

Proposed Rule Abstract

1. **Agency:** Higher Education Department
2. **Rule Citation:** 5.7.20 NMAC, Legislative Lottery Scholarship Program
3. **Rulemaking Action:** Amendment
4. **Register Issue and Date of Notice of Proposed Rulemaking:** Volume 30, Issue 10, May 28, 2019
5. **Effective Date:** July 30, 2019
6. **Citation to Specific Legal Authority:** Sections 6-24-1 through 6-24-34 NMSA 1978, Sections 21-21N-1 through 21-21N-7 NMSA 1978
7. **Short Explanation of the Rule's Purpose:** To include tribal colleges as eligible institutions and update student eligibility criteria for the Legislative Lottery Scholarship Program.
8. **Link to Full Text of the Rule:**
http://www.hed.state.nm.us/uploads/CalendarV2/a7356d4addee44719d8d9730b6bf223d/5.7.20_NMAC_DRAFT_5_28.pdf#CalendarContent
9. **How Information on the Rule Can Be Obtained:** From the Higher Education Department, 2044 Galisteo St., Suite 4, Santa Fe, NM 87505, or from HigherEd.Info@state.nm.us
10. **Comment Period and Deadlines:** May 28, 2019 to July 8, 2019 at 4:00 p.m. Written comments may be submitted to the Higher Education Department, 2044 Galisteo St., Suite 4, Santa Fe, NM 87505, or to HigherEd.Info@state.nm.us.
11. **Rule Hearing:** July 8, 2019, from 12:00 p.m. to 1:00 p.m., at the Higher Education Department, 2044 Galisteo St., Suite 4, Santa Fe, NM 87505
12. **Link to Permanent Agency Rulemaking Record:**
http://statenm.force.com/public/SSP_RuleHearingSearchPublic

Summary of Proposed Rule

The May 28, 2019 issue of the *New Mexico Register* contained a notice of proposed rulemaking for Part 20 of 5.7 NMAC, the Legislative Lottery Scholarship Program. The proposed rule would include tribal colleges as eligible institutions for the legislative lottery scholarship program. The rule also proposes to modify student eligibility criteria related to the federal Individuals with Disabilities Education Act, part-time enrollment, and requirements for students on probation. Finally, the rule clarifies that any reference to high school equivalency credentials is meant to include only such credentials recognized by New Mexico. These proposed changes largely implement requirements of Laws 2019, Chapter 33 and Chapter 54. See, **Attachment 1, Proposed Rule, 5.7.20 NMAC, Legislative Lottery Scholarship Program.**

Analysis

Statutory Authority. The Higher Education Department (HED) cites Sections 6-24-1 through 6-24-34 NMSA 1978 (the New Mexico Lottery Act) and Sections 21-21N-1 through 21-21N-7 NMSA 1978 (the Legislative Lottery Tuition Scholarship Act) as statutory authority for the proposed rulemaking. Additionally, HED cites Laws 2019, Chapters 54 and 33 (Senate Bills 179 and 407, respectively). SB179 extends scholarship eligibility to New Mexico residents who left the state to attend high school due to a disability as defined under the federal Individuals with Disabilities Education Act (IDEA); formerly, to be eligible, a student had to have graduated from a New Mexico high school or received a high school equivalency credential while a resident in New Mexico. (See **Attachment 2, Senate Bill 179, Disabilities Students Lottery Scholarships.**) SB407 makes “tribal colleges” eligible institutions to receive lottery scholarship funds, defining them as tribally, federally, or congressionally chartered postsecondary educational institutions located in New Mexico that are accredited by the Higher Learning Commission. (See **Attachment 3, Senate Bill 407, Lottery Funds for Tribal Colleges.**)

Eligibility for Students with Disabilities. Pursuant to SB179, the proposed rule would also extend lottery scholarship eligibility to students who, due to a disability, leave New Mexico to attend high school. According to the Legislative Finance Committee’s (LFC) FIR for SB179, the Public Education Department (PED) reported more than 47 thousand students in New Mexico meet the federal definition for having a disability under IDEA. However, neither PED nor HED have data on how many special education students leave the state to attend high school and subsequently return to New Mexico for college, although HED, New Mexico State University, and New Mexico Independent Community Colleges estimated minimal impact to the lottery fund as a result of SB179.

The rule proposes to require students with disabilities to obtain a referral from the student services division of the postsecondary institution where the student is enrolled to permit them to be considered full-time students while carrying a reduced number of credit hours. Referrals must be received within 30 days of the start of a student’s first semester.

Tribal College Eligibility. The proposed rule would extend eligibility for the Legislative Lottery Scholarship to tribal colleges as a result of SB407, and defines “tribal college” identically to the bill (see “Technical Issues,” below). According to the FIR from the LFC for SB407, four tribal colleges in New Mexico would become eligible for the lottery scholarship program under SB407, including: the Institute of American Indian Arts, Navajo Technical University, Diné College, and the Southwestern Indian Polytechnic Institute (SIPI). These institutions have indicated that 125 to 200 students would become eligible for lottery scholarship funds under SB407; LFC reported, however, members of the tribal college consortium testified to LFC that SIPI is operated and funded by the Bureau of Indian Affairs, and neither charges tuition nor admits non-Indian students, and would not participate in the

lottery scholarship program. LFC noted broadening the eligibility of the program would increase participation that consequently may result in reduced award amounts. However, while FY19 awards for the lottery scholarship were \$2,294 per semester for research universities, \$1,560 for comprehensive universities, and \$581 for community colleges, HED reported to LESC that awards for FY20, including tribal colleges, will be relatively flat, at \$2,291, \$1,558, and \$580 per semester, respectively.

Part-Time Enrollment. Within the 16 months immediately after graduating or receiving an equivalency credential recognized by New Mexico, the proposed rule would permit students to attend college less than full-time, prior to their qualifying semester, without affecting scholarship eligibility. However, once a student has enrolled and begun attending a public postsecondary institution or tribal college full-time during that 16-month period, the student will be considered to have begun their qualifying semester and must then meet all requirements to be eligible for lottery scholarship awards. Currently, the rule makes no provision of eligibility for students attending a postsecondary institution less than full-time.

Laws 2017, Chapter 97 (Senate Bill 420) extended the eligibility period for students to qualify for the legislative lottery tuition scholarship from immediately upon graduation to 16 months after high school graduation or within one year of discharge from the United States armed forces. While the proposed rule reflects this change with regard to part-time students who have graduated or received a high school equivalency credential, it makes no corresponding change for students who separated from the armed forces within the preceding 12 months.

Students on Probation. Under the current rule, eligible students may be placed on probation if they provide documentation of exceptional mitigating circumstances to their school's lead financial aid officer who subsequently determines these circumstances prevent them from maintaining normal scholarship eligibility. The student must maintain enrollment at their institution, and may not receive funds in excess of the total number of semesters otherwise permitted – seven semesters of awards. The proposed rule clarifies that students may continue to receive funds while on probation, and strikes the requirement that they maintain enrollment at the institution where they entered probationary status, seemingly permitting them to transfer to another educational institution while on probation. Given the requirement that lead financial aid officers approve the provision of scholarship awards to students on probation, it seems unlikely this proposed amendment would create significant financial impact to the legislative lottery scholarship fund.

Technical Issues

Definitions. The definitions section of the proposed rule presents several issues. According to Section 14-4-5.7 NMSA 1978 of the State Rules Act, terms defined in applicable statute “should not” be defined in rule. Any conflict between statutorily defined terms and their corresponding regulatory definitions will be resolved in favor of statute. The proposed rule contains several terms defined identically to those in the Legislative Lottery Scholarship Act, as amended by SB407, including “community college,” “comprehensive institution,” “department,” “research institution,” and “tribal college.”

Additionally, the rule includes several terms that are defined similarly, but not identically, to those in the Legislative Lottery Scholarship Act, including “full-time,” “program semester,” “public postsecondary institution,” and “qualified student.” See **Attachment 4, Table of Conflicting Defined Terms**, for a comparison of these terms’ definitional language.

To avoid any appearance of conflict with statutory definitions, HED may wish to remove all definitions included in corresponding statute from the rule when finalized and adopted.

Objective. The proposed rule notes in the “Objective” section (Subsection C of Section 6 of 5.7.20 NMAC) that a New Mexico resident who, due to a disability, had to leave the state to receive an education under IDEA, is eligible for the legislative lottery scholarship program if they graduated from an accredited high school in another state and otherwise meet the definition of “qualified student.” This language would better serve as part of the definition of “qualified student,” rather than as part of the “Objective” section of the proposed rule.

TITLE 5 POST-SECONDARY EDUCATION
CHAPTER 7 TUITION AND FINANCIAL AID
PART 20 LEGISLATIVE LOTTERY SCHOLARSHIP PROGRAM

5.7.20.1 ISSUING AGENCY: State of New Mexico Higher Education Department.
[5.7.20.1 NMAC - Rp, 5.7.20.1 NMAC, 08/15/2014]

5.7.20.2 SCOPE: Provisions of 5.7.20 NMAC apply to all state public post-secondary institutions **and tribal colleges** in the state of New Mexico.
[5.7.20.2 NMAC - Rp, 5.7.20.2 NMAC, 08/15/2014; **A, 7/30/2019**]

5.7.20.3 STATUTORY AUTHORITY: Sections 6-24-1 et seq. NMSA 1978 and Sections 21-21N-1 et seq. NMSA 1978.
[5.7.20.3 NMAC - Rp, 5.7.20.3 NMAC, 08/15/2014; A, 10/31/2017]

5.7.20.4 DURATION: Permanent.
[5.7.20.4 NMAC - Rp, 5.7.20.4 NMAC, 08/15/2014]

5.7.20.5 EFFECTIVE DATE: August 15, 2014, unless a later date is cited at the end of a section.
[5.7.20.5 NMAC - Rp, 5.7.20.5 NMAC, 08/15/2014]

5.7.20.6 OBJECTIVE:

A. The objective of 5.7.20 NMAC is to provide a level of financial support to qualified New Mexico students who are enrolled full-time at an eligible New Mexico public **[college or university] post-secondary educational institution or tribal college**. This level of financial support is intended to help defray the cost of tuition at the public post-secondary educational institution **or tribal college** where the student is enrolled.

B. A further purpose of 5.7.20 NMAC is to encourage New Mexico high school students who pursue a post-secondary education in New Mexico to complete a first four-year degree within a maximum of eight semesters or two-year degree within a maximum of four semesters (the number of semesters is so determined as the initial award is not made until the second semester of college enrollment).

C. As it applies to students with disabilities who may require special accommodations, the department, in consultation with the student and the office at the public post-secondary educational institution that serves students with disabilities, shall review both the definition of "full-time" and the maximum number of consecutive semesters of eligibility and adjust either or both as deemed reasonable and appropriate, based on the student's disability needs. In no case shall "full-time" mean fewer than six credit hours per program semester and in no case shall eligibility extend beyond 14 consecutive program semesters at a four-year institution and seven consecutive program semesters at a two-year institution. **If a New Mexico resident had to leave the state to receive an education pursuant to the federal Individuals with Disabilities Education Act the student shall be eligible for the scholarship if they graduated from an accredited high school in another state and otherwise met the qualifications for a tuition scholarship pursuant to the definition of a qualified student in Subsection O of 5.7.20.7 NMAC.**

[5.7.20.6 NMAC - Rp, 5.7.20.6 NMAC, 08/15/2014; A/E, 8/15/2014; A, 11/15/2016; **A, 7/30/2019**]

5.7.20.7 DEFINITIONS:

A. "Academic year" means any consecutive period of two semesters (or three semesters for accelerated programs), three quarters or other comparable units commencing with the fall term each year.

B. "Accelerated program" means one in which a summer semester is a program requirement and not a student choice; a cohort that requires sequence of courses taken in summer semester.

C. "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.

D. "Comprehensive institution" means eastern New Mexico university, New Mexico Highlands university, northern New Mexico college or western New Mexico university.

E. "Consortium" means a written agreement between a home institution and one or more host institutions for consideration of combined enrollment for eligibility:

(1) home institution is the institution where the student is enrolled in a degree or certificate seeking program and is receiving lottery scholarship funds;

(2) host institution is the secondary institution where the student is taking part of their program requirements.

F. “Department” means the New Mexico higher education department (NMHED).

G. “Full-time” means 15 or more credit hours completed each program semester of the regular academic year at a research institution ~~[or]~~, comprehensive institution or tribal college; or 12 or more credit hours completed for each program semester at community colleges; or through a consortium agreement between the home and host institutions. For students enrolled through a consortium agreement the minimum credit hour eligibility requirement shall be based on the student’s home institution. Qualified students in their graduating semester are only required to take the number of credit hours required to graduate.

H. “GPA” means grade point average.

I. “Legislative lottery scholarship” means a scholarship awarded from proceeds of the New Mexico lottery tuition fund, to defray all or part of the cost of tuition.

J. “Non-enrollment” means a student is not enrolled in a public post-secondary educational institution.

K. “Probation” means a period of time that a student fails to meet continuing eligibility for exceptional mitigating circumstances as determined by the lead financial aid officer at the institution; as described in Subsection ~~[C]~~ D of 5.7.20.8 NMAC.

L. “Program semesters” means those semesters for which a qualified student may receive a tuition scholarship and excludes the first semester of full-time attendance at a public post-secondary educational institution or tribal college.

M. “Public post-secondary educational institution” means a research or comprehensive institution, as defined in Article XII, Section 11 of the New Mexico constitution, and branch community colleges or community college or technical and vocational institute as defined by Section 21-13, 14 and 16 NMSA 1978.

N. “Research institution” means New Mexico institute of mining and technology, New Mexico state university and the university of New Mexico.

O. “Qualified student” means a full-time student who completed high school at a public or accredited private New Mexico high school, graduated from a public or accredited private New Mexico high school or who received a high school equivalency credential recognized by the State of New Mexico while maintaining residency in New Mexico and who either:

~~(1) within 16 months of graduation or receipt of a high school equivalency credential, was accepted for entrance to and attended a public post-secondary educational institution without having previously enrolled at a non-qualifying postsecondary institution; or~~

~~(2) within four months of graduation or receipt of a high school equivalency credential, began service in the United States armed forces and within 16 months of completion of honorable service or medical discharge from the service, attended a public post-secondary educational institution without having previously enrolled at a non-qualifying postsecondary institution; and~~

~~(3) successfully completed the first semester at a public post-secondary educational institution with a grade point average of 2.5 or higher on a 4.0 scale during the first semester of full time enrollment.]~~

(1) within 16 months of graduation or receipt of a high school equivalency credential recognized by the State of New Mexico, was accepted for entrance to and subsequently enrolled full-time at a public post-secondary educational institution or tribal college without having previously enrolled at a non-qualifying post-secondary institution; or

(2) within four months of graduation or receipt of a high school equivalency credential recognized by the State of New Mexico, began service in the United States armed forces and within 16 months of completion of honorable service or medical discharge from the service, subsequently enrolled full-time at a public post-secondary educational institution or tribal college without having previously enrolled at a non-qualifying post-secondary institution; and

(3) successfully completed the qualifying semester at a public post-secondary educational institution or tribal college with a grade point average of 2.5 or higher on a 4.0 scale during the first semester of full time enrollment.

P. “Summer semester” means a semester equal to fall and spring semester in duration and intensity that is required as part of an accelerated program.

Q. “Tribal college” means a tribally, federally or congressionally chartered post-secondary educational institution with a physical campus in New Mexico that is accredited by the higher learning commission.

Q R. “Tuition scholarship” means the scholarship that provides tuition assistance per semester for qualified students.
[5.7.20.7 NMAC - Rp, 5.7.20.7 NMAC, 08/15/2014; A/E, 8/15/2014; A, 11/15/2016; A, 10/31/2017; A, 7/24/2018; A, 7/30/2019]

5.7.20.8 STUDENT ELIGIBILITY:

A. A scholarship may be awarded to a student in their second semester who has met first semester eligibility requirements as follows:

(1) has established and maintained New Mexico residency as defined in 5.7.18.9 NMAC or is eligible for a nondiscrimination waiver as defined in Subsection K of 5.7.18.10 NMAC. All residency requirements must be met upon completion of high school, graduation, or receipt of a high school equivalency credential recognized by the State of New Mexico;

(2) has been determined to be a qualified student pursuant to Subsection O of 5.7.20.7 NMAC;

(3) has met the requirements in Subsection G of 5.7.20.7 NMAC;

(4) has met requirements in Paragraphs (1) through (3) of Subsection A of 5.7.20.8 NMAC or students with exceptional mitigating circumstances as determined by the institution’s lead financial aid officer; students who are incapable of meeting the requirements specified in Paragraphs (1) through (3) of Subsection A of 5.7.20.8 NMAC due to a documented exceptional mitigating circumstance do not forfeit eligibility for the legislative lottery scholarship; however, the following requirements shall apply:

(a) the student shall provide documents certifying the nature of the students exceptional mitigating circumstance to the institution’s lead financial aid officer at the post-secondary educational institution at which the student is enrolling or will enroll; the institution’s lead financial aid officer shall exercise professional judgment to determine whether the exceptional mitigating circumstance is beyond the student’s control and precludes the student from meeting the requirements specified in Paragraphs (1) through (3) of Subsection A of 5.7.20.8 NMAC;

(b) if, in the professional judgment of the institution’s lead financial aid officer, the student’s exceptional mitigating circumstance is recognized as a valid reason for the student’s inability to meet the requirements specified in Paragraphs (1) through (3) of Subsection A of 5.7.20.8 NMAC the student’s initial eligibility for the legislative lottery scholarship shall be suspended or deferred unless and until such time that the student is capable of meeting the requirements of Paragraph (4) of Subsection A of 5.7.20.8 NMAC; and

(5) has not been awarded a New Mexico scholars’ scholarship or other state scholarships which are designated for one hundred percent tuition[-; and

(6) — students with disabilities shall obtain a referral from the student services division of the post secondary educational institution where the student is enrolled that oversees students with special needs’ requests to reduce the credit hours to be considered full time for scholarship eligibility; referrals and any sufficient documentation shall be received within 30 days of the start of the student’s first semester;

(7) — students are encouraged, but are not required, to complete a free application for student aid (FAFSA) for lottery scholarship eligibility].

B. Other provisions regarding initial eligibility.

(1) Students with disabilities shall obtain a referral from the student services division of the post-secondary educational institution where the student is enrolled that oversees students with special needs’ requests to reduce the credit hours to be considered full-time for scholarship eligibility; referrals and any sufficient documentation shall be received within 30 days of the start of the student’s first semester.

(2) Students are encouraged, but are not required, to complete a free application for student aid (FAFSA) for lottery scholarship eligibility.

(3) During the 16 months after graduation or receipt of a high school equivalency credential recognized by the State of New Mexico a student may attend a public post-secondary educational institution or tribal college prior to their qualifying semester less than-full time without affecting future program eligibility. Once a student is enrolled and attends a public post-secondary educational institution or tribal college full-time during the 16 months after graduation or receipt of high school equivalency credential recognized by the State of New Mexico, the student shall be considered to have commenced the qualifying semester and must meet the qualifying semester eligibility requirements within Subsection O of 5.7.20.7 NMAC.

[B.] C. Continuing eligibility. Upon satisfaction of the qualifying semester eligibility requirements, the scholarship will be awarded to the student beginning with their second semester of enrollment. A student's continuing eligibility shall be determined on a semester basis.

- (1) A legislative lottery scholarship award may be re-awarded to a student who:
 - (a) maintains a minimum of a 2.5 cumulative GPA; a student has the right to request use of the student's cumulative GPA earned at all New Mexico **public post-secondary educational institutions and tribal colleges**; and
 - (b) maintains full time enrollment as provided in Subsection G of 5.7.20.7 NMAC; when a qualified student transfers after completion of the first semester from a two year institution to a four year institution for enrollment during the second or subsequent program semester, a student will have met eligibility requirements, but said student must enroll in 15 credit hours upon transfer to maintain eligibility;
 - (i) receipt of a transfer transcript for sufficient documentation for eligibility;
 - (ii) student transfers shall defer to the receiving institution to determine eligibility.
- (2) Students with disabilities may be re-awarded the legislative scholarship under the following conditions:
 - (a) a referral is obtained for each semester in which a reduction in credit hours is requested;
 - (b) maintains a minimum of a 2.5 cumulative GPA; and
 - (c) in no case shall eligibility extend beyond 14 consecutive semesters at a four year institution and seven consecutive semesters at a two year institution.
- (3) An eligible student that transfers shall continue to be eligible at the receiving institution after receipt of the student's transfer transcript containing eligibility confirmation.

[C.] D. Probation. Students who have been determined eligible and subsequently have exceptional mitigating circumstances as determined by the institution's lead financial aid officer may be placed on a probationary status under the following conditions:

- (1) the student shall provide documents certifying the nature of their exceptional mitigating circumstance to the lead financial aid officer at the post-secondary institution at which the student is enrolling or will enroll;
 - (2) the lead financial aid officer shall exercise professional judgment to determine whether the exceptional mitigating circumstance is beyond the student's control and precludes the student from meeting the requirements specified in Paragraph (4) of Subsection A of 5.7.20.8 NMAC; **and**
 - ~~[(3) — the student shall maintain enrollment at the public post-secondary educational institution where eligibility was lost, if applicable;]~~
 - ~~[(4)] (3) a student may receive scholarship funding while on probationary status, however~~ under no circumstances shall the student receive program awards in excess of those prescribed in Subsections A and B of 5.7.20.9 NMAC ~~[less the regular semester(s) of probation].~~
- [5.7.20.8 NMAC -Rp, 5.7.20.8 NMAC, 08/15/2014; A/E, 8/15/2014; A, 9/30/2014; A, 11/15/2016; A, 10/31/2017; A, 7/30/2019]

5.7.20.9 DURATION OF SCHOLARSHIP:

~~A. — Upon qualification, the student's initial scholarship shall begin with the second semester of enrollment at a post-secondary educational institution. Thereafter, each scholarship is for a period of one semester subject to revocation for failure to maintain eligibility. The scholarship may be renewed on a semester basis until the award recipient has received three program semesters of awards at a community college or seven semesters at a research and comprehensive institution of scholarship awards, or until the student graduates with a bachelor's degree from an eligible institution, whichever is sooner.~~

~~B. — An award recipient may use the award at an eligible two-year post-secondary educational institution until the student receives three program semesters of scholarship awards or an associate's degree and can continue to use the award at an eligible New Mexico four-year post-secondary educational institution if the student transfers to a four-year post-secondary educational institution without a break in attendance or the semester following receipt of the associate's degree. In no case shall a student receive more than seven program semesters of the award with the exception of students with disabilities.~~

~~C. — A student may transfer from a four-year post-secondary educational institution or to a two-year post-secondary educational institution, but in no case shall a student receive more than three program semesters of~~

awards at the two-year institution (including those awarded at the prior post-secondary educational institution) or until the student graduates with an associate's degree, whichever is sooner.]

A. Upon qualification, the student's initial scholarship shall begin with the second semester of enrollment at a public post-secondary educational institution or tribal college. Thereafter, each scholarship is for a period of one semester subject to revocation for failure to maintain eligibility. The scholarship may be renewed on a semester basis until the award recipient has received three program semesters of awards at a community college or seven program semesters of awards at a research institution, comprehensive institution, or tribal college, or until the student graduates with a bachelor's degree from an eligible institution, whichever is sooner.

B. An award recipient may use the award at an eligible two-year public post-secondary educational institution until the student receives three program semesters of scholarship awards or an associate's degree and can continue to use the award at an eligible New Mexico four-year public post-secondary educational institution or tribal college if the student transfers to a four-year public post-secondary educational institution or tribal college without a break in attendance or the semester following receipt of the associate's degree. In no case shall a student receive more than seven program semesters of the award with the exception of students with disabilities.

C. A student may transfer from a four-year public post-secondary educational institution or tribal college to a two-year public post-secondary educational institution, but in no case shall a student receive more than three program semesters of awards at the two-year institution (including those awarded at the prior public post-secondary educational institution or tribal college) or until the student graduates with an associate's degree, whichever is sooner.

D. A student who has been previously eligible may request a leave of absence for cooperative education, military obligations, participation in a study abroad program through the home institution, or other exceptional mitigating circumstances.

E. The student's institutional lead financial aid officer may approve a leave of absence for a period of up to one year if in the lead financial aid officer's professional judgment the student has provided sufficient documentation to justify the leave of absence. Subsequent requests for an additional leave of absence by a student may be considered by the institution's lead financial aid officer in increments not to exceed one year.

F. The lead financial aid officer shall, in turn, ensure that the student does not receive program awards in excess of those prescribed in Subsections A and B of 5.7.20.9 NMAC and shall exclude the semesters of "non-enrollment" from the determination of eligible award semesters.

G. A student completing a department approved public service program may reduce their course load for the semester of their service or training and maintain eligibility for the scholarship. These students will not be eligible for scholarship benefits for the semester in which they are enrolled part time and will need to maintain all other eligibility criteria in subsequent semesters. The part-time semester will not count against their total number of semesters in which the student may receive the scholarship.

H. If a student becomes ineligible for a different state scholarship that is designated for one hundred percent tuition, but satisfies the first semester eligibility requirements and thereafter is eligible for the legislative lottery scholarship, the student may begin receiving the legislative lottery scholarship for the remaining number of semesters of enrollment, not to exceed those prescribed in Subsections A and B of 5.7.20.9 NMAC. [5.7.20.9 NMAC - Rp, 5.7.20.9 NMAC, 08/15/2014; A/E, 8/15/2014; A, 11/15/2016; A, 10/31/2017; A, 7/30/2019]

5.7.20.10 AMOUNT OF SCHOLARSHIP:

A. To the extent that funds are made available from the fund, the board of regents or governing bodies of public [postsecondary] post-secondary educational institutions and tribal colleges shall award tuition scholarship in department approved amounts to qualified students.

B. The method the department will use for calculating the tuition scholarship is as follows:

- (1) estimate the total amount available in the lottery tuition fund, based on past lottery fund transfers, current year balances, and additional funds made available through legislation;
- (2) estimate the number of lottery scholarship recipients for each institution, based on department endorsed institutional projections;
- (3) calculate the tuition scholarship for each sector (research, comprehensive, and community college) and tribal college in accordance with [2018 Bill Text NM S.B. 140] Section 21-21N-4 NMSA 1978;
- (4) calculate the total amount needed to pay full tuition to all estimated recipients;
- (5) compute an award for each scholarship recipient distributed in amounts as follows:
 - (a) one thousand five hundred dollars (\$1,500) per scholarship per program semester for a student enrolled at a research institution;

(b) one thousand twenty dollars (\$1,020) per scholarship per program semester for a student enrolled at a comprehensive institution **or tribal college**; and

(c) three hundred eighty dollars (\$380) per scholarship per program semester for a student enrolled at a community college;

(6) If the total amount available pursuant to Paragraph (3) of Subsection B of 5.7.20.10 NMAC is less than the amount calculated in Paragraph (5) of Subsection B of 5.7.20.10 NMAC, the department shall decrease the scholarship award amounts in a manner that maintains the distribution in the same proportions as provided in Paragraph (5) of Subsection B of 5.7.20.10 NMAC. If the total amount available pursuant to Paragraph (3) of Subsection B of 5.7.20.10 NMAC is more than the amount calculated in Paragraph (5) of Subsection B of 5.7.20.10 NMAC, the department shall increase the scholarship award amounts in a manner that maintains the distribution in the same proportions as provided in Paragraph (5) of Subsection B of 5.7.20.10 NMAC.

(7) notify institutions.

C. In no case shall a student receive scholarship awards exceeding the total amount of tuition charged.

D. Qualified students in their graduating semester shall receive a tuition scholarship proportional to the number of credit hours required to graduate.

[5.7.20.10 NMAC - Rp, 5.7.20.10 NMAC, 08/15/2014; A, 11/15/2016; A, 10/31/2017; A, 7/24/2018; **A, 7/30/2019**]

5.7.20.11 ADMINISTRATION OF THE LEGISLATIVE LOTTERY SCHOLARSHIP:

A. Eligible **public** post-secondary educational institutions **and tribal colleges** shall:

(1) notify students of their possible eligibility, during their first regular semester of enrollment including transfer students who had the legislative lottery scholarship at previous institutions;

(2) designate their institution's lead financial aid officer to be responsible for determining initial and continuing student eligibility for the legislative lottery scholarship under the terms of these rules and regulations;

(3) maintain a listing of each participating student to include, but not be limited to:

(a) social security number as appropriate;

(b) cumulative GPA and completed enrollment hours in prior semesters;

(c) proof of initial and continuing enrollment;

(d) award semester; and

(e) other data fields deemed important by the department;

(4) draw-down files should be submitted to the department for eligible students as defined in 5.7.20.10 NMAC per semester; all fiscal year draw-downs shall be for eligible students enrolled during the same fiscal year;

(5) for students that satisfied the first semester eligibility requirements and seek continuing eligibility consideration, use professional judgment to determine that exceptional mitigating circumstances beyond the students control, for which documentation exists in the student's file; the institutions shall defer to their institutional satisfactory academic progress policy when considering circumstances which include, but are not limited to, consideration for falling below the cumulative GPA requirement or successfully maintain full time enrollment as defined in Subsection G of 5.7.20.7 NMAC;

(6) provide to the department by April 15 each year the projected enrollment and tuition rates for the following academic year for their appropriate institution as follows: comprehensive, research institution in their second through eighth program semester including qualified students in their fifth through eighth program semesters who transferred from a community college; projected enrollment at each community college at each community college in their second through fourth program semesters;

(7) publish the probation policy as defined in Subsection ~~(C)~~ D of 5.7.20.8 NMAC;

(8) encourage consortium agreements, as defined in the code of federal regulations, 34 CFR 6685, in order to facilitate the enrollment of students and to facilitate the student's participation in this program;

(9) ensure that all available state scholarships including merit based three percent scholarship and New Mexico scholars are awarded before granting legislative lottery scholarships; the intent of this provision is that tuition costs shall be paid first for those students eligible for merit-based aid packages funded by three percent scholarships; in those instances when tuition is not fully covered by the merit-based aid package, said student is eligible for the tuition cost differential to be funded by the legislative lottery scholarship program; nothing in this section requires a public postsecondary educational institution to award a scholarship inconsistent with the criteria established or such scholarship; refer to Subsection G of 5.7.20.9 NMAC for additional provisions;

B. The department shall:

- (1) determine the scholarship award pursuant to the provisions of 5.7.20.10 NMAC; all eligible institutions will be notified prior to June 1 annually;
 - (2) conduct audits to ascertain compliance with rules and regulations, if, during the audit process, evidence indicates that a student should not have received a legislative lottery scholarship, the department will provide guidance to the institutions for appropriate action;
 - (3) make available to the legislative finance committee and department of finance and administration, by November 1, the following information:
 - (a) the status of the fund;
 - (b) tuition scholarship program participation data aggregated for each public postsecondary education institution **and tribal college** to show:
 - (i) the number of qualified students who received tuition scholarships and in the prior 12 month period;
 - (ii) the total number of qualified students enrolled in the prior 12-month period;
 - (iii) the amount of tuition scholarships funded by semester and the amount of tuition costs that were not offset by the tuition scholarship by semester; and
 - (iv) the 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.
- [5.7.20.11 NMAC -Rp, 5.7.20.11 NMAC, 08/15/2014; A/E, 8/15/2014; A, 11/15/2016; A, 10/31/2017; A, 7/24/2018; **A, 7/30/2019**]

5.7.20.12 TERMINATION OF SCHOLARSHIPS: A scholarship is terminated upon noncompliance by the award recipient with the legislative lottery scholarship rules, regulations or procedures as promulgated by the department.
[5.7.20.12 NMAC -Rp, 5.7.20.12 NMAC, 08/15/2014]

HISTORY OF 5.7.20 NMAC:

History of Repealed Material:

5.7.20 NMAC, Legislative Lottery Scholarship Program, filed 8/1/2000, Repealed 08/15/2014.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

AN ACT

RELATING TO HIGHER EDUCATION; ALLOWING CERTAIN STUDENTS WITH
DISABILITIES TO RECEIVE LEGISLATIVE LOTTERY TUITION
SCHOLARSHIPS.

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

SECTION 1. Section 21-21N-3 NMSA 1978 (being Laws 2014,
Chapter 80, Section 3, as amended) 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 shall award tuition scholarships in
department-approved amounts to qualified 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 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

1 New Mexico, maintains a grade point average of 2.5 or higher
2 on a 4.0 scale and completes twelve or more credit hours per
3 program semester; and

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

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

12 (1) maintains residency in New Mexico;

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

15 (3) completes:

16 (a) for a student attending a four-year
17 public post-secondary educational institution, fifteen or
18 more credit hours per program semester; and

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

22 D. For students with disabilities who may require
23 accommodations, the department, in consultation with the
24 student and the office at the public post-secondary
25 educational institution that serves students with

1 disabilities, shall review both the definition of "full time"
2 and the maximum number of consecutive program semesters of
3 eligibility and adjust either or both as deemed reasonable
4 and appropriate, based on the student's disability needs. In
5 no case, however, shall "full time" mean fewer than six
6 credit hours per semester, and in no case shall eligibility
7 extend beyond fourteen consecutive program semesters. The
8 definition of "qualified student" notwithstanding, a
9 New Mexico resident who had to leave the state to receive an
10 education pursuant to the federal Individuals with
11 Disabilities Education Act shall be eligible for a tuition
12 scholarship if the student graduated from an accredited high
13 school in another state and otherwise meets the qualifications
14 for a tuition scholarship pursuant to the definition of
15 "qualified student" and this section." _____

SB 179
Page 3

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

AN ACT

RELATING TO HIGHER EDUCATION; ALLOWING TRIBAL COLLEGES TO
RECEIVE FUNDS FROM THE LOTTERY TUITION FUND.

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

SECTION 1. Section 21-21N-2 NMSA 1978 (being Laws 2014,
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;

1 E. "fund" means the lottery tuition fund;

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

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

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

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

20 (1) either:

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

25 (b) within four months of graduation or

1 receipt of a high school equivalency credential, began
2 service in the United States armed forces and within sixteen
3 months of completion of honorable service or medical
4 discharge from the service, attended a public post-secondary
5 educational institution; and

6 (2) successfully completed the first
7 semester at a public post-secondary educational institution
8 with a grade point average of 2.5 or higher on a 4.0 scale
9 during the first semester of full-time enrollment;

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

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

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

20 M. "tuition scholarship" means the scholarship
21 that provides tuition assistance per program semester for a
22 qualified student or legacy student attending a public
23 post-secondary educational institution or tribal college."

24 SECTION 2. Section 21-21N-3 NMSA 1978 (being Laws 2014,
25 Chapter 80, Section 3, as amended) is amended to read:

1 "21-21N-3. TUITION SCHOLARSHIPS AUTHORIZED--QUALIFIED
2 STUDENTS.--

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

10 B. Beginning in fiscal year 2015:

11 (1) a legacy student is eligible to receive
12 a tuition scholarship until the total number of program
13 semesters for which the legislative lottery scholarship is
14 received pursuant to the former provisions of
15 Sections 21-1-4.3, 21-13-10 and 21-16-10.1 NMSA 1978 or the
16 Legislative Lottery Tuition Scholarship Act reaches eight;
17 provided that the legacy student maintains residency in
18 New Mexico, maintains a grade point average of 2.5 or higher
19 on a 4.0 scale and completes twelve or more credit hours per
20 program semester; and

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

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

4 (1) maintains residency in New Mexico;

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

7 (3) completes:

8 (a) for a student attending a four-year
9 public post-secondary educational institution or a tribal
10 college, fifteen or more credit hours per program semester;
11 and

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

15 D. For students with disabilities who may require
16 accommodations, the department, in consultation with the
17 student and the office at the public post-secondary
18 educational institution or the tribal college that serves
19 students with disabilities, shall review both the definition
20 of "full time" and the maximum number of consecutive program
21 semesters of eligibility and adjust either or both as deemed
22 reasonable and appropriate, based on the student's disability
23 needs. In no case, however, shall "full time" mean fewer
24 than six credit hours per semester, and in no case shall
25 eligibility extend beyond fourteen consecutive program

1 semesters."

2 SECTION 3. Section 21-21N-4 NMSA 1978 (being Laws 2014,
3 Chapter 80, Section 4, as amended) is amended to read:

4 "21-21N-4. TUITION SCHOLARSHIP AMOUNT--FUND.--

5 A. Prior to June 1 of each year, based on the
6 amount appropriated by the legislature from the fund and on
7 the projected enrollment at all public post-secondary
8 educational institutions and tribal colleges, the department
9 shall:

10 (1) determine the total amount of money
11 available for all tuition scholarships for qualified
12 students;

13 (2) determine the award amount for research
14 institutions, comprehensive institutions, tribal colleges and
15 community colleges; and

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

20 B. In determining distribution and award amounts
21 for the tuition scholarship program, the department shall:

22 (1) maintain the minimum fund balance
23 pursuant to Section 21-21N-5 NMSA 1978;

24 (2) distribute to all public post-secondary
25 educational institutions and tribal colleges an amount not to

1 exceed the remaining balance in the fund; and

2 (3) subject to the provisions of
3 Paragraphs (1) and (2) of this subsection, distribute to each
4 public post-secondary educational institution or tribal
5 college an amount based on:

6 (a) the projected enrollment at each
7 four-year public post-secondary educational institution and
8 tribal college of qualified students in their first through
9 seventh program semesters, including qualified students in
10 their fourth through seventh program semesters who
11 transferred from community colleges;

12 (b) the projected enrollment at each
13 community college of qualified students in their first
14 through third program semesters; and

15 (c) an award for each scholarship
16 recipient distributed in amounts as follows: 1) one thousand
17 five hundred dollars (\$1,500) per scholarship per program
18 semester for a student enrolled at a research institution;
19 2) one thousand twenty dollars (\$1,020) per scholarship per
20 program semester for a student enrolled at a comprehensive
21 institution or tribal college; and 3) three hundred eighty
22 dollars (\$380) per scholarship per program semester for a
23 student enrolled at a community college.

24 C. If the total amount available pursuant to
25 Paragraph (1) of Subsection A of this section is less than

1 the amount calculated in Subsection B of this section, the
2 department shall decrease the scholarship award amounts in a
3 manner that maintains the distribution in the same
4 proportions as provided in Subparagraph (c) of Paragraph (3)
5 of Subsection B of this section.

6 D. If the total amount available pursuant to
7 Paragraph (1) of Subsection A of this section is more than
8 the amount calculated in Subsection B of this section, the
9 department shall increase the scholarship award amounts in a
10 manner that maintains the distribution in the same
11 proportions as provided in Subparagraph (c) of Paragraph (3)
12 of Subsection B of this section."

13 SECTION 4. Section 21-21N-5 NMSA 1978 (being Laws 1995,
14 Chapter 155, Section 23, as amended) is amended to read:

15 "21-21N-5. LOTTERY TUITION FUND CREATED--PURPOSE.--

16 A. The "lottery tuition fund" is created in the
17 state treasury. The fund shall be administered by the
18 department. Earnings from investment of the fund shall
19 accrue to the credit of the fund. The fund shall maintain an
20 annual average balance of two million dollars (\$2,000,000),
21 and any balance in the fund at the end of any fiscal year
22 shall remain in the fund for appropriation by the legislature
23 as provided in this section.

24 B. Money in the fund shall be appropriated by the
25 legislature to the department for distribution to

1 New Mexico's public post-secondary educational institutions
2 and tribal colleges to provide tuition assistance for
3 qualified students and legacy students as provided in the
4 Legislative Lottery Tuition Scholarship Act."

5 SECTION 5. Section 21-21N-7 NMSA 1978 (being Laws 2015,
6 Chapter 84, Section 2) is amended to read:

7 "21-21N-7. LOTTERY STUDENT COMMUNITY OUTREACH PILOT
8 PROJECT--TUITION SCHOLARSHIP RECIPIENTS--ADDITIONAL
9 REQUIREMENTS--MENTORING--TRAINING.--

10 A. The "lottery student community outreach pilot
11 project" is created as a six-year study that encourages
12 students who receive a tuition scholarship pursuant to the
13 Legislative Lottery Tuition Scholarship Act at participating
14 public post-secondary educational institutions or tribal
15 colleges to volunteer to provide community outreach, chiefly
16 through mentoring public school students. Tuition
17 scholarship students are not required to participate to
18 maintain their tuition scholarship. The purpose of the pilot
19 project is to demonstrate that:

20 (1) both mentors and mentees receive similar
21 benefits, including improved grades and on-time graduation
22 and a renewed sense of confidence, purpose and community and
23 civic engagement;

24 (2) this service improves the community in
25 which the student volunteer works and the public school

1 student lives;

2 (3) mentoring by young adults can help
3 disadvantaged public school students narrow the achievement
4 gap; improve cognitive, social and behavioral skills; and
5 lead to higher test scores and success in school; and

6 (4) mentoring can also help the student
7 volunteer improve the student volunteer's skills, test scores
8 and success in college and inculcate civic and social
9 engagement in community life.

10 B. The pilot project shall be administered by the
11 department and shall be conducted with at least three public
12 post-secondary educational institutions around the state,
13 ideally with at least one from the research institutions, at
14 least one from the comprehensive universities or tribal
15 colleges and at least one from the branch and independent
16 community colleges and with at least five hundred tuition
17 scholarship students. Preference for the pilot project shall
18 be given to institutions in areas with high poverty rates and
19 in public schools with eighty-five percent or more of the
20 students eligible for free or reduced-fee lunch and high
21 English language learner populations. The department may
22 expand the pilot project during its term to more
23 participants.

24 C. The department shall certify a list of
25 nonprofit community- and education-oriented organizations

1 that maintain relationships with public schools with which
2 student volunteers may work. The organizations shall
3 identify public schools in their areas that are interested in
4 having mentors and shall develop a mentoring training program
5 for student volunteers. The organizations shall also
6 identify community-based outreach or specific community-based
7 projects appropriate for students in their first program
8 semester or students unable to mentor during the school year.

9 D. A participating community- and
10 education-oriented organization shall monitor and evaluate
11 the work of the student volunteers and the time spent
12 mentoring or participating in community-based projects as
13 well as the progress of the public school students being
14 mentored.

15 E. The department shall determine application
16 requirements and procedures for public post-secondary
17 educational institutions, tribal colleges, nonprofit
18 community- and education-oriented organizations and student
19 volunteers to apply for the pilot project, criteria to
20 evaluate applications and quantitative and qualitative
21 measures of the pilot project's efficacy.

22 F. In addition to other requirements and
23 qualifications in the Legislative Lottery Tuition Scholarship
24 Act, a tuition scholarship student who participates in the
25 pilot project shall provide at least two hours per week of

1 community outreach with public school students in the area of
2 the public post-secondary educational institution or tribal
3 college the student attends. The community outreach shall
4 consist of:

- 5 (1) partnering with community-based
6 organizations and assisting with community-based projects;
- 7 (2) mentoring public school students; or
- 8 (3) mentoring first-year college students.

9 G. The following schedule of community outreach
10 for student volunteers is:

- 11 (1) students in their first program semester
12 shall partner with a community-based organization to assist
13 it in community outreach or specific community-based
14 projects;
- 15 (2) students in their sophomore and junior
16 years shall mentor students in grades kindergarten through
17 twelve; and
- 18 (3) students in their senior year shall
19 mentor freshmen college students.

20 H. If a tuition scholarship student who wants to
21 participate is unable to perform the community outreach
22 service during the school year because of class load, work
23 requirements or other reasons, the student volunteer may
24 volunteer for an approved community outreach project that
25 will be available for the student to participate in during

1 semester breaks or the summer for a total of at least
2 thirty-two hours.

3 I. Public schools that choose to participate in
4 the pilot project shall identify willing students who would
5 benefit from participation. The student's teacher or school
6 principal shall work with the nonprofit organization and the
7 student volunteer to determine what activities and types of
8 engagement would benefit the mentee student.

9 J. The department shall establish reporting and
10 evaluation requirements for all participants in the pilot
11 project. The department shall provide interim and final
12 reports annually to the governor and the legislature.

13 K. The participating public post-secondary
14 educational institutions, tribal colleges, nonprofit
15 community- and education-oriented organizations and public
16 schools shall actively seek public and private grants and
17 donations for any costs of the pilot project. Grants and
18 donations shall be kept and expended as other grants and
19 donations of the institution, tribal college, organization or
20 public school."

21 SECTION 6. EFFECTIVE DATE.--The effective date of the
22 provisions of this act is July 1, 2019. _____

**Table of Conflicting Defined Terms
Legislative Lottery Scholarship Act versus Proposed Rule**

Defined Term	Legislative Lottery Scholarship Act	Proposed Rule
Full-time	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	15 or more credit hours completed each program semester of the regular academic year at a research institution, comprehensive institution or tribal college; or 12 or more credit hours completed for each program semester at community colleges; or through a consortium agreement between the home and host institutions. For students enrolled through a consortium agreement the minimum credit hour eligibility requirement shall be based on the student's home institution. Qualified students in their graduating semester are only required to take the number of credit hours required to graduate.
Program semester	Those semesters for which a legacy or qualified student may receive a tuition scholarship and excludes the first semester of attendance at a public post-secondary educational institution	Those semesters for which a qualified student may receive a tuition scholarship and excludes the first semester of full-time attendance at a public postsecondary educational institution or tribal college.
Public post-secondary educational institution	A four-year state educational institution or a community college	A research or comprehensive institution as defined in Article XII, Section 11 of the New Mexico constitution, and branch community colleges or community college or technical and vocational institute as defined by Section 21-13, 14, and 16 NMSA 1978.
Qualified student	<p>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:</p> <p>(1) either:</p> <ul style="list-style-type: none"> (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 <p>(2) successfully completed the first semester at a public post-secondary educational institution with a grade point average of 2.5 or higher on a 4.0 scale during the first semester of full-time enrollment.</p>	<p>A full-time student who completed high school at a public or accredited private New Mexico high school, graduated from a public or accredited private New Mexico high school or who received a high school equivalency credential recognized by the State of New Mexico while maintaining residency in New Mexico and who either:</p> <ul style="list-style-type: none"> (1) within 16 months of graduation or receipt of a high school equivalency credential recognized by the State of New Mexico, was accepted for entrance and subsequently enrolled full-time at a public post-secondary educational institution or tribal college without having previously enrolled at a non-qualifying post-secondary educational institution; or (2) within four months of graduation or receipt of a high school equivalency credential Mexico, began service in the United States armed forces and within 16 months of completion of honorable service or medical discharge from the service, subsequently enrolled full-time at a public post-secondary educational institution or tribal college without having previously enrolled at a non-qualifying postsecondary institution; and (3) successfully completed the qualifying semester at a public post-secondary educational institution or tribal college with a grade point average of 2.5 or higher on a 4.0 scale during the first semester of full-time enrollment.