

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2612

Chapter 208, Laws of 2014

63rd Legislature
2014 Regular Session

OPPORTUNITY SCHOLARSHIP PROGRAM

EFFECTIVE DATE: 06/12/14

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

FRANK CHOPP

Speaker of the House of Representatives

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

BRAD OWEN

President of the Senate

Approved April 3, 2014, 11:13 a.m.

JAY INSLEE

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.

BARBARA BAKER

Chief Clerk

FILED

April 4, 2014

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2612

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.

Passed by the House March 10, 2014.

Passed by the Senate March 7, 2014.

Approved by the Governor April 3, 2014.

Filed in Office of Secretary of State April 4, 2014.