

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE HOUSE BILL 2088**

Chapter 13, Laws of 2011

62nd Legislature  
2011 1st Special Session

OPPORTUNITY SCHOLARSHIP BOARD

EFFECTIVE DATE: 06/06/11

Passed by the House May 25, 2011  
Yeas 91 Nays 5

FRANK CHOPP

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**Speaker of the House of Representatives**

Passed by the Senate May 25, 2011  
Yeas 43 Nays 2

BRAD OWEN

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**President of the Senate**

Approved June 6, 2011, 12:09 p.m.

CHRISTINE GREGOIRE

\_\_\_\_\_  
**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 **ENGROSSED SUBSTITUTE HOUSE BILL 2088** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

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**Chief Clerk**

FILED

June 7, 2011

**Secretary of State  
State of Washington**

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**ENGROSSED SUBSTITUTE HOUSE BILL 2088**

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AS AMENDED BY THE SENATE

Passed Legislature - 2011 1st Special Session

**State of Washington                      62nd Legislature                      2011 1st Special Session**

**By** House Ways & Means (originally sponsored by Representatives Probst, Haler, Frockt, Zeiger, Tharinger, Asay, Orwall, Armstrong, Carlyle, Maxwell, Springer, Kenney, Seaquist, Finn, Haigh, Dammeier, Smith, Goodman, Lytton, Stanford, Dahlquist, Ladenburg, Wylie, and Rivers)

READ FIRST TIME 05/17/11.

1            AN ACT Relating to creating the opportunity scholarship board to  
2 assist middle-income students and invest in high employer demand  
3 programs; adding a new section to chapter 82.32 RCW; adding a new  
4 chapter to Title 28B RCW; and declaring an emergency.

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

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

17            It is the intent of the legislature to provide jobs and opportunity  
18 by making Washington the place where the world's most productive  
19 companies find the world's most talented people. The legislature

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

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

10 (1) "Board" means the higher education coordinating board or its  
11 successor.

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

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

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

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

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

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

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

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

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

36 (7) "Program administrator" means a college scholarship  
37 organization that is a private nonprofit corporation registered under

1 Title 24 RCW and qualified as a tax-exempt entity under section  
2 501(c)(3) of the federal internal revenue code, with expertise in  
3 managing scholarships and college advising.

4 (8) "Resident student" has the same meaning as provided in RCW  
5 28B.15.012.

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

8 (a) Three members appointed by the governor. For two of the three  
9 appointments, the governor shall consider names from a list provided by  
10 the president of the senate and the speaker of the house of  
11 representatives; and

12 (b) Four foundation or business and industry representatives  
13 appointed by the governor from among the state's most productive  
14 industries such as aerospace, manufacturing, health sciences,  
15 information technology, and others. The foundation or business and  
16 industry representatives shall be selected from among nominations  
17 provided by the private sector donors to the opportunity scholarship  
18 and opportunity expansion programs. However, the governor may request,  
19 and the private sector donors shall provide, an additional list or  
20 lists from which the governor shall select these representatives.

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

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

27 (4) Five members of the board constitute a quorum for the  
28 transaction of business. In case of a vacancy, or when an appointment  
29 is made after the date of expiration of the term, the governor or the  
30 president of the senate or the speaker of the house of representatives,  
31 depending upon which made the initial appointment to that position,  
32 shall fill the vacancy for the remainder of the term of the board  
33 member whose office has become vacant or expired.

34 (5) The opportunity scholarship board shall be staffed by the  
35 program administrator.

36 (6) The purpose of the opportunity scholarship board is to provide  
37 oversight and guidance for the opportunity expansion and the

1 opportunity scholarship programs in light of established legislative  
2 priorities and to fulfill the duties and responsibilities under this  
3 chapter, including but not limited to determining eligible education  
4 programs for purposes of the opportunity scholarship program. Duties,  
5 exercised jointly with the program administrator, include soliciting  
6 funds and setting annual fund-raising goals.

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

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

13 (b) A source or sources of funds for the opportunity expansion  
14 program in addition to the voluntary contributions of the high  
15 technology research and development tax credit under section 10 of this  
16 act.

17 NEW SECTION. **Sec. 4.** (1) The program administrator, under  
18 contract with the board, shall staff the opportunity scholarship board  
19 and shall have the duties and responsibilities provided in this  
20 chapter, including but not limited to publicizing the program,  
21 selecting participants for the opportunity scholarship award,  
22 distributing opportunity scholarship awards, and achieving the maximum  
23 possible rate of return on investment of the accounts in subsection (2)  
24 of this section, while ensuring transparency in the investment  
25 decisions and processes. Duties, exercised jointly with the  
26 opportunity scholarship board, include soliciting funds and setting  
27 annual fund-raising goals. The program administrator shall be paid an  
28 administrative fee as determined by the opportunity scholarship board.

29 (2) With respect to the opportunity scholarship program, the  
30 program administrator shall:

31 (a) Establish and manage two separate accounts into which to  
32 receive grants and contributions from private sources as well as state  
33 matching funds, and from which to disburse scholarship funds to  
34 participants;

35 (b) Solicit and accept grants and contributions from private  
36 sources, via direct payment, pledge agreement, or escrow account, of

1 private sources for deposit into one or both of the two accounts  
2 created in this subsection (2)(b) in accordance with this subsection  
3 (2)(b):

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

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

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

14 (B) The state appropriations for the state need grant under RCW  
15 28B.92.010 meet or exceed state appropriations for the state need grant  
16 made in the 2011-2013 biennium, adjusted for inflation, and eligibility  
17 for state need grant recipients is at least seventy percent of state  
18 median family income; and

19 (C) The state has demonstrated progress toward the goal of total  
20 per-student funding levels, from state appropriations plus tuition and  
21 fees, of at least the sixtieth percentile of total per-student funding  
22 at similar public institutions of higher education in the global  
23 challenge states, as defined, measured, and reported in RCW 28B.15.068.  
24 In any year in which the office of financial management reports that  
25 the state has not made progress toward this goal, no new scholarships  
26 may be awarded. In any year in which the office of financial  
27 management reports that the percentile of total per-student funding is  
28 less than the sixtieth percentile and at least five percent less than  
29 the prior year, pledges of future grants and contributions may, at the  
30 request of the donor, be released and grants and contributions already  
31 received refunded to the extent that opportunity scholarship awards  
32 already made can be fulfilled from the funds remaining in the endowment  
33 account; and

34 (iii) An amount equal to at least fifty percent of all grants and  
35 contributions must be deposited into the scholarship account until such  
36 time as twenty million dollars have been deposited into the account,  
37 after which time the private donors may designate whether their  
38 contributions must be deposited to the scholarship or the endowment

1 account. The opportunity scholarship board and the program  
2 administrator must work to maximize private sector contributions to  
3 both the scholarship account and the endowment account, to maintain a  
4 robust scholarship program while simultaneously building the endowment,  
5 and to determine the division between the two accounts in the case of  
6 undesignated grants and contributions, taking into account the need for  
7 a long-term funding mechanism and the short-term needs of families and  
8 students in Washington. The first five million dollars in state match,  
9 as provided in section 5 of this act, shall be deposited into the  
10 scholarship account and thereafter the state match shall be deposited  
11 into the two accounts in equal proportion to the private funds  
12 deposited in each account;

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

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

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

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

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

1 participant withdraws from or is no longer attending the program,  
2 completes the program, or has taken the credit or clock hour equivalent  
3 of one hundred twenty-five percent of the published length of time of  
4 the participant's program, whichever occurs first, and as long as the  
5 participant annually submits documentation of filing both a free  
6 application for federal student aid and for available federal education  
7 tax credits, including but not limited to the American opportunity tax  
8 credit; and

9 (i) Notify institutions of scholarship recipients who will attend  
10 their institutions and inform them of the terms of the students'  
11 eligibility.

12 (3) With respect to the opportunity expansion program, the program  
13 administrator shall:

14 (a) Assist the opportunity scholarship board in developing and  
15 implementing an application, selection, and notification process for  
16 making opportunity expansion awards; and

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

19 NEW SECTION. **Sec. 5.** (1) The opportunity scholarship program is  
20 established.

21 (2) The purpose of this scholarship program is to provide  
22 scholarships that will help low and middle-income Washington residents  
23 earn baccalaureate degrees in high employer demand and other programs  
24 of study and encourage them to remain in the state to work. The  
25 program must be designed for both students starting at two-year  
26 institutions of higher education and intending to transfer to four-year  
27 institutions of higher education and students starting at four-year  
28 institutions of higher education.

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

32 (4) The source of funds for the program shall be a combination of  
33 private grants and contributions and state matching funds. A state  
34 match may be earned under this section for private contributions made  
35 on or after the effective date of this section. A state match, up to  
36 a maximum of fifty million dollars annually, shall be provided  
37 beginning the later of January 1, 2014, or January 1st next following



1 the end of the fiscal year in which collections of state retail sales  
2 and use tax, state business and occupation tax, and state public  
3 utility tax exceed, by ten percent the amounts collected from these tax  
4 resources in the fiscal year that ended June 30, 2008, as determined by  
5 the department of revenue.

6 NEW SECTION. **Sec. 6.** (1) The opportunity scholarship match  
7 transfer account is created in the custody of the state treasurer as a  
8 nonappropriated account to be used solely and exclusively for the  
9 opportunity scholarship program created in section 5 of this act. The  
10 purpose of the account is to provide matching funds for the opportunity  
11 scholarship program.

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

15 (3) No expenditures from the account may be made except upon  
16 receipt of proof, by the director of the board from the program  
17 administrator, of private contributions to the opportunity scholarship  
18 program. Expenditures, in the form of matching funds, may not exceed  
19 the total amount of private contributions.

20 (4) Only the director of the board or the director's designee may  
21 authorize expenditures from the opportunity scholarship match transfer  
22 account. Such authorization must be made as soon as practicable  
23 following receipt of proof as required under subsection (3) of this  
24 section.

25 NEW SECTION. **Sec. 7.** (1) The opportunity expansion program is  
26 established.

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

30 (a) Solicit, receive, and evaluate proposals from institutions of  
31 higher education that are designed to directly increase the number of  
32 baccalaureate degrees produced in high employer demand and other  
33 programs of study, and that include annual numerical targets for the  
34 number of such degrees, with a strong emphasis on serving students who  
35 received their high school diploma or GED in Washington or are adult

1 Washington residents who are returning to school to gain a  
2 baccalaureate degree;

3 (b) Develop criteria for evaluating proposals and awarding funds to  
4 the proposals deemed most likely to increase the number of  
5 baccalaureate degrees and degrees produced in high employer demand and  
6 other programs of study;

7 (c) Give priority to proposals that include a partnership between  
8 public and private partnership entities that leverage additional  
9 private funds;

10 (d) Give priority to proposals that are innovative, efficient, and  
11 cost-effective, given the nature and cost of the particular program of  
12 study;

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

16 (f) Determine which proposals to improve and accelerate the  
17 production of baccalaureate degrees in high employer demand and other  
18 programs of study will receive opportunity expansion awards for the  
19 following state fiscal year, notify the state treasurer, and announce  
20 the awards.

21 (3) The state treasurer, at the direction of the opportunity  
22 scholarship board, must distribute the funds that have been awarded to  
23 the institutions of higher education from the opportunity expansion  
24 account.

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

28 (5) Annually, the office of financial management shall report to  
29 the opportunity scholarship board, the governor, and the relevant  
30 committees of the legislature regarding the percentage of Washington  
31 households with incomes in the middle-income bracket or higher. For  
32 purposes of this section, "middle-income bracket" means household  
33 incomes between two hundred and five hundred percent of the 2010  
34 federal poverty level, as determined by the United States department of  
35 health and human services for a family of four, adjusted annually for  
36 inflation.

37 (6) Annually, the higher education coordinating board must report  
38 to the opportunity scholarship board, the governor, and the relevant

1 committees of the legislature regarding the increase in the number of  
2 degrees in high employer demand and other programs of study awarded by  
3 institutions of higher education over the average of the preceding ten  
4 academic years.

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

11 NEW SECTION. **Sec. 8.** (1) By December 1, 2012, and annually each  
12 December 1st thereafter, the opportunity scholarship board, together  
13 with the program administrator, shall report to the board, the  
14 governor, and the appropriate committees of the legislature regarding  
15 the opportunity scholarship and opportunity expansion programs,  
16 including but not limited to:

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

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

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

25 (d) The number and amount of the scholarships actually awarded, and  
26 whether the scholarships were paid from the scholarship account or the  
27 endowment account;

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

31 (f) The total amount of private contributions and state match  
32 moneys received for the opportunity scholarship program, how the funds  
33 were distributed between the scholarship and endowment accounts, the  
34 interest or other earnings on the accounts, and the amount of any  
35 administrative fee paid to the program administrator; and

36 (g) Identification of the programs the opportunity scholarship

1 board selected to receive opportunity expansion awards and the amount  
2 of such awards.

3 (2) In the next succeeding legislative session following receipt of  
4 a report required under subsection (1) of this section, the appropriate  
5 committees of the legislature shall review the report and consider  
6 whether any legislative action is necessary with respect to either the  
7 opportunity scholarship program or the opportunity expansion program,  
8 including but not limited to consideration of whether any legislative  
9 action is necessary with respect to the nature and level of focus on  
10 high employer demand fields and the number and amount of scholarships.

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

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

18 (b) The number of participants in the opportunity scholarship  
19 program in relation to the number of participants who completed a  
20 baccalaureate degree;

21 (c) The total cumulative number of students who received  
22 opportunity scholarships, and the total cumulative number of students  
23 who gained a baccalaureate degree after receiving an opportunity  
24 scholarship and the types of baccalaureate degrees awarded;

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

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

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

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

33 (h) The number and type of proposals submitted by institutions for  
34 opportunity expansion awards, the number and type of proposals that  
35 received an award of opportunity expansion funds, and the amount of  
36 such awards;

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

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

12 (2) In the event that the joint legislative audit and review  
13 committee is charged with completing an evaluation of other aspects of  
14 degree production, funding, or other aspects of higher education in  
15 2018, and to the extent that it is economical and feasible to do so,  
16 the committee shall combine the multiple evaluations and submit a  
17 single report.

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

20 A person eligible for the high technology research and development  
21 tax credit under RCW 82.04.4452 may contribute all or any portion of  
22 the credit to the opportunity expansion account hereby created in the  
23 state treasury. The department must create the forms and processes to  
24 allow a person to make such an election easily and quickly by means of  
25 checking a box. By May 1, 2012, and by May 1st of every year  
26 thereafter, the department must report the amount so contributed and  
27 certify the amount to the state treasurer. By July 1, 2012, and by  
28 July 1st of every year thereafter, the state treasurer must transfer  
29 the amount into the opportunity expansion account. Money in the  
30 account may only be appropriated for the purposes specified in section  
31 7 of this act.

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

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

1        NEW SECTION.    **Sec. 13.**    This act is necessary for the immediate  
2    preservation of the public peace, health, or safety, or support of the  
3    state government and its existing public institutions, and takes effect  
4    immediately.

      Passed by the House May 25, 2011.

      Passed by the Senate May 25, 2011.

      Approved by the Governor June 6, 2011.

      Filed in Office of Secretary of State June 7, 2011.