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**SUBSTITUTE SENATE BILL 5709**

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

**By** Senate Higher Education & Workforce Development (originally sponsored by Senators McCoy, Salomon, Hunt, Nguyen, Hasegawa, Hobbs, Saldaña, Conway, Keiser, Kuderer, Randall, and Van De Wege)

AN ACT Relating to modifying the American Indian endowed scholarship program; amending RCW 28B.108.020, 28B.108.030, 28B.108.040, and 28B.108.060; reenacting and amending RCW 28B.108.010; adding a new section to chapter 28B.108 RCW; and creating a new section.

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

NEW SECTION. **Sec.**  The legislature recognizes the benefit to our state and nation of providing equal educational opportunities for all races and nationalities. The legislature finds that Native American students are underrepresented in Washington's colleges and universities. The legislature also finds that past discriminatory practices have resulted in this underrepresentation. Creating an endowed scholarship program to help Native American students obtain a higher education will help to rectify past discrimination by providing a means and an incentive for Native American students to pursue a higher education. The state will benefit from contributions made by Native Americans who participate in a program of higher education.

**Sec.**  RCW 28B.108.010 and 2011 1st sp.s. c 11 s 191 are each reenacted and amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

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

(2) "Eligible student" or "student" means ((~~an~~)) a Native American ((~~Indian~~)) who is a financially needy student, as defined in RCW 28B.92.030, who is a resident student, as defined by RCW 28B.15.012(2), who is a full-time student at an institution of higher education, and who promises to use his or her education to benefit other Native Americans ((~~Indians~~)).

((~~(2)~~)) (3) "Institution of higher education" or "institution" means a college or university in the state of Washington which is accredited by an accrediting association recognized as such by rule of the council for higher education.

((~~(3)~~)) (4) "Office" means the office of student financial assistance.

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

(6) "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.

**Sec.**  RCW 28B.108.020 and 2012 c 229 s 608 are each amended to read as follows:

(1) The Native American ((~~Indian~~)) endowed scholarship program is created. The program shall be administered by the office. In administering the program, the office's powers and duties shall include but not be limited to:

(a) ((~~Selecting students to receive scholarships, with the assistance of a screening committee composed of persons involved in helping American Indian students to obtain a higher education. The membership of the committee may include, but is not limited to representatives of: Indian tribes, urban Indians, the governor's office of Indian affairs, the Washington state Indian education association, and institutions of higher education~~)) Staffing the board created under RCW 28B.108.030;

(b) Publicizing the program;

(c) Accepting and depositing donations into the endowment fund created in RCW 28B.108.060; and

(d) Requesting from the state investment board and accepting from the state treasurer moneys earned from the endowment fund created in RCW 28B.108.060((~~;~~

~~(e) Soliciting and accepting grants and donations from public and private sources for the program; and~~

~~(f) Naming scholarships in honor of those American Indians from Washington who have acted as role models~~)).

(2) The student achievement council shall adopt necessary rules and guidelines for the Native American ((~~Indian~~)) endowed scholarship program.

**Sec.**  RCW 28B.108.030 and 2011 1st sp.s. c 11 s 193 are each amended to read as follows:

((~~The office shall establish an advisory committee to assist in program design and to develop criteria for the screening and selection of scholarship recipients. The committee shall be composed of representatives of the same groups as the screening committee described in RCW 28B.108.020. The criteria shall assess the student's social and cultural ties to an American Indian community within the state. The criteria shall include a priority for upper-division or graduate students. The criteria may include a priority for students who are majoring in program areas in which expertise is needed by the state's American Indians.~~)) (1) The Native American endowed scholarship board is created. The board consists of seven members appointed by the governor. At least four members must be from a federally recognized Indian tribe within Washington. Of these four members, at least one must be from a federally recognized Indian tribe on the east side of the crest of the Cascade mountain range and at least one from a federally recognized Indian tribe on the west side of the crest of the Cascade mountain range. The governor shall consider names from a list provided by the president of the senate and the speaker of the house of representatives in appointing board members.

(2) Board members shall hold their positions for a term of four years from September 1st 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 the 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 who 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 council shall staff the board.

(6) The board's purposes include:

(a) Establishing fund-raising goals;

(b) Leading fund-raising activities on behalf of the Native American endowed scholarship program;

(c) Providing oversight and guidance for the Native American endowed scholarship program in light of established legislative priorities;

(d) Naming scholarships in honor of those Native Americans from Washington who have acted as role models;

(e) Selecting participants for the Native American endowed scholarship program award;

(f) Determining eligible education programs and eligible advanced degree programs for purposes of the Native American endowed scholarship program; and

(g) Distributing the Native American endowed scholarship program awards.

(7) The board must work to maximize private sector contributions to the Native American scholarship endowment fund to maintain a robust Native American endowed scholarship program while simultaneously building the endowment. In the case of undesignated grants and contributions, the board must take into account the need for a long‑term funding mechanism and the short‑term needs of Native American families and students in Washington.

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

(b) The annual report must describe the design and implementation of the Native American endowed scholarship program and include the following:

(i) The number of applicants for the Native American endowed scholarship;

(ii) The number of participants in the Native American endowed scholarship program;

(iii) The number of participants in the Native American endowed scholarship program who complete their degree or credential program;

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

(v) The amount of the private funding collected for the Native American endowed scholarship program.

(c) The office shall submit the first annual report establishing the Native American endowed scholarship program rules by December 1, 2020, and each subsequent report by December 1st each year thereafter.

**Sec.**  RCW 28B.108.040 and 2012 c 229 s 564 are each amended to read as follows:

(1) The office may award scholarships to eligible students from moneys earned from the endowment fund created in RCW 28B.108.060, or from funds appropriated to the council for this purpose, or from any private donations, or from any other funds given to the council for this program. For an undergraduate student, the amount of the scholarship shall not exceed the student's demonstrated financial need. For a graduate student, the amount of the scholarship shall not exceed the student's demonstrated need; or the stipend of a teaching assistant, including tuition, at the University of Washington; whichever is higher. In calculating a student's need, the office shall consider the student's costs for tuition, fees, books, supplies, transportation, room, board, personal expenses, and child care. The student's scholarship awarded under this chapter shall not exceed the amount received by a student attending a state research university. A student is eligible to receive a scholarship for a maximum of five years. However, the length of the scholarship shall be determined at the discretion of the board in consultation with the office.

(2) The source of funds for the Native American endowed scholarship program shall be a combination of private grants and contributions and state matching funds. A state match may be provided beginning January 1, 2020.

**Sec.**  RCW 28B.108.060 and 2012 c 187 s 3 are each amended to read as follows:

The Native American ((~~Indian~~)) scholarship endowment fund is created in the custody of the state treasurer. Funds appropriated by the legislature for the endowment fund must be deposited into the fund.

(1) Moneys received from the office, private donations, state moneys, and funds received from any other source may be deposited into the endowment fund. Private moneys received as a gift subject to conditions may be deposited into the fund. The investment of private moneys in the fund shall be managed by the state investment board.

(2) At the request of the office, the state investment board shall release earnings from the private moneys invested by it to the state treasurer.

(3) When a condition attached to a gift of private moneys in the fund has failed, the office shall then release the moneys to the donors according to the terms of the conditional gift.

(4) The principal of the endowment fund shall not be invaded. The release of moneys under subsection (3) of this section shall not constitute an invasion of corpus.

(5) The earnings on the fund shall be used solely for the purposes set forth in RCW 28B.108.040, except when the terms of a conditional gift of private moneys in the fund require that a portion of earnings on such moneys be reinvested in the fund. An appropriation is not required for expenditures from the endowment fund.

NEW SECTION. **Sec.**  A new section is added to chapter 28B.108 RCW to read as follows:

(1) The council in consultation with the board may elect to have the state investment board invest the funds in the Native American scholarship endowment fund created under RCW 28B.108.060. 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 Native American scholarship endowment fund. 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 Native American scholarship endowment fund.

(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 Native American scholarship endowment fund 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 Native American scholarship endowment fund, other than the investment policies as provided in subsections (1) through (3) of this section, resides with the council and the board 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 Native American scholarship endowment fund shall be made only on the authorization of the board or its designee, and moneys in the Native American scholarship endowment fund 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 Native American scholarship endowment fund, and related needs of the Native American endowed scholarship fund program.

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