

1 SENATE BILL 625

2 **47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006**

3 INTRODUCED BY

4 Leonard Tsosie

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10 AN ACT

11 RELATING TO HIGHER EDUCATION; LIMITING LOTTERY OPERATING
12 EXPENSES; EXTENDING COLLEGE AFFORDABILITY SCHOLARSHIP
13 ELIGIBILITY TO NEW MEXICO TRIBAL COLLEGES; MAKING AN
14 APPROPRIATION; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

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

19 "6-24-1. SHORT TITLE.--~~[Sections 1 through 34 of this~~
20 ~~act]~~ Chapter 6, Article 24 NMSA 1978 may be cited as the "New
21 Mexico Lottery Act"."

22 Section 2. Section 6-24-24 NMSA 1978 (being Laws 1995,
23 Chapter 155, Section 24, as amended) is amended to read:

24 "6-24-24. DISPOSITION OF REVENUE--LIMITATION ON OPERATING
25 EXPENSES.--

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1 A. As nearly as practical, an amount equal to at
2 least fifty percent of the gross annual revenues from the sale
3 of lottery tickets shall be returned to the public in the form
4 of lottery prizes. The annual operating expenses as specified
5 in Subsection C of this section shall not exceed twenty-two
6 percent of the gross annual revenues from the sale of lottery
7 tickets.

8 B. The authority shall transmit all net revenues to
9 the state treasurer, who shall deposit eighty-four percent of
10 them in the lottery tuition fund and sixteen percent of them in
11 the college affordability endowment fund. Estimated net
12 revenues shall be transmitted monthly to the state treasurer
13 for deposit in the ~~[fund]~~ funds; provided that the total amount
14 of annual net revenues for the fiscal year shall be transmitted
15 no later than August 1 each year.

16 C. In determining net revenues, operating expenses
17 of the lottery include all costs incurred in the operation and
18 administration of the lottery and all costs resulting from any
19 contracts entered into for the purchase or lease of goods or
20 services required by the lottery, including the costs of
21 supplies, materials, tickets, independent audit services,
22 independent studies, data transmission, advertising, promotion,
23 incentives, public relations, communications, commissions paid
24 to lottery retailers, printing, distribution of tickets,
25 purchases of annuities or investments to be used to pay future

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1 installments of winning lottery tickets, debt service and
2 payment of any revenue bonds issued, contingency reserves,
3 transfers to the reserve fund and any other necessary costs
4 incurred in carrying out the provisions of the New Mexico
5 Lottery Act.

6 D. An amount up to two percent of the gross annual
7 revenues shall be set aside as a reserve fund to cover bonuses
8 and incentive plans for lottery retailers, special promotions
9 for retailers, purchasing special promotional giveaways,
10 sponsoring special promotional events, compulsive gambling
11 rehabilitation and such other purposes as the board deems
12 necessary to maintain the integrity and meet the revenue goals
13 of the lottery. The board shall report annually to the
14 governor and each regular session of the legislature on the use
15 of the money in the reserve fund. Any balance in excess of
16 fifty thousand dollars (\$50,000) at the end of any fiscal year
17 shall be transferred to the lottery tuition fund."

18 Section 3. Section 6-24-27 NMSA 1978 (being Laws 1995,
19 Chapter 155, Section 27, as amended) is amended to read:

20 "6-24-27. REVENUE AND BUDGET REPORTS--RECORDS--
21 INDEPENDENT AUDITS.--

22 A. The board shall:

23 (1) submit quarterly and annual reports to the
24 governor and the legislative finance committee disclosing the
25 total lottery revenue, prizes, commissions, ticket costs,

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1 operating expenses and net revenues of the authority during the
2 reporting period and, in the annual report, describe the
3 organizational structure of the authority and summarize the
4 functions performed by each organizational division within the
5 authority;

6 (2) maintain weekly or more frequent records
7 of lottery transactions, including the distribution of lottery
8 tickets to retailers, revenue received, claims for prizes,
9 prizes paid, prizes forfeited and other financial transactions
10 of the authority; and

11 (3) use the state government fiscal year.

12 B. The board shall provide, for informational
13 purposes, to the department of finance and administration and
14 the legislative finance committee, by December 1 of each year,
15 a copy of the annual proposed operating budget for the
16 authority for the succeeding fiscal year. This budget proposal
17 shall also be accompanied by an estimate of the net revenues to
18 be deposited in the [~~public school capital outlay fund and the~~
19 lottery tuition fund and the college affordability endowment
20 fund for the current and succeeding fiscal years.

21 C. The board shall contract with an independent
22 certified public accountant or firm for an annual financial
23 audit of the authority. The certified public accountant or
24 firm shall have no financial interest in any lottery
25 contractor. The certified public accountant or firm shall

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1 present an audit report no later than March 1 for the prior
2 fiscal year. The certified public accountant or firm shall
3 evaluate the internal auditing controls in effect during the
4 audit period. The cost of this financial audit shall be an
5 operating expense of the authority. The legislative finance
6 committee may, at any time, order an audit of any phase of the
7 operations of the authority, at the expense of the authority,
8 and shall receive a copy of the annual independent financial
9 audit. A copy of any audit performed by the certified public
10 accountant or ordered by the legislative finance committee
11 shall be transmitted to the governor, the speaker of the house
12 of representatives, the president pro tempore of the senate and
13 the legislative finance committee."

14 Section 4. Section 21-21L-1 NMSA 1978 (being Laws 2005,
15 Chapter 192, Section 1) is amended to read:

16 "21-21L-1. SHORT TITLE.--~~[This act]~~ Chapter 21, Article
17 21L NMSA 1978 may be cited as the "College Affordability Act".

18 Section 5. Section 21-21L-2 NMSA 1978 (being Laws 2005,
19 Chapter 192, Section 2) is amended to read:

20 "21-21L-2. PURPOSE.--The purpose of the College
21 Affordability Act is to encourage New Mexico students with
22 financial need to attend and complete educational programs at
23 public post-secondary educational institutions and tribal
24 colleges in New Mexico."

25 Section 6. Section 21-21L-3 NMSA 1978 (being Laws 2005,

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1 Chapter 192, Section 3) is amended to read:

2 "21-21L-3. DEFINITIONS.--As used in the College
3 Affordability Act:

4 A. [~~"commission" means the commission on~~]
5 "department" means the higher education department;

6 B. "returning adult" means a student enrolling in a
7 public post-secondary educational institution at any time later
8 than the first semester following high school graduation or the
9 award of a general educational development certificate; [~~and~~]

10 C. "student" means a resident of New Mexico who is
11 enrolled or will be enrolled, at the time the scholarship is
12 awarded, in a public post-secondary educational institution or
13 tribal college in New Mexico; and

14 D. "tribal college" means a tribally, federally or
15 congressionally chartered post-secondary educational
16 institution located in New Mexico that is accredited by the
17 north central association of colleges and schools and includes
18 the following institutions:

- 19 (1) southwestern Indian polytechnic institute;
20 (2) Crownpoint institute of technology;
21 (3) institute of American Indian arts; and
22 (4) the New Mexico campus of Dine college."

23 Section 7. Section 21-21L-4 NMSA 1978 (being Laws 2005,
24 Chapter 192, Section 4) is amended to read:

25 "21-21L-4. CONDITIONS FOR ELIGIBILITY.--A college

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1 affordability scholarship may be awarded to any person who:

2 A. is a resident of New Mexico for the purpose of
3 tuition payment;

4 B. has not earned a baccalaureate degree and is
5 enrolled or will be enrolled at least half time in a degree
6 program in a public post-secondary educational institution or
7 tribal college in New Mexico at the time the scholarship is
8 awarded;

9 C. has demonstrated financial need consistent with
10 the criteria promulgated by the [~~commission~~] higher education
11 department; and

12 D. has complied with other rules promulgated by the
13 [~~commission~~] higher education department to carry out the
14 provisions of the College Affordability Act."

15 Section 8. Section 21-21L-5 NMSA 1978 (being Laws 2005,
16 Chapter 192, Section 5) is amended to read:

17 "21-21L-5. SCHOLARSHIP AUTHORIZED--ADMINISTRATION--
18 PREFERENCE IN SCHOLARSHIP AWARDS.--

19 A. The [~~commission~~] department shall administer the
20 College Affordability Act and shall promulgate rules to carry
21 out the provisions of that act.

22 B. Scholarships shall be awarded to qualified
23 applicants. Qualifications shall be determined by rule of the
24 [~~commission~~] department.

25 C. The [~~commission~~] department shall allocate money

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1 to public post-secondary educational institutions and tribal
2 colleges based on a student need formula calculated according
3 to income reported on the free application for federal student
4 aid and on the percentage of the institution's or college's
5 students classified as returning adults who are otherwise
6 ineligible for state financial aid.

7 D. Public post-secondary educational institutions
8 and tribal colleges shall make awards to qualifying students
9 based on financial need in an amount not to exceed one thousand
10 dollars (\$1,000) per semester as determined by rule of the
11 [~~commission~~] department.

12 E. Money for an awarded scholarship shall be placed
13 in an account at the public post-secondary educational
14 institution or tribal college in the name of the student, and
15 the money may be drawn upon to pay educational expenses charged
16 by the institution, including tuition, fees, books and course
17 supplies."

18 Section 9. Section 21-21L-6 NMSA 1978 (being Laws 2005,
19 Chapter 192, Section 6) is amended to read:

20 "21-21L-6. DURATION OF SCHOLARSHIP.--Each scholarship is
21 for a period of one semester. A scholarship may be renewed,
22 provided the recipient continues to meet the conditions of
23 eligibility, until the award recipient has received eight
24 consecutive semester scholarship awards or until the student
25 graduates from an eligible four-year public post-secondary

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1 educational institution or from a tribal college, whichever
2 occurs first."

3 Section 10. Section 21-21L-7 NMSA 1978 (being Laws 2005,
4 Chapter 192, Section 7) is amended to read:

5 "21-21L-7. TERMINATION OF SCHOLARSHIP.--A scholarship is
6 terminated upon occurrence of one or more of the following:

7 A. withdrawal of the award recipient from the
8 public post-secondary educational institution or tribal college
9 or failure to remain as at least a half-time student;

10 B. failure of the award recipient to achieve
11 satisfactory academic progress; or

12 C. substantial noncompliance by the award recipient
13 with the College Affordability Act or the rules promulgated
14 pursuant to that act."

15 Section 11. A new section of the College Affordability
16 Act is enacted to read:

17 "[NEW MATERIAL] DISTRIBUTION.--No later than August 1 of
18 each year, an amount equal to five percent of the revenues
19 received during the previous fiscal year by the state as the
20 state's share of Indian gaming revenue shall be transferred
21 from the general fund to the college affordability endowment
22 fund. Any unexpended or unencumbered balance remaining at the
23 end of a fiscal year shall not revert to the general fund."

24 Section 12. EFFECTIVE DATE.--The effective date of the
25 provisions of this act is July 1, 2006.

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