

# SENATE BILL REPORT

## E2SSB 6601

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As Amended by House, March 3, 2016

**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: 2/02/16, 2/04/16 [DPS-WM].

Ways & Means: 2/08/16, 2/09/16 [DP2S, w/oRec].

Passed Senate: 2/16/16, 49-0.

Passed House: 3/03/16, 82-13.

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### SENATE COMMITTEE ON HIGHER EDUCATION

**Majority Report:** That Substitute Senate Bill No. 6601 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Bailey, Chair; Baumgartner, Vice Chair; Frockt, Ranking Member; Becker, Carlyle, Lias and Miloscia.

**Staff:** Clint McCarthy (786-7319)

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Second Substitute Senate Bill No. 6601 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Hill, Chair; Dammeier, Vice Chair; Honeyford, Vice Chair, Capital Budget Chair; Hargrove, Ranking Member; Keiser, Assistant Ranking Member on the Capital Budget; Ranker, Ranking Minority Member, Operating; Bailey, Becker, Billig, Brown, Conway, Darneille, Hewitt, Nelson, O'Ban, Padden, Parlette, Pedersen, Rolfes, Schoesler and Warnick.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Braun, Vice Chair; Hasegawa.

**Staff:** Michele Alishahi (786-7433)

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*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.*

**Background:** A 529 savings plan is a tax-advantaged method of saving for future college expenses that is authorized by Section 529 of the Internal Revenue Service. There are two major types, pre-paid tuition plans and savings plans. Pre-paid tuition plans, like the Guaranteed Education Tuition (GET) program in the state of Washington, allow the plan holder to pay for the beneficiary's tuition and fees at designated institutions in advance. Savings plans are tax-advantaged investment vehicles, similar to individual retirement accounts (IRAs). Rules governing the plans are laid out in Section 529 of the Internal Revenue Code. They are legally referred to as "Qualified Tuition Programs" and sometimes called "Section 529 plans."

Prepaid Tuition Plans. The Guaranteed Education Tuition Program is Washington's 529 prepaid college tuition plan. It is administered by the Washington Student Achievement Council, and was established in 1998 to help families save for their child's future higher education costs. Since that time, over 157,000 GET accounts have been opened and over 37,000 students have used their accounts to attend colleges, universities, and technical schools nationwide. The state of Washington guarantees that the value of an account will keep pace with the cost of college tuition at its public institutions, no matter how much the cost of tuition increases in the future.

In 2015, the Legislature lowered resident undergraduate tuition. Starting in the 2015-16 academic year, tuition is reduced by 5 percent for all public higher education institutions in the state of Washington. In the 2016-17 academic year, tuition is reduced by another 10 percent for research institutions and another 15 percent for regional institutions. In response to lower tuition, the GET Committee has set the payout value for units redeemed at the 2014-15 rate of \$117.82 per unit for the 2015-16 and 2016-17 academic years. The GET program is not currently accepting new enrollments or lump sum purchases.

For the quarter ending September 30, 2015, the program had \$2.4 billion in assets under management.

529 Savings Plans. A 529 Savings Plan allows an account-holder to establish a college savings account for a beneficiary and use the money to pay for tuition, room and board, mandatory fees, and required books and computers. The money contributed to the account can be invested in stock or bond mutual funds or in money market funds, and the earnings are not subject to federal tax as long as the money is used only for qualified college expenses. The plans are open to both adults and children.

There are two major types of 529 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) was created in 1981 under Chapter 43.33A of the Revised Code of Washington (RCW). The WSIB has a staff of approximately 85 employees who work in three divisions - Investments, Operations, and Institutional Relations. The WSIB's executive director is appointed by the WSIB to oversee the staff, develop and recommend agency and investment policies for WSIB adoption, and ensure adherence to state policies and laws.

According to the WSIB 2015 Annual Report, the WSIB has \$81.7 billion in retirement funds under management.

**Summary of Engrossed Second Substitute Bill:** Subject to appropriations, the Washington College Savings Plan (WCSP) is established as an option, in addition to the Washington Advanced College Tuition Payment Program, for individuals to save for college. The WCSP must be administered by the Committee on Advanced Tuition Payment and College Savings (Committee), and chaired by the Director of the Washington Student Achievement Council. The WCSP is open to eligible purchasers and eligible beneficiaries who are residents and nonresidents of Washington State.

The Committee may either work with the WSIB or contract with other states or non-state entities that are authorized to do business in the state for the investment of monies in the college savings program. The committee shall be responsible for the following duties:

- determining the conditions under which control, or the beneficiary of an individual college savings program account, may be transferred to another family member; and
- promoting the WCSP.

Eligible purchasers will not be required to make an initial minimum contribution that exceeds \$25. 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. 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.

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.

In addition to these duties, the GET Committee may:

- impose limits on the amount of contributions that may be made on behalf of any eligible beneficiary;
- determine and set age limits and time limits for the use of benefits;
- establish incentives to encourage participation in the WCSP;
- impose and collect administrative fees and charges in connection with any transaction;
- appoint and use advisory committees and the state actuary as needed to provide program direction and guidance;

- formulate and adopt all other policies and rules necessary for the efficient administration of the program;
- purchase insurance 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 the exercise and discharge of its powers and duties under this chapter; and
- contract for all or part of the services necessary for the management and operation of the WCSP.

The Washington College Savings Plan Account is created as a discrete, nontreasury account retaining its interest earnings. All monies received from the WCSP shall be deposited in this account. 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 WCSP.

The WCSP account is authorized to maintain a deficit, up to five fiscal years, to defray administration start-up costs. By December 31, 2017, the GET Committee must establish an administration spending plan and a fee schedule to discharge any projected deficit to the account. The Legislature may appropriate funds into the account to reduce administration costs.

In the event the state determines that the WCSP is not financially feasible, the state may declare the discontinuance of the program.

The investment manager has the full power to invest, reinvest, manage, contract, sell, or exchange investment money without limitation. As deemed appropriate by the investment manager, monies in the WCSP may be commingled for investment with other funds subject to investment by the investment manager. The authority to establish all policies relating to the WCSP account resides with the GET Committee. The investment manager shall routinely consult and communicate with the Committee.

Refunds must be issued under the following specific conditions:

- the beneficiary certifies that they will not attend a public or private institution of higher learning and is 19. The refund is not to exceed the current value at the time of such certification minus a penalty at a rate established by the Committee;
- the beneficiary has a death or disability certificate. The refund shall equal to 100 percent of the current value at the time that such certification is submitted to the Committee;
- the beneficiary certifies graduation or program completion, the refund shall be as great as 100 percent of the current value at the time that such certification submitted to the governing body, less any administrative processing fees;
- the beneficiary certifies that other tuition and fee scholarships will cover the cost of tuition;
- incorrect or misleading information provided by the purchaser or beneficiary may result in a refund of the purchaser's and contributor's contributions, less any administrative processing fees;
- the Committee may determine other circumstances for qualifying for refunds of remaining unused participant WCSP account balances; and

- the Committee may not impose a penalty on a beneficiary declaring that they will not use the account for the purpose of paying for postsecondary education.

With regard to bankruptcy filings and enforcement of judgments, deposits made by participants into the WCSP more than two years before the date of filing or judgments are considered excluded personal assets.

It is clarified that the governing body is the entity under current statute that can discontinue the Washington prepaid tuition college savings plan. Investment options with fees that exceed one-half of one percent trigger a legislative review.

If specific funding for the purposes of this bill is no provided in the Omnibus Appropriations bill, by June 30, 2016, this bill is null and void.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill (Higher Education):** PRO: All this bill does is setup a voluntary savings plan that residents and non-residents can use. People who are maxed out in the GET program can use this program to pay for costs of attendance other than tuition. A savings plan provides flexibility for Washington residents. The Treasurer has taken a special interest in this bill. Saving for one of life's biggest expenses requires planning and time. Many Washington residents go out of state to save for costs above and beyond tuition.

**Persons Testifying on Original Bill (Higher Education):** PRO: Gene Sharratt, Executive Director, Washington Student Achievement Council; Ann Ryherd, Office of the State Treasurer.

**Persons Signed In To Testify But Not Testifying on Original Bill:** No one.

**Staff Summary of Public Testimony on First Substitute (Ways & Means):** PRO: A 529 college savings plan can provide further tax advantages for saving for attendance costs beyond tuition. The timing of this bill could be very important to current GET account holders who may be considering rolling over their GET funds to a new state 529 college savings plan. This is a reason why the GET Committee requested this bill this legislative session.

**Persons Testifying on First Substitute (Ways & Means):** PRO: Ann Ryherd, Office of the State Treasurer; Gene Sharratt, Washington Student Achievement Council.

**Persons Signed In To Testify But Not Testifying:** No one.

### **House Amendment(s):**

- 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.
- Requires the Committee to determine how to reinvigorate the Advanced College Tuition Payment Program, GET program, in any year in which the total annual sales of tuition units is below 500,000.
- Changes the authority to discontinue the GET Program from the "governing body" to the "legislature" if the program is deemed not financially feasible.
- Clarifies that federal penalties and taxes associated with 529 college savings plan refunds would apply to any refund issued by the Committee, rather than just a refund in which a beneficiary 18 years of age or older certifies that he or she will not attend an institution of higher education.
- Clarifies that if certification of other tuition and fee scholarships that cover the cost of tuition for the eligible beneficiary is presented, the refund issued may not exceed the value of the scholarship or scholarships, less any administrative fees, rather than 100 percent of the current value of the account at the time of the refund request.
- Requires the State Investment Board to be selected by the Committee to be the investment manager for the Washington College Savings Program in order to have full power to establish investment policies, investment options, and manage investments for the program.
- Adds a definition of "advisor sold" to the Washington College Savings Program to mean a channel through which a broker dealer, investment advisor, or other financial intermediary recommends the program to eligible investors and assists with the opening and servicing of individual college savings program accounts.
- Permits 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.
- Requires any materials or online publications advertising the GET program to include a disclaimer stating that the guarantee is that 100 tuition units will be equal to one year of full-time, resident, undergraduate tuition at the most expensive state institution of higher education, and that if resident, undergraduate tuition is decreased, a tuition unit may lose monetary value.
- Requires the governing body of the Washington College Savings Program to include an age-based investment option for individual college savings program account owners.
- Limits the investment fees charged to the owner of an individual college savings program account to no more than one-half of 1 percent on an annual basis beginning January 1, 2018.