
SUBSTITUTE HOUSE BILL 2001

State of Washington

66th Legislature

2019 Regular Session

By House College & Workforce Development (originally sponsored by Representatives Hansen, Lekanoff, Valdez, Reeves, Pettigrew, Ryu, Entenman, Ortiz-Self, Slatter, Ormsby, Gregerson, Bergquist, Santos, Thai, Leavitt, Stonier, Tarleton, Pollet, Paul, Sells, Frame, Peterson, Lovick, Stanford, Chapman, Appleton, Tharinger, Macri, and Doglio)

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 a
19 high school diploma or high school equivalency certificate under RCW
20 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 match transfer account is created in the custody of the
20 state treasurer as a nonappropriated account to be used solely and
21 exclusively for the Native American opportunity scholarship program.
22 The purpose of the account is to provide matching funds for the
23 Native American opportunity scholarship program.

24 (2) Revenues to the account shall consist of appropriations by
25 the legislature into the account and any gifts, grants, or donations
26 received by the executive director of the office for this purpose.

27 (3) No expenditures from the account may be made except upon
28 receipt of proof, by the executive director of the office from the
29 program administrator, of private contributions to the Native
30 American opportunity scholarship program. Expenditures, in the form
31 of matching funds, may not exceed the total amount of private
32 contributions.

33 (4) Only the executive director of the office or the executive
34 director's designee may authorize expenditures from the account. Such
35 authorization must be made as soon as practicable following receipt
36 of proof as required under subsection (3) of this section.

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

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

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

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

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

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

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

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

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

38 (8) The office or program administrator shall submit an annual
39 report regarding the Native American opportunity scholarship program

1 to the governor and the appropriate committees of the legislature in
2 accordance with the reporting requirements in RCW 43.01.036.

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

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

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

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

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

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

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

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

21 (a) Publicizing the Native American opportunity scholarship
22 program;

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

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

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

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

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

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

37 (a) Establish and manage the following separate accounts into
38 which to receive grants and contributions from private sources as

1 well as state matching funds, and from which to disburse scholarship
2 funds to participants:

3 (i) The scholarship account, whose principal may be invaded, and
4 from which scholarships must be disbursed for eligible education
5 programs beginning no later than December 1, 2022, if, by that date,
6 state matching funds have been received. Thereafter, scholarships
7 shall be disbursed on an annual basis beginning no later than May 1,
8 2023, and every October 1st thereafter; and

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

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

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

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

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

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

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

1 available federal education tax credits including, but not limited
2 to, the American opportunity tax credit, or if ineligible to apply
3 for federal student aid, the participant annually submits
4 documentation of filing a state financial aid application as approved
5 by the office; and until the participant withdraws from or is no
6 longer attending the program, completes the program, or has taken the
7 credit or clock hour equivalent of one hundred twenty-five percent of
8 the published length of time of the participant's program, whichever
9 occurs first; and

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

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

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

26 NEW SECTION. **Sec. 5.** (1) The Native American opportunity
27 scholarship program is established.

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

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

37 (4)(a) The source of funds for the program shall be a combination
38 of private grants and contributions and state matching funds. A state
39 match, up to a maximum of ten million dollars annually, may be earned

1 under this section for private contributions made on or after
2 September 1, 2019. A state match shall be provided beginning
3 September 1, 2021.

4 (b) The state match must be based on donations and pledges
5 received as of the date each official state caseload forecast is
6 submitted by the caseload forecast council to the legislative fiscal
7 committees, as provided under RCW 43.88C.020. The purpose of this
8 subsection (4)(b) is to ensure the predictable treatment of the
9 program in the budget process by clarifying the calculation process
10 of the state match required by this section.

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

20 (2) All investments made by the state investment board shall be
21 made with the degree of judgment and care required under RCW
22 43.33A.140 and the investment policy established by the state
23 investment board.

24 (3) As deemed appropriate by the state investment board, money in
25 the scholarship and endowment accounts may be commingled for
26 investment with other funds subject to investment by the state
27 investment board.

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

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

37 (6) The authority to establish all policies relating to the
38 scholarship and endowment accounts, other than the investment
39 policies as provided in subsections (1) through (3) of this section,

1 resides with the board and program administrator acting in accordance
2 with the principles set forth in this chapter. With the exception of
3 expenses of the state investment board under subsection (1) of this
4 section, disbursements from the scholarship and endowment accounts
5 shall be made only on the authorization of the board or its designee,
6 and moneys in the accounts may be spent only for the purposes
7 specified in this chapter.

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

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

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