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HOUSE BILL 2126

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State of Washington

57th Legislature

2001 Regular Session

By Representatives Kenney, Cox, McIntire and Edwards; by request of  
Committee on Advanced College Tuition Payment and State Treasurer

Read first time 02/15/2001. Referred to Committee on Higher Education.

1 AN ACT Relating to college payment programs; amending RCW  
2 28B.95.020, 28B.95.110, and 43.79A.040; adding a new section to chapter  
3 28B.95 RCW; providing an effective date; and declaring an emergency.

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

5 **Sec. 1.** RCW 28B.95.020 and 2000 c 14 s 1 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 and for  
16 operation of any authorized college savings program.

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

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

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

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

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

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

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

31 (10) "Institution of higher education" means an institution that  
32 offers education beyond the secondary level and is recognized by the  
33 internal revenue service under chapter 529 of the internal revenue  
34 code.

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

37 (12) "State institution of higher education" means institutions of  
38 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 governing body, or a successor agency appointed for  
9 administration of this chapter, for the purchase of tuition units for  
10 a specified beneficiary that may be redeemed at a later date for an  
11 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)) may be calculated  
32 ((for graduate program enrollments and for attendance at nonstate  
33 institutions of higher education and is)) as the basis for any refunds  
34 provided from the program.

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

37 (1) The committee may establish a college savings program. If such  
38 a program is established, the college savings program shall be

1 established, in such form as may be determined by the committee, to be  
2 a qualified state tuition program as defined by the internal revenue  
3 service under section 529 of the internal revenue code, and shall be  
4 administered in a manner consistent with the Washington advanced  
5 college tuition payment program. The committee, in planning and  
6 devising the program, shall consult with the state investment board,  
7 the state treasurer, a qualified actuarial consulting firm with  
8 appropriate expertise to evaluate such plans, and the institutions of  
9 higher education.

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

20 (3) The committee, after consultation with the state investment  
21 board, shall determine the investment policies for the college savings  
22 program. Program contributions may be invested by the state investment  
23 board or the committee may contract with an investment company licensed  
24 to conduct business in this state to do the investing. The committee  
25 shall keep or cause to be kept full and adequate accounts and records  
26 of the assets of each individual participant in the college savings  
27 program.

28 (4) Neither the state nor any eligible educational institution may  
29 be considered or held to be an insurer of the funds or assets of the  
30 individual participant accounts in the college savings program created  
31 under this section nor may any such entity be held liable for any  
32 shortage of funds in the event that balances in the individual  
33 participant accounts are insufficient to meet the educational expenses  
34 of the institution chosen by the student for which the individual  
35 participant account was intended.

36 (5) The committee shall adopt rules to implement this section.  
37 Such rules shall include but not be limited to administration,  
38 investment management, promotion, and marketing; compliance with  
39 internal revenue service standards; application procedures and fees;

1 start-up costs; phasing in the savings program and withdrawals  
2 therefrom; deterrents to early withdrawals and provisions for hardship  
3 withdrawals; and reenrollment in the savings program after withdrawal.

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

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

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

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

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

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

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

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

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

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

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

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

26 (2) All income received from investment of the treasurer's trust  
27 fund shall be set aside in an account in the treasury trust fund to be  
28 known as the investment income account.

29 (3) The investment income account may be utilized for the payment  
30 of purchased banking services on behalf of treasurer's trust funds  
31 including, but not limited to, depository, safekeeping, and  
32 disbursement functions for the state treasurer or affected state  
33 agencies. The investment income account is subject in all respects to  
34 chapter 43.88 RCW, but no appropriation is required for payments to  
35 financial institutions. Payments shall occur prior to distribution of  
36 earnings set forth in subsection (4) of this section.

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

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

20 (c) The following accounts and funds shall receive eighty percent  
21 of their proportionate share of earnings based upon each account's or  
22 fund's average daily balance for the period: The advanced right of way  
23 revolving fund, the advanced environmental mitigation revolving  
24 account, the federal narcotics asset forfeitures account, the high  
25 occupancy vehicle account, the local rail service assistance account,  
26 and the miscellaneous transportation programs account.

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

30 NEW SECTION. **Sec. 5.** Section 3 of this act is necessary for the  
31 immediate preservation of the public peace, health, or safety, or  
32 support of the state government and its existing public institutions,  
33 and takes effect July 1, 2001.

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