

1 SENATE BILL 135

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

4 Bill B. O'Neill and Joy Garratt

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10 AN ACT

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

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

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

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

22 A. "community college" means a branch community
23 college of a four-year state educational institution, a two-
24 year state educational institution or a community college or
25 technical and vocational institute established pursuant to

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1 Chapter 21, Article 13 or 16 NMSA 1978, respectively;

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

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

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

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

17 F. "fund" means the opportunity scholarship fund;

18 G. "opportunity scholarship", without modification,
19 includes a two-year opportunity scholarship and a four-year
20 opportunity scholarship;

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

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

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

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

9 (1) either:

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

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

19 (2) successfully completed the first semester
20 at an eligible institution with a grade point average of 2.5 or
21 higher on a 4.0 scale during the first semester of full-time
22 enrollment and maintains a cumulative grade point average of
23 2.5 or higher on a 4.0 scale at an eligible institution;

24 L. "returning student learner" means a student
25 eighteen years of age or older who has a high school diploma or

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1 who has received a high school equivalency credential and who
2 does not have an associate's, bachelor's, master's or doctoral
3 degree, who has been a resident of New Mexico for the preceding
4 twelve consecutive months and who maintains a cumulative grade
5 point average of 2.0 or higher on a 4.0 scale at an eligible
6 institution;

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

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

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

16 P. "two-year opportunity scholarship" means a
17 scholarship that provides tuition assistance per program
18 semester for a qualified student enrolled in a two-year program
19 at an eligible institution; and

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

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

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

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

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

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

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

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

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

19 (b) receipt of an associate's degree.

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

23 D. For students with disabilities who may require
24 accommodations, the department, in consultation with the
25 student and the office at the eligible institution that serves

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

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

16 A. Prior to June 1 of each year, based on the
17 amount appropriated by the legislature from the fund for two-
18 year opportunity scholarships and four-year opportunity
19 scholarships and on the projected enrollment at all eligible
20 institutions, the department shall:

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

24 (2) determine the total amount of money
25 necessary to pay for opportunity scholarships for returning

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1 student learners at each eligible institution; and

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

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

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

14 A. The "opportunity scholarship fund" is created in
15 the state treasury. The fund consists of all money
16 appropriated to the fund and any grants, gifts and bequests
17 made to the fund. The fund shall be administered by the
18 department. Earnings from investment of the fund shall accrue
19 to the credit of the fund. Any balance in the fund at the end
20 of any fiscal year shall remain in the fund for appropriation
21 by the legislature as provided in this section.

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

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1 Scholarship Act.

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

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

7 (1) student qualification and continuing
8 eligibility;

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

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

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

20 (1) status of the fund; and

21 (2) opportunity scholarship program
22 participation data aggregated for each eligible institution to
23 show the:

24 (a) number of qualified students who
25 received opportunity scholarships in the prior academic year;

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

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

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

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

14 SECTION 8. Section 21-21N-2 NMSA 1978 (being Laws 2014,
15 Chapter 80, Section 2, as amended) is amended to read:

16 "21-21N-2. DEFINITIONS.--As used in the Legislative
17 Lottery Tuition Scholarship Act:

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

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

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

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

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

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

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

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

23 I. "qualified student" means a full-time student
24 who graduated from a public or accredited private New Mexico
25 high school or who received a high school equivalency

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1 credential while maintaining residency in New Mexico and who:

2 (1) either:

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

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

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

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

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

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

25 (2) is a resident of New Mexico;

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

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

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

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

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

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

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

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

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

12 B. Beginning in fiscal year 2015:

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

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

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

4 (a) a maximum of six semesters; or

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

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

9 (1) maintains residency in New Mexico;

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

12 (3) completes:

13 (a) for a student attending a four-year
14 public post-secondary educational institution or a tribal
15 college, fifteen or more credit hours per program semester; and

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

19 D. For students with disabilities who may require
20 accommodations, the department, in consultation with the
21 student and the office at the public post-secondary educational
22 institution or the tribal college that serves students with
23 disabilities, shall review both the definition of "full time"
24 and the maximum number of consecutive program semesters of
25 eligibility and adjust either or both as deemed reasonable and

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

12 SECTION 10. APPROPRIATION.--Twenty-six million dollars
13 (\$26,000,000) is appropriated from the general fund to the
14 opportunity scholarship fund for expenditure in fiscal year
15 2022 and subsequent fiscal years to fund two-year opportunity
16 scholarships pursuant to the Opportunity Scholarship Act and
17 execution of the provisions of that act. Any unexpended or
18 unencumbered balance remaining at the end of a fiscal year
19 shall not revert to the general fund.

20 SECTION 11. APPROPRIATION.--Four million dollars
21 (\$4,000,000) is appropriated from the general fund to the
22 lottery tuition fund for expenditure in fiscal year 2022 and
23 subsequent fiscal years to support the education of returning
24 lottery scholarship students in fiscal years 2022 through 2025
25 pursuant to Section 9 of this act. Any unexpended or

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1 unencumbered balance remaining at the end of a fiscal year
2 shall not revert to the general fund.

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

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