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FISCAL IMPACT REPORT

ORIGINAL DATE 02/15/14
LAST UPDATED 04/04/14

SPONSOR SFC **HB** _____
 Public Peace, Health, Safety & Welfare

SHORT TITLE Lottery Tuition Scholarship Fund Solvency **SB** CS/347/aSFC/aHFI#1

ANALYST Hartzler-Toon

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY14	FY15		
\$0.0	\$0.0	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY14	FY15	FY16		
	\$0.0	(\$19,000.0)	Recurring	General Fund
	\$0.0	\$19,000.0	Recurring	Lottery Tuition Fund

(Parenthesis () Indicate Revenue Decreases)

Relates to Appropriation in the General Appropriation Act:

- HB2/HAFC CS: Section 5 (57) and Section 11
- SB 313/SFC CS: Section 5, 6 and Section 11

Relates to Other Legislation: See Attachment A.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Tax and Revenue (TRD)
 Higher Education Department (HED)
 University of New Mexico (UNM)
 New Mexico State University (NMSU)
 Central New Mexico Community College (CNM)
 Council of University Presidents (CUP)

SUMMARY

Synopsis of House Floor Amendment #1

Generally, the House Floor amended Senate Bill 347, as amended by the Senate Finance Committee, by (1) changing the calculation of scholarship award amounts, (2) striking the \$11 million general fund appropriation for FY14, (3) striking the \$11.5 million general fund appropriation for FY15, (4) limiting the liquor excise tax distribution to years FY16 and FY17, and (5) making a number of changes to the definition of “program semester,” authorizing scholarships for qualified and legacy students, removing a number of reporting requirements for the Higher Education Department (HED), and changing reporting date requirements.

The amendment changes the process for calculating scholarship awards to reflect the process currently in law. HED will determine the total amount of available revenues available for tuition scholarships, determine the percentage of tuition that can be covered based on available revenues, and set the tuition scholarship awards at that level. The amendment struck provisions in the bill that would have required HED to provide full tuition scholarships to eligible students in their first three program semesters and prorate awards for eligible students for the remainder of their scholarship terms.

The amendment strikes the appropriations because they duplicate appropriations in Section 5 (78) and Section 6 (18) of Senate Bill 313, the General Appropriation Act of 2014.

Synopsis of SFC Amendment

The Senate Finance Committee amended the substitute making technical changes to the provision regarding the distribution of the liquor excise tax revenues distribution to the lottery tuition fund. In addition, the amendment changed the effective date of that provision so that the distribution would begin July 1, 2015.

Synopsis of Original Bill

The SFC substitute for Senate Bill 347 (CS SB 347/SFC) establishes the Legislative Lottery Tuition Scholarship Act (Act), repealing or amending various sections of law pertaining to the Legislative Lottery Scholarship (LLS) program (Sections 21-1-4.3, 21-1-4.4, 21-13-10, and 21-16-10.1 NMSA 1978). The bill makes programmatic changes to the existing LLS program, appropriates \$11 million in other state funds for FY14, appropriates \$11.5 million in general fund revenues for FY15, and creates a distribution from the general fund portion of revenues resulting from the liquor excise tax beginning in FY16.

Attachment A describes LLS program changes proposed in SB 347/CS and other pending LLS legislation. In sum, SB 347/CS revises the LLS program by:

- Adding new or amending current definitions for full-time, legacy student, program semester, qualified student, and tuition scholarship.
- Providing full-tuition scholarships to students for their first three semesters in the scholarship program (“front-loading awards”).
- Providing pro-rated scholarships for students in their fourth through seventh semesters (or eighth if a student is eligible) that reflect average tuition levels of research institutions, comprehensive institutions, and community colleges.

- Requiring the Higher Education Department to reduce scholarships for students in their fourth through seventh semesters before reducing full tuition scholarships, if sufficient revenues are not available.
- Maintaining an average annual lottery tuition fund balance of \$2 million.
- Reducing a full scholarship term to seven semesters, except for “legacy” students (those who have received three or more semesters of the LLS by the end of FY14)
- Requiring students attending four-year institutions to take 15 credits per semester, while maintaining the current 12 credit hour per semester requirement for students attending community colleges.

The bill does not change the grade point average (GPA) level (2.5 of a 4.0 scale) for students to maintain scholarship eligibility.

FISCAL IMPLICATIONS

The bill, as amended by the House, includes an estimated \$19.0 million distribution (or 39 percent) from the general fund portion of the liquor excise tax distribution starting July 1, 2015 through July 1, 2017. The House amendment struck two appropriations for the program that are included in SB 313: an \$11 million general fund appropriation for FY14 and an \$11.5 million recurring general fund appropriation for FY15.

The distribution of liquor excise tax revenues is a recurring distribution, resulting in lower general fund revenues. Per the Tax and Revenue Department (TRD) and LFC, this distribution is projected to be between \$18.4 million and \$19 million in FY16. The local DWI grant distribution to local entities would not be affected by this distribution, maintaining current distribution levels. Additional revenues would favorably impact the lottery tuition fund.

CS SB 347 addresses solvency of the LLS program by (1) increasing revenues available for awards, (2) limiting total scholarship awards to available revenues (meaning, total revenues less \$2 million required fund balance), and (3) estimating modest program savings should students be unable to satisfy the increased per semester student credit hour load. Attachment B highlights the revenues, changed award expenditures, and estimated program savings.

Even with additional revenues in SB 347 and SB 313, LFC staff estimate that individual scholarship award amounts as a percentage of tuition will decline over time as tuition rates increase. Staff project flat demand for the program, given flat or level estimates of the number of high school graduates projected over the next eight years.

Both HED and institutions report that they would incur additional operating expenses to update or tailor existing student records systems to reflect LLS awards, academic criteria, and LLS scholarship terms and update institutional reports to HED.

The Council of University Presidents shares that standardizing payments, at all levels, would address fund solvency and provide greater predictability for institutions and students.

SIGNIFICANT ISSUES

Fund Solvency. The LLS 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 LLS 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.

Access and Program Completion. Institutions and policymakers recognize that the LLS program provides significant access to New Mexicans who want to attend state postsecondary institutions. Maintaining the current GPA-level requirement, the awards approach in SB 347/CS/House amendment would provide the same rate of tuition scholarship awards to all students; meaning if funding was available to fund 50 percent of tuition, then all students would receive a 50 percent award, no matter whether that student attended a four-year institution or a two-year institution. It is difficult to estimate whether reduced tuition scholarship award amounts will affect student selection to enrollment at four-year or two-year institutions.

Some legislators and institutions are concerned that this awards approach does not necessarily support program or college completion. UNM notes that stated award levels would help students plan their academic careers, likely leading to higher graduation rates. The Council of University Presidents (CUP) requests any awards structure that results in less than full tuition scholarships should reduce awards for all students evenly, no matter which type of institution the student chooses to attend.

Full-Time Student Definition. For LLS program purposes, SB 347 would change the definition of “full-time” for students attending four-year institutions to require completing a minimum of 15 credit hours per semester, up from the current 12-credit hour enrollment requirement. This requirement increases the likelihood that the significant majority of scholarship students (attending research institutions pursuing bachelor’s degrees) will graduate within their LLS term of seven or eight semesters (15 credits per semester, for eight semesters, totals 120 credits). The requirement is also consistent with some institutional tuition policies, particularly at UNM.

Importantly, the bill maintains the current “full-time” definition for students attending community colleges. Maintaining this level for these students is supported by Central New Mexico Community College (CNM) and was advocated for during 2013 interim Legislative Lottery Working Group meetings. The requirement maintains broad access to postsecondary education while recognizing that not all students are academically or otherwise prepared or are able to enter a bachelors-level program. Others have noted that this does not support an aggressive program completion agenda, with UNM recommending that scholarship terms for community college students should be limited to three program semesters.

Scholarship Term. SB 347 includes provisions that grant legacy students (those who have received the scholarship for three or more semesters by June 30, 2014) up to eight semesters of scholarship eligibility and qualified students (all other students) seven semesters of scholarship eligibility. The bill has the same length of term no matter where the student attends.

Since many community college programs require fewer credits and semesters to complete, four-year institutions suggest that students attending community colleges should have a shorter

scholarship term (to three semesters total) unless the student transfers to a four-year institution. However, a number of programs, including the associate degree in nursing, require more than two years to complete. It is unclear whether the scholarship term should be adjusted.

Required Average Annual Fund Balance. The HED states that the required annual average fund balance required in SB 347 may be too low for cash management purposes. In prior years, the department noted that \$10 million would likely be sufficient to maintain the current payment schedule to institutions. The department did not provide an alternative or preferred fund balance amount.

Reporting/Deadlines. HED notes that the deadlines and reporting requirements in the bill may be difficult to observe. For example, Section 6 of the bill requires the department report to DFA and LFC on the status of the lottery tuition fund, student LLS program participation and award levels, and student program completion information. The House amendment to SB 347 addressed two of the department's concerns with reporting deadlines. First, the department's deadline to report to the LFC and DFA a number of scholarship program components was moved back to November 1st, instead of the bill's initial September 1st deadline. Second, the amended bill requires the department to determine tuition scholarship amounts by June 1st; institutions had requested an earlier deadline to coincide with the annual financial aid awards calendar.

PERFORMANCE IMPLICATIONS

Attachment B shows that the additional revenues, changes to award levels, and program changes provide a solvent lottery tuition fund and provide broad postsecondary access.

UNM reported that:

Students receiving the LLS at any time during their UNM tenure have a 62 percent graduation rate and Pell eligible students have a 56 percent graduation rate in six years compared to the overall graduation rate of 48.2 percent. Preserving the maximum amount of funding for all semesters is critical to student success.

ADMINISTRATIVE IMPLICATIONS

The process for making awards would become slightly more complex under this amended bill. Institutions would need to develop new procedures to ensure that awards are made correctly and would likely need to implement new software systems, particularly at the smaller institutions. New Mexico State University (NMSU) reports that the program revisions would impact the financial aid office, registrar, student information management, and institutional analysis offices. NM Tech notes that setting up the new rules in the University's computer system will take some time. However, once the rules are written in, NM Tech states the new rules should not be difficult to administer.

In order to ensure that the institutions are correctly awarding LLS funds, HED would need to increase its institutional oversight role and data collection methods.

DUPLICATION, RELATIONSHIP

See Attachment A for pending legislation. Also see Senate Bill 313, including general fund appropriations for HED for the LLSP.

TECHNICAL ISSUES

The House amendment to SB 347 includes a drafting error affecting when eligible students may receive tuition scholarships. The amendment prohibits qualified students from receiving a scholarship in their first scholarship program semester – commonly the second semester of their first year. Institutional “bridge” scholarships frequently are awarded for a student’s first semester of college, with the purpose of a student being eligible for a tuition award the second semester of college. If SB 347 is enacted, the Legislature will need to correct this provision to permit eligible students to receive the scholarship as soon as they are eligible – the first program semester – and not experience a gap in scholarship coverage (from the first semester bridge scholarship to receiving nothing the second semester and then receiving a tuition scholarship the third semester).

UNM and NMSU suggest that bill should require HED to determine available funding and award amounts before a May 1st deadline (page 6, line 5). Since institutions award most financial aid packages before then, an earlier date would help families plan for the following academic year. The House amendment pushed the deadline back to June 1st of each year.

ALTERNATIVES

The current law would remain in effect, requiring HED to reduce award levels to available revenues. Without additional revenues, HED estimates the average award would be 60 percent of tuition levels for FY15. (See Attachment B.)

Pending legislation reviews many approaches to award distribution, award values, and terms. House Bill 254 features flat award amounts, decoupling the scholarships from tuition levels, and would distribute awards based on unmet financial need and GPA. House Bill 263 provides for a uniform reduction in scholarship awards, or maintains current law.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The HED is required to maintain a positive lottery tuition fund balance and adjust award amounts to maintain fund solvency. Without legislative action, the department will adjust award amounts for FY14 and FY15.

THT/jl:ds:svb

Legislative Lottery Scholarship Program: Proposed Legislation in 2014 Session

Bill Number	Lottery Program Changes						FY15 Funding			Emerg. Clause?	Other Changes
	GPA?	Full Time?	Number of Semesters	Financial Need?	Award Changes	Legacy Provision?	Solvent?	Appropriation?	Sanding Required?		
HB 145 (Taylor)	2.5	12 SCH	8	No	None	No	No	None	Yes	No	Adds eligibility for dependents of military on active duty outside of NM
HB 254/aHAFC (Smith, JE)	2.5-3.25	12 SCH	7	Yes	Level of award based on GPA and financial need	No	Yes	None	Possibly	Yes	Requires application and FAFSA; unfunded legacy provision
HB 263/aHEC (Harper)	2.5	12 SCH	7	No	Award reduced by percentage amount across all sectors, as determined by HED.	No	Yes	None	No	Yes	Duplicates current law; LFC staff estimate award reductions at 60 percent in FY15.
HB 348 (Baldonado)	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.
SB 141 (Candelaria)	2.5	12 SCH	8	No	Limits tuition payments to tuition amount of qualifying semester	Unclear	No	None	Yes	No	None
SB 146 (Ingle)	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
SB 150 (Smith)	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
SB 302 (Sanchez)	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
SB 303 (Sanchez)	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
SB 327 (Sapien)	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
SB 347/SFCCS (Sanchez)	2.5	15 SCH for 4-year inst; 12 CH for 2-year inst.	7	No	Awards full tuition to program semesters one through three, pro-rated semester awards for remaining students.	Yes- 3 or more semesters by FY15 considered full-time at 12 SCH, can receive LLSP for 8 semesters.	Yes	FY15: \$11.5 million general fund; FY16: Est. \$18.4 million excise liquor tax distribution	Yes	Yes	None
SB 379 (Payne)	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

Legislative Lottery Scholarship Program: Laws 2014, Chapters 63 and 80 (SB 347)
(in thousands of dollars)

	FY13 Audited Actuals	FY14		FY15	FY16	FY17
		FY14 OpBud	Laws 2014, Chs. 63 (SB 313) and 80 (SB 347)	Laws 2014, Chs. 63 (SB 313) and 80 (SB 347)	Laws 2014, Chs. 63 (SB 313) and 80 (SB 347)	Laws 2014, Ch. 80 (SB 347)
Revenues						
Lottery Revenues	\$43,685.0	\$42,237.8	\$42,237.8	\$43,000.0	\$43,000.0	\$43,000.0
Lottery Tuition Fund Beginning Balance	\$36,902.7	\$16,248.6	\$18,810.3	\$11,995.9	\$2,083.1	\$2,018.2
Tobacco Settlement Fund Revenues			\$4,875.0			
Special Recurring General Fund Appropriation			\$0.0	\$11,500.0	\$0.0	\$0.0
Transfer Student Financial Aid - Special Program Fund Balance			\$11,000.0	\$0.0	\$0.0	\$0.0
Special Nonrecurring General Fund Appropriation			\$2,900.0	\$0.0	\$0.0	\$0.0
Liquor Excise Tax Distribution			\$0.0	\$0.0	\$19,000.0	\$19,000.0
Available Revenues	\$80,587.7	\$68,361.4	\$79,823.1	\$66,495.9	\$64,083.1	\$64,018.2
Expenditures						
Scholarships - Percent of Tuition Awarded¹				<i>93% of est. avg. full tuition</i>	<i>87% of est. avg. full tuition</i>	<i>90% of est. avg. full tuition</i>
Research Awards	\$54,487.9		\$58,462.3	\$56,318.0	\$54,265.2	\$57,820.5
Comprehensive Awards	\$3,395.4		\$4,929.7	\$5,003.7	\$4,821.3	\$5,137.1
Two-year Awards	\$3,994.0		\$4,435.2	\$4,317.6	\$4,160.2	\$4,432.7
Subtotal Scholarship Awards	\$61,877.3		\$67,827.2	\$65,639.3	\$63,246.6	\$67,390.3
Program Savings						
15 Credit Hour Minimum ²				-\$1,226.4	-\$1,181.7	-\$1,259.2
No Eighth Semester						-\$4,306.8
Total Expenditures	\$61,877.3	\$66,316.8	\$67,827.2	\$64,412.8	\$62,064.9	\$61,824.4
Est. year-end lottery tuition fund balance (Available Revenues - Expenditures)	\$18,710.4	\$2,044.6	\$11,995.9	\$2,083.1	\$2,018.2	\$2,193.8

Source: HED/LFC Files

Notes:

(1) LFC staff assume a 3 percent yearly tuition increase.

(2) 15 Credit Hour Minimum: LFC staff assume a 2 percent reduction in students receiving lottery scholarship because they cannot satisfy the higher credit hour requirement.