

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 2612**

63rd Legislature  
2014 Regular Session

Passed by the House March 10, 2014  
Yeas 62 Nays 36

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**Speaker of the House of Representatives**

Passed by the Senate March 7, 2014  
Yeas 45 Nays 4

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**President of the Senate**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2612** as passed by the House of Representatives and the Senate on the dates hereon set forth.

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**Chief Clerk**

FILED

**Secretary of State  
State of Washington**

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**SUBSTITUTE HOUSE BILL 2612**

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AS AMENDED BY THE SENATE

Passed Legislature - 2014 Regular Session

**State of Washington                      63rd Legislature                      2014 Regular Session**

**By** House Appropriations Subcommittee on Education (originally sponsored by Representatives Hansen, Haler, Zeiger, and Seaquist)

READ FIRST TIME 02/11/14.

1            AN ACT Relating to the opportunity scholarship program; amending  
2 RCW 28B.145.010, 28B.145.020, 28B.145.030, 28B.145.050, 28B.145.060,  
3 and 28B.145.070; and adding a new section to chapter 28B.145 RCW.

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

5            **Sec. 1.** RCW 28B.145.010 and 2013 c 39 s 13 are each amended to  
6 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 ~~((higher education coordinating board or its  
10 successor))~~ opportunity scholarship board.

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

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

15            ~~((3))~~ (4) "Eligible expenses" means reasonable expenses  
16 associated with the costs of acquiring an education such as tuition,  
17 books, equipment, fees, room and board, and other expenses as  
18 determined by the program administrator in consultation with the

1 ((~~board~~)) council and the state board for community and technical  
2 colleges.

3 ((~~4~~)) (5) "Eligible student" means a resident student who  
4 received his or her high school diploma or high school equivalency  
5 certificate as provided in RCW 28B.50.536 in Washington and who:

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

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

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

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

16 ((~~5~~)) (6) "High employer demand program of study" has the same  
17 meaning as provided in RCW 28B.50.030.

18 ((~~6~~)) (7) "Participant" means an eligible student who has  
19 received a scholarship under the opportunity scholarship program.

20 ((~~7~~)) (8) "Program administrator" means a college scholarship  
21 organization that is a private nonprofit corporation registered under  
22 Title 24 RCW and qualified as a tax-exempt entity under section  
23 501(c)(3) of the federal internal revenue code, with expertise in  
24 managing scholarships and college advising.

25 ((~~8~~)) (9) "Resident student" has the same meaning as provided in  
26 RCW 28B.15.012.

27 **Sec. 2.** RCW 28B.145.020 and 2011 1st sp.s. c 13 s 3 are each  
28 amended to read as follows:

29 (1) The opportunity scholarship board is created. The  
30 ((~~opportunity scholarship~~)) board consists of ((~~seven~~)) eleven members:

31 (a) ((~~Three~~)) Six members appointed by the governor. For ((~~two~~))  
32 three of the ((~~three~~)) six appointments, the governor shall consider  
33 names from a list provided by the president of the senate and the  
34 speaker of the house of representatives; and

35 (b) ((~~Four~~)) Five foundation or business and industry  
36 representatives appointed by the governor from among the state's most  
37 productive industries such as aerospace, manufacturing, health

1 ((~~sciences~~)) care, information technology, engineering, agriculture,  
2 and others, as well as philanthropy. The foundation or business and  
3 industry representatives shall be selected from among nominations  
4 provided by the private sector donors to the opportunity scholarship  
5 and opportunity expansion programs. However, the governor may request,  
6 and the private sector donors shall provide, an additional list or  
7 lists from which the governor shall select these representatives.

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

12 (3) The members of the ((~~opportunity scholarship~~)) board shall  
13 elect one of the business and industry representatives to serve as  
14 chair.

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

22 (5) The ((~~opportunity scholarship~~)) board shall be staffed by the  
23 program administrator.

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

32 (7) The ((~~opportunity scholarship~~)) board may report to the  
33 governor and the appropriate committees of the legislature with  
34 recommendations as to:

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

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

4 **Sec. 3.** RCW 28B.145.030 and 2011 1st sp.s. c 13 s 4 are each  
5 amended to read as follows:

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

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

21 (a) Establish and manage two separate accounts into which to  
22 receive grants and contributions from private sources as well as state  
23 matching funds, and from which to disburse scholarship funds to  
24 participants;

25 (b) Solicit and accept grants and contributions from private  
26 sources, via direct payment, pledge agreement, or escrow account, of  
27 private sources for deposit into one or both of the two accounts  
28 created in this subsection (2)(b) in accordance with this subsection  
29 (2)(b):

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

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

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

3 (B) The state appropriations for the state need grant under RCW  
4 28B.92.010 meet or exceed state appropriations for the state need grant  
5 made in the 2011-2013 biennium, adjusted for inflation, and eligibility  
6 for state need grant recipients is at least seventy percent of state  
7 median family income; and

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

29 (iii) An amount equal to at least fifty percent of all grants and  
30 contributions must be deposited into the scholarship account until such  
31 time as twenty million dollars have been deposited into the account,  
32 after which time the private donors may designate whether their  
33 contributions must be deposited to the scholarship or the endowment  
34 account. The ~~((opportunity scholarship))~~ board and the program  
35 administrator must work to maximize private sector contributions to  
36 both the scholarship account and the endowment account, to maintain a  
37 robust scholarship program while simultaneously building the endowment,  
38 and to determine the division between the two accounts in the case of

1 undesignated grants and contributions, taking into account the need for  
2 a long-term funding mechanism and the short-term needs of families and  
3 students in Washington. The first five million dollars in state match,  
4 as provided in RCW 28B.145.040, shall be deposited into the scholarship  
5 account and thereafter the state match shall be deposited into the two  
6 accounts in equal proportion to the private funds deposited in each  
7 account; and

8 (iv) Once moneys in the opportunity scholarship match transfer  
9 account are subject to an agreement under RCW 28B.145.050(5) and are  
10 deposited in the scholarship account or endowment account under this  
11 section, the state acts in a fiduciary rather than ownership capacity  
12 with regard to those assets. Assets in the scholarship account and  
13 endowment account are not considered state money, common cash, or  
14 revenue to the state;

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

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

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

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

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

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

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

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

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

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

22 NEW SECTION. **Sec. 4.** A new section is added to chapter 28B.145  
23 RCW to read as follows:

24 (1) The board may elect to have the state investment board invest  
25 the funds in the scholarship account and endowment account described  
26 under RCW 28B.145.030(2)(b). If the board so elects, the state  
27 investment board has the full power to invest, reinvest, manage,  
28 contract, sell, or exchange investment money in the two accounts. All  
29 investment and operating costs associated with the investment of money  
30 shall be paid under RCW 43.33A.160 and 43.84.160. With the exception  
31 of these expenses, the earnings from the investment of the money shall  
32 be retained by the accounts.

33 (2) All investments made by the state investment board shall be  
34 made with the exercise of that degree of judgment and care under RCW  
35 43.33A.140 and the investment policy established by the state  
36 investment board.

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

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

7 (5) Members of the state investment board are not liable to the  
8 state, to the fund, or to any other person as a result of their  
9 activities as members, whether ministerial or discretionary, except for  
10 willful dishonesty or intentional violations of law. The state  
11 investment board in its discretion may purchase liability insurance for  
12 members.

13 (6) The authority to establish all policies relating to the  
14 scholarship account and the endowment account, other than the  
15 investment policies as provided in subsections (1) through (3) of this  
16 section, resides with the board and program administrator acting in  
17 accordance with the principles set forth in this chapter. With the  
18 exception of expenses of the state investment board in subsection (1)  
19 of this section, disbursements from the scholarship account and  
20 endowment account shall be made only on the authorization of the  
21 opportunity scholarship board or its designee, and moneys in the  
22 accounts may be spent only for the purposes specified in this chapter.

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

26 **Sec. 5.** RCW 28B.145.050 and 2011 1st sp.s. c 13 s 6 are each  
27 amended to read as follows:

28 (1) The opportunity scholarship match transfer account is created  
29 in the custody of the state treasurer as a nonappropriated account to  
30 be used solely and exclusively for the opportunity scholarship program  
31 created in RCW 28B.145.040. The purpose of the account is to provide  
32 matching funds for the opportunity scholarship program.

33 (2) Revenues to the account shall consist of appropriations by the  
34 legislature into the account and any gifts, grants, or donations  
35 received by the executive director of the (~~board~~) council for this  
36 purpose.

1 (3) No expenditures from the account may be made except upon  
2 receipt of proof, by the executive director of the (~~board~~) council  
3 from the program administrator, of private contributions to the  
4 opportunity scholarship program. Expenditures, in the form of matching  
5 funds, may not exceed the total amount of private contributions.

6 (4) Only the executive director of the (~~board~~) council or the  
7 executive director's designee may authorize expenditures from the  
8 opportunity scholarship match transfer account. Such authorization  
9 must be made as soon as practicable following receipt of proof as  
10 required under subsection (3) of this section.

11 (5) The council shall enter into an appropriate agreement with the  
12 program administrator to demonstrate exchange of consideration for the  
13 matching funds.

14 **Sec. 6.** RCW 28B.145.060 and 2013 c 39 s 14 are each amended to  
15 read as follows:

16 (1) The opportunity expansion program is established.

17 (2) The (~~opportunity scholarship~~) board shall select institutions  
18 of higher education to receive opportunity expansion awards. In so  
19 doing, the (~~opportunity scholarship~~) board must:

20 (a) Solicit, receive, and evaluate proposals from institutions of  
21 higher education that are designed to directly increase the number of  
22 baccalaureate degrees produced in high employer demand and other  
23 programs of study, and that include annual numerical targets for the  
24 number of such degrees, with a strong emphasis on serving students who  
25 received their high school diploma or high school equivalency  
26 certificate as provided in RCW 28B.50.536 in Washington or are adult  
27 Washington residents who are returning to school to gain a  
28 baccalaureate degree;

29 (b) Develop criteria for evaluating proposals and awarding funds to  
30 the proposals deemed most likely to increase the number of  
31 baccalaureate degrees and degrees produced in high employer demand and  
32 other programs of study;

33 (c) Give priority to proposals that include a partnership between  
34 public and private partnership entities that leverage additional  
35 private funds;

36 (d) Give priority to proposals that are innovative, efficient, and

1 cost-effective, given the nature and cost of the particular program of  
2 study;

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

6 (f) Determine which proposals to improve and accelerate the  
7 production of baccalaureate degrees in high employer demand and other  
8 programs of study will receive opportunity expansion awards for the  
9 following state fiscal year, notify the state treasurer, and announce  
10 the awards.

11 (3) The state treasurer, at the direction of the ((~~opportunity~~  
12 ~~scholarship~~)) board, must distribute the funds that have been awarded  
13 to the institutions of higher education from the opportunity expansion  
14 account.

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

18 (5) Annually, the office of financial management shall report to  
19 the ((~~opportunity-scholarship~~)) board, the governor, and the relevant  
20 committees of the legislature regarding the percentage of Washington  
21 households with incomes in the middle-income bracket or higher. For  
22 purposes of this section, "middle-income bracket" means household  
23 incomes between two hundred and five hundred percent of the 2010  
24 federal poverty level, as determined by the United States department of  
25 health and human services for a family of four, adjusted annually for  
26 inflation.

27 (6) Annually, the ((~~student-achievement~~)) council must report to  
28 the ((~~opportunity-scholarship~~)) board, the governor, and the relevant  
29 committees of the legislature regarding the increase in the number of  
30 degrees in high employer demand and other programs of study awarded by  
31 institutions of higher education over the average of the preceding ten  
32 academic years.

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

1       **Sec. 7.** RCW 28B.145.070 and 2011 1st sp.s. c 13 s 8 are each  
2 amended to read as follows:

3       (1) (~~By December 1, 2012, and~~) Annually each December 1st  
4 (~~thereafter~~), the (~~opportunity scholarship~~) board, together with  
5 the program administrator, shall report to the (~~board~~) council, the  
6 governor, and the appropriate committees of the legislature regarding  
7 the opportunity scholarship and opportunity expansion programs,  
8 including but not limited to:

9       (a) Which education programs the (~~opportunity scholarship~~) board  
10 determined were eligible for purposes of the opportunity scholarship;

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

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

17       (d) The number and amount of the scholarships actually awarded, and  
18 whether the scholarships were paid from the scholarship account or the  
19 endowment account;

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

23       (f) The total amount of private contributions and state match  
24 moneys received for the opportunity scholarship program, how the funds  
25 were distributed between the scholarship and endowment accounts, the  
26 interest or other earnings on the accounts, and the amount of any  
27 administrative fee paid to the program administrator; and

28       (g) Identification of the programs the (~~opportunity scholarship~~)  
29 board selected to receive opportunity expansion awards and the amount  
30 of such awards.

31       (2) In the next succeeding legislative session following receipt of  
32 a report required under subsection (1) of this section, the appropriate  
33 committees of the legislature shall review the report and consider  
34 whether any legislative action is necessary with respect to either the  
35 opportunity scholarship program or the opportunity expansion program,  
36 including but not limited to consideration of whether any legislative

1 action is necessary with respect to the nature and level of focus on  
2 high employer demand fields and the number and amount of scholarships.

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