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SENATE BILL 327

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

INTRODUCED BY

John M. Sapien

AN ACT

RELATING TO HIGHER EDUCATION; ENACTING THE LOTTERY TUITION FUND  
ACT TO EXTEND THE FINANCIAL SOLVENCY OF THE LOTTERY TUITION  
FUND; CHANGING THE AMOUNTS OF AWARDS; AMENDING, REPEALING,  
RECOMPILING AND ENACTING 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 8 of this act may be cited as the "Lottery Tuition Fund  
Act".

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

A. "community college" means a community college or  
technical and vocational institute established pursuant to  
Chapter 21, Article 13 or 16 NMSA 1978, respectively;

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1           B. "comprehensive institution" means eastern New  
2 Mexico university, western New Mexico university, New Mexico  
3 highlands university or northern New Mexico college;

4           C. "department" means the higher education  
5 department;

6           D. "fund" means the lottery tuition fund;

7           E. "legacy student" means a student who has  
8 received for three or more semesters by the end of fiscal year  
9 2014 the legislative lottery scholarship awarded pursuant to  
10 the former provisions of Sections 21-1-4.3, 21-13-10 and  
11 21-16-10.1 NMSA 1978 prior to the enactment of the Lottery  
12 Tuition Fund Act;

13           F. "lottery tuition scholarship" means a  
14 scholarship that provides tuition assistance per semester for a  
15 qualified student or a legacy student attending a public post-  
16 secondary educational institution;

17           G. "public post-secondary educational institution"  
18 means community colleges and state educational institutions;

19           H. "qualified student" means a full-time resident  
20 student who graduated from a public or accredited private New  
21 Mexico high school or who received a high school equivalency  
22 credential in New Mexico and who either:

23                   (1) immediately upon graduation or receipt of  
24 a credential was accepted for entrance to and attended a public  
25 post-secondary educational institution; or

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1 (2) within one hundred twenty days of  
2 completion of a high school curriculum or receipt of a high  
3 school equivalency credential began service in the United  
4 States armed forces and within one year of completion of  
5 honorable service or medical discharge from the service  
6 attended a public post-secondary educational institution;

7 I. "research institution" means the university of  
8 New Mexico, New Mexico state university or New Mexico institute  
9 of mining and technology;

10 J. "state educational institution" means an  
11 institution of higher education enumerated in Article 12,  
12 Section 11 of the constitution of New Mexico; and

13 K. "two-year branch institution" means a branch of  
14 a state educational institution.

15 SECTION 3. [NEW MATERIAL] LOTTERY TUITION SCHOLARSHIP--  
16 FORM--DEPARTMENT DETERMINATION.--

17 A. By August 1, 2014, the department shall develop  
18 and provide to all public post-secondary educational  
19 institutions a printed and electronic form for requesting a  
20 lottery tuition scholarship.

21 B. No later than May 1, 2015 and no later than May  
22 1 of each subsequent year, based on the amount appropriated by  
23 the legislature from the fund and on the projected enrollment  
24 at all public post-secondary educational institutions, the  
25 department shall:

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1 (1) determine the total amount of money  
2 available for lottery tuition scholarships at all public post-  
3 secondary educational institutions;

4 (2) maintain, increase or reduce the amounts  
5 of lottery tuition scholarships to award the maximum amount  
6 available while maintaining the solvency of the fund as  
7 projected in the most recent actuarial evaluation of the fund;  
8 and

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

12 SECTION 4. [NEW MATERIAL] LOTTERY TUITION SCHOLARSHIP--  
13 APPLICATION BY STUDENT.--Prior to consideration for a lottery  
14 tuition scholarship each year, a student shall timely:

15 A. submit to the intended public post-secondary  
16 educational institution a signed form requesting a lottery  
17 tuition scholarship; and

18 B. file a free application for federal student aid  
19 provided pursuant to the federal Higher Education Act of 1965  
20 to produce an expected family contribution amount.

21 SECTION 5. [NEW MATERIAL] LOTTERY TUITION SCHOLARSHIPS--  
22 QUALIFIED STUDENTS--LEGACY STUDENTS--ELIGIBILITY.--

23 A. Beginning in fiscal year 2015, the boards of  
24 regents or governing bodies of public post-secondary  
25 educational institutions shall award lottery tuition

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1 scholarships to qualified students and legacy students  
2 attending their respective public post-secondary educational  
3 institutions pursuant to this section and to the extent that  
4 funds are made available by the legislature from the fund.

5 B. A legacy student is eligible to receive a  
6 lottery tuition scholarship for the full value of tuition until  
7 the total number of semesters for which the legislative lottery  
8 scholarship pursuant to the former provisions of Sections  
9 21-1-4.3, 21-13-10 and 21-16-10.1 NMSA 1978 or the lottery  
10 tuition scholarship pursuant to the Lottery Tuition Fund Act  
11 was received reaches eight; provided that the legacy student  
12 maintains residency in New Mexico, maintains a grade point  
13 average of 2.5 or higher on a 4.0 scale and completes twelve or  
14 more credit hours per semester.

15 C. After a qualified student who is not a legacy  
16 student has completed the first semester of enrollment with  
17 twelve or more credit hours and a grade point average of 2.5 or  
18 higher on a 4.0 scale at a public post-secondary educational  
19 institution, the qualified student is eligible to receive the  
20 lottery tuition scholarship:

21 (1) until the total number of semesters for  
22 which the legislative lottery scholarship pursuant to the  
23 former provisions of Sections 21-1-4.3, 21-13-10 and 21-16-10.1  
24 NMSA 1978 or the lottery tuition scholarship was received  
25 reaches seven for attendance at a state educational institution

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1 or reaches four consecutive semesters of attendance at a  
2 community college followed with no hiatus in attendance by four  
3 consecutive semesters of attendance at a state educational  
4 institution; and

5 (2) provided that the qualified student:

6 (a) maintains residency in New Mexico;

7 (b) maintains a grade point average of  
8 2.5 or higher on a 4.0 scale; and

9 (c) completes twelve or more credit  
10 hours per semester.

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

24 SECTION 6. [NEW MATERIAL] LOTTERY TUITION SCHOLARSHIP--  
25 SLIDING SCALE PAYMENTS.--The amount of a lottery tuition

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1 scholarship shall be based on the semester of enrollment and  
2 the type of public post-secondary educational institution the  
3 student is attending as follows:

- 4 A. for students attending a community college:  
5 (1) for the second and third semesters \$ 300  
6 (2) for the fourth and fifth semesters 600;

- 7 B. for students attending a two-year branch  
8 institution:  
9 (1) for the second and third semesters 500  
10 (2) for the fourth and fifth semesters 800;

- 11 C. for students attending a comprehensive  
12 institution:  
13 (1) for the second and third semesters 500  
14 (2) for the fourth and fifth semesters 800  
15 (3) for the sixth and seventh semesters 1,000  
16 (4) for the eighth semester 1,200;

17 and

- 18 D. for students attending a research institution:  
19 (1) for the second and third semesters 1,200  
20 (2) for the fourth and fifth semesters 1,500  
21 (3) for the sixth and seventh semesters 1,800  
22 (4) for the eighth semester 2,100.

23 SECTION 7. Section 6-24-23 NMSA 1978 (being Laws 1995,  
24 Chapter 155, Section 23, as amended) is recompiled in the  
25 Lottery Tuition Fund Act and is amended to read:

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

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

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

16 SECTION 8. [NEW MATERIAL] DEPARTMENT RULEMAKING AND  
17 REPORTING.--

18 A. The department shall promulgate rules setting  
19 forth explicit criteria for:

- 20 (1) student qualification and continuing  
21 eligibility;
- 22 (2) determining any increase or reduction in  
23 the amount of a lottery tuition scholarship award pursuant to  
24 the Lottery Tuition Fund Act; and
- 25 (3) guidelines for the administration of the

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1 lottery tuition scholarship program.

2 B. Immediately after promulgation, the rules shall  
3 be distributed to boards of regents and governing boards of  
4 public post-secondary educational institutions.

5 C. By November 1 of each year, the department shall  
6 report to the legislative finance committee and the department  
7 of finance and administration on:

8 (1) the status of the fund;

9 (2) lottery 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 lottery tuition  
14 scholarships 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 component amounts of the lottery tuition  
20 scholarship received and the amount of unmet need that was not  
21 offset by the lottery tuition scholarship;

22 (d) for each semester, the amount of  
23 lottery tuition scholarships funded and the amount of tuition  
24 costs that were not offset by the lottery 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 lottery tuition  
6 scholarship and subsequently became ineligible for a lottery  
7 tuition 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 9.** 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 10. REPEAL.--Sections 21-1-4.3, 21-1-4.4 and  
17 21-16-10.1 NMSA 1978 (being Laws 1996, Chapter 71, Sections 3,  
18 4 and 6, as amended) are repealed.

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