

HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR  
HOUSE BILLS 22 & 28

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

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

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 fiscal year shall remain in the~~  
18 ~~fund for appropriation by the legislature as provided in this~~  
19 ~~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~~

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 percent of~~  
 12 ~~the revenues in the public school capital outlay fund for~~  
 13 ~~expenditure pursuant to the provisions of the Public School~~  
 14 ~~Capital Outlay Act and fifty percent]~~ them in the lottery  
 15 [~~tuition]~~ success fund. Estimated net revenues shall be  
 16 transmitted monthly to the state treasurer for deposit in the  
 17 funds; provided that the total amount of annual net revenues  
 18 for the fiscal year shall be transmitted no later than August  
 19 1 each year. After the amount appropriated by the legislature  
 20 has been accounted for, ten percent of the balance shall  
 21 remain in the lottery success fund as a reserve and the  
 22 remainder in the fund shall be transferred to the educational  
 23 technology fund to carry out the purposes of the Technology  
 24 for Education Act.

25 C. In determining net revenues, operating expenses

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1 of the lottery include all costs incurred in the operation and  
2 administration of the lottery and all costs resulting from any  
3 contracts entered into for the purchase or lease of goods or  
4 services required by the lottery, including the costs of  
5 supplies, materials, tickets, independent audit services,  
6 independent studies, data transmission, advertising,  
7 promotion, incentives, public relations, communications,  
8 commissions paid to lottery retailers, printing, distribution  
9 of tickets, purchases of annuities or investments to be used  
10 to pay future installments of winning lottery tickets, debt  
11 service and payment of any revenue bonds issued, contingency  
12 reserves, transfers to the reserve fund and any other  
13 necessary costs incurred in carrying out the provisions of the  
14 New Mexico Lottery Act.

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

1 year shall be transferred to the lottery [~~tuition~~] success  
2 fund. "

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

5 "21-1-2. MATRICULATION AND TUITION FEES. --

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

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

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

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

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

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

3 B. Except as otherwise provided in this section  
4 [~~and in Section 21-1-4.3 NMSA 1978~~], the board of regents of  
5 northern New Mexico state school shall establish and charge  
6 each student a matriculation fee and a tuition fee.

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

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

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

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

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

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

22           E. In the event that the number of athletic  
 23 scholarships exceeds the number of athletic scholarships  
 24 permitted that institution by regulations and bylaws of the  
 25 national collegiate athletic association or the national

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1 association of intercollegiate athletics of which that  
2 institution is a member, the appropriate board of regents  
3 shall reduce the number of authorized tuition scholarships to  
4 comply with association rules and regulations.

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

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

13 "21-1-4. TUITION CHARGES--DEFINITIONS. --

14 A. [~~Except as provided in Section 21-1-4.3 NMSA~~  
15 ~~1978~~] The state educational institutions set forth in Article  
16 12, Section 11 of the constitution of New Mexico shall charge  
17 tuition, which is in addition to earmarked fees, at rates  
18 provided by law.

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

24 C. During the summer session, "full-time student"  
25 means a student who is taking at least a minimum number of



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

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

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

25 Section 6. Section 21-13-10 NMSA 1978 (being Laws 1963,

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1 Chapter 17, Section 9, as amended) is amended to read:

2 "21-13-10. BOARD DUTIES. --

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

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

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

1           ~~D. The tuition scholarships authorized in this~~  
 2 ~~section shall apply only to full-time resident students who,~~  
 3 ~~immediately upon completion of a high school curriculum at a~~  
 4 ~~public or accredited private New Mexico high school or upon~~  
 5 ~~receiving a graduate equivalent diploma, are accepted for~~  
 6 ~~entrance to and attend a community college. Each tuition~~  
 7 ~~scholarship shall be awarded for up to two consecutive years~~  
 8 ~~beginning the second semester of the recipient's first year of~~  
 9 ~~enrollment, provided that the recipient has maintained~~  
 10 ~~residency in New Mexico and maintained a grade point average~~  
 11 ~~of 2.5 or higher on a 4.0 scale during his first semester of~~  
 12 ~~full-time enrollment.~~

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

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

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

23           A. Financing of branch community colleges shall be  
 24 by tuition and fees, which shall be set by the board of  
 25 regents of the parent institution, by gifts and grants and by

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1 other funds as may be made available pursuant to the  
2 provisions of the College District Tax Act or Chapter 21,  
3 Article 14 NMSA 1978.

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

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

24 "21-21L-1. [NEW MATERIAL] SHORT TITLE. -- Chapter 21,  
25 Article 21L NMSA 1978 may be cited as the "Lottery Success  
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1 Scholarship Act". "

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

4 "21-21L-2. [NEW MATERIAL] DEFINITIONS. --As used in the  
5 Lottery Success Scholarship Act:

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

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

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

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

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

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

21 (3) from an out-of-state high school to which  
22 the superintendent of public instruction made supplemental  
23 distributions pursuant to Section 22-8-30 NMSA 1978 to pay the  
24 secondary out-of-state tuition of the student because school  
25 facilities were not reasonably available in the New Mexico

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1 school district in which the student resided; or

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

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

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

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

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

17 "21-21L-3. [NEW MATERIAL] SCHOLARSHIP PROGRAM -  
18 COMMISSION-- BOARDS OF REGENTS-- GOVERNING BOARDS-- POWERS AND  
19 DUTIES. --

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

22 B. The commission shall adopt and promulgate rules  
23 to carry out the provisions of the Lottery Success Scholarship  
24 Act, including guidelines setting forth explicit student  
25 initial and continuing eligibility criteria and guidelines for

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1 administration of the lottery success scholarship program in  
2 accordance with the Lottery Success Scholarship Act.

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

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

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

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

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

24 (5) maintain a file for each award recipient,  
25 including social security number, semester and cumulative

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1 grade point average, proof of initial and continuing  
2 enrollment and proof of receipt of a high school diploma;

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

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

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

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

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1 shall an award to an award recipient exceed the cost of  
2 tuition, taking into account any other scholarships. "

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

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

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

16 "21-21L-6. [NEW MATERIAL] ELIGIBILITY FOR SCHOLARSHIP--  
17 MAXIMUM LENGTH OF SCHOLARSHIP-- TRANSFERS-- ELIGIBILITY  
18 EXCEPTIONS. --

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

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

23 (2) the student:

24 (a) was accepted for entrance to and  
25 attended an eligible institution within one year after earning

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1 a high school diploma; or

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

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

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

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

18 B. Each lottery success scholarship shall be  
19 awarded for a maximum of one hundred twenty credit hours  
20 within four consecutive academic years.

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

24 D. A lottery success scholarship shall not be  
25 awarded to a student who holds a degree, unless that degree is

1 an associate's degree earned within the time limit of four  
2 consecutive academic years and the student is working toward a  
3 baccalaureate degree.

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

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

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

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

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

21 Section 15. REPEAL. -- Sections 21-1-4.3, 21-1-4.4 and  
22 21-16-10.1 NMSA 1978 (being Laws 1996, Chapter 71, Sections 3,  
23 4 and 6, as amended) are repealed.

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

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