
SENATE BILL 5194

State of Washington

67th Legislature

2021 Regular Session

By Senators Lias, Hasegawa, and Das

1 AN ACT Relating to providing for equity and access in the
2 community and technical colleges; amending RCW 28B.92.030,
3 28B.96.010, 28B.15.012, and 82.04.299; adding a new section to
4 chapter 28B.50 RCW; adding a new section to chapter 28B.92 RCW;
5 adding a new chapter to Title 28B RCW; creating new sections;
6 providing an effective date; and declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** INTENT. The legislature recognizes that
9 student completion rates for workforce training certification and
10 degree programs at community and technical colleges are far lower
11 than desirable to ensure that students may utilize the opportunities
12 of postsecondary education to lift themselves and their families out
13 of poverty and to meet our state's student achievement council road
14 map goals, including for 70 percent of Washington residents to have a
15 postsecondary certification or degree to meet workforce needs. The
16 legislature recognizes that first-generation college-attending
17 students and underrepresented minority students face far greater
18 obstacles to apply, remain in school, and complete programs. This
19 disparate impact greatly affects our state's commitment to equity.

20 The legislature recognizes that offering tuition financial
21 support to first-generation and underrepresented minority students is

1 necessary for students to enroll and attend college but must also be
2 accompanied by proven supports for them to complete their degrees or
3 workforce training programs.

4 The legislature recognizes that there are mentorship and advising
5 programs based on strong evidence that have been proven to be
6 successful in greatly increasing retention and degree or workforce
7 training completion rates for first-generation students,
8 underrepresented minority students, and for all students at community
9 and technical colleges. It is the legislature's intent that
10 successful programs such as guided pathways, integrated basic
11 education skills and training, and mentoring programs along with
12 improved advising for students be implemented at all community and
13 technical colleges with the goal of doubling completion rates (as
14 measured by completion in six years) for students in the next eight
15 years. To accomplish this goal, the legislature intends that all
16 students receiving Washington college grants, college bound
17 scholarships, or federal Pell grants should receive the supports,
18 including mentoring, that have been proven to increase completion
19 rates.

20 The legislature recognizes the success of the City University of
21 New York's accelerated study in associate programs, also known as
22 ASAP. The accelerated study in associate programs' goal is to have at
23 least 50 percent of students earn an associate degree within three
24 years by removing barriers to completion with financial and
25 comprehensive academic supports. The program began in 2007 at six
26 City University of New York colleges with a little over 1,000
27 students. Today, the program has expanded to nine colleges with over
28 22,000 students with consistent results. In addition, the program has
29 been replicated at other colleges in Ohio, California, and New York.
30 To date, the accelerated study in associate programs average three-
31 year graduation rate is 53 percent. The 2013 national three-year
32 graduation rate for public two-year colleges was just 19 percent and
33 Washington's graduation rate was just under 29 percent. The MDRC, a
34 nonprofit nonpartisan research organization, evaluated the impacts of
35 the accelerated study in associate programs with a random assignment
36 design and found that the program doubled graduation rates, which was
37 the largest effect MDRC has found in any of its evaluations of
38 community college reforms. In addition, MDRC found that at the three-
39 year point, the cost per degree was lower for the accelerated study
40 in associate programs because the program generated so many

1 additional graduates. The legislature intends for all students who
2 receive Washington college grants, college bound scholarships, or
3 Pell grants to receive the supports under this act and related
4 programs in order to enable them to remain enrolled and complete
5 their programs in a reasonable period of time.

6 The legislature further finds that research establishes that
7 students from underrepresented minorities are far more likely to
8 complete degrees or workforce training certification programs if the
9 faculty and staff of the college reflect the diversity of the student
10 body. Therefore, the legislature intends for the state's community
11 and technical colleges to develop and implement plans to increase
12 faculty and staff diversity.

13 NEW SECTION. **Sec. 2.** FINDINGS. The legislature finds that there
14 is a need to expand investments in community and technical colleges
15 for the purpose of guaranteeing both equitable access and educational
16 success for all residents of the state, particularly for students
17 from communities of color and low-income communities. The legislature
18 finds further that equality of opportunity for all students requires
19 investments to support services that are critical to: The success of
20 students of color and low-income students; provide systemwide equity
21 initiatives intended to make community and technical college campuses
22 welcoming, benevolent places; overcome the digital divide for all
23 students; and provide qualified and available counseling throughout
24 the community and technical college system. The legislature also
25 finds that a more full-time, stable, fairly compensated, and diverse
26 community and technical college faculty is necessary to enhance
27 student success and to improve the mentoring available for a diverse
28 student body. The legislature also finds that resources for student
29 aid and workforce investment need to be adequate to meet the needs of
30 all students in the state, particularly those from families of color
31 and low-income families.

32 NEW SECTION. **Sec. 3.** DIVERSITY, EQUITY, AND INCLUSION STRATEGIC
33 PLAN. (1) Beginning July 30, 2022, all community and technical
34 colleges must submit, on an annual basis, strategic plans to the
35 state board for community and technical colleges for achieving
36 diversity, equity, and inclusion on their campuses.

37 (2) Colleges must create their strategic plans using an inclusive
38 process of stakeholders including, but not limited to, classified

1 staff, faculty, administrative exempt staff, students, and community
2 organizations. Colleges are encouraged to use campus climate surveys
3 to develop and update strategic plans for diversity, equity, and
4 inclusion. The state board for community and technical colleges shall
5 develop a model campus climate survey tool relating to diversity,
6 equity, and inclusion, and may contract for carrying out surveys at
7 individual colleges.

8 (3) In addition to planning, each community and technical college
9 shall include in its diversity program opportunities for students
10 from diverse communities to form student-based organizations, and to
11 use community-based organizations, that permit students to work
12 together to mentor and assist one another in navigating the
13 educational system and to access trained mentors using evidence-based
14 mentoring strategies.

15 (4) Each community and technical college shall establish a
16 culturally appropriate outreach program to communities of color and
17 low-income communities designed to assist potential students to
18 understand the opportunities available in the community and technical
19 college system and to assist with navigating the student aid system.
20 Outreach programs shall include partnerships with appropriate
21 community-based organizations and use research and supports from the
22 student achievement council.

23 (5) Colleges may request funds from the state board for community
24 and technical colleges to implement and maintain their strategic
25 plan. A college's request for funds to implement and maintain its
26 strategic plan must include funding for staff whose primary
27 responsibilities are to implement and monitor the effectiveness of
28 the strategic plan.

29 (6) A college's overhead costs to implement the strategic plan
30 may not exceed five percent of the funds allocated to the college for
31 implementation of the strategic plan.

32 (7) Each college shall assess its progress towards meeting the
33 goals of diversity, equity, and inclusion. The assessment must detail
34 progress on each goal, describe obstacles encountered, prioritize
35 goals in the strategic plan for the following year, and identify
36 resources needed for continued progress.

37 NEW SECTION. **Sec. 4.** ESTABLISHING AND EXPANDING PROVEN
38 MENTORSHIP AND ADVISING PROGRAMS AT COMMUNITY AND TECHNICAL COLLEGES.
39 In order to improve the degree and workforce certification completion

1 rates for students receiving Washington college grants, college bound
2 scholarships, opportunity scholarships, or federal Pell grants, each
3 community and technical college shall establish for implementation in
4 the 2023-24 academic year a student success support program using
5 programs that the state board for community and technical colleges,
6 in consultation with the student achievement council, finds have been
7 effective to improve student completion rates for students of similar
8 backgrounds to those attending each community and technical college
9 and that include:

10 (1) A student success support program that is either a credit-
11 based class, orientation program, or peer mentoring program that is
12 based on research or documented evidence of success at other
13 institutions with comparable student populations. The student success
14 support program may include elements of:

15 (a) Learning about study skills, time management, and college
16 success skills;

17 (b) Academic advising and career planning;

18 (c) Basic financial literacy and information and requirements for
19 financial aid, including student loan programs and debt, particularly
20 for students from cultural or economic backgrounds with limited
21 knowledge of student loans and debt;

22 (d) Acclimating students to the institution's campus, resources,
23 services, and culture, including the expectations and demands of
24 postsecondary education;

25 (e) Tutoring or peer tutoring;

26 (f) Cohort-based programs; and

27 (g) Peer mentorship;

28 (2) An evidence-based remedial program, such as the integrated
29 basic education and skills training program, for those students with
30 remedial mathematics or English education needs. The remedial program
31 may include elements of:

32 (a) Team teaching;

33 (b) Mixed basic skills and college-level curriculum;

34 (c) Accelerated basic skills curriculum; and

35 (d) Flipped classroom instruction;

36 (3) Subject to the availability of amounts appropriated for this
37 specific purpose, the guided pathways program;

38 (4) Advising programs for students receiving state or federal
39 need grant aid that includes the following staff persons who are
40 dedicated solely to the program:

1 (a) A program director to oversee, train, and coordinate program
2 staff and faculty, in addition to leading efforts on evaluation and
3 data collection;

4 (b) A program advisor or advisors, who each shall:

5 (i) Have a maximum caseload of 150 students and whose caseloads
6 are made up of only students participating in the program;

7 (ii) Meet with program students at least once per month
8 throughout the students' time in the program; and

9 (iii) Communicate and coordinate with faculty regarding program
10 students' progress;

11 (c) A career and employment specialist to work with program
12 students individually and in groups to:

13 (i) Facilitate career exploration, awareness, and preparation;

14 (ii) Assist students with finding immediate employment compatible
15 with their course schedules; and

16 (iii) Encourage networking and internship opportunities;

17 (5) In addition to dedicated program staff:

18 (a) Adequate numbers of tutors that are available for program
19 students with remedial needs who are required to attend tutoring and
20 for other program students who may voluntarily seek academic
21 assistance; or

22 (b) Expanded use of integrated remedial and workforce or academic
23 learning using the state board for community and technical colleges'
24 integrated basic education and skills training program model.

25 NEW SECTION. **Sec. 5.** FACULTY DIVERSITY PROGRAM. (1) By December
26 1, 2023, each community and technical college shall establish a
27 faculty diversity program designed to provide for the retention and
28 recruitment of faculty from diverse racial, ethnic, and cultural
29 backgrounds. The program must meet minimum standards established by
30 the state board for community and technical colleges.

31 (2) The standards for faculty diversity programs under this
32 section developed by the state board for community and technical
33 colleges must be based on the 17 steps for diversity and equity in
34 hiring and professional development in the hiring process developed
35 by the collective of professionals from the Washington state
36 community and technical colleges. In developing the standards, the
37 state board for community and technical colleges must also consider
38 model faculty diversity programs from other institutions, including
39 recommended methods for mentoring students, staff, and members of the

1 community to become faculty in the system. The standards must also
2 include requirements for consultation with students from diverse
3 backgrounds and faculty bargaining representatives in their
4 development and implementation.

5 (3) Subject to the availability of amounts appropriated for this
6 specific purpose, the state board for community and technical
7 colleges shall grant to each community and technical college an
8 annual grant not to exceed \$150,000 to be used exclusively for the
9 purpose of developing and administering faculty diversity programs
10 required under this section.

11 (4) Each community and technical college shall report to the
12 state board for community and technical colleges an annual assessment
13 of progress toward faculty diversity goals.

14 NEW SECTION. **Sec. 6.** TENURE-TRACK FACULTY. (1) By December 31,
15 2023, the state board for community and technical colleges must
16 create a plan to achieve a systemwide ratio, determined by employee
17 headcount, of full-time, tenure-track faculty to nontenure-track
18 faculty of at least 70 percent and establish equal-pay-for-equal-work
19 for all faculty members by the end of the 2030-31 academic year.
20 Except as provided in subsection (2) of this section, the plan must
21 be implemented in phases, with the first phase-in of the plan to
22 begin in the fall quarter of 2024. The state board for community and
23 technical colleges must develop this systemwide plan in collaboration
24 with academic employee collective bargaining representatives. To
25 support the state board for community and technical colleges'
26 planning process, each community and technical college district must
27 develop, in collaboration with academic employee bargaining
28 representatives at the college, a college-level plan to achieve these
29 goals at each college and provide it to the state board for community
30 and technical colleges by November 1, 2023.

31 (2) The first priority for the plans must be the faculty in
32 programs that provide basic education for adults. The required 70
33 percent ratio of full-time to part-time faculty for instructors in
34 the basic education for adults program must be achieved by the 2026
35 academic year.

36 (3) The plan must: Include as nontenure-track faculty all
37 academic employees who are not tenured or on the tenure track,
38 including all associate, adjunct, contingent, and part-time faculty;
39 create new, full-time tenure-track faculty positions and more

1 opportunities for nontenure-track faculty; and include as part of the
2 planning process open public meetings to ensure inclusion of student
3 and community member perspectives and ideas.

4 (4) The state board for community and technical colleges shall
5 report to the higher education committees of the legislature by
6 December 1, 2024, and by December 1st every two years thereafter
7 until 2030 regarding phase-in of the systemwide plan required by this
8 section and information regarding the systemwide plan and each
9 college's progress in achieving the plan.

10 (5) The standards used in this section to determine equal-pay-
11 for-equal-work must be based on the instructional work of the
12 faculty, including direct student support, time in class, preparation
13 for class, grading and assessment, and office hours equivalent to
14 those required for full-time tenure-track faculty under the relevant
15 collective bargaining agreement.

16 (6) For the purposes of this section, "academic employee" has the
17 same meaning as in RCW 28B.50.489.

18 NEW SECTION. **Sec. 7.** COUNSELOR STAFFING. (1) Beginning the fall
19 academic quarter of 2021, every community and technical college must
20 have and maintain a staffing ratio of no more than 900 aid-eligible
21 students to one full-time equivalent faculty counselor, based on the
22 previous fall quarter's unduplicated student head count.

23 (2) The ratio required under this section applies to counselor
24 positions that are state-funded. Counselor positions that are funded
25 by sources other than state funds may not be counted when determining
26 if a community or technical college has met the student-to-counselor
27 ratio requirement.

28 (3) The state board for community and technical colleges shall
29 include data on each community and technical college's student-to-
30 counselor ratio in its annual fall quarter enrollment and staffing
31 report.

32 (4) The requirements and standards imposed through this
33 subsection shall not apply to an individual employed by a college
34 district as a counselor before the effective date of this section.

35 (5) For purposes of this section, the following definitions
36 apply:

37 (a) "Aid-eligible student" means a student who qualifies for the
38 federal Pell grant, Washington college grant, or college bound
39 scholarship.

1 (b) "Counselor" means persons who meet minimum standards
2 established by the state board for community and technical colleges.
3 For the purposes of counselors employed under this section, these
4 minimum standards must include:

5 (i) A graduate or professional degree from a regionally
6 accredited institution in counseling psychology, school counseling,
7 clinical social work, or a related field;

8 (ii) Completion of appropriate graduate coursework with content
9 covering assessment and testing, career counseling, crisis
10 intervention and management, legal and ethical issues in counseling,
11 lifespan development, multicultural counseling, theories of
12 counseling, and treatment planning; and

13 (iii) Completion of a supervised practicum and internship at the
14 graduate level.

15 NEW SECTION. **Sec. 8.** FINDINGS. The legislature finds that child
16 care is a significant need of students in the community and technical
17 colleges. The need for child care is a barrier that prevents students
18 from entering the system and contributes to the low student
19 completion rate.

20 NEW SECTION. **Sec. 9.** A new section is added to chapter 28B.50
21 RCW to read as follows:

22 **CHILDCARE SERVICES.** (1) The state board for community and
23 technical colleges, after consultation with the student achievement
24 council and the department of children, youth, and families, shall
25 design a program to help both full-time and part-time students to
26 access child care services and to assist eligible students to qualify
27 for child care subsidies.

28 (2) Subject to the availability of amounts appropriated for this
29 specific purpose, by December 31, 2021, the state board for community
30 and technical colleges shall conduct a comprehensive survey of the
31 child care needs of students, employees, and faculty in the community
32 and technical colleges and to report their findings to the
33 legislature, along with recommendations to improve access to child
34 care subsidies and services. The recommendations developed pursuant
35 to this subsection must include recommendations concerning how to
36 achieve access to quality and affordable child care for all community
37 and technical college students, faculty, and staff.

1 (3) The program design and survey provided for in subsections (1)
2 and (2) of this section are subject to the availability of amounts
3 appropriated for this specific purpose.

4 **Sec. 10.** RCW 28B.92.030 and 2019 c 406 s 21 are each amended to
5 read as follows:

6 As used in this chapter:

7 (1) "Council" means the student achievement council.

8 (2) "Financial aid" means (~~either~~) loans, grants, stipends for
9 student support, or (~~both~~) any combination of these forms of aid,
10 to students who demonstrate financial need enrolled or accepted for
11 enrollment as a student at institutions of higher education.

12 (3) "Financial need" means a demonstrated financial inability to
13 bear the total cost of education as directed in rule by the office.

14 (4) "Institution" or "institutions of higher education" means:

15 (a) Any public university, college, community college, or
16 technical college operated by the state of Washington or any
17 political subdivision thereof; or

18 (b) Any other university, college, school, or institute in the
19 state of Washington offering instruction beyond the high school level
20 that is a member institution of an accrediting association recognized
21 by rule of the council for the purposes of this section and that
22 agrees to and complies with program rules adopted pursuant to RCW
23 28B.92.150. However, any institution, branch, extension or facility
24 operating within the state of Washington that is affiliated with an
25 institution operating in another state must be:

26 (i) A separately accredited member institution of any such
27 accrediting association;

28 (ii) A branch of a member institution of an accrediting
29 association recognized by rule of the council for purposes of this
30 section, that is eligible for federal student financial aid
31 assistance and has operated as a nonprofit college or university
32 delivering on-site classroom instruction for a minimum of twenty
33 consecutive years within the state of Washington, and has an annual
34 enrollment of at least seven hundred full-time equivalent students;

35 (iii) A nonprofit institution recognized by the state of
36 Washington as provided in RCW 28B.77.240; or

37 (iv) An approved apprenticeship program under chapter 49.04 RCW.

38 (5) "Maximum Washington college grant":

1 (a) For students attending two or four-year institutions of
2 higher education as defined in RCW 28B.10.016, is tuition and
3 estimated fees for fifteen quarter credit hours or the equivalent, as
4 determined by the office, including operating fees, building fees,
5 and services and activities fees.

6 (b) For students attending private four-year not-for-profit
7 institutions of higher education in Washington, in the 2019-20
8 academic year, is nine thousand seven hundred thirty-nine dollars and
9 may increase each year afterwards by no more than the tuition growth
10 factor.

11 (c) For students attending two-year private not-for-profit
12 institutions of higher education in Washington, in the 2019-20
13 academic year, is three thousand six hundred ninety-four dollars and
14 may increase each year afterwards by no more than the tuition growth
15 factor.

16 (d) For students attending four-year private for-profit
17 institutions of higher education in Washington, in the 2019-20
18 academic year, is eight thousand five hundred seventeen dollars and
19 may increase each year afterwards by no more than the tuition growth
20 factor.

21 (e) For students attending two-year private for-profit
22 institutions of higher education in Washington, in the 2019-20
23 academic year, is two thousand eight hundred twenty-three dollars and
24 may increase each year afterwards by no more than the tuition growth
25 factor.

26 (f) For students attending Western Governors University-
27 Washington, as established in RCW 28B.77.240, in the 2019-20 academic
28 year, is five thousand six hundred nineteen dollars and may increase
29 each year afterwards by no more than the tuition growth factor.

30 (g) For students attending approved apprenticeship programs, is
31 tuition and fees, as determined by the office, in addition to
32 required program supplies and equipment.

33 (6) "Office" means the office of student financial assistance.

34 (7) "Tuition growth factor" means an increase of no more than the
35 average annual percentage growth rate of the median hourly wage for
36 Washington for the previous fourteen years as the wage is determined
37 by the federal bureau of labor statistics.

38 NEW SECTION. **Sec. 11.** A new section is added to chapter 28B.92
39 RCW to read as follows:

1 WASHINGTON COLLEGE GRANT STIPEND PROGRAM. (1) The Washington
2 college grant stipend program is created. All eligible students may
3 be eligible for student support stipends for housing, transportation,
4 food, and medical care. The amount of stipend awards is subject to
5 the availability of amounts appropriated for this specific purpose.

6 (2) Eligible students may use the stipends to cover the cost of
7 books, materials, or equipment required for the completion of their
8 course of study but not covered by other sources of student aid.

9 (3) The office shall adopt rules regarding the distribution and
10 awarding of stipends.

11 **Sec. 12.** RCW 28B.96.010 and 2020 c 326 s 2 are each amended to
12 read as follows:

13 The definitions in this section apply throughout this chapter
14 unless the context clearly requires otherwise.

15 (1) "Eligible student" means a student who:

16 (a) Is a resident student;

17 (b) Demonstrates financial need as defined in RCW 28B.92.030;

18 (c) Has indicated they will attend an institution of higher
19 education or is making satisfactory progress in a program, as defined
20 in rule by the office, at an institution of higher education;

21 (d) Fills out the Washington application for state financial aid;
22 and

23 (e) Does not qualify for federally funded student financial aid
24 because of their citizenship status.

25 (2) "Institution of higher education" has the same meaning as in
26 RCW 28B.92.030.

27 (3) "Office" means the office of student financial assistance
28 created in RCW 28B.76.090.

29 (4) "Participant" means an eligible student who has received an
30 undocumented student support loan.

31 (5) "Resident student" means:

32 (a) A financially independent student who has had a domicile in
33 the state of Washington for the period of one year immediately prior
34 to the time of commencement of the first day of the semester or
35 quarter for which the student has registered at any institution and
36 has in fact established a bona fide domicile in this state primarily
37 for purposes other than educational;

38 (b) A dependent student, if one or both of the student's parents
39 or legal guardians have maintained a bona fide domicile in the state

1 of Washington for at least one year immediately prior to commencement
2 of the semester or quarter for which the student has registered at
3 any institution;

4 (c) Any student:

5 (i) Who has spent at least seventy-five percent of both his or
6 her junior and senior years in high schools in this state;

7 (ii) Whose parents or legal guardians have been domiciled in the
8 state for a period of at least one year within the five-year period
9 before the student graduates from high school; and

10 (iii) Who enrolls in a public institution of higher education
11 within six months of leaving high school, for as long as the student
12 remains continuously enrolled for three quarters or two semesters in
13 any calendar year; or

14 (d) Any person(÷

15 ~~(i) Who has completed the full senior year of high school and~~
16 ~~obtained a high school diploma, both at a Washington public high~~
17 ~~school or private high school approved under chapter 28A.195 RCW, or~~
18 ~~a person who has received the equivalent of a diploma;~~

19 ~~(ii) Who has lived in Washington for at least three years~~
20 ~~immediately prior to receiving the diploma or its equivalent;~~

21 ~~(iii) Who has continuously lived in the state of Washington after~~
22 ~~receiving the diploma or its equivalent and until such time as the~~
23 ~~individual is admitted to an institution of higher education; and~~

24 ~~(iv) Who provides to the institution an affidavit indicating that~~
25 ~~the individual will file an application to become a permanent~~
26 ~~resident at the earliest opportunity the individual is eligible to do~~
27 ~~so and a willingness to engage in any other activities necessary to~~
28 ~~acquire citizenship, including but not limited to citizenship or~~
29 ~~civics review courses)) who meets the requirements under RCW~~

30 28B.15.012(2)(e).

31 **Sec. 13.** RCW 28B.15.012 and 2020 c 232 s 1 are each amended to
32 read as follows:

33 Whenever used in this chapter:

34 (1) The term "institution" shall mean a public university,
35 college, or community or technical college within the state of
36 Washington.

37 (2) The term "resident student" shall mean:

38 (a) A financially independent student who has had a domicile in
39 the state of Washington for the period of one year immediately prior

1 to the time of commencement of the first day of the semester or
2 quarter for which the student has registered at any institution and
3 has in fact established a bona fide domicile in this state primarily
4 for purposes other than educational;

5 (b) A dependent student, if one or both of the student's parents
6 or legal guardians have maintained a bona fide domicile in the state
7 of Washington for at least one year immediately prior to commencement
8 of the semester or quarter for which the student has registered at
9 any institution;

10 (c) A student classified as a resident based upon domicile by an
11 institution on or before May 31, 1982, who was enrolled at a state
12 institution during any term of the 1982-1983 academic year, so long
13 as such student's enrollment (excepting summer sessions) at an
14 institution in this state is continuous;

15 (d) Any student who has spent at least seventy-five percent of
16 both his or her junior and senior years in high schools in this
17 state, whose parents or legal guardians have been domiciled in the
18 state for a period of at least one year within the five-year period
19 before the student graduates from high school, and who enrolls in a
20 public institution of higher education within six months of leaving
21 high school, for as long as the student remains continuously enrolled
22 for three quarters or two semesters in any calendar year;

23 (e) Any person who has completed (~~the full senior year of high~~
24 ~~school~~) and obtained a high school diploma, (~~both at a Washington~~
25 ~~public high school or private high school approved under chapter~~
26 ~~28A.195 RCW,~~) or a person who has received the equivalent of a
27 diploma; (~~who has lived in Washington for at least three years~~
28 ~~immediately prior to receiving the diploma or its equivalent;~~) who
29 has continuously lived in the state of Washington (~~after receiving~~
30 ~~the diploma or its equivalent and until such time as~~) for at least a
31 year before the individual is admitted to an institution of higher
32 education under subsection (1) of this section; and who provides to
33 the institution an affidavit indicating that the individual will file
34 an application to become a permanent resident at the earliest
35 opportunity the individual is eligible to do so and a willingness to
36 engage in any other activities necessary to acquire citizenship,
37 including but not limited to citizenship or civics review courses;

38 (f) Any person who has lived in Washington, primarily for
39 purposes other than educational, for at least one year immediately
40 before the date on which the person has enrolled in an institution,

1 and who holds lawful nonimmigrant status pursuant to 8 U.S.C. Sec.
2 (a)(15) (E)(iii), (H)(i), or (L), or who holds lawful nonimmigrant
3 status as the spouse or child of a person having nonimmigrant status
4 under one of those subsections, or who, holding or having previously
5 held such lawful nonimmigrant status as a principal or derivative,
6 has filed an application for adjustment of status pursuant to 8
7 U.S.C. Sec. 1255(a);

8 (g) A student who is on active military duty stationed in the
9 state or who is a member of the Washington national guard;

10 (h) A student who is on active military duty or a member of the
11 Washington national guard who meets the following conditions:

12 (i) Entered service as a Washington resident;

13 (ii) Has maintained a Washington domicile; and

14 (iii) Is stationed out-of-state;

15 (i) A student who is the spouse or a dependent of a person
16 defined in (g) of this subsection. If the person defined in (g) of
17 this subsection is reassigned out-of-state, the student maintains the
18 status as a resident student so long as the student is either:

19 (i) Admitted to an institution before the reassignment and
20 enrolls in that institution for the term the student was admitted; or

21 (ii) Enrolled in an institution and remains continuously enrolled
22 at the institution;

23 (j) A student who is the spouse or a dependent of a person
24 defined in (h) of this subsection;

25 (k) A student who is eligible or entitled to transferred federal
26 post-9/11 veterans educational assistance act of 2008 (38 U.S.C. Sec.
27 3301 et seq.) benefits based on the student's relationship as a
28 spouse, former spouse, or child to an individual who is on active
29 duty in the uniformed services;

30 (l) A student who resides in the state of Washington and is the
31 spouse or a dependent of a person who is a member of the Washington
32 national guard;

33 (m) A student who has separated from the uniformed services with
34 any period of honorable service after at least ninety days of active
35 duty service; is eligible for educational assistance benefits under
36 Title 38 U.S.C.; and enters an institution of higher education in
37 Washington within three years of the date of separation;

38 (n) A student who is on terminal, transition, or separation leave
39 pending separation, or release from active duty, from the uniformed
40 services with any period of honorable service after at least ninety

1 days of active duty service and is eligible for educational
2 assistance benefits under Title 38 U.S.C.;

3 (o) A student who is entitled to veterans administration
4 educational assistance benefits based on the student's relationship
5 as a spouse, former spouse, or child to an individual who has
6 separated from the uniformed services with any period of honorable
7 service after at least ninety days of active duty service, and who
8 enters an institution of higher education in Washington within three
9 years of the service member's date of separation;

10 (p) A student who is the spouse or child to an individual who has
11 separated from the uniformed services with at least ten years of
12 honorable service and at least ninety days of active duty service,
13 and who enters an institution of higher education in Washington
14 within three years of the service member's date of separation;

15 (q) A student who has separated from the uniformed services who
16 was discharged due to the student's sexual orientation or gender
17 identity or expression;

18 (r) A student who is entitled to veterans administration
19 educational assistance benefits based on the student's relationship
20 with a deceased member of the uniformed services who died in the line
21 of duty;

22 (s) A student who is entitled to federal vocational
23 rehabilitation and employment services for veterans with service-
24 connected disabilities under 38 U.S.C. Sec. 3102(a);

25 (t) A student who is defined as a covered individual in 38 U.S.C.
26 Sec. 3679(c)(2) as it existed on July 28, 2019, or such subsequent
27 date as the student achievement council may determine by rule;

28 (u) A student of an out-of-state institution of higher education
29 who is attending a Washington state institution of higher education
30 pursuant to a home tuition agreement as described in RCW 28B.15.725;

31 (v) A student who meets the requirements of RCW 28B.15.0131 or
32 28B.15.0139: PROVIDED, That a nonresident student enrolled for more
33 than six hours per semester or quarter shall be considered as
34 attending for primarily educational purposes, and for tuition and fee
35 paying purposes only such period of enrollment shall not be counted
36 toward the establishment of a bona fide domicile of one year in this
37 state unless such student proves that the student has in fact
38 established a bona fide domicile in this state primarily for purposes
39 other than educational;

1 (w) A student who resides in Washington and is on active military
2 duty stationed in the Oregon counties of Columbia, Gilliam, Hood
3 River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla,
4 Union, Wallowa, Wasco, or Washington; or

5 (x) A student who resides in Washington and is the spouse or a
6 dependent of a person defined in (w) of this subsection. If the
7 person defined in (w) of this subsection moves from Washington or is
8 reassigned out of the Oregon counties of Columbia, Gilliam, Hood
9 River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla,
10 Union, Wallowa, Wasco, or Washington, the student maintains the
11 status as a resident student so long as the student resides in
12 Washington and is either:

13 (i) Admitted to an institution before the reassignment and
14 enrolls in that institution for the term the student was admitted; or

15 (ii) Enrolled in an institution and remains continuously enrolled
16 at the institution.

17 (3) (a) A student who qualifies under subsection (2) (k), (m), (n),
18 (o), (p), (q), (r), (s), or (t) of this section and who remains
19 continuously enrolled at an institution of higher education shall
20 retain resident student status.

21 (b) Nothing in subsection (2) (k), (m), (n), (o), (p), (q), (r),
22 (s), or (t) of this section applies to students who have a
23 dishonorable discharge from the uniformed services, or to students
24 who are the spouse or child of an individual who has had a
25 dishonorable discharge from the uniformed services, unless the
26 student is receiving veterans administration educational assistance
27 benefits.

28 (4) The term "nonresident student" shall mean any student who
29 does not qualify as a "resident student" under the provisions of this
30 section and RCW 28B.15.013. Except for students qualifying under
31 subsection (2) (e) or (u) of this section, a nonresident student shall
32 include:

33 (a) A student attending an institution with the aid of financial
34 assistance provided by another state or governmental unit or agency
35 thereof, such nonresidency continuing for one year after the
36 completion of such semester or quarter. This condition shall not
37 apply to students from Columbia, Multnomah, Clatsop, Clackamas, or
38 Washington county, Oregon participating in the border county pilot
39 project under RCW 28B.76.685, 28B.76.690, and 28B.15.0139.

1 (b) A person who is not a citizen of the United States of
2 America, unless the person meets and complies with all applicable
3 requirements in this section and RCW 28B.15.013 and is one of the
4 following:

5 (i) A lawful permanent resident;

6 (ii) A temporary resident;

7 (iii) A person who holds "refugee-parolee," "conditional
8 entrant," or U or T nonimmigrant status with the United States
9 citizenship and immigration services;

10 (iv) A person who has been issued an employment authorization
11 document by the United States citizenship and immigration services
12 that is valid as of the date the person's residency status is
13 determined;

14 (v) A person who has been granted deferred action for childhood
15 arrival status before, on, or after June 7, 2018, regardless of
16 whether the person is no longer or will no longer be granted deferred
17 action for childhood arrival status due to the termination,
18 suspension, or modification of the deferred action for childhood
19 arrival program; or

20 (vi) A person who is otherwise permanently residing in the United
21 States under color of law, including deferred action status.

22 (5) The term "domicile" shall denote a person's true, fixed and
23 permanent home and place of habitation. It is the place where the
24 student intends to remain, and to which the student expects to return
25 when the student leaves without intending to establish a new domicile
26 elsewhere. The burden of proof that a student, parent or guardian has
27 established a domicile in the state of Washington primarily for
28 purposes other than educational lies with the student.

29 (6) The term "dependent" shall mean a person who is not
30 financially independent. Factors to be considered in determining
31 whether a person is financially independent shall be set forth in
32 rules adopted by the student achievement council and shall include,
33 but not be limited to, the state and federal income tax returns of
34 the person and/or the student's parents or legal guardian filed for
35 the calendar year prior to the year in which application is made and
36 such other evidence as the council may require.

37 (7) The term "active military duty" means the person is serving
38 on active duty in:

39 (a) The armed forces of the United States government; or

40 (b) The Washington national guard; or

1 (c) The coast guard, merchant mariners, or other nonmilitary
2 organization when such service is recognized by the United States
3 government as equivalent to service in the armed forces.

4 (8) The term "active duty service" means full-time duty, other
5 than active duty for training, as a member of the uniformed services
6 of the United States. Active duty service as a national guard member
7 under Title 32 U.S.C. for the purpose of organizing, administering,
8 recruiting, instructing, or training and active service under 32
9 U.S.C. Sec. 502(f) for the purpose of responding to a national
10 emergency is recognized as active duty service.

11 (9) The term "uniformed services" is defined by Title 10 U.S.C.;
12 subsequently structured and organized by Titles 14, 33, and 42
13 U.S.C.; consisting of the United States army, United States marine
14 corps, United States navy, United States air force, United States
15 coast guard, United States public health service commissioned corps,
16 and the national oceanic and atmospheric administration commissioned
17 officer corps.

18 **Sec. 14.** RCW 82.04.299 and 2020 c 2 s 4 are each amended to read
19 as follows:

20 (1)(a) Beginning with business activities occurring on or after
21 April 1, 2020, in addition to the taxes imposed under RCW
22 82.04.290(2), a workforce education investment surcharge is imposed
23 on select advanced computing businesses. The surcharge is equal to
24 the gross income of the business subject to the tax under RCW
25 82.04.290(2), multiplied by the rate of 1.22 percent.

26 ~~(b) ((Except as provided in (e) of this subsection (1), in no
27 case will the combined surcharge imposed under this subsection (1)
28 paid by all members of an affiliated group be more than nine million
29 dollars annually.~~

30 ~~(e))~~ For persons subject to the surcharge imposed under this
31 subsection (1) that report under one or more tax classifications, the
32 surcharge applies only to business activities taxed under RCW
33 82.04.290(2).

34 ~~((d))~~ (c) The surcharge imposed under this subsection (1) must
35 be reported and paid on a quarterly basis in a manner as required by
36 the department. Returns and amounts payable under this subsection (1)
37 are due by the last day of the month immediately following the end of
38 the reporting period covered by the return. All other taxes must be
39 reported and paid as required under RCW 82.32.045.

1 (~~(e)~~) (d)(i) To aid in the effective administration of the
2 surcharge in this subsection (1), the department may require persons
3 believed to be engaging in advanced computing or affiliated with a
4 person believed to be engaging in advanced computing to disclose
5 whether they are a member of an affiliated group and, if so, to
6 identify all other members of the affiliated group subject to the
7 surcharge.

8 (ii) If the department establishes, by clear, cogent, and
9 convincing evidence, that one or more members of an affiliated group,
10 with intent to evade the surcharge under this subsection (1), failed
11 to fully comply with this subsection (~~(1)~~) (d), the department
12 must assess against that person, or those persons collectively, a
13 penalty equal to fifty percent of the amount of the total surcharge
14 payable by all members of that affiliated group for the calendar year
15 during which the person or persons failed to fully comply with this
16 subsection (~~(1)~~) (d). The penalty under this subsection (~~(1)~~)
17 (~~(e)~~) (d) is in lieu of and not in addition to the evasion penalty
18 under RCW 82.32.090(7).

19 (~~(f)~~) (e) For the purposes of this subsection (1) the following
20 definitions apply:

21 (i) "Advanced computing" means designing or developing computer
22 software or computer hardware, whether directly or contracting with
23 another person, including modifications to computer software or
24 computer hardware, cloud computing services, or operating an online
25 marketplace, an online search engine, or online social networking
26 platform;

27 (ii) "Affiliate" and "affiliated" means a person that directly or
28 indirectly, through one or more intermediaries, controls, is
29 controlled by, or is under common control with another person;

30 (iii) "Affiliated group" means a group of two or more persons
31 that are affiliated with each other;

32 (iv) "Cloud computing services" means on-demand delivery of
33 computing resources, such as networks, servers, storage,
34 applications, and services, over the internet;

35 (v) "Control" means the possession, directly or indirectly, of
36 more than fifty percent of the power to direct or cause the direction
37 of the management and policies of a person, whether through the
38 ownership of voting shares, by contract, or otherwise; and

39 (vi) "Select advanced computing business" means a person who is a
40 member of an affiliated group with at least one member of the

1 affiliated group engaging in the business of advanced computing, and
2 the affiliated group has worldwide gross revenue of more than twenty-
3 five billion dollars during the immediately preceding calendar year.
4 A person who is primarily engaged within this state in the provision
5 of commercial mobile service, as that term is defined in 47 U.S.C.
6 Sec. 332(d)(1), shall not be considered a select advanced computing
7 business. A person who is primarily engaged in this state in the
8 operation and provision of access to transmission facilities and
9 infrastructure that the person owns or leases for the transmission of
10 voice, data, text, sound, and video using wired telecommunications
11 networks shall not be considered a select advanced computing
12 business. A person that is primarily engaged in business as a
13 "financial institution" as defined in RCW 82.04.29004, as that
14 section existed on January 1, 2020, shall not be considered a select
15 advanced computing business. For purposes of this subsection (1)
16 (~~(f)~~) (e)(vi), "primarily" is determined based on gross income of
17 the business.

18 (2) The workforce education investment surcharge under this
19 section does not apply to any hospital as defined in RCW 70.41.020,
20 including any hospital that comes within the scope of chapter 71.12
21 RCW if the hospital is also licensed under chapter 70.41 RCW.

22 (3) Revenues from the surcharge under this section must be
23 deposited directly into the workforce education investment account
24 established in RCW 43.79.195.

25 (4) The department has the authority to determine through an
26 audit or other investigation whether a person is subject to the
27 surcharge imposed in this section.

28 NEW SECTION. **Sec. 15.** Except for section 12 of this act, this
29 act is necessary for the immediate preservation of the public peace,
30 health, or safety, or support of the state government and its
31 existing public institutions, and takes effect immediately.

32 NEW SECTION. **Sec. 16.** Section 12 of this act is necessary for
33 the immediate preservation of the public peace, health, or safety, or
34 support of the state government and its existing public institutions,
35 and takes effect July 1, 2021.

36 NEW SECTION. **Sec. 17.** Sections 1 through 7 of this act
37 constitute a new chapter in Title 28B RCW.

1 NEW SECTION. **Sec. 18.** This act may be known and cited as the
2 our colleges our future act of 2021.

--- **END** ---