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**SUBSTITUTE SENATE BILL 6425**

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**State of Washington**

**56th Legislature**

**2000 Regular Session**

**By** Senate Committee on Higher Education (originally sponsored by Senators McAuliffe, Kohl-Welles, Sheahan, Winsley, Rasmussen and Bauer; by request of Committee on Advanced College Tuition Payment, Higher Education Coordinating Board and State Treasurer)

Read first time 02/03/2000.

1 AN ACT Relating to the advanced college tuition payment program;  
2 and amending RCW 28B.95.020, 28B.95.025, 28B.95.030, 28B.95.050,  
3 28B.95.060, 28B.95.070, 28B.95.100, and 28B.95.110.

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

5 **Sec. 1.** RCW 28B.95.020 and 1997 c 289 s 2 are each amended to read  
6 as follows:

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

9 (1) "Academic year" means the regular nine-month, three-quarter, or  
10 two-semester period annually occurring between July 1st and June 30th.

11 (2) "Account" means the Washington advanced college tuition payment  
12 program account established for the deposit of all money received by  
13 the board from eligible purchasers and interest earnings on investments  
14 of funds in the account, as well as for all expenditures on behalf of  
15 eligible beneficiaries for the redemption of tuition units.

16 (3) "Board" means the higher education coordinating board as  
17 defined in chapter 28B.80 RCW.

18 (4) "Committee on advanced tuition payment" or "committee" means a  
19 committee of the following members (~~or their designees~~): The state

1 treasurer, the director of the office of financial management, (~~and~~  
2 ~~the chair~~) the executive director of the higher education coordinating  
3 board, or their designees, and two members to be appointed by the  
4 governor, one representing program participants and one private  
5 business representative with marketing, public relations, or financial  
6 expertise.

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

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

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

24 (8) "Eligible purchaser" means an individual or organization that  
25 has entered into a tuition unit contract with the (~~board~~) governing  
26 body for the purchase of tuition units for an eligible beneficiary.

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

30 (10) "Institution of higher education" means an institution that  
31 offers education beyond the secondary level and is (~~accredited by a~~  
32 ~~nationally recognized accrediting association or is licensed to do~~  
33 ~~business in the state in which it is located~~) recognized by the  
34 internal revenue service under chapter 529 of the internal revenue  
35 code.

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

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

1 (13) "Tuition and fees" means undergraduate tuition and services  
2 and activities fees as defined in RCW 28B.15.020 and 28B.15.041 rounded  
3 to the nearest whole dollar. The maximum tuition and fees charges  
4 recognized for beneficiaries enrolled in a state technical college  
5 shall be equal to the tuition and fees for the community college  
6 system.

7 (14) "Tuition unit contract" means a contract between an eligible  
8 purchaser and the (~~board~~) governing body, or a successor agency  
9 appointed for administration of this chapter, for the purchase of  
10 tuition units for a specified beneficiary that may be redeemed at a  
11 later date for an equal number of tuition units.

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

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

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

35 **Sec. 2.** RCW 28B.95.025 and 1998 c 69 s 2 are each amended to read  
36 as follows:

37 The (~~committee~~) board shall maintain appropriate offices and  
38 employ and fix compensation of such personnel as may be necessary to

1 perform (~~its~~) the advanced college tuition payment program duties  
2 (~~including, but not be limited to a director, an accountant, and a~~  
3 ~~confidential secretary~~). The board shall consult with the governing  
4 body on the selection, compensation, and other issues relating to the  
5 employment of the program director. The positions are exempt from  
6 classified service under chapter 41.06 RCW. The employees shall be  
7 employees of the higher education coordinating board.

8 **Sec. 3.** RCW 28B.95.030 and 1997 c 289 s 3 are each amended to read  
9 as follows:

10 (1) The Washington advanced college tuition payment program shall  
11 be administered by the committee on advanced tuition payment which  
12 shall be chaired by the (~~representative from the higher education~~  
13 ~~coordinating~~) executive director of the board. The committee shall be  
14 supported by staff of the board.

15 (2) (~~The committee shall assess the administration and projected~~  
16 ~~financial solvency of the program and make a recommendation to the~~  
17 ~~legislature by the end of the second year after July 27, 1997, as to~~  
18 ~~disposition of the further administration of the program.~~

19 (~~3~~))(a) The Washington advanced college tuition payment program  
20 shall consist of the sale of tuition units, which may be redeemed by  
21 the beneficiary at a future date for an equal number of tuition units  
22 regardless of any increase in the price of tuition, that may have  
23 occurred in the interval.

24 (b) Each purchase shall be worth a specific number of or fraction  
25 of tuition units at each state institution of higher education as  
26 determined by the (~~board~~) governing body.

27 (c) The number of tuition units necessary to pay for a full year's,  
28 full-time undergraduate tuition and fee charges at a state institution  
29 of higher education shall be set by the (~~board~~) governing body at the  
30 time a purchaser enters into a tuition unit contract.

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

1       (~~(4)~~) (3)(a) No tuition unit may be redeemed until two years  
2 after the purchase of the unit. Units may be redeemed for enrollment  
3 at any institution of higher education that is recognized by the  
4 internal revenue service under chapter 529 of the internal revenue  
5 code.

6       (b) Units redeemed at a nonstate institution of higher education or  
7 for graduate enrollment shall be redeemed at the (~~current weighted~~  
8 ~~average tuition unit~~) rate for state public institutions in effect at  
9 the time of redemption.

10       (~~(5)~~) (4) The governing body shall determine the conditions under  
11 which the tuition benefit may be transferred to another family member.  
12 In permitting such transfers, the governing body may not allow the  
13 tuition benefit to be bought, sold, bartered, or otherwise exchanged  
14 for goods and services by either the beneficiary or the purchaser.

15       (~~(6)~~) (5) The governing body shall administer the Washington  
16 advanced college tuition payment program in a manner reasonably  
17 designed to be actuarially sound, such that the assets of the trust  
18 will be sufficient to defray the obligations of the trust including the  
19 costs of administration. The governing body may, at its discretion,  
20 discount the minimum purchase price for certain kinds of purchases such  
21 as those from families with young children, as long as the actuarial  
22 soundness of the account is not jeopardized.

23       (~~(7)~~) (6) The governing body shall annually determine current  
24 value of a tuition unit and the value of the weighted average tuition  
25 unit.

26       (~~(8)~~) (7) The governing body shall promote, advertise, and  
27 publicize the Washington advanced college tuition payment program.

28       (~~(9)~~) (8) In addition to any other powers conferred by this  
29 chapter, the governing body may:

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

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

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

36       (d) Appoint and use advisory committees as needed to provide  
37 program direction and guidance;

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

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

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

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

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

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

16 ~~((k))~~ ~~((Employ all personnel as necessary to carry out its  
17 responsibilities under this chapter and to fix the compensation of  
18 these persons;~~

19 ~~((l))~~ Contract with financial consultants, actuaries, auditors, and  
20 other consultants as necessary to carry out its responsibilities under  
21 this chapter;

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

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

26 **Sec. 4.** RCW 28B.95.050 and 1997 c 289 s 5 are each amended to read  
27 as follows:

28 The Washington advanced college tuition payment program is an  
29 essential state governmental function. Contracts with eligible  
30 participants shall be contractual obligations legally binding on the  
31 state as set forth in this chapter. If, and only if, the moneys in the  
32 account are projected to be insufficient to cover the state's  
33 contracted expenses for a given biennium, then the legislature shall  
34 appropriate to the account the amount necessary to cover such expenses.

35 The tuition and fees charged by ~~((a state))~~ an eligible institution  
36 of higher education to an eligible beneficiary for a current enrollment  
37 shall be paid by the account to the extent the beneficiary has  
38 remaining unused tuition units for the appropriate school. ~~((The~~

1 tuition and fees charged to a beneficiary for graduate level  
2 enrollments or by a nonstate institution of higher education shall be  
3 paid by the account to the extent that the beneficiary has remaining  
4 weighted average tuition units.))

5 **Sec. 5.** RCW 28B.95.060 and 1998 c 69 s 4 are each amended to read  
6 as follows:

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

11 (2) The governing body shall deposit in the account all money  
12 received for the program. The account shall be self-sustaining and  
13 consist of payments received from purchasers of tuition units and funds  
14 received from other sources, public or private. With the exception of  
15 investment and operating costs associated with the investment of money  
16 by the investment board paid under RCW 43.33A.160 and 43.84.160, the  
17 account shall be credited with all investment income earned by the  
18 account. Disbursements from the account are exempt from appropriations  
19 and the allotment provisions of chapter 43.88 RCW. Money used for  
20 program administration is subject to the allotment ((and budgetary  
21 controls of chapter 43.88 RCW, and)) of all expenditures. However, an  
22 appropriation is not required for such expenditures. Program  
23 administration shall include, but not be limited to: The salaries and  
24 expenses of the program personnel including lease payments, travel, and  
25 goods and services necessary for program operation; contracts for  
26 program promotion and advertisement, audits, and account management;  
27 and other general costs of conducting the business of the program.

28 (3) The assets of the account may be spent without appropriation  
29 for the purpose of making payments to institutions of higher education  
30 on behalf of the qualified beneficiaries, making refunds, transfers, or  
31 direct payments upon the termination of the Washington advanced college  
32 tuition payment program. Disbursements from the account shall be made  
33 only on the authorization of the ((board)) governing body.

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

1       **Sec. 6.** RCW 28B.95.070 and 1997 c 289 s 7 are each amended to read  
2 as follows:

3       (1) The investment board has the full power to invest, reinvest,  
4 manage, contract, sell, or exchange investment money in the account.  
5 All investment and operating costs associated with the investment of  
6 money shall be paid pursuant to RCW 43.33A.160 and 43.84.160. With the  
7 exception of these expenses, the earnings from the investment of the  
8 money shall be retained by the account.

9       (2) All investments made by the investment board shall be made with  
10 the exercise of that degree of judgment and care pursuant to RCW  
11 43.33A.140 and the investment policy established by the state  
12 investment board.

13       (3) As deemed appropriate by the investment board, money in the  
14 account may be commingled for investment with other funds subject to  
15 investment by the board.

16       (4) The authority to establish all policies relating to the  
17 account, other than the investment policies as set forth in subsections  
18 (1) through (3) of this section, resides with the (~~board~~) governing  
19 body. With the exception of expenses of the investment board set forth  
20 in subsection (1) of this section, disbursements from the account shall  
21 be made only on the authorization of the governing body, and money in  
22 the account may be spent only for the purposes of the program as  
23 specified in this chapter.

24       (5) The investment board shall routinely consult and communicate  
25 with the governing body on the investment policy, earnings of the  
26 trust, and related needs of the program.

27       **Sec. 7.** RCW 28B.95.100 and 1997 c 289 s 10 are each amended to  
28 read as follows:

29       (1) The (~~committee~~) governing body, in planning and devising the  
30 program, shall consult with the investment board, the state treasurer,  
31 (~~the state actuary,~~) the office of financial management, and the  
32 institutions of higher education.

33       (2) The governing body may seek the assistance of the state  
34 agencies named in subsection (1) of this section, private financial  
35 institutions, and any other qualified party with experience in the  
36 areas of accounting, actuary, risk management, or investment management  
37 to assist with preparing an accounting of the program and ensuring the  
38 fiscal soundness of the account.

1 (3) State agencies and public institutions of higher education  
2 shall fully cooperate with the governing body in matters relating to  
3 the program in order to ensure the solvency of the account and ability  
4 of the governing body to meet outstanding commitments.

5 **Sec. 8.** RCW 28B.95.110 and 1997 c 289 s 12 are each amended to  
6 read as follows:

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

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

22 (b) If there is certification of the death or disability of the  
23 beneficiary, the refund shall be equal to one hundred percent of any  
24 remaining unused tuition units valued at the current weighted average  
25 tuition units at the time that such certification is submitted to the  
26 (~~((board))~~) governing body, less any administrative processing fees  
27 assessed by the (~~((board))~~) governing body;

28 (c) If there is certification by the student of graduation or  
29 program completion, the refund (~~((may))~~) shall be as great as one hundred  
30 percent of any remaining unused weighted average tuition units at the  
31 time that such certification is submitted to the governing body, less  
32 any administrative processing fees assessed by the governing body. The  
33 governing body may, at its discretion, impose a penalty if needed to  
34 comply with federal tax rules;

35 (d) If there is certification of other tuition and fee  
36 scholarships, which will cover the cost of tuition for the eligible  
37 beneficiary. The refund shall be equal to one hundred percent of the  
38 current weighted average tuition units in effect at the time of the

1 refund request, plus any administrative processing fees assessed by the  
2 governing body. The refund under this subsection may not exceed the  
3 value of the scholarship;

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

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

12 (2) With the exception of subsection (1)(b) (~~and~~), (e), and (f)  
13 of this section no refunds may be made before the (~~beneficiary is at~~  
14 ~~least eighteen years of age~~) units have been held for two years.

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