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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, and Saldaña

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.

--- **END** ---