

LESC bill analyses are available on the New Mexico Legislature website (www.nmlegis.gov). Bill analyses are prepared by LESC staff for standing education committees of the New Mexico Legislature. LESC does not assume any responsibility for the accuracy of these reports if they are used for other purposes.

LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
53rd Legislature, 1st Session, 2017

Bill Number	<u>HB194</u>	Sponsor	<u>Representative Sariñana</u>
Tracking Number	<u>.205960.1</u>	Committee Referrals	<u>HEC/HLEDC</u>
Short Title	<u>Lottery Scholarship Full & Need-Based</u>		
Analyst	<u>Rogne</u>	Original Date	<u>1/28/2017</u>
		Last Updated	<u></u>

BILL SUMMARY

Synopsis of Bill

House Bill 194 (HB194) amends the Legislative Lottery Tuition Scholarship Act, section 21-21N NMSA 1978, to make the lottery tuition scholarship a full scholarship, awarded based on financial need. Currently the percentage of tuition paid is based on the amount of funds available in the lottery tuition fund. A family's annual net household income must not exceed \$75 thousand for a qualified student to receive a lottery tuition scholarship. HB194 reduces the statutory requirement for the lottery tuition fund to maintain an annual balance from \$2 million to \$1 million. The bill also adds a new section to the Legislative Lottery Tuition Scholarship Act requiring students to submit a scholarship application form, either a free application for federal student aid (FAFSA) or an application developed by the Higher Education Department (HED) or a postsecondary institution.

FISCAL IMPACT

HB194 does not contain an appropriation; however, it will have a fiscal impact as fewer students will qualify for the scholarship.

Currently, the Legislative Lottery Tuition Scholarship Act requires HED to maintain an annual average fund balance of \$2 million, and HB194 reduces the required balance to \$1 million. The purpose of the fund balance is to account for fluctuations in the tuition payment and in lottery ticket revenue, which may vary by 10 percent or more per month (revenues average \$3.4 million per month). According to HED, reducing the statutory fund balance to \$1 million could result in cash flow issues within the fund as the fiscal year ends and spring distributions are made.

The legislative lottery tuition scholarship is funded by 30 percent of lottery ticket sales. Since 2009, the cost of tuition scholarships has outpaced revenues from ticket sales; as a result, the year-end balance of the lottery tuition fund has declined in recent years. According to the Legislative Lottery Scholarship Report published by HED in December 2016, the fund paid 90 percent of sector average tuition in FY16. Tuition payments were reduced from the FY14 peak of \$66 million to \$58.2 million in FY16. Given the new requirement to fund full tuition

increases or changes in enrollment may reduce the balance of the lottery tuition fund in future years. A summary of the FY16 lottery tuition fund activity can be found below.

FY16 Lottery Tuition Fund Activity Summary	
Cash Balance Beginning FY16	\$3,402,138
NM Lottery Authority Revenues	\$45,936,991
Liquor Excise Tax Revenue	\$14,626,920
TRD Voluntary Contributions, Other Misc. Revenue	\$11,203
Subtotal FY15 Revenues	\$60,575,114
Fall 2014 Lottery Scholarship Payments	(\$26,733,244)
Spring 2015 Lottery Scholarship Payments	(\$31,437,309)
FY15 Delayed Payment	(\$3,587,324)
Subtotal FY16 Expenditures	(\$58,170,533)
Cash Balance Ending FY16	\$2,219,375
	Source: SHARE Financials

For FY16 and FY17, 39 percent of the liquor excise tax revenue is directed to the lottery tuition fund, pursuant to subsection C of 7-1-6.40 NMSA 1978. However, the lottery tuition fund’s liquor excise tax revenue enacted in Laws 2014, Chapter 80 (SB347) will sunset June 30, 2017.

Attachment A depicts FY16 student headcount and lottery scholarship recipients.

SUBSTANTIVE ISSUES

The purpose of the current legislative lottery tuition scholarship is to increase access to postsecondary education, reduce financial burden on students, and increase educational attainment in New Mexico. However, due to the current allocation standards which allow every New Mexican student who enrolls immediately upon graduation from high school access to the scholarship, recently the lottery tuition scholarship fund has experienced strain due to an increase in students claiming the scholarship. In FY16 there was a total of 29,143 lottery scholarship recipients compared with 16,168 in FY00. HB194 attempts to address these issues, as outlined section-by-section below.

Section 1. HB194 amends the definition of “qualified student” in the Legislative Lottery Tuition Scholarship Act, subsection I of section 21-21N-2 NMSA 1978, to add demonstration of financial need as a qualification for the scholarship.

Section 2. This bill also amends subsection B of section 21-21N-2 NMSA 1978 to allow qualified students to receive a full tuition scholarship. HB194 adds the requirement to subsection C that a student’s family’s annual net household income must not exceed \$75 thousand to receive a tuition scholarship.

Section 3. HB194 removes language from section 21-21N-4 NMSA 1978 requiring HED to determine the total amount of money available for all tuition scholarships and the uniform percentage by which to calculate tuition scholarships for qualified students based on available funds. Instead, HB194 amends this section to require HED to distribute funds to public postsecondary institutions based projected enrollment and the average of in-state postsecondary

institution tuition costs. HB194 also adds language to 21-21-N requiring HED to distribute funds only “subject to appropriation by the legislature from the fund.”

Section 4. Currently, the lottery tuition fund is statutorily obligated to maintain an annual average balance of \$2 million. HB194 amends section 21-21N-5 NMSA 1978 to reduce the requirement to maintain a lottery fund tuition balance to \$1 million.

Section 5. Section 21-21N-6 NMSA 1978 requires HED to promulgate rules setting forth explicit criteria for student qualification and continuing eligibility. HB194 removes the requirement for HED to promulgate rules calculating the tuition scholarship award amount and guidelines for the administration of the program.

Section 6. HB194 adds a new section to the Legislative Lottery Tuition Scholarship Act requiring students to submit information to the postsecondary institution they plan to attend to be considered for a lottery tuition scholarship. Students must submit either the lottery tuition scholarship application form developed by the public postsecondary educational institution or HED, or the FAFSA.

ADMINISTRATIVE IMPLICATIONS

HB194 would limit recipients of the legislative lottery tuition scholarship to qualified students with a family annual net household income less than \$75 thousand. Currently, annual net household income is not requested on the FAFSA. The FAFSA uses adjusted gross income to calculate the expected family contribution. The expected family contribution is not only based on income, but other factors such as family size, investments, and other assets. HED and postsecondary institutions do not track annual net income, but instead rely on the adjusted gross income and expected family contribution data reported on the FAFSA. In addition, a paper version would need to be available to students unable to complete a FAFSA electronically.

According to the University of New Mexico (UNM), limiting the lottery tuition scholarship to students demonstrating financial need could negatively impact the state’s ability to attract highly qualified students to postsecondary institutions. Students with varying levels of financial need benefit from the current program. UNM noted New Mexico also gains from the investment due to more high school graduates staying in the state and graduating from college.

New Mexico State University echoed these concerns. According to New Mexico State University (NMSU), of the 2,950 lottery tuition scholarship recipients at NMSU in the fall 2016 semester, 1,643 lottery tuition scholarship recipients (56 percent) would be ineligible under HB194. Seven hundred eighty-five (785) of the lottery tuition scholarship recipients (27 percent) in fall 2016 did not complete a FAFSA, while 858 recipients (29 percent) in fall 2016 that did file a FAFSA had a family annual gross income greater than \$75 thousand.

According to Central New Mexico Community College (CNM), passage of HB194 could potentially affect CNM’s enrollment as nearly half of legislative lottery scholarship recipients would be excluded under HB194.

TECHNICAL ISSUES

HB194 defines “qualified student” as a “full-time student who demonstrates financial need” (page 2, line 24) but financial need is not defined. Later in the bill, a student is considered

qualified “whose family’s annual net household income does not exceed seventy-five thousand dollars” (page 5, lines 16 through 17). The definition of “qualified student” should include this wording defining this as the “financial need” requirement.

Language regarding the proportion of tuition to be paid by the scholarship is inconsistent. Section 2-A preserves existing language that institutions shall award scholarships “in department-approved amounts” (page 4, lines 9 through 10). However Section 2-B(2) indicates students are to receive full tuition scholarships (page 4, line 24), and Section 3 strikes all existing language giving HED the authority to set the percentage of tuition that can be supported by the lottery tuition fund (page 6, line 12 through page 7, line 4).

OTHER SIGNIFICANT ISSUES

Senate Bill 347 (SB347) enacted in Laws 2014 (Chapter 80) directs a portion of liquor excise tax revenue to the lottery tuition fund, set to expire at the end of FY17. SB347 also made changes to student eligibility criteria. Some of these changes were specified within the legislation, and some in additional rules promulgated by HED and published in 5.7.20 NMAC. Current eligibility criteria are summarized below:

- Students must be a resident of New Mexico and have graduated from a New Mexico public, accredited private school, or obtained a high school equivalency credential in New Mexico.
- Students must maintain continuous enrollment, not including summer semesters, and maintain a 2.5 cumulative GPA on a 4.0 scale.
- Students must enroll immediately following high school graduation or within one year after completing U.S. military service that immediately followed high school.
- For students who have less than three semesters of scholarship award at the end of FY14 (non-legacy students), the credit hour requirement changed from 12 credit hours per semester to 15 credit hours.
- Students may receive a maximum of three semesters of the scholarship at a two-year institution, and a maximum of seven semesters if enrolled at a research or comprehensive institution. Students with documented disabilities may maintain eligibility with a reduced course load of a minimum of six credit hours per semester. For these students the maximum number of award semesters is increased to seven semesters at a two-year institution and fourteen semesters at a four-year institution.
- Qualified students with exceptional mitigating circumstances may be allowed a probationary semester, as determined by the institution’s financial aid officer.

A “legacy student” is defined as a full-time resident student who has received three or more semesters of lottery scholarship awards by the end of FY14.

ALTERNATIVES

Determination of need could be based on expected family contributions and/or adjusted gross income to be consistent with FAFSA requirements.

Language could be added to clarify whether qualified students receiving a tuition scholarship prior to FY18 will be required to demonstrate financial need.

RELATED BILLS

HB237, Liquor Tax to Lottery Scholarship Fund, a bill providing for the extension of the distribution of the liquor excise tax revenues to the lottery tuition fund and reduction of the percentage of distribution to 30 percent.

SB188, Disabilities Students Lottery Scholarships, a bill allowing certain students with disabilities to receive legislative lottery tuition scholarships.

SOURCES OF INFORMATION

- LESC Files
- Higher Education Department
- University of New Mexico
- New Mexico State University
- Central New Mexico Community College

MCR/rab

FY16 Student Headcount and Lottery Scholarship Recipients			
Institution	Student Headcount	Lottery Scholarship Recipients	Scholarship Recipients of Percentages of Total Students
NM Tech	2,530	1,069	42.3%
NMSU	17,931	6,486	36.2%
UNM	31,542	13,956	44.2%
Research Sector Total	52,003	21,511	41.4%
ENMU	8,008	1,526	19.1%
NMHU	4,346	484	11.1%
NNMC	1,489	206	13.8%
WNMU	4,385	328	7.5%
Comprehensive Sector Total	18,228	2,544	14.0%
ENMU-RO	3,738	246	6.6%
ENMU-RU	1,121	31	2.8%
NMSU-AL	3,238	82	2.5%
NMSU-CA	3,257	118	3.6%
NMSU-DA	10,912	888	8.1%
NMSU-GR	1,787	29	1.6%
UNM-GA	3,201	87	2.7%
UNM-LA	1,935	79	4.1%
UNM-VA	3,536	314	8.9%
CNM	38,109	2,066	5.4%
CCC	5,964	96	1.6%
LCC	2,045	76	3.7%
MCC	1,336	31	2.3%
NMJC	4,430	165	3.7%
SJC	11,612	405	3.5%
SFCC	9,124	285	3.1%
NMMI	631	0	0.0%
Community College Sector Total	108,430	5,088	4.7%
Grand Total All Sectors	178,661	29,143	16.3%
			Source: HED