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SENATE BILL 150

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

INTRODUCED BY

John Arthur Smith and Luciano "Lucky" Varela

FOR THE LEGISLATIVE FINANCE COMMITTEE

AN ACT

RELATING TO HIGHER EDUCATION; MAKING CHANGES TO THE LEGISLATIVE  
LOTTERY SCHOLARSHIP PROGRAM TO EXTEND ITS FINANCIAL SOLVENCY;  
CHANGING THE AMOUNT OF AWARDS; PROVIDING FOR ADDITIONAL AWARDS  
IN CERTAIN CIRCUMSTANCES; REQUIRING A MINIMUM BALANCE IN THE  
LOTTERY TUITION FUND; AMENDING, REPEALING, RECOMPILING AND  
ENACTING SECTIONS OF THE NMSA 1978; MAKING APPROPRIATIONS;  
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. "community college" means a branch community

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1 college of a state educational institution or a community  
2 college or technical and vocational institute established  
3 pursuant to Chapter 21, Article 13 or 16 NMSA 1978,  
4 respectively;

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

8 C. "cost of attendance" means tuition, fees,  
9 textbooks and other educational materials, but does not include  
10 room and board expenses;

11 D. "department" means the higher education  
12 department;

13 E. "full time" means the maintenance of fifteen or  
14 more credit hours each semester of the regular academic year in  
15 a public post-secondary educational institution;

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

17 G. "legacy student" means a student who has  
18 received for three or more semesters by the end of fiscal year  
19 2014 the legislative lottery scholarship awarded pursuant to  
20 the former provisions of Sections 21-1-4.3, 21-13-10 and  
21 21-16-10.1 NMSA 1978 prior to the enactment of the Legislative  
22 Lottery Tuition Scholarship Act;

23 H. "public post-secondary educational institution"  
24 means a community college, comprehensive institution, research  
25 institution or state educational institution;

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1 I. "qualified student" means a full-time resident  
2 student who graduated from a public or accredited private New  
3 Mexico high school or who received a high school equivalency  
4 credential while maintaining residency in New Mexico and who:

5 (1) either:

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

9 (b) within one hundred twenty days of  
10 completion of a high school curriculum or receipt of a high  
11 school equivalency credential began service in the United  
12 States armed forces and within one year of completion of  
13 honorable service or medical discharge from the service,  
14 attended a public post-secondary educational institution; and

15 (2) successfully completed the first semester  
16 at a public post-secondary educational institution with a grade  
17 point average of 2.75 or higher on a 4.0 scale during the first  
18 semester of full-time enrollment;

19 J. "research institution" means the university of  
20 New Mexico, New Mexico state university or New Mexico institute  
21 of mining and technology;

22 K. "state educational institution" means an  
23 institution of higher education enumerated in Article 12,  
24 Section 11 of the constitution of New Mexico; and

25 L. "tuition scholarship" means the scholarship that

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1 provides tuition assistance per semester for a qualified  
2 student or legacy student attending a public post-secondary  
3 educational institution.

4 SECTION 3. [NEW MATERIAL] TUITION SCHOLARSHIPS

5 AUTHORIZED--QUALIFIED STUDENTS.--

6 A. To the extent that funds are made available by  
7 the legislature from the fund, the boards of regents or  
8 governing bodies of public post-secondary educational  
9 institutions shall award tuition scholarships in department-  
10 approved amounts to qualified students and legacy students  
11 attending their respective public post-secondary educational  
12 institutions.

13 B. Beginning in fiscal year 2015:

14 (1) a legacy student is eligible to receive  
15 the tuition scholarship for the full value of tuition until the  
16 total number of semesters for which the legislative lottery  
17 scholarship pursuant to the former provisions of Sections  
18 21-1-4.3, 21-13-10 and 21-16-10.1 NMSA 1978 or the tuition  
19 scholarship pursuant to the Legislative Lottery Tuition  
20 Scholarship Act was received reaches eight; provided that the  
21 legacy student maintains residency in New Mexico, maintains a  
22 grade point average of 2.5 or higher on a 4.0 scale and  
23 completes twelve or more credit hours per semester; and

24 (2) a qualified student who is not a legacy  
25 student is eligible to receive the tuition scholarship until

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1 the total number of semesters for which the legislative lottery  
2 scholarship or the tuition scholarship was received reaches  
3 seven.

4 C. Except as otherwise provided in this section,  
5 tuition scholarships may be awarded to a qualified student who:

6 (1) maintains residency in New Mexico;

7 (2) maintains a grade point average of 2.75 or  
8 higher on a 4.0 scale; and

9 (3) completes:

10 (a) for a student attending a four-year  
11 public post-secondary educational institution, fifteen or more  
12 credit hours per semester; and

13 (b) for a student attending a two-year  
14 public post-secondary educational institution, twelve or more  
15 credit hours per semester.

16 D. For students with disabilities who may require  
17 accommodations, the department, in consultation with the  
18 student and the office at the public post-secondary educational  
19 institution that serves students with disabilities, shall  
20 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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1 semesters.

2 SECTION 4. [NEW MATERIAL] TUITION SCHOLARSHIP AMOUNT--  
3 FUND.--

4 A. Prior to May 1 of each year, based on the amount  
5 appropriated by the legislature from the fund and on the  
6 projected enrollment at all public post-secondary educational  
7 institutions, the department shall:

8 (1) determine the total amount of money  
9 available for tuition scholarships at all public post-secondary  
10 educational institutions;

11 (2) determine the amount of money available  
12 for each tuition scholarship at each public post-secondary  
13 educational institution; and

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

17 B. Beginning with the 2014-2015 academic year, a  
18 tuition scholarship shall be provided per semester by the  
19 public post-secondary educational institution for a qualified  
20 student who is not a legacy student in the following amounts,  
21 unless modified by the department pursuant to Subsection C of  
22 this section:

23 (1) up to two thousand one hundred dollars  
24 (\$2,100) for a qualified student at a research institution or  
25 state educational institution;

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1 (2) up to one thousand dollars (\$1,000) for a  
2 qualified student at a comprehensive institution; and

3 (3) up to eight hundred dollars (\$800), or the  
4 full amount of tuition for in-district resident tuition charged  
5 at a community college, whichever is less, for a qualified  
6 student at a community college.

7 C. If the balance in the fund is not sufficient to  
8 pay tuition scholarships for all qualified students at the  
9 levels specified in Subsection B of this section and maintain  
10 the minimum fund balance pursuant to Section 5 of the  
11 Legislative Lottery Tuition Scholarship Act, the department may  
12 reduce tuition scholarship amounts for qualified students who  
13 are not legacy students so as to maintain the minimum fund  
14 balance. To further reduce tuition scholarship amounts, the  
15 department may consider all other state and institutional  
16 scholarships and grants-in-aid awarded to qualified students.

17 SECTION 5. Section 6-24-23 NMSA 1978 (being Laws 1995,  
18 Chapter 155, Section 23, as amended) is recompiled in the  
19 Legislative Lottery Tuition Scholarship Act and is amended to  
20 read:

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

22 A. The "lottery tuition fund" is created in the  
23 state treasury. The fund shall be administered by the  
24 [~~commission on higher education~~] department. Earnings from  
25 investment of the fund shall accrue to the credit of the fund.

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1 The fund shall maintain an annual average balance of two  
2 million dollars (\$2,000,000), and any balance in the fund at  
3 the end of any fiscal year shall remain in the fund for  
4 appropriation by the legislature as provided in this section.

5 B. Money in the [~~lottery tuition~~] fund [~~is~~] shall  
6 be appropriated by the legislature to the [commission on higher  
7 education] department for distribution to New Mexico's public  
8 post-secondary educational institutions to provide tuition  
9 assistance for [~~New Mexico resident undergraduates as provided~~  
10 ~~by law~~] qualified students and legacy students as provided in  
11 the Legislative Lottery Tuition Scholarship Act."

12 SECTION 6. [NEW MATERIAL] DEPARTMENT RULEMAKING AND  
13 REPORTING.--

14 A. The department shall promulgate rules setting  
15 forth explicit criteria in accordance with the Legislative  
16 Lottery Tuition Scholarship Act for:

- 17 (1) student qualification and continuing  
18 eligibility; and  
19 (2) calculating any increase or reduction in  
20 the tuition scholarship award amount pursuant to Subsection C  
21 of Section 4 of the Legislative Lottery Tuition Scholarship Act  
22 and guidelines for the administration of the tuition  
23 scholarship program.

24 B. The rules shall be distributed to boards of  
25 regents and governing boards of public post-secondary



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1 educational institutions to enable a uniform availability of  
2 the qualified student tuition scholarships by May 1 and October  
3 1 of each year to inform students of any changes to student  
4 qualification, continuing eligibility or other guidelines.

5 C. The department shall report by September 1 of  
6 each year to the legislative finance committee and the  
7 department of finance and administration on:

8 (1) the status of the fund;

9 (2) tuition scholarship program

10 participation data aggregated for each public post-secondary  
11 educational institution to show:

12 (a) the number of qualified students and  
13 the number of legacy students who received tuition scholarships  
14 in the prior twelve-month period;

15 (b) the total number of students,  
16 including qualified students and legacy students, enrolled in  
17 the prior twelve-month period;

18 (c) for each qualified student and each  
19 legacy student, the amount of the tuition scholarship received  
20 and the amount of the tuition cost that was not offset by the  
21 tuition scholarship;

22 (d) for each semester, the amount of  
23 tuition scholarships funded and the amount of tuition costs  
24 that were not offset by the tuition scholarship;

25 (e) the number of qualified students and

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1 the number of legacy students who graduated with a degree and,  
2 for each qualified student, the number of consecutive semesters  
3 and nonconsecutive semesters attended prior to graduation; and

4 (f) the number of qualified students and  
5 the number of legacy students who received a tuition  
6 scholarship and subsequently became ineligible for a tuition  
7 scholarship and the reasons for ineligibility; and

8 (3) any additional information required or  
9 requested by the legislative finance committee and the  
10 department of finance and administration.

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

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

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

23 B. The community college board shall have the power  
24 to fix tuition and fee rates for resident and nonresident  
25 students of the community college district, to accept gifts, to

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1 accept federal aid, to purchase, hold, sell and rent property  
2 and equipment and to promote the general welfare of the  
3 institution for the best interest of educational service to the  
4 people of the community college district.

5 ~~[G.—To the extent that funds are made available by~~  
6 ~~the legislature from the lottery tuition fund, the community~~  
7 ~~college board shall award legislative lottery scholarships for~~  
8 ~~qualified resident students attending their respective~~  
9 ~~institutions.~~

10 ~~D.—The legislative lottery scholarships authorized~~  
11 ~~in this section shall apply only to full-time resident students~~  
12 ~~who, immediately upon completion of a high school curriculum at~~  
13 ~~a public or accredited private New Mexico high school or upon~~  
14 ~~receiving a graduate equivalent diploma, are accepted for~~  
15 ~~entrance to and attend a community college.—Each legislative~~  
16 ~~lottery scholarship shall be awarded for up to two consecutive~~  
17 ~~years beginning the second semester of the recipient's first~~  
18 ~~year of enrollment, provided that the recipient has maintained~~  
19 ~~residency in New Mexico and maintained a grade point average of~~  
20 ~~2.5 or higher on a 4.0 scale during the first semester of full-~~  
21 ~~time enrollment.~~

22 ~~E.—The higher education department shall prepare~~  
23 ~~guidelines setting forth explicit student continuing~~  
24 ~~eligibility criteria and guidelines for administration of the~~  
25 ~~legislative lottery scholarship program.—Guidelines shall be~~

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1 ~~distributed to community college boards to enable a uniform~~  
2 ~~availability of the resident student lottery tuition~~  
3 ~~scholarships.~~

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

16 SECTION 8. APPROPRIATION.--Two million nine hundred  
17 thousand dollars (\$2,900,000) is appropriated from the general  
18 fund to the lottery tuition fund for expenditure in fiscal year  
19 2015 and subsequent fiscal years to supplement the lottery  
20 tuition fund and provide tuition scholarships for the full  
21 amount of tuition for legacy students as defined in the  
22 Legislative Lottery Tuition Scholarship Act. Any unexpended or  
23 unencumbered balance remaining at the end of a fiscal year  
24 shall not revert to the general fund.

25 SECTION 9. APPROPRIATION.--Eight million dollars

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1 (\$8,000,000) is appropriated from the general fund to the  
2 lottery tuition fund for expenditure in fiscal year 2015 and  
3 subsequent fiscal years to supplement the lottery tuition fund  
4 and provide tuition scholarships for qualified students as  
5 defined in the Legislative Lottery Tuition Scholarship Act.  
6 Any unexpended or unencumbered balance remaining at the end of  
7 a fiscal year shall not revert to the general fund.

8 SECTION 10. REPEAL.--Sections 21-1-4.3, 21-1-4.4 and  
9 21-16-10.1 NMSA 1978 (being Laws 1996, Chapter 71, Sections 3,  
10 4 and 6, as amended) are repealed.

11 SECTION 11. EMERGENCY.--It is necessary for the public  
12 peace, health and safety that this act take effect immediately.