

ENGROSSED HOUSE
BILL NO. 1221

BY: DAVIS, DUNLAP, WEAVER,
VAUGHN (Ray), JOHNSON
(Rob), GREENWOOD, GATES
and COLEMAN of the HOUSE

and

WILLIAMS (Penny) of the
SENATE

AN ACT RELATING TO SCHOOLS; AMENDING SECTIONS 2, 3,
5, 7 AND 12, CHAPTER 261, O.S.L. 1988 (70 O.S.
SUPP. 1990, SECTIONS 6001, 6002, 6004, 6006 AND
6011), WHICH RELATE TO THE OKLAHOMA TUITION TRUST
ACT; MODIFYING PROVISIONS OF ACT TO INCLUDE PRIVATE
INSTITUTIONS; AND DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 2, Chapter 261, O.S.L.
1988 (70 O.S. Supp. 1990, Section 6001), is amended to read as
follows:

Section 6001. A. The Legislature finds and declares the
following:

1. It is an essential function of state government to forever
encourage schools and the means of education;
2. It is a responsibility of state government to maintain state
institutions of higher education;
3. It is an essential function of state government to encourage
attendance at ~~state~~ institutions of higher education;

4. Tuition costs at ~~public~~ institutions of higher education are difficult for many to afford and are difficult to predict in order to enable individuals and families to plan;

5. It is in the best interest of the people of this state to foster public higher education in order to provide well-educated citizens;

6. It is in the best interest of the people of this state to encourage state residents desiring higher education to enroll in ~~state~~ institutions of higher learning;

7. Students in elementary and secondary schools tend to achieve a higher standard of performance when the payment of tuition for their higher education is secured; and

8. Providing assistance to assure the higher education of the citizens of this state is necessary and desirable for the public health, safety and welfare.

B. It is therefore the intention of the Legislature that the purposes of the Oklahoma Tuition Trust Act and of the Oklahoma Tuition Trust Fund created by the Oklahoma Tuition Trust Act shall be to:

1. encourage education and the means of education;

2. maintain state institutions of higher education by helping to provide a stable financial base to these institutions;

3. provide wide and affordable access to ~~state~~ institutions of higher education for the residents of this state;

4. encourage attendance at ~~state~~ institutions of higher education;

5. provide students and their parents economic protection against rising tuition costs;

6. provide students and their parents assistance in financing postsecondary education;

7. help provide the benefits of higher education to the people of this state; and

8. encourage elementary and secondary students in this state to achieve high standards of performance.

SECTION 2. AMENDATORY Section 3, Chapter 261, O.S.L. 1988 (70 O.S. Supp. 1990, Section 6002), is amended to read as follows:

Section 6002. As used in the Oklahoma Tuition Trust Act:

1. "Advance tuition payment contract" means a contract entered into by the Trust and a purchaser to provide for the higher education of a qualified beneficiary;

2. "Regents" means the Oklahoma State Regents for Higher Education;

3. "Purchaser" means a person, whether a resident of this state or not, who makes or is obligated to make advance tuition payments pursuant to an advance tuition payment contract;

4. "Qualified beneficiary" means any resident of this state at the time of execution of the advance tuition payment contract, eligible and entitled to attend ~~a state~~ an institution of higher education without further in-state tuition payment pursuant to an advance tuition payment contract;

5. "Institution of higher education" means a state-supported institution of higher education within this state or an independent, not-for-profit institution of higher education within this state which is accredited by the Regents and which has received approval from the Regents to participate in the program created pursuant to this act, which is designated by the Regents as an institution of higher education for purposes of the Oklahoma Tuition Trust Act;

6. "Trust" means the Oklahoma Tuition Trust;

7. "Tuition" means the general enrollment fees imposed each semester upon residents of this state to attend a state institution of higher education including all mandatory special fees required as a condition of enrollment as determined by the State Regents for Higher Education;

8. "Nonresident tuition" means the semester charges imposed upon nonresidents of this state to attend a state institution of higher education including all general enrollment fees, nonresident tuition payments and mandatory special fees as determined by the State Regents for Higher Education; and

9. "Eligibility period" means the period of time in which a qualified beneficiary may exercise the rights granted in an advance payment contract.

SECTION 3. AMENDATORY Section 5, Chapter 261, O.S.L. 1988 (70 O.S. Supp. 1990, Section 6004), is amended to read as follows:

Section 6004. A. For the purpose of implementing and administering the Oklahoma Tuition Trust Act, the Regents shall have the power and duty to:

1. invest any money of the Trust, at the discretion of the Regents, in any instruments, obligations, securities or property deemed proper by the Regents, and name and use depositories for its money;

2. pay money to ~~state~~ institutions of higher education from the fund. Provided, benefits payable pursuant to a contract for tuition and fees at a private institution shall not exceed the amount of tuition and fees which would be payable to a comparable state-supported institution;

3. impose reasonable residency requirements for qualified beneficiaries consistent with the policies of the institution of higher education which the qualified beneficiary attends;

4. impose reasonable limits on the number of participants in the Trust if necessary to maintain the financial and actuarial soundness of the Trust. Any refused purchaser shall receive a priority over prospective new purchasers when additional contracts are let;

5. contract for goods and services and engage personnel as is necessary and engage the services of private consultants, actuaries, managers, legal counsel, and auditors for rendering professional management, and technical assistance and advice;

6. solicit and accept gifts, donations, grants, loans, and other aids from any person, firm or corporation or the federal, state, or local government or any agency of the federal, state, or a local government, or to participate in any other way in any federal, state, or local government program;

7. charge, impose, and collect administrative fees and charges in connection with any transaction and provide for reasonable penalties, including default, for delinquent payment of fees or charges or for fraud;

8. procure insurance against any loss in connection with the Trust's property, assets, or activities;

9. make, execute, and deliver contracts, conveyances, and other instruments necessary or convenient to the exercise of its powers;

10. enter into contracts on behalf of the state;

11. invest, manage and administer the assets of the Trust;

12. indemnify or procure insurance indemnifying the Regents from personal loss or accountability from liability resulting from a member's action or inaction as a member of the Regents;

13. impose reasonable time limits on use of the tuition benefits provided by the Trust, if the limits are made a part of the contract;

14. provide for receiving contributions in lump sums or periodic sums; and

15. promulgate reasonable rules and regulations and establish policies, procedures, and eligibility criteria to implement the Oklahoma Tuition Trust Act pursuant to the Administrative Procedures Act.

B. The Regents shall make any arrangements that are necessary or appropriate with institutions of higher education in order to fulfill its obligations under advance tuition payment contracts, which arrangements may include, but need not be limited to, the payment by the Regents of the then actual tuition cost on behalf of a qualified beneficiary to the institution of higher education.

C. The Trust may contract with others, public or private, for the provision of all or a portion of the services necessary for the management and operation of the Trust.

SECTION 4. AMENDATORY Section 7, Chapter 261, O.S.L. 1988 (70 O.S. Supp. 1990, Section 6006), is amended to read as follows:

Section 6006. A. At a minimum, the Trust shall offer advance tuition payment contracts of the two types set forth in paragraphs 1 and 2 of this subsection to be known as Plan A and Plan B, respectively.

1. Under Plan A:

- a. a payment or series of payments shall be required from the purchaser on behalf of a qualified beneficiary,
- b. if an advance tuition payment contract is terminated before a qualified beneficiary earns a high school diploma or reaches the age of majority, or pursuant to ~~Section 9 of this act~~ 6008 of this title, the Trust shall refund the face amount of the payment or payments in accordance with the terms of the contract, less any administrative fee specified in the contract, but shall not refund any investment income attributable to the payments,
- c. except as provided in subparagraph d of this paragraph, the Trust shall provide for the qualified beneficiary to attend an institution of higher education which the qualified beneficiary may attend

for the number of credit hours required by the institution for the awarding of a bachelor's degree, without further tuition cost to the qualified beneficiary, except as provided in Section ~~6 of this act~~ 6005 of this title for a qualified beneficiary who is required to pay nonresident tuition rates,

- d. as an alternative to subparagraph c of this paragraph, the Trust shall provide for the qualified beneficiary to attend an institution of higher education which the qualified beneficiary may attend for a fixed number of credit hours, as permitted by the Trust, less than the total number of credit hours required by the institution for the awarding of a bachelor's degree, without further tuition cost to the qualified beneficiary for that fixed number of credit hours, except as provided in Section ~~6 of this act~~ 6005 of this title for a qualified beneficiary who is required to pay nonresident tuition rates.

2. Under Plan B:

- a. a payment or series of payments shall be required on behalf of a qualified beneficiary,
- b. if an advance tuition payment contract is terminated before a qualified beneficiary earns a high school diploma or reaches the age of majority, or pursuant to Section ~~9 of this act~~ 6008 of this title the Trust shall refund the face amount of the payment or payments in accordance with the terms of the contract, less any administrative fee specified in the contract, together with all or a specified portion of accrued investment income attributable to the payment or payments as may be agreed to in the contract,

- c. except as provided in subparagraph d of this paragraph, the Trust shall provide for the qualified beneficiary to attend an institution of higher education which the qualified beneficiary may attend for the number of credit hours required by the institution for the awarding of a bachelor's degree, without further tuition cost to the qualified beneficiary, except as provided in Section ~~6 of this act~~ 6005 of this title for a qualified beneficiary who is required to pay nonresident tuition rates, and
- d. as an alternative to subparagraph c of this paragraph, the Trust shall provide for the qualified beneficiary to attend an institution of higher education which the qualified beneficiary may attend for a fixed number of credit hours, as permitted by the Trust, less than the total number of credit hours required by the institution for the awarding of a bachelor's degree without further tuition cost to the qualified beneficiary for that fixed number of credit hours, except as provided in Section ~~6 of this act~~ 6005 of this title for a qualified beneficiary who is required to pay nonresident tuition rates.

B. Contracts required to be offered by this section may require that payment or payments from a purchaser, on behalf of a qualified beneficiary who may attend ~~a state~~ an institution of higher education in less than four (4) years after the date the contract is entered into by the purchaser, be based upon attendance at a certain institution of higher education or at that institution of higher education with the highest prevailing tuition cost for the number of credit hours covered by the contract.

SECTION 5. AMENDATORY Section 12, Chapter 261, O.S.L.
1988 (70 O.S. Supp. 1990, Section 6011), is amended to read as
follows:

Section 6011. ~~State institutions~~ Institutions of higher
education, purchasers and qualified beneficiaries may enforce the
Oklahoma Tuition Trust Act and any contract entered into pursuant to
the Oklahoma Tuition Trust Act in the district court for Oklahoma
County.

SECTION 6. It being immediately necessary for the preservation
of the public peace, health and safety, an emergency is hereby
declared to exist, by reason whereof this act shall take effect and
be in full force from and after its passage and approval.

Passed the House of Representatives the 7th day of March, 1991.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1991.

President of the Senate