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HOUSE BILL 28

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Luciano "Lucky" Varela

ENDORSED BY THE LEGISLATIVE EDUCATION STUDY COMMITTEE

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

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

4 (1) funding [~~critical capital outlay~~]
5 educational technology needs of the public schools; and

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

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

11 "6-24-23. LOTTERY [~~TUITION~~] SUCCESS FUND CREATED--
12 PURPOSE. --

13 A. The "lottery [~~tuition~~] success fund" is created
14 in the state treasury. The fund shall be administered by the
15 commission on higher education. Earnings from investment of
16 the fund shall accrue to the credit of the fund. Any balance
17 in the fund at the end of [~~any~~] a fiscal year shall remain in
18 the fund for appropriation by the legislature as provided in
19 this section.

20 B. [~~After appropriation, if any, by the~~
21 ~~legislature for scholarships pursuant to Subsection C of~~
22 ~~Section 21-1-2 NMSA 1978, the remaining~~] Money in the lottery
23 [~~tuition~~] success fund is appropriated to the commission on
24 higher education for distribution to New Mexico's public
25 post-secondary educational institutions to [~~provide tuition~~

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1 ~~assistance]~~ offset the cost of tuition for New Mexico resident
2 undergraduates as provided by law. "

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

5 "6-24-24. DISPOSITION OF REVENUE. --

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

10 B. The authority shall transmit all net revenues
11 to the state treasurer, who shall deposit [~~fifty~~] forty
12 percent of the revenues in the [~~public school capital outlay~~]
13 educational technology fund for expenditure pursuant to the
14 provisions of the [~~Public School Capital Outlay~~] Technology
15 for Education Act and [~~fifty~~] sixty percent in the lottery
16 [~~tuition~~] success fund. Estimated net revenues shall be
17 transmitted monthly to the state treasurer for deposit in the
18 funds; provided that the total amount of annual net revenues
19 for the fiscal year shall be transmitted no later than August
20 1 each year.

21 C. In determining net revenues, operating expenses
22 of the lottery include all costs incurred in the operation and
23 administration of the lottery and all costs resulting from any
24 contracts entered into for the purchase or lease of goods or
25 services required by the lottery, including the costs of

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1 supplies, materials, tickets, independent audit services,
2 independent studies, data transmission, advertising,
3 promotion, incentives, public relations, communications,
4 commissions paid to lottery retailers, printing, distribution
5 of tickets, purchases of annuities or investments to be used
6 to pay future installments of winning lottery tickets, debt
7 service and payment of any revenue bonds issued, contingency
8 reserves, transfers to the reserve fund and any other
9 necessary costs incurred in carrying out the provisions of the
10 New Mexico Lottery Act.

11 D. An amount up to two percent of the gross annual
12 revenues shall be set aside as a reserve fund to cover bonuses
13 and incentive plans for lottery retailers, special promotions
14 for retailers, purchasing special promotional giveaways,
15 sponsoring special promotional events, compulsive gambling
16 rehabilitation and such other purposes as the board deems
17 necessary to maintain the integrity and meet the revenue goals
18 of the lottery. The board shall report annually to the
19 governor and each regular session of the legislature on the
20 use of the money in the reserve fund. Any balance in excess
21 of fifty thousand dollars (\$50,000) at the end of any fiscal
22 year shall be transferred to the lottery [~~tuition~~] success
23 fund. "

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

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

2 A. Except as otherwise provided in this section
3 [~~and in Section 21-1-4.3 NMSA 1978~~], the boards of regents of
4 the university of New Mexico, New Mexico state university, New
5 Mexico highlands university, western New Mexico university,
6 eastern New Mexico university, New Mexico military institute,
7 New Mexico institute of mining and technology and New Mexico
8 junior college shall establish and charge matriculation fees
9 and tuition fees as follows:

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

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

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

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

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

24 B. Except as otherwise provided in this section
25 [~~and in Section 21-1-4.3 NMSA 1978~~], the board of regents of

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1 northern New Mexico state school shall establish and charge
2 each student a matriculation fee and a tuition fee.

3 C. The board of regents of each institution may
4 establish and grant gratis scholarships to students who are
5 residents of New Mexico in an amount not to exceed the
6 matriculation fee or tuition and fees, or both. [~~These~~
7 ~~scholarships are in addition to the lottery tuition~~
8 ~~scholarships authorized in Section 21-1-4.3 NMSA 1978 and~~
9 ~~shall be granted to the full extent of available funds before~~
10 ~~lottery tuition scholarships are granted.~~] The number of
11 scholarships established and granted pursuant to this
12 subsection shall not exceed three percent of the preceding
13 fall semester enrollment in each institution and shall not be
14 established and granted for summer sessions. The president of
15 each institution shall select and recommend to the board of
16 regents of his institution, as recipients of scholarships,
17 students who possess good moral character and satisfactory
18 initiative, scholastic standing and personality. At least
19 thirty-three and one-third percent of the gratis scholarships
20 established and granted by each board of regents each year
21 shall be granted on the basis of financial need.

22 D. The board of regents of each institution set
23 out in this subsection may establish and grant, in addition to
24 those scholarships provided for in Subsection C of this
25 section, athletic scholarships for tuition and fees. In no

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1 event shall the board of regents of any institution be allowed
2 to award scholarships for tuition and fees for more than the
3 number of athletic scholarships set out in this subsection and
4 in no event shall more than seventy-five percent of the
5 scholarships granted be for out-of-state residents:

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

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

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

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

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

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

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

9 "21-1-4. TUITION CHARGES--DEFINITIONS. --

10 A. [~~Except as provided in Section 21-1-4.3 NMSA~~
11 ~~1978~~] The state educational institutions set forth in Article
12 12, Section 11 of the constitution of New Mexico shall charge
13 tuition, which is in addition to earmarked fees, at rates
14 provided by law.

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

20 C. During the summer session, "full-time student"
21 means a student who is taking at least a minimum number of
22 credit-hours, which minimum is in the same proportion to
23 twelve credit-hours as the duration and normal credit-hour
24 load of the summer session in the particular institution is to
25 the duration and normal credit-hour load of the institution's

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1 regular semester or quarter. Full-time students in the summer
2 session shall be charged tuition at resident and nonresident
3 rates in each institution, which rates shall be in the same
4 proportion to the full-time resident and nonresident rates of
5 that institution for the regular semester or quarter as the
6 minimum number of credit-hours is to twelve hours.

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

13 E. The commission on higher education shall define
14 resident and nonresident students for the purpose of
15 administering tuition charges in accordance with the
16 constitution and statutes of the state and after consultation
17 with the appropriate officials of the institutions concerned.
18 Each institution shall use the uniform definitions so
19 established in assessing and collecting tuition charges from
20 students. "

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

23 "21-13-10. BOARD DUTIES. --

24 A. It is the duty of the community college board
25 to determine financial and educational policies of the

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1 community college. The community college board shall provide
2 for the management of the community college and execution of
3 these policies by selecting a competent president for the
4 community college, and, upon the president's recommendation,
5 the board shall employ other administrative personnel,
6 instructional staff or other personnel as may be needed for
7 the operation, maintenance and administration of the community
8 college.

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

16 ~~[C.—To the extent that funds are made available by~~
17 ~~the legislature from the lottery tuition fund, the community~~
18 ~~college board shall award tuition scholarships for qualified~~
19 ~~resident students attending their respective institutions.—~~
20 ~~All other scholarship funds available to the board shall be~~
21 ~~used before granting any lottery tuition scholarships.—~~

22 ~~D.—The tuition scholarships authorized in this~~
23 ~~section shall apply only to full-time resident students who,~~
24 ~~immediately upon completion of a high school curriculum at a~~
25 ~~public or accredited private New Mexico high school or upon~~

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1 ~~receiving a graduate equivalent diploma, are accepted for~~
2 ~~entrance to and attend a community college. Each tuition~~
3 ~~scholarship shall be awarded for up to two consecutive years~~
4 ~~beginning the second semester of the recipient's first year of~~
5 ~~enrollment, provided that the recipient has maintained~~
6 ~~residency in New Mexico and maintained a grade point average~~
7 ~~of 2.5 or higher on a 4.0 scale during his first semester of~~
8 ~~full-time enrollment.~~

9 ~~E. The commission on higher education shall~~
10 ~~prepare guidelines setting forth explicit student continuing~~
11 ~~eligibility criteria and guidelines for administration of the~~
12 ~~tuition scholarship program. Guidelines shall be distributed~~
13 ~~to community college boards to enable a uniform availability~~
14 ~~of the scholarship.]"~~

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

17 "21-14-5. FINANCING OF BRANCH COMMUNITY COLLEGES--
18 TUITION AND FEE WAIVERS. --

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

25 B. The board of regents of the respective parent

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1 institution of the branch community college may establish and
2 grant gratis scholarships to students of the branch community
3 college who are residents of New Mexico in an amount not to
4 exceed the matriculation fee or tuition and fees, or both.

5 [~~Except as provided in Section 21-1-4.3 NMSA 1978~~] The number
6 of scholarships established and granted shall not exceed three
7 percent of the preceding fall semester enrollment in the
8 branch community college and shall not be established and
9 granted for summer sessions. The president of each
10 institution shall select and recommend to the board of regents
11 of his institution, as recipients of scholarships, students
12 who possess good moral character and satisfactory initiative,
13 scholastic standing and personality. At least thirty-three
14 and one-third percent of the gratis scholarships established
15 and granted by the board of regents for a branch community
16 college each year shall be granted on the basis of financial
17 need. "

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

20 "21-21L-1. [NEW MATERIAL] SHORT TITLE. -- Chapter 21,
21 Article 21L NMSA 1978 may be cited as the "Lottery Success
22 Scholarship Act". "

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

25 "21-21L-2. [NEW MATERIAL] DEFINITIONS. -- As used in the

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1 Lottery Success Scholarship Act:

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

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

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

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

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

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

17 (3) from an out-of-state high school to which
18 the superintendent of public instruction made supplemental
19 distributions pursuant to Section 22-8-30 NMSA 1978 to pay the
20 secondary out-of-state tuition of the student because school
21 facilities were not reasonably available in the New Mexico
22 school district in which the student resided; or

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

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

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

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

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

13 "21-21L-3. [NEW MATERIAL] SCHOLARSHIP PROGRAM -
14 COMMISSION-- BOARDS OF REGENTS-- GOVERNING BOARDS-- POWERS AND
15 DUTIES. --

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

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

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

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

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

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

15 (4) draw down funds from the commission on a
16 semester basis on behalf of award recipients no earlier than
17 the census date of each semester; provided that all funds
18 drawn down in a fiscal year shall be for award recipients
19 enrolled during the same fiscal year;

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

24 (6) provide an annual report to the
25 commission, including the number of awards granted, amount of

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1 funds awarded, number of awards renewed and ethnicity and
2 gender of award recipients; and

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

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

8 "21-21L-4. [NEW MATERIAL] DETERMINATION OF LOTTERY
9 SUCCESS SCHOLARSHIPS--USE OF LOTTERY SUCCESS FUND--COMMISSION
10 DUTIES.--Prior to June 1 of each year, the commission shall
11 determine the amount of money available for lottery success
12 scholarships at eligible institutions. Based on the amount
13 appropriated by the legislature from the lottery success fund
14 and on the projected eligible enrollment at all eligible
15 institutions, the commission shall establish the award amount
16 for qualified students attending eligible institutions. The
17 commission shall adjust the maximum amount of a lottery
18 success scholarship award annually, with the percentage
19 increased in the maximum award equal to the percentage
20 increase in the higher education tuition credit in the general
21 appropriation act for the next academic year. In no instance
22 shall an award to an award recipient exceed the cost of
23 tuition, taking into account any other scholarships. "

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

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1 "21-21L-5. [NEW MATERIAL] SCHOLARSHIP OF LAST RESORT. --

2 The lottery success scholarship is a scholarship of last
3 resort. All institutional scholarship funds a student has
4 received shall be credited to the student's account before
5 determining the amount of the lottery success scholarship
6 award for that student. Nothing in this section requires an
7 eligible institution to award institutional scholarship funds
8 in any manner inconsistent with the criteria established for
9 such scholarship. "

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

12 "21-21L-6. [NEW MATERIAL] ELIGIBILITY FOR SCHOLARSHIP--
13 MAXIMUM LENGTH OF SCHOLARSHIP-- TRANSFERS-- ELIGIBILITY
14 EXCEPTIONS. --

15 A. A lottery success scholarship is available to a
16 student who meets the following eligibility requirements:

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

19 (2) the student:

20 (a) was accepted for entrance to and
21 attended an eligible institution at the next regular semester,
22 excluding summer sessions, after earning a high school
23 diploma; or

24 (b) within one hundred twenty days of
25 earning a high school diploma, began service in the United

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1 States armed forces and within one hundred twenty days of
2 completion of honorable service or medical discharge from the
3 United States armed forces was accepted for entrance to and
4 attended an eligible institution;

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

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

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

15 B. Each lottery success scholarship shall be
16 awarded for a maximum of one hundred twenty credit hours
17 within four consecutive academic years. A student may receive
18 a lottery success scholarship for part-time or full-time
19 attendance at an eligible institution.

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

23 D. A lottery success scholarship shall not be
24 awarded to a student who holds a degree, unless that degree is
25 an associate's degree earned within the time limit of four

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1 consecutive academic years and the student is working toward a
2 baccalaureate degree.

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

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

9 "21-21L-7. [NEW MATERIAL] TERMINATION OF SCHOLARSHIP. -- A
10 lottery success scholarship is terminated upon:

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

16 B. substantial noncompliance by the award
17 recipient with the lottery success scholarship program or
18 rules promulgated by the commission or the eligible
19 institution. "

20 Section 15. REPEAL. -- Sections 21-1-4.3, 21-1-4.4 and
21 21-16-10.1 NMSA 1978 (being Laws 1996, Chapter 71, Sections 3,
22 4 and 6, as amended) are repealed.

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