

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

Approved May 7, 2001

GARY LOCKE
Governor of the State of Washington

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

FILED

May 7, 2001 - 1:26 p.m.

**Secretary of State
State of Washington**

HOUSE BILL 2126

AS AMENDED BY THE SENATE

Passed Legislature - 2001 Regular Session

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 the
16 development of any authorized college savings program pursuant to
17 section 2 of this act.

18 (3) "Board" means the higher education coordinating board as
19 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, the legislative fiscal
9 and higher education committees, and the institutions of higher
10 education.

11 (2) Up to two hundred thousand dollars of administrative fees
12 collected from guaranteed education tuition program participants may be
13 applied as a loan to fund the development of a college savings program.
14 This loan must be repaid with interest before the conclusion of the
15 biennium in which the committee draws funds for this purpose from the
16 advanced college tuition payment program account.

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

27 (4) The committee, after consultation with the state investment
28 board, shall determine the investment policies for the college savings
29 program. Program contributions may be invested by the state investment
30 board or the committee may contract with an investment company licensed
31 to conduct business in this state to do the investing. The committee
32 shall keep or cause to be kept full and adequate accounts and records
33 of the assets of each individual participant in the college savings
34 program.

35 (5) Neither the state nor any eligible educational institution may
36 be considered or held to be an insurer of the funds or assets of the
37 individual participant accounts in the college savings program created
38 under this section nor may any such entity be held liable for any
39 shortage of funds in the event that balances in the individual

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (3) The investment income account may be utilized for the payment
38 of purchased banking services on behalf of treasurer's trust funds

1 including, but not limited to, depository, safekeeping, and
2 disbursement functions for the state treasurer or affected state
3 agencies. The investment income account is subject in all respects to
4 chapter 43.88 RCW, but no appropriation is required for payments to
5 financial institutions. Payments shall occur prior to distribution of
6 earnings set forth in subsection (4) of this section.

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

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

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

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

36 NEW SECTION. **Sec. 5.** Section 3 of this act is necessary for the
37 immediate preservation of the public peace, health, or safety, or

1 support of the state government and its existing public institutions,
2 and takes effect July 1, 2001.

Passed the House April 19, 2001.

Passed the Senate April 18, 2001.

Approved by the Governor May 7, 2001.

Filed in Office of Secretary of State May 7, 2001.