
SENATE BILL 5106

State of Washington

55th Legislature

1997 Regular Session

By Senators McAuliffe, Wood, Kohl, Prince, Patterson, Hochstatter, Bauer, Sheldon, Brown, Rasmussen, Long, Goings, Haugen, Franklin, Thibaudeau, Loveland, Snyder, Winsley and Oke

Read first time 01/15/97. Referred to Committee on Higher Education.

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

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

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

16 NEW SECTION. **Sec. 2.** The definitions in this section apply
17 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 advanced college tuition payment program
4 account established for the deposit of all money received by the board
5 from eligible purchasers and interest earnings on investments of funds
6 in the account, as well as for all expenditures on behalf of eligible
7 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) "Eligible beneficiary" means the person for whom the tuition
11 unit will be redeemed for attendance at an institution of higher
12 education. The beneficiary is that person named by the purchaser at
13 the time that a tuition unit contract is accepted by the board. The
14 beneficiary must reside in the state of Washington or otherwise be a
15 resident of the state of Washington at the time the tuition unit
16 contract is accepted by the board.

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

20 (6) "Full faith and credit" means the promise of the state to the
21 purchaser and beneficiary that purchases of tuition units will be worth
22 the same number of tuition units at the time of redemption as they were
23 worth at the time of the purchase.

24 (7) "Full-time tuition charges" means resident tuition charges at
25 a state institution of higher education for enrollments between ten
26 credits and eighteen credit hours per academic term.

27 (8) "Institution of higher education" means an institution that
28 offers education beyond the secondary level and is accredited by a
29 nationally recognized accrediting association or is licensed to do
30 business in the state in which it is located.

31 (9) "Investment board" means the state investment board as defined
32 in chapter 43.33A RCW.

33 (10) "State institution of higher education" means institutions of
34 higher education as defined in RCW 28B.10.016.

35 (11) "Tuition and fees" means tuition and services and activities
36 fees as defined in RCW 28B.15.020 and 28B.15.041 rounded to the nearest
37 whole dollar. The maximum tuition and fees charges recognized for
38 beneficiaries enrolled in a state technical college shall be equal to
39 the tuition and fees for the community college system.

1 (12) "Tuition unit contract" means a contract between an eligible
2 purchaser and the board for the purchase of tuition units for a
3 specified beneficiary that may be redeemed at a later date for an equal
4 number of tuition units.

5 (13) "Unit purchase price" means the minimum cost to purchase one
6 tuition unit time for an eligible beneficiary. Generally, the minimum
7 purchase price is one percent of the weighted average tuition and fees
8 for the current year, rounded to the nearest whole dollar, adjusted for
9 the costs of administration and adjusted to ensure the actuarial
10 soundness of the account.

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

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

24 NEW SECTION. **Sec. 3.** (1) The Washington advanced college tuition
25 payment program shall be administered by the board.

26 (2) The board shall review its administration of the program and
27 make a recommendation to the legislature by the end of the second year
28 after the effective date of this section as to whether continued
29 responsibility for the program should reside with the board or be
30 assigned to another state agency or state entity.

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

36 (b) Each purchase shall be worth a specific number of or fraction
37 of tuition units at each state institution of higher education as
38 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 board may limit the number of tuition units purchased by
6 any one purchaser or on behalf of any one beneficiary, however, no
7 limit may be imposed that is less than that necessary to achieve four
8 years of full-time, undergraduate tuition charges at a state
9 institution of higher education. The board also may, at its
10 discretion, limit the number of participants, if needed, to ensure the
11 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 board shall determine the conditions under which the
19 tuition benefit may be transferred to another family member. In
20 permitting such transfers, the board may not allow the tuition benefit
21 to be bought, sold, bartered, or otherwise exchanged for goods and
22 services by either the beneficiary or the purchaser.

23 (6) The board shall administer the Washington advanced college
24 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 board may, at its discretion, discount the minimum
28 purchase price for certain kinds of purchases such as those from
29 families with young children, as long as the actuarial soundness of the
30 account is not jeopardized.

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

33 (8) The board 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 board 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 board may, at its discretion, allow an
34 organization to purchase tuition units for future use as scholarships.
35 Such organizations electing to purchase tuition units for this purpose
36 must enter into a contract with the board which, at a minimum, ensures
37 that the scholarship shall be freely given by the purchaser to a
38 scholarship recipient. For such purchases, the purchaser need not name

1 a beneficiary until four months before the date when the tuition units
2 are first expected to be used.

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

8 The board may establish its own scholarship fund under this
9 chapter. Scholarships issued by the board under this section shall be
10 given to students who demonstrate financial need. Financial need is
11 not a criterion that any other organization need consider when using
12 tuition units as scholarships.

13 NEW SECTION. **Sec. 5.** The Washington advanced college tuition
14 payment program is an essential state governmental function. The full
15 faith and credit of the state is pledged to the program to ensure that
16 the board will meet its full obligations to each beneficiary for whom
17 tuition units have been purchased.

18 The tuition and fees charged by a state institution of higher
19 education to an eligible beneficiary for a current enrollment shall be
20 paid by the account to the extent the beneficiary has remaining unused
21 tuition units for the appropriate school. The tuition and fees charged
22 to a beneficiary for graduate level enrollments or by a nonstate
23 institution of higher education shall be paid by the account to the
24 extent that the beneficiary has remaining weighted average tuition
25 units.

26 NEW SECTION. **Sec. 6.** (1) The advanced college tuition payment
27 program account is created in the custody of the state treasurer. The
28 account shall be a discrete nontreasury account exempt from chapter
29 43.79A RCW.

30 (2) The board shall deposit in the account all money received for
31 the program. The account shall be self-sustaining and consist of
32 payments received from purchasers of tuition units and funds received
33 from other sources, public or private. With the exception of
34 investment and operating costs associated with the investment of money
35 by the investment board paid under RCW 43.33A.160 and 43.84.160, the
36 account shall be credited with all investment income earned by the
37 account. Disbursements from the account are exempt from appropriations

1 and the allotment provisions of chapter 43.88 RCW. Money used for
2 program administration is subject to the allotment and budgetary
3 controls of chapter 43.88 RCW, but no appropriation is required for
4 expenditures.

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

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

18 (2) All investments made by the investment board shall be made with
19 the exercise of that degree of judgment and care, under circumstances
20 then prevailing, that persons of prudence, discretion, and intelligence
21 exercise in the management of their own affairs, not for speculation
22 but for investment, considering the probable safety of their capital as
23 well as the probable income to be derived.

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

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

35 (5) The investment board shall routinely consult and communicate
36 with the board on the investment policy, earnings of the trust, and
37 related needs of the program.

1 NEW SECTION. **Sec. 8.** The board shall annually evaluate, and cause
2 to be evaluated by a nationally recognized actuary, the soundness of
3 the account and determine the additional assets needed, if any, to
4 defray the obligations of the account.

5 If funds are not sufficient to ensure the actuarial soundness of
6 the account, the account shall adjust the price of subsequent tuition
7 credit purchases to ensure its soundness.

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

15 NEW SECTION. **Sec. 9.** (1) In the event that the state determines
16 that the program is not financially feasible, the state may declare the
17 discontinuance of the program. At the time of such declaration, the
18 board will cease to accept any further tuition unit contracts or
19 purchases.

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

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

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

35 (5) The board may make refunds under other exceptional
36 circumstances as it deems fit, however, no tuition units may be honored
37 after the end of the tenth fiscal year following the declaration of
38 discontinuance of the program.

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

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

11 (3) State agencies and public institutions of higher education
12 shall fully cooperate with the board in matters relating to the program
13 in order to ensure the solvency of the account and ability of the board
14 to meet outstanding commitments.

15 NEW SECTION. **Sec. 11.** This chapter shall not be construed as a
16 promise that any beneficiary shall be granted admission to any
17 institution of higher education or will graduate from any such
18 institution. In addition, this chapter shall not be construed as a
19 promise of either course or program availability.

20 Participation in this program does not guarantee an eligible
21 beneficiary the right to resident tuition and fees. To qualify for
22 resident and respective tuition subsidies, the eligible beneficiary
23 must meet the applicable provisions of RCW 28B.15.011 through
24 28B.15.015.

25 This chapter shall not be construed to imply that the redemption of
26 tuition units shall be equal to any value greater than tuition and
27 services and activities fees at a state institution of higher
28 education. Eligible beneficiaries will be responsible for payment of
29 any other fee that does not qualify as a services and activities fee
30 including, but not limited to, any expenses for tuition surcharges,
31 tuition overload fees, laboratory fees, equipment fees, book fees,
32 rental fees, room and board charges, or fines.

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

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

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

16 (c) If there is certification by the student of graduation or
17 program completion, the refund may be as great as one hundred percent
18 of any remaining unused tuition units valued at the current weighted
19 average tuition units at the time that such certification is submitted
20 to the board, less any administrative processing fees assessed by the
21 board. The board may, at its discretion, impose a penalty if needed to
22 comply with federal tax rules;

23 (d) Certification of other tuition and fee scholarships, which will
24 cover the cost of tuition for the eligible beneficiary. The refund
25 shall be equal to one hundred percent of the current weighted average
26 tuition units in effect at the time of the refund request, plus any
27 administrative processing fees assessed by the board. The refund under
28 this subsection may not exceed the value of the scholarship;

29 (e) Incorrect or misleading information provided by the purchaser
30 or beneficiaries may result in a refund of the purchaser's investment,
31 less any administrative processing fees assessed by the board. The
32 value of the refund will not exceed the actual dollar value of the
33 purchaser's contributions; and

34 (f) The board may determine other circumstances qualifying for
35 refunds of remaining unused tuition units and may determine the value
36 of that refund.

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

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

--- END ---