

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 6601

Chapter 69, Laws of 2016

64th Legislature
2016 Regular Session

COLLEGE SAVINGS PROGRAM--CREATION

EFFECTIVE DATE: 6/9/2016

Passed by the Senate March 8, 2016
Yeas 45 Nays 2

BRAD OWEN

President of the Senate

Passed by the House March 3, 2016
Yeas 82 Nays 13

FRANK CHOPP

Speaker of the House of Representatives

Approved March 29, 2016 4:28 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 6601** as passed by Senate and the House of Representatives on the dates hereon set forth.

HUNTER G. GOODMAN

Secretary

FILED

March 30, 2016

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE SENATE BILL 6601

AS AMENDED BY THE HOUSE

Passed Legislature - 2016 Regular Session

State of Washington 64th Legislature 2016 Regular Session

By Senate Ways & Means (originally sponsored by Senators Frockt, Bailey, Braun, Mullet, Carlyle, and McAuliffe)

READ FIRST TIME 02/09/16.

1 AN ACT Relating to creating the Washington college savings
2 program; amending RCW 28B.95.010, 28B.95.020, 28B.95.025, 28B.95.030,
3 28B.95.035, 28B.95.040, 28B.95.080, 28B.95.090, 28B.95.100,
4 28B.95.150, 28B.95.900, 43.33A.135, and 43.33A.190; reenacting and
5 amending RCW 43.79A.040; adding new sections to chapter 28B.95 RCW;
6 and creating a new section.

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

8 **Sec. 1.** RCW 28B.95.010 and 1997 c 289 s 1 are each amended to
9 read as follows:

10 (1) The Washington advanced college tuition payment program is
11 established to help make higher education affordable and accessible
12 to all citizens of the state of Washington by offering a savings
13 incentive that will protect purchasers and beneficiaries against
14 rising tuition costs. (~~The program is~~)

15 (2) Subject to the availability of amounts appropriated for this
16 specific purpose, the Washington college savings program is
17 established to provide an additional financial option for
18 individuals, organizations, and families to save for college.

19 (3) These programs are designed to encourage savings and enhance
20 the ability of Washington citizens to obtain financial access to
21 institutions of higher education. In addition, the programs

1 encourage((s)) elementary and secondary school students to do well in
2 school as a means of preparing for and aspiring to higher education
3 attendance. ((This program is)) These programs are intended to
4 promote a well-educated and financially secure population to the
5 ultimate benefit of all citizens of the state of Washington.

6 **Sec. 2.** RCW 28B.95.020 and 2015 3rd sp.s. c 36 s 6 are each
7 amended to read as follows:

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

10 (1) "Academic year" means the regular nine-month, three-quarter,
11 or two-semester period annually occurring between August 1st and July
12 31st.

13 (2) "Account" means the Washington advanced college tuition
14 payment program account established for the deposit of all money
15 received by the office from eligible purchasers and interest earnings
16 on investments of funds in the account, as well as for all
17 expenditures on behalf of eligible beneficiaries for the redemption
18 of tuition units and for the development of any authorized college
19 savings program pursuant to RCW 28B.95.150.

20 (3) "Advisor sold" means a channel through which a broker dealer,
21 investment advisor, or other financial intermediary recommends the
22 Washington college savings program established pursuant to RCW
23 28B.95.010 to eligible investors and assists with the opening and
24 servicing of individual college savings program accounts.

25 (4) "College savings program account" means the Washington
26 college savings program account established pursuant to RCW
27 28B.95.010.

28 (5) "Committee on advanced tuition payment and college savings"
29 or "committee" means a committee of the following members: The state
30 treasurer, the director of the office of financial management, the
31 director of the office, or their designees, and two members to be
32 appointed by the governor, one representing program participants and
33 one private business representative with marketing, public relations,
34 or financial expertise.

35 ((+4)) (6) "Contractual obligation" means a legally binding
36 contract of the state with the purchaser and the beneficiary
37 establishing that purchases of tuition units in the advanced college
38 tuition payment program will be worth the same number of tuition

1 units at the time of redemption as they were worth at the time of the
2 purchase, except as provided in RCW 28B.95.030(7).

3 ~~((+5))~~ (7) "Dual credit fees" means any fees charged to a
4 student for participation in college in the high school under RCW
5 28A.600.290 or running start under RCW 28A.600.310.

6 ~~((+6))~~ (8) "Eligible beneficiary" means the person ~~((for whom
7 the tuition unit will be redeemed for attendance at an institution of
8 higher education, participation in college in the high school under
9 RCW 28A.600.290, or participation in running start under RCW
10 28A.600.310. The beneficiary is that person named by the purchaser at
11 the time that a tuition unit contract is accepted by the governing
12 body))~~ designated as the individual whose education expenses are to
13 be paid from the advanced college tuition payment program or the
14 college savings program. Qualified organizations, as allowed under
15 section 529 of the federal internal revenue code, purchasing tuition
16 unit contracts as future scholarships need not designate a
17 beneficiary at the time of purchase.

18 ~~((+7))~~ (9) "Eligible contributor" means an individual or
19 organization that contributes money for the purchase of tuition
20 units, and for an individual college savings program account
21 established pursuant to this chapter for an eligible beneficiary.

22 (10) "Eligible purchaser" means an individual or organization
23 that has entered into a tuition unit contract with the governing body
24 for the purchase of tuition units in the advanced college tuition
25 payment program for an eligible beneficiary, or that has entered into
26 a participant college savings program account contract for an
27 eligible beneficiary. The state of Washington may be an eligible
28 purchaser for purposes of purchasing tuition units to be held for
29 granting Washington college bound scholarships.

30 ~~((+8))~~ (11) "Full-time tuition charges" means resident tuition
31 charges at a state institution of higher education for enrollments
32 between ten credits and eighteen credit hours per academic term.

33 ~~((+9))~~ (12) "Governing body" means the committee empowered by
34 the legislature to administer the Washington advanced college tuition
35 payment program and the Washington college savings program.

36 ~~((+10))~~ (13) "Individual college savings program account" means
37 the formal record of transactions relating to a Washington college
38 savings program beneficiary.

39 (14) "Institution of higher education" means an institution that
40 offers education beyond the secondary level and is recognized by the

1 internal revenue service under chapter 529 of the internal revenue
2 code.

3 ~~((11))~~ (15) "Investment board" means the state investment board
4 as defined in chapter 43.33A RCW.

5 ~~((12))~~ (16) "Investment manager" means the state investment
6 board, another state, or any other entity as selected by the
7 governing body, including another college savings plan established
8 pursuant to section 529 of the internal revenue code.

9 (17) "Office" means the office of student financial assistance as
10 defined in chapter 28B.76 RCW.

11 ~~((13))~~ (18) "Owner" means the eligible purchaser or the
12 purchaser's successor in interest who shall have the exclusive
13 authority to make decisions with respect to the tuition unit contract
14 or the individual college savings program contract. The owner has
15 exclusive authority and responsibility to establish and change the
16 asset investment options for a beneficiaries' individual college
17 savings program account.

18 (19) "Participant college savings program account contract" means
19 a contract to participate in the Washington college savings program
20 between an eligible purchaser and the office.

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

23 ~~((14))~~ (21) "Tuition and fees" means undergraduate tuition and
24 services and activities fees as defined in RCW 28B.15.020 and
25 28B.15.041 rounded to the nearest whole dollar. For purposes of this
26 chapter, services and activities fees do not include fees charged for
27 the payment of bonds heretofore or hereafter issued for, or other
28 indebtedness incurred to pay, all or part of the cost of acquiring,
29 constructing, or installing any lands, buildings, or facilities.

30 ~~((15))~~ (22) "Tuition unit contract" means a contract between an
31 eligible purchaser and the governing body, or a successor agency
32 appointed for administration of this chapter, for the purchase of
33 tuition units in the advanced college tuition payment program for a
34 specified beneficiary that may be redeemed at a later date for an
35 equal number of tuition units, except as provided in RCW
36 28B.95.030(7).

37 ~~((16))~~ (23) "Unit purchase price" means the minimum cost to
38 purchase one tuition unit in the advanced college tuition payment
39 program for an eligible beneficiary. Generally, the minimum purchase
40 price is one percent of the undergraduate tuition and fees for the

1 current year, rounded to the nearest whole dollar, adjusted for the
2 costs of administration and adjusted to ensure the actuarial
3 soundness of the account. The analysis for price setting shall also
4 include, but not be limited to consideration of past and projected
5 patterns of tuition increases, program liability, past and projected
6 investment returns, and the need for a prudent stabilization reserve.

7 **Sec. 3.** RCW 28B.95.025 and 2011 1st sp.s. c 11 s 169 are each
8 amended to read as follows:

9 The office shall maintain appropriate offices and employ and fix
10 compensation of such personnel as may be necessary to perform the
11 advanced college tuition payment program and the Washington college
12 savings program duties. The office shall consult with the governing
13 body on the selection, compensation, and other issues relating to the
14 employment of the program director. The positions are exempt from
15 classified service under chapter 41.06 RCW. The employees shall be
16 employees of the office.

17 **Sec. 4.** RCW 28B.95.030 and 2015 3rd sp.s. c 36 s 7 are each
18 amended to read as follows:

19 (1) The Washington advanced college tuition payment program shall
20 be administered by the committee on advanced tuition payment which
21 shall be chaired by the director of the office. The committee shall
22 be supported by staff of the office.

23 (2)(a) The Washington advanced college tuition payment program
24 shall consist of the sale of tuition units, which may be redeemed by
25 the beneficiary at a future date for an equal number of tuition units
26 regardless of any increase in the price of tuition, that may have
27 occurred in the interval, except as provided in subsection (7) of
28 this section.

29 (b) Each purchase shall be worth a specific number of or fraction
30 of tuition units at each state institution of higher education as
31 determined by the governing body, except as provided in subsection
32 (7) of this section.

33 (c) The number of tuition units necessary to pay for a full
34 year's, full-time undergraduate tuition and fee charges at a state
35 institution of higher education shall be set by the governing body at
36 the time a purchaser enters into a tuition unit contract, except as
37 provided in subsection (7) of this section.

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

8 (e) While the Washington advanced college tuition payment program
9 is designed to help all citizens of the state of Washington, the
10 governing body may determine residency requirements for eligible
11 purchasers and eligible beneficiaries to ensure the actuarial
12 soundness and integrity of the program.

13 (3)(a) No tuition unit may be redeemed until two years after the
14 purchase of the unit.

15 (b) Units may be redeemed for enrollment at any institution of
16 higher education that is recognized by the internal revenue service
17 under chapter 529 of the internal revenue code. Units may also be
18 redeemed to pay for dual credit fees.

19 (c) Units redeemed at a nonstate institution of higher education
20 or for graduate enrollment shall be redeemed at the rate for state
21 public institutions in effect at the time of redemption.

22 (4) The governing body shall determine the conditions under which
23 the tuition benefit may be transferred to another family member. In
24 permitting such transfers, the governing body may not allow the
25 tuition benefit to be bought, sold, bartered, or otherwise exchanged
26 for goods and services by either the beneficiary or the purchaser.

27 (5) The governing body shall administer the Washington advanced
28 college tuition payment program in a manner reasonably designed to be
29 actuarially sound, such that the assets of the trust will be
30 sufficient to defray the obligations of the trust including the costs
31 of administration. The governing body may, at its discretion,
32 discount the minimum purchase price for certain kinds of purchases
33 such as those from families with young children, as long as the
34 actuarial soundness of the account is not jeopardized.

35 (6) The governing body shall annually determine current value of
36 a tuition unit.

37 (7) For the 2015-16 and 2016-17 academic years only, the
38 governing body shall set the payout value for units redeemed during
39 that academic year only at one hundred seventeen dollars and eighty-
40 two cents per unit. For academic years after the 2016-17 academic

1 year, the governing body shall make program adjustments it deems
2 necessary and appropriate to ensure that the total payout value of
3 each account on October 9, 2015, is not decreased or diluted as a
4 result of the initial application of any changes in tuition under
5 section 3, chapter 36, Laws of 2015 3rd sp. sess. In the event the
6 committee or governing body provides additional units under chapter
7 36, Laws of 2015 3rd sp. sess., the committee and governing body
8 shall also increase the maximum number of units that can be redeemed
9 in any year to mitigate the reduction in available account value
10 during any year as a result of chapter 36, Laws of 2015 3rd sp. sess.
11 The governing body must notify holders of tuition units after the
12 adjustment in this subsection is made and must include a statement
13 concerning the adjustment.

14 (8) The governing body shall promote, advertise, and publicize
15 the Washington advanced college tuition payment program. Materials
16 and online publications advertising the Washington advanced college
17 tuition payment program shall include a disclaimer that the
18 Washington advanced college tuition payment program's guarantee is
19 that one hundred tuition units will equal one year of full-time,
20 resident, undergraduate tuition at the most expensive state
21 institution of higher education, and that if resident, undergraduate
22 tuition is reduced, a tuition unit may lose monetary value.

23 (9) In addition to any other powers conferred by this chapter,
24 the governing body may:

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

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

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

31 (d) Appoint and use advisory committees and the state actuary as
32 needed to provide program direction and guidance;

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

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

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

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

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

7 (j) Contract for other services or for goods needed by the
8 governing body in the conduct of its business under this chapter;

9 (k) Contract with financial consultants, actuaries, auditors, and
10 other consultants as necessary to carry out its responsibilities
11 under this chapter;

12 (l) Solicit and accept cash donations and grants from any person,
13 governmental agency, private business, or organization; and

14 (m) Perform all acts necessary and proper to carry out the duties
15 and responsibilities of this program under this chapter.

16 NEW SECTION. **Sec. 5.** A new section is added to chapter 28B.95
17 RCW to read as follows:

18 (1) The Washington college savings program shall be administered
19 by the committee, which shall be chaired by the director of the
20 office. The committee shall be supported by staff of the office.

21 (2) The Washington college savings program shall consist of the
22 college savings program account and the individual college savings
23 program accounts, and shall allow an eligible purchaser to establish
24 an individual college savings program account for an eligible
25 beneficiary whereby the money in the account may be invested and used
26 for enrollment at any institution of higher education that is
27 recognized by the internal revenue service under chapter 529 of the
28 internal revenue code. Money in the account may also be used to pay
29 for dual credit fees.

30 (3) The Washington college savings program is open to eligible
31 purchasers and eligible beneficiaries who are residents or
32 nonresidents of Washington state.

33 (4) The Washington college savings program shall not require
34 eligible purchasers to make an initial minimum contribution in any
35 amount that exceeds twenty-five dollars when establishing a new
36 account.

37 (5) The committee may contract with other state or nonstate
38 entities that are authorized to do business in the state for the
39 investment of moneys in the college savings program, including other

1 college savings plans established pursuant to section 529 of the
2 internal revenue code. The investment of eligible contributors'
3 deposits may be in credit unions, savings and loan associations,
4 banks, mutual savings banks, purchase life insurance, shares of an
5 investment company, individual securities, fixed annuity contracts,
6 variable annuity contracts, any insurance company, other 529 plans,
7 or any investment company licensed to contract business in this
8 state.

9 (6) The governing body shall determine the conditions under which
10 control or the beneficiary of an individual college savings program
11 account may be transferred to another family member. In permitting
12 such transfers, the governing body may not allow the individual
13 college savings program account to be bought, sold, bartered, or
14 otherwise exchanged for goods and services by either the beneficiary
15 or the purchaser.

16 (7) The governing body shall promote, advertise, and publicize
17 the Washington college savings program.

18 (8) The governing body shall develop materials to educate
19 potential account owners and beneficiaries on (a) the differences
20 between the advanced college tuition payment program and the
21 Washington college savings program, and (b) how the two programs can
22 complement each other to save towards the full cost of attending
23 college.

24 (9) In addition to any other powers conferred by this chapter,
25 the governing body may:

26 (a) Impose limits on the amount of contributions that may be made
27 on behalf of any eligible beneficiary;

28 (b) Determine and set age limits and any time limits for the use
29 of benefits under this chapter;

30 (c) Establish incentives to encourage participation in the
31 Washington college savings program to include but not be limited to
32 entering into agreements with any public or private employer under
33 which an employee may agree to have a designated amount deducted in
34 each payroll period from the wages due the employee for the purpose
35 of making contributions to a participant college savings program
36 account;

37 (d) Impose and collect administrative fees and charges in
38 connection with any transaction under this chapter;

39 (e) Appoint and use advisory committees and the state actuary as
40 needed to provide program direction and guidance;

1 (f) Formulate and adopt all other policies and rules necessary
2 for the efficient administration of the program;

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

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

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

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

15 (k) Contract with financial consultants, actuaries, auditors, and
16 other consultants as necessary to carry out its responsibilities
17 under this chapter;

18 (l) Review advisor sold 529 college savings plan programs used by
19 other states to supplement direct-sold channels, provide additional
20 program access and options, increase overall college savings by
21 residents, and if deemed appropriate, establish an advisor sold
22 option for the Washington college savings program;

23 (m) Solicit and accept gifts, bequests, cash donations, and
24 grants from any person, governmental agency, private business, or
25 organization; and

26 (n) Perform all acts necessary and proper to carry out the duties
27 and responsibilities of the Washington college savings program under
28 this chapter.

29 (10) It is the intent of the legislature to establish policy
30 goals for the Washington college savings program. The policy goals
31 established under this section are deemed consistent with creating a
32 nationally competitive 529 savings plan. The Washington college
33 savings program should support achievement of these policy goals:

34 (a) Process: To have an investment manager design a thoughtful,
35 well-diversified glide path for age-based portfolios and offer a
36 robust suite of investment options;

37 (b) People: To have a well-resourced, talented, and long-tenured
38 investment manager;

39 (c) Parent: To demonstrate that the committee is a good caretaker
40 of college savers' capital and can manage the plan professionally;

1 (d) Performance: To demonstrate that the program's options have
2 earned their keep with solid risk-adjusted returns over relevant time
3 periods; and

4 (e) Price: To demonstrate that the investment options are a good
5 value.

6 (11) The powers, duties, and functions of the Washington college
7 savings program must be performed in a manner consistent with the
8 policy goals in subsection (10) of this section.

9 (12) The policy goals in this section are intended to be the
10 basis for establishing detailed and measurable objectives and related
11 performance measures.

12 (13) It is the intent of the legislature that the committee
13 establish objectives and performance measures for the investment
14 manager to progress toward the attainment of the policy goals in
15 subsection (10) of this section. The committee shall submit
16 objectives and performance measures to the legislature for its review
17 and shall provide an updated report on the objectives and measures
18 before the regular session of the legislature during even-numbered
19 years thereafter.

20 NEW SECTION. **Sec. 6.** A new section is added to chapter 28B.95
21 RCW to read as follows:

22 (1) The committee shall create an expedited process by which
23 owners can complete a direct rollover of a 529 account from (a) a
24 state-sponsored prepaid tuition plan to a state-sponsored college
25 savings plan, (b) a state-sponsored college savings plan to a state-
26 sponsored prepaid tuition plan, or (c) a state-sponsored prepaid
27 tuition plan or a state-sponsored college savings plan to an out-of-
28 state eligible 529 plan.

29 (2) The committee shall report annually to the governor and the
30 appropriate committees of the legislature on (a) the number of
31 accounts that have been rolled into the Washington college savings
32 program from out of state and (b) the number of accounts rolled out
33 of the Washington college savings program to 529 plans into other
34 states.

35 **Sec. 7.** RCW 28B.95.035 and 1998 c 69 s 3 are each amended to
36 read as follows:

37 No member of the committee is liable for the negligence, default,
38 or failure of any other person or members of the committee to perform

1 the duties of office and no member may be considered or held to be an
2 insurer of the funds or assets of any of the advanced college tuition
3 payment program or any of the Washington college savings program.

4 **Sec. 8.** RCW 28B.95.040 and 2011 1st sp.s. c 11 s 171 are each
5 amended to read as follows:

6 The governing body may, at its discretion, allow an organization
7 to purchase tuition units or establish savings plans for future use
8 as scholarships. Such organizations electing to purchase tuition
9 units or establish Washington college savings program accounts for
10 this purpose must enter into a contract with the governing body
11 which, at a minimum, ensures that the scholarship shall be freely
12 given by the purchaser to a scholarship recipient. For such
13 purchases, the purchaser need not name a beneficiary until four
14 months before the date when the tuition units are first expected to
15 be used.

16 The governing body shall formulate and adopt such rules as are
17 necessary to determine which organizations may qualify to purchase
18 tuition units or establish Washington college savings program
19 accounts for scholarships under this section. The governing body also
20 may consider additional rules for the use of tuition units or
21 Washington college savings program accounts if purchased as
22 scholarships.

23 The governing body may establish a scholarship fund with moneys
24 from the Washington advanced college tuition payment program account.
25 A scholarship fund established under this authority shall be
26 administered by the office and shall be provided to students who
27 demonstrate financial need. Financial need is not a criterion that
28 any other organization need consider when using tuition units as
29 scholarships. The office also may establish its own corporate-
30 sponsored scholarship fund under this chapter.

31 NEW SECTION. **Sec. 9.** A new section is added to chapter 28B.95
32 RCW to read as follows:

33 (1) The Washington college savings program account is created in
34 the custody of the state treasurer. The account shall be a discrete
35 nontreasury account retaining its interest earnings in accordance
36 with RCW 43.79A.040.

37 (2) The governing body shall deposit in the account all moneys
38 received for the program. The account shall be self-sustaining and

1 consist of payments received for the purposes of college savings for
2 the beneficiary. With the exception of investment and operating costs
3 associated with the investment of money by a nonstate entity or paid
4 under RCW 43.08.190, 43.33A.160, and 43.84.160, the account shall be
5 credited with all investment income earned by the account.
6 Disbursements from the account are exempt from appropriations and the
7 allotment provisions of chapter 43.88 RCW. Money used for program
8 administration is subject to the allotment of all expenditures.
9 However, an appropriation is not required for such expenditures.
10 Program administration includes, but is not limited to: The salaries
11 and expenses of the Washington college savings program personnel
12 including lease payments, travel, and goods and services necessary
13 for program operation; contracts for Washington college savings
14 program promotion and advertisement, audits, and account management;
15 and other general costs of conducting the business of the Washington
16 college savings program.

17 (3) The account is authorized to maintain a cash deficit in the
18 account for a period no more than five fiscal years to defray its
19 initial program administration costs. By December 31, 2017, the
20 governing body shall establish a program administration spending plan
21 and a fee schedule to discharge any projected cash deficit to the
22 account. The legislature may make appropriations into the account for
23 the purpose of reducing program administration costs.

24 (4) The assets of the account may be spent without appropriation
25 for the purpose of making payments to institutions of higher
26 education on behalf of the qualified beneficiaries, making refunds,
27 transfers, or direct payments upon the termination of the Washington
28 college savings program. Disbursements from the account shall be made
29 only on the authorization of the governing body.

30 (5) With regard to the assets of the account, the state acts in a
31 fiduciary, not ownership, capacity. Therefore the assets of the
32 program are not considered state money, common cash, or revenue to
33 the state.

34 **Sec. 10.** RCW 28B.95.080 and 2011 1st sp.s. c 12 s 3 are each
35 amended to read as follows:

36 The governing body shall annually evaluate, and cause to be
37 evaluated by the state actuary, the soundness of the advanced college
38 tuition payment program account and determine the additional assets
39 needed, if any, to defray the obligations of the account. The

1 governing body may, at its discretion, consult with a nationally
2 recognized actuary for periodic assessments of the account.

3 If funds are determined by the governing body, based on actuarial
4 analysis to be insufficient to ensure the actuarial soundness of the
5 account, the governing body shall adjust the price of subsequent
6 tuition credit purchases to ensure its soundness.

7 If there are insufficient numbers of new purchases to ensure the
8 actuarial soundness of the account, the governing body shall request
9 such funds from the legislature as are required to ensure the
10 integrity of the program. Funds may be appropriated directly to the
11 account or appropriated under the condition that they be repaid at a
12 later date. The repayment shall be made at such time that the account
13 is again determined to be actuarially sound.

14 NEW SECTION. **Sec. 11.** A new section is added to chapter 28B.95
15 RCW to read as follows:

16 The governing body shall begin and continue to accept
17 applications for new tuition unit contracts and authorize the sale of
18 new tuition units by July 1, 2017. Upon reopening the advanced
19 college tuition payment program, in any year in which the total
20 annual sale of tuition units is below five hundred thousand, the
21 governing body shall determine how to reinvigorate the advanced
22 college tuition payment program to incentivize Washingtonians to
23 enter into tuition unit contracts and purchase tuition units.

24 **Sec. 12.** RCW 28B.95.090 and 2005 c 272 s 3 are each amended to
25 read as follows:

26 (1) In the event that the ((state)) legislature determines that
27 the advanced college tuition payment program is not financially
28 feasible, or for any other reason, the ((state)) legislature may
29 declare the discontinuance of the program. At the time of such
30 declaration, the governing body will cease to accept any further
31 tuition unit contracts or purchases.

32 (2) The remaining tuition units for all beneficiaries who have
33 either enrolled in higher education or who are within four years of
34 graduation from a secondary school shall be honored until such
35 tuition units have been exhausted, or for ten fiscal years from the
36 date that the program has been discontinued, whichever comes first.
37 All other contract holders shall receive a refund equal to the value

1 of the current tuition units in effect at the time that the program
2 was declared discontinued.

3 (3) At the end of the ten-year period, any tuition units
4 remaining unused by currently active beneficiaries enrolled in higher
5 education shall be refunded at the value of the current tuition unit
6 in effect at the end of that ten-year period.

7 (4) At the end of the ten-year period, all other funds remaining
8 in the account not needed to make refunds or to pay for
9 administrative costs shall be deposited to the state general fund.

10 (5) The governing body may make refunds under other exceptional
11 circumstances as it deems fit, however, no tuition units may be
12 honored after the end of the tenth fiscal year following the
13 declaration of discontinuance of the program.

14 NEW SECTION. **Sec. 13.** A new section is added to chapter 28B.95
15 RCW to read as follows:

16 (1) The investment manager has the full power to invest,
17 reinvest, manage, contract, sell, or exchange investment money in the
18 Washington college savings program without limitation as to the
19 amount pursuant to RCW 43.84.150 and 43.33A.140. All investment and
20 operating costs associated with the investment of money must be paid
21 to the investment manager as allowed by RCW 43.33A.160 and 43.84.160.
22 With the exception of these expenses and the administrative costs
23 authorized in sections 5 and 9 of this act, one hundred percent of
24 all earnings from investments accrue directly to the owner of the
25 individual college savings program account.

26 (2) The governing body may allow owners to self-direct the
27 investment of moneys in individual college savings program accounts
28 through the selection of investment options. The governing body may
29 provide plans that it deems are in the interests of the owners and
30 beneficiaries.

31 (a) The investment manager, after consultation with the governing
32 body, shall provide a set of options for owners to choose from for
33 investment of individual college savings program account
34 contributions, including an age-based investment option.

35 (b) The investment manager has the full authority to invest
36 moneys pursuant to the investment directions of the owner of a self-
37 directed individual college savings program account.

38 (3) Annually on each December 1st, the committee shall report to
39 the governor and the appropriate committees of the legislature

1 regarding the total fees charged to each investment option offered in
2 the Washington college savings program. It is the intent of the
3 legislature that fees charged to the owner not exceed one-half of one
4 percent for any investment option on an annual basis. Beginning
5 January 1, 2018, fees charged to the owner may not exceed one-half of
6 one percent for any investment option on an annual basis.

7 (4) In the next succeeding legislative session following receipt
8 of a report required under subsection (3) of this section, the
9 appropriate committees of the legislature shall review the report and
10 consider whether any legislative action is necessary with respect to
11 the investment option with fees that exceed one-half of one percent,
12 including but not limited to consideration of whether any legislative
13 action is necessary with respect to reducing the fees and expenses
14 associated with the underlying investment option. With the exception
15 of fees associated with the administration of the program authorized
16 in sections 5 and 9 of this act, all moneys in the college savings
17 program account, all property and rights purchased with the account,
18 and all income attributable to the account, shall be held in trust
19 for the exclusive benefit of the owners and their eligible
20 beneficiaries.

21 (5) All investments made by the investment manager shall be made
22 with the exercise of that degree of judgment and care expressed in
23 chapter 43.33A RCW.

24 (6) As deemed appropriate by the investment manager, money in the
25 Washington college savings program account may be commingled for
26 investment with other funds subject to investment by the investment
27 manager.

28 (7) The authority to establish all policies relating to the
29 Washington college savings program and the Washington college savings
30 program account, other than investment policies resides with the
31 governing body. With the exception of expenses of the investment
32 manager as provided in subsection (1) of this section, disbursements
33 from the Washington college savings program account shall be made
34 only on the authorization of the governing body or its designee, and
35 moneys in the account may be spent only for the purposes of the
36 Washington college savings program as specified in this chapter.

37 (8) The investment manager shall routinely consult and
38 communicate with the governing body on the investment policy,
39 earnings of the trust, and related needs of the Washington college
40 savings program.

1 **Sec. 14.** RCW 28B.95.100 and 2000 c 14 s 7 are each amended to
2 read as follows:

3 (1) The governing body, in planning and devising the advanced
4 college tuition payment program and the Washington college savings
5 program, shall consult with the investment board, the state
6 treasurer, the office of financial management, and the institutions
7 of higher education.

8 (2) The governing body may seek the assistance of the state
9 agencies named in subsection (1) of this section, private financial
10 institutions, and any other qualified party with experience in the
11 areas of accounting, actuary, risk management, or investment
12 management to assist with preparing an accounting of the programs and
13 ensuring the fiscal soundness of the advanced college tuition payment
14 program account and the Washington college savings program account.

15 (3) State agencies and public institutions of higher education
16 shall fully cooperate with the governing body in matters relating to
17 the programs in order to ensure the solvency of the advanced college
18 tuition payment account and the Washington college savings program
19 account and ability of the governing body to meet outstanding
20 commitments.

21 NEW SECTION. **Sec. 15.** A new section is added to chapter 28B.95
22 RCW to read as follows:

23 The intent of the Washington college savings program is to make
24 distributions from individual college savings program accounts for
25 beneficiaries' attendance at public or private institutions of higher
26 education. Federal penalties and taxes associated with 529 savings
27 plan refunds may apply to any refund issued by the Washington college
28 savings plan. Refunds shall be issued under specific conditions that
29 may include the following:

30 (1) Certification that the beneficiary, who is eighteen years of
31 age or older, will not attend a public or private institution of
32 higher education, will result in a refund not to exceed the current
33 value at the time of such certification. The refund shall be made no
34 sooner than ninety days after such certification, less any
35 administrative processing fees assessed by the governing body;

36 (2) If there is certification of the death or disability of the
37 beneficiary, the refund shall be equal to one hundred percent of the
38 current value at the time that such certification is submitted to the

1 governing body, less any administrative processing fees assessed by
2 the governing body;

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

10 (4) If there is certification of other tuition and fee
11 scholarships that will cover the cost of tuition for the eligible
12 beneficiary, the refund may not exceed the value of the scholarship
13 or scholarships, less any administrative processing fees assessed by
14 the governing body;

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

21 (6) The governing body may determine other circumstances
22 qualifying for refunds of remaining unused participant Washington
23 college savings program account balances and may determine the value
24 of that refund.

25 NEW SECTION. **Sec. 16.** A new section is added to chapter 28B.95
26 RCW to read as follows:

27 With regard to bankruptcy filings and enforcement of judgments
28 under Title 6 RCW, participant Washington college savings program
29 account deposits made more than two years before the date of filing
30 or judgment are considered excluded personal assets.

31 **Sec. 17.** RCW 28B.95.150 and 2012 c 198 s 16 are each amended to
32 read as follows:

33 (1) The committee may establish a college savings program. If
34 such a program is established, the college savings program shall be
35 established, in such form as may be determined by the committee, to
36 be a qualified state tuition program as defined by the internal
37 revenue service under section 529 of the internal revenue code, and
38 shall be administered in a manner consistent with the Washington

1 advanced college tuition payment program. The committee, in planning
2 and devising the program, shall consult with the state investment
3 board, the state treasurer, the state actuary, the legislative fiscal
4 and higher education committees, and the institutions of higher
5 education. The governing body may, at its discretion, consult with a
6 qualified actuarial consulting firm with appropriate expertise to
7 evaluate such plans for periodic assessments of the program.

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

15 (3) The committee, after consultation with the state investment
16 board or other contracted investment manager, shall determine the
17 investment policies for the college savings program. Program
18 contributions may be invested by the state investment board, in which
19 case it and not the committee shall determine the investment policies
20 for the college savings program, or the committee may contract with
21 an investment company licensed to conduct business in this state to
22 do the investing. The committee shall keep or cause to be kept full
23 and adequate accounts and records of the assets of each individual
24 participant in the college savings program.

25 (4)(a) The governing body may elect to have the state investment
26 board serve as investment manager for the funds in the college
27 savings program. Members of the state investment board and its
28 officers and employees are not considered an insurer of the funds or
29 assets and are not liable for any action or inaction.

30 (b) Members of the state investment board and its officers and
31 employees are not liable to the state, to the fund, or to any other
32 person as a result of their activities as members, whether
33 ministerial or discretionary, except for willful dishonesty or
34 intentional violations of law. The state investment board in its
35 discretion may purchase liability insurance for members.

36 (c) If selected by the governing body to be the investment
37 manager, the state investment board retains all authority to
38 establish all investment policies relating to the investment of
39 college savings program moneys.

1 (d) The state investment board shall routinely consult and
2 communicate with the committee on the investment policy, earnings of
3 the accounts, and related needs of the college savings program.

4 (5) The owner has exclusive authority and responsibility to
5 establish and change the asset allocation for an individual
6 participant college savings program account.

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

15 ~~((+5))~~ (7) The committee shall adopt rules to implement this
16 section. Such rules shall include but not be limited to
17 administration, investment management, recordkeeping, promotion, and
18 marketing; compliance with internal revenue service standards and
19 applicable securities regulations; application procedures and fees;
20 start-up costs; phasing in the savings program and withdrawals
21 therefrom; deterrents to early withdrawals and provisions for
22 hardship withdrawals; and reenrollment in the savings program after
23 withdrawal.

24 ~~((+6))~~ (8) The committee may, at its discretion, determine to
25 cease operation of the college savings program if it determines the
26 continuation is not in the best interest of the state. The committee
27 shall adopt rules to implement this section addressing the orderly
28 distribution of assets.

29 **Sec. 18.** RCW 28B.95.900 and 1997 c 289 s 11 are each amended to
30 read as follows:

31 This chapter shall not be construed as a promise that any
32 beneficiary shall be granted admission to any institution of higher
33 education, will earn any specific or minimum number of academic
34 credits, or will graduate from any such institution. In addition,
35 this chapter shall not be construed as a promise of either course or
36 program availability.

37 Participation in ~~((this))~~ the advanced college tuition payment
38 program or the Washington college savings program does not guarantee
39 an eligible beneficiary the right to resident tuition and fees. To

1 qualify for resident and respective tuition subsidies, the eligible
2 beneficiary must meet the applicable provisions of RCW 28B.15.011
3 through 28B.15.015.

4 This chapter shall not be construed to imply that the redemption
5 of tuition units in the advanced college tuition payment program
6 shall be equal to any value greater than the undergraduate tuition
7 and services and activities fees at a state institution of higher
8 education as computed under this chapter. Eligible beneficiaries will
9 be responsible for payment of any other fee that does not qualify as
10 a services and activities fee including, but not limited to, any
11 expenses for tuition surcharges, tuition overload fees, laboratory
12 fees, equipment fees, book fees, rental fees, room and board charges,
13 or fines.

14 **Sec. 19.** RCW 43.33A.135 and 2010 1st sp.s. c 7 s 36 are each
15 amended to read as follows:

16 The state investment board has the full power to establish
17 investment policy, develop participant investment options, and manage
18 investment funds for the college savings program, if the committee on
19 advanced tuition payment and college savings selects the state
20 investment board as the investment manager pursuant to section 5 of
21 this act, and for the state deferred compensation plan, consistent
22 with the provisions of RCW 41.50.770 and 41.50.780. The board may
23 continue to offer the investment options provided as of June 11,
24 1998, until the board establishes a deferred compensation plan
25 investment policy and adopts new investment options after considering
26 the recommendations of the department of retirement systems.

27 **Sec. 20.** RCW 43.33A.190 and 2000 c 247 s 701 are each amended to
28 read as follows:

29 (~~Pursuant to RCW 41.34.130,~~) The state investment board shall
30 invest all self-directed investment moneys under teachers' retirement
31 system plan 3, the school employees' retirement system plan 3, and
32 the public employees' retirement system plan 3 pursuant to RCW
33 41.34.130 and under the college savings program, if the committee on
34 advanced tuition payment and college savings selects the state
35 investment board as the investment manager pursuant to section 5 of
36 this act, with full power to establish investment policy, develop
37 investment options, and manage self-directed investment funds.

1 **Sec. 21.** RCW 43.79A.040 and 2013 c 251 s 5 and 2013 c 88 s 1 are
2 each reenacted and amended to read as follows:

3 (1) Money in the treasurer's trust fund may be deposited,
4 invested, and reinvested by the state treasurer in accordance with
5 RCW 43.84.080 in the same manner and to the same extent as if the
6 money were in the state treasury, and may be commingled with moneys
7 in the state treasury for cash management and cash balance purposes.

8 (2) All income received from investment of the treasurer's trust
9 fund must be set aside in an account in the treasury trust fund to be
10 known as the investment income account.

11 (3) The investment income account may be utilized for the payment
12 of purchased banking services on behalf of treasurer's trust funds
13 including, but not limited to, depository, safekeeping, and
14 disbursement functions for the state treasurer or affected state
15 agencies. The investment income account is subject in all respects to
16 chapter 43.88 RCW, but no appropriation is required for payments to
17 financial institutions. Payments must occur prior to distribution of
18 earnings set forth in subsection (4) of this section.

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

22 (b) The following accounts and funds must receive their
23 proportionate share of earnings based upon each account's or fund's
24 average daily balance for the period: The Washington promise
25 scholarship account, the Washington advanced college tuition payment
26 program account, the Washington college savings program account, the
27 accessible communities account, the community and technical college
28 innovation account, the agricultural local fund, the American Indian
29 scholarship endowment fund, the foster care scholarship endowment
30 fund, the foster care endowed scholarship trust fund, the contract
31 harvesting revolving account, the Washington state combined fund
32 drive account, the commemorative works account, the county enhanced
33 911 excise tax account, the toll collection account, the
34 developmental disabilities endowment trust fund, the energy account,
35 the fair fund, the family leave insurance account, the food animal
36 veterinarian conditional scholarship account, the fruit and vegetable
37 inspection account, the future teachers conditional scholarship
38 account, the game farm alternative account, the GET ready for math
39 and science scholarship account, the Washington global health
40 technologies and product development account, the grain inspection

1 revolving fund, the industrial insurance rainy day fund, the juvenile
2 accountability incentive account, the law enforcement officers' and
3 firefighters' plan 2 expense fund, the local tourism promotion
4 account, the multiagency permitting team account, the pilotage
5 account, the produce railcar pool account, the regional
6 transportation investment district account, the rural rehabilitation
7 account, the stadium and exhibition center account, the youth
8 athletic facility account, the self-insurance revolving fund, the
9 children's trust fund, the Washington horse racing commission
10 Washington bred owners' bonus fund and breeder awards account, the
11 Washington horse racing commission class C purse fund account, the
12 individual development account program account, the Washington horse
13 racing commission operating account, the life sciences discovery
14 fund, the Washington state heritage center account, the reduced
15 cigarette ignition propensity account, the center for childhood
16 deafness and hearing loss account, the school for the blind account,
17 the Millersylvania park trust fund, the public employees' and
18 retirees' insurance reserve fund, and the radiation perpetual
19 maintenance fund.

20 (c) The following accounts and funds must 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-
23 way 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 (d) Any state agency that has independent authority over accounts
28 or funds not statutorily required to be held in the custody of the
29 state treasurer that deposits funds into a fund or account in the
30 custody of the state treasurer pursuant to an agreement with the
31 office of the state treasurer shall receive its proportionate share
32 of earnings based upon each account's or fund's average daily balance
33 for the period.

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

37 NEW SECTION. **Sec. 22.** If specific funding for the purposes of
38 this act, referencing this act by bill or chapter number, is not

1 provided by June 30, 2016, in the omnibus appropriations act, this
2 act is null and void.

Passed by the Senate March 8, 2016.

Passed by the House March 3, 2016.

Approved by the Governor March 29, 2016.

Filed in Office of Secretary of State March 30, 2016.