Full-Time Tuition per Semester
Research Institutions	
New Mexico Institute of Mining and Technology	\$ 2,522.76
New Mexico State University (NMSU)	\$ 2,455.20
University of New Mexico (UNM)	
12 to 14 credit hours	\$2,823.00 to \$3,293.50 (\$235.25/credit hour)
15 to 18 credit hours	\$ 2,503.35
Comprehensive Institutions	
Eastern New Mexico University	\$ 1,462.20
New Mexico Highlands University	\$ 1,458.72
Northern New Mexico College	\$ 1,374.00
Western New Mexico University	\$ 1,680.24
Two Year Institutions	
2013-2014 Full-Time Tuition per Semester	
Central New Mexico Community College	\$ 594.00
Clovis Community College	
In-District	\$ 468.00
Out-of-District	\$ 504.00
ENMU-Roswell	
In-District	\$ 696.00
Out-of-District	\$ 732.00
ENMU-Ruidoso	
In-District	\$ 456.00
Out-of-District	\$ 624.00
Luna Community College	
In-District	\$ 420.00
Out-of-District	\$ 576.00
Mesalands Community College	\$576.00 to \$864.00 (\$48/credit hour)
New Mexico Junior College	
In-District	\$ 420.00
Out-of-District	\$ 648.00
New Mexico Military Institute	\$ 785.50
NMSU-Alamogordo	
In-District	\$ 912.00
Out-of-District	\$ 1,092.00
NMSU-Carlsbad	
In-District	\$ 444.00
Out-of-District	\$ 804.00

SOURCE: Institutional Websites

2013-2014 Full-Time Tuition by Institution

Two Year Institutions	2013-2014 Full-Time Tuition per Semester
NMSU-Dona Ana	
In-District	\$ 696.00
Out-of-District	\$ 852.00
NMSU-Grants	
In-District	\$ 843.00
Out-of-District	\$ 930.00
San Juan College	\$492.00 to \$738.00 (\$41/credit hour)
Santa Fe Community College	
In-District	\$474.00 to \$711.00 (\$39.50/credit hour)
Out-of-District	\$618.00 to \$927.00 (\$51.50/credit hour)
UNM-Gallup	\$ 727.00
UNM-Los Alamos	\$ 792.00
UNM-Taos	\$ 872.00
UNM-Valencia	\$ 735.60