

SENATE BILL 135

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Bill B. O'Neill and Joy Garratt

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO HIGHER EDUCATION; CREATING THE OPPORTUNITY SCHOLARSHIP ACT; CREATING THE OPPORTUNITY SCHOLARSHIP FUND; PROVIDING FOR LOTTERY TUITION SCHOLARSHIPS FOR CERTAIN RETURNING STUDENTS; MAKING APPROPRIATIONS.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through 6 of this act may be cited as the "Opportunity

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Scholarship Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the Opportunity Scholarship Act:

A. "community college" means a branch community college of a four-year state educational institution, a two-year state educational institution or a community college or technical and vocational institute established pursuant to Chapter 21, Article 13 or 16 NMSA 1978, respectively;

B. "department" means the higher education department;

C. "eligible institution" means a public post-secondary educational institution or a tribal college that has a current and valid memorandum of understanding regarding institution eligibility with the department, and which memorandum of understanding is approved by the department;

D. "four-year opportunity scholarship" means a scholarship that provides tuition assistance per program semester for a qualified student enrolled in a four-year program at an eligible institution;

E. "full time" means fifteen or more credit hours each program semester of the regular academic year in four-year programs and twelve or more credit hours each program semester of the regular academic year in two-year programs;

F. "fund" means the opportunity scholarship fund;

G. "opportunity scholarship", without modification,

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includes a two-year opportunity scholarship and a four-year opportunity scholarship;

H. "program semesters" means those semesters for which a qualified student may receive an opportunity scholarship;

I. "public post-secondary educational institution" means a state educational institution or a community college;

J. "qualified student" means a recent graduate learner or a returning student learner;

K. "recent graduate learner" means a full-time student who does not have an associate's, bachelor's, master's or doctoral degree and who graduated from a public or accredited private New Mexico high school or who received a high school equivalency credential while maintaining residency in New Mexico and who:

(1) either:

(a) within sixteen months of graduation or receipt of a high school equivalency credential, was accepted for entrance to and attended an eligible institution; or

(b) within four months of graduation or receipt of a high school equivalency credential, began service in the United States armed forces and, within sixteen months of completion of honorable service or medical discharge from the service, attended an eligible institution; and

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(2) successfully completed the first semester at an eligible institution with a grade point average of 2.5 or higher on a 4.0 scale during the first semester of full-time enrollment and maintains a cumulative grade point average of 2.5 or higher on a 4.0 scale at an eligible institution;

L. "returning student learner" means a student eighteen years of age or older who has a high school diploma or who has received a high school equivalency credential and who does not have an associate's, bachelor's, master's or doctoral degree, who has been a resident of New Mexico for the preceding twelve consecutive months and who maintains a cumulative grade point average of 2.0 or higher on a 4.0 scale at an eligible institution;

M. "state educational institution" means an institution of higher education enumerated in Article 12, Section 11 of the constitution of New Mexico;

N. "tribal college" means a tribally, federally or congressionally chartered eligible institution located in New Mexico that is accredited by the higher learning commission;

O. "tuition and fees" means mandatory costs paid by or for a qualified student to an eligible institution for coursework;

P. "two-year opportunity scholarship" means a scholarship that provides tuition assistance per program semester for a qualified student enrolled in a two-year program

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at an eligible institution; and

Q. "two-year program" means a program at an eligible institution of two years' duration or less that upon completion results in an associate's degree or other credential.

SECTION 3. [NEW MATERIAL] OPPORTUNITY SCHOLARSHIPS AUTHORIZED--QUALIFIED STUDENTS.--

A. To the extent that money is available in the fund, the boards of regents or governing bodies of eligible institutions shall award opportunity scholarships in department-approved amounts to qualified students attending their respective eligible institutions.

B. A qualified student is eligible to receive an opportunity scholarship; provided that the student maintains residency in New Mexico and:

(1) for a recent graduate learner, for a maximum of seven program semesters, achieves the earlier of:

(a) completion of a full-time course load per program semester up to one hundred eighty credit hours; or

(b) receipt of a bachelor's degree; and

(2) for a returning student learner, for a maximum of ten program semesters, achieves the earlier of:

(a) completion of six or more credit hours per program semester up to ninety credit hours; or

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(b) receipt of an associate's degree.

C. No qualified student shall simultaneously receive an opportunity scholarship as a recent graduate learner and a returning student learner.

D. For students with disabilities who may require accommodations, the department, in consultation with the student and the office at the eligible institution that serves students with disabilities, shall review SEC→both the definition of "full time" and←SEC the maximum number of consecutive program semesters of eligibility and adjust it as deemed reasonable and appropriate, based on the student's disability needs. In no case, however, SEC→shall "full time" mean fewer than six credit hours per semester, and in no case←SEC shall eligibility extend beyond fourteen consecutive program semesters. The definition of "qualified student" notwithstanding, a New Mexico resident who had to leave the state to receive an education pursuant to the federal Individuals with Disabilities Education Act shall be eligible for an opportunity scholarship if the student graduated from an accredited high school in another state and otherwise meets the qualifications for an opportunity scholarship pursuant to the definition of "qualified student" and this section.

SECTION 4. [NEW MATERIAL] OPPORTUNITY SCHOLARSHIP AMOUNT.--

A. Prior to June 1 of each year, based on the

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amount appropriated by the legislature from the fund for two-year opportunity scholarships and four-year opportunity scholarships and on the projected enrollment at all eligible institutions, the department shall:

(1) determine the total amount of money necessary to pay for opportunity scholarships for recent graduate learners at each eligible institution;

(2) determine the total amount of money necessary to pay for opportunity scholarships for returning student learners at each eligible institution; and

(3) notify each eligible institution of the determinations made pursuant to Paragraphs (1) and (2) of this subsection.

B. The department shall distribute an amount not to exceed the remaining balance in the fund; and, to the extent that money is available in the fund, the department shall distribute an amount that shall pay the balance of the full cost of tuition and fees for qualified students at each eligible institution after all state non-loan-based student financial aid has been paid to or on behalf of the student.

**SECTION 5. [NEW MATERIAL] OPPORTUNITY SCHOLARSHIP FUND
CREATED--PURPOSE.--**

A. The "opportunity scholarship fund" is created in the state treasury. The fund consists of all money appropriated to the fund and any grants, gifts and bequests

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made to the fund. The fund shall be administered by the department. Earnings from investment of the fund shall accrue to the credit of the fund. Any balance in the fund at the end of any fiscal year shall SEC→~~remain in the fund for appropriation by the legislature as provided in this section.~~←SEC SEC→be transferred to the lottery tuition fund.←SEC

B. Money in the fund is subject to appropriation by the legislature to the department for distribution to eligible institutions to provide tuition and fee assistance for qualified students as provided for in the Opportunity Scholarship Act.

SECTION 6. [NEW MATERIAL] DEPARTMENT RULEMAKING AND REPORTING.--

A. The department shall promulgate rules setting forth explicit criteria in accordance with the Opportunity Scholarship Act for:

- (1) student qualification and continuing eligibility;
- (2) calculating the total amount of money necessary to pay for opportunity scholarships at each eligible institution pursuant to Section 4 of the Opportunity Scholarship Act and guidelines for the administration of the opportunity scholarship program; and
- (3) requirements for the memoranda of

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understanding regarding institution eligibility to participate in the opportunity scholarship program.

B. The department shall report by November 1 of each year to the legislative finance committee and the department of finance and administration on the:

- (1) status of the fund; and
- (2) opportunity scholarship program

participation data aggregated for each eligible institution to show the:

- (a) number of qualified students who received opportunity scholarships in the prior academic year;
- (b) total number of students enrolled in eligible institutions in the prior academic year; and
- (c) number of qualified students who graduated with a degree and, for each qualified student, the number of consecutive semesters and nonconsecutive semesters attended prior to graduation.

SECTION 7. A new section of the Legislative Lottery Tuition Scholarship Act is enacted to read:

"[NEW MATERIAL] RETURNING LOTTERY STUDENT--REPORTING.--The department shall report by November 1, 2021 and by each following November 1 through 2024 to the legislative finance committee and the department of finance and administration on the number of returning lottery students."

SECTION 8. Section 21-21N-2 NMSA 1978 (being Laws 2014, .219089.1SAAIC February 25, 2021 (9:24am)

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Chapter 80, Section 2, as amended) is amended to read:

"21-21N-2. DEFINITIONS.--As used in the Legislative Lottery Tuition Scholarship Act:

A. "community college" means a branch community college of a four-year state educational institution, a two-year state educational institution or a community college or technical and vocational institute established pursuant to Chapter 21, Article 13 or 16 NMSA 1978, respectively;

B. "comprehensive institution" means eastern New Mexico university, western New Mexico university, New Mexico highlands university or northern New Mexico college;

C. "department" means the higher education department;

D. "full time" means fifteen or more credit hours each semester of the regular academic year in state educational institutions and twelve or more credit hours each semester of the regular academic year in community colleges or for legacy students in any program semester;

E. "fund" means the lottery tuition fund;

F. "legacy student" means a full-time resident student who has received for three or more program semesters by the end of fiscal year 2014 the legislative lottery scholarship awarded pursuant to the former provisions of Sections 21-1-4.3, 21-13-10 and 21-16-10.1 NMSA 1978 prior to the enactment of the Legislative Lottery Tuition Scholarship Act;

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G. "program semesters" means those semesters for which a legacy, returning lottery student or qualified student may receive a tuition scholarship and excludes the first semester of attendance at a public post-secondary educational institution;

H. "public post-secondary educational institution" means a four-year state educational institution or a community college;

I. "qualified student" means a full-time student who graduated from a public or accredited private New Mexico high school or who received a high school equivalency credential while maintaining residency in New Mexico and who:

(1) either:

(a) within sixteen months of graduation or receipt of a high school equivalency credential, was accepted for entrance to and attended a public post-secondary educational institution; or

(b) within four months of graduation or receipt of a high school equivalency credential, began service in the United States armed forces and within sixteen months of completion of honorable service or medical discharge from the service, attended a public post-secondary educational institution; and

(2) successfully completed the first semester at a public post-secondary educational institution with a grade

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point average of 2.5 or higher on a 4.0 scale during the first semester of full-time enrollment;

J. "research institution" means the university of New Mexico, New Mexico state university or New Mexico institute of mining and technology;

K. "returning lottery student" means a full-time student who:

(1) has received for two or more program semesters of tuition scholarship by the end of fiscal year 2021 the legislative lottery scholarship awarded;

(2) is a resident of New Mexico;

(3) is within thirty-six credit hours of receiving the student's first bachelor's degree from a public post-secondary educational institution or tribal college in New Mexico;

(4) has not received a tuition scholarship on or after the fall semester of 2018; and

(5) is enrolled at least six credit hours per semester and maintains a grade point average of 2.5 or higher on a 4.0 scale for each semester the student receives a tuition scholarship;

[K-] L. "state educational institution" means an institution of higher education enumerated in Article 12, Section 11 of the constitution of New Mexico;

[L-] M. "tribal college" means a tribally,

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federally or congressionally chartered post-secondary educational institution located in New Mexico that is accredited by the higher learning commission; and

[M-] N. "tuition scholarship" means the scholarship that provides tuition assistance per program semester for a qualified student, a returning lottery student or legacy student attending a public post-secondary educational institution or tribal college."

SECTION 9. Section 21-21N-3 NMSA 1978 (being Laws 2014, Chapter 80, Section 3, as amended by Laws 2019, Chapter 33, Section 1 and by Laws 2019, Chapter 54, Section 2) is amended to read:

"21-21N-3. TUITION SCHOLARSHIPS AUTHORIZED--QUALIFIED STUDENTS.--

A. To the extent that funds are made available by the legislature from the fund, the boards of regents or governing bodies of public post-secondary educational institutions and tribal colleges shall award tuition scholarships in department-approved amounts to qualified students, returning lottery students and legacy students attending their respective public post-secondary educational institutions.

B. Beginning in fiscal year 2015:

(1) a legacy student is eligible to receive a tuition scholarship until the total number of program semesters

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for which the legislative lottery scholarship is received pursuant to the former provisions of Sections 21-1-4.3, 21-13-10 and 21-16-10.1 NMSA 1978 or the Legislative Lottery Tuition Scholarship Act reaches eight; provided that the legacy student maintains residency in New Mexico, maintains a grade point average of 2.5 or higher on a 4.0 scale and completes twelve or more credit hours per program semester; ~~and~~

(2) a qualified student who is not a legacy student is eligible to receive the tuition scholarship for a maximum of seven program semesters and in an amount determined pursuant to the provisions of Section 21-21N-4 NMSA 1978; and

(3) a returning lottery student who receives a tuition scholarship pursuant to this section shall receive the scholarship for the shorter of:

(a) a maximum of six semesters; or

(b) the number of semesters necessary to receive the student's first bachelor's degree.

C. Except as otherwise provided in this section, a tuition scholarship may be awarded to a qualified student who:

(1) maintains residency in New Mexico;

(2) maintains a grade point average of 2.5 or higher on a 4.0 scale; and

(3) completes:

(a) for a student attending a four-year public post-secondary educational institution or a tribal

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college, fifteen or more credit hours per program semester; and

(b) for a student attending a two-year public post-secondary educational institution, twelve or more credit hours per program semester.

D. For students with disabilities who may require accommodations, the department, in consultation with the student and the office at the public post-secondary educational institution or the tribal college that serves students with disabilities, shall review both the definition of "full time" and the maximum number of consecutive program semesters of eligibility 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 program semesters. The definition of "qualified student" notwithstanding, a New Mexico resident who had to leave the state to receive an education pursuant to the federal Individuals with Disabilities Education Act shall be eligible for a tuition scholarship if the student graduated from an accredited high school in another state and otherwise meets the qualifications for a tuition scholarship pursuant to the definition of "qualified student" and this section."

SECTION 10. APPROPRIATION.-- SEC→~~Twenty-six million dollars (\$26,000,000)~~←SEC SEC→**Twenty-two million dollars (\$22,000,000)**←SEC is appropriated from the general fund to the

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opportunity scholarship fund for expenditure in fiscal year 2022 ~~SEC→and subsequent fiscal years←SEC~~ to fund two-year opportunity scholarships pursuant to the Opportunity Scholarship Act and execution of the provisions of that act. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall ~~SEC→not revert to the general fund←SEC~~ ~~SEC→~~ **be transferred to the lottery tuition fund** ←SEC .

SECTION 11. APPROPRIATION.--Four million dollars (\$4,000,000) is appropriated from the general fund to the lottery tuition fund for expenditure in fiscal year 2022 and subsequent fiscal years to support the education of returning lottery scholarship students in fiscal years 2022 through 2025 pursuant to Section 9 of this act. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.

SECTION 12. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.