

HOUSE EDUCATION COMMITTEE SUBSTITUTE FOR
HOUSE BILL 309

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

AN ACT

RELATING TO HIGHER EDUCATION; CREATING THE LEGISLATIVE LOTTERY
TUITION SCHOLARSHIP ACT; PROVIDING FOR SCHOLARSHIP AND OTHER
AWARDS; LIMITING THE AMOUNT OF AWARDS; EXTENDING THE FINANCIAL
SOLVENCY OF THE LOTTERY TUITION FUND; REQUIRING A MINIMUM
BALANCE IN THE FUND; AMENDING, REPEALING, ENACTING AND
RECOMPILING 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 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:

A. "basic tuition scholarship" means the
legislative lottery scholarship that provides tuition

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1 assistance per semester for a qualified student;

2 B. "community college" means a branch community
3 college of a state educational institution or a community
4 college or technical and vocational institute established
5 pursuant to Chapter 21, Article 13 or 16 NMSA 1978,
6 respectively;

7 C. "comprehensive institution" means eastern New
8 Mexico university, western New Mexico university, New Mexico
9 highlands university or northern New Mexico college;

10 D. "cost of attendance" means tuition, fees,
11 textbooks and other educational materials, but does not include
12 room and board expenses;

13 E. "department" means the higher education
14 department;

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

16 G. "full time" means a range of twelve to fifteen
17 credit hours each semester of the regular academic year;

18 H. "graduating year award" means a scholarship
19 award in addition to the basic tuition scholarship and the
20 junior year award for a qualified student who successfully
21 completes a community college degree or certificate program or
22 who is completing the last semester of a bachelor degree
23 program at a state educational institution;

24 I. "junior year award" means a scholarship award in
25 addition to the basic tuition scholarship for a qualified

1 student who is entering the junior year at a state educational
2 institution;

3 J. "legislative lottery scholarship" means the
4 basic tuition scholarship and the supplemental tuition
5 scholarship, if awarded;

6 K. "public post-secondary educational institution"
7 means the state educational institutions and community
8 colleges;

9 L. "qualified student" means a full-time resident
10 student who graduated from a public or accredited private New
11 Mexico high school or who received a general educational
12 development certificate while maintaining residency in New
13 Mexico and who:

14 (1) either:

15 (a) immediately upon graduation or
16 receipt of a certificate was accepted for entrance to and
17 attended a public post-secondary educational institution; or

18 (b) within one hundred twenty days of
19 completion of a high school curriculum or general educational
20 development certificate begins service in the United States
21 armed forces and within one year of completion of honorable
22 service or medical discharge from the service, attended a
23 public post-secondary educational institution; and

24 (2) successfully completed the first semester
25 at a public post-secondary educational institution with a grade

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1 point average of 2.5 or higher on a 4.0 scale during the first
2 semester of full-time enrollment;

3 M. "research institution" means the university of
4 New Mexico, New Mexico state university or New Mexico institute
5 of mining and technology;

6 N. "state educational institution" means an
7 institution of higher education enumerated in Article 12,
8 Section 11 of the constitution of New Mexico; and

9 O. "supplemental tuition scholarship" means an
10 additional award to the basic tuition scholarship that may be
11 awarded if there is sufficient lottery revenue in the fund.

12 SECTION 3. [NEW MATERIAL] LEGISLATIVE LOTTERY
13 SCHOLARSHIPS AUTHORIZED--QUALIFIED STUDENTS.--

14 A. To the extent that funds are made available by
15 the legislature from the fund, the boards of regents of state
16 educational institutions or governing bodies of community
17 colleges shall award legislative lottery scholarships to
18 qualified students attending their respective public post-
19 secondary educational institutions.

20 B. Except as otherwise provided in this subsection,
21 legislative lottery scholarships may be awarded for up to seven
22 consecutive semesters if the qualified student maintains
23 residency in New Mexico, maintains a grade point average of 2.5
24 or higher on a 4.0 scale and meets other continuing eligibility
25 requirements of the department. Qualified students who have

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1 received legislative lottery scholarships for five or more
2 semesters by the fall semester 2013 shall be allowed a total of
3 eight consecutive semesters toward a bachelor's degree.

4 Qualified students who have received legislative lottery
5 scholarships for three or more semesters by the fall semester
6 2013 shall be allowed a total of five consecutive semesters
7 toward an associate's degree or certificate.

8 C. A qualified student may apply for a legislative
9 lottery scholarship at the end of the first semester, for the
10 second and subsequent semesters, by filling out the free
11 application for federal student aid, which shall be used to
12 demonstrate the student's efforts to obtain other scholarships
13 and grants-in-aid. The legislative lottery scholarship and
14 other lottery awards shall be awarded up to the amount of
15 tuition, after subtracting other state and institutional
16 scholarships and grants-in-aid. If a qualified student
17 transfers to another public post-secondary educational
18 institution, that institution may require the student to fill
19 out a new free application for federal student aid. If a
20 qualified student receives other scholarships or grants-in-aid,
21 the student shall notify the public post-secondary educational
22 institution in which the student is or will be enrolled.

23 D. The department shall promulgate rules setting
24 forth explicit criteria for student qualification, continuing
25 eligibility, duties of state educational institutions and

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1 community colleges and other criteria and guidelines for the
2 administration of the legislative lottery scholarship program.
3 The rules shall be distributed to boards of regents and
4 governing boards to enable a uniform availability of the
5 resident student legislative lottery scholarships. The rules
6 shall be provided each year and shall be distributed early
7 enough to inform students of any changes to student
8 qualification, continuing eligibility or other guidelines. The
9 rules may provide for exigent circumstances, such as medical
10 emergencies and conditions, pursuant to which a qualified
11 student may lay out a semester and still maintain eligibility.

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

24 SECTION 4. [NEW MATERIAL] LEGISLATIVE LOTTERY
25 SCHOLARSHIPS--OTHER AWARDS--FUND.--

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1 A. Prior to June 1 of each year, the department
2 shall determine the amount of money available for legislative
3 lottery scholarships at public post-secondary educational
4 institutions based on the amount appropriated by the
5 legislature from the fund and on the projected enrollment at
6 all public post-secondary educational institutions.

7 B. Except as provided in Subsection C of this
8 section, in accordance with Subsection A of this section,
9 beginning with the 2013-2014 academic year, a basic tuition
10 scholarship shall be provided per semester by the public post-
11 secondary educational institution for a qualified student as
12 follows after subtracting other financial aid as provided in
13 Subsection C of Section 3 of the Legislative Lottery Tuition
14 Scholarship Act:

15 (1) up to one thousand two hundred dollars
16 (\$1,200) for qualified students at the research institutions;

17 (2) up to seven hundred dollars (\$700) for
18 qualified students at the comprehensive institutions; and

19 (3) up to the full amount of in-district
20 resident tuition charged at community colleges.

21 C. If the balance in the lottery tuition fund is
22 not sufficient to pay basic tuition scholarships for all
23 qualified students at the levels specified in Subsection B of
24 this section and maintain the minimum fund balance, the
25 department may reduce basic tuition scholarship amounts so as

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1 to maintain that balance.

2 D. Each semester, after the basic tuition
3 scholarships are awarded, and after junior year and graduating
4 semester awards are awarded when they become available, if more
5 than ten million dollars (\$10,000,000) remains in the fund, the
6 department shall use the excess to provide supplemental tuition
7 scholarships to those qualified students who received basic
8 scholarships at state educational institutions. The department
9 shall calculate the supplemental tuition scholarships in the
10 same proportion as the scholarships listed in Subsection B of
11 this section.

12 E. Beginning with the fall semester 2014, in
13 addition to the basic tuition scholarship, a qualified student
14 who has completed four semesters and is eligible for a junior
15 year award and who demonstrates financial need as provided by
16 rule of the department may receive a one-time junior year award
17 from the fund that shall be one thousand dollars (\$1,000) for a
18 junior at a research institution and six hundred dollars (\$600)
19 for a junior at a comprehensive institution.

20 F. Beginning with the spring semester 2015, in
21 addition to the basic tuition scholarship and the junior year
22 award, if applicable, a qualified student who is entering the
23 last semester of the student's senior year at a state
24 educational institution, which shall be no later than the
25 student's eighth semester of higher education, or the last

1 semester at a community college, which shall be no later than
 2 the student's fourth semester of higher education, and who
 3 demonstrates financial need as provided by rule of the
 4 department may receive a graduating year award from the fund
 5 that shall be:

6 (1) up to one thousand dollars (\$1,000) for a
 7 senior at a research institution;

8 (2) up to six hundred dollars (\$600) for
 9 seniors at a comprehensive institution; and

10 (3) up to six hundred dollars (\$600) or up to
 11 the cost of attendance at a community college, whichever is
 12 less.

13 G. The amount of a junior year award or graduating
 14 year award shall be determined so that the total of all
 15 legislative lottery scholarship awards and all other state and
 16 institutional tuition-related scholarships and grants-in-aid
 17 received by the student for that semester does not exceed the
 18 cost of tuition at the state educational institutions and the
 19 cost of attendance at community colleges. The junior year and
 20 graduating year awards shall be paid in the same manner as
 21 other legislative lottery scholarships. A student shall not
 22 receive both a community college graduating year award and a
 23 junior year award.

24 **SECTION 5.** Section 6-24-23 NMSA 1978 (being Laws 1995,
 25 Chapter 155, Section 23, as amended) is recompiled into the

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1 Legislative Lottery Tuition Scholarship Act and is amended to
2 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 The fund shall maintain an annual average balance of ten
9 million dollars (\$10,000,000) and any balance in the fund at
10 the end of any fiscal year shall remain in the fund for
11 appropriation by the legislature as provided in this section.

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

19 SECTION 6. [NEW MATERIAL] HIGHER EDUCATION ANNUAL
20 LEGISLATIVE LOTTERY REPORT.--The department shall report
21 annually by November 1 to the governor and the legislature on
22 the status of the fund; participation in the legislative
23 lottery scholarship program, including qualified students
24 versus all students in each institution; distribution of
25 legislative lottery scholarship awards, junior year awards and

1 graduating year awards in total and by institution and type of
 2 award; and any other data or other substantive information that
 3 the governor or the legislature has sought since the last
 4 report or that the department determines should be reported.

5 SECTION 7. Section 21-13-10 NMSA 1978 (being Laws 1963,
 6 Chapter 17, Section 9, as amended) is amended to read:

7 "21-13-10. BOARD DUTIES.--

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

17 B. The community college board shall have the power
 18 to fix tuition and fee rates for resident and nonresident
 19 students of the community college district, to accept gifts, to
 20 accept federal aid, to purchase, hold, sell and rent property
 21 and equipment and to promote the general welfare of the
 22 institution for the best interest of educational service to the
 23 people of the community college district.

24 ~~[G. To the extent that funds are made available by~~
 25 ~~the legislature from the lottery tuition fund, the community~~

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1 ~~college board shall award legislative lottery scholarships for~~
2 ~~qualified resident students attending their respective~~
3 ~~institutions.~~

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

16 ~~E. The higher education department shall prepare~~
17 ~~guidelines setting forth explicit student continuing~~
18 ~~eligibility criteria and guidelines for administration of the~~
19 ~~legislative lottery scholarship program. Guidelines shall be~~
20 ~~distributed to community college boards to enable a uniform~~
21 ~~availability of the resident student lottery tuition~~
22 ~~scholarships.~~

23 ~~F. For purposes of the legislative lottery~~
24 ~~scholarship program as it applies to students with disabilities~~
25 ~~who may require special accommodations, the higher education~~

1 ~~department, in consultation with the student and the office at~~
 2 ~~the community college that serves students with disabilities,~~
 3 ~~shall review both the definition of "full time" and the maximum~~
 4 ~~number of consecutive semesters of eligibility and adjust~~
 5 ~~either or both as deemed reasonable and appropriate, based on~~
 6 ~~the student's disability needs. In no case, however, shall~~
 7 ~~"full time" mean fewer than six credit hours per semester, and~~
 8 ~~in no case shall eligibility extend beyond fourteen consecutive~~
 9 ~~semesters.]"~~

10 SECTION 8. REPEAL.--Sections 21-1-4.3, 21-1-4.4 and
 11 21-16-10.1 NMSA 1978 (being Laws 1996, Chapter 71, Sections 3,
 12 4 and 6, as amended) are repealed.

13 SECTION 9. EMERGENCY.--It is necessary for the public
 14 peace, health and safety that this act take effect immediately.

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