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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/6/18

SPONSOR Smith LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Transfer of Luna College to NM Highlands SB 252

ANALYST Dulany

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY18	FY19	FY20	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		\$450.0- \$1,050.0			Nonrecurring	Institutional Operating Budgets
<b>Total</b>		See Fiscal Implications			Recurring	Institutional Operating Budgets

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Higher Education Department (HED)

#### Responses Not Received From

Taxation and Revenue Department (TRD)

Association of Counties

Luna Community College (LCC)

New Mexico Highlands University (NMHU)

New Mexico Independent Community Colleges (NMICC)

### SUMMARY

#### Synopsis of Bill

Senate Bill 252 provides for the transfer of control of LCC to the Board of Regents of NMHU. Transfer is contingent on LCC losing accreditation (see Substantive Issues) from the Higher Learning Commission (HLC).

### FISCAL IMPLICATIONS

HED suggests the fiscal impact of transferring control of LCC to NMHU could be significant, but an exact amount is unknown. If LCC loses accreditation, there would also be consequences from not enacting SB 252, further explained below.

### ***Administrative Costs***

HED indicates there will be costs associated with migration of student records, the financial chart of accounts, and student financial aid data. Because the two colleges have different data systems, merging the data will require vendor support and technical assistance. Additional audit support will be required to reconcile accounts. HED estimates the nonrecurring cost for these administrative function transfers for FY19 will be \$350 thousand.

### ***Branding and Marketing***

Merging one institution with another will require communication and a potential rebranding of LCC (e.g. signage, branded inventory, public relations, marketing, and advertising). HED estimates the cost of rebranding LCC as NMHU to be \$200 thousand in FY19.

### ***Legal Costs***

HED notes there may be nonrecurring costs for legal fees if there is a challenge to the transfer of LCC to NMHU. HED suggests the Legislature may wish to prepare for up to \$500 thousand in associated legal costs.

### ***Consolidation of Functions***

HED notes there will be some cost savings by removal of superfluous executive staff at LCC (e.g. president, chief financial officer, other administrative positions) as these functions would presumably be assumed by NMHU executive leadership. According to LCC's FY17 reports of actuals, salaries for executive staff totaled about \$600 thousand. However, HED notes, the LCC campus would require certain administrative positions such as an executive director. HED suggests any long-term savings to the state based on staff reduction will probably not be realized until FY21, once the transfer of all LCC functions to NMHU is complete.

### ***Financial Consequences of Accreditation Loss***

If LCC loses accreditation, the college and its students would suffer several negative effects. To receive federal financial aid, students must attend an institution accredited by an approved entity, such as HLC. In FY17, 407 students received \$1.5 million in federal Pell Grants and 73 students received \$225.8 thousand in subsidized and unsubsidized direct loans. Although students are able to apply financial aid to costs of attendance beyond those charged by the institution, it is likely loss of this funding would have a significant effect on LCC's \$11.2 million annual instruction and general budget. If accreditation is withdrawn, it is likely students will migrate to other institutions that remain accredited. This would result in lost tuition and fee revenue for the college. As of fall 2016, LCC's full-time equivalent enrollment was 689 students. If one-third of students choose to transfer from LCC, the potential loss of tuition and fee revenue would total \$313 thousand.

### ***Local Tax Revenues***

As a community college, LCC leverages local taxes to fund the operations of the college. In FY17, these revenues totaled \$1.6 million. If control of LCC is transferred to NMHU, it is unclear whether LCC's taxing capacity would be dissolved because the College District Tax Act

does not provide for operational mill levies to be collected by boards of regents of state educational institutions enumerated in Article XII, Section 11 of the New Mexico Constitution (i.e. NMHU). One alternative would be to establish LCC as a branch campus community college under NMHU pursuant to Section 21, Article 14, NMSA 1978. This would allow for levy of local property taxes, although it remains unclear whether existing local tax revenues would transfer or whether the college would need to seek additional approval from voters in its taxing district.

## **SIGNIFICANT ISSUES**

In November 2017, the Higher Learning Commission placed LCC under a “show cause” order for non-compliance with required components of accreditation. The order requires LCC to demonstrate why its accreditation should not be removed. LCC was required to submit its show cause response in early February 2018, and HLC is scheduled make a determination of accreditation in June 2018.

HED provides the following timeline of events leading to the current situation as well as known future actions:

### ***Background***

**June 2016:** HED initiated a special audit of LCC activities (complaint-and allegation-driven).

**July 2016:** HED notified LCC that the college was being placed under HED’s enhanced fiscal oversight program due to preliminary audit concerns.

**September 2016:** The State Auditor delivered a letter to LCC’s Board of Trustees communicating concerns of governance, nepotism, favoritism, procurement, and personnel issues.

**October 2016:** HED issued the findings of its special audit, with a copy sent to HLC.

**December 2016:** The State Auditor delivered a second letter of concern to LCC’s Board of Trustees, communicating criminal concerns involving potential embezzlement of foundation funds.

**January 2017:** A letter from LCC to the State Auditor responded to embezzlement concerns involving foundation funds (LCC communicated that the Luna Foundation Director was placed on administrative leave).

**February 2017:** An Attorney General letter to HED notified the department of a criminal investigation involving potential embezzlement of LCC Foundation funds.

**June 2017:** HLC conducted a preliminary visit to LCC to review state agency findings and determine how those findings might affect the institution’s accreditation.

**November 2017:** LCC’s FY17 audit report was issued with an adverse opinion (disclaimer) due to lack of foundation component accounting records.

**November 2017:** The Higher Learning Commission placed LCC under a “show cause” order for noncompliance with required components of accreditation. The order requires LCC to demonstrate why its accreditation should not be removed.

**December 2017:** The Attorney General’s office communicated to HED that its criminal investigation is still ongoing.

**February 5, 2018:** HLC deadline date for LCC’s Board of Trustees to submit corrective action responses of accreditation deficiencies.

***Known Future Actions***

**March 2018:** HLC is scheduled to perform an additional site visit at LCC.

**June 2018:** HLC issues its show cause review and determination of LCC’s accreditation status.

HED reports that, because of the serious impact to an institution upon loss of accreditation (particularly ineligibility for Title IV Federal Financial Aid), HLC does not remove accreditation without allowing the institution sufficient time to correct the issues leading to probation and/or show cause. SB 252 stipulates the provisions of the bill be enacted only if LCC should lose accreditation prior to July 2, 2018. While HLC is scheduled to issue its show cause review in June 2018, HLC could opt to keep LCC under enhanced oversight past July 2, 2018 and remove accreditation at a later date based on future events.

Based on the disclaimer opinion of Luna Community College’s FY17 audit, HED will keep the college on its enhanced fiscal oversight program through calendar year 2018, with no consideration of lifting the designation until, at a minimum, LCC’s FY18 audited financial statements are released by the State Auditor and reviewed by the department. Enhanced fiscal oversight may continue for additional fiscal years if the underlying conditions are not corrected. The continued oversight designation may influence the timing of HLC’s final decision regarding accreditation review, according to HED.

If LCC’s accreditation is removed after July 2, 2018, the provisions of SB 252 will not apply. HED suggests the Legislature may wish to consider amending the conditional dates of the legislation to reflect the actions of HED, other state agencies, and HLC.

NMHU was placed under HLC probation in August 2016 due its own noncompliance with various components of HLC accreditation standards. NMHU completed a mandatory assurance filing in November 2017 and the HLC performed comprehensive assessment of NMHU in the same month. The HLC will make a final determination of NMHU’s probation status in June 2018. HED points out SB 252 could create an untenable situation where one postsecondary institution, upon loss of HLC accreditation, is administratively reorganized within another institution whose accreditation is similarly uncertain.