
SECOND SUBSTITUTE SENATE BILL 5106

State of Washington

55th Legislature

1997 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators McAuliffe, Wood, Kohl, Prince, Patterson, Hochstatter, Bauer, Sheldon, Brown, Rasmussen, Long, Goings, Haugen, Franklin, Thibaudeau, Loveland, Snyder, Winsley and Oke)

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1 AN ACT Relating to the Washington advanced college tuition payment
2 program; amending RCW 43.79A.040; and adding a new chapter to Title 28B
3 RCW.

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

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

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

- 1 (1) "Academic year" means the regular nine-month, three-quarter, or
2 two-semester period annually occurring between July 1st and June 30th.
- 3 (2) "Account" means the Washington advanced college tuition payment
4 program account established for the deposit of all money received by
5 the board from eligible purchasers and interest earnings on investments
6 of funds in the account, as well as for all expenditures on behalf of
7 eligible beneficiaries for the redemption of tuition units.
- 8 (3) "Board" means the higher education coordinating board as
9 defined in chapter 28B.80 RCW.
- 10 (4) "Committee on advanced tuition payment" or "committee" means a
11 committee of the following members or their designees: The state
12 treasurer, the director of the office of financial management, and the
13 chair of the higher education coordinating board.
- 14 (5) "Governing body" means the entity empowered by the legislature
15 to administer the Washington advanced college tuition payment program.
- 16 (6) "Contractual obligation" means a legally binding contract of
17 the state with the purchaser and the beneficiary establishing that
18 purchases of tuition units will be worth the same number of tuition
19 units at the time of redemption as they were worth at the time of the
20 purchase.
- 21 (7) "Eligible beneficiary" means the person for whom the tuition
22 unit will be redeemed for attendance at an institution of higher
23 education. The beneficiary is that person named by the purchaser at
24 the time that a tuition unit contract is accepted by the board. With
25 the exception of tuition unit contracts purchased by qualified
26 organizations as future scholarships, the beneficiary must reside in
27 the state of Washington or otherwise be a resident of the state of
28 Washington at the time the tuition unit contract is accepted by the
29 board.
- 30 (8) "Eligible purchaser" means an individual or organization that
31 has entered into a tuition unit contract with the board for the
32 purchase of tuition units for an eligible beneficiary.
- 33 (9) "Full-time tuition charges" means resident tuition charges at
34 a state institution of higher education for enrollments between ten
35 credits and eighteen credit hours per academic term.
- 36 (10) "Institution of higher education" means an institution that
37 offers education beyond the secondary level and is accredited by a
38 nationally recognized accrediting association or is licensed to do
39 business in the state in which it is located.

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

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

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

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

15 (15) "Unit purchase price" means the minimum cost to purchase one
16 tuition unit for an eligible beneficiary. Generally, the minimum
17 purchase price is one percent of the weighted average tuition and fees
18 for the current year, rounded to the nearest whole dollar, adjusted for
19 the costs of administration and adjusted to ensure the actuarial
20 soundness of the account.

21 (16) "Weighted average tuition" shall be calculated as the sum of
22 the undergraduate tuition and services and activities fees for each
23 four-year state institution of higher education, multiplied by the
24 respective full-time equivalent student enrollment at each institution
25 divided by the sum total of undergraduate full-time equivalent student
26 enrollments of all four-year state institutions of higher education,
27 rounded to the nearest whole dollar.

28 (17) "Weighted average tuition unit" is the value of the weighted
29 average tuition and fees divided by one hundred. The weighted average
30 is the basis upon which tuition benefits are calculated for graduate
31 program enrollments and for attendance at nonstate institutions of
32 higher education and is the basis for any refunds provided from the
33 program.

34 NEW SECTION. **Sec. 3.** (1) The Washington advanced college tuition
35 payment program shall be administered by the committee on advanced
36 tuition payment which shall be chaired by the representative from the
37 higher education coordinating board. The committee shall be supported
38 by staff of the board.

1 (2) The committee shall assess the administration and projected
2 financial solvency of the program and make a recommendation to the
3 legislature by the end of the second year after the effective date of
4 this section as to disposition of the further administration of the
5 program.

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

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

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

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

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

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

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

36 (6) The governing body shall administer the Washington advanced
37 college tuition payment program in a manner reasonably designed to be
38 actuarially sound, such that the assets of the trust will be sufficient
39 to defray the obligations of the trust including the costs of

1 administration. The governing body may, at its discretion, discount
2 the minimum purchase price for certain kinds of purchases such as those
3 from families with young children, as long as the actuarial soundness
4 of the account is not jeopardized.

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

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

9 (9) In addition to any other powers conferred by this chapter, the
10 board may:

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

13 (b) Determine and set any time limits, if necessary, for the use of
14 benefits under this chapter;

15 (c) Impose and collect administrative fees and charges in
16 connection with any transaction under this chapter;

17 (d) Appoint and use advisory committees as needed to provide
18 program direction and guidance;

19 (e) Formulate and adopt all other policies and rules necessary for
20 the efficient administration of the program;

21 (f) Consider the addition of an advanced payment program for room
22 and board contracts and also consider a college savings program;

23 (g) Purchase insurance from insurers licensed to do business in the
24 state, to provide for coverage against any loss in connection with the
25 account's property, assets, or activities or to further insure the
26 value of the tuition units;

27 (h) Make, execute, and deliver contracts, conveyances, and other
28 instruments necessary to the exercise and discharge of its powers and
29 duties under this chapter;

30 (i) Contract for the provision for all or part of the services
31 necessary for the management and operation of the program with other
32 state or nonstate entities authorized to do business in the state;

33 (j) Contract for other services or for goods needed by the board in
34 the conduct of its business under this chapter;

35 (k) Employ all personnel as necessary to carry out its
36 responsibilities under this chapter and to fix the compensation of
37 these persons;

1 (l) Contract with financial consultants, actuaries, auditors, and
2 other consultants as necessary to carry out its responsibilities under
3 this chapter;

4 (m) Solicit and accept cash donations and grants from any person,
5 governmental agency, private business, or organization; and

6 (n) Perform all acts necessary and proper to carry out the duties
7 and responsibilities of this program under this chapter.

8 NEW SECTION. **Sec. 4.** The governing body may, at its discretion,
9 allow an organization to purchase tuition units for future use as
10 scholarships. Such organizations electing to purchase tuition units
11 for this purpose must enter into a contract with the governing body
12 which, at a minimum, ensures that the scholarship shall be freely given
13 by the purchaser to a scholarship recipient. For such purchases, the
14 purchaser need not name a beneficiary until four months before the date
15 when the tuition units are first expected to be used.

16 The governing body shall formulate and adopt such rules as are
17 necessary to determine which organizations may qualify to purchase
18 tuition units for scholarships under this section. The governing body
19 also may consider additional rules for the use of tuition units if
20 purchased as scholarships.

21 The governing body may establish a scholarship fund with moneys
22 from the Washington advanced college tuition payment program account.
23 A scholarship fund established under this authority shall be
24 administered by the higher education coordinating board and shall be
25 provided to students who demonstrate financial need. Financial need is
26 not a criterion that any other organization need consider when using
27 tuition units as scholarships.

28 NEW SECTION. **Sec. 5.** The Washington advanced college tuition
29 payment program is an essential state governmental function. Contracts
30 with eligible participants shall be contractual obligations legally
31 binding on the state as set forth in this chapter. If, and only if,
32 the moneys in the account are projected to be insufficient to cover the
33 state's contracted expenses for a given biennium, then the legislature
34 shall appropriate to the account the amount necessary to cover such
35 expenses.

36 The tuition and fees charged by a state institution of higher
37 education to an eligible beneficiary for a current enrollment shall be

1 paid by the account to the extent the beneficiary has remaining unused
2 tuition units for the appropriate school. The tuition and fees charged
3 to a beneficiary for graduate level enrollments or by a nonstate
4 institution of higher education shall be paid by the account to the
5 extent that the beneficiary has remaining weighted average tuition
6 units.

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

11 (2) The governing body shall deposit in the account all money
12 received for the program. The account shall be self-sustaining and
13 consist of payments received from purchasers of tuition units and funds
14 received from other sources, public or private. With the exception of
15 investment and operating costs associated with the investment of money
16 by the investment board paid under RCW 43.33A.160 and 43.84.160, the
17 account shall be credited with all investment income earned by the
18 account. Disbursements from the account are exempt from appropriations
19 and the allotment provisions of chapter 43.88 RCW. Money used for
20 program administration is subject to the allotment and budgetary
21 controls of chapter 43.88 RCW, but no appropriation is required for
22 expenditures.

23 (3) The assets of the account may be spent for the purpose of
24 making payments to institutions of higher education on behalf of the
25 qualified beneficiaries, making refunds, transfers, or direct payments
26 upon the termination of the Washington advanced college tuition payment
27 program, and paying the costs of administration of the program.
28 Disbursements from the account shall be made only on the authorization
29 of the board.

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

36 (2) All investments made by the investment board shall be made with
37 the exercise of that degree of judgment and care pursuant to RCW

1 43.33A.140 and the investment policy established by the state
2 investment board.

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

6 (4) The authority to establish all policies relating to the
7 account, other than the investment policies as set forth in subsections
8 (1) through (3) of this section, resides with the board. With the
9 exception of expenses of the investment board set forth in subsection
10 (1) of this section, disbursements from the account shall be made only
11 on the authorization of the governing body, and money in the account
12 may be spent only for the purposes of the program as specified in this
13 chapter.

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

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

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

24 If there are insufficient numbers of new purchases to ensure the
25 actuarial soundness of the account, the governing body shall request
26 such funds from the legislature as are required to ensure the integrity
27 of the program. Funds may be appropriated directly to the account or
28 appropriated under the condition that they be repaid at a later date.
29 The repayment shall be made at such time that the account is again
30 determined to be actuarially sound.

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

36 (2) The remaining tuition units for all beneficiaries who have
37 either enrolled in higher education or who are within four years of

1 graduation from a secondary school shall be honored until such tuition
2 units have been exhausted, or for ten fiscal years from the date that
3 the program has been discontinued, whichever comes first. All other
4 contract holders shall receive a refund equal to the value of the
5 current weighted average tuition units in effect at the time that the
6 program was declared discontinued.

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

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

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

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

22 (2) The governing body may seek the assistance of the state
23 agencies named in subsection (1) of this section, private financial
24 institutions, and any other qualified party with experience in the
25 areas of accounting, actuary, risk management, or investment management
26 to assist with preparing an accounting of the program and ensuring the
27 fiscal soundness of the account.

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

32 NEW SECTION. **Sec. 11.** This chapter shall not be construed as a
33 promise that any beneficiary shall be granted admission to any
34 institution of higher education, will earn any specific or minimum
35 number of academic credits, or will graduate from any such institution.
36 In addition, this chapter shall not be construed as a promise of either
37 course or program availability.

1 Participation in this program does not guarantee an eligible
2 beneficiary the right to resident tuition and fees. To qualify for
3 resident and respective tuition subsidies, the eligible beneficiary
4 must meet the applicable provisions of RCW 28B.15.011 through
5 28B.15.015.

6 This chapter shall not be construed to imply that the redemption of
7 tuition units shall be equal to any value greater than the
8 undergraduate tuition and services and activities fees at a state
9 institution of higher education as computed under this chapter.
10 Eligible beneficiaries will be responsible for payment of any other fee
11 that does not qualify as a services and activities fee including, but
12 not limited to, any expenses for tuition surcharges, tuition overload
13 fees, laboratory fees, equipment fees, book fees, rental fees, room and
14 board charges, or fines.

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

19 (a) Certification that the beneficiary, who is eighteen years of
20 age or older, will not attend an institution of higher education, will
21 result in a refund not to exceed ninety-five percent of the current
22 weighted average tuition and fees in effect at the time of such
23 certification. No more than one hundred tuition units may be refunded
24 per year to any individual making this certification. The refund shall
25 be made no sooner than ninety days after such certification, less any
26 administrative processing fees assessed by the board. The board may,
27 at its discretion, impose a greater penalty;

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

33 (c) If there is certification by the student of graduation or
34 program completion, the refund may be as great as one hundred percent
35 of any remaining unused weighted average tuition units at the time that
36 such certification is submitted to the governing body, less any
37 administrative processing fees assessed by the governing body. The

1 governing body may, at its discretion, impose a penalty if needed to
2 comply with federal tax rules;

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

10 (e) Incorrect or misleading information provided by the purchaser
11 or beneficiaries may result in a refund of the purchaser's investment,
12 less any administrative processing fees assessed by the governing body.
13 The value of the refund will not exceed the actual dollar value of the
14 purchaser's contributions; and

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

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

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

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

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

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

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

4 (b) The following accounts and funds shall receive their
5 proportionate share of earnings based upon each account's or fund's
6 average daily balance for the period: The Washington advanced college
7 tuition payment program account, the agricultural local fund, the
8 American Indian scholarship endowment fund, the Washington
9 international exchange scholarship endowment fund, the energy account,
10 the fair fund, the game farm alternative account, the grain inspection
11 revolving fund, the rural rehabilitation account, and the self-
12 insurance revolving fund. However, the earnings to be distributed
13 shall first be reduced by the allocation to the state treasurer's
14 service fund pursuant to RCW 43.08.190.

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

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

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

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