
SENATE BILL 5098

State of Washington

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By Senators Rockefeller, Keiser, Weinstein, Fairley, Marr, Murray, Kastama, Kohl-Welles, Rasmussen, McAuliffe, Kauffman, Kilmer, Tom and Shin

Read first time 01/10/2007. Referred to Committee on Higher Education.

1 AN ACT Relating to the guaranteed opportunities scholarship;
2 amending RCW 28B.95.020, 28B.95.030, and 28B.95.060; reenacting and
3 amending RCW 43.79A.040; adding a new section to chapter 28B.95 RCW;
4 and adding a new chapter to Title 28B RCW.

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

6 NEW SECTION. **Sec. 1.** The legislature intends to inspire and
7 encourage all Washington students to dream big by creating a guaranteed
8 one-year tuition scholarship program for students from low and middle-
9 income families and those students that may be the first in their
10 family to attend college. The legislature finds that too often,
11 financial barriers prevent many of the brightest students from
12 considering college as a future possibility. Often the cost of tuition
13 coupled with the complexity of finding and applying for financial aid
14 is enough to prevent a student from even applying to college. Many
15 students become disconnected from the education system early on and may
16 give up or drop out before graduation. It is the intent of the
17 legislature to reward students early in their educational career so
18 that they know they have options and opportunities available beyond
19 high school.

1 NEW SECTION. **Sec. 2.** The higher education coordinating board
2 shall design the guaranteed opportunities scholarship in accordance
3 with this section.

4 (1) Eligible students shall be notified of their eligibility for
5 the guaranteed opportunities scholarship program beginning in their
6 seventh grade year and each year thereafter. Students shall also be
7 notified of the requirements for award of the scholarship.

8 (2) Scholarships shall be awarded to students graduating from
9 public high schools and approved private high schools under chapter
10 28A.195 RCW.

11 (3) "Eligible students" are those students who qualify for free- or
12 reduced-price lunch or students whose parents have not completed a
13 baccalaureate degree program. If a student qualifies in the seventh
14 grade, the student remains eligible even if the student does not
15 receive free- or reduced-price lunch or a parent receives a
16 baccalaureate degree thereafter.

17 (4) To receive the guaranteed opportunities scholarship, a student
18 must graduate from a public high school or an approved private high
19 school under chapter 28A.195 RCW in Washington, must have maintained a
20 C average or better throughout high school, and must have no felony
21 conviction record.

22 (5) A student's family income will be assessed upon graduation
23 before awarding the scholarship. If the family income exceeds one
24 hundred percent of the state median family income adjusted for family
25 size, as determined by the higher education coordinating board for each
26 graduating class, the student shall receive a prorated scholarship.

27 (6) The maximum scholarship amount is four hundred tuition units.

28 (7) The first scholarships shall be awarded to students graduating
29 in 2012.

30 (8) The state of Washington retains legal ownership of tuition
31 units awarded as scholarships under this chapter until the tuition
32 units are redeemed. These tuition units shall remain separately held
33 from any tuition units owned under chapter 28B.95 RCW by a guaranteed
34 opportunities scholarship recipient.

35 (9) The scholarship award must be used within five years of
36 receipt. Any unused scholarship tuition units revert to the guaranteed
37 opportunities scholarship account.

1 (10) Guaranteed opportunities scholarships are not intended to
2 supplant any grant, scholarship, or tax program related to
3 postsecondary education. If the board finds that the scholarship
4 supplants or reduces any grant, scholarship, or tax program for
5 categories of students, then the board shall adjust the amount of
6 scholarship to the level necessary to avoid supplanting.

7 (11) The higher education coordinating board, with the assistance
8 of the office of the superintendent of public instruction, shall
9 implement and administer the guaranteed opportunities scholarship
10 program.

11 NEW SECTION. **Sec. 3.** (1) The guaranteed opportunities scholarship
12 account is created in the custody of the state treasurer. The account
13 shall be a discrete nontreasury account retaining its interest earnings
14 in accordance with RCW 43.79A.040.

15 (2) The higher education coordinating board shall deposit in the
16 account all money received for the program. The account shall be self-
17 sustaining and consist of funds representing tuition units purchased by
18 the state of Washington and funds received from other sources, public
19 or private. With the exception of investment and operating costs
20 associated with the investment of money by the investment board paid
21 under RCW 43.33A.160 and 43.84.160, the account shall be credited with
22 all investment income earned by the account. Disbursements from the
23 account are exempt from appropriations and the allotment provisions of
24 chapter 43.88 RCW. Money used for program administration is subject to
25 the allotment of all expenditures. However, an appropriation is not
26 required for such expenditures.

27 (3) The limitations and authorities applicable to the Washington
28 advanced college tuition payment program under RCW 28B.95.060 apply to
29 the guaranteed opportunities scholarship account.

30 (4) The assets of the account may be spent without appropriation
31 for the purpose of making payments to institutions of higher education
32 on behalf of recipients of guaranteed opportunities scholarships.
33 Disbursements from the account shall be made only on the authorization
34 of the higher education coordinating board.

35 (5) Administrative expenses of the tuition unit payment portion of
36 the guaranteed opportunities program shall be paid from the guaranteed

1 opportunities scholarship account in an amount not to exceed three
2 percent of total available assets in the account.

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

7 NEW SECTION. **Sec. 4.** The higher education coordinating board may
8 adopt rules to implement this chapter.

9 **Sec. 5.** RCW 28B.95.020 and 2005 c 272 s 1 are each amended to read
10 as follows:

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

13 (1) "Academic year" means the regular nine-month, three-quarter, or
14 two-semester period annually occurring between August 1st and July
15 31st.

16 (2) "Account" means the Washington advanced college tuition payment
17 program account established for the deposit of all money received by
18 the board from eligible purchasers and interest earnings on investments
19 of funds in the account, as well as for all expenditures on behalf of
20 eligible beneficiaries for the redemption of tuition units and for the
21 development of any authorized college savings program pursuant to RCW
22 28B.95.150.

23 (3) "Board" means the higher education coordinating board as
24 defined in chapter 28B.76 RCW.

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

32 (5) "Governing body" means the committee empowered by the
33 legislature to administer the Washington advanced college tuition
34 payment program.

35 (6) "Contractual obligation" means a legally binding contract of
36 the state with the purchaser and the beneficiary establishing that

1 purchases of tuition units will be worth the same number of tuition
2 units at the time of redemption as they were worth at the time of the
3 purchase.

4 (7) "Eligible beneficiary" means the person for whom the tuition
5 unit will be redeemed for attendance at an institution of higher
6 education. The beneficiary is that person named by the purchaser at
7 the time that a tuition unit contract is accepted by the governing
8 body. Qualified organizations, as allowed under section 529 of the
9 federal internal revenue code, purchasing tuition unit contracts as
10 future scholarships need not designate a beneficiary at the time of
11 purchase.

12 (8) "Eligible purchaser" means an individual or organization that
13 has entered into a tuition unit contract with the governing body for
14 the purchase of tuition units for an eligible beneficiary. The state
15 of Washington may be an eligible purchaser for purposes of purchasing
16 tuition units to be held for granting guaranteed opportunities
17 scholarships.

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

21 (10) "Institution of higher education" means an institution that
22 offers education beyond the secondary level and is recognized by the
23 internal revenue service under chapter 529 of the internal revenue
24 code.

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

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

29 (13) "Tuition and fees" means undergraduate tuition and services
30 and activities fees as defined in RCW 28B.15.020 and 28B.15.041 rounded
31 to the nearest whole dollar. For purposes of this chapter, services
32 and activities fees do not include fees charged for the payment of
33 bonds heretofore or hereafter issued for, or other indebtedness
34 incurred to pay, all or part of the cost of acquiring, constructing, or
35 installing any lands, buildings, or facilities.

36 (14) "Tuition unit contract" means a contract between an eligible
37 purchaser and the governing body, or a successor agency appointed for

1 administration of this chapter, for the purchase of tuition units for
2 a specified beneficiary that may be redeemed at a later date for an
3 equal number of tuition units.

4 (15) "Unit purchase price" means the minimum cost to purchase one
5 tuition unit for an eligible beneficiary. Generally, the minimum
6 purchase price is one percent of the undergraduate tuition and fees for
7 the current year, rounded to the nearest whole dollar, adjusted for the
8 costs of administration and adjusted to ensure the actuarial soundness
9 of the account. The analysis for price setting shall also include, but
10 not be limited to consideration of past and projected patterns of
11 tuition increases, program liability, past and projected investment
12 returns, and the need for a prudent stabilization reserve.

13 **Sec. 6.** RCW 28B.95.030 and 2005 c 272 s 2 are each amended to read
14 as follows:

15 (1) The Washington advanced college tuition payment program shall
16 be administered by the committee on advanced tuition payment which
17 shall be chaired by the executive director of the board. The committee
18 shall be supported by staff of the board.

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

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

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

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

1 (e) While the Washington advanced college tuition payment program
2 is designed to help all citizens of the state of Washington, the
3 governing body may determine residency requirements for eligible
4 purchasers and eligible beneficiaries to ensure the actuarial soundness
5 and integrity of the program.

6 (3)(a) Except for tuition units purchased by the state of
7 Washington for the guaranteed opportunities scholarship program under
8 chapter 28B.-- RCW (sections 1 through 4 of this act), no tuition unit
9 may be redeemed until two years after the purchase of the unit. Units
10 may be redeemed for enrollment at any institution of higher education
11 that is recognized by the internal revenue service under chapter 529 of
12 the internal revenue code.

13 (b) Units redeemed at a nonstate institution of higher education or
14 for graduate enrollment shall be redeemed at the rate for state public
15 institutions in effect at the time of redemption.

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

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

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

31 (7) The governing body shall promote, advertise, and publicize the
32 Washington advanced college tuition payment program.

33 (8) In addition to any other powers conferred by this chapter, the
34 governing body may:

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

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

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

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

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

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

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

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

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

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

21 (k) Contract with financial consultants, actuaries, auditors, and
22 other consultants as necessary to carry out its responsibilities under
23 this chapter;

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

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

28 NEW SECTION. **Sec. 7.** A new section is added to chapter 28B.95 RCW
29 to read as follows:

30 Ownership of tuition units purchased by the state of Washington for
31 the guaranteed opportunities scholarship program under chapter 28B.--
32 RCW (sections 1 through 4 of this act) shall be in the name of the
33 state of Washington and may be redeemed by the state of Washington on
34 behalf of recipients of guaranteed opportunities scholarships for
35 tuition and fees only and not for college-related expenses.

1 **Sec. 8.** RCW 28B.95.060 and 2000 c 14 s 5 are each amended to read
2 as follows:

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

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

24 **(b) All money received by the program from the state of Washington**
25 **for the guaranteed opportunities scholarship program shall be deposited**
26 **in the guaranteed opportunities scholarship account created in section**
27 **3 of this act.**

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

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

1 **Sec. 9.** RCW 43.79A.040 and 2006 c 311 s 21 and 2006 c 120 s 2 are
2 each reenacted and amended to read as follows:

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

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

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

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

21 (b) The following accounts and funds shall receive their
22 proportionate share of earnings based upon each account's or fund's
23 average daily balance for the period: The Washington promise
24 scholarship account, the college savings program account, the
25 Washington advanced college tuition payment program account, the
26 guaranteed opportunities scholarship account, the agricultural local
27 fund, the American Indian scholarship endowment fund, the foster care
28 scholarship endowment fund, the foster care endowed scholarship trust
29 fund, the students with dependents grant account, the basic health plan
30 self-insurance reserve account, the contract harvesting revolving
31 account, the Washington state combined fund drive account, the
32 commemorative works account, the Washington international exchange
33 scholarship endowment fund, the developmental disabilities endowment
34 trust fund, the energy account, the fair fund, the fruit and vegetable
35 inspection account, the future teachers conditional scholarship
36 account, the game farm alternative account, the grain inspection
37 revolving fund, the juvenile accountability incentive account, the law
38 enforcement officers' and fire fighters' plan 2 expense fund, the local

1 tourism promotion account, the produce railcar pool account, the
2 regional transportation investment district account, the rural
3 rehabilitation account, the stadium and exhibition center account, the
4 youth athletic facility account, the self-insurance revolving fund, the
5 sulfur dioxide abatement account, the children's trust fund, the
6 Washington horse racing commission Washington bred owners' bonus fund
7 account, the Washington horse racing commission class C purse fund
8 account, the individual development account program account, the
9 Washington horse racing commission operating account (earnings from the
10 Washington horse racing commission operating account must be credited
11 to the Washington horse racing commission class C purse fund account),
12 the life sciences discovery fund, and the reading achievement account.
13 However, the earnings to be distributed shall first be reduced by the
14 allocation to the state treasurer's service fund pursuant to RCW
15 43.08.190.

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

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

27 NEW SECTION. **Sec. 10.** Sections 1 through 4 of this act constitute
28 a new chapter in Title 28B RCW.

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