

# NEW MEXICO JUNIOR COLLEGE

## SPECIAL BOARD MEETING

Monday, February 7, 2005

**Zia Room - Library**

4:00 p.m.

### AGENDA

- |   |                |
|---|----------------|
| A. Welcome  | Larry Hanna    |
| B. Adoption of Agenda   | Larry Hanna    |
| C. Consideration of Letter of Support of Governor's Higher Education Reform Package | Steve McCleery |
| D. Adjournment  | Larry Hanna    |

February 1, 2005

Dear President Pro-Tempore Ben Altamirano and Speaker Ben Lujan:

The membership of the New Mexico Association of Community Colleges (NMACC) would like to offer our support for your higher education reform package in the 2005 Legislature. Your initiative creating a department of Higher Education should help sharpen the focus of higher education on the needs of New Mexico.

We are pleased that as part of this package you are proposing the College Affordability Act, a needs-based scholarship to address students who need additional assistance to cover non-tuition costs of higher education which are far greater than tuition costs. Many of our community college students come from economically disadvantaged backgrounds and approximately 50% have to work while pursuing a program of study. And we know from our research that the single greatest factor impacting community college student persistence is financial burden.

Your proposed changes to expand eligibility for the Lottery Success Scholarship for tuition will benefit all students who are New Mexico high school or GED graduates and attend our colleges and universities. Providing more non-traditional avenues to access the scholarship will particularly benefit those students that tend to enroll at community colleges. Right now only about 15% of students on lottery attend community colleges whereas 55% of all students enroll at community colleges. We also believe that the decision to decouple the scholarship from tuition charged by our colleges will assist the Legislature in setting scholarship amounts and regulate the distribution of funds. It will also enable more students' families to claim the tuition on their federal tax returns as a HOPE tax credit.

You have our support in the passage of these important pieces of Legislation that are bound to improve the delivery of higher education in New Mexico and ultimately the success of our students.

We also hope that you can support us this Legislative session in the important role community college play in the education and training of New Mexicans. In the preliminary budget recommendations, funding is lacking in three key areas that would help us in our goals of serving the postsecondary needs of the state. These are:

- Equity in the funding formula for community colleges: Neither the DFA or LFC recommendation includes in its workload adjustment community college science lower division funding to match that of the universities. It remains the only undergraduate factor underfunded with a negative impact of (\$667.8)

- Continue supporting increases in non-credit funding which already has had a positive impact of an 84% increase in the non-credit workforce efforts at our community colleges. You and the Legislature now support the Workforce Training Act with \$600.0. We would like to request an additional \$300.0 in the 2005 Legislature.
- Fully fund the Adult Basic Education Program: The program has never been fully funded but to offset this, the Legislature had appropriated \$1,000.0 TANF funds in past years. A reduction in TANF funds for the program by (\$750.0) is being recommended in FY 06. The LFC recommends \$411.3 to offset this reduction but to fully fund the program (which would require an additional \$838.6 based on the ABE formula) an additional \$427.3 is needed.

We hope that you can support us in these funding initiatives.

Thank you for your support of higher education and for your commitment to community colleges. Again, we are committed to support your higher education reform package as it is the right direction for higher education in New Mexico.

xc: Governor Bill Richardson

**New Mexico Association of Community Colleges**

**Members**

Mr. Michael Glennon  
Albuquerque TVI

Dr. Beverlee McClure  
Clovis Community College

Dr. Judy Armstrong  
ENMU-Roswell

Dr. Michael Elrod  
ENMU-Ruidoso

Mr. Leroy Sanchez  
Luna Community College

Dr. Phillip Barry  
Mesalands Community College

Dr. Steve McCleery  
New Mexico Junior College

Dr. Rodger Bates  
NMSU-Alamogordo

Dr. Melvin Vuk  
NMSU-Carlsbad

Dr. Margie Huerta  
NMSU-Dona Ana

Dr. Martin Parks  
NMSU-Grants

Dr. Jose Griego  
Northern NM Community College

Dr. Carol Spencer  
San Juan College

Mr. Jim McLaughlin  
Santa Fe Community College

Dr. Beth Miller  
UNM-Gallup

Dr. Carlos Ramirez  
UNM-Los Alamos

Dr. Alicia Chavez  
UNM-Taos

Dr. Alice Letteney  
UNM-Valencia

**Associate Members**

Mr. James Tutt  
Crownpoint Institute of Technology

Admiral David Ellison  
New Mexico Military Institute

Dr. Joseph Martin  
Southwestern Indian Polytechnic Institute

**Selected Higher Education Bill Summary**  
**February 1, 2005**

**Department of Higher Education: Elevates higher education to a seat on the Governor's Cabinet**

- **Embodies the recommendation of the Governor's Task Force on Higher Education**
- **Creates a Cabinet level department and Cabinet Secretary of Higher Education**
- **Does not diminish the authority and responsibility of local governing boards and Boards of Regents**
- **Includes an advisory board comprised of university and college representatives, business, student, faculty and staff**
- **Does not create a state "super board" of regents**
- **Refocuses higher education on statewide needs, as well as needs of institutions**
- **Does not include alternative structures for branches, centers and twigs**
- **Supported by ACI and other business groups**

**HB620 Lottery eligibility extended to New Mexico students at New Mexico tribal and regionally-accredited private colleges:**

- **Include New Mexico students at our three tribal colleges, Dine, IAIA, SIPI**
  - **Level the playing field of financial aid for all New Mexico students**
  - **Keep New Mexico students in New Mexico, by providing limited financial aid incentives to assist with private college tuition**
  - **Reduce the “brain drain” of our students to other states**
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**College Affordability Act:**

- **To create a needs-based aid fund for New Mexico as a state policy response to needs-based scholarship and expanded state work study funding**
- **Funded by appropriation of the Legislature to create the fund over the next decade (suggested level of \$25M per year, \$10M to build the fund and \$15M for scholarship distribution in 2004-2005)**
- **Supplement the Lottery Success Scholarship (a merit-based scholarship) with a state needs-based aid scholarship**
- **Cover tuition gaps created by the decoupling levels**
- **Fill the gaps in student financial aid to cover non-tuition costs of college charged by the institutions including books, fees, etc.**
- **Create eligibility for students who do not qualify for the Lottery Success Scholarship because of age or year of break in education**
- **In *Measuring Up 2004: The State Report Card on Higher Education*, the National Center on Public Policy and Higher Education gives New Mexico a score of “F” in Affordability because we lack a state-funded needs-base scholarship; (The National Center on Public Policy and Higher Education, Report #04-4, 2004).**

## HOUSE BILL 745

## 47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Ben Lujan

## AN ACT

RELATING TO STATE AGENCIES; CREATING THE HIGHER EDUCATION DEPARTMENT AS A CABINET DEPARTMENT; CREATING A HIGHER EDUCATION ADVISORY BOARD; PROVIDING POWERS AND DUTIES; PROVIDING FOR THE TRANSFER OF APPROPRIATIONS, MONEY, PROPERTY, CONTRACTUAL OBLIGATIONS AND STATUTORY REFERENCES OF THE COMMISSION ON HIGHER EDUCATION TO THE HIGHER EDUCATION DEPARTMENT; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; DECLARING AN EMERGENCY.

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

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through 13 of this act may be cited as the "Higher Education Department Act".

Section 2. [NEW MATERIAL] PURPOSE.--The purpose of the Higher Education Department Act is to establish a single, unified department to administer laws and exercise functions formerly administered and exercised by the commission on higher education.

Section 3. [NEW MATERIAL] DEFINITIONS.--As used in the Higher Education Department Act:

- A. "board" means the higher education advisory board;
- B. "department" means the higher education department; and



C. "secretary" means the secretary of higher education.

Section 4. [NEW MATERIAL] DEPARTMENT CREATED.--The "higher education department" is created in the executive branch. The department is a cabinet department. The secretary may organize the department and divisions of the department and may transfer or merge functions between divisions and bureaus in the interest of efficiency and economy. The secretary shall make recommendations to the second session of the forty-seventh legislature on the statutory organization of the department.

Section 5. [NEW MATERIAL] SECRETARY--APPOINTMENT.--

A. The administrative head of the department is the "secretary of higher education", who shall be appointed by the governor with the consent of the senate and who shall serve in the executive cabinet. The secretary shall possess an earned doctorate from a regionally accredited post-secondary educational institution, a minimum of five years of senior administrative experience, experience in higher education and experience in the development of public policy at the state or federal level.

B. An appointed secretary shall serve and have all of the duties, responsibilities and authority of that office during the period of time prior to final action by the senate confirming or rejecting the secretary's appointment.

Section 6. [NEW MATERIAL] DIVISION DIRECTORS.--The secretary shall appoint, with the approval of the governor, directors of the divisions established within the department. Division directors are exempt from the Personnel Act.

Section 7. [NEW MATERIAL] BUREAU CHIEFS.--The secretary may establish within each division of the department such bureaus as the secretary deems necessary to carry out the provisions of the Higher Education Department Act. The secretary shall employ a chief to be the administrative head of

each bureau. The chiefs and all subsidiary employees of the department shall be covered by the Personnel Act.

Section 8. [NEW MATERIAL] SECRETARY--DUTIES AND GENERAL POWERS.--

A. The secretary is responsible to the governor for the operation of the department. It is the secretary's duty to manage all operations of the department and to administer and enforce the laws with which the secretary or the department is charged.

B. To perform the duties of the secretary, the secretary has every power expressly enumerated in the law, whether granted to the secretary, the department or any division of the department, except when any division is explicitly exempted from the secretary's power by statute. In accordance with these provisions, the secretary shall:

(1) except as otherwise provided in the Higher Education Department Act or Chapter 21 NMSA 1978, exercise general supervisory and appointing power over all department employees, subject to applicable personnel laws and rules;

(2) delegate power to subordinates as the secretary deems necessary and appropriate, clearly delineating such delegated power and the limitations to that power;

(3) organize the department into organizational units as necessary to enable it to function most efficiently, subject to any provisions of law requiring or establishing specific organizational units;

(4) within the limitations of available appropriations and applicable laws, employ and fix the compensation of those persons necessary to discharge the duties of the secretary;

(5) take administrative action by issuing orders and instructions, not inconsistent with law, to ensure implementation of and compliance with the provisions of law for which administration or execution

the secretary is responsible and to enforce those orders and instructions by appropriate administrative action in the courts;

(6) conduct research and studies that will improve the operation of the department and the provision of services to the citizens of the state;

(7) provide courses of instruction and practical training for employees of the department and other persons involved in the administration of programs with the objectives of improving the operations and efficiency of administration;

(8) prepare an annual budget for the department; and

(9) provide cooperation, at the request of administratively attached agencies and adjunct agencies, in order to:

(a) minimize or eliminate duplication of services and jurisdictional conflicts;

(b) coordinate activities and resolve problems of mutual concern; and

(c) resolve by agreement the manner and extent to which the department shall provide budgeting, record keeping and related clerical assistance to administratively attached agencies.

C. The secretary may apply for and receive, with the governor's approval, in the name of the department, any public or private funds, including United States government funds, available to the department to carry out its programs, duties or services.

D. The secretary may make and adopt such reasonable and procedural rules as may be necessary to carry out the duties of the department and its divisions. No rule promulgated by the director of any division in carrying out the functions and duties of the division shall be effective until approved by the secretary. Unless otherwise provided by statute, no rule

affecting any person or agency outside the department shall be adopted, amended or repealed without a public hearing on the proposed action before the secretary or a hearing officer designated by the secretary. The final public hearing on adoption, amendment or repeal of a rule shall be held in Santa Fe unless otherwise permitted by statute. Notice of the subject matter of the rule, the action proposed to be taken, the time and place of the hearing, the manner in which interested persons may present their views and the method by which copies of the proposed rule or proposed amendment or repeal of an existing rule may be obtained shall be published once at least thirty days prior to the hearing date in a newspaper of general circulation and mailed at least thirty days prior to the hearing date to all persons who have made a written request for advance notice of hearing. All rules shall be filed in accordance with the State Rules Act.

Section 9. [NEW MATERIAL] ADDITIONAL DUTIES.--The department shall:

- A. create a statewide public agenda to meet the higher education needs and goals, working with colleges, universities and other stakeholders;
- B. develop recommendations for how much new enrollment capacity is needed and when and how it should be apportioned based on geography, educational sector, state economic needs and other factors; and
- C. by November 1 of each year, present to the legislature a comprehensive funding request and a legislative priorities list for all higher education. The funding request and priorities shall encompass the needs of all public post-secondary educational institutions and programs.

Section 10. [NEW MATERIAL] HIGHER EDUCATION ADVISORY BOARD--MEMBERSHIP--TERMS--ADMINISTRATIVE ATTACHMENT.--

- A. The "higher education advisory board" is created to advise the department and the governor on policy matters and perform other functions as provided by law. The board is administratively attached to the department,

with administrative staff provided by the department.

B. The governor shall appoint nine members giving due regard to geographic representation, cultural diversity and the composition of higher education institutions in New Mexico. Two members shall represent the four-year public post-secondary educational institutions, two members shall represent the two-year public post-secondary educational institutions, one member shall represent the accredited private post-secondary educational institutions, one member shall represent business, one member shall represent college and university faculty, one member shall represent college and university nonfaculty staff and one member shall be a student.

C. Members are entitled to receive per diem and mileage as provided in the Per Diem and Mileage Act and shall receive no other perquisite, compensation or allowance.

D. The board shall annually elect a chair, vice chair and secretary from among its membership. A majority of the members constitutes a quorum for the conduct of business.

E. The board shall meet at the call of the chair at least quarterly. Meetings of the board shall be held in Santa Fe and at other sites within the state at the direction of the board.

Section 11. [NEW MATERIAL] ORGANIZATIONAL UNITS OF THE DEPARTMENT-- POWERS AND DUTIES SPECIFIED BY LAW--ACCESS TO INFORMATION.--Those organizational units of the department and the officers of those units specified by law shall have all of the powers and duties enumerated in the specific laws involved. However, the carrying out of those powers and duties shall be subject to the direction and supervision of the secretary, who shall retain the final decision-making authority and responsibility for the administration of any laws as provided in Subsection B of Section 8 of the Higher Education Department Act. The department shall have access to all

records, data and information of other state departments, agencies and institutions, including its own organizational units, not specifically held confidential by law; provided, however, that all confidential institutional data, including student records and other information that the secretary deems necessary to fulfill the functions of the department, shall be provided to the department, which shall take steps to ensure the confidentiality of such information and records.

Section 12. [NEW MATERIAL] COOPERATION WITH THE FEDERAL GOVERNMENT--  
AUTHORITY OF SECRETARY--SINGLE STATE AGENCY STATUS.--

A. The department is authorized to cooperate with the federal government in the administration of higher education programs in which financial or other participation by the federal government is authorized or mandated under state or federal laws, rules or orders. The secretary may enter into agreements with agencies of the federal government to implement higher education programs subject to availability of appropriated state funds and any provisions of state laws applicable to such agreements or participation by the state.

B. The governor or the secretary may by appropriate order designate the department or any organizational unit of the department as the single state agency for the administration of any higher education program when that designation is a condition of federal financial or other participation in the program under applicable federal law, rule or order. Whether or not a federal condition exists, the governor may designate the department or any organizational unit of the department as the single state agency for the administration of any higher education program. No designation of a single state agency under the authority granted in this section shall be made in contravention of state law.

Section 13. [NEW MATERIAL] ADVISORY COMMITTEES.--

A. In addition to the higher education advisory board, the department may create other advisory committees. "Advisory" means furnishing advice, gathering information, making recommendations and performing such other activities as may be instructed or delegated and as may be necessary to fulfill advisory functions or to comply with federal or private funding requirements and does not extend to administering a program or function or setting policy unless specified by law. Advisory committees shall be appointed in accordance with the provisions of the Executive Reorganization Act.

B. All members of advisory committees are entitled to receive per diem and mileage as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

Section 14. A new section of Chapter 21, Article 1 NMSA 1978 is enacted to read:

"[NEW MATERIAL] EDUCATIONAL NEEDS AND GUIDELINES--ACCOUNTABILITY REPORTS.--

A. The post-secondary educational institutions enumerated in Article 12, Section 11 of the constitution of New Mexico shall meet the statewide educational needs and guidelines defined by rule of the higher education department.

B. All public post-secondary educational institutions, including off-campus instruction programs and learning centers, shall:

(1) approve and submit accountability reports prepared in accordance with rules of the department; and

(2) submit proposed budgets no later than August 1 each year for the following fiscal year."

Section 15. Section 21-1-26 NMSA 1978 (being Laws 1951, Chapter 190, Section 1, as amended) is amended to read:

"21-1-26. [~~COMMISSION ON~~] HIGHER EDUCATION [~~CREATED~~] DEPARTMENT--  
GENERAL POWERS.--

A. [~~There is created a "commission on higher education" whose function is to deal~~] The higher education department shall be concerned with the problems of finance of those educational institutions designated in Article 12, Section 11 of the constitution of New Mexico and other public post-secondary educational institutions in the state. The [~~commission~~] department shall:

(1) be concerned with the adequate financing of these institutions and with the equitable distribution of available funds among them;

~~[(2) be authorized to receive funding for the in-plant development training program and to administer the funds in accordance with the provisions of Section 21-19-7 NMSA 1978;~~

~~(3)]~~ (2) receive, adjust and approve the budgets submitted by these institutions prior to the submission of these budgets to the state budget division of the department of finance and administration;

~~[(4)]~~ (3) develop and maintain programs, on a regular basis, for the orientation and in-service education of members of the boards of regents of the various educational institutions designated in Article 12, Section 11 of the constitution of New Mexico and the governing bodies of other public post-secondary educational institutions in the state;

(4) after July 1, 2005, approve each new degree program of each public post-secondary educational institution prior to the department's approval of the institution's operating budget; and

(5) exercise such other powers as may be granted it by law.

B. Notwithstanding any other provisions of law, the [~~commission on~~] higher education [~~which is a commission broadly representative of the~~



~~public and of institutions of higher education]~~ department may be designated by the governor to administer funds furnished under acts of congress for those educational institutions enumerated in Article 12, Section 11 of the constitution of New Mexico and for any other educational institutions over which the [~~commission~~] department has been granted approval authority or supervisory powers or both.

C. The [~~commission on~~] higher education department is also charged with oversight of all private post-secondary educational institutions operating within the state."

Section 16. Section 21-1-26.1 NMSA 1978 (being Laws 1980, Chapter 145, Section 2) is amended to read:

"21-1-26.1. ADDITIONAL DUTIES.--In addition to the duties imposed upon the [~~board of educational finance~~] higher education department by the Post-Secondary Educational Planning Act, the [~~board~~] department shall [~~have the responsibility of performing~~] perform the same planning and budgeting functions for the [~~Bernalillo county medical center~~] university of New Mexico hospital as it performs for other post-secondary educational institutions."

Section 17. Section 21-1-26.2 NMSA 1978 (being Laws 1981, Chapter 69, Section 1) is amended to read:

"21-1-26.2. POST-SECONDARY EDUCATION--ADULT CORRECTIONAL FACILITIES.-- Upon approval by the corrections [~~and criminal rehabilitation~~] department in consultation with the [~~board of educational finance~~] higher education department, state-supported post-secondary educational institutions shall receive credit on a full-time equivalency basis for students enrolled in their respective programs within adult correctional facilities. Funding recommendations to implement the provisions of this section shall be developed by the [~~board of educational finance~~] higher education department

or the public [~~school finance division of the department of finance and administration~~] education department as appropriate in the same manner that funding recommendations for similar programs at other institutions are calculated."

Section 18. Section 21-1-26.3 NMSA 1978 (being Laws 1986, Chapter 24, Section 3, as amended) is amended to read:

"21-1-26.3. VERIFICATION FUNCTION.--The [~~commission on~~]-higher education department shall annually conduct special verifications of the institutions of higher education. The verifications shall include [~~but not be limited to~~] enrollments, fund balances, compliance with legislation, comparison of expenditures to budgets and other areas to be determined by the [~~commission~~] department. Reports on the verifications shall be made annually to the department of finance and administration and the legislative finance committee. The [~~commission~~] department shall consider the verification findings in making its annual recommendations to the executive and legislature for higher education funding."

Section 19. Section 21-1-26.7 NMSA 1978 (being Laws 1990 (1st S.S.), Chapter 4, Section 2, as amended) is amended to read:

"21-1-26.7. ANNUAL ACCOUNTABILITY REPORT.--

A. The [~~commission on~~] higher education department shall submit an annual accountability report to the governor and to the legislature by December 31. Prior to publication, the [~~commission on higher education~~] department shall distribute a draft of the accountability report to all public post-secondary educational institutions and shall allow comment upon the draft report.

B. The [~~commission on higher education~~] department in consultation with the public post-secondary educational institution shall develop and adopt the content and a format for the report, including the following

information:

- (1) student progress and success;
- (2) student access and diversity;
- (3) affordability and cost of educational services; and
- (4) public and community service by the institutions.

C. The [~~commission on higher education~~] department shall make no funding recommendation, capital outlay recommendation, distribution or certification on behalf of any public post-secondary educational institution that has not submitted the information required pursuant to this section."

Section 20. Section 21-1-26.8 NMSA 1978 (being Laws 1995, Chapter 144, Section 1) is amended to read:

"21-1-26.8. HEALTH PROFESSION ADVISORY COMMITTEE--CREATED--DUTIES.--

A. The "health profession advisory committee" is created to advise the [~~commission on~~] higher education department on matters relating to the administration of student loan programs for health professionals. The health profession advisory committee replaces the medical shortage area committee.

B. The health profession advisory committee shall be composed of a representative of the department of health; a representative of the New Mexico health policy commission; and representatives of public post-secondary health and medical training programs, underserved health and medical area providers, recruiting and placement organizations and professional health and medical associations. Members shall be appointed by the [~~commission on~~] higher education department pursuant to the policies and procedures of the [~~commission~~] department.

C. The health profession advisory committee shall:

- (1) designate health professional shortage areas of the state;
- (2) make recommendations to the [~~commission on higher~~

~~education~~ department on applicants for medical, osteopathic, nursing and allied health loan for service programs and loan repayment programs; and

(3) give advice or other assistance to the [~~commission~~ department] as requested."

Section 21. Section 21-1-26.9 NMSA 1978 (being Laws 1998, Chapter 61, Section 2) is amended to read:

"21-1-26.9. LIMITATION--~~[COMMISSION ON]~~ HIGHER EDUCATION DEPARTMENT--REVIEW OF PROPOSED CAMPUSES.--Effective January 1, 1998, no new public post-secondary educational institution, branch campus or off-campus instructional center shall be created except as specifically created by the legislature. The [~~commission on~~] higher education department shall review any proposal for the establishment of a new public post-secondary educational institution or campus and submit its recommendations to the legislature. In reviewing proposals, the [~~commission~~] department may consider:

- A. provisions for a local mill levy of at least two mills;
- B. population base to provide at least five hundred full-time students;
- C. whether at least fifty percent of the costs of initial construction comes from private or local sources;
- D. governance structure;
- E. means for acquisition of property, including purchase, lease, donations or any other means;
- F. eligibility and level of funding request of the state; and
- G. brokering of extended learning provisions."

Section 22. Section 21-1-26.10 NMSA 1978 (being Laws 1999 (1st S.S.), Chapter 6, Section 18) is amended to read:

"21-1-26.10. [~~COMMISSION ON]~~ HIGHER EDUCATION DEPARTMENT--PLAN FOR FUNDING SIGNIFICANT POST-SECONDARY EDUCATIONAL INFRASTRUCTURE NEEDS.--~~[A--]~~

The ~~[commission on]~~ higher education department, in conjunction with the governing bodies of the post-secondary educational institutions and other state educational institutions confirmed in Article 12, Section 11 of the constitution of New Mexico, shall develop and approve a five-year plan for funding ~~[with supplemental severance tax bonds]~~ the infrastructure renovation and expansion projects designated by the ~~[commission]~~ department as the highest priority of significant needs. The ~~[commission]~~ department shall determine the projects and amounts to be funded, with a timetable for the projects and amounts to be funded each year over the five-year period, subject to review and comment by the educational institutions and subject to ~~[the amount of supplemental severance tax bonds issued each year]~~ appropriations.

~~[B. The commission on higher education shall administer the proceeds from supplemental severance tax bonds appropriated to the commission and distribute the proceeds to the respective governing bodies of the educational institutions with projects that are funded with the proceeds pursuant to the plan approved and adopted by the commission in Subsection A of this section.]"~~

Section 23. Section 21-1-26.11 NMSA 1978 (being Laws 2003, Chapter 394, Section 1) is amended to read:

"21-1-26.11. ~~[COMMISSION ON]~~ HIGHER EDUCATION DEPARTMENT--ADDITIONAL DUTIES.--In addition to the duties imposed upon the ~~[commission on]~~ higher education department by the Post-Secondary Educational Planning Act, the ~~[commission]~~ department shall ~~[have the responsibility of planning and budgeting functions]~~ plan and budget for the statewide adult basic education program and ~~[authority to]~~ shall adopt and promulgate rules for all such adult educational programs. The ~~[commission will]~~ department shall establish a uniform protocol for identifying, communicating with and providing direct

and equitable access to funding for eligible agencies, which include:

- A. local educational agencies;
- B. community-based organizations;
- C. volunteer literacy organizations;
- D. post-secondary institutions;
- E. public or private nonprofit agencies;
- F. public libraries;
- G. public housing authorities; and
- H. a consortium of agencies, organizations, institutions,

libraries or authorities as described in Section 203 of Public Law 105."

Section 24. Section 21-1-27 NMSA 1978 (being Laws 1965, Chapter 267, Section 1, as amended) is amended to read:

"21-1-27. [~~COMMISSION ON~~] HIGHER EDUCATION DEPARTMENT--DISTRIBUTION OF AVAILABLE FUNDS.--In its distribution of available funds and its adjustment and approval of budgets, the [~~commission on~~] higher education department shall not, in any event or in any manner, substitute for public funds any gift, donation, private endowment, patent income or other gratuity received or enjoyed by an institution in determining the adequate financing of an institution under its charge."

Section 25. Section 21-1-33 NMSA 1978 (being Laws 1974, Chapter 30, Section 2, as amended) is amended to read:

"21-1-33. SYSTEM OF ACCOUNTING AND REPORTING--MANUAL.--

A. The [~~commission on~~] higher education department, in consultation with the state auditor, shall compile a manual prescribing a uniform classification of accounts and a uniform system for budgeting and reporting that includes the reporting of all funds available. The manual shall apply to all institutions enumerated in Article 12, Section 11 of the constitution of New Mexico and all their branches, except the New Mexico

school for the blind and visually [~~handicapped~~] impaired and the New Mexico school for the deaf. The manual shall also apply to the [~~New Mexico junior college~~] two-year public post-secondary educational institutions.

B. The uniform system for budgeting and reporting shall require the submission of at least quarterly financial reports.

C. Following [~~approval~~] review by the legislative finance committee, the manual shall be reproduced by the [~~commission on higher education~~] department and filed as required by the State Rules Act. Upon the filing, the requirements set forth in the manual shall constitute rules of the [~~commission~~] department and have the force of law. The [~~commission~~] department shall review the manual annually. Sections of the manual may be revised or amended from time to time by the [~~commission~~] department, and revisions or amendments shall become effective upon [~~approval~~] review by the legislative finance committee and reproduction and filing as provided in this section.

D. All institutions to which this section and Section 21-1-32 NMSA 1978 apply shall comply with all of the requirements in the manual, submit reports to the [~~commission on higher education~~] department as requested and furnish such additional information as the [~~commission~~] department deems necessary."

Section 26. Section 21-1-34 NMSA 1978 (being Laws 1977, Chapter 330, Section 1, as amended) is amended to read:

"21-1-34. EDUCATIONAL TELEVISION EQUIPMENT REPLACEMENT FUND-- DISBURSEMENT.--The "educational television equipment replacement fund" is created. The [~~board of educational finance~~] higher education department shall develop criteria and promulgate [~~regulations~~] rules for the disbursement of money in this fund for the replacement of equipment at educational television stations operated by institutions of higher

education. Disbursement shall be made to the institutions by warrant of the department of finance and administration upon vouchers signed by the ~~[executive]~~ secretary of ~~[the board of educational finance]~~ higher education. It is the intent of the legislature that in subsequent years a specific line item for educational television replacement shall be included in the appropriations recommended for educational television by the ~~[board of educational finance]~~ department. The appropriation to the fund in the General Appropriation Act of 1982 shall not revert to the general fund at the end of any fiscal year, and no subsequent appropriation to the fund shall revert unless it contains the sentence "The appropriation to the educational television equipment replacement fund shall revert."."

Section 27. Section 21-1B-2 NMSA 1978 (being Laws 1995, Chapter 224, Section 2) is amended to read:

"21-1B-2. DEFINITIONS.--As used in the Post-Secondary Education Articulation Act:

A. "articulation" means the transfer of course credit from one institution to another;

B. "commission" or "department" means the ~~[commission on]~~ higher education department;

C. "institution" means a public post-secondary educational institution operating in the state; and

D. "module" or "transfer module" means a standardized list of courses or skills established by the ~~[commission]~~ department for which credit is accepted for transfer from one institution to another."

Section 28. Section 21-13-11 NMSA 1978 (being Laws 1963, Chapter 17, Section 10, as amended) is amended to read:

"21-13-11. STANDARDS AND ACCREDITING OF COMMUNITY COLLEGES.--

A. The community college board shall prescribe the course of study



for the community college and shall define, in conjunction with the [~~commission on~~] higher education department, official standards of excellence in all matters relating to the administration, course of study and quality of instruction, except that the prescribed standards may not be less in quality or quantity than those prescribed for other state institutions of higher learning by the regional accrediting agency that accredits other colleges and universities of the state.

B. The [~~executive director of the commission on higher education~~] department shall annually inspect, or investigate through the requirement of reports prescribed by [~~him~~] the department, each community college. The inspection or investigation by report shall be conducted upon the facilities and program of each community college to determine the extent of compliance with the rules promulgated by the [~~commission~~] department. A report of each inspection or final investigation by report shall be made to the [~~commission~~] department.

C. In the event of any serious deviation from established practices and procedures or any deficiencies that impair the quality of the instructional program in any community college, the [~~commission on higher education~~] department shall first call these to the attention of the president of the community college and the community college board.

D. In the case of repeated failure to meet the standards provided for in Subsection A of this section, the [~~commission on higher education~~] department may take action discontinuing the approval of any community college so delinquent. Upon a showing that the unsatisfactory conditions have been remedied, the [~~commission~~] department may reinstate its approval of a disapproved community college."

Section 29. Section 21-21B-1 NMSA 1978 (being Laws 1982, Chapter 88, Section 1) is amended to read:

"21-21B-1. SHORT TITLE.--~~[This act]~~ Chapter 21, Article 21B NMSA 1978 may be cited as the "Work-Study Act"."

Section 30. Section 21-21B-2 NMSA 1978 (being Laws 1982, Chapter 88, Section 2) is amended to read:

"21-21B-2. DEFINITIONS.--As used in the Work-Study Act:

A. "board" or "commission" or "department" means the ~~[board of educational finance]~~ higher education department; and

B. "institution" means any state post-secondary educational institution and any private nonprofit post-secondary educational institution within New Mexico."

Section 31. TEMPORARY PROVISION--GUIDELINES AND RECOMMENDATIONS.--

A. By January 1, 2006, the higher education department shall develop guidelines for community colleges, branch community colleges, technical and vocational institutes, off-campus instruction programs and learning centers that define the minimum population base, fiscal resources, program expertise and community support for each college, program and center.

B. By January 1, 2007, the higher education department shall review all existing community colleges, branch community colleges, technical and vocational institutes, off-campus instruction programs and learning centers based on the guidelines and make recommendations to the legislature and the governor for statutory changes.

Section 32. TEMPORARY PROVISION--TRANSFERS.--

A. On the effective date of this act, all functions, appropriations, money, personnel, records, files, furniture, equipment and other property of the commission on higher education shall be transferred to the higher education department.

B. On the effective date of this act, all contractual obligations

of the commission on higher education shall be binding on the higher education department.

C. On the effective date of this act, all references in law to the commission on higher education shall be deemed to be references to the higher education department and all references in law to the executive director of the commission on higher education shall be deemed to be references to the secretary of higher education.

Section 33. REPEAL.--Sections 21-1-28 through 21-1-31 NMSA 1978 (being Laws 1977, Chapter 246, Section 49, Laws 1971, Chapter 224, Section 1 and Laws 1951, Chapter 190, Sections 3 and 4, as amended) are repealed.

Section 34. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

## SENATE BILL 651

## 47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Ben D. Altamirano

## AN ACT

RELATING TO HIGHER EDUCATION; DECOUPLING THE LOTTERY SCHOLARSHIPS FROM THE ACTUAL RATE OF TUITION CHARGED BY PUBLIC POST-SECONDARY INSTITUTIONS.

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

Section 1. Section 21-1-4.4 NMSA 1978 (being Laws 1996, Chapter 71, Section 4) is amended to read:

"21-1-4.4. COMMISSION ON HIGHER EDUCATION--DETERMINATION OF [~~TUITION~~] SCHOLARSHIPS--USE OF LOTTERY TUITION FUND.--

A. Prior to June 1 of each year, the commission on higher education shall determine the amount of money available for [~~tuition~~] scholarships at state public post-secondary educational institutions. Based on the amount appropriated by the legislature from the lottery tuition fund and on the projected enrollment at all public post-secondary educational institutions, the commission on higher education shall [~~establish the percentage of tuition that shall be awarded for qualified resident students attending New Mexico public post-secondary educational institutions. The percentage of tuition awarded shall be the same for each institution,~~

~~regardless of the actual cost of tuition at each institution]~~ recommend, as part of the annual budget recommendation for higher education, a tuition award amount that will determine the flat rate of tuition scholarship awards:

(1) a flat tuition scholarship award amount for a qualified student attending the New Mexico institute of mining and technology, New Mexico state university or the university of New Mexico;

(2) a flat scholarship award amount for a qualified student attending eastern New Mexico university, New Mexico highlands university or western New Mexico university; and

(3) a flat scholarship award amount for a qualified student attending northern New Mexico state school or a post-secondary educational institution created pursuant to Chapter 21, Article 13, 14, 14A or 16 NMSA 1978.

B. For fiscal year 2006:

(1) the scholarship award amount shall be one thousand four hundred dollars (\$1,400) for a qualified student attending the New Mexico institute of mining and technology, New Mexico state university or the university of New Mexico;

(2) the scholarship award amount shall be nine hundred dollars (\$900) for a qualified student attending eastern New Mexico university, New Mexico highlands university or western New Mexico university; and

(3) the scholarship award amount shall be five hundred dollars (\$500) for a qualified student attending northern New Mexico state school or a post-secondary educational institution created pursuant to Chapter 21, Article 13, 14, 14A or 16 NMSA 1978.

C. For fiscal year 2007 and succeeding fiscal years, the

legislature shall determine the amounts of tuition scholarship awards.

D. The scholarship award shall be placed in an account at the institution in the student's name and may be drawn upon to pay any educational expense charged by the institution, including tuition, fees, books and course supplies, but not including room and board."

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SENATE BILL 669

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Michael S. Sanchez

AN ACT

RELATING TO EDUCATION; ENACTING THE COLLEGE AFFORDABILITY ACT; PROVIDING FOR SCHOLARSHIPS; CREATING FUNDS; MAKING AN APPROPRIATION.

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

Section 1. SHORT TITLE.--This act may be cited as the "College Affordability Act".

Section 2. PURPOSE.--The purpose of the College Affordability Act is to encourage New Mexico students with financial need to attend and complete educational programs at public post-secondary educational institutions in New Mexico.

Section 3. DEFINITIONS.--As used in the College Affordability Act:

- A. "commission" means the commission on higher education; and
- B. "student" means a resident of New Mexico who is enrolled or will be enrolled, at the time the scholarship is awarded, in a public post-secondary educational institution in New Mexico.

Section 4. CONDITIONS FOR ELIGIBILITY.--A college affordability scholarship may be awarded to any person who:

A. is a resident of New Mexico for the purpose of tuition payment;

B. has not earned a baccalaureate degree and is enrolled or will be enrolled at least half-time in a degree program in a public post-secondary educational institution in New Mexico at the time the scholarship is awarded;

C. has demonstrated financial need consistent with the criteria promulgated by the commission; and

D. has complied with other rules promulgated by the commission to carry out the provisions of the College Affordability Act.

Section 5. SCHOLARSHIP AUTHORIZED--ADMINISTRATION--PREFERENCE IN SCHOLARSHIP AWARDS.--

A. The commission shall administer the College Affordability Act and shall promulgate rules to carry out the provisions of that act.

B. Scholarships shall be awarded to qualified applicants. Qualifications shall be determined by rule of the commission.

C. The commission shall allocate money to public post-secondary educational institutions based on student need according to income reported on the free application for federal student aid and on the percentage of the institution's students classified as returning adults who are otherwise ineligible for state financial aid.

D. Public post-secondary educational institutions shall make awards to qualifying students based on financial need in an amount not to exceed one thousand dollars (\$1,000) per semester as determined by rule of the commission.

E. Money for an awarded scholarship shall be placed in an account at the public post-secondary educational institution in the name of the student, and the money may be drawn upon to pay educational expenses charged



by the institution, including tuition, fees, books and course supplies.

Section 6. DURATION OF SCHOLARSHIP.--Each scholarship is for a period of one semester. A scholarship may be renewed, provided the recipient continues to meet the conditions of eligibility, until the award recipient has received eight consecutive semester scholarship awards or until the student graduates from an eligible four-year public post-secondary educational institution, whichever occurs first.

Section 7. TERMINATION OF SCHOLARSHIP.--A scholarship is terminated upon occurrence of one or more of the following:

A. withdrawal of the award recipient from the public post-secondary educational institution or failure to remain as at least a half-time student;

B. failure of the award recipient to achieve satisfactory academic progress; or

C. substantial noncompliance by the award recipient with the College Affordability Act or the rules promulgated pursuant to that act.

Section 8. FUNDS CREATED.--

A. The "college affordability endowment fund" is created in the state treasury, consisting of appropriations; unspecified gifts, grants and donations; and income from investment of the fund. Income from investment of the fund shall be distributed to the college affordability scholarship fund as provided in Subsection C of this section and no other distributions, transfers or reversions shall be made from the fund at the end of any fiscal year.

B. The "college affordability scholarship fund" is created in the state treasury, consisting of income from investment of the fund as provided in Subsection C of this section and any specified appropriations, gifts, grants and donations. Money in the scholarship fund is appropriated to the

commission for scholarship awards as provided in the College Affordability Act. Expenditures from the scholarship fund shall be by warrant of the secretary of finance and administration pursuant to vouchers signed by the executive director of the commission on higher education or the executive director's authorized representative.

C. Until the corpus of the endowment fund is two hundred fifty million dollars (\$250,000,000), fifty percent of the income from investment of the fund shall be applied to the corpus of the fund and fifty percent shall be distributed annually to the scholarship fund, from which the commission will make scholarship awards as provided in the College Affordability Act.

Section 9. APPROPRIATION.--

A. Ten million dollars (\$10,000,000) is appropriated from the general fund to the college affordability endowment fund for fiscal year 2005 and subsequent fiscal years. The first distribution from the fund shall not occur until fiscal year 2007. Balances in the fund shall not revert to the general fund at the end of a fiscal year.

B. Fifteen million dollars (\$15,000,000) is appropriated from the general fund to the college affordability scholarship fund for expenditure in fiscal years 2005 and 2006 to carry out the purposes of the fund and the College Affordability Act. Any unexpended or unencumbered balance remaining at the end of fiscal year 2006 shall not revert to the general fund.