

1 SENATE BILL 140

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022**

3 INTRODUCED BY

4 Elizabeth "Liz" Stefanics and Joy Garratt

5
6
7
8
9
10 AN ACT

11 RELATING TO HIGHER EDUCATION; ENACTING THE OPPORTUNITY
12 SCHOLARSHIP ACT; AMENDING, REPEALING AND ENACTING SECTIONS OF
13 THE NMSA 1978; MAKING AN APPROPRIATION.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
17 through 8 of this act may be cited as the "Opportunity
18 Scholarship Act".

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

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

.221556.2GLG

underscored material = new
~~[bracketed material] = delete~~

underscored material = new
[bracketed material] = delete

1 B. "department" means the higher education
2 department;

3 C. "eligible student" means a New Mexico resident
4 who is enrolled or enrolling at least half-time in a public
5 post-secondary educational institution or tribal college at any
6 time later than ninety days following high school graduation or
7 the award of a high school equivalency credential;

8 D. "public post-secondary educational institution"
9 means a four-year state educational institution or a community
10 college;

11 E. "scholarship" means an opportunity scholarship;

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

15 G. "tribal college" means a tribally, federally or
16 congressionally chartered post-secondary educational
17 institution located in New Mexico that is accredited by the
18 higher learning commission.

19 SECTION 3. [NEW MATERIAL] CONDITIONS FOR ELIGIBILITY.--A
20 scholarship may be awarded to an eligible student who:

21 A. has not earned a baccalaureate degree at the
22 time the scholarship is awarded;

23 B. is enrolled in a minimum of six credit hours per
24 semester;

25 C. maintains a cumulative grade point average of

.221556.2GLG

underscoring material = new
~~[bracketed material] = delete~~

1 2.5 on a 4.0 scale; and

2 D. has complied with other rules promulgated by the
3 department to carry out the provisions of the Opportunity
4 Scholarship Act.

5 SECTION 4. [NEW MATERIAL] SCHOLARSHIP AUTHORIZED--
6 ADMINISTRATION.--

7 A. The department shall administer the Opportunity
8 Scholarship Act and shall promulgate rules to carry out the
9 provisions of that act.

10 B. Scholarships shall be awarded to qualified
11 eligible students in an amount not to exceed one hundred
12 percent of tuition and fees after all other state financial aid
13 has been applied. Qualifications shall be determined by rule
14 of the department.

15 C. Prior to June 1 of each year, based on the
16 amount appropriated by the legislature from the opportunity
17 scholarship fund and on the projected enrollment at all public
18 post-secondary educational institutions and tribal colleges,
19 the department shall:

20 (1) determine the total amount of money
21 available for all scholarships for eligible students;

22 (2) determine the award amount for public
23 post-secondary educational institutions and tribal colleges;
24 and

25 (3) notify all public post-secondary

.221556.2GLG

underscoring material = new
[bracketed material] = delete

1 educational institutions and tribal colleges of the
2 determinations made pursuant to Paragraphs (1) and (2) of this
3 subsection.

4 D. In determining distribution and award amounts
5 for the scholarships, the department shall:

6 (1) distribute to all public post-secondary
7 educational institutions and tribal colleges an amount not to
8 exceed the remaining balance in the opportunity scholarship
9 fund; and

10 (2) subject to the provisions of Paragraph (1)
11 of this subsection, distribute to each public post-secondary
12 educational institution and tribal college an amount based on
13 the projected enrollment at each four-year public post-
14 secondary educational institution and tribal college.

15 SECTION 5. [NEW MATERIAL] DURATION OF SCHOLARSHIP
16 AUTHORIZED.--Each scholarship is for a period of one semester.
17 A scholarship may be renewed, provided the eligible student
18 continues to meet the conditions of eligibility, until the
19 eligible student graduates from a four-year public post-
20 secondary educational institution or tribal college.

21 SECTION 6. [NEW MATERIAL] TERMINATION OF SCHOLARSHIP
22 AUTHORIZED.--A scholarship is terminated upon occurrence of:

23 A. withdrawal of the eligible student from the
24 public post-secondary educational institution or tribal college
25 or failure to remain as at least a half-time student;

.221556.2GLG

underscored material = new
[bracketed material] = delete

1 B. failure of the eligible student to achieve
2 satisfactory academic progress set by the public post-secondary
3 educational institution or tribal college; or

4 C. substantial noncompliance by the eligible
5 student with the Opportunity Scholarship Act or the rules
6 promulgated pursuant to that act.

7 SECTION 7. [NEW MATERIAL] FUND CREATED.--The "opportunity
8 scholarship fund" is created as a nonreverting fund in the
9 state treasury, consisting of income from investment of the
10 fund and any specified distributions, appropriations, gifts,
11 grants and donations to the fund. Money in the fund is
12 appropriated to the department for scholarship awards as
13 provided in the Opportunity Scholarship Act. Expenditures from
14 the fund shall be by warrant of the secretary of finance and
15 administration pursuant to vouchers signed by the secretary of
16 higher education or the secretary's authorized representative.

17 SECTION 8. [NEW MATERIAL] DEPARTMENT RULEMAKING AND
18 REPORTING.--

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

22 (1) student qualification and continuing
23 eligibility;

24 (2) calculating the total amount of money
25 necessary to pay for opportunity scholarships at each eligible

underscoring material = new
~~[bracketed material] = delete~~

1 institution pursuant to Section 4 of the Opportunity
2 Scholarship Act and guidelines for the administration of the
3 Opportunity Scholarship Act; and

4 (3) requirements for the memoranda of
5 understanding regarding institution eligibility to participate
6 in the opportunity scholarship program.

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

10 (1) status of the opportunity scholarship
11 fund; and

12 (2) Opportunity Scholarship Act participation
13 data aggregated for each eligible institution to show the:

14 (a) number of eligible students who
15 received scholarships in the prior academic year;

16 (b) total number of students enrolled in
17 eligible institutions in the prior academic year; and

18 (c) number of eligible students who
19 graduated with a degree and, for each eligible student, the
20 number of consecutive semesters and nonconsecutive semesters
21 attended prior to graduation.

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

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

25 A. As nearly as practical, an amount equal to at
.221556.2GLG

underscored material = new
[bracketed material] = delete

1 least fifty percent of the gross annual revenue from the sale
2 of lottery tickets shall be returned to the public in the form
3 of lottery prizes.

4 B. No later than the last business day of each
5 month, the authority shall transmit at least [~~twenty-seven~~
6 ~~percent of the gross revenue of the previous month until~~
7 ~~December 31, 2008 and at least~~] thirty percent of the gross
8 revenue of the previous month [~~thereafter~~] to the state
9 treasurer, who shall deposit it in the [~~lottery tuition~~]
10 opportunity scholarship fund.

11 C. Operating expenses of the lottery include all
12 costs incurred in the operation and administration of the
13 lottery and all costs resulting from any contracts entered into
14 for the purchase or lease of goods or services required by the
15 lottery, including the costs of supplies, materials, tickets,
16 independent audit services, independent studies, data
17 transmission, advertising, promotion, incentives, public
18 relations, communications, commissions paid to lottery
19 retailers, printing, distribution of tickets, purchases of
20 annuities or investments to be used to pay future installments
21 of winning lottery tickets, debt service and payment of any
22 revenue bonds issued, contingency reserves, transfers to the
23 reserve fund and any other necessary costs incurred in carrying
24 out the provisions of the New Mexico Lottery Act."

25 SECTION 10. TEMPORARY PROVISION.--Upon the effective date

.221556.2GLG

underscoring material = new
~~[bracketed material] = delete~~

1 of the Opportunity Scholarship Act, all balances of the
2 legislative endowment scholarship fund, college affordability
3 endowment fund and lottery tuition fund shall be transferred to
4 the opportunity scholarship fund.

5 SECTION 11. APPROPRIATION.--Eighty-five million five
6 hundred thirty-six thousand five hundred dollars (\$85,536,500)
7 is appropriated from the general fund to the opportunity
8 scholarship fund for expenditure in fiscal year 2023 and
9 subsequent fiscal years to fund scholarships pursuant to the
10 Opportunity Scholarship Act and to execute the provisions of
11 that act. Any unexpended or unencumbered balance remaining at
12 the end of a fiscal year shall not revert to the general fund.

13 SECTION 12. REPEAL.--Sections 21-21J-1 through 21-21J-8,
14 21-21L-1 through 21-21L-8 and 21-21N-1 through 21-21N-7 NMSA
15 1978 (being Laws 1995, Chapter 35, Sections 1 through 8, Laws
16 2005, Chapter 192, Sections 1 through 8, Laws 2014, Chapter 80,
17 Sections 1 through 4, Laws 1995, Chapter 155, Section 23, Laws
18 2014, Chapter 80, Section 6 and Laws 2015, Chapter 84, Section
19 2, as amended) are repealed.

20 SECTION 13. EFFECTIVE DATE.--The effective date of the
21 provisions of this act is July 1, 2022.