

2 E2SHB 1372 - S COMM AMD
3 By Committee on Higher Education

4 ADOPTED 4/15/97

5 Strike everything after the enacting clause and insert the
6 following:

7 NEW SECTION. **Sec. 1.** The Washington advanced college tuition
8 payment program is established to help make higher education affordable
9 and accessible to all citizens of the state of Washington by offering
10 a savings incentive that will protect purchasers and beneficiaries
11 against rising tuition costs. The program is designed to encourage
12 savings and enhance the ability of Washington citizens to obtain
13 financial access to institutions of higher education. In addition, the
14 program encourages elementary and secondary school students to do well
15 in school as a means of preparing for and aspiring to higher education
16 attendance. This program is intended to promote a well-educated and
17 financially secure population to the ultimate benefit of all citizens
18 of the state of Washington.

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

21 (1) "Academic year" means the regular nine-month, three-quarter, or
22 two-semester period annually occurring between July 1st and June 30th.

23 (2) "Account" means the Washington advanced college tuition payment
24 program account established for the deposit of all money received by
25 the board from eligible purchasers and interest earnings on investments
26 of funds in the account, as well as for all expenditures on behalf of
27 eligible beneficiaries for the redemption of tuition units.

28 (3) "Board" means the higher education coordinating board as
29 defined in chapter 28B.80 RCW.

30 (4) "Committee on advanced tuition payment" or "committee" means a
31 committee of the following members or their designees: The state
32 treasurer, the director of the office of financial management, and the
33 chair of the higher education coordinating board.

34 (5) "Governing body" means the entity empowered by the legislature
35 to administer the Washington advanced college tuition payment program.

1 (6) "Contractual obligation" means a legally binding contract of
2 the state with the purchaser and the beneficiary establishing that
3 purchases of tuition units will be worth the same number of tuition
4 units at the time of redemption as they were worth at the time of the
5 purchase.

6 (7) "Eligible beneficiary" means the person for whom the tuition
7 unit will be redeemed for attendance at an institution of higher
8 education. The beneficiary is that person named by the purchaser at
9 the time that a tuition unit contract is accepted by the board. With
10 the exception of tuition unit contracts purchased by qualified
11 organizations as future scholarships, the beneficiary must reside in
12 the state of Washington or otherwise be a resident of the state of
13 Washington at the time the tuition unit contract is accepted by the
14 board.

15 (8) "Eligible purchaser" means an individual or organization that
16 has entered into a tuition unit contract with the board for the
17 purchase of tuition units for an eligible beneficiary.

18 (9) "Full-time tuition charges" means resident tuition charges at
19 a state institution of higher education for enrollments between ten
20 credits and eighteen credit hours per academic term.

21 (10) "Institution of higher education" means an institution that
22 offers education beyond the secondary level and is accredited by a
23 nationally recognized accrediting association or is licensed to do
24 business in the state in which it is located.

25 (11) "Investment board" means the state investment board as defined
26 in chapter 43.33A RCW.

27 (12) "State institution of higher education" means institutions of
28 higher education as defined in RCW 28B.10.016.

29 (13) "Tuition and fees" means tuition and services and activities
30 fees as defined in RCW 28B.15.020 and 28B.15.041 rounded to the nearest
31 whole dollar. The maximum tuition and fees charges recognized for
32 beneficiaries enrolled in a state technical college shall be equal to
33 the tuition and fees for the community college system.

34 (14) "Tuition unit contract" means a contract between an eligible
35 purchaser and the board, or a successor agency appointed for
36 administration of this chapter, for the purchase of tuition units for
37 a specified beneficiary that may be redeemed at a later date for an
38 equal number of tuition units.

1 (15) "Unit purchase price" means the minimum cost to purchase one
2 tuition unit for an eligible beneficiary. Generally, the minimum
3 purchase price is one percent of the weighted average tuition and fees
4 for the current year, rounded to the nearest whole dollar, adjusted for
5 the costs of administration and adjusted to ensure the actuarial
6 soundness of the account.

7 (16) "Weighted average tuition" shall be calculated as the sum of
8 the undergraduate tuition and services and activities fees for each
9 four-year state institution of higher education, multiplied by the
10 respective full-time equivalent student enrollment at each institution
11 divided by the sum total of undergraduate full-time equivalent student
12 enrollments of all four-year state institutions of higher education,
13 rounded to the nearest whole dollar.

14 (17) "Weighted average tuition unit" is the value of the weighted
15 average tuition and fees divided by one hundred. The weighted average
16 is the basis upon which tuition benefits are calculated for graduate
17 program enrollments and for attendance at nonstate institutions of
18 higher education and is the basis for any refunds provided from the
19 program.

20 NEW SECTION. **Sec. 3.** (1) The Washington advanced college tuition
21 payment program shall be administered by the committee on advanced
22 tuition payment which shall be chaired by the representative from the
23 higher education coordinating board. The committee shall be supported
24 by staff of the board.

25 (2) The committee shall assess the administration and projected
26 financial solvency of the program and make a recommendation to the
27 legislature by the end of the second year after the effective date of
28 this section as to disposition of the further administration of the
29 program.

30 (3)(a) The Washington advanced college tuition payment program
31 shall consist of the sale of tuition units, which may be redeemed by
32 the beneficiary at a future date for an equal number of tuition units
33 regardless of any increase in the price of tuition, that may have
34 occurred in the interval.

35 (b) Each purchase shall be worth a specific number of or fraction
36 of tuition units at each state institution of higher education as
37 determined by the board.

1 (c) The number of tuition units necessary to pay for a full year's,
2 full-time tuition and fee charges at a state institution of higher
3 education shall be set by the board at the time a purchaser enters into
4 a tuition unit contract.

5 (d) The governing body may limit the number of tuition units
6 purchased by any one purchaser or on behalf of any one beneficiary,
7 however, no limit may be imposed that is less than that necessary to
8 achieve four years of full-time, undergraduate tuition charges at a
9 state institution of higher education. The governing body also may, at
10 its discretion, limit the number of participants, if needed, to ensure
11 the actuarial soundness and integrity of the program.

12 (4)(a) No tuition unit may be redeemed until two years after the
13 purchase of the unit. Units may be redeemed for enrollment at any
14 institution of higher education.

15 (b) Units redeemed at a nonstate institution of higher education or
16 for graduate enrollment shall be redeemed at the current weighted
17 average tuition unit in effect at the time of redemption.

18 (5) The governing body shall determine the conditions under which
19 the tuition benefit may be transferred to another family member. In
20 permitting such transfers, the governing body may not allow the tuition
21 benefit to be bought, sold, bartered, or otherwise exchanged for goods
22 and services by either the beneficiary or the purchaser.

23 (6) The governing body shall administer the Washington advanced
24 college tuition payment program in a manner reasonably designed to be
25 actuarially sound, such that the assets of the trust will be sufficient
26 to defray the obligations of the trust including the costs of
27 administration. The governing body may, at its discretion, discount
28 the minimum purchase price for certain kinds of purchases such as those
29 from families with young children, as long as the actuarial soundness
30 of the account is not jeopardized.

31 (7) The governing body shall annually determine current value of a
32 tuition unit and the value of the weighted average tuition unit.

33 (8) The governing body shall promote, advertise, and publicize the
34 Washington advanced college tuition payment program.

35 (9) In addition to any other powers conferred by this chapter, the
36 governing body may:

37 (a) Impose reasonable limits on the number of tuition units or
38 units that may be used in any one year;

- 1 (b) Determine and set any time limits, if necessary, for the use of
2 benefits under this chapter;
- 3 (c) Impose and collect administrative fees and charges in
4 connection with any transaction under this chapter;
- 5 (d) Appoint and use advisory committees as needed to provide
6 program direction and guidance;
- 7 (e) Formulate and adopt all other policies and rules necessary for
8 the efficient administration of the program;
- 9 (f) Consider the addition of an advanced payment program for room
10 and board contracts and also consider a college savings program;
- 11 (g) Purchase insurance from insurers licensed to do business in the
12 state, to provide for coverage against any loss in connection with the
13 account's property, assets, or activities or to further insure the
14 value of the tuition units;
- 15 (h) Make, execute, and deliver contracts, conveyances, and other
16 instruments necessary to the exercise and discharge of its powers and
17 duties under this chapter;
- 18 (i) Contract for the provision for all or part of the services
19 necessary for the management and operation of the program with other
20 state or nonstate entities authorized to do business in the state;
- 21 (j) Contract for other services or for goods needed by the board in
22 the conduct of its business under this chapter;
- 23 (k) Employ all personnel as necessary to carry out its
24 responsibilities under this chapter and to fix the compensation of
25 these persons;
- 26 (l) Contract with financial consultants, actuaries, auditors, and
27 other consultants as necessary to carry out its responsibilities under
28 this chapter;
- 29 (m) Solicit and accept cash donations and grants from any person,
30 governmental agency, private business, or organization; and
- 31 (n) Perform all acts necessary and proper to carry out the duties
32 and responsibilities of this program under this chapter.

33 NEW SECTION. **Sec. 4.** The governing body may, at its discretion,
34 allow an organization to purchase tuition units for future use as
35 scholarships. Such organizations electing to purchase tuition units
36 for this purpose must enter into a contract with the governing body
37 which, at a minimum, ensures that the scholarship shall be freely given
38 by the purchaser to a scholarship recipient. For such purchases, the

1 purchaser need not name a beneficiary until four months before the date
2 when the tuition units are first expected to be used.

3 The governing body shall formulate and adopt such rules as are
4 necessary to determine which organizations may qualify to purchase
5 tuition units for scholarships under this section. The governing body
6 also may consider additional rules for the use of tuition units if
7 purchased as scholarships.

8 The governing body may establish a scholarship fund with moneys
9 from the Washington advanced college tuition payment program account.
10 A scholarship fund established under this authority shall be
11 administered by the higher education coordinating board and shall be
12 provided to students who demonstrate financial need. Financial need is
13 not a criterion that any other organization need consider when using
14 tuition units as scholarships. The board also may establish its own
15 corporate-sponsored scholarship fund under this chapter.

16 NEW SECTION. **Sec. 5.** The Washington advanced college tuition
17 payment program is an essential state governmental function. Contracts
18 with eligible participants shall be contractual obligations legally
19 binding on the state as set forth in this chapter. If, and only if,
20 the moneys in the account are projected to be insufficient to cover the
21 state's contracted expenses for a given biennium, then the legislature
22 shall appropriate to the account the amount necessary to cover such
23 expenses.

24 The tuition and fees charged by a state institution of higher
25 education to an eligible beneficiary for a current enrollment shall be
26 paid by the account to the extent the beneficiary has remaining unused
27 tuition units for the appropriate school. The tuition and fees charged
28 to a beneficiary for graduate level enrollments or by a nonstate
29 institution of higher education shall be paid by the account to the
30 extent that the beneficiary has remaining weighted average tuition
31 units.

32 NEW SECTION. **Sec. 6.** (1) The Washington advanced college tuition
33 payment program account is created in the custody of the state
34 treasurer. The account shall be a discrete nontreasury account
35 retaining its interest earnings in accordance with RCW 43.79A.040.

36 (2) The governing body shall deposit in the account all money
37 received for the program. The account shall be self-sustaining and

1 consist of payments received from purchasers of tuition units and funds
2 received from other sources, public or private. With the exception of
3 investment and operating costs associated with the investment of money
4 by the investment board paid under RCW 43.33A.160 and 43.84.160, the
5 account shall be credited with all investment income earned by the
6 account. Disbursements from the account are exempt from appropriations
7 and the allotment provisions of chapter 43.88 RCW. Money used for
8 program administration is subject to the allotment and budgetary
9 controls of chapter 43.88 RCW, but no appropriation is required for
10 expenditures.

11 (3) The assets of the account may be spent for the purpose of
12 making payments to institutions of higher education on behalf of the
13 qualified beneficiaries, making refunds, transfers, or direct payments
14 upon the termination of the Washington advanced college tuition payment
15 program, and paying the costs of administration of the program.
16 Disbursements from the account shall be made only on the authorization
17 of the board.

18 NEW SECTION. **Sec. 7.** (1) The investment board has the full power
19 to invest, reinvest, manage, contract, sell, or exchange investment
20 money in the account. All investment and operating costs associated
21 with the investment of money shall be paid pursuant to RCW 43.33A.160
22 and 43.84.160. With the exception of these expenses, the earnings from
23 the investment of the money shall be retained by the account.

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

28 (3) As deemed appropriate by the investment board, money in the
29 account may be commingled for investment with other funds subject to
30 investment by the board.

31 (4) The authority to establish all policies relating to the
32 account, other than the investment policies as set forth in subsections
33 (1) through (3) of this section, resides with the board. With the
34 exception of expenses of the investment board set forth in subsection
35 (1) of this section, disbursements from the account shall be made only
36 on the authorization of the governing body, and money in the account
37 may be spent only for the purposes of the program as specified in this
38 chapter.

1 (5) The investment board shall routinely consult and communicate
2 with the governing body on the investment policy, earnings of the
3 trust, and related needs of the program.

4 NEW SECTION. **Sec. 8.** The governing body shall annually evaluate,
5 and cause to be evaluated by a nationally recognized actuary, the
6 soundness of the account and determine the additional assets needed, if
7 any, to defray the obligations of the account.

8 If funds are not sufficient to ensure the actuarial soundness of
9 the account, the governing body shall adjust the price of subsequent
10 tuition credit purchases to ensure its soundness.

11 If there are insufficient numbers of new purchases to ensure the
12 actuarial soundness of the account, the governing body shall request
13 such funds from the legislature as are required to ensure the integrity
14 of the program. Funds may be appropriated directly to the account or
15 appropriated under the condition that they be repaid at a later date.
16 The repayment shall be made at such time that the account is again
17 determined to be actuarially sound.

18 NEW SECTION. **Sec. 9.** (1) In the event that the state determines
19 that the program is not financially feasible, or for any other reason,
20 the state may declare the discontinuance of the program. At the time
21 of such declaration, the governing body will cease to accept any
22 further tuition unit contracts or purchases.

23 (2) The remaining tuition units for all beneficiaries who have
24 either enrolled in higher education or who are within four years of
25 graduation from a secondary school shall be honored until such tuition
26 units have been exhausted, or for ten fiscal years from the date that
27 the program has been discontinued, whichever comes first. All other
28 contract holders shall receive a refund equal to the value of the
29 current weighted average tuition units in effect at the time that the
30 program was declared discontinued.

31 (3) At the end of the ten-year period, any tuition units remaining
32 unused by currently active beneficiaries enrolled in higher education
33 shall be refunded at the value of the current weighted average tuition
34 unit in effect at the end of that ten-year period.

35 (4) At the end of the ten-year period, all other funds remaining in
36 the account not needed to make refunds or to pay for administrative
37 costs shall be deposited to the state general fund.

1 (5) The governing body may make refunds under other exceptional
2 circumstances as it deems fit, however, no tuition units may be honored
3 after the end of the tenth fiscal year following the declaration of
4 discontinuance of the program.

5 NEW SECTION. **Sec. 10.** (1) The committee, in planning and devising
6 the program, shall consult with the investment board, the state
7 treasurer, the state actuary, the office of financial management, and
8 the institutions of higher education.

9 (2) The governing body may seek the assistance of the state
10 agencies named in subsection (1) of this section, private financial
11 institutions, and any other qualified party with experience in the
12 areas of accounting, actuary, risk management, or investment management
13 to assist with preparing an accounting of the program and ensuring the
14 fiscal soundness of the account.

15 (3) State agencies and public institutions of higher education
16 shall fully cooperate with the governing body in matters relating to
17 the program in order to ensure the solvency of the account and ability
18 of the governing body to meet outstanding commitments.

19 NEW SECTION. **Sec. 11.** This chapter shall not be construed as a
20 promise that any beneficiary shall be granted admission to any
21 institution of higher education, will earn any specific or minimum
22 number of academic credits, or will graduate from any such institution.
23 In addition, this chapter shall not be construed as a promise of either
24 course or program availability.

25 Participation in this program does not guarantee an eligible
26 beneficiary the right to resident tuition and fees. To qualify for
27 resident and respective tuition subsidies, the eligible beneficiary
28 must meet the applicable provisions of RCW 28B.15.011 through
29 28B.15.015.

30 This chapter shall not be construed to imply that the redemption of
31 tuition units shall be equal to any value greater than the
32 undergraduate tuition and services and activities fees at a state
33 institution of higher education as computed under this chapter.
34 Eligible beneficiaries will be responsible for payment of any other fee
35 that does not qualify as a services and activities fee including, but
36 not limited to, any expenses for tuition surcharges, tuition overload

1 fees, laboratory fees, equipment fees, book fees, rental fees, room and
2 board charges, or fines.

3 NEW SECTION. **Sec. 12.** (1) The intent of the Washington advanced
4 college tuition payment program is to redeem tuition units for
5 attendance at an institution of higher education. Refunds shall be
6 issued under specific conditions that may include the following:

7 (a) Certification that the beneficiary, who is eighteen years of
8 age or older, will not attend an institution of higher education, will
9 result in a refund not to exceed ninety-five percent of the current
10 weighted average tuition and fees in effect at the time of such
11 certification. No more than one hundred tuition units may be refunded
12 per year to any individual making this certification. The refund shall
13 be made no sooner than ninety days after such certification, less any
14 administrative processing fees assessed by the governing body. The
15 governing body may, at its discretion, impose a greater penalty;

16 (b) If there is certification of the death or disability of the
17 beneficiary, the refund shall be equal to one hundred percent of any
18 remaining unused tuition units valued at the current weighted average
19 tuition units at the time that such certification is submitted to the
20 board, less any administrative processing fees assessed by the board;

21 (c) If there is certification by the student of graduation or
22 program completion, the refund may be as great as one hundred percent
23 of any remaining unused weighted average tuition units at the time that
24 such certification is submitted to the governing body, less any
25 administrative processing fees assessed by the governing body. The
26 governing body may, at its discretion, impose a penalty if needed to
27 comply with federal tax rules;

28 (d) Certification of other tuition and fee scholarships, which will
29 cover the cost of tuition for the eligible beneficiary. The refund
30 shall be equal to one hundred percent of the current weighted average
31 tuition units in effect at the time of the refund request, plus any
32 administrative processing fees assessed by the governing body. The
33 refund under this subsection may not exceed the value of the
34 scholarship;

35 (e) Incorrect or misleading information provided by the purchaser
36 or beneficiaries may result in a refund of the purchaser's investment,
37 less any administrative processing fees assessed by the governing body.

1 The value of the refund will not exceed the actual dollar value of the
2 purchaser's contributions; and

3 (f) The governing body may determine other circumstances qualifying
4 for refunds of remaining unused tuition units and may determine the
5 value of that refund.

6 (2) With the exception of subsection (1)(b) and (e) of this section
7 no refunds may be made before the beneficiary is at least eighteen
8 years of age.

9 **Sec. 13.** RCW 43.79A.040 and 1996 c 253 s 409 are each amended to
10 read as follows:

11 (1) Money in the treasurer's trust fund may be deposited, invested
12 and reinvested by the state treasurer in accordance with RCW 43.84.080
13 in the same manner and to the same extent as if the money were in the
14 state treasury.

15 (2) All income received from investment of the treasurer's trust
16 fund shall be set aside in an account in the treasury trust fund to be
17 known as the investment income account.

18 (3) The investment income account may be utilized for the payment
19 of purchased banking services on behalf of treasurer's trust funds
20 including, but not limited to, depository, safekeeping, and
21 disbursement functions for the state treasurer or affected state
22 agencies. The investment income account is subject in all respects to
23 chapter 43.88 RCW, but no appropriation is required for payments to
24 financial institutions. Payments shall occur prior to distribution of
25 earnings set forth in subsection (4) of this section.

26 (4)(a) Monthly, the state treasurer shall distribute the earnings
27 credited to the investment income account to the state general fund
28 except under (b) and (c) of this subsection.

29 (b) The following accounts and funds shall receive their
30 proportionate share of earnings based upon each account's or fund's
31 average daily balance for the period: The Washington advanced college
32 tuition payment program account, the agricultural local fund, the
33 American Indian scholarship endowment fund, the Washington
34 international exchange scholarship endowment fund, the energy account,
35 the fair fund, the game farm alternative account, the grain inspection
36 revolving fund, the rural rehabilitation account, and the self-
37 insurance revolving fund. However, the earnings to be distributed

1 shall first be reduced by the allocation to the state treasurer's
2 service fund pursuant to RCW 43.08.190.

3 (c) The following accounts and funds shall receive eighty percent
4 of their proportionate share of earnings based upon each account's or
5 fund's average daily balance for the period: The advanced right of way
6 revolving fund, the federal narcotics asset forfeitures account, the
7 high occupancy vehicle account, and the local rail service assistance
8 account.

9 (5) In conformance with Article II, section 37 of the state
10 Constitution, no trust accounts or funds shall be allocated earnings
11 without the specific affirmative directive of this section.

12 NEW SECTION. **Sec. 14.** Sections 1 through 12 of this act
13 constitute a new chapter in Title 28B RCW."

14 **E2SHB 1372** - S COMM AMD
15 By Committee on Higher Education

16 ADOPTED 4/15/97

17 On page 1, line 2 of the title, after "program;" strike the
18 remainder of the title and insert "amending RCW 43.79A.040; and adding
19 a new chapter to Title 28B RCW."

--- END ---