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## FISCAL IMPACT REPORT

**SPONSOR** Smith, JA & Varela      **ORIGINAL DATE** 01/30/14  
**LAST UPDATED** 02/07/14      **HB** \_\_\_\_\_

**SHORT TITLE** Lottery Scholarship Solvency      **SB** 150

**ANALYST** Chavez

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY14	FY15		
	\$8,000.0	Recurring	General Fund
	\$2,900.0	Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB 2, HB 145, HB 254, HB 263, HB 348, SB 141, SB 146, SB 327, SB 379

Relates to GAA Section 5

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Lottery Authority (NMLA)

New Mexico Tech (NM Tech)

Higher Education Department (HED)

### SUMMARY

#### Synopsis of Bill

Senate Bill 150 appropriates \$8 million from the general fund to the Legislative Lottery Scholarship Program (LLSP) for the purpose of maintaining lottery tuition fund (fund) solvency. The bill also appropriates \$2.9 million from the general fund to fund students who have completed three semesters of the legislative lottery scholarship by the end of FY14 (“legacy students”) to receive full tuition scholarships for FY15.

This bill proposes to establish the Legislative Lottery Tuition Scholarship Act, repealing statutory provisions referring to the LLSP (Sections 21-1-4.3, 21-1-4.4 and 21-16-10.1 NMSA 1978). The bill provides for scholarship awards based on student achievement, and also extends fund solvency by decoupling award amounts from tuition costs and changing eligibility requirements. The bill supports timely program completion by raising full-time credit hour

requirements per semester. The bill requires the Higher Education Department (HED) to report award amounts and relevant information regarding the LLSP to institutions, LFC, and Department of Finance and Administration (DFA) in a timely manner. Finally, the bill allows the department to reduce tuition scholarship amounts for qualified students who are not legacy students so as to maintain the minimum fund balance. To further reduce tuition scholarship amounts, the department may consider all other state and institutional scholarships and grants-in-aid awarded to qualified students. The bill has an emergency clause.

### **FISCAL IMPLICATIONS**

The appropriation of \$8 million contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY15 shall be retained in the lottery tuition fund (Fund).

The appropriation of \$2.9 million contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY15 shall be retained in the fund.

Data received from HED in January shows changes in FY15 projections regarding costs for the legacy provision, and savings from changes to the scholarship. The legacy provision is now estimated to cost closer to \$6.6 million. Savings to the fund from decoupling awards from tuition, raising GPA, and increasing credit hour minimums are estimated to be slightly higher than previously estimated; consequently, with current solvency provisions, no sanding of flat awards should be required. See attached documents for further information.

New Mexico Lottery Authority (NMLA) notes that the provisions contained in this bill should be sufficient to maintain fund solvency.

NM Tech notes that under the bill, qualified students at that institution will be eligible for 83 percent of tuition based on current tuition rates. As tuition rates increase, the scholarship will cover a lower percentage of tuition for the student.

HED estimates that the recurring cost of the lottery scholarship under this bill, without the legacy provision, would be approximately \$46.7 million per year.

### **SIGNIFICANT ISSUES**

SB 150 addresses immediate solvency concerns with the fund and proposes changes to the scholarship program. The LLSP relies on revenues from lottery ticket sales and prior year fund balance to meet annual scholarship expenses. During the last few fiscal years, lottery scholarship expenses have increased steadily, \$53.3 million in FY11, \$58.2 million in FY12, \$61.9 million in FY13, and a projected \$67.5 million in FY14. As forecasted by the Legislature and executive branch, the LLSP will deplete all remaining fund balances in FY14 unless supplemental funding is provided. Lottery revenues are expected to remain flat and insufficient to meet the full cost of funding tuition for all eligible students. Since scholarship expenditures cannot exceed available revenues, significant changes are required to maintain program solvency. Alternatively, Section 21-1-4.4 NMSA 1978 mandates HED to reduce award amounts by a department-determined percentage if expenditures are greater than revenues.

For FY15, the bill makes the following changes for students who first receive the scholarship in FY14 or after:

- Provides flat scholarship amounts: up to \$1,600 per year for two-year institutions, \$2,000 per year at comprehensive institutions, and \$4,200 per year at research institutions.
- Requires students attending four-year institutions to take 15 credits per semester (up from 12).
- Reduces the scholarship term to seven semesters, for a total of 8 semesters including first semester bridge scholarships. Students attending two-year institutions will continue to be considered full time with 12 credit hours per semester.
- Raises the GPA eligibility from 2.5 to 2.75 GPA or higher.

The bill also:

- Provides solvency by limiting legislative lottery scholarship expenditures to available lottery revenues while maintaining a \$2 million fund balance for cash management purposes.
- Defines “legacy students” as students who have received the lottery scholarship for three or more semesters before FY15. Legacy students shall maintain eligibility with a 2.50 GPA, 12 credit hours per semester, and may receive the scholarship for up to eight semesters. Additionally, legacy students will continue to receive full tuition scholarships for FY15, rather than flat awards decoupled from tuition.
- For FY15 and beyond, HED maintains the authority to adjust scholarship amounts consistent with projected lottery revenues. The bill suggests sanding 2-year institutions at a lower rate than 4-year institutions.
- Requires HED to
  - conform its rules to implement both reduced scholarship amounts for students attending research and comprehensive institutions and confirm scholarship recipients’ eligibility for the academic progress when reduced revenues require reductions;
  - report annually to the Legislature and DFA on the lottery tuition fund’s balances, student participation, and distribution of total scholarship and performance awards by institution by September 1 in the department’s annual budget submission; and
  - notify institutions and stakeholders of award amounts no later than May 1<sup>st</sup> for the Fall semester, and no later than October 15<sup>th</sup> for the Spring semester.

The bill is based on a model that incorporates a number of assumptions about lottery revenues, student participation, performance and attrition, and tuition costs. The model recognizes LFC estimates of lottery revenues. The HED provided the Legislative Lottery Scholarship working group with data on student participation, change in GPA and semester estimates, retention, and graduation rates, and this data formed the basis of projected scholarship and achievement award totals. Recent data received from HED has changed legacy and solvency projections slightly (see Fiscal Implications).

## PERFORMANCE IMPLICATIONS

HED reports on the program changes included in the bill:

- The suggested payment amounts would fully (or almost fully) cover tuition at community and branch colleges, about 66 percent of current tuition at the comprehensive universities, and about 84 percent of current tuition at the research universities. Some students may choose to make different enrollment choices based on these cost differences, while others may not change their enrollment preferences.
- Changing the GPA requirement would affect some students. Currently approximately 10 percent of recipients have a GPA less than 2.75. Students who are not legacy students, and who have had the award for one or three semesters prior to FY15 may be affected the most seriously since the GPA criteria is cumulative and it may take a semester or two to bring a cumulative GPA that is less than 2.75 up to that level. These students could potentially lose eligibility.
- It is harder to estimate the impact of raising the credit hour requirement from 12 to 15 hours at four-year colleges. Most students already take 15 or more hours, but some students, especially those who are working half-time or more off campus, may find the additional credit hours difficult to maintain.

## ADMINISTRATIVE IMPLICATIONS

NM Tech estimates 50 hours will be needed to satisfy additional reporting requirements, review eligibility criteria, to track and enter awards, and to update the administrative software system. HED also notes that the bill would create a number of components that the department and institutions would have to monitor to insure awards are being properly distributed.

HED expresses concern that the \$2 million fund balance as required in the bill would not be sufficient to maintain operating costs. The department states that payments in May and June usually approximate \$7 million, and recommend a year-end fund balance of \$10 million to avoid cash flow problems.

## RELATIONSHIP

See Attachment 3 other lottery bills.

General Appropriation Act: Currently, the General Appropriation Act appropriates revenues and fund balance from the lottery tuition fund for lottery scholarships. The FY14 operating budget for the LLSP projected \$68.4 million would be available for scholarships: \$42.2 million in lottery revenues, \$16.2 million in lottery tuition fund balance, and a transfer of \$9.8 million from the tobacco settlement fund pursuant to Laws 2013, Chapter 228 (Senate Bills 113 and 392). Budgeted scholarship levels were originally \$60.2 million, but have been revised to total \$67.5 million.

In early FY14, a court decision regarding the state's tobacco settlement fund revenues cast a doubt whether the \$9.8 million transfer for FY14 would be possible. (See LFC Volume III, Legislative Lottery Scholarship Program: Budget, Projections, and Scenario for more detail.) Consequently, for FY14, the Executive requested \$5 million of the original \$9.8 million, as well as a \$16 million supplemental, nonrecurring, general fund appropriation to cover lottery tuition scholarships for the spring 2014 semester, replace some of the tobacco settlement funds, and

leave a \$14.5 million fund balance for FY15.

LFC recommends an \$11 million nonrecurring transfer from the HED student financial aid-special fund to cover the estimated shortfall to maintain scholarship levels in FY14. The transfer would result in an estimated FY14 year-end \$4.5 million lottery tuition fund balance.

### **TECHNICAL ISSUES**

In Section 9 of SB 150, the appropriation for \$8.0 million is for FY15 and subsequent fiscal years. However, this implies the appropriation should be a one-time, nonrecurring appropriation; because it is spread over multiple years. To make it a recurring appropriation, on page 13, line 2, strike “and” and line 3, strike “subsequent fiscal years.”

HED notes while the bill requires they make a report by September 1st, some of the information they receive from institutions is not reported until September 15<sup>th</sup>. A later deadline may be necessary to ensure accurate reporting.

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

The lottery tuition fund will not be solvent and HED will have to reduce LLSP awards for FY15 and beyond according to available revenues.

### **ALTERNATIVES**

HED suggests changing the department’s reporting requirement deadline to November 1<sup>st</sup> to ensure they have sufficient time to process the information received from institutions on September 15<sup>th</sup>.

KC/ds;jl/ds

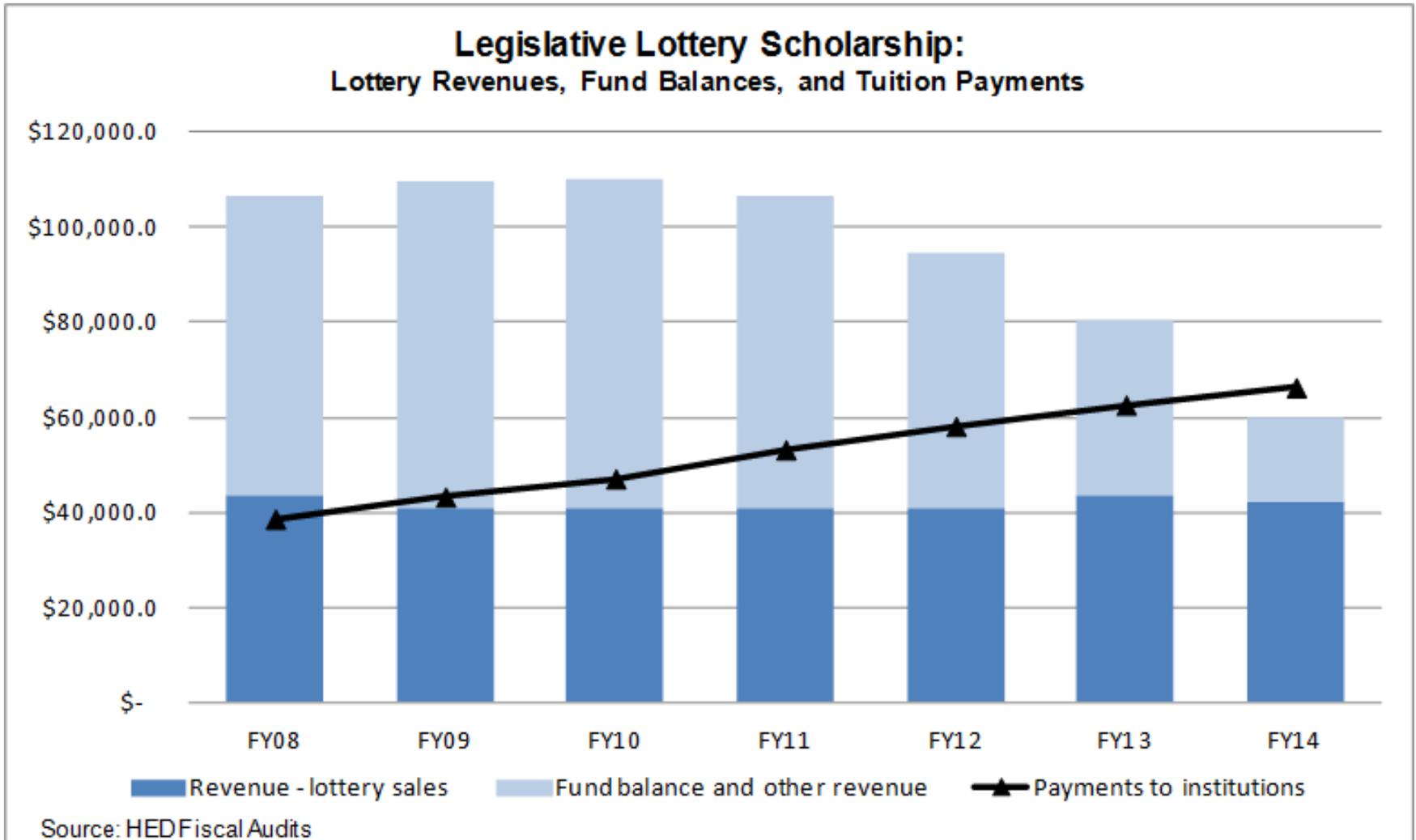
**Legislative Lottery Scholarship Program Budget Report,  
Projections, and Scenario: February 6, 2014**

		FY14 Operating Budget			FY15			
		FY13 Audited Actuals	Approved	SB 150	HAFC	Current Law Forecast	SB 150	HAFC
<b>Revenues</b>								
1	Lottery Revenues	\$43,685.0	\$42,237.8	\$42,237.8	\$42,237.8	\$43,000.0	\$43,000.0	\$43,000.0
2	Lottery Tuition Fund balance							
3	<i>Beginning Fund Balance</i>	\$36,902.7	\$16,248.6	\$18,810.3	\$18,810.3	\$4,499.2	\$4,499.2	\$7,399.2
4	Tobacco Settlement Fund Revenues	\$0.0	\$9,875.0 (1)					
5	Supplemental/Special General Fund Request						\$8,000.0 (4)	\$0.0
6	Transfer Student Financial Aid - Special Program Fund			\$11,000.0 (2)	\$11,000.0 (2)			
8	Miscellaneous Income	\$99.9						
9	Special Nonrecurring General Fund Appropriation				\$2,900.0 (3)		\$2,900.0 (3)	\$0.0 (5)
10	<b>Available Revenues</b>	<b>\$80,687.6</b>	<b>\$68,361.4</b>	<b>\$72,048.1</b>	<b>\$74,948.1</b>	<b>\$47,499.2</b>	<b>\$58,399.2</b>	<b>\$50,399.2</b>
11								
12	<b>Scholarship Expenditures</b>	<b>\$61,877.3</b>	<b>\$66,316.8</b>	<b>\$67,548.9</b>	<b>\$67,548.9</b>	<b>\$69,575.4 (6)</b>		
13	Research awards @ \$2,100/semester						\$47,483.1	\$47,483.1
14	Comprehensive awards @ \$1,000/semester						\$3,498.0	\$3,498.0
15	Two-year awards @ \$800/semester ( <i>capped at tuition</i> )						\$4,460.3	\$4,460.3
16	<i>Subtotal: Flat Awards</i>						\$55,441.4	\$55,441.4
17	"Legacy" Provision						\$6,600.5	\$6,600.5
18	Increase GPA req. to 2.75					\$0.0	-\$7,458.0 (7)	-\$7,458.0 (7)
19	15 Credit Hour Min.					\$0.0	-\$1,108.8 (8)	-\$1,108.8 (8)
20	Scholarship Sanding Adjustment					-\$24,496.2	\$0.0	-\$7,000.0
21	<b>Total Expenditures</b>	<b>\$61,877.3</b>	<b>\$66,316.8</b>	<b>\$67,548.9</b>	<b>\$67,548.9</b>	<b>\$45,079.2</b>	<b>\$53,475.0</b>	<b>\$46,475.1</b>
22	<b>Est. year-end lottery tuition fund balance (Available Revenues - Expenditures)</b>	<b>\$18,810.3</b>	<b>\$2,044.6</b>	<b>\$4,499.2</b>	<b>\$7,399.2</b>	<b>\$2,420.0</b>	<b>\$4,924.2</b>	<b>\$3,924.1</b>

Source: HED/LFC Files and Legislative Lottery Working Group

**Notes:**

- (1) The tobacco settlement fund allocation was de-authorized in HAFC.
- (2) For FY14, LFC recommended and HAFC approved using a \$11 million supplemental appropriation in nonrecurring fund balance.
- (3) LFC recommends a special nonrecurring appropriation to provide full tuition awards for students who have received the scholarship for at least three semesters. HAFC included \$2.9 million special general fund appropriation for expenditure in FY14 (if necessary to address cash management issues of the lottery tuition fund) and FY15 (to provide full tuition scholarships for legacy students).
- (4) SB 150 recommends \$8 million special general fund appropriation be contingent on legislative action to improve solvency of the fund.
- (6) Assumes a 3 percent tuition increase for FY15 (AY2014-2015).
- (7) Assumes students maintain current GPA and do not adjust to meet higher standard.
- (8) Assumes a 2 percent reduction in students receiving lottery scholarship.
- (9) Savings from reducing scholarship term from 8 to 7 semesters are realized in FY17. (Without the legacy provision, savings for FY15 would be \$4.3 million.)



**Legislative Lottery Scholarship Program: Proposed Legislation in 2014 Session**

Bill Number	Lottery Program Changes						FY15 Funding				Other Changes
	GPA?	Full Time?	Number of Semesters	Financial Need?	Award Changes	Legacy Provision?	Solvent?	Appropriation?	Sanding Required?	Emerg. Clause?	
<b>HB 145 (Taylor)</b>	2.5	12 SCH	8	No	None	No	No	None	Yes	No	Adds eligibility for dependents of military on active duty outside of NM
<b>HB 254 (Smith, JE)</b>	2.5-3.25	12 SCH	7	Yes	Level of award based on GPA and financial need	Yes - 3 or more semesters by FY15 (unfunded)	Yes	None	Possibly	Yes	Requires application and FAFSA; unfunded legacy provision
<b>HB 263 (Harper)</b>	2.5	12 SCH	7	No	Flat award determined by HED; one award for all institution types, capped at tuition.	No	Yes	None	No	Yes	None
<b>HB 348 (Baldonado)</b>	2.5	12 SCH	7	No	No change to amount; waiver instead of scholarship	Unclear	No	None	Yes	Yes	Scholarship to loan program; students must repay the waiver if they fail to get a degree.
<b>SB 141 (Candelaria)</b>	2.5	12 SCH	8	No	Limits tuition payments to tuition amount of qualifying semester	Unclear	No	None	Yes	No	None
<b>SB 146 (Ingle)</b>	2.5	15 SCH for all higher- ed students	8	No	Limits tuition rates; award amount equals the tuition rate of qualifying semester	Unclear	No	None	Yes	No	None
<b>SB 150 (Smith)</b>	2.75	15 SCH for 4-year inst; 12 CH for 2-year inst.	7	No	Flat awards based on type of institution	Yes - 3 or more semesters by FY15 (unfunded)	Yes	\$8 million recurring; \$2.9 million for legacy students	No	Yes	None
<b>SB 302 (Sanchez)</b>	N/A	N/A	N/A	N/A	N/A	N/A	Yes for FY15; not solvent in the long-term without program changes.	\$3 million monthly through FY18	No	No	Repeals the capital gains deduction from net income and appropriates a portion of savings to the LLSP
<b>SB 303 (Sanchez)</b>	N/A	N/A	N/A	N/A	N/A	N/A	Yes for FY15; not solvent in the long-term without program changes.	\$35 million annually	No	No	Raises motor vehicle excise tax and gives 20 percent of proceeds to the LLSP
<b>SB 327 (Sapien)</b>	2.5	12 SCH	7 at four-year inst.; 4 at two-year inst. + 4 at four-year inst.	No	Award amount based on type of institution and # of semesters w/ scholarship	Yes - 3 or more semesters by FY15	Yes	None	Possibly	Yes	Requires scholarship application and FAFSA; unfunded legacy provision
<b>SB 379 (Payne)</b>	Institutional decision	Institutional decision	Institutional decision	Institutional decision	Institutional decision	Institutional decision	Yes	None	Possibly	Inst. decision	HED distributes agreed-upon amount to institutions by Aug 15; institutions establish criteria.

\*SCH =Student Credit Hour

Source: LFC Files