

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill No: SB 689

48th Legislature, 1st Session, 2007

Short Title: Lottery Scholarships for Disabled Students

Sponsor(s): Senators Cynthia Nava and Shannon Robinson

Analyst: Pamela Herman

Date: February 3, 2007

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

Bill Summary:

SB 689 amends current law to change the conditions of eligibility for students with disabilities participating in the Lottery Tuition Scholarship program who may require special accommodations with respect to:

- the definition of “full time”; and
- the maximum number of consecutive semesters of eligibility.

SB 689 requires the Higher Education Department (HED) to review both of these conditions in consultation with the student and the office at the institution that serves the students with disabilities, and adjust either or both as deemed reasonable and appropriate based on the student’s disability needs. In no case, however, shall “full time” mean fewer than six credit hours per semester and in no case shall eligibility extend beyond fourteen consecutive semesters.

SB 689 would apply to the Lottery Tuition Scholarship program at public four-year postsecondary institutions, community colleges, and technical-vocational institutions.

Fiscal Impact:

- SB 689 does not contain an appropriation. Any fiscal impact of SB 689 would occur to the Lottery Tuition Scholarship Fund.
- In 2006, in analyzing a similar bill, the Legislative Finance Committee (LFC) Fiscal Impact Report estimated that the impact would be minimal. The LFC stated that the expansion of eligibility may enable greater numbers of students with disabilities to attend college and to continue from one semester to the next, thereby increasing costs to the Lottery Tuition Scholarship Fund. However, the LFC stated that to the extent students with disabilities would take fewer courses each semester, costs to the fund would be reduced.

Issues:

- According to 10-year-old data from the National Center for Education Statistics, approximately 6.0 percent of all college undergraduates nationally have a disability, which is less than half of the percent of the public school enrollment in New Mexico who are entitled to special education services because of disabilities.

- The National Council on Disability confirms that students with disabilities are significantly less likely than their peers without disabilities to start postsecondary education, or to persevere and complete a degree. The Council states that, of those who do persist, on average they take twice as long to complete their degrees than their non-disabled peers; and more than 80 percent of disabled students who attempt to earn a postsecondary credential require some assistance to manage or coordinate their educational and related services.
- To qualify for a Lottery Tuition Scholarship under current law, a student must:
 - be a New Mexico resident;
 - have graduated from a New Mexico public high school or accredited New Mexico private high school or have obtained a New Mexico general educational development (GED) certificate;
 - be enrolled full time at an eligible New Mexico public college or university in the first regular semester immediately following high school graduation; and
 - maintain at least a 2.5 grade point average during the first college semester.
- Lottery Tuition Scholarship recipients who make satisfactory academic progress are eligible for up to eight consecutive semesters of aid.
- HED rule defines “full time” to mean at least 12 credit hours per semester. The rule also provides that a documented medical condition can constitute a valid reason for a student’s inability to enroll full time immediately upon graduation from high school or receipt of a GED; in that case, the student’s eligibility shall be suspended until such time as the student can meet all of the eligibility requirements, including full time enrollment.
- According to the Public Education Department (PED), the *Rehabilitation Act of 1973* (commonly known as Section 504) prohibits discrimination solely on the basis of physical or mental disability.
 - A person with a disability may not be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
 - Section 504 applies to all colleges, universities, and postsecondary institutions.
- PED also states that the *Americans with Disabilities Act of 1990 (ADA)* prohibits state and local governments from discriminating on the basis of disability, and the statute is enforced in public colleges, universities, and postgraduate and professional schools.
 - The ADA requires that a public entity shall furnish appropriate auxiliary aids and services where necessary to afford equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by that public entity.
 - Postsecondary institutions must make reasonable accommodations to provide students with disabilities with equal opportunity to participate in courses, programs and activities, and must make academic adjustments such as extensions of time for testing, completion of work or graduation, and substitution of specific courses to meet degree requirements.
 - However, the institutions are not required to provide accommodations that essentially modify the educational program or academic requirements which are essential to a program of study or to fulfill licensing requirements.

- In 2005, in response to a number of proposed changes to the Lottery Tuition Scholarship program, the Legislature created the Legislative Lottery Tuition Scholarship Study Subcommittee to study the program. At hearings held by the subcommittee during the 2005 interim, testimony from the LFC, HED, and the Department of Finance and Administration indicated that, although fund balances in the Lottery Tuition Scholarship Fund had more than doubled since the fund was first credited with 100 percent of all net lottery proceeds, even if eligibility criteria remained unchanged expenditures would exceed revenues beginning in FY 06 and the fund balance would be negative in FY 11.

Background:

- The Legislature created the Lottery Success Scholarship program in 1995 to encourage New Mexico high school graduates to pursue postsecondary education at public state institutions of higher education.
- When the *New Mexico Lottery Act* was first enacted in 1995, provisions in the law required that 60 percent of all net lottery proceeds be credited to the Public School Capital Outlay Fund to be distributed according to provisions of the *Public School Capital Outlay Act*. The remaining 40 percent of the net proceeds was credited to the Lottery Tuition Fund for the Lottery Success Scholarship for qualifying students.
- Since that time, however, the Legislature has enacted major changes in the way New Mexico funds school district capital outlay needs. As a result, the 2001 Legislature amended the *New Mexico Lottery Act* to require that 100 percent of all net lottery proceeds be used for the Lottery Success Scholarship.

Related Bills:

SB 537 *Students with Disabilities Scholarship Act*

HB 518 *Students with Disabilities Scholarship Act*

HB 571 *Lottery Scholarship for Disabled Students* (identical)