CERTIFICATION OF ENROLLMENT

**ENGROSSED SECOND SUBSTITUTE SENATE BILL 6601**

64th Legislature

2016 Regular Session

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| Passed by the Senate March 8, 2016Yeas 45 Nays 2**President of the Senate**Passed by the House March 3, 2016Yeas 82 Nays 13**Speaker of the House of Representatives** | CERTIFICATEI, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 6601** as passed by Senate and the House of Representatives on the dates hereon set forth.**Chief Clerk** |
| Approved  |  |
| **Governor of the State of Washington** | **Secretary of State** **State of Washington** |

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**ENGROSSED SECOND SUBSTITUTE SENATE BILL 6601**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2016 Regular Session

**State of Washington 64th Legislature 2016 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Frockt, Bailey, Braun, Mullet, Carlyle, and McAuliffe)

AN ACT Relating to creating the Washington college savings program; amending RCW 28B.95.010, 28B.95.020, 28B.95.025, 28B.95.030, 28B.95.035, 28B.95.040, 28B.95.080, 28B.95.090, 28B.95.100, 28B.95.150, 28B.95.900, 43.33A.135, and 43.33A.190; reenacting and amending RCW 43.79A.040; adding new sections to chapter 28B.95 RCW; and creating a new section.

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

**Sec.**  RCW 28B.95.010 and 1997 c 289 s 1 are each amended to read as follows:

(1) The Washington advanced college tuition payment program is established to help make higher education affordable and accessible to all citizens of the state of Washington by offering a savings incentive that will protect purchasers and beneficiaries against rising tuition costs. ((~~The program is~~))

(2) Subject to the availability of amounts appropriated for this specific purpose, the Washington college savings program is established to provide an additional financial option for individuals, organizations, and families to save for college.

(3) These programs are designed to encourage savings and enhance the ability of Washington citizens to obtain financial access to institutions of higher education. In addition, the programs encourage((~~s~~)) elementary and secondary school students to do well in school as a means of preparing for and aspiring to higher education attendance. ((~~This program is~~)) These programs are intended to promote a well-educated and financially secure population to the ultimate benefit of all citizens of the state of Washington.

**Sec.**  RCW 28B.95.020 and 2015 3rd sp.s. c 36 s 6 are each amended to read as follows:

The definitions in this section apply throughout this chapter, unless the context clearly requires otherwise.

(1) "Academic year" means the regular nine-month, three-quarter, or two-semester period annually occurring between August 1st and July 31st.

(2) "Account" means the Washington advanced college tuition payment program account established for the deposit of all money received by the office from eligible purchasers and interest earnings on investments of funds in the account, as well as for all expenditures on behalf of eligible beneficiaries for the redemption of tuition units and for the development of any authorized college savings program pursuant to RCW 28B.95.150.

(3) "Advisor sold" means a channel through which a broker dealer, investment advisor, or other financial intermediary recommends the Washington college savings program established pursuant to RCW 28B.95.010 to eligible investors and assists with the opening and servicing of individual college savings program accounts.

(4) "College savings program account" means the Washington college savings program account established pursuant to RCW 28B.95.010.

(5) "Committee on advanced tuition payment and college savings" or "committee" means a committee of the following members: The state treasurer, the director of the office of financial management, the director of the office, or their designees, and two members to be appointed by the governor, one representing program participants and one private business representative with marketing, public relations, or financial expertise.

((~~(4)~~)) (6) "Contractual obligation" means a legally binding contract of the state with the purchaser and the beneficiary establishing that purchases of tuition units in the advanced college tuition payment program will be worth the same number of tuition units at the time of redemption as they were worth at the time of the purchase, except as provided in RCW 28B.95.030(7).

((~~(5)~~)) (7) "Dual credit fees" means any fees charged to a student for participation in college in the high school under RCW 28A.600.290 or running start under RCW 28A.600.310.

((~~(6)~~)) (8) "Eligible beneficiary" means the person ((~~for whom the tuition unit will be redeemed for attendance at an institution of higher education, participation in college in the high school under RCW 28A.600.290, or participation in running start under RCW 28A.600.310. The beneficiary is that person named by the purchaser at the time that a tuition unit contract is accepted by the governing body~~)) designated as the individual whose education expenses are to be paid from the advanced college tuition payment program or the college savings program. Qualified organizations, as allowed under section 529 of the federal internal revenue code, purchasing tuition unit contracts as future scholarships need not designate a beneficiary at the time of purchase.

((~~(7)~~)) (9) "Eligible contributor" means an individual or organization that contributes money for the purchase of tuition units, and for an individual college savings program account established pursuant to this chapter for an eligible beneficiary.

(10) "Eligible purchaser" means an individual or organization that has entered into a tuition unit contract with the governing body for the purchase of tuition units in the advanced college tuition payment program for an eligible beneficiary, or that has entered into a participant college savings program account contract for an eligible beneficiary. The state of Washington may be an eligible purchaser for purposes of purchasing tuition units to be held for granting Washington college bound scholarships.

((~~(8)~~)) (11) "Full-time tuition charges" means resident tuition charges at a state institution of higher education for enrollments between ten credits and eighteen credit hours per academic term.

((~~(9)~~)) (12) "Governing body" means the committee empowered by the legislature to administer the Washington advanced college tuition payment program and the Washington college savings program.

((~~(10)~~)) (13) "Individual college savings program account" means the formal record of transactions relating to a Washington college savings program beneficiary.

(14) "Institution of higher education" means an institution that offers education beyond the secondary level and is recognized by the internal revenue service under chapter 529 of the internal revenue code.

((~~(11)~~)) (15) "Investment board" means the state investment board as defined in chapter 43.33A RCW.

((~~(12)~~)) (16) "Investment manager" means the state investment board, another state, or any other entity as selected by the governing body, including another college savings plan established pursuant to section 529 of the internal revenue code.

(17) "Office" means the office of student financial assistance as defined in chapter 28B.76 RCW.

((~~(13)~~)) (18) "Owner" means the eligible purchaser or the purchaser's successor in interest who shall have the exclusive authority to make decisions with respect to the tuition unit contract or the individual college savings program contract. The owner has exclusive authority and responsibility to establish and change the asset investment options for a beneficiaries' individual college savings program account.

(19) "Participant college savings program account contract" means a contract to participate in the Washington college savings program between an eligible purchaser and the office.

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

((~~(14)~~)) (21) "Tuition and fees" means undergraduate tuition and services and activities fees as defined in RCW 28B.15.020 and 28B.15.041 rounded to the nearest whole dollar. For purposes of this chapter, services and activities fees do not include fees charged for the payment of bonds heretofore or hereafter issued for, or other indebtedness incurred to pay, all or part of the cost of acquiring, constructing, or installing any lands, buildings, or facilities.

((~~(15)~~)) (22) "Tuition unit contract" means a contract between an eligible purchaser and the governing body, or a successor agency appointed for administration of this chapter, for the purchase of tuition units in the advanced college tuition payment program for a specified beneficiary that may be redeemed at a later date for an equal number of tuition units, except as provided in RCW 28B.95.030(7).

((~~(16)~~)) (23) "Unit purchase price" means the minimum cost to purchase one tuition unit in the advanced college tuition payment program for an eligible beneficiary. Generally, the minimum purchase price is one percent of the undergraduate tuition and fees for the current year, rounded to the nearest whole dollar, adjusted for the costs of administration and adjusted to ensure the actuarial soundness of the account. The analysis for price setting shall also include, but not be limited to consideration of past and projected patterns of tuition increases, program liability, past and projected investment returns, and the need for a prudent stabilization reserve.

**Sec.**  RCW 28B.95.025 and 2011 1st sp.s. c 11 s 169 are each amended to read as follows:

The office shall maintain appropriate offices and employ and fix compensation of such personnel as may be necessary to perform the advanced college tuition payment program and the Washington college savings program duties. The office shall consult with the governing body on the selection, compensation, and other issues relating to the employment of the program director. The positions are exempt from classified service under chapter 41.06 RCW. The employees shall be employees of the office.

**Sec.**  RCW 28B.95.030 and 2015 3rd sp.s. c 36 s 7 are each amended to read as follows:

(1) The Washington advanced college tuition payment program shall be administered by the committee on advanced tuition payment which shall be chaired by the director of the office. The committee shall be supported by staff of the office.

(2)(a) The Washington advanced college tuition payment program shall consist of the sale of tuition units, which may be redeemed by the beneficiary at a future date for an equal number of tuition units regardless of any increase in the price of tuition, that may have occurred in the interval, except as provided in subsection (7) of this section.

(b) Each purchase shall be worth a specific number of or fraction of tuition units at each state institution of higher education as determined by the governing body, except as provided in subsection (7) of this section.

(c) The number of tuition units necessary to pay for a full year's, full-time undergraduate tuition and fee charges at a state institution of higher education shall be set by the governing body at the time a purchaser enters into a tuition unit contract, except as provided in subsection (7) of this section.

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

(e) While the Washington advanced college tuition payment program is designed to help all citizens of the state of Washington, the governing body may determine residency requirements for eligible purchasers and eligible beneficiaries to ensure the actuarial soundness and integrity of the program.

(3)(a) No tuition unit may be redeemed until two years after the purchase of the unit.

(b) Units may be redeemed for enrollment at any institution of higher education that is recognized by the internal revenue service under chapter 529 of the internal revenue code. Units may also be redeemed to pay for dual credit fees.

(c) Units redeemed at a nonstate institution of higher education or for graduate enrollment shall be redeemed at the rate for state public institutions in effect at the time of redemption.

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

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

(6) The governing body shall annually determine current value of a tuition unit.

(7) For the 2015-16 and 2016-17 academic years only, the governing body shall set the payout value for units redeemed during that academic year only at one hundred seventeen dollars and eighty-two cents per unit. For academic years after the 2016-17 academic year, the governing body shall make program adjustments it deems necessary and appropriate to ensure that the total payout value of each account on October 9, 2015, is not decreased or diluted as a result of the initial application of any changes in tuition under section 3, chapter 36, Laws of 2015 3rd sp. sess. In the event the committee or governing body provides additional units under chapter 36, Laws of 2015 3rd sp. sess., the committee and governing body shall also increase the maximum number of units that can be redeemed in any year to mitigate the reduction in available account value during any year as a result of chapter 36, Laws of 2015 3rd sp. sess. The governing body must notify holders of tuition units after the adjustment in this subsection is made and must include a statement concerning the adjustment.

(8) The governing body shall promote, advertise, and publicize the Washington advanced college tuition payment program. Materials and online publications advertising the Washington advanced college tuition payment program shall include a disclaimer that the Washington advanced college tuition payment program's guarantee is that one hundred tuition units will equal one year of full-time, resident, undergraduate tuition at the most expensive state institution of higher education, and that if resident, undergraduate tuition is reduced, a tuition unit may lose monetary value.

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

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

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

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

(d) Appoint and use advisory committees and the state actuary as needed to provide program direction and guidance;

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

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

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

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

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

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

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

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

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

NEW SECTION. **Sec.**  A new section is added to chapter 28B.95 RCW to read as follows:

(1) The Washington college savings program shall be administered by the committee, which shall be chaired by the director of the office. The committee shall be supported by staff of the office.

(2) The Washington college savings program shall consist of the college savings program account and the individual college savings program accounts, and shall allow an eligible purchaser to establish an individual college savings program account for an eligible beneficiary whereby the money in the account may be invested and used for enrollment at any institution of higher education that is recognized by the internal revenue service under chapter 529 of the internal revenue code. Money in the account may also be used to pay for dual credit fees.

(3) The Washington college savings program is open to eligible purchasers and eligible beneficiaries who are residents or nonresidents of Washington state.

(4) The Washington college savings program shall not require eligible purchasers to make an initial minimum contribution in any amount that exceeds twenty-five dollars when establishing a new account.

(5) The committee may contract with other state or nonstate entities that are authorized to do business in the state for the investment of moneys in the college savings program, including other college savings plans established pursuant to section 529 of the internal revenue code. The investment of eligible contributors' deposits may be in credit unions, savings and loan associations, banks, mutual savings banks, purchase life insurance, shares of an investment company, individual securities, fixed annuity contracts, variable annuity contracts, any insurance company, other 529 plans, or any investment company licensed to contract business in this state.

(6) The governing body shall determine the conditions under which control or the beneficiary of an individual college savings program account may be transferred to another family member. In permitting such transfers, the governing body may not allow the individual college savings program account to be bought, sold, bartered, or otherwise exchanged for goods and services by either the beneficiary or the purchaser.

(7) The governing body shall promote, advertise, and publicize the Washington college savings program.

(8) The governing body shall develop materials to educate potential account owners and beneficiaries on (a) the differences between the advanced college tuition payment program and the Washington college savings program, and (b) how the two programs can complement each other to save towards the full cost of attending college.

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

(a) Impose limits on the amount of contributions that may be made on behalf of any eligible beneficiary;

(b) Determine and set age limits and any time limits for the use of benefits under this chapter;

(c) Establish incentives to encourage participation in the Washington college savings program to include but not be limited to entering into agreements with any public or private employer under which an employee may agree to have a designated amount deducted in each payroll period from the wages due the employee for the purpose of making contributions to a participant college savings program account;

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

(e) Appoint and use advisory committees and the state actuary as needed to provide program direction and guidance;

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

(g) Purchase insurance from insurers licensed to do business in the state, to provide for coverage against any loss in connection with the account's property, assets, or activities;

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

(i) Contract for the provision for all or part of the services necessary for the management and operation of the Washington college savings program with other state or nonstate entities authorized to do business in the state for the investment of moneys;

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

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

(l) Review advisor sold 529 college savings plan programs used by other states to supplement direct-sold channels, provide additional program access and options, increase overall college savings by residents, and if deemed appropriate, establish an advisor sold option for the Washington college savings program;

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

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

(10) It is the intent of the legislature to establish policy goals for the Washington college savings program. The policy goals established under this section are deemed consistent with creating a nationally competitive 529 savings plan. The Washington college savings program should support achievement of these policy goals:

(a) Process: To have an investment manager design a thoughtful, well-diversified glide path for age-based portfolios and offer a robust suite of investment options;

(b) People: To have a well-resourced, talented, and long-tenured investment manager;

(c) Parent: To demonstrate that the committee is a good caretaker of college savers' capital and can manage the plan professionally;

(d) Performance: To demonstrate that the program's options have earned their keep with solid risk-adjusted returns over relevant time periods; and

(e) Price: To demonstrate that the investment options are a good value.

(11) The powers, duties, and functions of the Washington college savings program must be performed in a manner consistent with the policy goals in subsection (10) of this section.

(12) The policy goals in this section are intended to be the basis for establishing detailed and measurable objectives and related performance measures.

(13) It is the intent of the legislature that the committee establish objectives and performance measures for the investment manager to progress toward the attainment of the policy goals in subsection (10) of this section. The committee shall submit objectives and performance measures to the legislature for its review and shall provide an updated report on the objectives and measures before the regular session of the legislature during even-numbered years thereafter.

NEW SECTION. **Sec.**  A new section is added to chapter 28B.95 RCW to read as follows:

(1) The committee shall create an expedited process by which owners can complete a direct rollover of a 529 account from (a) a state-sponsored prepaid tuition plan to a state-sponsored college savings plan, (b) a state-sponsored college savings plan to a state-sponsored prepaid tuition plan, or (c) a state-sponsored prepaid tuition plan or a state-sponsored college savings plan to an out-of-state eligible 529 plan.

(2) The committee shall report annually to the governor and the appropriate committees of the legislature on (a) the number of accounts that have been rolled into the Washington college savings program from out of state and (b) the number of accounts rolled out of the Washington college savings program to 529 plans into other states.

**Sec.**  RCW 28B.95.035 and 1998 c 69 s 3 are each amended to read as follows:

No member of the committee is liable for the negligence, default, or failure of any other person or members of the committee to perform the duties of office and no member may be considered or held to be an insurer of the funds or assets of any of the advanced college tuition payment program or any of the Washington college savings program.

**Sec.**  RCW 28B.95.040 and 2011 1st sp.s. c 11 s 171 are each amended to read as follows:

The governing body may, at its discretion, allow an organization to purchase tuition units or establish savings plans for future use as scholarships. Such organizations electing to purchase tuition units or establish Washington college savings program accounts for this purpose must enter into a contract with the governing body which, at a minimum, ensures that the scholarship shall be freely given by the purchaser to a scholarship recipient. For such purchases, the purchaser need not name a beneficiary until four months before the date when the tuition units are first expected to be used.

The governing body shall formulate and adopt such rules as are necessary to determine which organizations may qualify to purchase tuition units or establish Washington college savings program accounts for scholarships under this section. The governing body also may consider additional rules for the use of tuition units or Washington college savings program accounts if purchased as scholarships.

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

NEW SECTION. **Sec.**  A new section is added to chapter 28B.95 RCW to read as follows:

(1) The Washington college savings program account is created in the custody of the state treasurer. The account shall be a discrete nontreasury account retaining its interest earnings in accordance with RCW 43.79A.040.

(2) The governing body shall deposit in the account all moneys received for the program. The account shall be self-sustaining and consist of payments received for the purposes of college savings for the beneficiary. With the exception of investment and operating costs associated with the investment of money by a nonstate entity or paid under RCW 43.08.190, 43.33A.160, and 43.84.160, the account shall be credited with all investment income earned by the account. Disbursements from the account are exempt from appropriations and the allotment provisions of chapter 43.88 RCW. Money used for program administration is subject to the allotment of all expenditures. However, an appropriation is not required for such expenditures. Program administration includes, but is not limited to: The salaries and expenses of the Washington college savings program personnel including lease payments, travel, and goods and services necessary for program operation; contracts for Washington college savings program promotion and advertisement, audits, and account management; and other general costs of conducting the business of the Washington college savings program.

(3) The account is authorized to maintain a cash deficit in the account for a period no more than five fiscal years to defray its initial program administration costs. By December 31, 2017, the governing body shall establish a program administration spending plan and a fee schedule to discharge any projected cash deficit to the account. The legislature may make appropriations into the account for the purpose of reducing program administration costs.

(4) The assets of the account may be spent without appropriation for the purpose of making payments to institutions of higher education on behalf of the qualified beneficiaries, making refunds, transfers, or direct payments upon the termination of the Washington college savings program. Disbursements from the account shall be made only on the authorization of the governing body.

(5) With regard to the assets of the account, the state acts in a fiduciary, not ownership, capacity. Therefore the assets of the program are not considered state money, common cash, or revenue to the state.

**Sec.**  RCW 28B.95.080 and 2011 1st sp.s. c 12 s 3 are each amended to read as follows:

The governing body shall annually evaluate, and cause to be evaluated by the state actuary, the soundness of the advanced college tuition payment program account and determine the additional assets needed, if any, to defray the obligations of the account. The governing body may, at its discretion, consult with a nationally recognized actuary for periodic assessments of the account.

If funds are determined by the governing body, based on actuarial analysis to be insufficient to ensure the actuarial soundness of the account, the governing body shall adjust the price of subsequent tuition credit purchases to ensure its soundness.

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

NEW SECTION. **Sec.**  A new section is added to chapter 28B.95 RCW to read as follows:

The governing body shall begin and continue to accept applications for new tuition unit contracts and authorize the sale of new tuition units by July 1, 2017. Upon reopening the advanced college tuition payment program, in any year in which the total annual sale of tuition units is below five hundred thousand, the governing body shall determine how to reinvigorate the advanced college tuition payment program to incentivize Washingtonians to enter into tuition unit contracts and purchase tuition units.

**Sec.**  RCW 28B.95.090 and 2005 c 272 s 3 are each amended to read as follows:

(1) In the event that the ((~~state~~)) legislature determines that the advanced college tuition payment program is not financially feasible, or for any other reason, the ((~~state~~)) legislature may declare the discontinuance of the program. At the time of such declaration, the governing body will cease to accept any further tuition unit contracts or purchases.

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

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

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

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

NEW SECTION. **Sec.**  A new section is added to chapter 28B.95 RCW to read as follows:

(1) The investment manager has the full power to invest, reinvest, manage, contract, sell, or exchange investment money in the Washington college savings program without limitation as to the amount pursuant to RCW 43.84.150 and 43.33A.140. All investment and operating costs associated with the investment of money must be paid to the investment manager as allowed by RCW 43.33A.160 and 43.84.160. With the exception of these expenses and the administrative costs authorized in sections 5 and 9 of this act, one hundred percent of all earnings from investments accrue directly to the owner of the individual college savings program account.

(2) The governing body may allow owners to self-direct the investment of moneys in individual college savings program accounts through the selection of investment options. The governing body may provide plans that it deems are in the interests of the owners and beneficiaries.

(a) The investment manager, after consultation with the governing body, shall provide a set of options for owners to choose from for investment of individual college savings program account contributions, including an age-based investment option.

(b) The investment manager has the full authority to invest moneys pursuant to the investment directions of the owner of a self-directed individual college savings program account.

(3) Annually on each December 1st, the committee shall report to the governor and the appropriate committees of the legislature regarding the total fees charged to each investment option offered in the Washington college savings program. It is the intent of the legislature that fees charged to the owner not exceed one-half of one percent for any investment option on an annual basis. Beginning January 1, 2018, fees charged to the owner may not exceed one-half of one percent for any investment option on an annual basis.

(4) In the next succeeding legislative session following receipt of a report required under subsection (3) of this section, the appropriate committees of the legislature shall review the report and consider whether any legislative action is necessary with respect to the investment option with fees that exceed one-half of one percent, including but not limited to consideration of whether any legislative action is necessary with respect to reducing the fees and expenses associated with the underlying investment option. With the exception of fees associated with the administration of the program authorized in sections 5 and 9 of this act, all moneys in the college savings program account, all property and rights purchased with the account, and all income attributable to the account, shall be held in trust for the exclusive benefit of the owners and their eligible beneficiaries.

(5) All investments made by the investment manager shall be made with the exercise of that degree of judgment and care expressed in chapter 43.33A RCW.

(6) As deemed appropriate by the investment manager, money in the Washington college savings program account may be commingled for investment with other funds subject to investment by the investment manager.

(7) The authority to establish all policies relating to the Washington college savings program and the Washington college savings program account, other than investment policies resides with the governing body. With the exception of expenses of the investment manager as provided in subsection (1) of this section, disbursements from the Washington college savings program account shall be made only on the authorization of the governing body or its designee, and moneys in the account may be spent only for the purposes of the Washington college savings program as specified in this chapter.

(8) The investment manager shall routinely consult and communicate with the governing body on the investment policy, earnings of the trust, and related needs of the Washington college savings program.

**Sec.**  RCW 28B.95.100 and 2000 c 14 s 7 are each amended to read as follows:

(1) The governing body, in planning and devising the advanced college tuition payment program and the Washington college savings program, shall consult with the investment board, the state treasurer, the office of financial management, and the institutions of higher education.

(2) The governing body may seek the assistance of the state agencies named in subsection (1) of this section, private financial institutions, and any other qualified party with experience in the areas of accounting, actuary, risk management, or investment management to assist with preparing an accounting of the programs and ensuring the fiscal soundness of the advanced college tuition payment program account and the Washington college savings program account.

(3) State agencies and public institutions of higher education shall fully cooperate with the governing body in matters relating to the programs in order to ensure the solvency of the advanced college tuition payment account and the Washington college savings program account and ability of the governing body to meet outstanding commitments.

NEW SECTION. **Sec.**  A new section is added to chapter 28B.95 RCW to read as follows:

The intent of the Washington college savings program is to make distributions from individual college savings program accounts for beneficiaries' attendance at public or private institutions of higher education. Federal penalties and taxes associated with 529 savings plan refunds may apply to any refund issued by the Washington college savings plan. Refunds shall be issued under specific conditions that may include the following:

(1) Certification that the beneficiary, who is eighteen years of age or older, will not attend a public or private institution of higher education, will result in a refund not to exceed the current value at the time of such certification. The refund shall be made no sooner than ninety days after such certification, less any administrative processing fees assessed by the governing body;

(2) If there is certification of the death or disability of the beneficiary, the refund shall be equal to one hundred percent of the current value at the time that such certification is submitted to the governing body, less any administrative processing fees assessed by the governing body;

(3) If there is certification by the student of graduation or program completion, the refund shall be as great as one hundred percent of the current value at the time that such certification is submitted to the governing body, less any administrative processing fees assessed by the governing body. The governing body may, at its discretion, impose a penalty if needed to comply with federal tax rules;

(4) If there is certification of other tuition and fee scholarships that will cover the cost of tuition for the eligible beneficiary, the refund may not exceed the value of the scholarship or scholarships, less any administrative processing fees assessed by the governing body;

(5) Incorrect or misleading information provided by the purchaser or beneficiaries may result in a refund of the purchaser's and contributors' contributions, less any administrative processing fees assessed by the governing body. The value of the refund must not exceed the actual dollar value of the purchaser's or contributors' contributions; and

(6) The governing body may determine other circumstances qualifying for refunds of remaining unused participant Washington college savings program account balances and may determine the value of that refund.

NEW SECTION. **Sec.**  A new section is added to chapter 28B.95 RCW to read as follows:

With regard to bankruptcy filings and enforcement of judgments under Title 6 RCW, participant Washington college savings program account deposits made more than two years before the date of filing or judgment are considered excluded personal assets.

**Sec.**  RCW 28B.95.150 and 2012 c 198 s 16 are each amended to read as follows:

(1) The committee may establish a college savings program. If such a program is established, the college savings program shall be established, in such form as may be determined by the committee, to be a qualified state tuition program as defined by the internal revenue service under section 529 of the internal revenue code, and shall be administered in a manner consistent with the Washington advanced college tuition payment program. The committee, in planning and devising the program, shall consult with the state investment board, the state treasurer, the state actuary, the legislative fiscal and higher education committees, and the institutions of higher education. The governing body may, at its discretion, consult with a qualified actuarial consulting firm with appropriate expertise to evaluate such plans for periodic assessments of the program.

(2) Up to two hundred thousand dollars of administrative fees collected from guaranteed education tuition program participants may be applied as a loan to fund the development and start-up of a college savings program. This loan must be repaid with interest before the conclusion of the biennium following the biennium in which the committee draws funds for this purpose from the advanced college tuition payment program account.

(3) The committee, after consultation with the state investment board or other contracted investment manager, shall determine the investment policies for the college savings program. Program contributions may be invested by the state investment board, in which case it and not the committee shall determine the investment policies for the college savings program, or the committee may contract with an investment company licensed to conduct business in this state to do the investing. The committee shall keep or cause to be kept full and adequate accounts and records of the assets of each individual participant in the college savings program.

(4)(a) The governing body may elect to have the state investment board serve as investment manager for the funds in the college savings program. Members of the state investment board and its officers and employees are not considered an insurer of the funds or assets and are not liable for any action or inaction.

(b) Members of the state investment board and its officers and employees are not liable to the state, to the fund, or to any other person as a result of their activities as members, whether ministerial or discretionary, except for willful dishonesty or intentional violations of law. The state investment board in its discretion may purchase liability insurance for members.

(c) If selected by the governing body to be the investment manager, the state investment board retains all authority to establish all investment policies relating to the investment of college savings program moneys.

(d) The state investment board shall routinely consult and communicate with the committee on the investment policy, earnings of the accounts, and related needs of the college savings program.

(5) The owner has exclusive authority and responsibility to establish and change the asset allocation for an individual participant college savings program account.

(6) Neither the state nor any eligible educational institution may be considered or held to be an insurer of the funds or assets of the individual participant accounts in the college savings program created under this section nor may any such entity be held liable for any shortage of funds in the event that balances in the individual participant accounts are insufficient to meet the educational expenses of the institution chosen by the student for which the individual participant account was intended.

((~~(5)~~)) (7) The committee shall adopt rules to implement this section. Such rules shall include but not be limited to administration, investment management, recordkeeping, promotion, and marketing; compliance with internal revenue service standards and applicable securities regulations; application procedures and fees; start-up costs; phasing in the savings program and withdrawals therefrom; deterrents to early withdrawals and provisions for hardship withdrawals; and reenrollment in the savings program after withdrawal.

((~~(6)~~)) (8) The committee may, at its discretion, determine to cease operation of the college savings program if it determines the continuation is not in the best interest of the state. The committee shall adopt rules to implement this section addressing the orderly distribution of assets.

**Sec.**  RCW 28B.95.900 and 1997 c 289 s 11 are each amended to read as follows:

This chapter shall not be construed as a promise that any beneficiary shall be granted admission to any institution of higher education, will earn any specific or minimum number of academic credits, or will graduate from any such institution. In addition, this chapter shall not be construed as a promise of either course or program availability.

Participation in ((~~this~~)) the advanced college tuition payment program or the Washington college savings program does not guarantee an eligible beneficiary the right to resident tuition and fees. To qualify for resident and respective tuition subsidies, the eligible beneficiary must meet the applicable provisions of RCW 28B.15.011 through 28B.15.015.

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

**Sec.**  RCW 43.33A.135 and 2010 1st sp.s. c 7 s 36 are each amended to read as follows:

The state investment board has the full power to establish investment policy, develop participant investment options, and manage investment funds for the college savings program, if the committee on advanced tuition payment and college savings selects the state investment board as the investment manager pursuant to section 5 of this act, and for the state deferred compensation plan, consistent with the provisions of RCW 41.50.770 and 41.50.780. The board may continue to offer the investment options provided as of June 11, 1998, until the board establishes a deferred compensation plan investment policy and adopts new investment options after considering the recommendations of the department of retirement systems.

**Sec.**  RCW 43.33A.190 and 2000 c 247 s 701 are each amended to read as follows:

((~~Pursuant to RCW 41.34.130,~~)) The state investment board shall invest all self-directed investment moneys under teachers' retirement system plan 3, the school employees' retirement system plan 3, and the public employees' retirement system plan 3 pursuant to RCW 41.34.130 and under the college savings program, if the committee on advanced tuition payment and college savings selects the state investment board as the investment manager pursuant to section 5 of this act, with full power to establish investment policy, develop investment options, and manage self-directed investment funds.

**Sec.**  RCW 43.79A.040 and 2013 c 251 s 5 and 2013 c 88 s 1 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury, and may be commingled with moneys in the state treasury for cash management and cash balance purposes.

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

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

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

(b) The following accounts and funds must receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the Washington advanced college tuition payment program account, the Washington college savings program account, the accessible communities account, the community and technical college innovation account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county enhanced 911 excise tax account, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family leave insurance account, the food animal veterinarian conditional scholarship account, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the industrial insurance rainy day fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the multiagency permitting team account, the pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account, the life sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account, the center for childhood deafness and hearing loss account, the school for the blind account, the Millersylvania park trust fund, the public employees' and retirees' insurance reserve fund, and the radiation perpetual maintenance fund.

(c) The following accounts and funds must receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right-of-way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(d) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the custody of the state treasurer that deposits funds into a fund or account in the custody of the state treasurer pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

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

NEW SECTION. **Sec.**  If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2016, in the omnibus appropriations act, this act is null and void.

**--- END ---**