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**SENATE BILL 5709**

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

**By** Senators McCoy, Salomon, Hunt, Nguyen, Hasegawa, Hobbs, Saldaña, Conway, Keiser, Kuderer, Randall, and Van De Wege

AN ACT Relating to creating the Native American opportunity scholarship program; and adding a new chapter to Title 28B RCW.

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

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

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

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

(3) "Eligible education programs" means certificate, associate's degree, bachelor's degree, and advanced degree programs, and registered apprenticeship programs approved under chapter 49.04 RCW as determined by the board.

(4) "Eligible expenses" means reasonable expenses associated with the costs of acquiring an education such as tuition, books, equipment, fees, and other expenses as determined by the program administrator in consultation with the council.

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

(a) Has been accepted at an institution of higher education into an eligible education program leading to a degree or credential or a registered apprenticeship program under chapter 49.04 RCW;

(b) Declares an intention to obtain a certificate, associate's degree, bachelor's degree, advanced degree, or complete an approved apprenticeship program;

(c) Is enrolled for at least three credit-bearing quarter courses or the semester equivalent; and

(d) Is a member of a federally recognized Indian tribe.

(6) "Office" means the office of student financial assistance.

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

(8) "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.

(9) "Resident student" has the same meaning as in RCW 28B.15.012.

NEW SECTION. **Sec.**  (1) The Native American opportunity scholarship account is created in the custody of the state treasurer. Only the executive director of the office or the executive director's designee may authorize expenditures from the account. No appropriation is required for expenditures from the account for Native American opportunity scholarships. An appropriation is required for expenditures from the account for costs associated with Native American opportunity scholarship program administration by the office.

(2) The office shall deposit into the account all moneys received for the Native American opportunity scholarship program. Revenues to the account consist of moneys received for the program by the office or program administrator, including grants and donations.

(3) Expenditures from the account may be used solely for Native American opportunity scholarships to participants in the program established by this chapter and costs associated with program administration by the office or program administrator.

NEW SECTION. **Sec.**  (1) The Native American opportunity scholarship board is created. The board consists of seven members:

(a) Three members appointed by the governor. For the three appointments, the governor shall consider names from a list provided by the president of the senate and the speaker of the house of representatives; and

(b) Four members who are members of federally recognized Indian tribes within Washington. At least one member representing a federally recognized Indian tribe shall be from a tribe on the east side of the crest of the Cascade mountain range and at least one member representing a federally recognized Indian tribe shall be from a tribe on the west side of the crest of the Cascade mountain range.

(2) Board members shall hold their offices for a term of four years from September 1st and until their successors are appointed. No more than the terms of two members may expire simultaneously on August 31st in any one year.

(3) The board members shall elect one of the members representing a federally recognized Indian tribe to serve as chair.

(4) Four members of the board constitute a quorum for the transaction of business. In case of a vacancy, or when an appointment is made after the date of expiration of the term, the governor or the president of the senate or the speaker of the house of representatives, depending upon which made the initial appointment to that position, shall fill the vacancy for the remainder of the term of the board member whose position has become vacant or expired.

(5) The board shall be staffed by the program administrator.

(6) The purpose of the board is to provide oversight and guidance for the Native American opportunity scholarship program in light of established legislative priorities and to fulfill the duties and responsibilities under this chapter including, but not limited to, determining eligible education programs and eligible advanced degree programs for purposes of the Native American opportunity scholarship program. Duties, exercised jointly with the program administrator, include soliciting funds and setting annual fund-raising goals.

(7) The board may report to the governor and the appropriate committees of the legislature with recommendations as to whether some or all of the scholarships should be changed to conditional scholarships that must be repaid in the event the participant does not complete the eligible education program.

(8) The office or program administrator shall submit an annual report regarding the Native American opportunity scholarship program to the governor and the appropriate committees of the legislature in accordance with the reporting requirements in RCW 43.01.036.

(9) The annual report shall describe the design and implementation of the Native American opportunity scholarship program, and must include the following:

(a) The number of applicants for the Native American opportunity scholarship;

(b) The number of participants in the program;

(c) The number of participants in the program who complete their degree or credential program;

(d) Demographic profiles of both applicants and participants; and

(e) The amount of the private funding collected for the program.

(10) The office or program administrator shall submit the first annual report establishing the program rules by December 1, 2020, and shall submit each subsequent report by December 1st each year thereafter.

NEW SECTION. **Sec.**  (1) The program administrator, under contract with the council, shall staff the board and shall provide administrative support to execute the duties and responsibilities under this chapter including, but not limited to:

(a) Publicizing the Native American opportunity scholarship program;

(b) Selecting participants for the Native American opportunity scholarship award;

(c) Distributing the Native American opportunity scholarship awards; and

(d) Achieving the maximum possible rate of return on investment of the scholarship and endowment accounts under subsection (4)(a) of this section, while ensuring transparency in the investment decisions and processes.

(2) the program administrator and the board have the following joint duties: Soliciting funds and setting annual fund-raising goals.

(3) The program administrator shall be paid an administrative fee as determined by the board.

(4) With respect to the Native American opportunity scholarship program, the program administrator shall:

(a) Establish and manage the following separate accounts 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:

(i) The scholarship account, whose principal may be invaded, and from which scholarships must be disbursed for eligible education programs beginning no later than December 1, 2022, if, by that date, state matching funds have been received. Thereafter, scholarships shall be disbursed on an annual basis beginning no later than May 1, 2023, and every October 1st thereafter; and

(ii) The endowment account, from which scholarship moneys may be disbursed for eligible education programs from earnings only in years when the state match has been made into both the scholarship and the endowment account;

(b) Solicit and accept grants and contributions from private sources, by direct payment, pledge agreement, or escrow account, of private sources for deposit into the scholarship and endowment accounts under (a) of this subsection upon the direction of the donor;

(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 or endowment account under (a) of this subsection;

(d) In consultation with the council, make an assessment of the reasonable annual eligible expenses associated with eligible education programs identified by the board;

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

(f) Determine the annual amount of the Native American 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 under (d) of this subsection;

(g) Distribute scholarship funds to selected participants. Once awarded, and to the extent funds are available for distribution, a Native American opportunity scholarship shall be automatically renewed as long as the participant annually submits documentation of filing both a free application for federal student aid 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; 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; and

(h) Notify institutions of higher education of scholarship recipients who will attend the institution of higher education and inform them of the terms of the students' eligibility.

(5)(a) The board and the program administrator must work to maximize private sector contributions to the scholarship account to maintain a robust Native American opportunity scholarship program while simultaneously building the endowment, 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 Native American families and students in Washington.

(b) Once moneys in the Native American opportunity scholarship account are deposited in the scholarship account or 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 and endowment account are not considered state money, common cash, or revenue to the state.

NEW SECTION. **Sec.**  (1) The native American opportunity scholarship program is established.

(2) The purpose of the program is to provide scholarships that will encourage Native American Washington residents to earn postsecondary degrees and credentials and remain in the state and their communities to work. The program must be designed for students pursuing a wide range of credentials and degrees including registered apprenticeship programs, workforce credentials, and associate's, bachelor's, and advanced degrees.

(3) The board shall determine which programs of study are eligible for the purposes of the opportunity scholarship.

(4) The source of funds for the program shall be a combination of private grants and contributions and state matching funds. A state match may be earned under this section for private contributions made on or after September 1, 2019. A state match shall be provided beginning September 1, 2021.

NEW SECTION. **Sec.**  (1) The board may elect to have the state investment board invest the funds in the scholarship account and the endowment account described under section 4 of this act. 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 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 degree of judgment and care required 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 and endowment accounts may be commingled for investment with other funds subject to investment by the state investment board.

(4) Members of the state investment board may 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 and endowment accounts, 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 under subsection (1) of this section, disbursements from the scholarship and endowment accounts shall be made only on the authorization of the 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.

NEW SECTION. **Sec.**  Sections 1 through 6 of this act constitute a new chapter in Title 28B RCW.

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