

HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 348

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

AN ACT

RELATING TO HIGHER EDUCATION; ENACTING THE LEGISLATIVE LOTTERY  
TUITION WAIVER ACT; PROVIDING FOR A TUITION WAIVER CONDITIONED  
ON THE ATTAINMENT OF A DEGREE OR CERTIFICATE; PROVIDING FUNDING  
FOR TUITION WAIVERS FROM THE LOTTERY TUITION FUND; AMENDING,  
REPEALING, RECOMPILING AND ENACTING SECTIONS OF THE NMSA 1978;  
MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

**SECTION 1.** [NEW MATERIAL] SHORT TITLE.--Sections 1  
through 10 of this act may be cited as the "Legislative Lottery  
Tuition Waiver Act".

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

A. "community college" means a branch community  
college of a state educational institution or a community

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1 college or technical and vocational institute established  
2 pursuant to Chapter 21, Article 13 or 16 NMSA 1978,  
3 respectively;

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

7 C. "degree" includes a degree or certificate earned  
8 at a public post-secondary educational institution;

9 D. "department" means the higher education  
10 department;

11 E. "fiscal agent" means the chief financial officer  
12 of a public post-secondary educational institution designated  
13 by the department;

14 F. "fund" means the lottery tuition fund;

15 G. "legislative lottery tuition waiver" means a  
16 conditional waiver for tuition costs incurred by a qualified  
17 student attending any public post-secondary educational  
18 institution;

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

22 I. "qualified student" means a student who meets  
23 eligibility requirements pursuant to the Legislative Lottery  
24 Tuition Waiver Act and department rules; who graduated with a  
25 diploma from a public or accredited private New Mexico high

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1 school; who completed a home school program in the state; or  
 2 who received a high school equivalency credential in the state  
 3 and, within thirty months, the student:

4 (1) was accepted for entrance to and attended  
 5 a public post-secondary educational institution; or

6 (2) began service in the United States armed  
 7 forces and within one year of completion of honorable service  
 8 or medical discharge from the service attended a public post-  
 9 secondary educational institution;

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

13 K. "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] LEGISLATIVE LOTTERY TUITION  
 17 WAIVER--APPLICATION BY STUDENT.--Prior to consideration for a  
 18 legislative lottery tuition waiver each year, a student shall  
 19 timely:

20 A. submit to the intended public post-secondary  
 21 educational institution a signed form requesting a legislative  
 22 lottery tuition waiver; and

23 B. file a free application for federal student aid  
 24 provided pursuant to the federal Higher Education Act of 1965.

25 SECTION 4. [NEW MATERIAL] LEGISLATIVE LOTTERY TUITION

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1 WAIVER--FORM--DEPARTMENT DETERMINATION.--

2 A. By August 1, 2014, the department shall develop  
3 and provide to all public post-secondary educational  
4 institutions a printed and electronic form for requesting a  
5 legislative lottery tuition waiver.

6 B. No later than May 1, 2015 and no later than May  
7 1 of each subsequent year, based on the amount appropriated by  
8 the legislature from the fund and on the projected enrollment  
9 at all public post-secondary educational institutions, the  
10 department shall:

11 (1) determine the total amount of money  
12 available for legislative lottery tuition waivers at all public  
13 post-secondary educational institutions to award the maximum  
14 amount available while maintaining the solvency of the fund as  
15 projected in the most recent actuarial evaluation of the fund;  
16 and

17 (2) provide to each qualified student a  
18 legislative lottery tuition waiver in an amount that:

19 (a) includes a tuition offset from all  
20 other state and federal scholarships and grants-in-aid awarded;  
21 and

22 (b) is allowable pursuant to the  
23 determination made pursuant to Paragraph (1) of this  
24 subsection.

25 SECTION 5. [NEW MATERIAL] LEGISLATIVE LOTTERY TUITION

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1 WAIVER--AUTHORIZED--QUALIFIED STUDENTS--CONDITIONS OF WAIVER.--

2 A. To the extent that funds are made available by  
3 the legislature from the fund, the boards of regents or  
4 governing bodies of public post-secondary educational  
5 institutions shall provide legislative lottery tuition waivers  
6 to qualified students attending their respective public post-  
7 secondary educational institutions:

8 (1) after completion of the first semester of  
9 full-time enrollment with a grade point average of 2.5 or  
10 higher on a 4.0 scale at a public post-secondary educational  
11 institution;

12 (2) for a maximum of seven semesters of  
13 attendance at a comprehensive institution, research institution  
14 or state educational institution or three semesters of  
15 attendance at a community college followed by four semesters of  
16 attendance at a comprehensive institution, research institution  
17 or state educational institution; provided that the seven  
18 semesters of eligibility for legislative lottery tuition  
19 waivers may be completed in up to five academic years;

20 (3) for each semester that the qualified  
21 student:

- 22 (a) maintains residency in New Mexico;  
23 (b) maintains a grade point average of  
24 2.5 or higher on a 4.0 scale;  
25 (c) completes twelve or more credit

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1 hours; and

2 (d) meets any additional eligibility  
3 requirements established in rule by the department; and

4 (4) provided that the qualified student signs  
5 a contract:

6 (a) acknowledging that the legislative  
7 lottery tuition waiver is conditioned upon the qualified  
8 student's attainment of a degree within five academic years of  
9 initial enrollment at a public post-secondary educational  
10 institution; and

11 (b) agreeing to the terms of repayment  
12 in the event the qualified student fails to earn a degree  
13 within two years after the last date of enrollment at a public  
14 post-secondary educational institution.

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

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1 eligibility extend beyond fourteen consecutive semesters.

2 SECTION 6. [~~NEW MATERIAL~~] LEGISLATIVE LOTTERY TUITION  
3 WAIVER--CONTRACT FOR CONDITIONAL WAIVER--TERMS.--

4 A. The legislative lottery tuition waiver shall be  
5 evidenced by a contract between the qualified student and the  
6 department acting on behalf of the state. The contract shall  
7 provide for the payment by the state of the costs of tuition  
8 and shall be conditioned on the qualified student's attainment  
9 of a degree pursuant to Section 5 of the Legislative Lottery  
10 Tuition Waiver Act.

11 B. In the event a student fails to meet the  
12 requirements of Section 5 of the Legislative Lottery Tuition  
13 Waiver Act, the amount of waived tuition costs shall become  
14 payable:

15 (1) as a loan with principal bearing interest  
16 at the rate of seven percent per year;

17 (2) two years after the last date of  
18 enrollment at a public post-secondary educational institution;

19 (3) in monthly increments in the amount and  
20 for the term set by the department in each contract; and

21 (4) with such other provisions and conditions  
22 as determined by the department and contained in the contract.

23 C. For the purpose of the Legislative Lottery  
24 Tuition Waiver Act, a qualified student has the capacity to  
25 contract and is bound by any contract executed by the student;

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1 the defense that the student was a minor at the time the  
2 student executed a contract is not available to the student in  
3 any action arising on the contract.

4 SECTION 7. [NEW MATERIAL] LEGISLATIVE LOTTERY TUITION  
5 WAIVER--DUTIES OF THE FISCAL AGENT.--

6 A. The fiscal agent shall collect from a student  
7 all interest and principal payments payable by the student  
8 under the terms of the student's contract to the fund in  
9 accordance with the provisions of Subsection B of Section 6 of  
10 the Legislative Lottery Tuition Waiver Act. In the event of  
11 default of payment, the fiscal agent shall declare the full  
12 amount of remaining principal and interest due and payable  
13 immediately and undertake collection and, in the event of  
14 failure to collect after such reasonable efforts as are  
15 prescribed by federal regulations or by the department, shall  
16 file a claim for payment under the terms of the student's  
17 contract. All payments received by the fiscal agent shall be  
18 remitted to the state treasurer for the credit of the fund.

19 B. Accounts of the fiscal agent shall be audited  
20 annually by the state auditor.

21 SECTION 8. [NEW MATERIAL] LEGISLATIVE LOTTERY TUITION  
22 WAIVER--REIMBURSEMENT OF THE FISCAL AGENT.--The fiscal agent  
23 shall be reimbursed by the department for expenses connected  
24 with the agent's duties under the terms of an agreement  
25 negotiated annually with the department with the approval of



1 the state board of finance. Reimbursement shall include a  
2 reasonable overhead in addition to direct costs. An annual  
3 appropriation to the department for the cost of collecting all  
4 interest and principal payments payable in accordance with the  
5 provisions of Subsection B of Section 6 of the Legislative  
6 Lottery Tuition Waiver Act shall be made from the general fund.  
7 Any part of this appropriation not needed for the reimbursement  
8 of the fiscal agent shall revert to the general fund at the end  
9 of each fiscal year.

10 SECTION 9. [NEW MATERIAL] DEPARTMENT RULEMAKING AND  
11 REPORTING.--

12 A. The department shall promulgate rules setting  
13 forth explicit criteria for:

14 (1) student qualification and continuing  
15 eligibility; and

16 (2) guidelines for the administration of the  
17 legislative lottery tuition waiver program.

18 B. Immediately after promulgation, the department  
19 shall distribute the rules to boards of regents and governing  
20 boards of public post-secondary educational institutions.

21 C. By November 1 of each year, the department shall  
22 report to the legislative finance committee and the department  
23 of finance and administration on:

24 (1) the status of the fund;

25 (2) legislative lottery tuition waiver program

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1 participation data aggregated for each public post-secondary  
2 educational institution to show:

3 (a) the number of qualified students who  
4 received legislative lottery tuition waivers in the prior  
5 fiscal year;

6 (b) the total number of students,  
7 including qualified students, enrolled in the prior fiscal  
8 year;

9 (c) for each semester, the total amount  
10 of legislative lottery tuition waivers funded and the total  
11 amount of other financial assistance that students applied to  
12 tuition costs;

13 (d) the number of students whose waived  
14 tuition costs became payable as a loan pursuant to Section 6 of  
15 the Legislative Lottery Tuition Waiver Act;

16 (e) the amounts of waived tuition costs  
17 that became payable as a loan pursuant to Section 6 of the  
18 Legislative Lottery Tuition Waiver Act; and

19 (f) the amounts of principal or interest  
20 paid to the fund pursuant to Section 7 of the Legislative  
21 Lottery Tuition Waiver Act; and

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

25 SECTION 10. Section 6-24-23 NMSA 1978 (being Laws 1995,

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1 Chapter 155, Section 23, as amended) is recompiled in the  
 2 Legislative Lottery Tuition Waiver Act and is amended to read:

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

4 A. The "lottery tuition fund" is created in the  
 5 state treasury. The fund shall be administered by the  
 6 [~~commission on higher education~~] department. Earnings from  
 7 investment of the fund shall accrue to the credit of the fund.  
 8 Any balance in the fund at the end of any fiscal year shall  
 9 remain in the fund for appropriation by the legislature as  
 10 provided in this section.

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

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

20 "21-13-10. BOARD DUTIES.--

21 A. It is the duty of the community college board to  
 22 determine financial and educational policies of the community  
 23 college. The community college board shall provide for the  
 24 management of the community college and execution of these  
 25 policies by selecting a competent president for the community

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1 college, and, upon the president's recommendation, the board  
2 shall employ other administrative personnel, instructional  
3 staff or other personnel as may be needed for the operation,  
4 maintenance and administration of the community college.

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

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

17 ~~D. The legislative lottery scholarships authorized~~  
18 ~~in this section shall apply only to full-time resident students~~  
19 ~~who, immediately upon completion of a high school curriculum at~~  
20 ~~a public or accredited private New Mexico high school or upon~~  
21 ~~receiving a graduate equivalent diploma, are accepted for~~  
22 ~~entrance to and attend a community college. Each legislative~~  
23 ~~lottery scholarship shall be awarded for up to two consecutive~~  
24 ~~years beginning the second semester of the recipient's first~~  
25 ~~year of enrollment, provided that the recipient has maintained~~

1 ~~residency in New Mexico and maintained a grade point average of~~  
 2 ~~2.5 or higher on a 4.0 scale during the first semester of full-~~  
 3 ~~time enrollment.~~

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

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

23 **SECTION 12. APPROPRIATION.**--One hundred fifty thousand  
 24 dollars (\$150,000) is appropriated from the general fund to the  
 25 lottery tuition fund for expenditure in fiscal year 2015 and

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1 subsequent fiscal years for legislative lottery tuition  
2 waivers. Any unexpended or unencumbered balance remaining at  
3 the end of a fiscal year shall not revert to the general fund.

4 SECTION 13. REPEAL.--Sections 21-1-4.3, 21-1-4.4 and  
5 21-16-10.1 NMSA 1978 (being Laws 1996, Chapter 71, Sections 3,  
6 4 and 6, as amended) are repealed.

7 SECTION 14. EMERGENCY.--It is necessary for the public  
8 peace, health and safety that this act take effect immediately.

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