
SENATE BILL 5709

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

Read first time 01/29/19. Referred to Committee on Higher Education & Workforce Development.

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

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

4 NEW SECTION. **Sec. 1.** The definitions in this section apply
5 throughout this chapter unless the context clearly requires
6 otherwise.

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

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

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

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

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

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

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

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

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

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

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

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

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

18 NEW SECTION. **Sec. 2.** (1) The Native American opportunity
19 scholarship account is created in the custody of the state treasurer.
20 Only the executive director of the office or the executive director's
21 designee may authorize expenditures from the account. No
22 appropriation is required for expenditures from the account for
23 Native American opportunity scholarships. An appropriation is
24 required for expenditures from the account for costs associated with
25 Native American opportunity scholarship program administration by the
26 office.

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

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

35 NEW SECTION. **Sec. 3.** (1) The Native American opportunity
36 scholarship board is created. The board consists of seven members:

37 (a) Three members appointed by the governor. For the three
38 appointments, the governor shall consider names from a list provided

1 by the president of the senate and the speaker of the house of
2 representatives; and

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

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

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

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

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

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

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

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

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

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

6 (b) The number of participants in the program;

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

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

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

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

15 NEW SECTION. **Sec. 4.** (1) The program administrator, under
16 contract with the council, shall staff the board and shall provide
17 administrative support to execute the duties and responsibilities
18 under this chapter including, but not limited to:

19 (a) Publicizing the Native American opportunity scholarship
20 program;

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

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

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

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

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

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

35 (a) Establish and manage the following separate accounts into
36 which to receive grants and contributions from private sources as
37 well as state matching funds, and from which to disburse scholarship
38 funds to participants:

1 (i) The scholarship account, whose principal may be invaded, and
2 from which scholarships must be disbursed for eligible education
3 programs beginning no later than December 1, 2022, if, by that date,
4 state matching funds have been received. Thereafter, scholarships
5 shall be disbursed on an annual basis beginning no later than May 1,
6 2023, and every October 1st thereafter; and

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

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

16 (c) Provide proof of receipt of grants and contributions from
17 private sources to the council, identifying the amounts received by
18 name of private source and date, and whether the amounts received
19 were deposited into the scholarship or endowment account under (a) of
20 this subsection;

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

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

27 (f) Determine the annual amount of the Native American
28 opportunity scholarship for each selected participant. The annual
29 amount shall be at least one thousand dollars or the amount
30 determined under (e) of this subsection, but may be increased on an
31 income-based, sliding scale basis up to the amount necessary to cover
32 all reasonable annual eligible expenses as assessed under (d) of this
33 subsection;

34 (g) Distribute scholarship funds to selected participants. Once
35 awarded, and to the extent funds are available for distribution, a
36 Native American opportunity scholarship shall be automatically
37 renewed as long as the participant annually submits documentation of
38 filing both a free application for federal student aid and for
39 available federal education tax credits including, but not limited
40 to, the American opportunity tax credit, or if ineligible to apply

1 for federal student aid, the participant annually submits
2 documentation of filing a state financial aid application as approved
3 by the office; and until the participant withdraws from or is no
4 longer attending the program, completes the program, or has taken the
5 credit or clock hour equivalent of one hundred twenty-five percent of
6 the published length of time of the participant's program, whichever
7 occurs first; and

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

11 (5)(a) The board and the program administrator must work to
12 maximize private sector contributions to the scholarship account to
13 maintain a robust Native American opportunity scholarship program
14 while simultaneously building the endowment, in the case of
15 undesignated grants and contributions, taking into account the need
16 for a long-term funding mechanism and the short-term needs of Native
17 American families and students in Washington.

18 (b) Once moneys in the Native American opportunity scholarship
19 account are deposited in the scholarship account or endowment account
20 under this section, the state acts in a fiduciary rather than
21 ownership capacity with regard to those assets. Assets in the
22 scholarship account and endowment account are not considered state
23 money, common cash, or revenue to the state.

24 NEW SECTION. **Sec. 5.** (1) The native American opportunity
25 scholarship program is established.

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

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

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

1 NEW SECTION. **Sec. 6.** (1) The board may elect to have the state
2 investment board invest the funds in the scholarship account and the
3 endowment account described under section 4 of this act. If the board
4 so elects, the state investment board has the full power to invest,
5 reinvest, manage, contract, sell, or exchange investment money in the
6 accounts. All investment and operating costs associated with the
7 investment of money shall be paid under RCW 43.33A.160 and 43.84.160.
8 With the exception of these expenses, the earnings from the
9 investment of the money shall be retained by the accounts.

10 (2) All investments made by the state investment board shall be
11 made with the degree of judgment and care required under RCW
12 43.33A.140 and the investment policy established by the state
13 investment board.

14 (3) As deemed appropriate by the state investment board, money in
15 the scholarship and endowment accounts may be commingled for
16 investment with other funds subject to investment by the state
17 investment board.

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

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

27 (6) The authority to establish all policies relating to the
28 scholarship and endowment accounts, other than the investment
29 policies as provided in subsections (1) through (3) of this section,
30 resides with the board and program administrator acting in accordance
31 with the principles set forth in this chapter. With the exception of
32 expenses of the state investment board under subsection (1) of this
33 section, disbursements from the scholarship and endowment accounts
34 shall be made only on the authorization of the board or its designee,
35 and moneys in the accounts may be spent only for the purposes
36 specified in this chapter.

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

1 NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act
2 constitute a new chapter in Title 28B RCW.

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