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**ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2143**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Haler, Hansen, Holy, Stanford, and Muri)

AN ACT Relating to expanding opportunities for higher education students; amending RCW 28B.145.005, 28B.145.010, 28B.145.020, 28B.145.030, 28B.145.040, and 28B.145.090; 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) "Eligible student" means a resident student who is enrolled in an accredited doctor of medicine or doctor of osteopathic medicine program in the state, is making satisfactory progress, and has declared an intention to work as a physician in a rural underserved area in Washington following residency.

(2) "Medical student loan" means a loan that is approved by the office and awarded to a participant under the program.

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

(4) "Participant" means an eligible student who has received a medical student loan under the program.

(5) "Program" means the medical student loan program.

(6) "Rural underserved area" means a rural county as defined in RCW 82.14.370 that is also designated by the health resources and services administration as a medically underserved area or having a medically underserved population.

NEW SECTION. **Sec.**  The medical student loan program is established to increase the physician workforce in rural underserved areas in Washington state. The program must be funded exclusively with private funding for the purpose of providing medical student loans. State funding may be used for the administration of the program. The office shall administer the program and has the following powers and duties:

(1) To design and implement a low interest medical student loan program with the following elements:

(a) A low interest rate, comparable to or more favorable than the federal direct loan program, with interest charges that begin to accrue once the participant finishes his or her medical residency program;

(b) An annual loan limit not to exceed forty thousand dollars and no more than the participant's estimated cost of attendance as determined by his or her medical program;

(c) Loan repayments that do not commence until:

(i) Six months after the participant completes his or her medical residency program; or

(ii) Six months after a participant leaves his or her doctor of medicine program, doctor of osteopathic medicine program, or medical residency program before completing; and

(d) An interest rate of at least twelve percent plus capitalized interest that was deferred during the participant's doctor of medicine or doctor of osteopathic medicine program, and residency program, if the participant does not work as a physician in a rural underserved area in Washington for three years following completion of his or her medical residency program;

(2) To establish an application, selection, and notification process for awarding medical student loans to eligible students;

(3) To define the terms of repayment, including applicable interest rates, fees, and deferments;

(4) To collect and manage repayments on the medical student loans;

(5) To solicit and accept grants and donations from nonstate public and private sources for the program;

(6) To exercise discretion to revise repayment obligations in certain cases, such as economic hardship or disability;

(7) To publicize the program; and

(8) To adopt necessary rules.

NEW SECTION. **Sec.**  (1) The medical student loan 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 medical student loans. An appropriation is required for expenditures from the account for costs associated with program administration by the office.

(2) The office shall deposit into the account all moneys received for the program. Revenues to the account consist of moneys received for the program by the office, including grants and donations, and receipts from participant repayments, including principal and interest.

(3) Expenditures from the account may be used solely for medical student loans to participants in the program established by this chapter and costs associated with program administration by the office.

NEW SECTION. **Sec.**  (1) The office shall submit an annual report regarding the program to the governor and the appropriate committees of the legislature in accordance with the reporting requirements in RCW 43.01.036.

(2) The annual report shall describe the design and implementation of the program, and must include the following:

(a) The number of applicants for medical student loans;

(b) The number of participants in the program;

(c) The number of participants in the program who complete their medical program;

(d) The number of participants in the program who are placed in employment;

(e) The nature of that employment, including the type of job; whether the job is full-time, part-time, or temporary; and the income range;

(f) Whether the participant is working in a rural underserved area, and what percent of the participant's patients are served by medicaid, the children's health insurance program, apple health, or other programs with similar eligibility requirements;

(g) Demographic profiles of both applicants and participants;

(h) The amount of the private funding collected for the program; and

(i) An estimate of when the program will be self-sustaining.

(3) The annual report must be submitted by December 1st of each year after July 1, 2020.

**Sec.**  RCW 28B.145.005 and 2011 1st sp.s. c 13 s 1 are each amended to read as follows:

The legislature finds that, despite increases in degree production, there remain acute shortages in high employer demand programs of study, particularly in the science, technology, engineering, and mathematics (STEM) and health care fields of study. According to the workforce training and education coordinating board, seventeen percent of Washington businesses had difficulty finding job applicants in 2010. Eleven thousand employers did not fill a vacancy because they lacked qualified job applicants. Fifty-nine percent of projected job openings in Washington state from now until 2017 will require some form of postsecondary education and training.

It is the intent of the legislature to provide jobs and opportunity by making Washington the place where the world's most productive companies find the world's most talented people. The legislature intends to accomplish this through the creation of the opportunity scholarship and the opportunity expansion programs to help mitigate the impact of tuition increases, increase the number of baccalaureate degrees in high employer demand and other programs and advanced degrees in health professions needed in service obligation areas, and invest in programs and students to meet market demands for a knowledge-based economy while filling middle-income jobs with a sufficient supply of skilled workers.

**Sec.**  RCW 28B.145.010 and 2014 c 208 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

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

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

(3) "Eligible advanced degree program" means a health professional degree program beyond the baccalaureate level and includes graduate and professional degree programs.

(4) "Eligible education programs" means high employer demand and other programs of study as determined by the board.

((~~(4)~~)) (5) "Eligible expenses" means reasonable expenses associated with the costs of acquiring an education such as tuition, books, equipment, fees, room and board, and other expenses as determined by the program administrator in consultation with the council and the state board for community and technical colleges.

((~~(5)~~)) (6) "Eligible student" means a resident student who received his or her high school diploma or high school equivalency certificate as provided in RCW 28B.50.536 in Washington and who:

(a)(i) Has been accepted at a four-year institution of higher education into an eligible education program leading to a baccalaureate degree; ((~~or~~))

(ii) Will attend a two-year institution of higher education and intends to transfer to an eligible education program at a four-year institution of higher education; or

(iii) Has been accepted at an institution of higher education into an eligible advanced degree program and has agreed to the service obligation established by the board;

(b) Declares an intention to obtain a baccalaureate degree or an advanced degree; and

(c) Has a family income at or below one hundred twenty-five percent of the state median family income at the time the student applies for an opportunity scholarship.

((~~(6)~~)) (7) "High employer demand program of study" has the same meaning as provided in RCW 28B.50.030.

((~~(7)~~)) (8) "Participant" means an eligible student who has received a scholarship under the opportunity scholarship program.

((~~(8)~~)) (9) "Program administrator" means a college scholarship organization that is 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, with expertise in managing scholarships and college advising.

((~~(9)~~)) (10) "Resident student" has the same meaning as provided in RCW 28B.15.012.

(11) "Service obligation" means an obligation by the participant to be employed in a service obligation area in the state for a specific period to be established by the board.

(12) "Service obligation area" means a location that meets one of the following conditions:

(a) Has been designated by the council as an eligible site under the health professional conditional scholarship program established under chapter 28B.115 RCW;

(b) Serves at least forty percent uninsured or medicaid enrolled patients;

(c) Is located in a rural county as defined in RCW 82.14.370 and serves a combination of uninsured, medicaid enrolled patients, and medicare enrolled patients, equal to at least forty percent of the practice location's total patients; or

(d) Serves a public agency, nonprofit organization, or local health jurisdiction as defined in RCW 43.70.575 by providing public health services necessary to preserve, protect, and promote the health of the state's population, as determined by the board after consultation with the department of health.

**Sec.**  RCW 28B.145.020 and 2014 c 208 s 2 are each amended to read as follows:

(1) The opportunity scholarship board is created. The board consists of eleven members:

(a) Six members appointed by the governor. For three of the six 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) Five foundation or business and industry representatives appointed by the governor from among the state's most productive industries such as aerospace, manufacturing, health care, information technology, engineering, agriculture, and others, as well as philanthropy. The foundation or business and industry representatives shall be selected from among nominations provided by the private sector donors to the opportunity scholarship and opportunity expansion programs. However, the governor may request, and the private sector donors shall provide, an additional list or lists from which the governor shall select these representatives.

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

(3) The members of the board shall elect one of the business and industry representatives to serve as chair.

(4) Seven 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 office 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 opportunity expansion and the opportunity scholarship programs 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 opportunity scholarship program. In determining eligible advanced degree programs, the board shall consider advanced degree programs that lead to credentials in health professions that include, but are not limited to, primary care, dental care, behavioral health, and public health. 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:

(a) 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; ((~~and~~))

(b) A source or sources of funds for the opportunity expansion program in addition to the voluntary contributions of the high-technology research and development tax credit under RCW 82.32.800; and

(c) Whether the program should include a loan repayment or low-interest or no-interest loan component for the advanced degree portion of the program.

(8) The board shall report to the governor and the appropriate committees of the legislature by December 1st of each biennium, beginning December 1, 2019, on the following:

(a) A list of the eligible advanced degree programs and service obligation areas;

(b) The number of participants in eligible advanced degree programs, the number of participants completing their service obligations in a service obligation area, and the number of participants who have completed their service obligation; and

(c) The number of participants who did not complete their service obligation who now owe a repayment obligation and the reasons why the participants did not complete their service obligations.

**Sec.**  RCW 28B.145.030 and 2014 c 208 s 3 are each amended to read as follows:

(1) The program administrator, under contract with the council, shall staff the board and shall have the duties and responsibilities provided in this chapter, including but not limited to publicizing the program, selecting participants for the opportunity scholarship award, distributing opportunity scholarship awards, and achieving the maximum possible rate of return on investment of the accounts in subsection (2) of this section, while ensuring transparency in the investment decisions and processes. Duties, exercised jointly with the board, include soliciting funds and setting annual fund-raising goals. The program administrator shall be paid an administrative fee as determined by the board.

(2) With respect to the opportunity scholarship program, the program administrator shall:

(a) Establish and manage ((~~two~~)) three 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;

(b) Solicit and accept grants and contributions from private sources, via direct payment, pledge agreement, or escrow account, of private sources for deposit into ((~~one or both of the two~~)) any of the three specified accounts created in this subsection (2)(b) upon the direction of the donor and in accordance with this subsection (2)(b):

(i) The "scholarship account," whose principal may be invaded, and from which scholarships must be disbursed for baccalaureate programs beginning no later than December 1, 2011, if, by that date, state matching funds in the amount of five million dollars or more have been received. Thereafter, scholarships shall be disbursed on an annual basis beginning no later than May 1, 2012, and every October 1st thereafter;

(ii) The "student support pathways account," whose principal may be invaded, and from which scholarships may be disbursed for eligible advanced degree programs in the fiscal year following appropriations of state matching funds. Thereafter, scholarships shall be disbursed on an annual basis;

(iii) The "endowment account," from which scholarship moneys may be disbursed for baccalaureate programs from earnings only in years when:

(A) The state match has been made into both the scholarship and the endowment account; and

(B) The state appropriations for the state need grant under RCW 28B.92.010 meet or exceed state appropriations for the state need grant made in the 2011-2013 biennium, adjusted for inflation, and eligibility for state need grant recipients is at least seventy percent of state median family income; ((~~and~~

~~(C) The state has demonstrated progress toward the goal of total per-student funding levels, from state appropriations plus tuition and fees, of at least the sixtieth percentile of total per-student funding at similar public institutions of higher education in the global challenge states, as defined, measured, and reported in RCW 28B.15.068. In any year in which the office of financial management reports that the state has not made progress toward this goal, no new scholarships may be awarded. In any year in which the office of financial management reports that the percentile of total per-student funding is less than the sixtieth percentile and at least five percent less than the prior year, pledges of future grants and contributions may, at the request of the donor, be released and grants and contributions already received refunded to the extent that opportunity scholarship awards already made can be fulfilled from the funds remaining in the endowment account. In fulfilling the requirements of this subsection, the office of financial management shall use resources that facilitate measurement and comparisons of the most recently completed academic year. These resources may include, but are not limited to, the data provided in a uniform dashboard format under RCW 28B.77.090 as the statewide public four-year dashboard and academic year reports prepared by the state board for community and technical colleges;~~

~~(iii)~~)) (iv) An amount equal to at least fifty percent of all grants and contributions must be deposited into the scholarship account until such time as twenty million dollars have been deposited into the account, after which time the private donors may designate whether their contributions must be deposited to the scholarship, the student support pathways, or the endowment accounts. The board and the program administrator must work to maximize private sector contributions to ((~~both~~)) the scholarship account, the student support pathways account, and the endowment account, to maintain a robust scholarship program while simultaneously building the endowment, and to determine the division between the ((~~two~~)) scholarship, the student support pathways, and the endowment accounts 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 families and students in Washington. The first five million dollars in state match, as provided in RCW 28B.145.040, shall be deposited into the scholarship account and thereafter the state match shall be deposited into the ((~~two~~)) three accounts in equal proportion to the private funds deposited in each account; and

((~~(iv)~~)) (v) Once moneys in the opportunity scholarship match transfer account are subject to an agreement under RCW 28B.145.050(5) and are deposited in the scholarship account, student support pathways 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, student support pathways account, and endowment account are not considered state money, common cash, or revenue to the state;

(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, the student support pathways, or the endowment accounts;

(d) In consultation with the council and the state board for community and technical colleges, make an assessment of the reasonable annual eligible expenses associated with eligible education programs and eligible advanced degree programs identified by the board;

(e) Determine the dollar difference between tuition fees charged by institutions of higher education in the 2008-09 academic year and the academic year for which an opportunity scholarship is being distributed;

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

(g) Determine the annual amount of the 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 pursuant to (d) of this subsection, or to encourage participation in baccalaureate degree programs or eligible advanced degree programs identified by the board;

(h) Distribute scholarship funds to selected participants. Once awarded, and to the extent funds are available for distribution, an opportunity scholarship shall be automatically renewed 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 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; ((~~and~~))

(i) Notify institutions of scholarship recipients who will attend their institutions and inform them of the terms of the students' eligibility;

(j) Establish a required service obligation for participants enrolled in an eligible advanced degree program, and establish a process for verifying a participant's employment in a service obligation area; and

(k) Establish a repayment obligation and appeals process for participants who serve less than the required service obligation, unless the program administrator determines the circumstances are beyond the participant's control. If the participant is unable to pay the repayment obligation in full, the participant may enter into payment arrangements with the program administrator. The program administrator is responsible for the collection of repayment obligations on behalf of participants who fail to complete their service obligation.

(3) With respect to the opportunity expansion program, the program administrator shall:

(a) Assist the board in developing and implementing an application, selection, and notification process for making opportunity expansion awards; and

(b) Solicit and accept grants and contributions from private sources for opportunity expansion awards.

**Sec.**  RCW 28B.145.040 and 2011 1st sp.s. c 13 s 5 are each amended to read as follows:

(1) The opportunity scholarship program is established.

(2) The purpose of this scholarship program is to provide scholarships that will help low and middle-income Washington residents earn baccalaureate degrees in high employer demand and other programs of study and advanced degrees in health professions needed in service obligation areas, and encourage them to remain in the state to work. The program must be designed for ((~~both~~)) students starting at two-year institutions of higher education and intending to transfer to four-year institutions of higher education ((~~and~~)), students starting at four-year institutions of higher education, and students enrolled in an eligible advanced degree program.

(3) The opportunity scholarship board shall determine which programs of study, including but not limited to high employer demand programs, are eligible for purposes of the opportunity scholarship. For eligible advanced degree programs, the board shall limit scholarships to eligible students enrolling in programs that lead to credentials in health professions needed in service obligation areas.

(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 June 6, 2011. A state match, up to a maximum of fifty million dollars annually, shall be provided beginning the later of January 1, 2014, or January 1st next following the end of the fiscal year in which collections of state retail sales and use tax, state business and occupation tax, and state public utility tax exceed, by ten percent the amounts collected from these tax resources in the fiscal year that ended June 30, 2008, as determined by the department of revenue.

**Sec.**  RCW 28B.145.090 and 2014 c 208 s 4 are each amended to read as follows:

(1) The board may elect to have the state investment board invest the funds in the scholarship account, the student support pathways account, and the endowment account described under RCW 28B.145.030(2)(b). 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 ((~~two~~)) three 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 exercise of that degree of judgment and care 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, student support pathways, 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 shall 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 account, the student support pathways account, and the endowment account, 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 in subsection (1) of this section, disbursements from the scholarship account, the student support pathways account, and the endowment account shall be made only on the authorization of the opportunity scholarship 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 4 of this act constitute a new chapter in Title 28B RCW.

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