

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

ORIGINAL DATE 02/09/06  
 SPONSOR Taylor LAST UPDATED 02/15/06 HB 81/aHFI#1 and HFI#2  
 SHORT TITLE Increase Lottery Scholarship Eligibility SB \_\_\_\_\_  
 ANALYST Williams

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
	Minimal	Recurring	Lottery Tuition Fund - --- military dependents of NM residents
	\$80.0-\$840.0 * See Text	Recurring (with escalation over time)	Lottery Tuition Scholarship Fund --- tribal colleges
	Indeterminate at this time	Recurring	Lottery Tuition Fund - -- children of NM resident military service people killed in action

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to various bills regarding student financial and lottery tuition scholarship program

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Public Education Department (PED)

Higher Education Department (HED)

New Mexico Lottery Authority (NMLA)

### SUMMARY

#### Synopsis of HFI#1 Amendment

The amendment expands eligibility for lottery tuition scholarships to tribal colleges located in New Mexico, and expands eligibility for lottery tuition scholarships to high school students attending a Bureau of Indian Affairs (BIA) school in New Mexico.

Synopsis of HFI#2 Amendment

The amendment expands eligibility for lottery tuition scholarships to children of New Mexico residents killed in action during service with military or the New Mexico national guard and who complete an accredited high school curriculum (or complete a GED) and immediately attend a qualifying New Mexico institution.

Synopsis of Original Bill

House Bill 81 extends eligibility for lottery tuition scholarships to include qualifying students who are dependents of New Mexico residents stationed outside of New Mexico due to service in the United States armed forces. These students may qualify by completing a high school curriculum at any high school or receiving a graduate equivalent diploma and immediately attending a qualifying New Mexico educational institution. The bill limits the authorization to eligible New Mexico residents paying New Mexico personal income taxes.

**FISCAL IMPLICATIONS**

**Eligibility to include qualifying students for dependents of New Mexico residents stationed outside of New Mexico due to service in the United States armed forces**

The projected fiscal impact is expected to be minimal.

**Eligibility Expansion to Tribal Colleges and BIA High Schools**

Tribal institutions are not currently required to provide student data to HED. Various scenarios were analyzed over the last few years and are summarized below. The costs below are for one full year, and would escalate as additional cohorts are added. Note there is anecdotal evidence that many students at tribal colleges would not meet the current eligibility requirements of the lottery tuition scholarship, noted in substantive issues below. In its 2006 FIR, HED estimates the cost at \$50.4 thousand in the first year, with a cost in five years of about \$80.0 thousand.

However, tribal college officials have provided data on their estimates of eligible students in various venues, which would reflect significantly larger fiscal costs. Additional issues for consideration include that SIPI does not currently charge tuition; it is unclear whether this institution should be added to the potential cost.

**Previous Years Data**

Based on data provided to the Commission on Higher Education in 2003 by Dine, IAIA, SIPI and CIT regarding potential eligibility and annual tuition, the following awards were estimated:

Dine College	\$40.8
IAIA	\$45.6
SIPI	No tuition *
CIT	\$3.0
Total	\$89.4

However, at a 2003 legislative hearing, tribal college representatives testified the bill would have a potential fiscal impact of approximately \$350.0 thousand. An analysis of similar legislation from the 2002 session (HB 252) reflected potential fiscal impact of \$837.0 thousand based on a

CHE analysis of financial aid data, including student enrollment and annual tuition.

**2005 Data**

In testimony presented to the 2005 interim Lottery Oversight Subcommittee, tribal colleges indicated the following numbers of students would be eligible for lottery tuition scholarships. Current annual rates of tuition as noted on tribal college websites are also shown. This methodology would result in a first year cost to the lottery tuition scholarship fund of at least \$460.0 thousand.

	<b><u>No. of Eligible Students</u></b>	<b><u>Annual Tuition</u></b>
Crownpoint Institute of Technology	65	not available
Dine College	173	\$720
Institute of American Indian Arts	120	\$2400
Southwestern Indian Polytechnic Institute	no tuition charged *	

Notes:

*\* SWIPI does not charge tuition. Books and room and board are also provided free of charge to members of federally recognized Indian tribes.*

The expansion of lottery tuition scholarship eligibility to BIA schools is assumed to have no fiscal impact based on current eligibility criteria as noted below in Substantive Issues.

**Children of New Mexico Residents Killed in Action**

The projected fiscal impact is indeterminate at this time, but is not expected to be very large, since these parents are already New Mexico residents.

**SIGNIFICANT ISSUES**

Latest available revenue and expenditure comparison for the lottery tuition fund is attached.

Currently, all qualified students enrolled in a two- or four-year public post-secondary institution may receive a Lottery Success Scholarship. Other public and private non-profit institutions such as the College of Santa Fe, St. John’s College, and College of the Southwest and tribal colleges are not eligible to receive lottery funds.

High school students graduating from a school in New Mexico operated by the Bureau of Indian Affairs and out-of-state members of the Navajo tribe, who reside on the Navajo reservation, as certified by the Navajo Department of Higher Education, are eligible for lottery tuition scholarships if they attend a public, post-secondary institution.

Executive branch fiscal impact reports note: “The four tribal colleges in New Mexico offer Associate’s and Bachelor’s degrees in a variety of academic disciplines and offer certificate and associates degrees. The majority of the students who attend tribal colleges are non-traditional, female, American Indian, and first generation college students....American Indian students continue to have the lowest representation in higher education and make up less than 1% of college enrollment... Tribal colleges are located on or near tribal reservations, American Indian students who enroll in tribal colleges are most likely to graduate due to the support of family, extended family, and a college student population that reflects their culture and identity. Statistics indicate that more than 50% of those students who transfer from tribal colleges into four-year public postsecondary institutions graduate....“

## **PERFORMANCE IMPLICATIONS**

In related legislation, PED notes the bill has the potential to support implementation of the Indian Education Act and supports the Governor’s Pre K-20 initiative.

## **ADMINISTRATIVE IMPLICATIONS**

Tribal institution financial aid officers would be required to certify high school graduation dates/location and train in lottery draw down procedures.

Further, data reporting by tribal institutions would be needed.

## **TECHNICAL ISSUES**

The legislature may want to consider clarifying the number of semesters of eligibility for a lottery tuition scholarship, including attendance at both a two-year and a four-year institution.

## **OTHER SUBSTANTIVE ISSUES**

The bill may be in conflict with Article 12, Section 3 of the New Mexico Constitution which specifies “The schools, colleges, universities and other educational institutions provided for by this constitution shall forever remain under the exclusive control of the state, and no part of the proceeds arising from the sale or disposal of any lands granted to the state by congress, or any other funds appropriated, levied or collected for educational purposes, shall be used for the support of any sectarian, denominational or private school, college or university.” Further, there may be considerations of the anti-donation clause in Article 9, Section 14 of the New Mexico Constitution.

In related legislation, HED and PED note: “The tribal colleges in New Mexico are chartered by the Navajo Nation, Bureau of Indian Affairs, and Congress in a unique funding situation. They do not receive funding from state governments due to their status as trust territories, and tribal governments cannot levy property taxes. This is in accord with treaty obligations and trust responsibility between sovereign Indian tribes or nations and the U. S. government. Most funding comes from the Tribally Controlled College and University Assistance Act of 1978 (TCCUAA) which is administered by the Bureau of Indian Affairs. Funds, primarily from Title I, are allocated to colleges based on the number of Indian students from federally recognized tribes that are enrolled. The lack of state jurisdiction over tribes including tribal college creates a challenge in how the NMHED will prepare guidelines and administer the lottery tuition scholarship to tribal colleges who are chartered either by the tribe, Bureau of Indian Affairs or Congress. These issues of nation to nation jurisdictions will need to be addressed.”

Qualifications for the Lottery Success Scholarship are:

- New Mexico residency;
- Graduation from a New Mexico public, accredited private, parochial, BIA or home high school, or completion of a New Mexico Graduate Equivalent Diploma (GED);
- Full-time (12 credit hours) enrollment at an eligible New Mexico public college or university in the first regular semester immediately following high school graduation; and
- Maintenance of a minimum 2.5 grade point average.

The tribal institutions would be required to provide student data, which is not currently reported to HED.

The legislature may wish to address the potential for cooperative agreements to set tuition scholarship awards at amounts equal to the percentage awarded at state four-year or two-year educational institutions, limited to the highest tuition rate charged by either a four-year research, four-year regional or two-year institution, as appropriate. Such language would effectively cap lottery tuition fund claims in the event of tuition escalation at the tribal institutions.

New Mexico Lottery Authority notes it may not be able to generate incremental revenues to fund significant expansions of scholarship eligibility.

**POSSIBLE QUESTIONS**

1. Is the bill in conflict with Article 12, Section 3 of the New Mexico Constitution regarding state control of institutions or with Article IX, Section 14, the anti-donation clause?
2. What data reporting requirements would be needed for enactment of this bill?
3. How could potential future increases in tuition rates or imposition of tuition be addressed given the lack of state jurisdiction?

AW/mt