

CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 2641

Chapter 160, Laws of 2008

60th Legislature
2008 Regular Session

HIGHER EDUCATION--PERFORMANCE AGREEMENTS

EFFECTIVE DATE: 06/12/08

Passed by the House March 8, 2008
Yeas 92 Nays 1

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 6, 2008
Yeas 48 Nays 0

BRAD OWEN

President of the Senate

Approved March 26, 2008, 9:40 a.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 HOUSE BILL 2641** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

March 26, 2008

**Secretary of State
State of Washington**

ENGROSSED HOUSE BILL 2641

AS AMENDED BY THE SENATE

Passed Legislature - 2008 Regular Session

State of Washington 60th Legislature 2008 Regular Session

By Representatives Jarrett, Priest, Wallace, Ormsby, McIntire,
Sells, Morrell, Upthegrove, Sullivan, and Haler

Prefiled 01/11/08. Read first time 01/14/08. Referred to Committee
on Higher Education.

1 AN ACT Relating to higher education performance agreements; adding
2 new sections to chapter 28B.10 RCW; adding a new section to chapter
3 44.28 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that in the last
6 ten years, significant progress has been made to identify and monitor
7 accountability and performance measures in higher education, both
8 internally in institutions and externally in the legislative and state
9 policymaking environment.

10 (2) However, the legislature further finds that opportunities exist
11 to promote greater visibility of performance measures among
12 policymakers and among the public consumers of higher education.
13 Policy decisions, including decisions about resource allocation, should
14 be made with greater knowledge and a shared understanding about the
15 tradeoffs between resources, flexibility, and desired outcomes. A
16 forum should be created to allow discussion among policymakers and
17 institution leaders about setting outcome-oriented priorities,
18 targeting of investments, linking operating and capital planning, and

1 creating a longer-term view than the biennial budget cycle typically
2 permits.

3 (3) Therefore, the legislature intends to implement a process for
4 such discussions, agreements, and planning to occur. The process of
5 crafting higher education performance agreements will be pilot-tested
6 over a six-year period with the public four-year institutions of higher
7 education beginning in 2008.

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 28B.10 RCW
9 to read as follows:

10 (1) As used in this section and sections 3 and 4 of this act, a
11 performance agreement is an agreement reached between the state and the
12 governing board of an institution of higher education and approved by
13 the legislature using the process provided in section 4 of this act.

14 (2) The purpose of a performance agreement is to develop and
15 communicate a six-year plan developed jointly by state policymakers and
16 an institution of higher education that aligns goals, priorities,
17 desired outcomes, flexibility, institutional mission, accountability,
18 and levels of resources.

19 (3) Beginning in 2008, performance agreements shall be pilot-tested
20 with the public four-year institutions of higher education.

21 NEW SECTION. **Sec. 3.** A new section is added to chapter 28B.10 RCW
22 to read as follows:

23 (1) Performance agreements shall address but not be limited to the
24 following issues:

25 (a) Indicators that measure outcomes concerning cost, quality,
26 timeliness of student progress toward degrees and certifications, and
27 articulation between and within the K-12 and higher education systems;

28 (b) Benchmarks and goals for long-term degree production, including
29 discrete benchmarks and goals in particular fields of study;

30 (c) The level of resources necessary to meet the performance
31 outcomes, benchmarks, and goals, subject to legislative appropriation;

32 (d) The prioritization of four-year institution capital budget
33 projects by the office of financial management; and

34 (e) Indicators that measure outcomes concerning recruitment,
35 retention, and success of students, faculty, and staff from diverse,
36 underrepresented communities.

1 (2) The goals and outcomes identified in a performance agreement
2 shall be linked to the role, mission, and strategic plan of the
3 institution of higher education and aligned with the statewide
4 strategic master plan for higher education.

5 (3) Performance agreements may also include grants to an
6 institution, under the terms of the agreement, of flexibility or
7 waivers from state controls or rules. The agreement may identify areas
8 where statutory change is necessary to grant an institution flexibility
9 or waivers of state agency rules.

10 (4) The following areas may not be included in a performance
11 agreement:

12 (a) Flexibility or waivers of requirements in a collective
13 bargaining agreement negotiated under chapter 28B.52, 41.56, 41.59,
14 41.76, or 41.80 RCW;

15 (b) Flexibility or waivers of administrative rules or processes
16 governed by chapter 28B.52, 41.56, 41.59, 41.76, or 41.80 RCW;

17 (c) Rules, processes, duties, rights, and responsibilities of the
18 academic faculty as contained in the faculty codes of the four-year
19 institution;

20 (d) Flexibility or waivers of requirements under chapter 39.12 RCW;

21 (e) Flexibility or waivers of administrative rules or other
22 regulations that address health and safety, civil rights, and
23 nondiscrimination laws that apply to institutions of higher education;
24 and

25 (f) State laws covering terms and conditions of employment,
26 including but not limited to salaries, job security, and health,
27 retirement, unemployment, or any other employment benefits.

28 NEW SECTION. **Sec. 4.** A new section is added to chapter 28B.10 RCW
29 to read as follows:

30 (1) A state performance agreement committee is created to represent
31 the state in developing performance agreements under this section and
32 sections 2 and 3 of this act. The committee is composed of
33 representatives from the governor's office, the office of financial
34 management, the higher education coordinating board, the office of the
35 superintendent of public instruction, two members of the senate
36 appointed by the secretary of the senate, and two members of the house

1 of representatives appointed by the speaker of the house of
2 representatives. The state performance agreement committee shall be
3 staffed by personnel from the higher education coordinating board.

4 (2) Each of the participating institutions shall develop a
5 preliminary draft of a performance agreement with input from students
6 and faculty. The governing boards of the public four-year institutions
7 of higher education shall designate performance agreement
8 representatives for each institution respectively that shall include
9 two faculty members at those institutions bargaining under chapter
10 41.76 RCW, at least one of whom shall be appointed by the exclusive
11 collective bargaining agent and the other appointed by the faculty
12 governance organization of that institution. If the participating
13 pilot institution does not bargain under chapter 41.76 RCW, then two
14 faculty members shall be appointed by the faculty governance
15 organization of that institution. The associated student governments
16 or their equivalents shall designate two performance agreement
17 representatives at those institutions. Starting with the preliminary
18 drafts, the state performance agreement committee and representatives
19 of each institution shall develop revised draft performance agreements
20 for each institution and submit the revised drafts to the governor and
21 the fiscal and higher education committees of the legislature no later
22 than September 1, 2008.

23 (3) After receiving informal input on the revised draft performance
24 agreements, particularly regarding the levels of resources assumed in
25 the agreements, the state committee and institution representatives
26 shall develop final proposed performance agreements and submit the
27 agreements to the governor and the office of financial management by
28 November 1, 2008, for consideration in development of the governor's
29 2009-2011 operating and capital budget recommendations.

30 (4) The state committee shall submit any legislation necessary to
31 implement a performance agreement to the higher education committees of
32 the senate and house of representatives.

33 (5) All cost items contained within a performance agreement are
34 subject to legislative appropriation.

35 (6) If the legislature affirms, through a proviso in the 2009-2011
36 omnibus appropriations act, that the omnibus appropriations act and the
37 2009 capital budget act enacted by the legislature align with the
38 proposed performance agreements, the performance agreements shall take

1 effect beginning July 1, 2009, through June 30, 2015. If the
2 legislature affirms, through a proviso in the 2009-2011 omnibus
3 appropriations act or through inaction, that the omnibus appropriations
4 act and/or the 2009 capital budget act are not aligned with the
5 proposed performance agreements, the state committee and institution
6 representatives shall redraft the agreements to align with the enacted
7 budgets, and the redrafted agreements shall take effect beginning
8 September 1, 2009, through June 30, 2015.

9 (7) The legislature, the state committee, and the institution
10 representatives shall repeat the process described in subsection (6) of
11 this section for each subsequent omnibus appropriations and capital
12 budget act enacted between the 2010 and 2014 legislative sessions to
13 ensure that the performance agreements are updated as necessary to
14 align with enacted omnibus appropriations and capital budget acts.

15 NEW SECTION. **Sec. 5.** A new section is added to chapter 44.28 RCW
16 to read as follows:

17 The joint committee shall conduct an evaluation of the higher
18 education performance agreement pilot test under sections 2 through 4
19 of this act and make recommendations regarding changes to the substance
20 or process of creating the agreements, including whether the
21 performance agreement process should be continued and expanded to
22 include additional higher education institutions. The evaluation shall
23 be submitted to the governor and the higher education committees of the
24 senate and house of representatives by November 1, 2014.

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