

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE BILL 140

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

AN ACT

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

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
cited as the "Opportunity 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;

B. "department" means the higher education

1 department;

2 C. "eligible student" means a New Mexico resident
3 who is enrolled or enrolling in at least six credit hours,
4 excluding the summer semester, in a public post-secondary
5 educational institution or tribal college at any time following
6 high school graduation or the award of a high school
7 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.--

20 A. A scholarship may be awarded to an eligible
21 student who:

22 (1) has not earned a baccalaureate degree at
23 the time the scholarship is awarded;

24 (2) is enrolled in a minimum of six credit
25 hours per semester and no more than eighteen credit hours per

1 fall or spring semester;

2 (3) maintains a cumulative grade point average
3 of 2.5 on a 4.0 scale; and

4 (4) has complied with other rules promulgated
5 by the department to carry out the provisions of the
6 Opportunity Scholarship Act.

7 B. A scholarship may be awarded for the summer
8 semester; provided that the student enrolls in no less than
9 three and no more than nine credit hours.

10 C. A scholarship may only be awarded for one
11 credit-bearing certificate, one associate degree and one
12 bachelor's degree per student.

13 D. A scholarship for a credit-bearing certificate
14 may only be awarded where data indicates that the certificate
15 is in high demand by New Mexico employers as determined by the
16 department in consultation with the workforce solutions
17 department.

18 E. Students with disabilities or exceptional
19 mitigating circumstances may petition for a waiver of
20 eligibility requirements on a per semester basis. The lead
21 financial aid officer of the public post-secondary institution
22 or tribal college shall exercise professional judgment in
23 consideration of any request for a waiver.

24 SECTION 4. [NEW MATERIAL] SCHOLARSHIP AUTHORIZED--
25 ADMINISTRATION.--

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1 A. The department shall administer the Opportunity
2 Scholarship Act and shall promulgate rules to carry out the
3 provisions of that act.

4 B. Scholarships shall be awarded to qualified
5 eligible students in an amount not to exceed one hundred
6 percent of tuition and fees after all other state financial aid
7 has been applied. Qualifications shall be determined by rule
8 of the department.

9 C. Prior to June 1 of each year, based on the
10 amount appropriated by the legislature from the opportunity
11 scholarship fund and on the projected enrollment at all public
12 post-secondary educational institutions and tribal colleges,
13 the department shall:

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

16 (2) determine the award amount for public
17 post-secondary educational institutions and tribal colleges;
18 and

19 (3) notify all public post-secondary
20 educational institutions and tribal colleges of the
21 determinations made pursuant to Paragraphs (1) and (2) of this
22 subsection.

23 D. In determining distribution and award amounts
24 for the scholarships, the department shall:

25 (1) distribute to all public post-secondary

1 educational institutions and tribal colleges an amount not to
2 exceed the remaining balance in the opportunity scholarship
3 fund; and

4 (2) subject to the provisions of Paragraph (1)
5 of this subsection, distribute to each public post-secondary
6 educational institution and tribal college an amount based on
7 the projected enrollment at each four-year public post-
8 secondary educational institution and tribal college.

9 SECTION 5. [NEW MATERIAL] DURATION OF SCHOLARSHIP
10 AUTHORIZED.--

11 A. Each scholarship is for a period of one
12 semester, including the summer semester. A scholarship may be
13 renewed; provided that the eligible student continues to meet
14 the conditions of eligibility.

15 B. Scholarships may be provided to an eligible
16 student until the eligible student receives a credit-bearing
17 certificate.

18 C. Scholarships may be provided to an eligible
19 student for up to ninety credit hours for the completion of an
20 associate degree.

21 D. Scholarships may be provided to an eligible
22 student for up to one hundred sixty credit hours for the
23 completion of a bachelor's degree.

24 E. Scholarships may be provided to an eligible
25 student until the eligible student graduates from a four-year

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1 public post-secondary educational institution or tribal
2 college.

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

5 A. withdrawal of the eligible student from the
6 public post-secondary educational institution or tribal college
7 or failure to remain enrolled in at least six credit hours per
8 semester, excluding the summer semester;

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

12 C. substantial noncompliance by the eligible
13 student with the Opportunity Scholarship Act or the rules
14 promulgated pursuant to that act.

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

25 SECTION 8. [NEW MATERIAL] DEPARTMENT RULEMAKING AND

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1 REPORTING.--

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

5 (1) student qualification and continuing
6 eligibility;

7 (2) calculating the total amount of money
8 necessary to pay for opportunity scholarships at each eligible
9 institution pursuant to Section 4 of the Opportunity
10 Scholarship Act and guidelines for the administration of the
11 Opportunity Scholarship Act; and

12 (3) requirements for the memoranda of
13 understanding regarding institution eligibility to participate
14 in the opportunity scholarship program.

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

18 (1) status of the opportunity scholarship
19 fund; and

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

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

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

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1 (c) number of eligible students who
2 graduated with a degree and, for each eligible student, the
3 number of consecutive semesters and nonconsecutive semesters
4 attended prior to graduation.

5 SECTION 9. TEMPORARY PROVISION.--Upon the effective date
6 of the Opportunity Scholarship Act:

7 A. all balances of the legislative endowment
8 scholarship fund and the college affordability endowment fund
9 shall be transferred to the opportunity scholarship fund; and

10 B. any appropriation to the opportunity scholarship
11 program within the General Appropriation Act of 2022 shall be
12 transferred to the opportunity scholarship fund.

13 SECTION 10. REPEAL.--Sections 21-21J-1 through 21-21J-8
14 and 21-21L-1 through 21-21L-8 NMSA 1978 (being Laws 1995,
15 Chapter 35, Sections 1 through 8 and Laws 2005, Chapter 192,
16 Sections 1 through 8, as amended) are repealed.

17 SECTION 11. EFFECTIVE DATE.--The effective date of the
18 provisions of this act is July 1, 2022.