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HOUSE BILL 254

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

INTRODUCED BY

James E. Smith and Jacob R. Candelaria

AN ACT

RELATING TO HIGHER EDUCATION; ENACTING THE LOTTERY TUITION FUND  
ACT TO EXTEND THE FINANCIAL SOLVENCY OF THE LOTTERY TUITION  
FUND; CHANGING THE AMOUNTS OF AWARDS; AMENDING, REPEALING,  
RECOMPILING AND ENACTING SECTIONS OF THE NMSA 1978; DECLARING  
AN EMERGENCY.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1  
through 8 of this act may be cited as the "Lottery Tuition Fund  
Act".

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

A. "community college" means a branch community  
college of a state educational institution or a community  
college or technical and vocational institute established

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1 pursuant to Chapter 21, Article 13 or 16 NMSA 1978,  
2 respectively;

3 B. "comprehensive institution" means eastern New  
4 Mexico university, western New Mexico university, New Mexico  
5 highlands university or northern New Mexico college;

6 C. "department" means the higher education  
7 department;

8 D. "fund" means the lottery tuition fund;

9 E. "legacy student" means a student who has  
10 received for three or more semesters by the end of fiscal year  
11 2014 the legislative lottery scholarship awarded pursuant to  
12 the former provisions of Sections 21-1-4.3, 21-13-10 and  
13 21-16-10.1 NMSA 1978 prior to the enactment of the Lottery  
14 Tuition Fund Act;

15 F. "lottery tuition scholarship" means a  
16 scholarship that provides tuition assistance per semester for a  
17 qualified student or a legacy student attending a public post-  
18 secondary educational institution;

19 G. "public post-secondary educational institution"  
20 means a community college, comprehensive institution, research  
21 institution or state educational institution;

22 H. "qualified student" means a full-time resident  
23 student who graduated from a public or accredited private New  
24 Mexico high school or who received a high school equivalency  
25 credential in New Mexico and who either:

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1 (1) immediately upon graduation or receipt of  
2 a credential was accepted for entrance to and attended a public  
3 post-secondary educational institution; or

4 (2) within one hundred twenty days of  
5 completion of a high school curriculum or receipt of a high  
6 school equivalency credential began service in the United  
7 States armed forces and within one year of completion of  
8 honorable service or medical discharge from the service  
9 attended a public post-secondary educational institution;

10 I. "research institution" means the university of  
11 New Mexico, New Mexico state university or New Mexico institute  
12 of mining and technology; and

13 J. "state educational institution" means an  
14 institution of higher education enumerated in Article 12,  
15 Section 11 of the constitution of New Mexico.

16 SECTION 3. [NEW MATERIAL] LOTTERY TUITION SCHOLARSHIP--  
17 FORM--DEPARTMENT DETERMINATION.--

18 A. By August 1, 2014, the department shall develop  
19 and provide to all public post-secondary educational  
20 institutions a printed and electronic form for requesting a  
21 lottery tuition scholarship.

22 B. No later than May 1, 2015 and no later than May  
23 1 of each subsequent year, based on the amount appropriated by  
24 the legislature from the fund and on the projected enrollment  
25 at all public post-secondary educational institutions, the

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1 department shall:

2 (1) determine the total amount of money  
3 available for lottery tuition scholarships at all public post-  
4 secondary educational institutions;

5 (2) maintain, increase or reduce the amounts  
6 of lottery tuition scholarships to award the maximum amount  
7 available while maintaining the solvency of the fund as  
8 projected in the most recent actuarial evaluation of the fund;  
9 and

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

13 SECTION 4. [NEW MATERIAL] LOTTERY TUITION SCHOLARSHIP--  
14 APPLICATION BY STUDENT.--Prior to consideration for a lottery  
15 tuition scholarship each year, a student shall timely:

16 A. submit to the intended public post-secondary  
17 educational institution a signed form requesting a lottery  
18 tuition scholarship; and

19 B. file a free application for federal student aid  
20 provided pursuant to the federal Higher Education Act of 1965  
21 to produce an expected family contribution amount.

22 SECTION 5. [NEW MATERIAL] LOTTERY TUITION SCHOLARSHIPS--  
23 QUALIFIED STUDENTS--LEGACY STUDENTS--ELIGIBILITY.--

24 A. Beginning in fiscal year 2015, the boards of  
25 regents or governing bodies of public post-secondary

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1 educational institutions shall award lottery tuition  
2 scholarships to qualified students and legacy students  
3 attending their respective public post-secondary educational  
4 institutions pursuant to this section and to the extent that  
5 funds are made available by the legislature from the fund.

6 B. A legacy student is eligible to receive a  
7 lottery tuition scholarship for the full value of tuition until  
8 the total number of semesters for which the legislative lottery  
9 scholarship pursuant to the former provisions of Sections  
10 21-1-4.3, 21-13-10 and 21-16-10.1 NMSA 1978 or the lottery  
11 tuition scholarship pursuant to the Lottery Tuition Fund Act  
12 was received reaches eight; provided that the legacy student  
13 maintains residency in New Mexico, maintains a grade point  
14 average of 2.5 or higher on a 4.0 scale and completes twelve or  
15 more credit hours per semester.

16 C. After a qualified student who is not a legacy  
17 student has completed the first semester of enrollment with  
18 twelve or more credit hours and a grade point average of 2.5 or  
19 higher on a 4.0 scale at a public post-secondary educational  
20 institution, the qualified student is eligible to receive the  
21 lottery tuition scholarship:

22 (1) until the total number of semesters for  
23 which the legislative lottery scholarship pursuant to the  
24 former provisions of Sections 21-1-4.3, 21-13-10 and 21-16-10.1  
25 NMSA 1978 or the lottery tuition scholarship was received

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1 reaches seven for attendance at a research institution,  
2 comprehensive institution or state educational institution or  
3 reaches three consecutive semesters of attendance at a  
4 community college followed with no hiatus in attendance by four  
5 consecutive semesters of attendance at a research institution,  
6 comprehensive institution or state educational institution; and

7 (2) provided that the qualified student:

8 (a) maintains residency in New Mexico;  
9 (b) maintains a grade point average of  
10 2.5 or higher on a 4.0 scale; and

11 (c) completes twelve or more credit  
12 hours per semester.

13 D. Notwithstanding the eligibility provisions for a  
14 qualified student and a legacy student set forth in this  
15 section, the department, in consultation with a student with  
16 disabilities and the office at a public post-secondary  
17 educational institution that serves students with disabilities,  
18 shall review the minimum number of credit hours and the maximum  
19 number of consecutive semesters required for eligibility and  
20 adjust either or both as deemed reasonable and appropriate,  
21 based on the needs of the student with disabilities who  
22 requires and requests an accommodation. In no case, however,  
23 shall fewer than six credit hours per semester be required, and  
24 in no case shall eligibility extend beyond fourteen consecutive  
25 semesters.

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1           SECTION 6. [NEW MATERIAL] LOTTERY TUITION SCHOLARSHIP--  
2 COMPONENTS--UNMET NEED--MERIT--AMOUNTS.--

3           A. A lottery tuition scholarship for a qualified  
4 student who is not a legacy student for a semester at a public  
5 post-secondary educational institution shall be composed of:

6                   (1) an unmet need award based on the expected  
7 family contribution and any tuition offset from all other state  
8 and federal scholarships and grants-in-aid awarded, combined to  
9 show unmet need in one of the following ranges:

10                           (a) seven thousand dollars (\$7,000) per  
11 year or higher;

12                           (b) six thousand dollars (\$6,000) to six  
13 thousand nine hundred ninety-nine dollars (\$6,999) per year;

14                           (c) four thousand dollars (\$4,000) to  
15 five thousand nine hundred ninety-nine dollars (\$5,999) per  
16 year;

17                           (d) one thousand dollars (\$1,000) to  
18 three thousand nine hundred ninety-nine dollars (\$3,999) per  
19 year; and

20                           (e) nine hundred ninety-nine dollars  
21 (\$999) or less per year; and

22                   (2) a merit award based on the cumulative  
23 grade point average of a qualified student in the following  
24 ranges:

25                           (a) 3.25 and above;

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- 1 (b) 3.00 to 3.24;
- 2 (c) 2.75 to 2.99; and
- 3 (d) 2.50 to 2.74.

4 B. For one semester at a research institution:

5 (1) the maximum unmet need award shall be one  
6 thousand fifty dollars (\$1,050), and the minimum unmet need  
7 award shall be six hundred fifty dollars (\$650); and

8 (2) the maximum merit award shall be one  
9 thousand fifty dollars (\$1,050), and the minimum merit award  
10 shall be seven hundred fifty dollars (\$750).

11 C. For one semester at a comprehensive institution  
12 or a state educational institution:

13 (1) the maximum unmet need award shall be five  
14 hundred dollars (\$500), and the minimum unmet need award shall  
15 be three hundred dollars (\$300); and

16 (2) the maximum merit award shall be five  
17 hundred dollars (\$500), and the minimum merit award shall be  
18 three hundred fifty dollars (\$350).

19 D. For one semester at a branch campus of a  
20 research institution:

21 (1) the maximum unmet need award shall be four  
22 hundred dollars (\$400), and the minimum unmet need award shall  
23 be two hundred dollars (\$200); and

24 (2) the maximum merit award shall be four  
25 hundred dollars (\$400), and the minimum merit award shall be



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1 two hundred fifty dollars (\$250).

2 E. For one semester at a community college:

3 (1) the maximum unmet need award shall be  
4 three hundred dollars (\$300), and the minimum unmet need award  
5 shall be one hundred dollars (\$100); and

6 (2) the maximum merit award shall be three  
7 hundred dollars (\$300), and the minimum merit award shall be  
8 one hundred fifty dollars (\$150).

9 SECTION 7. Section 6-24-23 NMSA 1978 (being Laws 1995,  
10 Chapter 155, Section 23, as amended) is recompiled in the  
11 Lottery Tuition Fund Act and is amended to read:

12 "LOTTERY TUITION FUND CREATED--PURPOSE.--

13 A. The "lottery tuition fund" is created in the  
14 state treasury. The fund shall be administered by the  
15 [~~commission on higher education~~] department. Earnings from  
16 investment of the fund shall accrue to the credit of the fund.  
17 Any balance in the fund at the end of any fiscal year shall  
18 remain in the fund for appropriation by the legislature as  
19 provided in this section.

20 B. Money in the [~~lottery tuition~~] fund [~~is~~] shall  
21 be appropriated by the legislature to the [~~commission on higher~~  
22 education] department for distribution to New Mexico's public  
23 post-secondary educational institutions to provide tuition  
24 assistance for [~~New Mexico resident undergraduates as provided~~  
25 by law] qualified students and legacy students as provided in

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1 the Lottery Tuition Fund Act."

2 SECTION 8. [NEW MATERIAL] DEPARTMENT RULEMAKING AND  
3 REPORTING.--

4 A. The department shall promulgate rules setting  
5 forth explicit criteria for:

6 (1) student qualification and continuing  
7 eligibility;

8 (2) determining any increase or reduction in  
9 the amount of a lottery tuition scholarship award pursuant to  
10 the Lottery Tuition Fund Act; and

11 (3) guidelines for the administration of the  
12 lottery tuition scholarship program.

13 B. Immediately after promulgation, the rules shall  
14 be distributed to boards of regents and governing boards of  
15 public post-secondary educational institutions.

16 C. By November 1 of each year, the department shall  
17 report to the legislative finance committee and the department  
18 of finance and administration on:

19 (1) the status of the fund;

20 (2) lottery tuition scholarship program  
21 participation data aggregated for each public post-secondary  
22 educational institution to show:

23 (a) the number of qualified students and  
24 the number of legacy students who received lottery tuition  
25 scholarships in the prior twelve-month period;

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1 (b) the total number of students,  
2 including qualified students and legacy students, enrolled in  
3 the prior twelve-month period;

4 (c) for each qualified student and each  
5 legacy student, the component amounts of the lottery tuition  
6 scholarship received and the amount of unmet need that was not  
7 offset by the lottery tuition scholarship;

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

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

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

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

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

24 "21-13-10. BOARD DUTIES.--

25 A. It is the duty of the community college board to

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1 determine financial and educational policies of the community  
2 college. The community college board shall provide for the  
3 management of the community college and execution of these  
4 policies by selecting a competent president for the community  
5 college, and, upon the president's recommendation, the board  
6 shall employ other administrative personnel, instructional  
7 staff or other personnel as may be needed for the operation,  
8 maintenance and administration of the community college.

9 B. The community college board shall have the power  
10 to fix tuition and fee rates for resident and nonresident  
11 students of the community college district, to accept gifts, to  
12 accept federal aid, to purchase, hold, sell and rent property  
13 and equipment and to promote the general welfare of the  
14 institution for the best interest of educational service to the  
15 people of the community college district.

16 ~~[G. To the extent that funds are made available by~~  
17 ~~the legislature from the lottery tuition fund, the community~~  
18 ~~college board shall award legislative lottery scholarships for~~  
19 ~~qualified resident students attending their respective~~  
20 ~~institutions.~~

21 ~~D. The legislative lottery scholarships authorized~~  
22 ~~in this section shall apply only to full-time resident students~~  
23 ~~who, immediately upon completion of a high school curriculum at~~  
24 ~~a public or accredited private New Mexico high school or upon~~  
25 ~~receiving a graduate equivalent diploma, are accepted for~~

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1 ~~entrance to and attend a community college. Each legislative~~  
2 ~~lottery scholarship shall be awarded for up to two consecutive~~  
3 ~~years beginning the second semester of the recipient's first~~  
4 ~~year of enrollment, provided that the recipient has maintained~~  
5 ~~residency in New Mexico and maintained a grade point average of~~  
6 ~~2.5 or higher on a 4.0 scale during the first semester of full-~~  
7 ~~time enrollment.~~

8 ~~E. The higher education department shall prepare~~  
9 ~~guidelines setting forth explicit student continuing~~  
10 ~~eligibility criteria and guidelines for administration of the~~  
11 ~~legislative lottery scholarship program. Guidelines shall be~~  
12 ~~distributed to community college boards to enable a uniform~~  
13 ~~availability of the resident student lottery tuition~~  
14 ~~scholarships.~~

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

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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.