

1 SENATE BILL 21

2 **49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010**

3 INTRODUCED BY

4 Timothy M. Keller

5  
6  
7  
8  
9  
10 AN ACT

11 RELATING TO HIGHER EDUCATION; ENACTING THE GRADUATE STUDENT  
12 LOTTERY TUITION LOAN ACT; SETTING ASIDE A PORTION OF THE  
13 LOTTERY TUITION FUND ANNUALLY TO PROVIDE LOANS TO CERTAIN  
14 GRADUATE STUDENTS; MAKING AN APPROPRIATION.

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 Section 1. Section 6-24-23 NMSA 1978 (being Laws 1995,  
18 Chapter 155, Section 23, as amended) is amended to read:

19 "6-24-23. LOTTERY TUITION FUND CREATED--PURPOSE.--

20 A. The "lottery tuition fund" is created in the  
21 state treasury. The fund shall be administered by the  
22 [~~commission on~~] higher education department. Earnings from  
23 investment of the fund shall accrue to the credit of the fund.  
24 Any balance in the fund at the end of any fiscal year shall  
25 remain in the fund for appropriation by the legislature as

.180159.1

underscoring material = new  
[bracketed material] = delete

underscored material = new  
[bracketed material] = delete

1 provided in this section.

2 B. Except as provided in Subsection C of this  
3 section, money in the lottery tuition fund is appropriated to  
4 the [~~commission on~~] higher education department for  
5 distribution to New Mexico's public post-secondary educational  
6 institutions to provide tuition assistance for New Mexico  
7 resident undergraduates as provided by law.

8 C. Five percent of the annual proceeds of the fund  
9 shall be transferred to the graduate student lottery tuition  
10 loan fund to provide tuition assistance to qualifying graduate  
11 students pursuant to the Graduate Student Lottery Tuition Loan  
12 Act."

13 Section 2. [NEW MATERIAL] SHORT TITLE.--Sections 2  
14 through 10 of this act may be cited as the "Graduate Student  
15 Lottery Tuition Loan Act".

16 Section 3. [NEW MATERIAL] DEFINITIONS.--As used in the  
17 Graduate Student Lottery Tuition Loan Act:

18 A. "department" means the higher education  
19 department;

20 B. "educational institution" means an educational  
21 institution enumerated in Article 12, Section 11 of the  
22 constitution of New Mexico that offers master's or doctoral  
23 degrees;

24 C. "fund" means the graduate student lottery  
25 tuition loan fund;

.180159.1

underscoring material = new  
[bracketed material] = delete

1           D. "graduate program" means a department-approved  
2 post-baccalaureate program offered by an educational  
3 institution that leads to a master's or doctoral degree;

4           E. "graduate student" means a New Mexico resident  
5 who is enrolled in or accepted into a graduate program; and

6           F. "loan" means a grant of money from the fund to  
7 defray the costs of a post-baccalaureate education at an  
8 educational institution, which grant requires either repayment  
9 with interest or repayment in services.

10           Section 4. [NEW MATERIAL] GRADUATE STUDENT LOTTERY  
11 TUITION LOANS--QUALIFICATIONS.--

12           A. The department is authorized to grant a loan to  
13 defray the expenses of a graduate program for a graduate  
14 student deemed qualified by the department to receive the loan,  
15 upon such terms and conditions as may be imposed by rules of  
16 the department. Loans may be granted only for graduate  
17 programs leading to a master's or doctoral degree in fields for  
18 which New Mexico law does not otherwise provide a loan-for-  
19 service program. The department may prioritize for loans those  
20 professions for which there is a demonstrated need in New  
21 Mexico and may require a loan recipient to serve in an area of  
22 the state that is underserved by those professions.

23           B. The department shall only receive, pass upon and  
24 allow or disallow an application for a loan made by a graduate  
25 student who:

.180159.1

underscored material = new  
[bracketed material] = delete

1 (1) is a resident of New Mexico;

2 (2) graduated from a public or accredited  
3 private high school in New Mexico;

4 (3) received a bachelor's degree from a  
5 regionally accredited college or university or is otherwise  
6 qualified for admittance to the graduate program of an  
7 educational institution; and

8 (4) declares the intention to work in New  
9 Mexico for at least three years within the period specified in  
10 the loan contract, not to exceed six years.

11 C. The department shall make a full and careful  
12 investigation of the ability, character and qualifications of  
13 each applicant to determine fitness to become a recipient of a  
14 lottery tuition graduate student loan. The investigation of  
15 each applicant shall include an investigation of the ability of  
16 the applicant to pay the expenses for a graduate education.  
17 The department may give preference to qualified applicants who  
18 are determined to be unable to pay the expenses in obtaining a  
19 graduate education.

20 Section 5. [NEW MATERIAL] DELEGATION OF DUTIES TO OTHER  
21 AGENCIES.--The department may arrange with other agencies for  
22 the performance of services required by the provisions of the  
23 Graduate Student Lottery Tuition Loan Act.

24 Section 6. [NEW MATERIAL] GRADUATE STUDENT LOANS--  
25 CONTRACT TERMS--REPAYMENT.--

.180159.1

1           A. Each applicant who is approved for a loan by the  
2 department may be granted a loan, in such amounts and for such  
3 periods as determined by the department, with which to defray  
4 expenses of a graduate program if the applicant files with the  
5 department a declaration of intent to practice a profession in  
6 New Mexico.

7           B. The loans shall not exceed the cost of tuition  
8 and fees and shall bear interest at the rate of:

9                   (1) eighteen percent per year if the student  
10 completes the graduate program and no portion of the principal  
11 and interest is forgiven pursuant to Subsection F of this  
12 section; and

13                   (2) seven percent per year in all other cases.

14           C. A loan made pursuant to the Graduate Student  
15 Lottery Tuition Loan Act shall not accrue interest until:

16                   (1) the department determines that the loan  
17 recipient has terminated the recipient's graduate education  
18 prior to completion;

19                   (2) the department determines that the loan  
20 recipient has failed to fulfill the recipient's obligation to  
21 work in New Mexico; or

22                   (3) the department cancels a contract between  
23 a student and the department pursuant to Section 9 of the  
24 Graduate Student Lottery Tuition Loan Act.

25           D. The loan shall be evidenced by a contract

1 between the student and the department acting on behalf of the  
2 state. The contract shall provide for the payment by the state  
3 of a stated sum covering the costs of a graduate education and  
4 shall be conditioned upon the repayment of the loan to the  
5 state over a period established by the department in  
6 consultation with the student after completion of the graduate  
7 program and any period of internship or residency required to  
8 complete the student's education.

9 E. Loans made to students who fail to complete  
10 their graduate education shall become due immediately upon  
11 termination of their education. The department, in  
12 consultation with the student, shall establish terms of  
13 repayment, alternate service or cancellation terms.

14 F. The contract shall provide that the department  
15 shall forgive a portion of the loan for each year that a loan  
16 recipient practices a profession in New Mexico. The loan shall  
17 be forgiven as follows:

18 (1) loan terms of one year shall require one  
19 year of practice. Upon completion of service, one hundred  
20 percent of the loan shall be forgiven;

21 (2) loan terms of two years shall require one  
22 year of practice for each year of the loan. Upon completion of  
23 the first year of service, fifty percent of the loan shall be  
24 forgiven; upon completion of the second year of service, the  
25 remainder of the loan shall be forgiven; and

underscored material = new  
[bracketed material] = delete

1 (3) for loan terms of three years, forty  
2 percent of the loan shall be forgiven upon completion of the  
3 first year of service, thirty percent of the loan shall be  
4 forgiven upon completion of the second year of service and the  
5 remainder of the loan shall be forgiven upon completion of the  
6 third year of service.

7 G. Loan recipients shall serve a complete year in  
8 order to receive credit for that year. The minimum credit for  
9 a year shall be established by the department.

10 H. If a loan recipient completes graduate education  
11 and does not work in New Mexico within six years of completion,  
12 the department shall assess a penalty of up to three times the  
13 principal due, plus eighteen percent interest, unless the  
14 department finds acceptable extenuating circumstances for why  
15 the student cannot serve. If the department does not find  
16 acceptable extenuating circumstances for the student's failure  
17 to carry out a declaration of intent to serve in New Mexico,  
18 the department shall require immediate repayment of the loan  
19 plus the amount of any interest and penalty assessed pursuant  
20 to this subsection.

21 I. The department shall adopt rules to implement  
22 the provisions of this section. The rules may provide for the  
23 repayment of lottery tuition graduate student loans in annual  
24 or other periodic installments.

25 Section 7. [NEW MATERIAL] CONTRACTS--LEGAL ASSISTANCE--  
.180159.1

underscored material = new  
[bracketed material] = delete

1 ENFORCEMENT.--The general form of the contract provided for in  
2 Section 6 of the Graduate Student Lottery Tuition Loan Act  
3 shall be prepared and approved by the attorney general and  
4 signed by the student and a designee of the department on  
5 behalf of the state. The department is vested with full and  
6 complete authority and power to sue in its own name for any  
7 balance due the state from any student on any such contract.

8 Section 8. [NEW MATERIAL] FUND CREATED--TRANSFER  
9 PROCEEDS FROM LOTTERY TUITION FUND--METHOD OF PAYMENT.--The  
10 "graduate student lottery tuition loan fund" is created as a  
11 nonreverting fund in the state treasury. The fund consists of  
12 appropriations for loans, repayments of loans, gifts, grants,  
13 donations, income from investment of the fund and transfers  
14 from the lottery tuition fund each year. The department shall  
15 administer the fund and money in the fund is appropriated to  
16 the department to carry out the purposes of this section.  
17 Disbursements from the fund shall be made by warrant of the  
18 secretary of finance and administration on vouchers signed by  
19 the designated representative of the department.

20 Section 9. [NEW MATERIAL] CANCELLATION.--The department  
21 may cancel any contract made between it and any student for any  
22 reasonable cause deemed sufficient by the department.

23 Section 10. [NEW MATERIAL] REPORTS.--The department  
24 shall make annual reports to the governor and the legislature,  
25 prior to each regular session, of its activities, including:

.180159.1



- 1           A. the number and amounts of loans granted;
- 2           B. the names and addresses of persons to whom loans
- 3 were granted;
- 4           C. the educational institutions attended by those
- 5 receiving the loans;
- 6           D. the names and locations of practice of those
- 7 persons who have completed their graduate education and are
- 8 practicing in New Mexico as a result of a student loan pursuant
- 9 to the Graduate Student Lottery Tuition Loan Act;
- 10          E. the names and addresses of persons who have
- 11 completed their graduate education but have not yet started to
- 12 work in New Mexico; and
- 13          F. the names of persons who have paid their
- 14 graduate student loan in lieu of working in New Mexico.