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

<b>Bill Number</b>	<u>SB276</u>	<b>Sponsor</b>	<u>Sapien</u>
<b>Tracking Number</b>	<u>.205374.2</u>	<b>Committee Referrals</b>	<u>SEC/SFC</u>
<b>Short Title</b>	<u>Lottery Scholarship Awards &amp; Applications</u>		
<b>Analyst</b>	<u>Rogne</u>	<b>Original Date</b>	<u>2/9/17</u>
		<b>Last Updated</b>	<u></u>

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**BILL SUMMARY**

Synopsis of Bill

Senate Bill 276 (SB276) amends the Legislative Lottery Tuition Scholarship Act to include differentiated awards depending on the type of postsecondary educational institution and the length of student attendance. SB276 sets the maximum percentage of support a student can receive on a per-semester basis, incrementally increasing the award a student advances while meeting minimum requirements to maintain “qualified student” status. Students would be required to complete a request form for the scholarship from the institution of higher education as well as a free application for federal student aid (FAFSA). SB276 directs the Higher Education Department (HED) to promulgate new rules to carry out the provisions of the legislation and also adds reporting requirements for the department.

**FISCAL IMPACT**

SB276 does not contain an appropriation.

Some cost savings to the scholarship may be realized from the distribution of tuition support by semester proposed in SB276 (i.e., “back-loading” the scholarship). However, given the purpose of the scholarship is to increase access, reduce financial burden on students, and increase educational attainment in New Mexico, short-term savings must be balanced with potential long-term costs. According to *Moving Beyond Access: College Success for Low-Income, First-Generation Students* published by the Pell Institute, today’s four-year college graduates will earn nearly \$1 million more over their working lives than those who only receive a high school diploma. It is in New Mexico’s interest to increase the number of students who enter college and complete their degrees, particularly baccalaureates.

The following table from HED shows FY17 sector-average tuition rates and FY16 lottery scholarship participant data (most recent available).

Average Tuition Rates and Lottery Scholarship Participants		
	Sector Average Tuition	FY16 Lottery Awards
Research University	\$2,739	21,699
Comprehensive University	\$1,826	2,541
Branch Community College	\$686	2,332
Independent Community Colleges	\$686	3,125
Total		29,697

Source: HED

The table below shows the award amounts by program semester at research and comprehensive universities and at branch and independent community colleges if SB276 is implemented. The total amount of funding would be \$46.8 million, which is an approximately \$11.4 million reduction from FY16 actual tuition payments of \$58.2 million.

Cost by Program Semester and Sector (Dollars in Thousands)								
	1	2	3	4	5	6	7	Totals
Research Universities	\$4,168.36	\$4,708.86	\$4,253.12	\$6,877.47	\$7,933.94	\$7,613.47	\$6,943.96	\$42,499.17
Comprehensive Universities	\$423.65	\$403.16	\$333.08	\$483.44	\$528.04	\$518.42	\$456.69	\$3,146.48
Branch Community Colleges	\$152.06	\$137.34	\$231.34	N/A	N/A	N/A	N/A	\$520.75
Independent Community Colleges	\$223.51	\$184.66	\$279.19	N/A	N/A	N/A	N/A	\$687.36
GRAND TOTAL								\$46,853.76

Source: HED

The following table shows the average distribution of lottery scholarship recipients by sector and their program semester. The table shows the attrition of lottery recipients, which, according to HED, is due to some recipients not meeting GPA requirements, disenrollment, and other factors. This distribution was used to calculate the cost analysis. The “back-loading” model relies on continued attrition in order to realize cost savings.

Average Percent Distribution of Lottery Recipients by Program Semester							
	Semester 1	Semester 2	Semester 3	Semester 4	Semester 5	Semester 6	Semester 7
Research	17.50%	15.80%	14.30%	14.50%	13.30%	12.80%	11.70%
Comprehensive	22.80%	17.40%	14.40%	13.00%	11.40%	11.20%	9.80%
Branch Community College	45.00%	31.30%	23.70%	N/A	N/A	N/A	N/A
Independent CC + NMMI	48.80%	30.50%	20.70%	N/A	N/A	N/A	N/A

Source: HED

Research has shown that increases in financial aid, and particularly grants and scholarships, raise the likelihood that first-generation students will persist in college.

**Sunset of Liquor Excise Tax.** HED noted with the sunset of liquor excise tax revenue at the end of FY17, revenues to the lottery tuition fund will be reduced to about \$41 million. The fund will not be able to support the full tuition percentages outlined in SB276. Assuming a uniform reduction to the percentages outlined in the legislation, HED estimates the FY18 tuition support level as follows:

At the branch and independent community colleges,

- For the first and second program semesters, about 53 percent of tuition; and
- for the third program semester, 88 percent of tuition.

At the research and comprehensive institutions,

- For the first program semester, 35 percent of tuition;
- for the second and third program semesters, 44 percent of tuition;
- for the fourth program semester, 70 percent tuition; and
- for the fifth through seventh program semesters, 88 percent of tuition.

## **SUBSTANTIVE ISSUES**

SB276 incrementally increases the level of tuition support as a student advances (i.e. “back-loads” the award).

Section 1 adds new material to the Legislative Lottery Tuition Scholarship Act, Section 21-21N NMSA 1978, which requires HED to develop and provide to all postsecondary educational institutions a printed and electronic form requesting a lottery tuition scholarship by August 1, 2017. SB276 assigns HED the responsibility of determining the amount of money available for lottery tuition scholarships at all postsecondary institutions; adjusting the percentages of lottery tuition scholarships to award the maximum amount available while maintaining the solvency of the lottery tuition fund; and notifying all postsecondary institutions of the amount of money and percentage of tuition to be awarded for lottery tuition scholarships. HED will make these determinations based on the amount of money appropriated by the Legislature from the fund and on the projected enrollment at all postsecondary institutions.

Section 2 also adds new material requiring prospective students to submit a signed form requesting a lottery tuition scholarship to their intended postsecondary educational institution and file a FAFSA to determine a family’s expected family contribution (EFC) prior to consideration for a lottery scholarship.

Section 3 repeals Section 21-21N-4 NMSA 1978 and adds a new section in its place. Section 21-21N-4 NMSA 1978 currently provides for HED to determine a uniform percentage by which to calculate tuition scholarships based on the amount appropriated by the Legislature and on projected enrollment. SB276 would change the uniform percentage to differentiated awards, depending on the program semester of enrollment and the type of postsecondary educational institution.

- Community Colleges
  - first and second program semesters, up to 60 percent of tuition
  - third program semester, up to 100 percent of tuition
- Comprehensive Institutions
  - first program semester, up to 40 percent of tuition
  - second and third program semester, up to 50 percent of tuition
  - fourth program semester, up to 80 percent of tuition
  - fifth through seventh program semesters, up to 100 percent of tuition
- Research Institutions
  - first program semester, up to 40 percent of tuition
  - second and third program semesters, up to 50 percent of tuition
  - fourth program semester, up to 80 percent of tuition
  - fifth through seventh program semesters, up to 100 percent of tuition

Section 3 also requires HED to maintain a minimum lottery tuition fund balance of \$2 million pursuant to Section 21-21N-5 NMSA 1978. SB276 requires HED to distribute to each institution an amount based on the projected enrollment of qualified students and a uniform percentage of average in-state tuition costs charged by the type of postsecondary institution.

Section 4 amends Section 21-21N-6 by requiring HED to promulgate rules and guidelines for determining the percentage of a lottery tuition scholarship award pursuant to the Legislative Lottery Tuition Scholarship Act. SB276 would require the rules to be distributed to boards of regents and governing boards of postsecondary educational institutions.

Finally, Section 4 adds the requirement for HED to include in their report to the Legislative Finance Committee and the Department of Finance and Administration the component amounts of the lottery scholarship received and the amount of unmet need that was not offset by the scholarship, and the number of qualified students and the number of “legacy students” who received a lottery tuition scholarship and subsequently became ineligible.

**Current Status of the Legislative Lottery Tuition Scholarship.** The purpose of the legislative lottery tuition scholarship is to increase access to postsecondary education, reduce financial burden on students, and increase educational attainment in New Mexico. The legislative lottery tuition scholarship is currently 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. 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. A summary of the FY16 lottery tuition fund activity can be found below.

<b>FY16 Lottery Tuition Fund Activity Summary</b>	
<b>Cash Balance Beginning FY16</b>	\$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
<b>Subtotal FY15 Revenues</b>	\$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)
<b>Subtotal FY16 Expenditures</b>	(\$58,170,533)
<b>Cash Balance Ending FY16</b>	\$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.

Pursuant to current statute and rules set forth in 5.7.20 NMAC, students do not receive the lottery scholarship in their first semester of enrollment, but instead have an initial qualifying semester supported by other institutional funds. Under current law, students may receive a maximum of three semesters (i.e., program semesters) of the scholarship at a two-year institution, and a

maximum of seven semesters if enrolled at a research or comprehensive institution. “Program semesters” is defined by subsection G of Section 21-21N-2 NMSA 1978 as “those semesters for which a legacy or qualified student may receive a tuition scholarship and excludes the first semester of attendance at a public postsecondary educational institution.”

HED noted that SB276 does not indicate the support level for students in their first qualifying semester that would be supported by institutional funds. Public postsecondary institutions could set a different percentage of support in the qualifying semester.

### **ADMINISTRATIVE IMPLICATIONS**

HED would promulgate rule to carry out the directives contained in SB276.

The new reporting requirements of SB276, in particular the reasons a student becomes ineligible for the scholarship, may require significant restructuring of the data reports submitted to HED by the institutions. There are unknown administrative costs associated with this reporting. SB276 requires HED to report the number of qualified students and the number of “legacy students” who received a lottery tuition scholarship and subsequently became ineligible for a lottery tuition scholarship, and the reasons for ineligibility. Section 21-21N-2 NMSA 1978 defines a “legacy student” as a full-time student who has received three or more program semesters by the end of FY14; no students after FY14 are captured by this definition. Moreover, the reasons for losing eligibility are not reported to HED by the financial aid officers and this requirement may require a significant restructuring of the financial aid data submitted by the institutions.

Further, HED noted SB276 does not address how many students currently receiving full-tuition support can be sustained by the fund (currently 90 percent of sector average). If current scholarship recipients are to be held harmless by the back-loaded tuition structure proposed in SB276, an amendment to 21-21N-2 NMSA 1978 redefining legacy students would be required.

According to HED, SB276 authorizes the Cabinet Secretary at HED to adjust the award percentages based on available revenue but does not prescribe the formula for performing the reduction (i.e., a uniform increase or reduction vs. varying percentages by program semester).

HED noted the legislation requires students to complete a FAFSA, which is used to determine a family’s expected family contribution (EFC). The legislation requires HED to report on the amount of “unmet need” for scholarship recipients but provides no definition. Unmet need could be calculated as the difference between EFC and the tuition scholarship, but other factors such as receipt of need-based grants (e.g., Pell grants) and total cost of attendance could be utilized. Undocumented students cannot file an electronic FAFSA for the purpose of calculating EFC but can submit a paper FAFSA to the financial aid office at their institution. The financial aid officers would be responsible for manually calculating these students’ EFC.

**Postsecondary Concerns.** According to Western New Mexico University (WNMU), with passage of SB276, all students would be required to submit a FAFSA which would by definition result in a federal record of students applying who are undocumented or a Deferred Action for Childhood Arrivals (DACA) student. The student is required on the FAFSA to classify themselves as a U.S. citizen, an eligible non-citizen, or neither citizen or non-citizen. If they classify themselves as neither, they are not subject to verification, and other processes that are required for students who are eligible for federal aid to accurately determine eligibility. WNMU

expressed concern students would be afraid to complete it due to their status, and the current political climate.

In addition, WNMU also expressed concerns about the disproportionate impact on poor rural students, many of whom have no choice but to live on campus or not attend college. The lottery scholarship, which covers tuition, frees up Pell and other grant money for covering books, housing, etc. Requiring students to apply for the scholarship also disadvantages poor, first-generation college students, homeless, foster care and other unaccompanied students in particular. WNMU noted these are our most at-risk students.

According to Eastern New Mexico University (ENMU), SB276 creates a disincentive for students to attend a university by covering up to 60 percent of the tuition for the first and second semesters for community college and only 40 percent for those who attend universities. ENMU noted the third semester continues this inequality by covering 100 percent for the community college students and only 50 percent for university students. Universities also cost more per semester than community colleges.

According to the University of New Mexico (UNM), the “back-loading” model proposed in SB276 is made viable by counting on high attrition of first and second year students. For example, UNM loses 32 percent of their beginning student cohort by the third program semester (second year in college). UNM loses an additional 10 percent from the third program semester through the seventh program semester. UNM expressed concern that instead of continuing to improve the success of these students, SB276 relies on it taking place. There is much lower attrition after the second year in college and therefore the 80 percent and 100 percent tuition support included in “back-loaded” awards goes to a vast majority of students who would have graduated anyway.

UNM was concerned the four levels of funding would cause confusion. UNM was also concerned that requiring an application and a FAFSA would establish hurdles for students before receiving funding.

## **TECHNICAL ISSUES**

HED noted that students with documented disabilities are allowed additional program semesters to complete their degree outlined in 5.7.20 NMAC; SB276 does not address the level of support that students with disabilities would receive in additional program semesters.

SB276 requires HED to report the number of qualified students and the number of legacy students who received a lottery tuition scholarship and subsequently became ineligible for a lottery tuition scholarship, and the reasons for ineligibility. Section 21-21N-2 NMSA defines a “legacy student” as a full-time student who has received three or more program semesters by the end of FY14; no students after FY14 are captured by this definition.

## **CONSEQUENCE OF NOT ENACTING THE BILL**

Tuition support may be reduced to 60 percent to 65 percent of sector average tuition with the elimination of liquor excise tax revenue at the end of FY17.

**RELATED BILLS**

Conflicts with HB194, Lottery Scholarship Full & Need-Based, a bill which makes the lottery tuition scholarship a full scholarship awarded based on financial need.

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

Relates to HB250, Lottery Employee Bonuses & Unclaimed Prizes, requires unclaimed and forfeited prizes to be paid into the lottery tuition fund and ties the amount of bonuses paid to lottery employees and vendors to the amount of ticket revenues delivered to the lottery tuition fund.

Relates to SB192, Transfer of Lottery Funds, a bill amending the New Mexico Lottery Act to eliminate the requirement to transfer monthly at least 30 percent of gross revenue from lottery sales to the lottery tuition fund and adding in its place the requirement to transfer all net revenue to the lottery tuition fund.

**SOURCES OF INFORMATION**

- LESC Files
- Higher Education Department
- Eastern New Mexico University
- University of New Mexico
- Western New Mexico University
- The Pell Institute

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