

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1452

Chapter 114, Laws of 2018

65th Legislature
2018 Regular Session

OPPORTUNITY SCHOLARSHIP PROGRAM

EFFECTIVE DATE: June 7, 2018

Passed by the House March 5, 2018
Yeas 98 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate February 27, 2018
Yeas 48 Nays 1

CYRUS HABIB

President of the Senate

Approved March 21, 2018 10:36 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1452** as passed by House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

March 23, 2018

**Secretary of State
State of Washington**

HOUSE BILL 1452

AS AMENDED BY THE SENATE

Passed Legislature - 2018 Regular Session

State of Washington **65th Legislature** **2017 Regular Session**

By Representatives Holy, Tarleton, Van Werven, Springer, Stambaugh, Haler, Pollet, and Slatter

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 "student support pathways account," whose principal may
29 be 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 student support pathways, 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 student
33 support pathways account, and the endowment account, to maintain a
34 robust scholarship program while simultaneously building the
35 endowment, and to determine the division between the ~~((two))~~
36 scholarship, the student support pathways, and the endowment accounts
37 in the case of undesignated grants and contributions, taking into
38 account the need for a long-term funding mechanism and the short-term
39 needs of families and students in Washington. The first five million
40 dollars in state match, as provided in RCW 28B.145.040, shall be

1 deposited into the scholarship account and thereafter the state match
2 shall be deposited into the (~~two~~) three accounts in equal
3 proportion to the 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, student support
7 pathways account, or endowment account under this section, the state
8 acts in a fiduciary rather than ownership capacity with regard to
9 those assets. Assets in the scholarship account, student support
10 pathways account, and endowment account are not considered state
11 money, common cash, or revenue to the state;

12 (c) Provide proof of receipt of grants and contributions from
13 private sources to the council, identifying the amounts received by
14 name of private source and date, and whether the amounts received
15 were deposited into the scholarship, the student support pathways, or
16 the 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 student support pathways
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, student support pathways, and endowment accounts may
30 be commingled for investment with other funds subject to investment
31 by 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 student support pathways 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 student support
11 pathways 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.

Passed by the House March 5, 2018.

Passed by the Senate February 27, 2018.

Approved by the Governor March 21, 2018.

Filed in Office of Secretary of State March 23, 2018.

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