
ENGROSSED SUBSTITUTE HOUSE BILL 2088

State of Washington 62nd Legislature 2011 1st Special Session

By House Ways & Means (originally sponsored by Representatives Probst, Haler, Frockt, Zeiger, Tharinger, Asay, Orwall, Armstrong, Carlyle, Maxwell, Springer, Kenney, Seaquist, Finn, Haigh, Dammeier, Smith, Goodman, Lytton, Stanford, Dahlquist, Ladenburg, Wylie, and Rivers)

READ FIRST TIME 05/17/11.

1 AN ACT Relating to creating the opportunity scholarship board to
2 assist middle-income students and invest in high employer demand
3 programs; adding a new section to chapter 82.32 RCW; adding a new
4 chapter to Title 28B RCW; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that, despite
7 increases in degree production, there remain acute shortages in high
8 employer demand programs of study, particularly in the science,
9 technology, engineering, and mathematics (STEM) and health care fields
10 of study. According to the workforce training and education
11 coordinating board, seventeen percent of Washington businesses had
12 difficulty finding job applicants in 2010. Eleven thousand employers
13 did not fill a vacancy because they lacked qualified job applicants.
14 Fifty-nine percent of projected job openings in Washington state from
15 now until 2017 will require some form of postsecondary education and
16 training.

17 It is the intent of the legislature to provide jobs and opportunity
18 by making Washington the place where the world's most productive
19 companies find the world's most talented people. The legislature

1 intends to accomplish this through the creation of the opportunity
2 scholarship and the opportunity expansion programs to help mitigate the
3 impact of tuition increases, increase the number of baccalaureate
4 degrees in high employer demand and other programs, and invest in
5 programs and students to meet market demands for a knowledge-based
6 economy while filling middle-income jobs with a sufficient supply of
7 skilled workers.

8 NEW SECTION. **Sec. 2.** The definitions in this section apply
9 throughout this chapter unless the context clearly requires otherwise.

10 (1) "Board" means the higher education coordinating board or its
11 successor.

12 (2) "Eligible education programs" means high employer demand and
13 other programs of study as determined by the opportunity scholarship
14 board.

15 (3) "Eligible expenses" means reasonable expenses associated with
16 the costs of acquiring an education such as tuition, books, equipment,
17 fees, room and board, and other expenses as determined by the program
18 administrator in consultation with the board and the state board for
19 community and technical colleges.

20 (4) "Eligible student" means a resident student who received their
21 high school diploma or GED in Washington and who:

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

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

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

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

32 (5) "High employer demand program of study" has the same meaning as
33 provided in RCW 28B.50.030.

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

36 (7) "Program administrator" means a college scholarship
37 organization that is a private nonprofit corporation registered under

1 Title 24 RCW and qualified as a tax-exempt entity under section
2 501(c)(3) of the federal internal revenue code, with expertise in
3 managing scholarships and college advising.

4 (8) "Resident student" has the same meaning as provided in RCW
5 28B.15.012.

6 NEW SECTION. **Sec. 3.** (1) The opportunity scholarship board is
7 created. The opportunity scholarship board consists of seven members:

8 (a) Two members, not legislators, one appointed by the president of
9 the senate and one appointed by the speaker of the house of
10 representatives;

11 (b) One member appointed by the governor; and

12 (c) Four foundation or business and industry representatives
13 appointed by the governor from among the state's most productive
14 industries such as aerospace, manufacturing, health sciences,
15 information technology, and others. The foundation or business and
16 industry representatives shall be selected from among nominations
17 provided by the private sector donors to the opportunity scholarship
18 and opportunity expansion programs. However, the governor may request,
19 and the private sector donors shall provide, an additional list or
20 lists from which the governor shall select these representatives.

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

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

27 (4) Five members of the board constitute a quorum for the
28 transaction of business. In case of a vacancy, or when an appointment
29 is made after the date of expiration of the term, the governor or the
30 president of the senate or the speaker of the house of representatives,
31 depending upon which made the initial appointment to that position,
32 shall fill the vacancy for the remainder of the term of the board
33 member whose office has become vacant or expired.

34 (5) The opportunity scholarship board shall be staffed by the
35 program administrator.

36 (6) The purpose of the opportunity scholarship board is to provide
37 oversight and guidance for the opportunity expansion and the

1 opportunity scholarship programs in light of established legislative
2 priorities and to fulfill the duties and responsibilities under this
3 chapter, including but not limited to determining eligible education
4 programs for purposes of the opportunity scholarship program. Duties,
5 exercised jointly with the program administrator, include soliciting
6 funds and setting annual fund-raising goals.

7 (7) The opportunity scholarship board may report to the governor
8 and the appropriate committees of the legislature with recommendations
9 as to:

10 (a) Whether some or all of the scholarships should be changed to
11 conditional scholarships that must be repaid in the event the
12 participant does not complete the eligible education program; and

13 (b) A source or sources of funds for the opportunity expansion
14 program in addition to the voluntary contributions of the high
15 technology research and development tax credit under section 10 of this
16 act.

17 NEW SECTION. **Sec. 4.** (1) The program administrator, under
18 contract with the board, shall staff the opportunity scholarship board
19 and shall have the duties and responsibilities provided in this
20 chapter, including but not limited to publicizing the program,
21 selecting participants for the opportunity scholarship award,
22 distributing opportunity scholarship awards, and achieving the maximum
23 possible rate of return on investment of the accounts in subsection (2)
24 of this section, while ensuring transparency in the investment
25 decisions and processes. Duties, exercised jointly with the
26 opportunity scholarship board, include soliciting funds and setting
27 annual fund-raising goals. The program administrator shall be paid an
28 administrative fee as determined by the opportunity scholarship board.

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

31 (a) Establish and manage two separate accounts into which to
32 receive grants and contributions from private sources as well as state
33 matching funds, and from which to disburse scholarship funds to
34 participants;

35 (b) Solicit and accept grants and contributions from private
36 sources, via direct payment, pledge agreement, or escrow account, of

1 private sources for deposit into one or both of the two accounts
2 created in this subsection (2)(b) in accordance with this subsection
3 (2)(b):

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

10 (ii) The "endowment account," from which scholarship moneys may be
11 disbursed from earnings only in years when:

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

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

19 (C) The state has demonstrated progress toward the goal of total
20 per-student funding levels, from state appropriations plus tuition and
21 fees, of at least the sixtieth percentile of total per-student funding
22 at similar public institutions of higher education in the global
23 challenge states, as defined, measured, and reported in RCW 28B.15.068.
24 In any year in which the office of financial management reports that
25 the state has not made progress toward this goal, no new scholarships
26 may be awarded. In any year in which the office of financial
27 management reports that the percentile of total per-student funding is
28 less than the sixtieth percentile and at least five percent less than
29 the prior year, pledges of future grants and contributions may, at the
30 request of the donor, be released and grants and contributions already
31 received refunded to the extent that opportunity scholarship awards
32 already made can be fulfilled from the funds remaining in the endowment
33 account; and

34 (iii) An amount equal to at least fifty percent of all grants and
35 contributions must be deposited into the scholarship account until such
36 time as twenty million dollars have been deposited into the account,
37 after which time the private donors may designate whether their
38 contributions must be deposited to the scholarship or the endowment

1 account. The opportunity scholarship board and the program
2 administrator must work to maximize private sector contributions to
3 both the scholarship account and the endowment account, to maintain a
4 robust scholarship program while simultaneously building the endowment,
5 and to determine the division between the two accounts in the case of
6 undesignated grants and contributions, taking into account the need for
7 a long-term funding mechanism and the short-term needs of families and
8 students in Washington. The first five million dollars in state match,
9 as provided in section 5 of this act, shall be deposited into the
10 scholarship account and thereafter the state match shall be deposited
11 into the two accounts in equal proportion to the private funds
12 deposited in each account;

13 (c) Provide proof of receipt of grants and contributions from
14 private sources to the board, identifying the amounts received by name
15 of private source and date, and whether the amounts received were
16 deposited into the scholarship or the endowment account;

17 (d) In consultation with the higher education coordinating board
18 and the state board for community and technical colleges, make an
19 assessment of the reasonable annual eligible expenses associated with
20 eligible education programs identified by the opportunity scholarship
21 board;

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

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

28 (g) Determine the annual amount of the opportunity scholarship for
29 each selected participant. The annual amount shall be at least one
30 thousand dollars or the amount determined under (e) of this subsection,
31 but may be increased on an income-based, sliding scale basis up to the
32 amount necessary to cover all reasonable annual eligible expenses as
33 assessed pursuant to (d) of this subsection, or to encourage
34 participation in baccalaureate degree programs identified by the
35 opportunity scholarship board;

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

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

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

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

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

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

19 NEW SECTION. **Sec. 5.** (1) The opportunity scholarship program is
20 established.

21 (2) The purpose of this scholarship program is to provide
22 scholarships that will help low and middle-income Washington residents
23 earn baccalaureate degrees in high employer demand and other programs
24 of study and encourage them to remain in the state to work. The
25 program must be designed for both students starting at two-year
26 institutions of higher education and intending to transfer to four-year
27 institutions of higher education and students starting at four-year
28 institutions of higher education.

29 (3) The opportunity scholarship board shall determine which
30 programs of study, including but not limited to high employer demand
31 programs, are eligible for purposes of the opportunity scholarship.

32 (4) The source of funds for the program shall be a combination of
33 private grants and contributions and state matching funds. A state
34 match may be earned under this section for private contributions made
35 on or after the effective date of this section. A state match, up to
36 a maximum of fifty million dollars annually, shall be provided
37 beginning the later of January 1, 2014, or January 1st next following

1 the end of the fiscal year in which collections of state retail sales
2 and use tax, state business and occupation tax, and state public
3 utility tax exceed, by ten percent the amounts collected from these tax
4 resources in the fiscal year that ended June 30, 2008, as determined by
5 the department of revenue.

6 NEW SECTION. **Sec. 6.** (1) The opportunity scholarship match
7 transfer account is created in the custody of the state treasurer as a
8 nonappropriated account to be used solely and exclusively for the
9 opportunity scholarship program created in section 5 of this act. The
10 purpose of the account is to provide matching funds for the opportunity
11 scholarship program.

12 (2) Revenues to the account shall consist of appropriations by the
13 legislature into the account and any gifts, grants, or donations
14 received by the director of the board for this purpose.

15 (3) No expenditures from the account may be made except upon
16 receipt of proof, by the director of the board from the program
17 administrator, of private contributions to the opportunity scholarship
18 program. Expenditures, in the form of matching funds, may not exceed
19 the total amount of private contributions.

20 (4) Only the director of the board or the director's designee may
21 authorize expenditures from the opportunity scholarship match transfer
22 account. Such authorization must be made as soon as practicable
23 following receipt of proof as required under subsection (3) of this
24 section.

25 NEW SECTION. **Sec. 7.** (1) The opportunity expansion program is
26 established.

27 (2) The opportunity scholarship board shall select institutions of
28 higher education to receive opportunity expansion awards. In so doing,
29 the opportunity scholarship board must:

30 (a) Solicit, receive, and evaluate proposals from institutions of
31 higher education that are designed to directly increase the number of
32 baccalaureate degrees produced in high employer demand and other
33 programs of study, and that include annual numerical targets for the
34 number of such degrees, with a strong emphasis on serving students who
35 received their high school diploma or GED in Washington or are adult

1 Washington residents who are returning to school to gain a
2 baccalaureate degree;

3 (b) Develop criteria for evaluating proposals and awarding funds to
4 the proposals deemed most likely to increase the number of
5 baccalaureate degrees and degrees produced in high employer demand and
6 other programs of study;

7 (c) Give priority to proposals that include a partnership between
8 public and private partnership entities that leverage additional
9 private funds;

10 (d) Give priority to proposals that are innovative, efficient, and
11 cost-effective, given the nature and cost of the particular program of
12 study;

13 (e) Consult and operate in consultation with existing higher
14 education stakeholders, including but not limited to: Faculty, labor,
15 student organizations, and relevant higher education agencies; and

16 (f) Determine which proposals to improve and accelerate the
17 production of baccalaureate degrees in high employer demand and other
18 programs of study will receive opportunity expansion awards for the
19 following state fiscal year, notify the state treasurer, and announce
20 the awards.

21 (3) The state treasurer, at the direction of the opportunity
22 scholarship board, must distribute the funds that have been awarded to
23 the institutions of higher education from the opportunity expansion
24 account.

25 (4) Institutions of higher education receiving awards under this
26 section may not supplant existing general fund state revenues with
27 opportunity expansion awards.

28 (5) Annually, the office of financial management shall report to
29 the opportunity scholarship board, the governor, and the relevant
30 committees of the legislature regarding the percentage of Washington
31 households with incomes in the middle-income bracket or higher. For
32 purposes of this section, "middle-income bracket" means household
33 incomes between two hundred and five hundred percent of the 2010
34 federal poverty level, as determined by the United States department of
35 health and human services for a family of four, adjusted annually for
36 inflation.

37 (6) Annually, the higher education coordinating board must report
38 to the opportunity scholarship board, the governor, and the relevant

1 committees of the legislature regarding the increase in the number of
2 degrees in high employer demand and other programs of study awarded by
3 institutions of higher education over the average of the preceding ten
4 academic years.

5 (7) In its comprehensive plan, the workforce training and education
6 coordinating board shall include specific strategies to reach the goal
7 of increasing the percentage of Washington households living in the
8 middle-income bracket or higher, as calculated by the office of
9 financial management and developed by the agency or education
10 institution that will lead the strategy.

11 NEW SECTION. **Sec. 8.** (1) By December 1, 2012, and annually each
12 December 1st thereafter, the opportunity scholarship board, together
13 with the program administrator, shall report to the board, the
14 governor, and the appropriate committees of the legislature regarding
15 the opportunity scholarship and opportunity expansion programs,
16 including but not limited to:

17 (a) Which education programs the opportunity scholarship board
18 determined were eligible for purposes of the opportunity scholarship;

19 (b) The number of applicants for the opportunity scholarship,
20 disaggregated, to the extent possible, by race, ethnicity, gender,
21 county of origin, age, and median family income;

22 (c) The number of participants in the opportunity scholarship
23 program, disaggregated, to the extent possible, by race, ethnicity,
24 gender, county of origin, age, and median family income;

25 (d) The number and amount of the scholarships actually awarded, and
26 whether the scholarships were paid from the scholarship account or the
27 endowment account;

28 (e) The institutions and eligible education programs in which
29 opportunity scholarship participants enrolled, together with data
30 regarding participants' completion and graduation;

31 (f) The total amount of private contributions and state match
32 moneys received for the opportunity scholarship program, how the funds
33 were distributed between the scholarship and endowment accounts, the
34 interest or other earnings on the accounts, and the amount of any
35 administrative fee paid to the program administrator; and

36 (g) Identification of the programs the opportunity scholarship

1 board selected to receive opportunity expansion awards and the amount
2 of such awards.

3 (2) In the next succeeding legislative session following receipt of
4 a report required under subsection (1) of this section, the appropriate
5 committees of the legislature shall review the report and consider
6 whether any legislative action is necessary with respect to either the
7 opportunity scholarship program or the opportunity expansion program,
8 including but not limited to consideration of whether any legislative
9 action is necessary with respect to the nature and level of focus on
10 high employer demand fields and the number and amount of scholarships.

11 NEW SECTION. **Sec. 9.** (1) Beginning in 2018, the joint legislative
12 audit and review committee shall evaluate the opportunity scholarship
13 and opportunity expansion programs, and submit a report to the
14 appropriate committees of the legislature by December 1, 2018. The
15 committee's evaluation shall include, but not be limited to:

16 (a) The number and type of eligible education programs as
17 determined by the opportunity scholarship board;

18 (b) The number of participants in the opportunity scholarship
19 program in relation to the number of participants who completed a
20 baccalaureate degree;

21 (c) The total cumulative number of students who received
22 opportunity scholarships, and the total cumulative number of students
23 who gained a baccalaureate degree after receiving an opportunity
24 scholarship and the types of baccalaureate degrees awarded;

25 (d) The amount of private contributions to the opportunity
26 scholarship program, annually and in total;

27 (e) The amount of state match moneys to the opportunity scholarship
28 program, annually and in total;

29 (f) The amount of any administrative fees paid to the program
30 administrator, annually and in total;

31 (g) The source and amount of funding, annually and cumulatively,
32 for the opportunity expansion program;

33 (h) The number and type of proposals submitted by institutions for
34 opportunity expansion awards, the number and type of proposals that
35 received an award of opportunity expansion funds, and the amount of
36 such awards;

1 (i) The total cumulative number of additional high employer demand
2 degrees produced in Washington state due to the opportunity expansion
3 program, including both the initial opportunity expansion awards and
4 the subsequent inclusion in base funding; and

5 (j) Evidence that the existence of the opportunity scholarship and
6 opportunity expansion programs have contributed to the achievement of
7 the public policy objectives of helping to mitigate the impact of
8 tuition increases, increasing the number of baccalaureate degrees in
9 high employer demand and other programs, and investing in programs and
10 students to meet market demands for a knowledge-based economy while
11 filling middle-income jobs with a sufficient supply of skilled workers.

12 (2) In the event that the joint legislative audit and review
13 committee is charged with completing an evaluation of other aspects of
14 degree production, funding, or other aspects of higher education in
15 2018, and to the extent that it is economical and feasible to do so,
16 the committee shall combine the multiple evaluations and submit a
17 single report.

18 NEW SECTION. **Sec. 10.** A new section is added to chapter 82.32 RCW
19 to read as follows:

20 A person eligible for the high technology research and development
21 tax credit under RCW 82.04.4452 may contribute all or any portion of
22 the credit to the opportunity expansion account hereby created in the
23 state treasury. The department must create the forms and processes to
24 allow a person to make such an election easily and quickly by means of
25 checking a box. By May 1, 2012, and by May 1st of every year
26 thereafter, the department must report the amount so contributed and
27 certify the amount to the state treasurer. By July 1, 2012, and by
28 July 1st of every year thereafter, the state treasurer must transfer
29 the amount into the opportunity expansion account. Money in the
30 account may only be appropriated for the purposes specified in section
31 7 of this act.

32 NEW SECTION. **Sec. 11.** This chapter may be known and cited as the
33 opportunity scholarship act.

34 NEW SECTION. **Sec. 12.** Sections 1 through 9 and 11 of this act
35 constitute a new chapter in Title 28B RCW.

1 NEW SECTION. **Sec. 13.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and takes effect
4 immediately.

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