

2SSB 6601 - S AMD 626

By Senators Frockt, Braun, Bailey, Mullet

ADOPTED 02/16/2016

1 Strike everything after the enacting clause and insert the
2 following:

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

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

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

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

22 **Sec. 2.** RCW 28B.95.020 and 2015 3rd sp.s. c 36 s 6 are each
23 amended to read as follows:

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

26 (1) "Academic year" means the regular nine-month, three-quarter,
27 or two-semester period annually occurring between August 1st and July
28 31st.

29 (2) "Account" means the Washington advanced college tuition
30 payment program account established for the deposit of all money
31 received by the office from eligible purchasers and interest earnings

1 on investments of funds in the account, as well as for all
2 expenditures on behalf of eligible beneficiaries for the redemption
3 of tuition units and for the development of any authorized college
4 savings program pursuant to RCW 28B.95.150.

5 (3) "College savings program account" means the Washington
6 college savings program account established pursuant to RCW
7 28B.95.010.

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

15 ((+4)) (5) "Contractual obligation" means a legally binding
16 contract of the state with the purchaser and the beneficiary
17 establishing that purchases of tuition units in the advanced college
18 tuition payment program 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, except as provided in RCW 28B.95.030(7).

21 ((+5)) (6) "Dual credit fees" means any fees charged to a
22 student for participation in college in the high school under RCW
23 28A.600.290 or running start under RCW 28A.600.310.

24 ((+6)) (7) "Eligible beneficiary" means the person ((for whom
25 the tuition unit will be redeemed for attendance at an institution of
26 higher education, participation in college in the high school under
27 RCW 28A.600.290, or participation in running start under RCW
28 28A.600.310. The beneficiary is that person named by the purchaser at
29 the time that a tuition unit contract is accepted by the governing
30 body)) designated as the individual whose education expenses are to
31 be paid from the advanced college tuition payment program or the
32 college savings program. Qualified organizations, as allowed under
33 section 529 of the federal internal revenue code, purchasing tuition
34 unit contracts as future scholarships need not designate a
35 beneficiary at the time of purchase.

36 ((+7)) (8) "Eligible contributor" means an individual or
37 organization that contributes money for the purchase of tuition
38 units, and for an individual college savings program account
39 established pursuant to this chapter for an eligible beneficiary.

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

9 ~~((+8))~~ (10) "Full-time tuition charges" means resident tuition
10 charges at a state institution of higher education for enrollments
11 between ten credits and eighteen credit hours per academic term.

12 ~~((+9))~~ (11) "Governing body" means the committee empowered by
13 the legislature to administer the Washington advanced college tuition
14 payment program and the Washington college savings program.

15 ~~((+10))~~ (12) "Individual college savings program account" means
16 the formal record of transactions relating to a Washington college
17 savings program beneficiary.

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

22 ~~((+11))~~ (14) "Investment board" means the state investment board
23 as defined in chapter 43.33A RCW.

24 ~~((+12))~~ (15) "Investment manager" means the state investment
25 board, another state, or any other entity as selected by the
26 governing body, including another college savings plan established
27 pursuant to section 529 of the internal revenue code.

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

30 ~~((+13))~~ (17) "Owner" means the eligible purchaser or the
31 purchaser's successor in interest who shall have the exclusive
32 authority to make decisions with respect to the tuition unit contract
33 or the individual college savings program contract. The owner has
34 exclusive authority and responsibility to establish and change the
35 asset investment options for a beneficiaries' individual college
36 savings program account.

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

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

3 ~~((14))~~ (20) "Tuition and fees" means undergraduate tuition and
4 services and activities fees as defined in RCW 28B.15.020 and
5 28B.15.041 rounded to the nearest whole dollar. For purposes of this
6 chapter, services and activities fees do not include fees charged for
7 the payment of bonds heretofore or hereafter issued for, or other
8 indebtedness incurred to pay, all or part of the cost of acquiring,
9 constructing, or installing any lands, buildings, or facilities.

10 ~~((15))~~ (21) "Tuition unit contract" means a contract between an
11 eligible purchaser and the governing body, or a successor agency
12 appointed for administration of this chapter, for the purchase of
13 tuition units in the advanced college tuition payment program for a
14 specified beneficiary that may be redeemed at a later date for an
15 equal number of tuition units, except as provided in RCW
16 28B.95.030(7).

17 ~~((16))~~ (22) "Unit purchase price" means the minimum cost to
18 purchase one tuition unit in the advanced college tuition payment
19 program for an eligible beneficiary. Generally, the minimum purchase
20 price is one percent of the undergraduate tuition and fees for the
21 current year, rounded to the nearest whole dollar, adjusted for the
22 costs of administration and adjusted to ensure the actuarial
23 soundness of the account. The analysis for price setting shall also
24 include, but not be limited to consideration of past and projected
25 patterns of tuition increases, program liability, past and projected
26 investment returns, and the need for a prudent stabilization reserve.

27 **Sec. 3.** RCW 28B.95.025 and 2011 1st sp.s. c 11 s 169 are each
28 amended to read as follows:

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

37 NEW SECTION. **Sec. 4.** A new section is added to chapter 28B.95
38 RCW to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 NEW SECTION. **Sec. 5.** A new section is added to chapter 28B.95
39 RCW to read as follows:

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

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

14 **Sec. 6.** RCW 28B.95.035 and 1998 c 69 s 3 are each amended to
15 read as follows:

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

21 **Sec. 7.** RCW 28B.95.040 and 2011 1st sp.s. c 11 s 171 are each
22 amended to read as follows:

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

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

1 Washington college savings program accounts if purchased as
2 scholarships.

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

11 NEW SECTION. **Sec. 8.** A new section is added to chapter 28B.95
12 RCW to read as follows:

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

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

35 (3) The account is authorized to maintain a cash deficit in the
36 account for a period no more than five fiscal years to defray its
37 initial program administration costs. By December 31, 2017, the
38 governing body shall establish a program administration spending plan
39 and a fee schedule to discharge any projected cash deficit to the

1 account. The legislature may make appropriations into the account for
2 the purpose of reducing program administration costs.

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

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

13 **Sec. 9.** RCW 28B.95.080 and 2011 1st sp.s. c 12 s 3 are each
14 amended to read as follows:

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

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

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

32 **Sec. 10.** RCW 28B.95.090 and 2005 c 272 s 3 are each amended to
33 read as follows:

34 (1) In the event that the ((state)) governing body determines
35 that the advanced college tuition payment program is not financially
36 feasible, or for any other reason, the ((state)) governing body may
37 declare the discontinuance of the program. At the time of such

1 declaration, the governing body will cease to accept any further
2 tuition unit contracts or purchases.

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

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

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

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

22 NEW SECTION. **Sec. 11.** A new section is added to chapter 28B.95
23 RCW to read as follows:

24 (1) The investment manager has the full power to invest,
25 reinvest, manage, contract, sell, or exchange investment money in the
26 Washington college savings program without limitation as to the
27 amount pursuant to RCW 43.84.150 and 43.33A.140. All investment and
28 operating costs associated with the investment of money must be paid
29 to the investment manager as allowed by RCW 43.33A.160 and 43.84.160.
30 With the exception of these expenses and the administrative costs
31 authorized in sections 4 and 8 of this act, one hundred percent of
32 all earnings from investments accrue directly to the owner of the
33 individual college savings program account.

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

1 (a) The investment manager, after consultation with the governing
2 body, shall provide a set of options for owners to choose from for
3 investment of individual college savings program account
4 contributions.

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

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

14 (4) In the next succeeding legislative session following receipt
15 of a report required under subsection (3) of this section, the
16 appropriate committees of the legislature shall review the report and
17 consider whether any legislative action is necessary with respect to
18 the investment option with fees that exceed one-half of one percent,
19 including but not limited to consideration of whether any legislative
20 action is necessary with respect to reducing the fees and expenses
21 associated with the underlying investment option. With the exception
22 of fees associated with the administration of the program authorized
23 in sections 4 and 8 of this act, all moneys in the college savings
24 program account, all property and rights purchased with the account,
25 and all income attributable to the account, shall be held in trust
26 for the exclusive benefit of the owners and their eligible
27 beneficiaries.

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

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

35 (7) The authority to establish all policies relating to the
36 Washington college savings program and the Washington college savings
37 program account, other than investment policies resides with the
38 governing body. With the exception of expenses of the investment
39 manager as provided in subsection (1) of this section, disbursements
40 from the Washington college savings program account shall be made

1 only on the authorization of the governing body or its designee, and
2 moneys in the account may be spent only for the purposes of the
3 Washington college savings program as specified in this chapter.

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

8 **Sec. 12.** RCW 28B.95.100 and 2000 c 14 s 7 are each amended to
9 read as follows:

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

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

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

28 NEW SECTION. **Sec. 13.** A new section is added to chapter 28B.95
29 RCW to read as follows:

30 The intent of the Washington college savings program is to make
31 distributions from individual college savings program accounts for
32 beneficiaries' attendance at public or private institutions of higher
33 education. Refunds shall be issued under specific conditions that may
34 include the following:

35 (1) Certification that the beneficiary, who is eighteen years of
36 age or older, will not attend a public or private institution of
37 higher education, will result in a refund not to exceed the current
38 value at the time of such certification. The refund shall be made no

1 sooner than ninety days after such certification, less any
2 administrative processing fees assessed by the governing body.
3 Federal penalties and taxes associated with 529 savings plan refunds
4 may still apply;

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

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

17 (4) If there is certification of other tuition and fee
18 scholarships that will cover the cost of tuition for the eligible
19 beneficiary, the refund shall be equal to one hundred percent of the
20 current value in effect at the time of the refund request, less any
21 administrative processing fees assessed by the governing body. The
22 refund under this subsection may not exceed the value of the
23 scholarship;

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

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

34 NEW SECTION. **Sec. 14.** A new section is added to chapter 28B.95
35 RCW to read as follows:

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

1 **Sec. 15.** RCW 28B.95.150 and 2012 c 198 s 16 are each amended to
2 read as follows:

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

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

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

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

38 (b) Members of the state investment board and its officers and
39 employees are not liable to the state, to the fund, or to any other
40 person as a result of their activities as members, whether

1 ministerial or discretionary, except for willful dishonesty or
2 intentional violations of law. The state investment board in its
3 discretion may purchase liability insurance for members.

4 (c) The state investment board retains all authority to establish
5 all investment policies relating to the investment of college savings
6 program moneys.

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

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

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

21 ~~((+5))~~ (7) The committee shall adopt rules to implement this
22 section. Such rules shall include but not be limited to
23 administration, investment management, recordkeeping, promotion, and
24 marketing; compliance with internal revenue service standards and
25 applicable securities regulations; application procedures and fees;
26 start-up costs; phasing in the savings program and withdrawals
27 therefrom; deterrents to early withdrawals and provisions for
28 hardship withdrawals; and reenrollment in the savings program after
29 withdrawal.

30 ~~((+6))~~ (8) The committee may, at its discretion, determine to
31 cease operation of the college savings program if it determines the
32 continuation is not in the best interest of the state. The committee
33 shall adopt rules to implement this section addressing the orderly
34 distribution of assets.

35 **Sec. 16.** RCW 28B.95.900 and 1997 c 289 s 11 are each amended to
36 read as follows:

37 This chapter shall not be construed as a promise that any
38 beneficiary shall be granted admission to any institution of higher
39 education, will earn any specific or minimum number of academic

1 credits, or will graduate from any such institution. In addition,
2 this chapter shall not be construed as a promise of either course or
3 program availability.

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

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

20 **Sec. 17.** RCW 43.33A.135 and 2010 1st sp.s. c 7 s 36 are each
21 amended to read as follows:

22 The state investment board has the full power to establish
23 investment policy, develop participant investment options, and manage
24 investment funds for the college savings program pursuant to RCW
25 28B.95.010 and for the state deferred compensation plan, consistent
26 with the provisions of RCW 41.50.770 and 41.50.780. The board may
27 continue to offer the investment options provided as of June 11,
28 1998, until the board establishes a deferred compensation plan
29 investment policy and adopts new investment options after considering
30 the recommendations of the department of retirement systems.

31 **Sec. 18.** RCW 43.33A.190 and 2000 c 247 s 701 are each amended to
32 read as follows:

33 ~~((Pursuant to RCW 41.34.130,))~~ The state investment board shall
34 invest all self-directed investment moneys under teachers' retirement
35 system plan 3, the school employees' retirement system plan 3, and
36 the public employees' retirement system plan 3 pursuant to RCW
37 41.34.130 and under the college savings program pursuant to RCW

1 28B.95.010 with full power to establish investment policy, develop
2 investment options, and manage self-directed investment funds.

3 **Sec. 19.** RCW 43.79A.040 and 2013 c 251 s 5 and 2013 c 88 s 1 are
4 each reenacted and amended to read as follows:

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

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

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

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

24 (b) The following accounts and funds must receive their
25 proportionate share of earnings based upon each account's or fund's
26 average daily balance for the period: The Washington promise
27 scholarship account, the Washington advanced college tuition payment
28 program account, the Washington college savings program account, the
29 accessible communities account, the community and technical college
30 innovation account, the agricultural local fund, the American Indian
31 scholarship endowment fund, the foster care scholarship endowment
32 fund, the foster care endowed scholarship trust fund, the contract
33 harvesting revolving account, the Washington state combined fund
34 drive account, the commemorative works account, the county enhanced
35 911 excise tax account, the toll collection account, the
36 developmental disabilities endowment trust fund, the energy account,
37 the fair fund, the family leave insurance account, the food animal
38 veterinarian conditional scholarship account, the fruit and vegetable
39 inspection account, the future teachers conditional scholarship

1 account, the game farm alternative account, the GET ready for math
2 and science scholarship account, the Washington global health
3 technologies and product development account, the grain inspection
4 revolving fund, the industrial insurance rainy day fund, the juvenile
5 accountability incentive account, the law enforcement officers' and
6 firefighters' plan 2 expense fund, the local tourism promotion
7 account, the multiagency permitting team account, the pilotage
8 account, the produce railcar pool account, the regional
9 transportation investment district account, the rural rehabilitation
10 account, the stadium and exhibition center account, the youth
11 athletic facility account, the self-insurance revolving fund, the
12 children's trust fund, the Washington horse racing commission
13 Washington bred owners' bonus fund and breeder awards account, the
14 Washington horse racing commission class C purse fund account, the
15 individual development account program account, the Washington horse
16 racing commission operating account, the life sciences discovery
17 fund, the Washington state heritage center account, the reduced
18 cigarette ignition propensity account, the center for childhood
19 deafness and hearing loss account, the school for the blind account,
20 the Millersylvania park trust fund, the public employees' and
21 retirees' insurance reserve fund, and the radiation perpetual
22 maintenance fund.

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

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

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

1 NEW SECTION. **Sec. 20.** If specific funding for the purposes of
2 this act, referencing this act by bill or chapter number, is not
3 provided by June 30, 2016, in the omnibus appropriations act, this
4 act is null and void."

2SSB 6601 - S AMD 626

By Senators Frockt, Braun, Bailey, Mullet

ADOPTED 02/16/2016

5 On page 1, line 2 of the title, after "program;" strike the
6 remainder of the title and insert "amending RCW 28B.95.010,
7 28B.95.020, 28B.95.025, 28B.95.035, 28B.95.040, 28B.95.080,
8 28B.95.090, 28B.95.100, 28B.95.150, 28B.95.900, 43.33A.135, and
9 43.33A.190; reenacting and amending RCW 43.79A.040; adding new
10 sections to chapter 28B.95 RCW; and creating a new section."

EFFECT: Mandates that eligible purchasers will not be required to make an initial minimum contribution that exceeds twenty-five dollars. The governing body is directed to develop educational materials that highlight the differences between a prepaid tuition plan and a college savings plan, as well as how the two plans can be used to save for the full cost of attending college. The committee is directed to create an expedited direct rollover process between eligible state-sponsored 529 accounts, as well as to out-of-state 529 accounts. Policy goals are established for the Washington college savings program, as well as a biennial reporting requirement that demonstrate how the committee is achieving those goals. Investment options with fees that exceed one-half of one percent trigger a legislative review. Clarifying language is added to ensure that fees may be charged to investments. The penalty for a beneficiary declaring that they will not use the account for the purpose of paying for postsecondary education is removed. Clarifies that the governing body is the entity under current statute that can discontinue the Washington college prepaid savings plan.

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