

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

**Bill Number: \*HB 263a**

**51st Legislature, 2nd Session, 2014**

**Tracking Number: .195643.7**

**Short Title: Lottery Scholarship Changes**

**Sponsor(s): Representatives Jason C. Harper and Tim D. Lewis, and Senator Craig Brandt and Others**

**Analyst: Travis Dulany**

**Date: February 19, 2014**

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**AS AMENDED**

**The House Education Committee amendment:**

- **removes language requiring a uniform amount; and**
- **adds language requiring the Higher Education Department (HED) to determine a uniform percentage for calculating Legislative Lottery Scholarships based on enrollments and tuition costs at public post-secondary educational institutions.**

**Original Bill Summary:**

HB 263 adds new material to create the *Legislative Lottery Scholarship Act* to provide qualified students with a uniform award amount to be adjusted annually; 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 (UNM), New Mexico State University, or the New Mexico Institute of Mining and Technology; and
  - state educational institution includes those institutions enumerated in Article XII, Section 11 of the Constitution of New Mexico;
- defines “qualified student” as one who meets eligibility requirements pursuant to the *Legislative Lottery Scholarship Act* and HED rule who graduated with a diploma from a public or accredited private New Mexico high school or received a high school equivalency credential (HSEC) in New Mexico either:

- 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 from the service attended a public postsecondary educational institution;
- provides legislative lottery scholarships to qualified students:
  - who maintain New Mexico residency, receive at least a 2.5 grade point average (GPA) in their first semester, maintain a GPA of at least 2.5, and complete 12 or more credit hours per semester, and meet any additional eligibility requirements established by HED rule; and
  - for up to:
    - seven consecutive semesters at a comprehensive, research, or state educational institution; or
    - three consecutive semesters of attendance at a community college followed with no hiatus in attendance by four consecutive semesters of attendance at a comprehensive, research, or state educational institution;
- provides for certain exceptions for students with disabilities; and
- requires HED to:
  - no later than June 1, 2014 and each subsequent year, based on the amount appropriated by the Legislature from the Fund and on the projected enrollment at all public postsecondary institutions:
    - determine the amount of money available for legislative lottery scholarships;
    - determine the uniform award amount of a legislative lottery scholarship for the upcoming academic year:
      - ✓ for qualified students attending public postsecondary educational institutions; and
      - ✓ as necessary to award the maximum amount available to assist qualified students with tuition costs while ensuring the solvency of the Fund as projected in the most recent actuarial evaluation of the Fund;
    - notify all public postsecondary educational institutions of these determinations; and
    - distribute to a public postsecondary institution a legislative lottery tuition scholarship for each qualified student, provided that, if the uniform award amount exceeds the cost of tuition, HED is to distribute to a public postsecondary educational institution a scholarship in the amount of tuition charged;
  - promulgate rules, to be immediately distributed to the board of regents and governing boards of public postsecondary educational institutions, setting forth explicit criteria for:

- student qualifications and continuing eligibility;
  - determining the award amount of a legislative lottery scholarship pursuant to the *Legislative Lottery Scholarship Act*; and
  - guidelines for administration of the lottery scholarship program; and
- by November 1 of each year, report certain data related to the Legislative Lottery Scholarship program to the Legislative Finance Committee and Department of Finance and Administration.

Finally, HB 263 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*.

\*HB 263 contains an emergency clause.

**Fiscal Impact:**

HB 263 does not contain an appropriation.

**Original Fiscal Issues:**

According to the UNM bill analysis:

- without an appropriation for the Legislative Lottery Scholarship, the scholarship award students receive will be between 50 and 60 percent of tuition; and
- uniform payments determined by HED could be a positive method to determine equitable amounts by sector;
- by not locking in maximum award amounts in statute, this could provide flexibility and regular review of appropriate award amounts.

New Mexico Tech reports that HB 263 would require students in their eighth semester to seek additional financial assistance to satisfy the entire amount of tuition at the institution (currently \$2,523).

According to the analysis by HED:

- the plan contained in HB 263 would lead to solvency;
- the flat payment would be set based on the total available funds and the estimated number of recipients; and
- the rate for FY 15 would likely be around \$1,500, though that would vary slightly based on updated estimates and the final balance in the Fund at the end of FY 14.

A list of per semester tuition charged at all New Mexico public postsecondary institutions for academic year 2013-2014, categorized by institution type, is attached.

## **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.

## **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 \$39.0 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<sup>1</sup> 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.

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<sup>1</sup> To the extent that funds are made available by the Legislature from the Fund.

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 General Educational Development certificate;
- 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:**

HEC/HAFC/SEC/SJC/SFC

### **Related Bills:**

HB 145 *Lottery Scholarship Changes*

\*HB 254a *Lottery Scholarship Solvency*

HB 348 *Legislative Lottery Tuition Waiver Act*

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

SB 141 *Limit Lottery Scholarship Tuition Increases*

SB 146 *Lottery Tuition Rates & Definitions*

\*SB 150 *Lottery Scholarship Solvency*

\*SB 327 *Lottery Tuition Fund Act & Solvency*

\*SB 379 *Lottery Tuition Fund Solvency*

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