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SENATE BILL 530

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Shannon Robinson

AN ACT

RELATING TO POST-SECONDARY EDUCATION; ENACTING THE PRIVATE
POST-SECONDARY STUDENT TUITION PROTECTION ACT; CREATING THE
STUDENT TUITION RECOVERY FUND; MAKING AN APPROPRIATION.

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

Section 1. SHORT TITLE. -- [NEW MATERIAL] Sections 1
through 6 of this act may be cited as the "Private Post-
Secondary Student Tuition Protection Act".

Section 2. DEFINITIONS. -- [NEW MATERIAL] As used in the
Private Post-Secondary Student Tuition Protection Act:

A. "assessment" means the amount of money a
private post-secondary education institution is required to
pay annually to the fund;

B. "commission" means the commission on higher
education;

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1 C. "fund" means the student tuition recovery fund;

2 D. "newly enrolled student" means a student
3 enrolling in a private post-secondary education institution in
4 a fiscal year for the first time or re-enrolling after an
5 absence from the institution for one or more years;

6 E. "prepaid tuition" means money paid to a private
7 post-secondary education institution before completion of its
8 services to the student;

9 F. "private post-secondary education institution"
10 means an educational institution subject to licensure pursuant
11 to the Post-Secondary Education Act; and

12 G. "teach-out program" means training or
13 educational services provided by another post-secondary
14 education institution to complete classes that were not
15 available at a private post-secondary education institution
16 that terminated its operations.

17 Section 3. [NEW MATERIAL] COMMISSION-- DUTIES. -- In
18 consultation with the advisory council for proprietary
19 education, the commission shall:

20 A. administer the fund;

21 B. determine and collect the assessment from
22 private post-secondary education institutions;

23 C. review and process claims against the fund;

24 D. adopt rules for administration of the Private
25 Post-Secondary Student Tuition Protection Act; and

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1 E. file suit to collect assessments due the fund.

2 Section 4. [NEW MATERIAL] TEACH- OUT PROGRAM -- A person
3 who has prepaid tuition at a private post-secondary education
4 institution that has terminated its operations may accept a
5 teach-out program in lieu of refund by the commission. A
6 post-secondary education institution may provide teach-out
7 services to a person deprived of education at another
8 institution due to the latter terminating operations. A
9 person who agrees to accept educational services through a
10 teach-out program in lieu of a refund of prepaid tuition from
11 the fund shall release any claim on the fund.

12 Section 5. [NEW MATERIAL] STUDENT TUITION RECOVERY
13 FUND-- APPROPRIATION. --

14 A. The "student tuition recovery fund" is created
15 in the state treasury. The fund shall be used to repay a
16 person only the amount of his unearned prepaid tuition. The
17 commission shall administer the fund. Assessments collected
18 by the commission shall be credited to the fund. Amounts in
19 the fund shall be deposited with the state treasurer and
20 disbursed pursuant to vouchers signed by the executive
21 director of the commission or his authorized representative
22 upon warrants drawn by the secretary of finance and
23 administration. Money in the fund is appropriated to the
24 commission to pay:

- 25 (1) refunds to persons who prepaid tuition at

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1 private post-secondary education institutions that terminated
2 operations prior to providing educational services;

3 (2) for costs resulting from private post-
4 secondary education institutions that terminate operations
5 without complying with the Post-Secondary Education Act; and

6 (3) to carry out the provisions of the
7 Private Post-Secondary Student Tuition Protection Act.

8 B. Money in the fund may be invested pursuant to
9 the New Mexico Finance Authority Act and all interest earned
10 on such investments shall be credited to the fund. Money
11 remaining in the fund at the end of any fiscal year shall not
12 revert to the general fund, and interest earned from the fund
13 shall accrue to the credit of the fund.

14 Section 6. [NEW MATERIAL] ASSESSMENTS-- COMMISSION' S
15 DETERMINATION. --

16 A. Private post-secondary education institutions
17 that collect prepaid tuition shall annually pay an assessment
18 to the commission for each newly enrolled student who is a
19 resident of the state.

20 B. The commission shall determine assessments from
21 each private post-secondary education institution in an amount
22 to maintain a minimum balance in the fund of three hundred
23 thousand dollars (\$300,000) and not to exceed a maximum of
24 five hundred thousand dollars (\$500,000). The assessment
25 shall not exceed ten dollars (\$10.00) per newly enrolled

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1 student. The commission shall refund assessments that result
2 in a fund balance of more than the maximum.

3 C. A claim against the fund shall not be commenced
4 later than one year after the private post-secondary education
5 institution has terminated services. A person seeking a
6 refund of prepaid tuition shall submit a written claim to the
7 commission in a form required by the commission. If the
8 commission determines that the claim is valid, and the surety
9 bond is exhausted, the commission shall pay the claim from the
10 balance in the fund.

11 D. Disbursements from the fund shall be made in
12 the following order:

13 (1) if the claimant received a loan for the
14 prepaid tuition, to the lender who provided the loan or to the
15 guarantor of the loan;

16 (2) to the claimant for prepaid tuition;

17 (3) to a post-secondary education institution
18 that provided a teach-out program to the claimant; or

19 (4) to the commission for cost recovery for
20 closing a private post-secondary education institution that
21 did not comply with provisions of the Post-Secondary Education
22 Act.

23 Section 7. Section 21-23-7.1 NMSA 1978 (being Laws 1994,
24 Chapter 108, Section 12) is amended to read:

25 "21-23-7.1. SURETY BOND REQUIRED--ALTERNATIVE SURETY.--

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1 A. A career school licensed by the commission
2 shall post with the commission and maintain in effect a surety
3 bond. The bond shall be payable to the commission and shall
4 be sufficient in amount to indemnify any student damaged as a
5 result of fraud or misrepresentation by a licensed career
6 school or as a result of the career school ceasing operation
7 prior to its students having completed the programs for which
8 they have contracted.

9 B. The commission is authorized to establish the
10 amount of bond required on an individual basis, taking into
11 consideration factors such as the career school's size, number
12 of students and total income and assets of the career school
13 in the state. [~~In no case shall~~] The bond shall be [~~less~~
14 ~~than~~] at least five thousand dollars (\$5,000) [~~nor~~] but shall
15 [~~it~~] not exceed twenty percent of a career school's gross
16 annual tuition revenue in New Mexico, except a private post-
17 secondary educational institution first authorized to operate
18 in the state after the effective date of the Private Post-
19 Secondary Student Tuition Protection Act shall provide a
20 minimum surety bond of ten thousand dollars (\$10,000). The
21 commission shall review the surety bond requirement of private
22 post-secondary educational institutions when the student
23 tuition recovery fund reaches five hundred thousand dollars
24 (\$500,000).

25 C. Surety bonds may be canceled only following

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1 delivery of written notice to the commission no less than
2 ninety days prior to the date of cancellation. In case of
3 cancellation, the career school shall provide the commission
4 with a like surety or acceptable alternative in order to
5 maintain licensure.

6 D. As an alternative to a surety bond, a career
7 school may elect to and the commission may require that a
8 career school establish and maintain a cash deposit escrow
9 account, irrevocable letter of credit or alternative payable
10 to the commission in an amount set by the commission and
11 subject to regulations promulgated by the commission. In no
12 case shall the deposit or account required exceed twenty
13 percent of the career school's gross tuition annual revenue in
14 New Mexico. "

15 Section 8. EFFECTIVE DATE. --The effective date of the
16 provisions of this act is July 1, 1999.

1 FORTY-FOURTH LEGISLATURE

SB 530/a

2 FIRST SESSION, 1999

3
4
5 February 25, 1999

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7 Mr. President:

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9 Your EDUCATION COMMITTEE, to whom has been referred

10 SENATE BILL 530

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12
13 has had it under consideration and reports same with
14 recommendation that it DO PASS, amended as follows:

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16
17 1. On page 3, line 8, before "institution" insert "private
18 post-secondary education".

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20 2. On page 4, line 18, strike "who is a" and insert in
21 lieu thereof a period.

22 3. On page 4, strike line 19 in its entirety.

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24 and thence referred to the FINANCE COMMITTEE.

Respectfully submitted,

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Cynthia Nava, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

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FORTY-FOURTH LEGISLATURE

FIRST SESSION, 1999

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SEC/SB 530

Page 2

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Adair, Duran, Garcia, Jennings

Absent: None

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1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

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6 March 8, 1999

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8 Mr. President:

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10 Your FINANCE COMMITTEE, to whom has been referred

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12 SENATE BILL 530, as amended

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14 has had it under consideration and reports same with
15 recommendation that it DO PASS.

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18 Respectfully submitted,

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22 _____
23 Ben D. Altamirano, Chairman
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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

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Date _____

The roll call vote was 8 For 0 Against

Yes: 8

No: 0

Excused: Campos, Carraro, Ingle, McKibben, Tsosie

Absent: None

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1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999
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6 March 15, 1999
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8 Mr. Speaker:
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10 Your EDUCATION COMMITTEE, to whom has been referred
11

12 SENATE BILL 530, as amended
13

14 has had it under consideration and reports same with
15 recommendation that it DO PASS, and thence referred to the
16 APPROPRIATIONS AND FINANCE COMMITTEE.

17 Respectfully submitted,
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21 _____
22 Rick Miera, Chairman
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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HEC/SB 530a

Page 14

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 12 For 0 Against

Yes: 12

Excused: Burpo, Gonzales, Knauer, Stapleton

Absent: None

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1 FORTY- FOURTH LEGISLATURE
2 FIRST SESSION, 1999

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4 March 19, 1999

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7 Mr. Speaker:

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9 Your APPROPRIATIONS AND FINANCE COMMITTEE, to
10 whom has been referred

11 SENATE BILL 530, as amended

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13 has had it under consideration and reports same with
14 recommendation that it DO PASS.

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16 Respectfully submitted,

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21 Max Coll, Chairman
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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 16 For 0 Against

Yes: 16

Excused: Buffett

Absent: None

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