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**SUBSTITUTE SENATE BILL 5705**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senate Higher Education & Workforce Development (originally sponsored by Senators Palumbo, Conway, Kuderer, and Van De Wege)

AN ACT Relating to the Washington opportunity scholarship program; and reenacting and amending RCW 28B.145.010, 28B.145.030, and 28B.145.090.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec.**  RCW 28B.145.010 and 2018 c 254 s 9, 2018 c 209 s 6, and 2018 c 114 s 2 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the opportunity scholarship board.

(2) "Council" means the student achievement council.

(3) "Eligible advanced degree program" means a health professional degree program beyond the baccalaureate level and includes graduate and professional degree programs.

(4) "Eligible county" has the same meaning as "rural county" as defined in RCW 82.14.370 and also includes any county that shares a common border with Canada and has a population of over one hundred twenty-five thousand.

(5) "Eligible education programs" means high employer demand and other programs of study as determined by the board.

(6) "Eligible expenses" means reasonable expenses associated with the costs of acquiring an education such as tuition, books, equipment, fees, room and board, and other expenses as determined by the program administrator in consultation with the council and the state board for community and technical colleges.

(7) "Eligible school district" means a school district of the second class as identified in RCW 28A.300.065(2).

(8) "Eligible student" means a resident student who received his or her high school diploma or high school equivalency certificate as provided in RCW 28B.50.536 in Washington and who:

(a)(i) Has been accepted at a four-year institution of higher education into an eligible education program leading to a baccalaureate degree;

(ii) Will attend a two-year institution of higher education and intends to transfer to an eligible education program at a four-year institution of higher education;

(iii) Has been accepted at an institution of higher education into a professional-technical degree program in an eligible education program; ((~~or~~))

(iv) Has been accepted at an institution of higher education into a professional-technical certificate program in an eligible education program; or

(v) Has been accepted at an institution of higher education into an eligible advanced degree program and has agreed to the service obligation established by the board;

(b) Declares an intention to obtain a professional-technical certificate, professional-technical degree, ((~~or~~)) baccalaureate degree((~~[,]~~)), or an advanced degree; and

(c) Has a family income at or below one hundred twenty-five percent of the state median family income at the time the student applies for an opportunity scholarship.

(9) "Gift aid" means financial aid received from the federal Pell grant, the state need grant program in chapter 28B.92 RCW, the college bound scholarship program in chapter 28B.118 RCW, the opportunity grant program in chapter 28B.50 RCW, the opportunity scholarship program in this chapter, or any other state grant, scholarship, or worker retraining program that provides funds for educational purposes with no obligation of repayment. "Gift aid" does not include student loans, work-study programs, the basic food employment and training program administered by the department of social and health services, or other employment assistance programs that provide job readiness opportunities and support beyond the costs of tuition, books, and fees.

(10) "High employer demand program of study" has the same meaning as provided in RCW 28B.50.030.

(11) "Participant" means an eligible student who has received a scholarship under the opportunity scholarship program.

(12) "Private sources," "private funds," "private contributions," or "private sector contributions" means donations from private organizations, corporations, municipalities, counties, and other sources, but excludes state dollars.

(13) "Professional-technical certificate" means a program as approved by the state board for community and technical colleges under RCW 28B.50.090(7)(c), that is offered by an institution of higher education.

((~~(13)~~)) (14) "Professional-technical degree" means a program as approved by the state board for community and technical colleges under RCW 28B.50.090(7)(c), that is offered by an institution of higher education.

((~~(14)~~)) (15) "Program administrator" means a private nonprofit corporation registered under Title 24 RCW and qualified as a tax-exempt entity under section 501(c)(3) of the federal internal revenue code.

((~~(15)~~)) (16) "Resident student" has the same meaning as provided in RCW 28B.15.012.

((~~(16)~~)) (17) "Rural jobs program" means the rural county high employer demand jobs program created in this chapter.

((~~(17)~~)) (18) "Service obligation" means an obligation by the participant to be employed in a service obligation area in the state for a specific period to be established by the board.

((~~(18)~~)) (19) "Service obligation area" means a location that meets one of the following conditions:

(a) Has been designated by the council as an eligible site under the health professional conditional scholarship program established under chapter 28B.115 RCW;

(b) Serves at least forty percent uninsured or medicaid enrolled patients;

(c) Is located in a rural county as defined in RCW 82.14.370 and serves a combination of uninsured, medicaid enrolled patients, and medicare enrolled patients, equal to at least forty percent of the practice location's total patients; or

(d) Serves a public agency, nonprofit organization, or local health jurisdiction as defined in RCW 43.70.575 by providing public health services necessary to preserve, protect, and promote the health of the state's population, as determined by the board after consultation with the department of health.

**Sec.**  RCW 28B.145.030 and 2018 c 209 s 8, 2018 c 204 s 2, and 2018 c 114 s 4 are each reenacted and amended to read as follows:

(1) The program administrator shall provide administrative support to execute the duties and responsibilities provided in this chapter, including but not limited to publicizing the program, selecting participants for the opportunity scholarship award, distributing opportunity scholarship awards, and achieving the maximum possible rate of return on investment of the accounts in subsection (2) of this section, while ensuring transparency in the investment decisions and processes. Duties, exercised jointly with the board, include soliciting funds and setting annual fund-raising goals. The program administrator shall be paid an administrative fee as determined by the board.

(2) With respect to the opportunity scholarship program, the program administrator shall:

(a) Establish and manage ((~~three separate~~)) the specified accounts created in (b) of this subsection, into which to receive grants and contributions from private sources as well as state matching funds, and from which to disburse scholarship funds to participants;

(b) Solicit and accept grants and contributions from private sources, via direct payment, pledge agreement, or escrow account, of private sources for deposit into any of the ((~~three~~)) specified accounts created in this subsection (2)(b) upon the direction of the donor and in accordance with this subsection (2)(b):

(i) The "scholarship account," whose principal may be invaded, and from which scholarships must be disbursed for baccalaureate programs beginning no later than December 1, 2011, if, by that date, state matching funds in the amount of five million dollars or more have been received. Thereafter, scholarships shall be disbursed on an annual basis beginning no later than May 1, 2012, and every October 1st thereafter;

(ii) The "student support pathways account," whose principal may be invaded, and from which scholarships may be disbursed for professional-technical certificate or degree programs in the fiscal year following appropriations of state matching funds. Thereafter, scholarships shall be disbursed on an annual basis;

(iii) The "advanced degrees pathways account," whose principal may be invaded, and from which scholarships may be disbursed for eligible advanced degree programs in the fiscal year following appropriations of state matching funds. Thereafter, scholarships shall be disbursed on an annual basis;

(iv) The "endowment account," from which scholarship moneys may be disbursed for baccalaureate programs from earnings only in years when:

(A) The state match has been made into both the scholarship and the endowment account; and

(B) The state appropriations for the state need grant under RCW 28B.92.010 meet or exceed state appropriations for the state need grant made in the 2011-2013 biennium, adjusted for inflation, and eligibility for state need grant recipients is at least seventy percent of state median family income;

(v) An amount equal to at least fifty percent of all grants and contributions must be deposited into the scholarship account until such time as twenty million dollars have been deposited into the scholarship account, after which time the private donors may designate whether their contributions must be deposited to the scholarship account, the student support pathways account, the advanced degrees pathways account, or the endowment account((~~s~~)). The board and the program administrator must work to maximize private sector contributions to ((~~the scholarship account, the student support pathways account, the advanced degrees pathways account, and the endowment account,~~)) these accounts to maintain a robust scholarship program while simultaneously building the endowment, and to determine the division between the ((~~scholarship, the student support pathways, the advanced degrees pathways, and the endowment~~)) accounts in the case of undesignated grants and contributions, taking into account the need for a long‑term funding mechanism and the short‑term needs of families and students in Washington. The first five million dollars in state match, as provided in RCW 28B.145.040, shall be deposited into the scholarship account and thereafter the state match shall be deposited into the ((~~three~~)) specified accounts created in this subsection (2)(b) in equal proportion to the private funds deposited in each account, except that no more than one million dollars in state match shall be deposited into the advanced degrees pathways account in a single fiscal biennium; and

(vi) Once moneys in the opportunity scholarship match transfer account are subject to an agreement under RCW 28B.145.050(5) and are deposited in the scholarship account, the student support pathways account, the advanced degrees pathways account, or the endowment account under this section, the state acts in a fiduciary rather than ownership capacity with regard to those assets. Assets in the scholarship account, the student support pathways account, the advanced degrees pathways account, and the endowment account are not considered state money, common cash, or revenue to the state;

(c) Provide proof of receipt of grants and contributions from private sources to the council, identifying the amounts received by name of private source and date, and whether the amounts received were deposited into the scholarship account, the student support pathways account, the advanced degrees pathways account, or the endowment account((~~s~~));

(d) In consultation with the council and the state board for community and technical colleges, make an assessment of the reasonable annual eligible expenses associated with eligible education programs and eligible advanced degree programs identified by the board;

(e) Determine the dollar difference between tuition fees charged by institutions of higher education in the 2008-09 academic year and the academic year for which an opportunity scholarship is being distributed;

(f) Develop and implement an application, selection, and notification process for awarding opportunity scholarships;

(g) Ensure that if the private source is from a municipality or county, an amount at least equal to the value of the private source plus the state match is awarded to participants within that municipality or county according to the municipality's or county's program rules;

(h) Determine the annual amount of the opportunity scholarship for each selected participant. The annual amount shall be at least one thousand dollars or the amount determined under (e) of this subsection, but may be increased on an income-based, sliding scale basis up to the amount necessary to cover all reasonable annual eligible expenses as assessed pursuant to (d) of this subsection, or to encourage participation in professional-technical certificate programs, professional-technical degree programs, ((~~or~~)) baccalaureate degree programs, or eligible advanced degree programs identified by the board;

((~~(h)~~)) (i) Distribute scholarship funds to selected participants. Once awarded, and to the extent funds are available for distribution, an opportunity scholarship shall be automatically renewed as long as the participant annually submits documentation of filing both a free application for federal student aid (FAFSA) and for available federal education tax credits including, but not limited to, the American opportunity tax credit, or if ineligible to apply for federal student aid, the participant annually submits documentation of filing a state financial aid application as approved by the office of student financial assistance; and until the participant withdraws from or is no longer attending the program, completes the program, or has taken the credit or clock hour equivalent of one hundred twenty-five percent of the published length of time of the participant's program, whichever occurs first;

((~~(i)~~)) (j) Notify institutions of scholarship recipients who will attend their institutions and inform them of the terms of the students' eligibility;

((~~(j)~~)) (k) Establish a required service obligation for participants enrolled in an eligible advanced degree program, and establish a process for verifying a participant's employment in a service obligation area; and

((~~(k)~~)) (l) Establish a repayment obligation and appeals process for participants who serve less than the required service obligation, unless the program administrator determines the circumstances are beyond the participant's control. If the participant is unable to pay the repayment obligation in full, the participant may enter into payment arrangements with the program administrator. The program administrator is responsible for the collection of repayment obligations on behalf of participants who fail to complete their service obligation.

(3) With respect to the opportunity expansion program, the program administrator shall:

(a) Assist the board in developing and implementing an application, selection, and notification process for making opportunity expansion awards; and

(b) Solicit and accept grants and contributions from private sources for opportunity expansion awards.

**Sec.**  RCW 28B.145.090 and 2018 c 254 s 3, 2018 c 209 s 10, and 2018 c 114 s 6 are each reenacted and amended to read as follows:

(1) The board may elect to have the state investment board invest the funds in the scholarship account, the student support pathways account, the advanced degrees pathways account, and the endowment account described under RCW 28B.145.030(2)(b). If the board so elects, the state investment board has the full power to invest, reinvest, manage, contract, sell, or exchange investment money in ((~~the three~~)) these accounts. All investment and operating costs associated with the investment of money shall be paid under RCW 43.33A.160 and 43.84.160. With the exception of these expenses, the earnings from the investment of the money shall be retained by the accounts.

(2) All investments made by the state investment board shall be made with the exercise of that degree of judgment and care under RCW 43.33A.140 and the investment policy established by the state investment board.

(3) As deemed appropriate by the state investment board, money in the scholarship account, the student support pathways account, the advanced degrees pathways account, and the endowment account may be commingled for investment with other funds subject to investment by the state investment board.

(4) Members of the state investment board shall not be considered an insurer of the funds or assets and are not liable for any action or inaction.

(5) Members of the state investment board are not liable to the state, to the fund, or to any other person as a result of their activities as members, whether ministerial or discretionary, except for willful dishonesty or intentional violations of law. The state investment board in its discretion may purchase liability insurance for members.

(6) The authority to establish all policies relating to the scholarship account, the student support pathways account, the advanced degrees pathways account, and the endowment account, other than the investment policies as provided in subsections (1) through (3) of this section, resides with the board and program administrator acting in accordance with the principles set forth in this chapter. With the exception of expenses of the state investment board in subsection (1) of this section, disbursements from the scholarship account, the student support pathways account, the advanced degrees pathways account, and the endowment account shall be made only on the authorization of the opportunity scholarship board or its designee, and moneys in the accounts may be spent only for the purposes specified in this chapter.

(7) The state investment board shall routinely consult and communicate with the board on the investment policy, earnings of the accounts, and related needs of the program.

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