

1 college tuition payment program in the university of Hawaii to
2 help make higher education affordable and accessible to state
3 residents by offering a savings incentive that will protect
4 purchasers and beneficiaries against rising tuition costs. The
5 program shall encourage savings and enhance the ability of
6 Hawaii's residents to obtain financial access to institutions of
7 higher education. In addition, the program shall encourage
8 elementary and secondary school students to do well in school to
9 prepare for and aspire to higher education attendance. This
10 program is intended to promote a well-educated and financially
11 secure population to the ultimate benefit of all citizens of the
12 state.

13 (b) The advanced college tuition payment program shall
14 consist of the sale of tuition units, which may be redeemed by
15 the beneficiary at a future date for an equal number of tuition
16 units regardless of any increase in the price of tuition that
17 may have occurred in the interval. Each purchase shall be worth
18 a specific number or fraction of tuition units at a college as
19 determined by the board. The number of tuition units necessary
20 to pay for a full year's, full-time undergraduate tuition and
21 fee charges at a college shall be set by the board at the time a
22 purchaser enters into a tuition unit contract.



1 **§ -3 Advanced tuition payment and investment board;**
2 **established.** (a) There is created the advanced tuition payment
3 and investment board consisting of nine members, of whom six
4 shall be public members appointed by the governor as provided in
5 section 26-34. Public members shall be appointed from each of
6 the counties of Honolulu, Hawaii, Maui, and Kauai. At least
7 four of the public members shall have knowledge and expertise in
8 public or private financing and education. At least one public
9 member shall represent community advocates for higher education.
10 The public members of the board shall serve four-year staggered
11 terms; provided that the initial appointments shall be as
12 follows:

- 13 (1) Two members to be appointed for four years;
- 14 (2) Two members to be appointed for three years; and
- 15 (3) Two members to be appointed for two years.

16 The chairperson of the board of education, the superintendent of
17 education, and the director of finance, or their designated
18 representatives, and a representative of the governor's office,
19 shall be ex officio voting members.

20 (b) The board shall select a chairperson and vice
21 chairperson from among its members; provided that the
22 chairperson shall be a public member.



1 (c) Five members shall constitute a quorum, whose
2 affirmative vote shall be necessary for all actions. The
3 members shall receive no compensation for services, but shall be
4 entitled to necessary expenses, including travel expenses,
5 incurred in the performance of their duties.

6 **§ -4 Advanced college tuition payment program revolving**
7 **fund.** (a) There is created in the state treasury the advanced
8 college tuition payment program revolving fund.

9 (b) The following shall be deposited into the revolving
10 fund:

- 11 (1) All payments from the purchasers of tuition units;
- 12 (2) State appropriations; and
- 13 (3) Grants, donations, and private donations.

14 (c) The revolving fund shall be managed by the board,
15 which shall also make expenditures from the fund.

16 (d) Notwithstanding any other law to the contrary, no
17 moneys from the revolving fund may be expended for any purposes
18 other than the purposes set forth herein unless otherwise
19 approved by the legislature.

20 (e) The moneys in the revolving fund shall be used by the
21 board, without appropriation, to make payments to institutions
22 of higher education on behalf of the qualified beneficiaries of



1 the tuition payment program, make refunds, transfers, or direct
2 payments upon the termination of the tuition payment program.
3 Disbursements from the fund shall be made only on the
4 authorization of the board.

5 (f) The board may invest, reinvest, manage, contract,
6 sell, or exchange investment money in the revolving fund.

7 **§ -5 Advanced college tuition and investment board;**

8 **duties.** (a) The board shall administer the program in a manner
9 reasonably designed to be actuarially sound, such that the
10 assets of the revolving fund will be sufficient to defray the
11 obligations of the revolving fund, including the costs of
12 administration. The board may, at its discretion, discount the
13 minimum purchase price for certain kinds of purchases such as
14 those made by families with young children, as long as the
15 actuarial soundness of the program is not jeopardized.

16 (b) The board shall:

17 (1) Annually determine the current value of a tuition
18 unit; and

19 (2) Promote, advertise, and publicize the program.

20 (c) The board may:

21 (1) Impose reasonable limits on the number of tuition
22 units or units that may be used in any one year;



- 1 (2) Determine and set any time limits, if necessary, for
2 the use of benefits under this chapter;
- 3 (3) Impose and collect administrative fees and charges in
4 connection with any transaction under this chapter;
- 5 (4) Appoint and use advisory committees as needed to
6 provide program direction and guidance;
- 7 (5) Formulate and adopt all other policies and rules
8 necessary for the efficient administration of the
9 program;
- 10 (6) Consider the addition of an advanced payment program
11 for room and board contracts and also consider a
12 college savings program;
- 13 (7) Purchase insurance from insurers licensed to do
14 business in the state, to provide for coverage against
15 any loss in connection with the account's property,
16 assets, or activities or to further insure the value
17 of the tuition units;
- 18 (8) Make, execute, and deliver contracts, conveyances, and
19 other instruments necessary to the exercise and
20 discharge of its powers and duties under this chapter;
- 21 (9) Contract for the provision of all or part of the
22 services necessary for the management and operation of



- 1 the program with other state or nonstate entities
2 authorized to do business in the state;
- 3 (10) Contract for other services or for goods needed by the
4 board in the conduct of its business under this
5 chapter;
- 6 (11) Contract with financial consultants, actuaries,
7 auditors, and other consultants as necessary to carry
8 out its responsibilities under this chapter;
- 9 (12) Solicit and accept cash donations and grants from any
10 person, governmental agency, private business, or
11 organization;
- 12 (13) Seek the assistance of state agencies, private
13 financial institutions, and any other qualified party
14 with experience in the areas of accounting, actuary,
15 risk management, or investment management to assist
16 with preparing an accounting of the program and
17 ensuring the fiscal soundness of the account; and
- 18 (14) Perform all acts necessary and proper to carry out the
19 duties and responsibilities of this program under this
20 chapter.
- 21 (c) The board may limit the number of tuition units
22 purchased by any one purchaser or on behalf of any one



1 beneficiary, however, no limit may be imposed that is less than
2 that necessary to achieve four years of full-time, undergraduate
3 tuition charges at a college as determined by the board. The
4 board may also limit the number of participants to ensure the
5 actuarial soundness and integrity of the program.

6 (d) No tuition unit may be redeemed until two years after
7 the purchase of the unit. Units may be redeemed for enrollment
8 at any college. Units redeemed at a nonstate institution of
9 higher education or for graduate enrollment shall be redeemed at
10 the rate for the university of Hawaii in effect at the time of
11 redemption.

12 (e) The board shall determine the conditions under which
13 the tuition benefit may be transferred to another family member.
14 In permitting such transfers, the board may not allow the
15 tuition benefit to be bought, sold, bartered, or otherwise
16 exchanged for goods or services by either the beneficiary or the
17 purchaser.

18 **§ -6 Board members; liability.** No member of the board
19 shall be liable for negligence, default, or failure of any other
20 person or member of the committee to perform the duties of
21 office and no member may be considered or held to be an insurer



1 of the funds or assets of the advanced college tuition payment
2 program.

3 **§ -7 Purchase of tuition units by organizations; rules;**

4 **scholarship fund.** (a) The board may, at its discretion, allow
5 an organization to purchase tuition units for future use as
6 scholarships. Such organizations electing to purchase tuition
7 units for this purpose shall enter into a contract with the
8 board which, at a minimum, ensures that the scholarship shall be
9 freely given by the purchaser to a scholarship recipient. For
10 such purchases, the purchaser need not name a beneficiary until
11 four months before the date when the tuition units are first
12 expected to be used.

13 (b) The board shall formulate and adopt such rules as are
14 necessary to determine which organizations may qualify to
15 purchase tuition units for scholarships under this section. The
16 board may also consider additional rules for the use of tuition
17 units if purchased as scholarships.

18 (c) The board may establish a scholarship fund with moneys
19 from the advanced college tuition payment program revolving
20 fund. A scholarship fund established under this subsection
21 shall be administered by the board and shall be provided to
22 students who demonstrate financial need. Financial need is not



1 a criterion that any other organization need consider when using
2 tuition units as scholarships. The board may also establish its
3 own corporate-sponsored scholarship fund under this chapter.

4 **§ -8 Contractual obligation; appropriations.** Contracts
5 with eligible participants shall be contractual obligations
6 legally binding on the state as set forth in this chapter. If,
7 and only if, the moneys in the account are projected to be
8 insufficient to cover the State's contracted expenses for a
9 given biennium, the legislature shall appropriate to the
10 revolving fund the amount necessary to cover such expenses.

11 **§ -9 Actuarial soundness; adjustment of tuition credit**
12 **purchases.** (a) The board shall annually evaluate, and cause to
13 be evaluated by a nationally recognized actuary, the soundness
14 of the revolving fund and determine the additional assets
15 needed, if any, to defray the obligations of the revolving fund.

16 (b) If funds are insufficient to ensure the actuarial
17 soundness of the revolving fund, the board shall adjust the
18 price of subsequent tuition credit purchases to ensure the
19 program's soundness.

20 (c) If there are insufficient numbers of new purchases to
21 ensure the actuarial soundness of the revolving fund, the board
22 shall request such funds from the legislature as are required to



1 ensure the integrity of the program. Funds may be appropriated
2 directly to the revolving fund if appropriated under the
3 condition that they be repaid at a later date. The repayment
4 shall be made at such time that the revolving fund is again
5 determined to be actuarially sound.

6 **§ -10 Discontinuation of program; use of units;**
7 **refunds.** (a) In the event that the state determines that the
8 program is not financially feasible, or for any other reason,
9 the state may declare the discontinuance of the program. At the
10 time of such declaration, the board shall cease to accept any
11 further tuition unit contracts or purchases.

12 (b) After a declaration of discontinuance, the remaining
13 tuition units for all beneficiaries who have either enrolled in
14 higher education or who are within four years of graduation from
15 a secondary school shall be honored until such tuition units
16 have been exhausted, or for ten fiscal years starting from the
17 next fiscal year following the date that the program has been
18 discontinued, whichever comes first. All other contract holders
19 shall receive a refund equal to the value of the current tuition
20 units in effect at the time the program was declared
21 discontinued.



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

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

8 (e) The board may make refunds under other exceptional
9 circumstances as it deems fit. No tuition units may be honored
10 after the end of the tenth fiscal year following the declaration
11 of discontinuance of the program.

12 **§ -11 Refunds.** (a) Refunds of the value of tuition
13 units shall be issued only under specific conditions, including:

14 (1) If there is certification that the beneficiary, who is
15 eighteen years of age or older, will not attend an
16 institution of higher education, will result in a
17 refund not to exceed the current value, as determined
18 by the board, in effect at the time of such
19 certification minus a penalty at a rate established by
20 the board and less any administrative processing fees
21 assessed by the board. The refund shall be made no
22 sooner than ninety days after such certification;



1 (2) If there is certification of the death or disability
2 of the beneficiary, the refund shall be equal to one
3 hundred per cent of any remaining unused tuition units
4 at the current value, as determined by the board, at
5 the time that such certification is submitted to the
6 board, less any administrative processing fees
7 assessed by the board. The board may, in its
8 discretion, impose a penalty if needed to comply with
9 federal tax rules;

10 (3) If there is certification by the student of graduation
11 or program completion, the refund shall be as great as
12 one hundred per cent of any remaining unused tuition
13 units at the current value, as determine by the board,
14 at the time that such certification is submitted to
15 the board, less any administrative processing fees
16 assessed by the board. The board, at its discretion,
17 may impose a penalty if needed to comply with federal
18 tax rules;

19 (4) If there is certification of other tuition and fee
20 scholarships which will cover the cost of tuition for
21 the eligible beneficiary, the refund shall be equal to
22 one hundred per cent of the current value of tuition



1 units, as determined by the board, in effect at the
2 time of the refund request, less any administrative
3 processing fees assessed by the board. The refund
4 under this paragraph may not exceed the value of the
5 scholarship;

6 (5) Incorrect or misleading information provided by the
7 purchaser or beneficiaries may result in a refund of
8 the purchaser's investment, less any administrative
9 processing fees assessed by the board. The value of
10 the refund shall not exceed the actual dollar value of
11 the purchaser's contributions; and

12 (6) The board may determine other circumstances qualifying
13 for refunds of remaining unused tuition units and may
14 determine the value of that refund.

15 (b) With the exception of subsection (a)(1)(2), (5), and
16 (6), no refunds may be made before the units have been held for
17 two years.

18 **§ -12 Exemption from bankruptcy and enforcement of**
19 **judgments.** In regard to bankruptcy filings and enforcement of
20 judgments, tuition units purchased more than two years prior to
21 the date of filing or judgment shall be considered excluded
22 personal assets.



1 **§ - 13 College savings program.** (a) The board may
2 establish a college savings program in such form as may be
3 determined by the board, to be a qualified tuition program as
4 defined by the Internal Revenue Service under Section 529 of the
5 Internal Revenue Code, and shall be administered in a manner
6 consistent with the advanced college tuition payment program.
7 The board in planning and devising the college savings program,
8 shall consult with the director of finance, a qualified
9 actuarial consulting firm with appropriate expertise to evaluate
10 such plans, the legislative fiscal and higher education
11 committees, and institutions of higher education.

12 (b) Up to \$200,000 of administrative fees collected from
13 the guaranteed education tuition program participants may be
14 applied as a loan to fund the development of the college savings
15 program. This loan shall be repaid with interest before the
16 conclusion of the biennium in which the committee draws funds
17 for this purpose from the advanced college tuition payment
18 program revolving fund.

19 (c) If such a college savings program is established,
20 there shall be established in the state treasury the college
21 savings special fund which shall consist of the loan amount in
22 subsection (b) and any interest generated from that amount. The



1 board shall determine the investment policies for the college
2 savings program. The board may contract with an investment
3 company licensed to conduct business in this state to do the
4 investing. The board shall keep full and adequate accounts and
5 records of the assets of each individual participant in the
6 college savings program.

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

16 (e) The board shall adopt rules to implement this section.
17 Such rules shall include:

- 18 (1) Administration, investment management, promotion, and
19 marketing;
- 20 (2) Compliance with Internal Revenue Service standards;
- 21 (3) Application procedures and fees;
- 22 (4) Start-up costs;



1 (5) Phasing in the savings program and withdrawals there
2 from;

3 (6) Deterrents to early withdrawals and provisions for
4 hardship withdrawals; and

5 (7) Reenrollment in the savings program after withdrawal.

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

11 **§ -14 Limitations.** (a) This chapter shall not be
12 construed as a promise that any beneficiary shall be granted
13 admission to any institution of higher education, will earn any
14 specific or minimum number of academic credits, or will graduate
15 from any such institution. In addition, this chapter shall not
16 be construed as a promise of either course or program
17 availability.

18 (b) Participation in this program shall not guarantee an
19 eligible beneficiary the right to resident tuition and fees.

20 (c) This chapter shall not be construed to imply that the
21 redemption of tuition units shall be equal to any value greater
22 than the undergraduate tuition and services and activities fees



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1 at a state institution of higher education as computed pursuant
 2 to this chapter. Eligible beneficiaries shall be responsible
 3 for payment of any other fee that does not qualify as a services
 4 and activities fee, including any expenses for tuition
 5 surcharges, tuition overload fees, laboratory fees, equipment
 6 fees, book fees, rental fees, room and board charges, or fines."

7 SECTION 2. This Act shall take effect upon its approval.
 8

INTRODUCED BY: Jyla B. Berg
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JAN 24 2007



Report Title:

Advanced College Tuition Payment Program

Description:

Establishes the Advanced College Tuition Payment Program to ameliorate the effects of inflation and other increases on the cost of higher education.

