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SENATE BILL 5361

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State of Washington

65th Legislature

2017 Regular Session

By Senators Bailey, Mullet, Zeiger, Palumbo, Fain, Frockt, Carlyle, Keiser, Kuderer, Wellman, and Wilson

Read first time 01/20/17. Referred to Committee on Higher Education.

1 AN ACT Relating to the opportunity scholarship program; and  
2 amending RCW 28B.145.005, 28B.145.010, 28B.145.020, 28B.145.030,  
3 28B.145.040, and 28B.145.090.

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

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

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

17 It is the intent of the legislature to provide jobs and  
18 opportunity by making Washington the place where the world's most  
19 productive companies find the world's most talented people. The  
20 legislature intends to accomplish this through the creation of the  
21 opportunity scholarship and the opportunity expansion programs to

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

7 **Sec. 2.** RCW 28B.145.010 and 2014 c 208 s 1 are each amended to  
8 read as follows:

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

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

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

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

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

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

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

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

29 (iii) Has been accepted at an institution of higher education  
30 into a professional-technical degree program in an eligible education  
31 program; or

32 (iv) Has been accepted at an institution of higher education into  
33 a professional-technical certificate program in an eligible education  
34 program;

35 (b) Declares an intention to obtain a professional-technical  
36 certificate, professional-technical degree, or baccalaureate degree;  
37 and

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

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

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

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

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

16 (10) "Program administrator" means a (~~college scholarship~~  
17 ~~organization that is a~~) private nonprofit corporation registered  
18 under Title 24 RCW and qualified as a tax-exempt entity under section  
19 501(c)(3) of the federal internal revenue code(~~(, with expertise in~~  
20 ~~managing scholarships and college advising)~~).

21 ((+9)) (11) "Resident student" has the same meaning as provided  
22 in RCW 28B.15.012.

23 **Sec. 3.** RCW 28B.145.020 and 2014 c 208 s 2 are each amended to  
24 read as follows:

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

27 (a) Six members appointed by the governor. For three of the six  
28 appointments, the governor shall consider names from a list provided  
29 by the president of the senate and the speaker of the house of  
30 representatives; and

31 (b) Five foundation or business and industry representatives  
32 appointed by the governor from among the state's most productive  
33 industries such as aerospace, manufacturing, health care, information  
34 technology, engineering, agriculture, and others, as well as  
35 philanthropy. The foundation or business and industry representatives  
36 shall be selected from among nominations provided by the private  
37 sector donors to the opportunity scholarship and opportunity  
38 expansion programs. However, the governor may request, and the

1 private sector donors shall provide, an additional list or lists from  
2 which the governor shall select these representatives.

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

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

9 (4) Seven members of the board constitute a quorum for the  
10 transaction of business. In case of a vacancy, or when an appointment  
11 is made after the date of expiration of the term, the governor or the  
12 president of the senate or the speaker of the house of  
13 representatives, depending upon which made the initial appointment to  
14 that position, shall fill the vacancy for the remainder of the term  
15 of the board member whose office has become vacant or expired.

16 (5) The board shall be staffed by ~~((the))~~ a program  
17 administrator, under contract with the board and the council.

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

26 (7) The board may report to the governor and the appropriate  
27 committees of the legislature with recommendations as to:

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

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

34 **Sec. 4.** RCW 28B.145.030 and 2014 c 208 s 3 are each amended to  
35 read as follows:

36 (1) The program administrator(~~(, under contract with the~~  
37 ~~council,)) shall staff the board and shall ~~((have))~~ provide  
38 administrative support to execute the duties and responsibilities  
39 provided in this chapter, including but not limited to publicizing~~

1 the program, selecting participants for the opportunity scholarship  
2 award, distributing opportunity scholarship awards, and achieving the  
3 maximum possible rate of return on investment of the accounts in  
4 subsection (2) of this section, while ensuring transparency in the  
5 investment decisions and processes. Duties, exercised jointly with  
6 the board, include soliciting funds and setting annual fund-raising  
7 goals. The program administrator shall be paid an administrative fee  
8 as determined by the board.

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

11 (a) Establish and manage (~~two~~) three separate accounts into  
12 which to receive grants and contributions from private sources as  
13 well as state matching funds, and from which to disburse scholarship  
14 funds to participants;

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

21 (i) The "scholarship account," whose principal may be invaded,  
22 and from which scholarships must be disbursed for baccalaureate  
23 programs beginning no later than December 1, 2011, if, by that date,  
24 state matching funds in the amount of five million dollars or more  
25 have been received. Thereafter, scholarships shall be disbursed on an  
26 annual basis beginning no later than May 1, 2012, and every October  
27 1st thereafter;

28 (ii) The "pathways scholarship account," whose principal may be  
29 invaded, and from which scholarships may be disbursed for  
30 professional-technical certificate or degree programs in the fiscal  
31 year following appropriations of state matching funds. Thereafter,  
32 scholarships shall be disbursed on an annual basis;

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

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

38 (B) The state appropriations for the state need grant under RCW  
39 28B.92.010 meet or exceed state appropriations for the state need  
40 grant made in the 2011-2013 biennium, adjusted for inflation, and

1 eligibility for state need grant recipients is at least seventy  
2 percent of state median family income; and

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

25 ~~((iii))~~ (iv) An amount equal to at least fifty percent of all  
26 grants and contributions must be deposited into the scholarship  
27 account until such time as twenty million dollars have been deposited  
28 into the account, after which time the private donors may designate  
29 whether their contributions must be deposited to the scholarship, the  
30 pathways scholarship, or the endowment account. The board and the  
31 program administrator must work to maximize private sector  
32 contributions to ~~((both))~~ the scholarship account, the pathways  
33 scholarship account, and the endowment account, to maintain a robust  
34 scholarship program while simultaneously building the endowment, and  
35 to determine the division between the ~~((two))~~ scholarship, the  
36 pathways scholarship, and the endowment accounts in the case of  
37 undesignated grants and contributions, taking into account the need  
38 for a long-term funding mechanism and the short-term needs of  
39 families and students in Washington. The first five million dollars  
40 in state match, as provided in RCW 28B.145.040, shall be deposited

1 into the scholarship account and thereafter the state match shall be  
2 deposited into the (~~two~~) three accounts in equal proportion to the  
3 private funds deposited in each account; and

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

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

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

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

27 (g) Determine the annual amount of the opportunity scholarship  
28 for each selected participant. The annual amount shall be at least  
29 one thousand dollars or the amount determined under (e) of this  
30 subsection, but may be increased on an income-based, sliding scale  
31 basis up to the amount necessary to cover all reasonable annual  
32 eligible expenses as assessed pursuant to (d) of this subsection, or  
33 to encourage participation in professional-technical certificate  
34 programs, professional-technical degree programs, or baccalaureate  
35 degree programs identified by the 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 as long as the  
39 participant annually submits documentation of filing both a free  
40 application for federal student aid (FAFSA) and for available federal

1 education tax credits including, but not limited to, the American  
2 opportunity tax credit, or if ineligible to apply for federal student  
3 aid, the participant annually submits documentation of filing a state  
4 financial aid application as approved by the office of student  
5 financial assistance; and until the participant withdraws from or is  
6 no longer attending the program, completes the program, or has taken  
7 the credit or clock hour equivalent of one hundred twenty-five  
8 percent of the published length of time of the participant's program,  
9 whichever occurs first(~~, and as long as the participant annually~~  
10 ~~submits documentation of filing both a free application for federal~~  
11 ~~student aid and for available federal education tax credits,~~  
12 ~~including but not limited to the American opportunity tax credit));~~  
13 and

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

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

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

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

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

26 (1) The opportunity scholarship program is established.

27 (2) The purpose of this scholarship program is to provide  
28 scholarships that will help low and middle-income Washington  
29 residents earn professional-technical certificates, professional-  
30 technical degrees, or baccalaureate degrees in high employer demand  
31 and other programs of study and encourage them to remain in the state  
32 to work. The program must be designed for (~~both~~) students starting  
33 professional-technical certificate or degree programs, students  
34 starting at two-year institutions of higher education and intending  
35 to transfer to four-year institutions of higher education, and  
36 students starting at four-year institutions of higher education.

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



1 (4) The source of funds for the program shall be a combination of  
2 private grants and contributions and state matching funds. A state  
3 match may be earned under this section for private contributions made  
4 on or after June 6, 2011. A state match, up to a maximum of fifty  
5 million dollars annually, shall be provided beginning the later of  
6 January 1, 2014, or January 1st next following the end of the fiscal  
7 year in which collections of state retail sales and use tax, state  
8 business and occupation tax, and state public utility tax exceed, by  
9 ten percent the amounts collected from these tax resources in the  
10 fiscal year that ended June 30, 2008, as determined by the department  
11 of revenue.

12 **Sec. 6.** RCW 28B.145.090 and 2014 c 208 s 4 are each amended to  
13 read as follows:

14 (1) The board may elect to have the state investment board invest  
15 the funds in the scholarship account, the pathways scholarship  
16 account, and the endowment account described under RCW  
17 28B.145.030(2)(b). If the board so elects, the state investment board  
18 has the full power to invest, reinvest, manage, contract, sell, or  
19 exchange investment money in the (~~two~~) three accounts. All  
20 investment and operating costs associated with the investment of  
21 money shall be paid under RCW 43.33A.160 and 43.84.160. With the  
22 exception of these expenses, the earnings from the investment of the  
23 money shall be retained by the accounts.

24 (2) All investments made by the state investment board shall be  
25 made with the exercise of that degree of judgment and care under RCW  
26 43.33A.140 and the investment policy established by the state  
27 investment board.

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

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

35 (5) Members of the state investment board are not liable to the  
36 state, to the fund, or to any other person as a result of their  
37 activities as members, whether ministerial or discretionary, except  
38 for willful dishonesty or intentional violations of law. The state

1 investment board in its discretion may purchase liability insurance  
2 for members.

3 (6) The authority to establish all policies relating to the  
4 scholarship account, the pathways scholarship account, and the  
5 endowment account, other than the investment policies as provided in  
6 subsections (1) through (3) of this section, resides with the board  
7 and program administrator acting in accordance with the principles  
8 set forth in this chapter. With the exception of expenses of the  
9 state investment board in subsection (1) of this section,  
10 disbursements from the scholarship account, the pathways scholarship  
11 account, and the endowment account shall be made only on the  
12 authorization of the opportunity scholarship board or its designee,  
13 and moneys in the accounts may be spent only for the purposes  
14 specified in this chapter.

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

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