

HOUSE BILL REPORT

E2SSB 6601

As Reported by House Committee On:
Higher Education
Appropriations

Title: An act relating to creating the Washington college savings program.

Brief Description: Creating the Washington college savings program.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Frockt, Bailey, Braun, Mullet, Carlyle and McAuliffe).

Brief History:

Committee Activity:

Higher Education: 2/23/16, 2/24/16 [DPA];

Appropriations: 2/27/16, 2/29/16 [DPA(APP w/o HE)].

**Brief Summary of Engrossed Second Substitute Bill
(As Amended by Committee)**

- Establishes the Washington College Savings Program (WCSP) alongside the Washington Advanced College Tuition Payment Program, more commonly known as the Guaranteed Education Tuition (GET) Program, to be administered by the Committee on Advanced Tuition Payment and College Savings (Committee).
- Allows a resident or nonresident to open an individual college savings program account for the purpose of saving and investing money for an eligible beneficiary to enroll in an institution of higher education.
- Provides for various powers and responsibilities for the Committee to administer the WCSP.
- Establishes an investment manager to have full power to invest, reinvest, manage, contract, sell, or exchange the investment money in the WCSP, and allows the investment manager to be the State Investment Board, another state, or any other entity as selected by the Committee.
- Sets policy goals considered consistent with nationally competitive 529 savings plans to direct measurable objectives and performance measures.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- Sets conditions for when refunds may be issued, requires the Committee to determine conditions when individual account transfers to another family member should be allowed, and requires the Committee to establish expedited rollover processes to other types of 529 programs.
- Establishes the WCSP account in the custody of the State Treasurer as a discrete, nontreasury account retaining its interest earnings, and allows the WCSP account to hold a cash deficit for a period of no more than five fiscal years to defray initial program administration costs.
- Changes the authority to discontinue the GET Program from the state to the Legislature.
- Requires the Committee to begin and continue to accept applications for new tuition unit contracts and authorize the sale of new tuition units by July 1, 2017, and upon reopening the GET Program, in any year in which the total annual sale of tuition units falls below 500,000, the Committee must determine how to reinvigorate the GET Program.
- Requires all GET program publications advertising the program to include a disclaimer that the guarantee is that 100 units will be equal to one year of full-time, resident, undergraduate (RUG) tuition at the state's most expensive institution of higher education, and that if RUG tuition is decreased, a tuition unit may lose monetary value.

HOUSE COMMITTEE ON HIGHER EDUCATION

Majority Report: Do pass as amended. Signed by 7 members: Representatives Hansen, Chair; Pollet, Vice Chair; Bergquist, Frame, Reykdal, Sells and Tarleton.

Minority Report: Do not pass. Signed by 3 members: Representatives Hargrove, Stambaugh and Van Werven.

Minority Report: Without recommendation. Signed by 3 members: Representatives Zeiger, Ranking Minority Member; Haler, Assistant Ranking Minority Member; Holy.

Staff: Megan Mulvihill (786-7304).

Background:

A 529 savings plan, named after section 529 of the Internal Revenue Code (IRC), is a tax-advantaged savings plan used to encourage families to save for future higher education expenses. There are two types of 529 plans: prepaid tuition plans and college savings plans. The plans are legally referred to as "Qualified Tuition Programs," and the rules governing them are laid out in section 529 of the IRC.

Prepaid Tuition Plans.

Prepaid tuition plans allow a purchaser to buy a tuition unit at a set price with the guarantee that the tuition unit will be worth the same amount of tuition in the future, regardless of the

actual price of tuition. Washington has a prepaid tuition plan called the Advanced College Tuition Payment Program, also known as the Guaranteed Education Tuition (GET) Program. The GET Program was established in 1998 and is administered by the Committee on Advanced Tuition Payment, also known as the GET Committee (Committee). The Washington Student Achievement Council (WSAC) provides staffing support, and the director of the WSAC is chair of the Committee. Over 157,000 GET accounts have been opened and over 37,000 students have used their accounts to attend an institution of higher education. For the quarter ending September 30, 2015, the GET Program had \$2.4 billion in assets under management.

In 2015 the Legislature passed the College Affordability Program, which lowered the price of resident undergraduate tuition. As a result, the GET Program froze the payout value of tuition units at \$117.82 for the 2015-16 and 2016-17 academic years and closed the program to new accounts while the Committee decides how to move forward with the program. In addition, the College Affordability Program required the Committee to consider creating a 529 college savings plan. In December of 2015, the Committee announced it would move forward with creating a state-run 529 college savings plan.

College Savings Plans.

The 529 college savings plans are similar to 401Ks and Individual Retirement Accounts in which a person invests a sum of money in market-based investment options, such as stock or bond mutual funds or in money market funds. The account savings fluctuate and grow based on market conditions, and the earnings are not subject to federal tax as long as the money is used for qualified college expenses. A 529 college savings plan can be purchased for anyone, regardless of age.

There are two major types of 529 college savings plans:

- *Broker Sold Savings Programs.* Savings plans that are managed by a brokerage company. Broker-sold plans often require the account holder to pay a "load." Broadly speaking, the load is paid to the broker as a commission for selling the college savings plan. Broker-sold savings programs exist in 30 states nationwide.
- *Direct Sold Savings Programs.* States offer college savings plans through which residents and, in many cases, non-residents can invest without paying a "load," or sales fee. This type of plan, which can be bought directly from the plan's sponsor or program manager without the assistance of a broker, is generally less expensive because it waives or does not charge sales fees that may apply to broker-sold plans. The District of Columbia and 48 states offer direct-sold savings programs. Washington and Wyoming are the two states that currently do not offer direct sold savings programs.

Washington State Investment Board.

The Washington State Investment Board (WSIB) includes 10 voting and five nonvoting members who manage investments for 17 retirement plans and other investments for industrial insurance, the state's colleges and universities, and developmental disabilities programs. In 2015 the WSIB had \$103.4 billion total assets under management, of which \$81.7 billion were retirement funds.

Summary of Amended Bill:

The Washington College Savings Program and Administration.

Subject to appropriation, the Washington College Savings Program (WCSP) is established alongside the GET Program to be administered by the Committee and chaired by the director of the WSAC. The WCSP allows a purchaser to establish an individual college savings program account for a beneficiary for the purpose of investing money to be used for enrollment at an institution of higher education recognized by the Internal Revenue Service under chapter 529 of the IRC. A resident or nonresident may enter into a contract to open an individual college savings program account. To open a new account, the purchaser may be required to make an initial minimum contribution, but the required amount must not exceed \$25. In addition to administering the WCSP in an actuarially sound manner, the Committee has the following list of powers and responsibilities:

- impose contribution limits;
- set age limits and time limits for the use of benefits;
- establish incentives to encourage participation, including entering into agreements with employers to offer employees automatic payroll deductions for WCSP contributions;
- impose and collect administrative fees and charges for transactions;
- appoint and use advisory committees and the State Actuary as needed for direction and guidance;
- formulate and adopt rules and policies for administration of the WCSP;
- purchase insurance from insurers licensed to do business in the state to provide coverage against any loss in connection with the account's property, assets, or activities;
- make, execute, and deliver contracts, conveyances, and other instruments necessary to exercise and discharge the power and duties provided by the act;
- contract for services necessary for management and operation of the WCSP with other state or nonstate entities authorized to do business in the state for the investment of monies;
- contract for other services or for goods needed;
- contract for financial consultants, actuaries, auditors, and other consultants as necessary;
- solicit and accept gifts, bequests, cash donations, and grants from any person, governmental agency, private business, or organization; and
- perform all acts necessary and proper to carry out the duties and responsibilities of the WCSP.

The Committee must develop materials to educate potential account owners and beneficiaries on the differences between the WCSP and the GET Program, along with how the two programs can compliment each other to help save for the full cost of attending college.

Policy Goals.

The policy goals established for the WCSP include goals for process, people, parents, performance, and price, and are as follows:

- to have an investment manager design a thoughtful, well-diversified glide path for age-based portfolios and offer a robust suite of investment options;
- to have a well-resourced, talented, and long-tenured investment manager;

- to demonstrate that the Committee is a good caretaker of college savers' capital and can manage the plan professionally;
- to demonstrate that the WCSP's options have earned their keep with solid risk-adjusted returns over relevant time periods; and
- to demonstrate that the investment options are a good value.

The WCSP must be administered in a manner consistent with the policy goals. The Committee must establish, submit, and report objectives and performance measures to the Legislature before the regular session of the Legislature during even-numbered years thereafter.

Transfers.

The Committee must determine the conditions under which control or the beneficiary of an individual college savings program account may be transferred to another family member. The Committee must not permit transfers that allow the individual college savings program account to be bought, sold, bartered, or otherwise exchanged for goods and services by either the beneficiary or purchaser.

Rollovers.

The Committee is required to create an expedited process by which owners can complete a direct rollover of a 529 account for any of the following:

- a state-sponsored prepaid tuition plan to a state-sponsored college savings plan;
- a state-sponsored college savings plan to a state-sponsored prepaid tuition plan; or
- a state-sponsored prepaid tuition plan or a state-sponsored college savings plan to an out-of-state eligible 529 plan.

The Committee is required to annually report to the Governor and the Legislature on the number of accounts that have been rolled into the WCSP from out of state participants and the number of accounts rolled out of the WCSP into out-of-state 529 plans.

Refunds.

Refunds must be issued, less any administrative fees charged by the Committee and possibly subject to federal taxes and penalties, under the following conditions:

- The beneficiary is 18 years of age or older and certifies that they will not attend a public or private institution of higher education, in which case the refund is not to exceed the current value at the time of certification.
- A certificate for the beneficiary's death or disability is presented, in which case the refund will be equal to 100 percent of the value at the time the certification is submitted.
- The beneficiary presents a certificate demonstrating that they graduated or completed their program of study, in which case the refund will be 100 percent of the value at the time the certificate is presented.
- The beneficiary presents certification demonstrating scholarships that cover the cost of tuition, in which case the refund may not exceed the value of the scholarships.
- The beneficiary or purchaser provided incorrect or misleading information, in which case the refund must not exceed the actual dollar value of the purchaser's and contributor's contributions.

- The Committee may determine other circumstances for refunds of remaining unused participant account balances.

Bankruptcy.

For bankruptcy filings and judgments, contributions to an individual college savings program accounts made two years before the date of filing or judgment are considered excluded personal assets.

Investing the WCSP Funds.

The investment manager, which may be the State Investment Board, another state, or any other entity as selected by the Committee, including another college savings plan, has the full power to invest, reinvest, manage, contract, sell, or exchange investment money in the program without limitation as to the amount. In investing the money contributed to individual college savings program accounts, the investments 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. If deemed appropriate, the investment manager may commingle the program account money for investment with other funds subject to investment by the investment manager. The investment manager must be paid for all investment and operating costs associated with the investments.

The investment manager, in consultation with the Committee, must provide a set of investment options for owners of individual college savings program accounts to choose from. All earnings from investments accrue directly to the owner of an individual college savings program account, and the owner has exclusive authority to establish and change the asset allocation for their account.

The Committee must report to the Governor and the Legislature annually each December 1 on the total fees charged for each investment option offered. The Legislature intends not to charge fees that exceed .005 percent for any investment option on an annual basis. In the next legislative session after receipt of the first report on fees, the Legislature must review the report and consider whether legislative action is necessary for investment options with fees that exceed .005 percent.

All moneys in the program account, all property and rights purchased with the account, and all income attributable to the account, must be held in a trust for the exclusive benefit of the owners and their eligible beneficiaries.

The Washington College Savings Program Account.

The WCSP account is created in the custody of the State Treasurer as a discrete, nontreasury account retaining its interest earnings. All money received for the program is to be deposited into the account by the Committee. 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 program.

To defray initial program administration costs, the account is authorized to maintain a cash deficit for a period of no more than five fiscal years. By December 31, 2017, the Committee must establish a WCSP administration spending plan and a fee schedule to discharge any projected cash deficit to the account. The Legislature may make appropriations into the account to reduce WCSP administration costs.

Guaranteed Education Tuition Program Provisions.

The authority to discontinue the GET Program if deemed not financially feasible is switched from the state to the Legislature. The Committee is required to 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 GET Program, in any year in which the total annual sale of tuition units is below 500,000, the Committee must determine how to reinvigorate the GET Program to incentivize Washingtonians to enter into tuition unit contracts and purchase tuition units.

If funding for the program is not received, the bill is null and void.

Amended Bill Compared to Engrossed Second Substitute Bill:

The amended bill clarifies that federal penalties and taxes associated with 529 college savings plan refunds would apply to any refund issued by the Committee and not just to refunds for beneficiaries who are at least 18 years of age who certify that they will not attend an institution of higher education. In addition, the refund language regarding certification of scholarships that cover the cost of tuition and fees was amended to clarify that the refund may not exceed the value of the scholarship or scholarships.

Language was added to clarify that the Committee needs to select the State Investment Board as the investment manager for the WCSP in order for the State Investment Board to have the full power to establish investment policies, investment options, and manage investments for the WCSP.

A new provision requires the Committee to begin and continue to accept applications for new tuition unit contracts and authorize the sale of new tuition units for the GET Program by July 1, 2017. Upon reopening the GET Program, in any year in which the total annual sale of tuition units is below 500,000, the Committee must determine how to reinvigorate the GET Program to incentivize Washingtonians to enter into tuition unit contracts and purchase tuition units. Lastly, the authority to discontinue the GET Program if deemed not financially feasible is changed from the Committee to the Legislature.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) The purpose of this bill is to create a tax-advantaged 529 college savings account to compliment the GET Program. This provides an option for families who want to save for college, but the GET Program is not a viable option. A 529 college savings plan can be a great option for working adults, older children, and for those who have already maxed out on GET tuition units. Sometimes families do not have the financial resources to begin saving while their children are young. Washington would be joining 48 other states who offer college savings programs, and, under the bill, the Committee could create a state-operated plan, work with another state, or contract with a third-party.

The bill does not make a decision about the future of the GET Program. It should be a legislative decision to close the GET Program, and the intent is to have the GET Program continue while the college savings program provides an additional option. The GET Committee is authorized in the bill to educate consumers on how the programs can work together and compliment each other.

If someone decides to receive a refund from the GET Program, they need to reinvest it in a different college savings program in order to avoid paying federal fees and tax penalties. The Legislature should provide a Washington college savings program as an option and have as few obstacles as possible to get people to continue to invest in higher education. Family savings is a critical part of higher education.

The Legislature asked the Committee to take certain things under consideration in the College Affordability Act, including whether to create a 529 college savings plan. This bill allows the Committee to begin implementation of the college savings plan so families could begin to save in 2017. The sooner the program can be invested in, the sooner the fees can be reduced. There are advantages to having a state plan. It is easier to implement rollovers, and the marketing for the WCSP can be targeted to meet the state's priorities, such as focusing on families who typically do not invest.

The broker option is not in the bill currently. Some of the best 529 college savings plans have a broker option, such as Virginia, which has the largest 529 college savings plan in the nation. It is not a broker option in full, but operates in addition to a direct-sold plan. This is a model similar to the state's healthcare exchange, and it is a model that works and is successful. There is a recommended amendment to offer this option to the Committee.

(Opposed) None.

Persons Testifying: Senator Frockt, prime sponsor; Senator Mullett; Gene Sharratt, Washington Student Achievement Council; Ann Ryhwed, Office of the State Treasurer; and Bill Stauffacher, Securities Industry & Financial Market Association.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Appropriations and without amendment by Committee on Higher Education. Signed by 31 members: Representatives Dunshee, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys, Cody, Dent, Fitzgibbon, Haler, Hansen, Harris, Hudgins, S. Hunt, Jinkins, Kagi, Lytton, MacEwen, Magendanz, Manweller, Pettigrew, Robinson, Sawyer, Schmick, Senn, Springer, Stokesbary, Sullivan, Tharinger, Van Werven and Walkinshaw.

Minority Report: Do not pass. Signed by 2 members: Representatives Condotta and Taylor.

Staff: Catrina Lucero (786-7192).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Higher Education:

The amended bill makes several changes including:

- limiting the annual investment fees charged to College Savings Program account holders to no more than 0.5 percent beginning on January 1, 2018;
- requiring the governing board to include an age-based investment option for account holders;
- requiring all Guaranteed Education Tuition program publications advertising the program to include a disclaimer that the guarantee is that 100 units will be equal to one year of full-time, resident, undergraduate (RUG) tuition at the state's most expensive institution of higher education, and that if RUG tuition is decreased, a tuition unit may lose monetary value;
- permitting the governing body of the program to establish an advisor sold option for the program if deemed appropriate after reviewing other advisor sold 529 college savings programs; and
- adding a definition for "advisor sold."

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) The bill allows the Guaranteed Education Tuition (GET) committee to begin work on a 529 savings program which would be a complement to the current GET program. This would allow more families to save for college, particularly for those with older children, returning adults, and individuals who have already contributed the maximum amount in their GET accounts. A state-based plan is appealing to many consumers. It would also allow the state to conduct targeted marketing and allow for matching incentives in the future. There is no risk to the state and the bill does not drive costs in the outlook. The Higher Education

Committee made some good clarifying changes. Eliminating the requirement to reopen the GET program on a specific date would improve the bill. Including a provision in the bill that allowed the state to consider an advisor sold component to this new 529 plan would also be an improvement to the bill. This would allow private sector stakeholders to drive customers to the state 529 plan.

(Opposed) None.

Persons Testifying: Marc Webster, Washington Student Achievement Council; Ann Ryherd, Office of the State Treasurer; and Bill Stauffacher, Securities Industry and Financial Markets Association.

Persons Signed In To Testify But Not Testifying: None.