

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE BILL 347

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
MAKING CHANGES TO THE LEGISLATIVE LOTTERY SCHOLARSHIP PROGRAM
TO EXTEND ITS FINANCIAL SOLVENCY; CHANGING THE AMOUNT OF
AWARDS; REQUIRING A MINIMUM BALANCE IN THE LOTTERY TUITION
FUND; DISTRIBUTING MONEY FROM THE LIQUOR EXCISE TAX TO THE
LOTTERY TUITION FUND; AMENDING, REPEALING, RECOMPILING AND
ENACTING SECTIONS OF THE NMSA 1978; MAKING APPROPRIATIONS;
DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 6 of this act may be cited as the "Legislative Lottery
Tuition Scholarship Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Legislative Lottery Tuition Scholarship Act:

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- 1 A. "community college" means a branch community
2 college of a state educational institution or a community
3 college or technical and vocational institute established
4 pursuant to Chapter 21, Article 13 or 16 NMSA 1978,
5 respectively;
- 6 B. "comprehensive institution" means eastern New
7 Mexico university, western New Mexico university, New Mexico
8 highlands university or northern New Mexico college;
- 9 C. "department" means the higher education
10 department;
- 11 D. "full time" means fifteen or more credit hours
12 each semester of the regular academic year in state educational
13 institutions and twelve or more credit hours each semester of
14 the regular academic year in community colleges or for
15 legacy students in any program semester;
- 16 E. "fund" means the lottery tuition fund;
- 17 F. "legacy student" means a full-time resident
18 student who has received for three or more program semesters by
19 the end of fiscal year 2014 the legislative lottery scholarship
20 awarded pursuant to the former provisions of Sections 21-1-4.3,
21 21-13-10 and 21-16-10.1 NMSA 1978 prior to the enactment of the
22 Legislative Lottery Tuition Scholarship Act;
- 23 G. "program semesters" means those semesters for
24 which a legacy or qualified student may receive a tuition
25 scholarship, but does not mean the first semester of college;

1 H. "public post-secondary educational institution"

2 means a community college, comprehensive institution, research
3 institution or state educational institution;

4 I. "qualified student" means a full-time student

5 who graduated from a public or accredited private New Mexico

6 high school or who received a high school equivalency

7 credential while maintaining residency in New Mexico and who:

8 (1) either:

9 (a) immediately upon graduation or

10 receipt of a credential was accepted for entrance to and

11 attended a public post-secondary educational institution; or

12 (b) within one hundred twenty days of

13 completion of a high school curriculum or receipt of a high

14 school equivalency credential began service in the United

15 States armed forces and within one year of completion of

16 honorable service or medical discharge from the service,

17 attended a public post-secondary educational institution; and

18 (2) successfully completed the first semester

19 at a public post-secondary educational institution with a grade

20 point average of 2.5 or higher on a 4.0 scale during the first

21 semester of full-time enrollment;

22 J. "research institution" means the university of

23 New Mexico, New Mexico state university or New Mexico institute

24 of mining and technology;

25 K. "state educational institution" means an

institution of higher education enumerated in Article 12,
Section 11 of the constitution of New Mexico; and

L. "tuition scholarship" means the scholarship that
provides tuition assistance per semester for a qualified
student or legacy student attending a public post-secondary
educational institution.

SECTION 3. [NEW MATERIAL] TUITION SCHOLARSHIPS
AUTHORIZED--QUALIFIED STUDENTS.--

9 A. To the extent that funds are made available by
the legislature from the fund, the boards of regents or
governing bodies of public post-secondary educational
institutions shall award tuition scholarships in department-
approved amounts to qualified students and legacy students
attending their respective public post-secondary educational
institutions.

B. Beginning in fiscal year 2015:

(1) a legacy student is eligible to receive a
tuition scholarship for a maximum of eight program semesters
pursuant to the former provisions of Sections 21-1-4.3,
21-13-10 and 21-16-10.1 NMSA 1978 and the Legislative Lottery
Tuition Scholarship Act; provided that the legacy student
maintains residency in New Mexico, maintains a grade point
average of 2.5 or higher on a 4.0 scale and completes twelve or
more credit hours per semester; and

(2) a qualified student who is not a legacy

1 student is eligible to receive the tuition scholarship for a
 2 maximum of seven program semesters, with the amount of the
 3 award as provided in Section 4 of the Legislative Lottery
 4 Tuition Scholarship Act.

5 C. Except as otherwise provided in this section, a
 6 tuition scholarship may be awarded to a qualified student who:

7 (1) maintains residency in New Mexico;
 8 (2) maintains a grade point average of 2.5 or
 9 higher on a 4.0 scale; and

10 (3) completes:
 11 (a) for a student attending a four-year
 12 public post-secondary educational institution, fifteen or more
 13 credit hours per semester; and
 14 (b) for a student attending a two-year
 15 public post-secondary educational institution, twelve or more
 16 credit hours per semester.

17 D. For students with disabilities who may require
 18 accommodations, the department, in consultation with the
 19 student and the office at the public post-secondary educational
 20 institution that serves students with disabilities, shall
 21 review both the definition of "full time" and the maximum
 22 number of consecutive semesters of eligibility and adjust
 23 either or both as deemed reasonable and appropriate, based on
 24 the student's disability needs. In no case, however, shall
 25 "full time" mean fewer than six credit hours per semester, and

1 in no case shall eligibility extend beyond fourteen consecutive
2 semesters.

3 **SECTION 4. [NEW MATERIAL] TUITION SCHOLARSHIP AMOUNT--**
4 **FUND.--**

5 A. Prior to May 1 of each year, based on the amount
6 appropriated by the legislature from the fund and on the

7 projected enrollment at all public post-secondary educational
8 institutions, the department shall:

9 (1) determine the total amount of money
10 available for tuition scholarships for qualified students at
11 all public post-secondary educational institutions;

12 (2) determine the total amount of money
13 available for tuition scholarships at each public post-
14 secondary educational institution; and

15 (3) notify all public post-secondary
16 educational institutions of the determinations made pursuant to
17 Paragraphs (1) and (2) of this subsection.

18 B. Except as otherwise provided in Subsection D of
19 this section, after full tuition scholarships are awarded to
20 students in their first through third program semesters in the
21 lottery tuition scholarship program and the statutory fund
22 balance is satisfied, all other available revenue shall be
23 distributed to public post-secondary educational institutions
24 for qualified students in their fourth through seventh program
25 semesters based on their attendance at a research institution,

comprehensive institution or community college and based:

(1) on the average tuition for students attending research institutions, comprehensive institutions or community colleges, as applicable;

(2) on the number of eligible students in the applicable institution; and

(3) in equal proportion to the average full-time resident tuition at research institutions, comprehensive institutions and community colleges, as applicable.

C. In no event shall a tuition scholarship be awarded to a qualified student that is more than the tuition for in-state students at the public post-secondary educational institution the student is attending.

D. If money in the fund is not sufficient to maintain the statutorily required minimum balance in the fund and also pay the full calculated amount of tuition scholarships, the department shall reduce the amount of awards, first to students in their fourth through seventh program semesters and second to students in their first through third program semesters.

SECTION 5. Section 6-24-23 NMSA 1978 (being Laws 1995, Chapter 155, Section 23, as amended) is recompiled in the Legislative Lottery Tuition Scholarship Act and is amended to read:

"LOTTERY TUITION FUND CREATED--PURPOSE.--

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1 A. The "lottery tuition fund" is created in the
 2 state treasury. The fund shall be administered by the
 3 ~~[commission on higher education]~~ department. Earnings from
 4 investment of the fund shall accrue to the credit of the fund.

5 The fund shall maintain an annual average balance of two
 6 million dollars (\$2,000,000), and any balance in the fund at
 7 the end of any fiscal year shall remain in the fund for
 8 appropriation by the legislature as provided in this section.

9 B. Money in the ~~[lottery tuition]~~ fund ~~[is]~~ shall
 10 be appropriated by the legislature to the ~~[commission on higher~~
 11 ~~education]~~ department for distribution to New Mexico's public
 12 post-secondary educational institutions to provide tuition
 13 assistance for ~~[New Mexico resident undergraduates as provided~~
 14 ~~by law]~~ qualified students and legacy students as provided in
 15 the Legislative Lottery Tuition Scholarship Act."

16 **SECTION 6. [NEW MATERIAL] DEPARTMENT RULEMAKING AND**
 17 **REPORTING.--**

18 A. The department shall promulgate rules setting
 19 forth explicit criteria in accordance with the Legislative
 20 Lottery Tuition Scholarship Act for:

- 21 (1) student qualification and continuing
- 22 eligibility; and
- 23 (2) calculating any increase or reduction in
- 24 the tuition scholarship award amount pursuant to Subsection D
- 25 of Section 4 of the Legislative Lottery Tuition Scholarship Act

1 and guidelines for the administration of the tuition
2 scholarship program.

3 B. The rules shall be distributed to boards of
4 regents and governing boards of public post-secondary
5 educational institutions to enable a uniform availability of
6 the tuition scholarships by May 1 and October 1 of each year
7 and to inform students of any changes to student qualification,
8 continuing eligibility or other guidelines.

9 C. The department shall report by September 1 of
10 each year to the legislative finance committee and the
11 department of finance and administration on:

- 12 (1) the status of the fund;
 - 13 (2) tuition scholarship program
- 14 participation data aggregated for each public post-secondary
15 educational institution to show:
- 16 (a) the number of qualified students and
17 the number of legacy students who received tuition scholarships
18 in the prior twelve-month period;
 - 19 (b) the total number of students,
20 including qualified students and legacy students, enrolled in
21 the prior twelve-month period;
 - 22 (c) for each qualified student and each
23 legacy student, the amount of the tuition scholarship received
24 and the amount of the tuition cost that was not offset by the
25 tuition scholarship;

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(d) for each semester, the amount of tuition scholarships funded and the amount of tuition costs that were not offset by the tuition scholarship;

(e) the number of qualified students and the number of legacy students who graduated with a degree and, for each qualified student, the number of consecutive semesters and nonconsecutive semesters attended prior to graduation; and

(f) the number of qualified students and the number of legacy students who received a tuition scholarship and subsequently became ineligible for a tuition scholarship and the reasons for ineligibility; and

(3) any additional information required or requested by the legislative finance committee or the department of finance and administration.

SECTION 7. Section 7-1-6.40 NMSA 1978 (being Laws 1997, Chapter 182, Section 1, as amended) is amended to read:

"7-1-6.40. DISTRIBUTION--LOCAL DWI GRANT FUND--MUNICIPALITIES LOTTERY TUITION FUND.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the local DWI grant fund in an amount equal to forty-one and fifty hundredths percent of the net receipts attributable to the liquor excise tax.

B. A distribution pursuant to Section 7-1-6.1 NMSA 1978 of twenty thousand seven hundred fifty dollars (\$20,750) monthly from the net receipts attributable to the liquor excise

1 tax shall be made to a municipality that is located in a class
 2 A county and that has a population according to the most recent
 3 federal decennial census of more than thirty thousand but less
 4 than sixty thousand. The distribution pursuant to this
 5 subsection shall be used by the municipality only for the
 6 provision of alcohol treatment and rehabilitation services for
 7 street inebriates.

8 C. On or after July 1, 2015, a distribution
 9 pursuant to Section 7-1-6.1 NMSA 1978 of thirty-nine percent of the
net receipts attributable to the liquor excise tax shall be made to
the lottery tuition fund."

11 **SECTION 8.** Section 21-13-10 NMSA 1978 (being Laws 1963,
 12 Chapter 17, Section 9, as amended) is amended to read:

13 "21-13-10. BOARD DUTIES.--

14 A. It is the duty of the community college board to
 15 determine financial and educational policies of the community
 16 college. The community college board shall provide for the
 17 management of the community college and execution of these
 18 policies by selecting a competent president for the community
 19 college, and, upon the president's recommendation, the board
 20 shall employ other administrative personnel, instructional
 21 staff or other personnel as may be needed for the operation,
 22 maintenance and administration of the community college.

23 B. The community college board shall have the power
 24 to fix tuition and fee rates for resident and nonresident
 25 students of the community college district, to accept gifts, to

1 accept federal aid, to purchase, hold, sell and rent property
 2 and equipment and to promote the general welfare of the
 3 institution for the best interest of educational service to the
 4 people of the community college district.

5 ~~[C. To the extent that funds are made available by~~
 6 ~~the legislature from the lottery tuition fund, the community~~
 7 ~~college board shall award legislative lottery scholarships for~~
 8 ~~qualified resident students attending their respective~~
 9 ~~institutions.~~

10 ~~D. The legislative lottery scholarships authorized~~
 11 ~~in this section shall apply only to full-time resident students~~
 12 ~~who, immediately upon completion of a high school curriculum at~~
 13 ~~a public or accredited private New Mexico high school or upon~~
 14 ~~receiving a graduate equivalent diploma, are accepted for~~
 15 ~~entrance to and attend a community college. Each legislative~~
 16 ~~lottery scholarship shall be awarded for up to two consecutive~~
 17 ~~years beginning the second semester of the recipient's first~~
 18 ~~year of enrollment, provided that the recipient has maintained~~
 19 ~~residency in New Mexico and maintained a grade point average of~~
 20 ~~2.5 or higher on a 4.0 scale during the first semester of full-~~
 21 ~~time enrollment.~~

22 ~~E. The higher education department shall prepare~~
 23 ~~guidelines setting forth explicit student continuing~~
 24 ~~eligibility criteria and guidelines for administration of the~~
 25 ~~legislative lottery scholarship program. Guidelines shall be~~

distributed to community college boards to enable a uniform availability of the resident student lottery tuition scholarships.

F. — For purposes of the legislative lottery scholarship program as it applies to students with disabilities who may require special accommodations, the higher education department, in consultation with the student and the office at the community college that serves students with disabilities, shall review both the definition of "full time" and the maximum number of consecutive semesters of eligibility and adjust either or both as deemed reasonable and appropriate, based on the student's disability needs. In no case, however, shall "full time" mean fewer than six credit hours per semester, and in no case shall eligibility extend beyond fourteen consecutive semesters.]"

SECTION 9. APPROPRIATIONS.--

A. Eleven million dollars (\$11,000,000) is appropriated from the student financial aid fund of the higher education department to the lottery tuition fund for expenditure in fiscal year 2014 and subsequent fiscal years to supplement the lottery tuition fund. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert.

B. Eleven million five hundred thousand dollars (\$11,500,000) is appropriated from the general fund to the

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lottery tuition fund for expenditure in fiscal year 2015 and
subsequent fiscal years to supplement the lottery tuition fund.

Any unexpended or unencumbered balance remaining at the end of
a fiscal year shall not revert.

SECTION 10. REPEAL.--Sections 21-1-4.3, 21-1-4.4 and
21-16-10.1 NMSA 1978 (being Laws 1996, Chapter 71, Sections 3,
4 and 6, as amended) are repealed.

SECTION 11. EMERGENCY.--It is necessary for the public
peace, health and safety that this act take effect immediately.