CERTIFICATION OF ENROLLMENT

HOUSE BILL 2126

Chapter 184, Laws of 2001

57th Legislature
2001 Regular Legislative Session

COLLEGE PAYMENT PROGRAMS

EFFECTIVE DATE: 7/22/01 - Except section 3, which becomes effective 7/1/01.

Passed by the House April 19, 2001
Yeas 90  Nays 0

FRANK CHOPP
Speaker of the House of Representatives

CLYDE BALLARD
Speaker of the House of Representatives

Passed by the Senate April 18, 2001
Yeas 46  Nays 0

BRAD OWEN
President of the Senate

CERTIFICATE

We, Timothy A. Martin and Cynthia Zehnder, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is HOUSE BILL 2126 as passed by the House of Representatives and the Senate on the dates hereon set forth.

CYNTHIA ZEHNDER
Chief Clerk

TIMOTHY A. MARTIN
Chief Clerk

GARY LOCKE
Governor of the State of Washington

Secretary of State
State of Washington

Approved May 7, 2001

FILED
May 7, 2001 - 1:26 p.m.
AN ACT Relating to college payment programs; amending RCW 28B.95.020, 28B.95.110, and 43.79A.040; adding a new section to chapter 28B.95 RCW; providing an effective date; and declaring an emergency.

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

Sec. 1. RCW 28B.95.020 and 2000 c 14 s 1 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 July 1st and June 30th.

(2) "Account" means the Washington advanced college tuition payment program account established for the deposit of all money received by the board 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 section 2 of this act.

(3) "Board" means the higher education coordinating board as defined in chapter 28B.80 RCW.
(4) "Committee on advanced tuition payment" or "committee" means a committee of the following members: The state treasurer, the director of the office of financial management, the executive director of the higher education coordinating board, 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.

(5) "Governing body" means the committee empowered by the legislature to administer the Washington advanced college tuition payment program.

(6) "Contractual obligation" means a legally binding contract of the state with the purchaser and the beneficiary establishing that purchases of tuition units will be worth the same number of tuition units at the time of redemption as they were worth at the time of the purchase.

(7) "Eligible beneficiary" means the person for whom the tuition unit will be redeemed for attendance at an institution of higher education. The beneficiary is that person named by the purchaser at the time that a tuition unit contract is accepted by the governing body. With the exception of tuition unit contracts purchased by qualified organizations as future scholarships, the beneficiary must reside in the state of Washington or otherwise be a resident of the state of Washington at the time the tuition unit contract is accepted by the governing body.

(8) "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 for an eligible beneficiary.

(9) "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.

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

(12) "State institution of higher education" means institutions of higher education as defined in RCW 28B.10.016.
(13) "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. The maximum tuition and fees charges recognized for beneficiaries enrolled in a state technical college shall be equal to the tuition and fees for the community college system.

(14) "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 for a specified beneficiary that may be redeemed at a later date for an equal number of tuition units.

(15) "Unit purchase price" means the minimum cost to purchase one tuition unit for an eligible beneficiary. Generally, the minimum purchase price is one percent of the undergraduate weighted average 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.

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

(17) "Weighted average tuition unit" is the value of the weighted average tuition and fees divided by one hundred. The weighted average is the basis upon which tuition benefits may be calculated for graduate program enrollments and for attendance at nonstate institutions of higher education and is as the basis for any refunds provided from the program.

NEW SECTION. Sec. 2. A new section is added to chapter 28B.95 RCW 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, a qualified actuarial consulting firm with appropriate expertise to evaluate such plans, the legislative fiscal and higher education committees, and the institutions of higher education.

(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 of a college savings program. This loan must be repaid with interest before the conclusion of the biennium in which the committee draws funds for this purpose from the advanced college tuition payment program account.

(3) If such a college savings program is established, the college savings program account is created in the custody of the state treasurer for the purpose of administering the college savings program. If created, the account shall be a discrete nontreasury account in the custody of the state treasurer. Interest earnings shall be retained in accordance with RCW 43.79A.040. Disbursements from the account, except for program administration, are exempt from appropriations and the allotment provisions of chapter 43.88 RCW. Money used for program administration is subject to the allotment provisions, but without appropriation.

(4) The committee, after consultation with the state investment board, shall determine the investment policies for the college savings program. Program contributions may be invested by the state investment board 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.

(5) 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

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participant accounts are insufficient to meet the educational expenses of the institution chosen by the student for which the individual participant account was intended.

(6) The committee shall adopt rules to implement this section. Such rules shall include but not be limited to administration, investment management, promotion, and marketing; compliance with internal revenue service standards; 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.

(7) 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. 3. RCW 28B.95.110 and 2000 c 14 s 8 are each amended to read as follows:

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

(a) Certification that the beneficiary, who is eighteen years of age or older, will not attend an institution of higher education, will result in a refund not to exceed the current weighted average tuition and fees in effect at the time of such certification minus a penalty at the rate established by the internal revenue service under chapter 529 of the internal revenue code. No more than one hundred tuition units may be refunded per year to any individual making this certification. The refund shall be made no sooner than ninety days after such certification, less any administrative processing fees assessed by the governing body;

(b) If there is certification of the death or disability of the beneficiary, the refund shall be equal to one hundred percent of any remaining unused tuition units (valued) at the current (weighted average tuition units) value, as determined by the governing body, at the time that such certification is submitted to the governing body, less any administrative processing fees assessed by the governing body;
(c) If there is certification by the student of graduation or program completion, the refund shall be as great as one hundred percent of any remaining unused ((weighted average)) tuition units at the current value, as determined by the governing body, 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;

(d) If there is certification of other tuition and fee scholarships, which will cover the cost of tuition for the eligible beneficiary. The refund shall be equal to one hundred percent of the current ((weighted average)) value of tuition units, as determined by the governing body, in effect at the time of the refund request, ((plus)) less any administrative processing fees assessed by the governing body. The refund under this subsection may not exceed the value of the scholarship;

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

(f) The governing body may determine other circumstances qualifying for refunds of remaining unused tuition units and may determine the value of that refund.

(2) With the exception of subsection (1)(b), (e), and (f) of this section no refunds may be made before the units have been held for two years.

Sec. 4. RCW 43.79A.040 and 2000 c 79 s 45 are each 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.

(2) All income received from investment of the treasurer’s trust fund shall 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 shall occur prior to distribution of
earnings set forth in subsection (4) of this section.

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

(b) The following accounts and funds shall receive their
proportionate share of earnings based upon each account’s or fund’s
average daily balance for the period: The college savings program
account, the Washington advanced college tuition payment program
account, the agricultural local fund, the American Indian scholarship
endowment fund, the basic health plan self-insurance reserve account,
the Washington international exchange scholarship endowment fund, the
developmental disabilities endowment trust fund, the energy account,
the fair fund, the game farm alternative account, the grain inspection
revolving fund, the juvenile accountability incentive account, the
rural rehabilitation account, the stadium and exhibition center
account, the youth athletic facility (grant) account, the self-
insurance revolving fund, the sulfur dioxide abatement account, and the
children’s trust fund. However, the earnings to be distributed shall
first be reduced by the allocation to the state treasurer’s service
fund pursuant to RCW 43.08.190.

(c) The following accounts and funds shall 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.

(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. 5. Section 3 of this act is necessary for the
immediate preservation of the public peace, health, or safety, or
support of the state government and its existing public institutions, and takes effect July 1, 2001.

Passed the Senate April 18, 2001.
Approved by the Governor May 7, 2001.
Filed in Office of Secretary of State May 7, 2001.