

ESHB 2088 - S COMM AMD
By Committee on Ways & Means

ADOPTED 05/25/2011

1 Strike everything after the enacting clause and insert the
2 following:

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

14 It is the intent of the legislature to provide jobs and opportunity
15 by making Washington the place where the world's most productive
16 companies find the world's most talented people. The legislature
17 intends to accomplish this through the creation of the opportunity
18 scholarship and the opportunity expansion programs to help mitigate the
19 impact of tuition increases, increase the number of baccalaureate
20 degrees in high employer demand and other programs, and invest in
21 programs and students to meet market demands for a knowledge-based
22 economy while filling middle-income jobs with a sufficient supply of
23 skilled workers.

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

26 (1) "Board" means the higher education coordinating board or its
27 successor.

28 (2) "Eligible education programs" means high employer demand and

1 other programs of study as determined by the opportunity scholarship
2 board.

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

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

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

13 (ii) Will attend a two-year institution of higher education and
14 intends to transfer to an eligible education program at a four-year
15 institution of higher education;

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

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

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

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

24 (7) "Program administrator" means a college scholarship
25 organization that is a private nonprofit corporation registered under
26 Title 24 RCW and qualified as a tax-exempt entity under section
27 501(c)(3) of the federal internal revenue code, with expertise in
28 managing scholarships and college advising.

29 (8) "Resident student" has the same meaning as provided in RCW
30 28B.15.012.

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

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

1 (b) Four foundation or business and industry representatives
2 appointed by the governor from among the state's most productive
3 industries such as aerospace, manufacturing, health sciences,
4 information technology, and others. The foundation or business and
5 industry representatives shall be selected from among nominations
6 provided by the private sector donors to the opportunity scholarship
7 and opportunity expansion programs. However, the governor may request,
8 and the private sector donors shall provide, an additional list or
9 lists from which the governor shall select these representatives.

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

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

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

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

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

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

36 (a) Whether some or all of the scholarships should be changed to
37 conditional scholarships that must be repaid in the event the
38 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 section 10 of this
4 act.

5 NEW SECTION. **Sec. 4.** (1) The program administrator, under
6 contract with the board, shall staff the opportunity scholarship board
7 and shall have the duties and responsibilities provided in this
8 chapter, including but not limited to publicizing the program,
9 selecting participants for the opportunity scholarship award,
10 distributing opportunity scholarship awards, and achieving the maximum
11 possible rate of return on investment of the accounts in subsection (2)
12 of this section, while ensuring transparency in the investment
13 decisions and processes. Duties, exercised jointly with the
14 opportunity scholarship board, include soliciting funds and setting
15 annual fund-raising goals. The program administrator shall be paid an
16 administrative fee as determined by the opportunity scholarship board.

17 (2) With respect to the opportunity scholarship program, the
18 program administrator shall:

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

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

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

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

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

1 (B) The state appropriations for the state need grant under RCW
2 28B.92.010 meet or exceed state appropriations for the state need grant
3 made in the 2011-2013 biennium, adjusted for inflation, and eligibility
4 for state need grant recipients is at least seventy percent of state
5 median family income; and

6 (C) The state has demonstrated progress toward the goal of total
7 per-student funding levels, from state appropriations plus tuition and
8 fees, of at least the sixtieth percentile of total per-student funding
9 at similar public institutions of higher education in the global
10 challenge states, as defined, measured, and reported in RCW 28B.15.068.
11 In any year in which the office of financial management reports that
12 the state has not made progress toward this goal, no new scholarships
13 may be awarded. In any year in which the office of financial
14 management reports that the percentile of total per-student funding is
15 less than the sixtieth percentile and at least five percent less than
16 the prior year, pledges of future grants and contributions may, at the
17 request of the donor, be released and grants and contributions already
18 received refunded to the extent that opportunity scholarship awards
19 already made can be fulfilled from the funds remaining in the endowment
20 account; and

21 (iii) An amount equal to at least fifty percent of all grants and
22 contributions must be deposited into the scholarship account until such
23 time as twenty million dollars have been deposited into the account,
24 after which time the private donors may designate whether their
25 contributions must be deposited to the scholarship or the endowment
26 account. The opportunity scholarship board and the program
27 administrator must work to maximize private sector contributions to
28 both the scholarship account and the endowment account, to maintain a
29 robust scholarship program while simultaneously building the endowment,
30 and to determine the division between the two accounts in the case of
31 undesignated grants and contributions, taking into account the need for
32 a long-term funding mechanism and the short-term needs of families and
33 students in Washington. The first five million dollars in state match,
34 as provided in section 5 of this act, shall be deposited into the
35 scholarship account and thereafter the state match shall be deposited
36 into the two accounts in equal proportion to the private funds
37 deposited in each account;

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

5 (d) In consultation with the higher education coordinating board
6 and the state board for community and technical colleges, make an
7 assessment of the reasonable annual eligible expenses associated with
8 eligible education programs identified by the opportunity scholarship
9 board;

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

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

16 (g) Determine the annual amount of the opportunity scholarship for
17 each selected participant. The annual amount shall be at least one
18 thousand dollars or the amount determined under (e) of this subsection,
19 but may be increased on an income-based, sliding scale basis up to the
20 amount necessary to cover all reasonable annual eligible expenses as
21 assessed pursuant to (d) of this subsection, or to encourage
22 participation in baccalaureate degree programs identified by the
23 opportunity scholarship board;

24 (h) Distribute scholarship funds to selected participants. Once
25 awarded, and to the extent funds are available for distribution, an
26 opportunity scholarship shall be automatically renewed until the
27 participant withdraws from or is no longer attending the program,
28 completes the program, or has taken the credit or clock hour equivalent
29 of one hundred twenty-five percent of the published length of time of
30 the participant's program, whichever occurs first, and as long as the
31 participant annually submits documentation of filing both a free
32 application for federal student aid and for available federal education
33 tax credits, including but not limited to the American opportunity tax
34 credit; and

35 (i) Notify institutions of scholarship recipients who will attend
36 their institutions and inform them of the terms of the students'
37 eligibility.

1 (3) With respect to the opportunity expansion program, the program
2 administrator shall:

3 (a) Assist the opportunity scholarship board in developing and
4 implementing an application, selection, and notification process for
5 making opportunity expansion awards; and

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

8 NEW SECTION. **Sec. 5.** (1) The opportunity scholarship program is
9 established.

10 (2) The purpose of this scholarship program is to provide
11 scholarships that will help low and middle-income Washington residents
12 earn baccalaureate degrees in high employer demand and other programs
13 of study and encourage them to remain in the state to work. The
14 program must be designed for both students starting at two-year
15 institutions of higher education and intending to transfer to four-year
16 institutions of higher education and students starting at four-year
17 institutions of higher education.

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

21 (4) The source of funds for the program shall be a combination of
22 private grants and contributions and state matching funds. A state
23 match may be earned under this section for private contributions made
24 on or after the effective date of this section. A state match, up to
25 a maximum of fifty million dollars annually, shall be provided
26 beginning the later of January 1, 2014, or January 1st next following
27 the end of the fiscal year in which collections of state retail sales
28 and use tax, state business and occupation tax, and state public
29 utility tax exceed, by ten percent the amounts collected from these tax
30 resources in the fiscal year that ended June 30, 2008, as determined by
31 the department of revenue.

32 NEW SECTION. **Sec. 6.** (1) The opportunity scholarship match
33 transfer account is created in the custody of the state treasurer as a
34 nonappropriated account to be used solely and exclusively for the
35 opportunity scholarship program created in section 5 of this act. The

1 purpose of the account is to provide matching funds for the opportunity
2 scholarship program.

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

6 (3) No expenditures from the account may be made except upon
7 receipt of proof, by the director of the board from the program
8 administrator, of private contributions to the opportunity scholarship
9 program. Expenditures, in the form of matching funds, may not exceed
10 the total amount of private contributions.

11 (4) Only the director of the board or the director's designee may
12 authorize expenditures from the opportunity scholarship match transfer
13 account. Such authorization must be made as soon as practicable
14 following receipt of proof as required under subsection (3) of this
15 section.

16 NEW SECTION. **Sec. 7.** (1) The opportunity expansion program is
17 established.

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

21 (a) Solicit, receive, and evaluate proposals from institutions of
22 higher education that are designed to directly increase the number of
23 baccalaureate degrees produced in high employer demand and other
24 programs of study, and that include annual numerical targets for the
25 number of such degrees, with a strong emphasis on serving students who
26 received their high school diploma or GED 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 to
13 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 higher education coordinating board must report
28 to 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 NEW SECTION. **Sec. 8.** (1) By December 1, 2012, and annually each
2 December 1st thereafter, the opportunity scholarship board, together
3 with the program administrator, shall report to the board, the
4 governor, and the appropriate committees of the legislature regarding
5 the opportunity scholarship and opportunity expansion programs,
6 including but not limited to:

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

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

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

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

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

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

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

29 (2) In the next succeeding legislative session following receipt of
30 a report required under subsection (1) of this section, the appropriate
31 committees of the legislature shall review the report and consider
32 whether any legislative action is necessary with respect to either the
33 opportunity scholarship program or the opportunity expansion program,
34 including but not limited to consideration of whether any legislative
35 action is necessary with respect to the nature and level of focus on
36 high employer demand fields and the number and amount of scholarships.

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

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

8 (b) The number of participants in the opportunity scholarship
9 program in relation to the number of participants who completed a
10 baccalaureate degree;

11 (c) The total cumulative number of students who received
12 opportunity scholarships, and the total cumulative number of students
13 who gained a baccalaureate degree after receiving an opportunity
14 scholarship and the types of baccalaureate degrees awarded;

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

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

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

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

23 (h) The number and type of proposals submitted by institutions for
24 opportunity expansion awards, the number and type of proposals that
25 received an award of opportunity expansion funds, and the amount of
26 such awards;

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

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

1 (2) In the event that the joint legislative audit and review
2 committee is charged with completing an evaluation of other aspects of
3 degree production, funding, or other aspects of higher education in
4 2018, and to the extent that it is economical and feasible to do so,
5 the committee shall combine the multiple evaluations and submit a
6 single report.

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

9 A person eligible for the high technology research and development
10 tax credit under RCW 82.04.4452 may contribute all or any portion of
11 the credit to the opportunity expansion account hereby created in the
12 state treasury. The department must create the forms and processes to
13 allow a person to make such an election easily and quickly by means of
14 checking a box. By May 1, 2012, and by May 1st of every year
15 thereafter, the department must report the amount so contributed and
16 certify the amount to the state treasurer. By July 1, 2012, and by
17 July 1st of every year thereafter, the state treasurer must transfer
18 the amount into the opportunity expansion account. Money in the
19 account may only be appropriated for the purposes specified in section
20 7 of this act.

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

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

25 NEW SECTION. **Sec. 13.** This act is necessary for the immediate
26 preservation of the public peace, health, or safety, or support of the
27 state government and its existing public institutions, and takes effect
28 immediately."

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1 On page 1, beginning on line 3 of the title, after "programs;"
2 strike the remainder of the title and insert "adding a new section to
3 chapter 82.32 RCW; adding a new chapter to Title 28B RCW; and declaring
4 an emergency."

--- END ---