

AN ACT

RELATING TO LOTTERY PROCEEDS; ENACTING THE LOTTERY SUCCESS SCHOLARSHIP ACT; PROVIDING POWERS AND DUTIES; PROVIDING ELIGIBILITY AND AWARD CRITERIA; INCREASING THE DISTRIBUTION OF LOTTERY PROCEEDS TO THE LOTTERY SUCCESS FUND; CHANGING THE DISTRIBUTION OF LOTTERY PROCEEDS FROM THE PUBLIC SCHOOL OUTLAY FUND TO THE EDUCATIONAL TECHNOLOGY FUND; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 6-24-3 NMSA 1978 (being Laws 1995, Chapter 155, Section 3) is amended to read:

"6-24-3. PURPOSES. -- The purposes of the New Mexico Lottery Act are to:

A. establish and provide for the conduct of a fair and honest lottery for the entertainment of the public; and

B. provide the maximum amount of revenues, without imposing additional taxes or using other state revenues, for the purposes of:

(1) funding educational technology needs of the public schools; and

(2) providing tuition assistance to resident undergraduates at New Mexico post-secondary educational institutions. "

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

"6-24-23. LOTTERY SUCCESS FUND CREATED--PURPOSE. --

A. The "lottery success fund" is created in the state treasury. The fund shall be administered by the commission on higher education. Earnings from investment of the fund shall accrue to the credit of the fund.

B. Money in the lottery success fund is appropriated to the commission on higher education for distribution to New Mexico's public post-secondary educational institutions to offset the cost of tuition for New Mexico resident undergraduates as provided by law. "

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

"6-24-24. DISPOSITION OF REVENUE. --

A. As nearly as practical, an amount equal to at least fifty percent of the gross annual revenues from the sale of lottery tickets shall be returned to the public in the form of lottery prizes.

B. The authority shall transmit all net revenues to the state treasurer, who shall deposit them in the lottery success fund. Estimated net revenues shall be transmitted monthly to the state treasurer for deposit in the funds; provided that the total amount of annual net revenues for the fiscal year shall be transmitted no later than August 1 each

year. After the amount appropriated by the legislature has been accounted for, ten percent of the balance shall remain in the lottery success fund as a reserve and the remainder in the fund shall be transferred to the educational technology fund to carry out the purposes of the Technology for Education Act.

C. In determining net revenues, operating expenses of the lottery include all costs incurred in the operation and administration of the lottery and all costs resulting from any contracts entered into for the purchase or lease of goods or services required by the lottery, including the costs of supplies, materials, tickets, independent audit services, independent studies, data transmission, advertising, promotion, incentives, public relations, communications, commissions paid to lottery retailers, printing, distribution of tickets, purchases of annuities or investments to be used to pay future installments of winning lottery tickets, debt service and payment of any revenue bonds issued, contingency reserves, transfers to the reserve fund and any other necessary costs incurred in carrying out the provisions of the New Mexico Lottery Act.

D. An amount up to two percent of the gross annual revenues shall be set aside as a reserve fund to cover bonuses and incentive plans for lottery retailers, special promotions for retailers, purchasing special promotional

giveaways, sponsoring special promotional events, compulsive gambling rehabilitation and such other purposes as the board deems necessary to maintain the integrity and meet the revenue goals of the lottery. The board shall report annually to the governor and each regular session of the legislature on the use of the money in the reserve fund. Any balance in excess of fifty thousand dollars (\$50,000) at the end of any fiscal year shall be transferred to the lottery success fund."

Section 4. Section 21-1-2 NMSA 1978 (being Laws 1970, Chapter 9, Section 1, as amended) is amended to read:

"21-1-2. MATRICULATION AND TUITION FEES. --

A. Except as otherwise provided in this section, the boards of regents of the university of New Mexico, New Mexico state university, New Mexico highlands university, western New Mexico university, eastern New Mexico university, New Mexico military institute, New Mexico institute of mining and technology and New Mexico junior college shall establish and charge matriculation fees and tuition fees as follows:

(1) each student shall be charged a matriculation fee of not less than five dollars (\$5.00) upon enrolling in each institution;

(2) each student who is a resident of New Mexico shall be charged a tuition fee of not less than twenty dollars (\$20.00) a year;

(3) each student who is not a resident of New Mexico shall be charged a tuition fee of not less than fifty dollars (\$50.00) a year;

(4) each student shall be charged a tuition fee of not less than ten dollars (\$10.00) for each summer session; and

(5) each student may be charged a tuition fee for extension courses.

B. Except as otherwise provided in this section, the board of regents of northern New Mexico state school shall establish and charge each student a matriculation fee and a tuition fee.

C. The board of regents of each institution may establish and grant gratis scholarships to students who are residents of New Mexico in an amount not to exceed the matriculation fee or tuition and fees, or both. The number of scholarships established and granted pursuant to this subsection shall not exceed three percent of the preceding fall semester enrollment in each institution and shall not be established and granted for summer sessions. The president of each institution shall select and recommend to the board of regents of his institution, as recipients of scholarships, students who possess good moral character and satisfactory initiative, scholastic standing and personality. At least thirty-three and one-third percent of the gratis scholarships

established and granted by each board of regents each year shall be granted on the basis of financial need.

D. The board of regents of each institution set out in this subsection may establish and grant, in addition to those scholarships provided for in Subsection C of this section, athletic scholarships for tuition and fees. In no event shall the board of regents of any institution be allowed to award scholarships for tuition and fees for more than the number of athletic scholarships set out in this subsection and in no event shall more than seventy-five percent of the scholarships granted be for out-of-state residents:

(1) the board of regents of the university of New Mexico may grant up to two hundred ninety-three athletic scholarships;

(2) the board of regents of New Mexico state university may grant up to two hundred seventy athletic scholarships;

(3) the boards of regents of New Mexico highlands university, eastern New Mexico university and western New Mexico university may each grant up to one hundred forty athletic scholarships; and

(4) the board of regents of New Mexico junior college may grant up to fifty-two athletic scholarships.

E. In the event that the number of athletic scholarships exceeds the number of athletic scholarships permitted that institution by regulations and bylaws of the national collegiate athletic association or the national association of intercollegiate athletics of which that institution is a member, the appropriate board of regents shall reduce the number of authorized tuition scholarships to comply with association rules and regulations.

F. Matriculation fees and tuition fees shall be fixed and made payable as directed by the board of regents of each institution, collected by the officers of each institution and accounted for as are other funds of the institutions. Matriculation fees shall be charged only once for each institution in which a student enrolls."

Section 5. Section 21-1-4 NMSA 1978 (being Laws 1971, Chapter 235, Section 1, as amended) is amended to read:

"21-1-4. TUITION CHARGES--DEFINITIONS.--

A. The state educational institutions set forth in Article 12, Section 11 of the constitution of New Mexico shall charge tuition, which is in addition to earmarked fees, at rates provided by law.

B. During the regular academic year, "full-time student" means a student who is taking twelve or more credit-hours in one semester or quarter. Full-time students during the academic year shall be charged tuition at rates provided

by law.

C. During the summer session, "full-time student" means a student who is taking at least a minimum number of credit-hours, which minimum is in the same proportion to twelve credit-hours as the duration and normal credit-hour load of the summer session in the particular institution is to the duration and normal credit-hour load of the institution's regular semester or quarter. Full-time students in the summer session shall be charged tuition at resident and nonresident rates in each institution, which rates shall be in the same proportion to the full-time resident and nonresident rates of that institution for the regular semester or quarter as the minimum number of credit-hours is to twelve hours.

D. "Part-time student" means a student who is taking fewer than the minimum number of credit-hours in a semester, quarter or summer session required for full-time student status. Part-time students shall be charged tuition at rates per semester- or quarter-credit-hour as provided by law.

E. The commission on higher education shall define resident and nonresident students for the purpose of administering tuition charges in accordance with the constitution and statutes of the state and after consultation with the appropriate officials of the institutions concerned.

Each institution shall use the uniform definitions so established in assessing and collecting tuition charges from students. "

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

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

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

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

Section 7. Section 21-14-5 NMSA 1978 (being Laws 1957, Chapter 143, Section 4, as amended) is amended to read:

"21-14-5. FINANCING OF BRANCH COMMUNITY COLLEGES--
TUITION AND FEE WAIVERS. --

A. Financing of branch community colleges shall be by tuition and fees, which shall be set by the board of regents of the parent institution, by gifts and grants and by other funds as may be made available pursuant to the provisions of the College District Tax Act or Chapter 21, Article 14 NMSA 1978.

B. The board of regents of the respective parent institution of the branch community college may establish and grant gratis scholarships to students of the branch community college who are residents of New Mexico in an amount not to exceed the matriculation fee or tuition and fees, or both. The number of scholarships established and granted shall not exceed three percent of the preceding fall semester enrollment in the branch community college and shall not be established and granted for summer sessions. The president of each institution shall select and recommend to the board of regents of his institution, as recipients of scholarships, students who possess good moral character and satisfactory initiative, scholastic standing and personality. At least thirty-three and one-third percent of the gratis scholarships established and granted by the board of regents for a branch community college each year shall be granted on the basis of financial need. "

Section 8. A new Section 21-21L-1 NMSA 1978 is enacted to read:

"21-21L-1. SHORT TITLE. -- Chapter 21, Article 21L NMSA 1978 may be cited as the "Lottery Success Scholarship Act". "

Section 9. A new Section 21-21L-2 NMSA 1978 is enacted to read:

"21-21L-2. DEFINITIONS. -- As used in the Lottery Success Scholarship Act:

A. "award recipient" means a student who has been awarded a lottery success scholarship;

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

C. "eligible institution" means a New Mexico public post-secondary educational institution that is funded for instruction and general purposes in the general appropriation act;

D. "high school diploma" means a general educational development certificate or high school diploma that was earned no earlier than May 1996:

(1) from a public or accredited private high school in New Mexico;

(2) from an accredited home school program operating in New Mexico;

(3) from an out-of-state high school to which the superintendent of public instruction made

supplemental distributions pursuant to Section 22-8-30 NMSA 1978 to pay the secondary out-of-state tuition of the student because school facilities were not reasonably available in the New Mexico school district in which the student resided; or

(4) from a New Mexico general educational development certification test for which the certification date is considered the graduation date;

E. "institutional scholarships" means scholarships other than lottery success scholarships that are funded by government, institutional or private resources, excluding need-based grant and loan aid and work-study assistance;

F. "lottery success scholarship" means a scholarship awarded from proceeds of the lottery success fund to defray part of the cost of tuition; and

G. "satisfactory academic progress" means maintenance of a grade point average of 2.5 or higher on a 4.0 grading scale each regular semester of enrollment."

Section 10. A new Section 21-21L-3 NMSA 1978 is enacted to read:

"21-21L-3. SCHOLARSHIP PROGRAM - COMMISSION - - BOARDS OF REGENTS - - GOVERNING BOARDS - - POWERS AND DUTIES. - -

A. The "lottery success scholarship program" is established and shall be administered by the commission.

B. The commission shall adopt and promulgate rules to carry out the provisions of the Lottery Success Scholarship Act, including guidelines setting forth explicit student initial and continuing eligibility criteria and guidelines for administration of the lottery success scholarship program in accordance with the Lottery Success Scholarship Act.

C. The board of regents or governing board of an eligible institution shall:

(1) to the extent that funds are appropriated by the legislature to the commission from the lottery success fund, award lottery success scholarships to students who meet the requirements of the Lottery Success Scholarship Act;

(2) develop a method to notify students during their first regular semester of enrollment of their possible eligibility for a lottery success scholarship;

(3) designate an officer responsible for administering the lottery success scholarship program for the eligible institution, who shall ensure that participating students meet all initial and continuing eligibility requirements for lottery success scholarships pursuant to the Lottery Success Scholarship Act and rules promulgated in accordance with that act;

(4) draw down funds from the commission on a

semester basis on behalf of award recipients no earlier than the census date of each semester; provided that all funds drawn down in a fiscal year shall be for award recipients enrolled during the same fiscal year;

(5) maintain a file for each award recipient, including social security number, semester and cumulative grade point average, proof of initial and continuing enrollment and proof of receipt of a high school diploma;

(6) provide an annual report to the commission, including the number of awards granted, amount of funds awarded, number of awards renewed and ethnicity and gender of award recipients; and

(7) carry out the provisions of the Lottery Success Scholarship Act and rules promulgated by the commission in accordance with that act. "

Section 11. A new Section 21-21L-4 NMSA 1978 is enacted to read:

"21-21L-4. DETERMINATION OF LOTTERY SUCCESS SCHOLARSHIPS--USE OF LOTTERY SUCCESS FUND--COMMISSION DUTIES.--Prior to June 1 of each year, the commission shall determine the amount of money available for lottery success scholarships at eligible institutions. Based on the amount appropriated by the legislature from the lottery success fund and on the projected eligible enrollment at all eligible

institutions, the commission shall establish the award amount for qualified students attending eligible institutions. The commission shall adjust the maximum amount of a lottery success scholarship award annually, with the percentage increased in the maximum award equal to the percentage increase in the higher education tuition credit in the general appropriation act for the next academic year. In no instance shall an award to an award recipient exceed the cost of tuition, taking into account any other scholarships."

Section 12. A new Section 21-21L-5 NMSA 1978 is enacted to read:

"21-21L-5. SCHOLARSHIP OF LAST RESORT. --The lottery success scholarship is a scholarship of last resort. All institutional scholarship funds a student has received shall be credited to the student's account before determining the amount of the lottery success scholarship award for that student. Nothing in this section requires an eligible institution to award institutional scholarship funds in any manner inconsistent with the criteria established for such scholarship."

Section 13. A new Section 21-21L-6 NMSA 1978 is enacted to read:

"21-21L-6. ELIGIBILITY FOR SCHOLARSHIP-- MAXIMUM LENGTH OF SCHOLARSHIP-- TRANSFERS-- ELIGIBILITY EXCEPTIONS. --

A. A lottery success scholarship is available to

a student who meets the following eligibility requirements:

(1) the student is a United States citizen or permanent resident alien and a resident of New Mexico;

(2) the student:

(a) was accepted for entrance to and attended an eligible institution within one year after earning a high school diploma; or

(b) within one hundred twenty days of earning a high school diploma, began service in the United States armed forces and within one hundred twenty days of completion of honorable service or medical discharge from the United States armed forces was accepted for entrance to and attended an eligible institution;

(3) the student is enrolled in a certificate or degree-seeking program at an eligible institution;

(4) the student made satisfactory academic progress during his first semester to qualify for the initial lottery success scholarship and continues to maintain satisfactory academic progress to remain an award recipient; and

(5) the student complies with all rules of the commission and the eligible institution pertaining to the lottery success scholarship program.

B. Each lottery success scholarship shall be awarded for a maximum of one hundred twenty credit hours

within four consecutive academic years. A student shall receive a lottery success scholarship for full-time attendance at an eligible institution.

C. A student may transfer between eligible institutions without affecting his eligibility for a lottery success scholarship.

D. A lottery success scholarship shall not be awarded to a student who holds a degree, unless that degree is an associate's degree earned within the time limit of four consecutive academic years and the student is working toward a baccalaureate degree.

E. The commission may adopt and promulgate rules providing for exceptions to the eligibility requirements of this section for documented medical conditions or cooperative education, military or other approved commitments."

Section 14. A new Section 21-21L-7 NMSA 1978 is enacted to read:

"21-21L-7. TERMINATION OF SCHOLARSHIP.--A lottery success scholarship is terminated upon:

A. failure of the award recipient to meet continuing eligibility requirements, including failure to make satisfactory academic progress, withdrawal from the eligible institution and failure to reenroll for consecutive academic years; or

B. substantial noncompliance by the award

recipient with the lottery success scholarship program or rules promulgated by the commission or the eligible institution. "

Section 15. REPEAL. -- Sections 21-1-4.3, 21-1-4.4 and 21-16-10.1 NMSA 1978 (being Laws 1996, Chapter 71, Sections 3, 4 and 6, as amended) are repealed.

Section 16. EFFECTIVE DATE. -- The effective date of the provisions of this act is July 1, 2001. _____