

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: *HB 254

51st Legislature, 2nd Session, 2014

Tracking Number: .195801.1

Short Title: Lottery Scholarship Solvency

Sponsor(s): Representative James Smith and Senator Jacob Candelaria and Others

Analyst: Travis Dulany

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Bill Summary:

HB 254 adds new material to current law to create the *Lottery Tuition Fund 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 the various postsecondary educational 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, and Northern New Mexico College;
 - research institutions include the University of New Mexico (UNM), New Mexico State University, and the New Mexico Institute of Mining and Technology (New Mexico Tech); and
 - state educational institutions includes those institutions enumerated in Article XII, Section 11 of the Constitution of New Mexico;
- requires that, prior to consideration for a lottery tuition scholarship each year, a student must timely:
 - submit to the intended public postsecondary institution a signed form requesting a lottery tuition scholarship; and
 - file a Free Application for Federal Student Aid (commonly known as FAFSA) to produce an expected family contribution amount;
- for legacy students:
 - defines “legacy student” as a student who has received the scholarship pursuant to the prior provisions of the Legislative Lottery Scholarship for three or more semesters by the end of FY 14; and

- allows legacy students to receive lottery tuition scholarships for the full value of tuition for a total of eight semesters as long as the student maintains at least a 2.5 grade point average (GPA) and completes 12 or more credit hours per semesters;
- 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 received a high school equivalency credential (HSEC) in New Mexico who 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 services in the US Armed Forces and within a year of completion of honorable service or medical discharge attended a public postsecondary institution;
 - allows the qualified student to receive a lottery tuition scholarship:
 - after the student has completed the first semester of enrollment with 12 or more credit hours and a GPA of 2.5 or higher;
 - provided that the student maintains residency in New Mexico, maintains a GPA of 2.5 or higher, and completes 12 credit hours or more per semester;
 - until the total number of semesters the scholarship was received reaches:
 - ✓ seven at a state educational institution, comprehensive institution 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 research institution or a state educational institution.

Specific provisions for a qualified student who is not a legacy student for a semester require that the lottery scholarship amounts consider an “unmet need award” and a “merit award” based on certain conditions by institution as follows:

- for a public postsecondary educational institution:
 - an unmet need award based on the expected family contribution and any tuition offset from other state and federal scholarships and grant-in-aid awards to be combined to show unmet need in one of the following ranges:
 - \$7,000 per year or higher;
 - \$6,000 to \$6,999 per year;
 - \$1,000 to \$3,999 per year; and
 - \$999 or less per year; and
 - ✓ a merit award based on a cumulative GPA in the following ranges:
 - 3.25 and above;
 - 3.00 to 3.24;

- 2.75 to 2.99; and
- 2.50 to 2.74.
- for a research institution:
 - ✓ an unmet need award of not more than \$1,050 but not less than \$650; and
 - ✓ a merit award of not more than \$1,050 but not less than \$750.
- for a comprehensive institution or state educational institution (see “Technical Issues,” below):
 - ✓ an unmet need award of not more than \$500 but not less than \$300; and
 - ✓ a merit award of not more than \$500 but not less than \$350.
- for a branch campus of a research institution (see “Technical Issues,” below):
 - ✓ an unmet need award of not more than \$400 but not less than \$200; and
 - ✓ a merit award of not more than \$400 but not less than \$250; and
- for a community college:
 - ✓ an unmet need award of not more than \$300 but not less than \$100; and
 - ✓ a merit award of not more than \$300 but not less than \$150.

Other provisions of HB 254:

- provide for certain exceptions for students with disabilities;
- amend statute relating to the Fund to reflect changes to the *Lottery Tuition Fund Act*;
- require the Higher Education Department (HED) to:
 - develop and provide by August 1, 2014 a printed and electronic form for requesting a lottery tuition scholarship;
 - no later than May 1 of 2015 and each subsequent year, based on the amount appropriated by the Legislature from the Fund and on the projected enrollment at public postsecondary institutions:
 - determine the total amount of money available for lottery tuition scholarships;
 - maintain, increase, or reduce the amounts of lottery tuition scholarships to award the maximum amount while maintaining solvency of the Fund; and
 - notify all public postsecondary institutions of these determinations;
 - report by November 1 of each year certain data pertaining to the lottery scholarship program to the Legislative Finance Committee and the Department of Finance and Administration;
 - promulgate rules, to be immediately distributed to the boards of regents and governing boards of public postsecondary educational institutions, setting forth explicit criteria for:

- student qualifications and continuing eligibility;
- determining any increase or reduction in the amount of a lottery tuition scholarship award pursuant to the *Lottery Tuition Fund Act*; and
- guidelines for the administration of the lottery tuition scholarship program;

Finally, HB 254 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 254 contains an emergency clause.

Fiscal Impact:

HB 254 does not contain an appropriation.

Fiscal Issues:

According to UNM, award amounts may change every semester based on the calculation of the need-based component and a student’s GPA.

According to HED, assuming students continue their current enrollment patterns, their GPA attainment, and their unmet need continues as currently distributed, the approach contained in HB 254 comes close to exhausting the amount of money typically made available from lottery revenue.

According to New Mexico Tech, HB 254 introduces two different components of the lottery award, one tied to financial need and the other to GPA. The result is that some students (it is difficult to estimate how many) will receive less than 83 percent of the institution’s tuition (\$2,523 per semester).

According to the New Mexico Lottery Authority, passage of HB 254 should help lessen the gap between lottery revenues and expenditures and help the Fund achieve solvency.

Technical Issues:

The three postsecondary educational institutions that fall under the “research institution” definition in HB 254 also fall under the definition of “state educational institution.” This creates a conflict in Section 6, subsections B and C of HB 254.

A branch community college of a state educational institution is included in the definition of “community college” in HB 254. The sponsor may wish to define “branch community college of a state educational institution” separately from “community college” in Section 2 of the bill. This may help clarify Section 6, subsections D and E.

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 and \$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:

HRC/HEC/HAFC

Related Bills:

SB 141 *Limit Lottery Scholarship Tuition Increases*

SB 146 *Lottery Tuition Rates & Definitions*

*SB 150 *Lottery Scholarship Solvency*

*SB 379 *Lottery Tuition Fund Solvency*

*SB327 *Lottery Tuition Fund Act & Solvency*

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

HB 145 *Lottery Scholarship Changes*

*HB 263 *Lottery Scholarship Changes*

HB 348 *Legislative Lottery Tuition Waiver Act*

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