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**SUBSTITUTE SENATE BILL 5705**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senate Higher Education & Workforce Development (originally sponsored by Senators Palumbo, Conway, Kuderer, and Van De Wege)

READ FIRST TIME 02/18/19.

1 AN ACT Relating to the Washington opportunity scholarship  
2 program; and reenacting and amending RCW 28B.145.010, 28B.145.030,  
3 and 28B.145.090.

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

5 **Sec. 1.** RCW 28B.145.010 and 2018 c 254 s 9, 2018 c 209 s 6, and  
6 2018 c 114 s 2 are each reenacted and amended to read as follows:

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

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

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

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

14 (4) "Eligible county" has the same meaning as "rural county" as  
15 defined in RCW 82.14.370 and also includes any county that shares a  
16 common border with Canada and has a population of over one hundred  
17 twenty-five thousand.

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

20 (6) "Eligible expenses" means reasonable expenses associated with  
21 the costs of acquiring an education such as tuition, books,

1 equipment, fees, room and board, and other expenses as determined by  
2 the program administrator in consultation with the council and the  
3 state board for community and technical colleges.

4 (7) "Eligible school district" means a school district of the  
5 second class as identified in RCW 28A.300.065(2).

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

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

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

15 (iii) Has been accepted at an institution of higher education  
16 into a professional-technical degree program in an eligible education  
17 program; (~~(e)~~)

18 (iv) Has been accepted at an institution of higher education into  
19 a professional-technical certificate program in an eligible education  
20 program; or

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

24 (b) Declares an intention to obtain a professional-technical  
25 certificate, professional-technical degree, (~~(e)~~) baccalaureate  
26 degree(~~(f)~~), or an advanced degree; and

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

30 (9) "Gift aid" means financial aid received from the federal Pell  
31 grant, the state need grant program in chapter 28B.92 RCW, the  
32 college bound scholarship program in chapter 28B.118 RCW, the  
33 opportunity grant program in chapter 28B.50 RCW, the opportunity  
34 scholarship program in this chapter, or any other state grant,  
35 scholarship, or worker retraining program that provides funds for  
36 educational purposes with no obligation of repayment. "Gift aid" does  
37 not include student loans, work-study programs, the basic food  
38 employment and training program administered by the department of  
39 social and health services, or other employment assistance programs

1 that provide job readiness opportunities and support beyond the costs  
2 of tuition, books, and fees.

3 (10) "High employer demand program of study" has the same meaning  
4 as provided in RCW 28B.50.030.

5 (11) "Participant" means an eligible student who has received a  
6 scholarship under the opportunity scholarship program.

7 (12) "Private sources," "private funds," "private contributions,"  
8 or "private sector contributions" means donations from private  
9 organizations, corporations, municipalities, counties, and other  
10 sources, but excludes state dollars.

11 (13) "Professional-technical certificate" means a program as  
12 approved by the state board for community and technical colleges  
13 under RCW 28B.50.090(7)(c), that is offered by an institution of  
14 higher education.

15 (~~(13)~~) (14) "Professional-technical degree" means a program as  
16 approved by the state board for community and technical colleges  
17 under RCW 28B.50.090(7)(c), that is offered by an institution of  
18 higher education.

19 (~~(14)~~) (15) "Program administrator" means a private nonprofit  
20 corporation registered under Title 24 RCW and qualified as a tax-  
21 exempt entity under section 501(c)(3) of the federal internal revenue  
22 code.

23 (~~(15)~~) (16) "Resident student" has the same meaning as provided  
24 in RCW 28B.15.012.

25 (~~(16)~~) (17) "Rural jobs program" means the rural county high  
26 employer demand jobs program created in this chapter.

27 (~~(17)~~) (18) "Service obligation" means an obligation by the  
28 participant to be employed in a service obligation area in the state  
29 for a specific period to be established by the board.

30 (~~(18)~~) (19) "Service obligation area" means a location that  
31 meets one of the following conditions:

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

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

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

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

6 **Sec. 2.** RCW 28B.145.030 and 2018 c 209 s 8, 2018 c 204 s 2, and  
7 2018 c 114 s 4 are each reenacted and amended to read as follows:

8 (1) The program administrator shall provide administrative  
9 support to execute the duties and responsibilities provided in this  
10 chapter, including but not limited to publicizing the program,  
11 selecting participants for the opportunity scholarship award,  
12 distributing opportunity scholarship awards, and achieving the  
13 maximum possible rate of return on investment of the accounts in  
14 subsection (2) of this section, while ensuring transparency in the  
15 investment decisions and processes. Duties, exercised jointly with  
16 the board, include soliciting funds and setting annual fund-raising  
17 goals. The program administrator shall be paid an administrative fee  
18 as determined by the board.

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

21 (a) Establish and manage (~~three separate~~) the specified  
22 accounts created in (b) of this subsection, into which to receive  
23 grants and contributions from private sources as well as state  
24 matching funds, and from which to disburse scholarship funds to  
25 participants;

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

31 (i) The "scholarship account," whose principal may be invaded,  
32 and from which scholarships must be disbursed for baccalaureate  
33 programs beginning no later than December 1, 2011, if, by that date,  
34 state matching funds in the amount of five million dollars or more  
35 have been received. Thereafter, scholarships shall be disbursed on an  
36 annual basis beginning no later than May 1, 2012, and every October  
37 1st thereafter;

38 (ii) The "student support pathways account," whose principal may  
39 be invaded, and from which scholarships may be disbursed for

1 professional-technical certificate or degree programs in the fiscal  
2 year following appropriations of state matching funds. Thereafter,  
3 scholarships shall be disbursed on an annual basis;

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

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

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

14 (B) The state appropriations for the state need grant under RCW  
15 28B.92.010 meet or exceed state appropriations for the state need  
16 grant made in the 2011-2013 biennium, adjusted for inflation, and  
17 eligibility for state need grant recipients is at least seventy  
18 percent of state median family income;

19 (v) An amount equal to at least fifty percent of all grants and  
20 contributions must be deposited into the scholarship account until  
21 such time as twenty million dollars have been deposited into the  
22 scholarship account, after which time the private donors may  
23 designate whether their contributions must be deposited to the  
24 scholarship account, the student support pathways account, the  
25 advanced degrees pathways account, or the endowment account((s)). The  
26 board and the program administrator must work to maximize private  
27 sector contributions to ((~~the scholarship account, the student~~  
28 ~~support pathways account, the advanced degrees pathways account, and~~  
29 ~~the endowment account,~~)) these accounts to maintain a robust  
30 scholarship program while simultaneously building the endowment, and  
31 to determine the division between the ((~~scholarship, the student~~  
32 ~~support pathways, the advanced degrees pathways, and the endowment~~))  
33 accounts in the case of undesignated grants and contributions, taking  
34 into account the need for a long-term funding mechanism and the  
35 short-term needs of families and students in Washington. The first  
36 five million dollars in state match, as provided in RCW 28B.145.040,  
37 shall be deposited into the scholarship account and thereafter the  
38 state match shall be deposited into the ((~~three~~)) specified accounts  
39 created in this subsection (2)(b) in equal proportion to the private  
40 funds deposited in each account, except that no more than one million

1 dollars in state match shall be deposited into the advanced degrees  
2 pathways account in a single fiscal biennium; and

3 (vi) Once moneys in the opportunity scholarship match transfer  
4 account are subject to an agreement under RCW 28B.145.050(5) and are  
5 deposited in the scholarship account, the student support pathways  
6 account, the advanced degrees pathways account, or the endowment  
7 account under this section, the state acts in a fiduciary rather than  
8 ownership capacity with regard to those assets. Assets in the  
9 scholarship account, the student support pathways account, the  
10 advanced degrees pathways account, and the endowment account are not  
11 considered state money, common cash, or revenue to the state;

12 (c) Provide proof of receipt of grants and contributions from  
13 private sources to the council, identifying the amounts received by  
14 name of private source and date, and whether the amounts received  
15 were deposited into the scholarship account, the student support  
16 pathways account, the advanced degrees pathways account, or the  
17 endowment account((s));

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

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

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

29 (g) Ensure that if the private source is from a municipality or  
30 county, an amount at least equal to the value of the private source  
31 plus the state match is awarded to participants within that  
32 municipality or county according to the municipality's or county's  
33 program rules;

34 (h) Determine the annual amount of the opportunity scholarship  
35 for each selected participant. The annual amount shall be at least  
36 one thousand dollars or the amount determined under (e) of this  
37 subsection, but may be increased on an income-based, sliding scale  
38 basis up to the amount necessary to cover all reasonable annual  
39 eligible expenses as assessed pursuant to (d) of this subsection, or  
40 to encourage participation in professional-technical certificate

1 programs, professional-technical degree programs, ~~((e))~~  
2 baccalaureate degree programs, or eligible advanced degree programs  
3 identified by the board;

4 ~~((h))~~ (i) Distribute scholarship funds to selected  
5 participants. Once awarded, and to the extent funds are available for  
6 distribution, an opportunity scholarship shall be automatically  
7 renewed as long as the participant annually submits documentation of  
8 filing both a free application for federal student aid (FAFSA) and  
9 for available federal education tax credits including, but not  
10 limited to, the American opportunity tax credit, or if ineligible to  
11 apply for federal student aid, the participant annually submits  
12 documentation of filing a state financial aid application as approved  
13 by the office of student financial assistance; and until the  
14 participant withdraws from or is no longer attending the program,  
15 completes the program, or has taken the credit or clock hour  
16 equivalent of one hundred twenty-five percent of the published length  
17 of time of the participant's program, whichever occurs first;

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

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

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

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

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

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

1       **Sec. 3.** RCW 28B.145.090 and 2018 c 254 s 3, 2018 c 209 s 10, and  
2 2018 c 114 s 6 are each reenacted and amended to read as follows:

3       (1) The board may elect to have the state investment board invest  
4 the funds in the scholarship account, the student support pathways  
5 account, the advanced degrees pathways account, and the endowment  
6 account described under RCW 28B.145.030(2)(b). If the board so  
7 elects, the state investment board has the full power to invest,  
8 reinvest, manage, contract, sell, or exchange investment money in  
9 (~~the three~~) these accounts. All investment and operating costs  
10 associated with the investment of money shall be paid under RCW  
11 43.33A.160 and 43.84.160. With the exception of these expenses, the  
12 earnings from the investment of the money shall be retained by the  
13 accounts.

14       (2) All investments made by the state investment board shall be  
15 made with the exercise of that degree of judgment and care under RCW  
16 43.33A.140 and the investment policy established by the state  
17 investment board.

18       (3) As deemed appropriate by the state investment board, money in  
19 the scholarship account, the student support pathways account, the  
20 advanced degrees pathways account, and the endowment account may be  
21 commingled for investment with other funds subject to investment by  
22 the state investment board.

23       (4) Members of the state investment board shall not be considered  
24 an insurer of the funds or assets and are not liable for any action  
25 or inaction.

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

32       (6) The authority to establish all policies relating to the  
33 scholarship account, the student support pathways account, the  
34 advanced degrees pathways account, and the endowment account, other  
35 than the investment policies as provided in subsections (1) through  
36 (3) of this section, resides with the board and program administrator  
37 acting in accordance with the principles set forth in this chapter.  
38 With the exception of expenses of the state investment board in  
39 subsection (1) of this section, disbursements from the scholarship  
40 account, the student support pathways account, the advanced degrees



1 pathways account, and the endowment account shall be made only on the  
2 authorization of the opportunity scholarship board or its designee,  
3 and moneys in the accounts may be spent only for the purposes  
4 specified in this chapter.

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

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