

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: *SB 379

51st Legislature, 2nd Session, 2014

Tracking Number: .195967.2

Short Title: Lottery Tuition Fund Solvency

Sponsor(s): Senator William H. Payne

Analyst: Travis Dulany

Date: February 10, 2014 (Revised)

Bill Summary:

SB 379 adds new material to create the *Legislative Lottery 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 state educational institutions, 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, New Mexico State University, and the New Mexico Institute of Mining and Technology; and
 - state educational institutions are those enumerated in Article XII, Section 11 of the Constitution of New Mexico.
- requires a board of regents or governing body of a public postsecondary institution to determine:
 - the quantity of legislative lottery scholarships to award and the amounts of the awards for some or all qualified students who meet eligibility requirements according to institutional:
 - needs;
 - missions; and
 - goals;
- define “qualified student” as one who:
 - meets eligibility requirements of the *Legislative Lottery Scholarship Act* and Higher Education Department (HED) rule;

- 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 and either:
 - immediately upon graduation or receipt of an HSEC was accepted for entrance to and attended a public postsecondary educational 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 service attended a public postsecondary educational institution;
- requires that a qualified student who is otherwise eligible for the Legislative Lottery Scholarship must maintain residency in the state;
- requires HED to:
 - by May 1 of 2014 and each subsequent year determine the amount of money available for distribution from the Fund to public postsecondary educational institutions for the upcoming academic year based on:
 - appropriations from the Legislature;
 - solvency maintenance; and
 - criteria established by HED rule;
 - by August 1, 2014, establish criteria in rule for the equitable distribution of money from the Fund to each public postsecondary educational institution based on enrollment data, tuition cost, and other considerations agreed upon in collaboration with:
 - the Council of University Presidents;
 - the New Mexico Association of Community Colleges; and
 - the New Mexico Independent Community Colleges; and
 - by August 15 of 2014 and each subsequent year, distribute to each public postsecondary institution an amount of money from the Fund in accordance with the criteria established in rule;
- amends statute relating to the Fund to reflect the changes in the *Legislative Lottery Scholarship Act*; and
- requires the office at a state educational institution that serves students with disabilities to review the minimum credit hours and maximum number of consecutive semesters required for eligibility and adjust either or both as deemed reasonable and appropriate (see “Technical Issues,” below).

Finally, SB 379 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 379 contains an emergency clause.

Fiscal Impact:

SB 379 does not contain an appropriation.

Fiscal Issues:

The New Mexico Lottery Authority expects revenues for the Legislative Lottery Scholarship of approximately \$39.4 million over the next few years.

Technical Issues:

Page 4, line 23, refers to the office at a state educational institution that serves students with disabilities. As defined in Section 2 of the bill, “state educational institution” is an institution of higher education enumerated in Article XII, section 11 of the Constitution of New Mexico. The sponsor may wish to replace “state educational institution” with “public post-secondary educational institution.”

Substantive Issues:

Under the provisions of SB 379, postsecondary institutions, to the extent funds are made available, would determine the quantity and amounts of scholarships for some or all qualified students who meet eligibility requirements according to institutional needs, missions, and goals. SB 379 allows lottery scholarships to be awarded independent of tuition, grade point average (GPA), credit hours, and number of semesters.

Provisions in current law state that:

- a student is eligible to receive the Legislative Lottery Scholarship up to four consecutive years if the student maintains:
 - residency in New Mexico;
 - full-time enrollment (12 credit hours per semester); and
 - a 2.5 GPA;
- 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.

According to the Central New Mexico Community College (CNM) bill analysis, most higher education institutions award aid for students by March 1 of each year for the following fall semester, but, under SB 379, HED is required to determine the level of funding available for lottery scholarships by May 1. CNM recommends a date earlier in the year.

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 has 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 award¹ 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.

¹ To the extent that funds are made available.

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 150 *Lottery Scholarship Solvency*

*SB 327 *Lottery Tuition Fund Act & 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)