

2 HB 2126 - S COMM AMD
3 By Committee on Ways & Means

4 ADOPTED 04/11/01

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 28B.95.020 and 2000 c 14 s 1 are each amended to read
8 as follows:

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

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

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

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

20 (4) "Committee on advanced tuition payment" or "committee" means a
21 committee of the following members: The state treasurer, the director
22 of the office of financial management, the executive director of the
23 higher education coordinating board, or their designees, and two
24 members to be appointed by the governor, one representing program
25 participants and one private business representative with marketing,
26 public relations, or financial expertise.

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

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

35 (7) "Eligible beneficiary" means the person for whom the tuition
36 unit will be redeemed for attendance at an institution of higher

1 education. The beneficiary is that person named by the purchaser at
2 the time that a tuition unit contract is accepted by the governing
3 body. With the exception of tuition unit contracts purchased by
4 qualified organizations as future scholarships, the beneficiary must
5 reside in the state of Washington or otherwise be a resident of the
6 state of Washington at the time the tuition unit contract is accepted
7 by the governing body.

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

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

14 (10) "Institution of higher education" means an institution that
15 offers education beyond the secondary level and is recognized by the
16 internal revenue service under chapter 529 of the internal revenue
17 code.

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

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

22 (13) "Tuition and fees" means undergraduate tuition and services
23 and activities fees as defined in RCW 28B.15.020 and 28B.15.041 rounded
24 to the nearest whole dollar. The maximum tuition and fees charges
25 recognized for beneficiaries enrolled in a state technical college
26 shall be equal to the tuition and fees for the community college
27 system.

28 (14) "Tuition unit contract" means a contract between an eligible
29 purchaser and the governing body, or a successor agency appointed for
30 administration of this chapter, for the purchase of tuition units for
31 a specified beneficiary that may be redeemed at a later date for an
32 equal number of tuition units.

33 (15) "Unit purchase price" means the minimum cost to purchase one
34 tuition unit for an eligible beneficiary. Generally, the minimum
35 purchase price is one percent of the undergraduate weighted average
36 tuition and fees for the current year, rounded to the nearest whole
37 dollar, adjusted for the costs of administration and adjusted to ensure
38 the actuarial soundness of the account. The analysis for price setting
39 shall also include, but not be limited to consideration of past and

1 projected patterns of tuition increases, program liability, past and
2 projected investment returns, and the need for a prudent stabilization
3 reserve.

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

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

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 28B.95 RCW
18 to read as follows:

19 (1) The committee may establish a college savings program. If such
20 a program is established, the college savings program shall be
21 established, in such form as may be determined by the committee, to be
22 a qualified state tuition program as defined by the internal revenue
23 service under section 529 of the internal revenue code, and shall be
24 administered in a manner consistent with the Washington advanced
25 college tuition payment program. The committee, in planning and
26 devising the program, shall consult with the state investment board,
27 the state treasurer, a qualified actuarial consulting firm with
28 appropriate expertise to evaluate such plans, the legislative fiscal
29 and higher education committees, and the institutions of higher
30 education.

31 (2) If such a college savings program is established, the college
32 savings program account is created in the custody of the state
33 treasurer for the purpose of administering the college savings program.
34 If created, the account shall be a discrete nontreasury account in the
35 custody of the state treasurer. Interest earnings shall be retained in
36 accordance with RCW 43.79A.040. Disbursements from the account, except
37 for program administration, are exempt from appropriations and the
38 allotment provisions of chapter 43.88 RCW. Money used for program

1 administration is subject to the allotment provisions, but without
2 appropriation.

3 (3) The committee, after consultation with the state investment
4 board, shall determine the investment policies for the college savings
5 program. Program contributions may be invested by the state investment
6 board or the committee may contract with an investment company licensed
7 to conduct business in this state to do the investing. The committee
8 shall keep or cause to be kept full and adequate accounts and records
9 of the assets of each individual participant in the college savings
10 program.

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

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

26 (6) The committee may, at its discretion, determine to cease
27 operation of the college savings program if it determines the
28 continuation is not in the best interest of the state. The committee
29 shall adopt rules to implement this section addressing the orderly
30 distribution of assets.

31 **Sec. 3.** RCW 28B.95.110 and 2000 c 14 s 8 are each amended to read
32 as follows:

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

37 (a) Certification that the beneficiary, who is eighteen years of
38 age or older, will not attend an institution of higher education, will

1 result in a refund not to exceed the current weighted average tuition
2 and fees in effect at the time of such certification minus a penalty at
3 the rate established by the internal revenue service under chapter 529
4 of the internal revenue code. No more than one hundred tuition units
5 may be refunded per year to any individual making this certification.
6 The refund shall be made no sooner than ninety days after such
7 certification, less any administrative processing fees assessed by the
8 governing body;

9 (b) If there is certification of the death or disability of the
10 beneficiary, the refund shall be equal to one hundred percent of any
11 remaining unused tuition units (~~valued~~) at the current (~~weighted~~
12 ~~average tuition units~~) value, as determined by the governing body, at
13 the time that such certification is submitted to the governing body,
14 less any administrative processing fees assessed by the governing body;

15 (c) If there is certification by the student of graduation or
16 program completion, the refund shall be as great as one hundred percent
17 of any remaining unused (~~weighted average~~) tuition units at the
18 current value, as determined by the governing body, at the time that
19 such certification is submitted to the governing body, less any
20 administrative processing fees assessed by the governing body. The
21 governing body may, at its discretion, impose a penalty if needed to
22 comply with federal tax rules;

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

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

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

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

4 **Sec. 4.** RCW 43.79A.040 and 2000 c 79 s 45 are each amended to read
5 as follows:

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

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

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

24 (b) The following accounts and funds shall receive their
25 proportionate share of earnings based upon each account's or fund's
26 average daily balance for the period: The college savings program
27 account, the Washington advanced college tuition payment program
28 account, the agricultural local fund, the American Indian scholarship
29 endowment fund, the basic health plan self-insurance reserve account,
30 the Washington international exchange scholarship endowment fund, the
31 developmental disabilities endowment trust fund, the energy account,
32 the fair fund, the game farm alternative account, the grain inspection
33 revolving fund, the juvenile accountability incentive account, the
34 rural rehabilitation account, the stadium and exhibition center
35 account, the youth athletic facility ((grant)) account, the self-
36 insurance revolving fund, the sulfur dioxide abatement account, and the
37 children's trust fund. However, the earnings to be distributed shall

1 first be reduced by the allocation to the state treasurer's service
2 fund pursuant to RCW 43.08.190.

3 (c) The following accounts and funds shall receive eighty percent
4 of their proportionate share of earnings based upon each account's or
5 fund's average daily balance for the period: The advanced right of way
6 revolving fund, the advanced environmental mitigation revolving
7 account, the federal narcotics asset forfeitures account, the high
8 occupancy vehicle account, the local rail service assistance account,
9 and the miscellaneous transportation programs account.

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

13 NEW SECTION. **Sec. 5.** Section 3 of this act is necessary for the
14 immediate preservation of the public peace, health, or safety, or
15 support of the state government and its existing public institutions,
16 and takes effect July 1, 2001."

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19 ADOPTED 04/11/01

20 On page 1, line 1 of the title, after "programs;" strike the
21 remainder of the title and insert "amending RCW 28B.95.020, 28B.95.110,
22 and 43.79A.040; adding a new section to chapter 28B.95 RCW; providing
23 an effective date; and declaring an emergency."

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