

**SSB 5749 - S AMD 461**

By Senators Tom, Becker

ADOPTED 05/21/2011

1       Strike everything after the enacting clause and insert the  
2 following:

3       "**Sec. 1.** RCW 28B.95.020 and 2007 c 405 s 8 are each amended to  
4 read as follows:

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

7       (1) "Academic year" means the regular nine-month, three-quarter, or  
8 two-semester period annually occurring between August 1st and July  
9 31st.

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

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

19       (4) "Committee on advanced tuition payment" or "committee" means a  
20 committee of the following members: The state treasurer, the director  
21 of the office of financial management, the executive director of the  
22 higher education coordinating board, or their designees(~~(7)~~); and  
23 (~~(two)~~) four members to be appointed by the governor and confirmed by  
24 the senate for four-year terms, one representing program participants  
25 and (~~(one)~~) three private business representatives with marketing,  
26 public relations, or financial expertise. Beginning with appointments  
27 made after the effective date of this section, in making the three  
28 appointments representing private business, the governor must consider  
29 names from a list provided by the president of the senate and the  
30 speaker of the house of representatives. Appointment of the two

1 additional members representing private business as provided for in  
2 chapter . . . , Laws of 2011 1st sp. sess. (this act) must be made by  
3 June 30, 2011, and shall be confirmed by the senate by June 30, 2012.

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

7 (6) "Contractual obligation" means a legally binding contract of  
8 the state with the purchaser and the beneficiary establishing that  
9 purchases of tuition units will be worth the same number of tuition  
10 units at the time of redemption as they were worth at the time of the  
11 purchase.

12 (7) "Eligible beneficiary" means the person for whom the tuition  
13 unit will be redeemed for attendance at an institution of higher  
14 education. The beneficiary is that person named by the purchaser at  
15 the time that a tuition unit contract is accepted by the governing  
16 body. Qualified organizations, as allowed under section 529 of the  
17 federal internal revenue code, purchasing tuition unit contracts as  
18 future scholarships need not designate a beneficiary at the time of  
19 purchase.

20 (8) "Eligible purchaser" means an individual or organization that  
21 has entered into a tuition unit contract with the governing body for  
22 the purchase of tuition units for an eligible beneficiary. The state  
23 of Washington may be an eligible purchaser for purposes of purchasing  
24 tuition units to be held for granting Washington college bound  
25 scholarships.

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

29 (10) "Institution of higher education" means an institution that  
30 offers education beyond the secondary level and is recognized by the  
31 internal revenue service under chapter 529 of the internal revenue  
32 code.

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

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

37 (13) "Tuition and fees" means undergraduate tuition and services  
38 and activities fees as defined in RCW 28B.15.020 and 28B.15.041 rounded

1 to the nearest whole dollar. For purposes of this chapter, services  
2 and activities fees do not include fees charged for the payment of  
3 bonds heretofore or hereafter issued for, or other indebtedness  
4 incurred to pay, all or part of the cost of acquiring, constructing, or  
5 installing any lands, buildings, or facilities.

6 (14) "Tuition unit contract" means a contract between an eligible  
7 purchaser and the governing body, or a successor agency appointed for  
8 administration of this chapter, for the purchase of tuition units for  
9 a specified beneficiary that may be redeemed at a later date for an  
10 equal number of tuition units.

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

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

22 (1) The Washington advanced college tuition payment program shall  
23 be administered by the committee on advanced tuition payment which  
24 shall be chaired by the executive director of the board. The committee  
25 shall be supported by staff of the board.

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

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

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

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

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

13 (3)(a) No tuition unit may be redeemed until two years after the  
14 purchase of the unit. Units may be redeemed for enrollment at any  
15 institution of higher education that is recognized by the internal  
16 revenue service under chapter 529 of the internal revenue code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (k) Contract with financial consultants, actuaries, auditors, and  
26 other consultants as necessary to carry out its responsibilities under  
27 this chapter;

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

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

32 **Sec. 3.** RCW 28B.95.080 and 1997 c 289 s 8 are each amended to read  
33 as follows:

34 The governing body shall annually evaluate, and cause to be  
35 evaluated by (~~a nationally recognized~~) the state actuary, the  
36 soundness of the account and determine the additional assets needed, if

1 any, to defray the obligations of the account. The governing body may,  
2 at its discretion, consult with a nationally recognized actuary for  
3 periodic assessments of the account.

4 If funds are ((~~not sufficient~~)) determined by the governing body,  
5 based on actuarial analysis to be insufficient to ensure the actuarial  
6 soundness of the account, the governing body shall adjust the price of  
7 subsequent tuition credit purchases to ensure its soundness.

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

15 **Sec. 4.** RCW 28B.95.150 and 2001 c 184 s 2 are each amended to read  
16 as follows:

17 (1) The committee may establish a college savings program. If such  
18 a program is established, the college savings program shall be  
19 established, in such form as may be determined by the committee, to be  
20 a qualified state tuition program as defined by the internal revenue  
21 service under section 529 of the internal revenue code, and shall be  
22 administered in a manner consistent with the Washington advanced  
23 college tuition payment program. The committee, in planning and  
24 devising the program, shall consult with the state investment board,  
25 the state treasurer, ((~~a qualified actuarial consulting firm with~~  
26 ~~appropriate expertise to evaluate such plans~~)) the state actuary, the  
27 legislative fiscal and higher education committees, and the  
28 institutions of higher education. The governing body may, at its  
29 discretion, consult with a qualified actuarial consulting firm with  
30 appropriate expertise to evaluate such plans for periodic assessments  
31 of the program.

32 (2) Up to two hundred thousand dollars of administrative fees  
33 collected from guaranteed education tuition program participants may be  
34 applied as a loan to fund the development of a college savings program.  
35 This loan must be repaid with interest before the conclusion of the  
36 biennium in which the committee draws funds for this purpose from the  
37 advanced college tuition payment program account.

1 (3) If such a college savings program is established, the college  
2 savings program account is created in the custody of the state  
3 treasurer for the purpose of administering the college savings program.  
4 If created, the account shall be a discrete nontreasury account in the  
5 custody of the state treasurer. Interest earnings shall be retained in  
6 accordance with RCW 43.79A.040. Disbursements from the account, except  
7 for program administration, are exempt from appropriations and the  
8 allotment provisions of chapter 43.88 RCW. Money used for program  
9 administration is subject to the allotment provisions, but without  
10 appropriation.

11 (4) The committee, after consultation with the state investment  
12 board, shall determine the investment policies for the college savings  
13 program. Program contributions may be invested by the state investment  
14 board or the committee may contract with an investment company licensed  
15 to conduct business in this state to do the investing. The committee  
16 shall keep or cause to be kept full and adequate accounts and records  
17 of the assets of each individual participant in the college savings  
18 program.

19 (5) Neither the state nor any eligible educational institution may  
20 be considered or held to be an insurer of the funds or assets of the  
21 individual participant accounts in the college savings program created  
22 under this section nor may any such entity be held liable for any  
23 shortage of funds in the event that balances in the individual  
24 participant accounts are insufficient to meet the educational expenses  
25 of the institution chosen by the student for which the individual  
26 participant account was intended.

27 (6) The committee shall adopt rules to implement this section.  
28 Such rules shall include but not be limited to administration,  
29 investment management, promotion, and marketing; compliance with  
30 internal revenue service standards; application procedures and fees;  
31 start-up costs; phasing in the savings program and withdrawals  
32 therefrom; deterrents to early withdrawals and provisions for hardship  
33 withdrawals; and reenrollment in the savings program after withdrawal.

34 (7) The committee may, at its discretion, determine to cease  
35 operation of the college savings program if it determines the  
36 continuation is not in the best interest of the state. The committee  
37 shall adopt rules to implement this section addressing the orderly  
38 distribution of assets.

1        NEW SECTION.    **Sec. 5.**    (1) Pursuant to passage of Engrossed Second  
2        Substitute House Bill No. 1795 (the higher education opportunity act),  
3        and to maintain the actuarial soundness of the account and to lower the  
4        risk to the state of incurring additional unfunded liability, the  
5        governing body as defined in RCW 28B.95.020 shall, with the assistance  
6        of the state actuary, assess the financial solvency of the advanced  
7        college tuition payment program and shall determine if any changes  
8        should be made to the program for units purchased on or after September  
9        1, 2011, including, but not limited to:

10        (a) Establishing a unit payout value that increases predictability  
11        and affordability to consumers;

12        (b) Modifying the tuition unit price;

13        (c) Modifying the contracting of tuition unit purchases to better  
14        align the tuition unit price paid throughout the length of the contract  
15        with the price established for each enrollment period; and

16        (d) Modifying the enrollment period.

17        (2) The governing body shall submit a report of these efforts to  
18        the governor and the appropriate fiscal committees of the legislature  
19        no later than October 1, 2011.

20        (3) This section expires December 31, 2011.

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

23        (1)(a) A legislative advisory committee to the committee on  
24        advanced tuition payment is established. The advisory committee shall  
25        consist of the following members:

26        (i) Two members from each of the two largest caucuses of the house  
27        of representatives appointed by the speaker of the house of  
28        representatives. At least one member from each caucus shall be a  
29        member of the house of representatives ways and means committee and at  
30        least one member from each caucus shall be a member of the house of  
31        representatives higher education committee; and

32        (ii) Two members from each of the two largest caucuses of the  
33        senate appointed by the president of the senate. At least one member  
34        from each caucus shall be a member of the senate ways and means  
35        committee and at least one member from each caucus shall be a member of  
36        the senate higher education and workforce development committee.

1 (b) All members must be appointed by June 30, 2011, and must serve  
2 a term of no less than two years.

3 (c) Vacancies on the advisory committee shall be filled by  
4 appointment by either the president of the senate or the speaker of the  
5 house of representatives. All such vacancies shall be filled from the  
6 same political party and from the same house as the member whose seat  
7 was vacated.

8 (d) The members of the advisory committee shall serve without  
9 additional compensation, but shall be reimbursed in accordance with RCW  
10 44.04.120 while attending meetings of the advisory committee and of the  
11 committee on advanced tuition payment.

12 (e) The advisory committee shall appoint its own chair and vice  
13 chair and shall meet at least once annually.

14 (2) The advisory committee shall provide advice to the committee on  
15 advanced tuition payment and the state actuary regarding the  
16 administration of the program including, but not limited to, pricing  
17 guidelines, the tuition unit price, and the unit payout value.

18 (3) Staff support for the advisory committee must be jointly  
19 provided by the senate committee services and the house of  
20 representatives office of program research.

21 **Sec. 7.** RCW 44.44.040 and 2003 c 295 s 4 and 2003 c 92 s 2 are  
22 each reenacted and amended to read as follows:

23 The office of the state actuary shall have the following powers and  
24 duties:

25 (1) Perform all actuarial services for the department of retirement  
26 systems, including all studies required by law.

27 (2) Advise the legislature and the governor regarding pension  
28 benefit provisions, and funding policies and investment policies of the  
29 state investment board.

30 (3) Consult with the legislature and the governor concerning  
31 determination of actuarial assumptions used by the department of  
32 retirement systems.

33 (4) Prepare a report, to be known as the actuarial fiscal note, on  
34 each pension bill introduced in the legislature which briefly explains  
35 the financial impact of the bill. The actuarial fiscal note shall  
36 include: (a) The statutorily required contribution for the biennium  
37 and the following twenty-five years; (b) the biennial cost of the

1 increased benefits if these exceed the required contribution; and (c)  
2 any change in the present value of the unfunded accrued benefits. An  
3 actuarial fiscal note shall also be prepared for all amendments which  
4 are offered in committee or on the floor of the house of  
5 representatives or the senate to any pension bill. However, a majority  
6 of the members present may suspend the requirement for an actuarial  
7 fiscal note for amendments offered on the floor of the house of  
8 representatives or the senate.

9 (5) Provide such actuarial services to the legislature as may be  
10 requested from time to time.

11 (6) Provide staff and assistance to the committee established under  
12 RCW 41.04.276.

13 (7) Provide actuarial assistance to the law enforcement officers'  
14 and firefighters' plan 2 retirement board as provided in chapter 2,  
15 Laws of 2003. Reimbursement for services shall be made to the state  
16 actuary under RCW 39.34.130 and section 5(5), chapter 2, Laws of 2003.

17 (8) Provide actuarial assistance to the committee on advanced  
18 tuition payment pursuant to chapter 28B.95 RCW, including recommending  
19 a tuition unit price to the committee on advanced tuition payment to be  
20 used in the ensuing enrollment period. Reimbursement for services  
21 shall be made to the state actuary under RCW 39.34.130.

22 NEW SECTION. Sec. 8. Sections 1 and 6 of this act are necessary  
23 for the immediate preservation of the public peace, health, or safety,  
24 or support of the state government and its existing public  
25 institutions, and take effect immediately."

**SSB 5749** - S AMD

By Senators Tom, Becker

**ADOPTED 05/21/2011**

26 On page 1, line 2 of the title, after "program;" strike the  
27 remainder of the title and insert "amending RCW 28B.95.020, 28B.95.030,  
28 28B.95.080, and 28B.95.150; reenacting and amending RCW 44.44.040;  
29 adding a new section to chapter 28B.95 RCW; creating a new section;

1 providing an expiration date; and declaring an emergency."

EFFECT: Retains the provision that specifies the length of term for the members on the Committee on Advanced Tuition Payment appointed by the Governor for four-year terms instead of an unspecified period of time and adds two additional representatives of private business appointed by the Governor, who must consider names from a list provided by the President of the Senate and the Speaker of the House of Representatives. Adds that the Committee on Advanced Tuition Payment utilize the State Actuary in reviewing the Guaranteed Education Tuition Program rather than a national recognized actuary, but the Committee may, at its discretion, obtain an assessment by a national recognized actuary. Adds that the Committee on Advanced Tuition Payment utilize the State Actuary in planning and devising a college savings program, but the Committee may, at its discretion, obtain an evaluation from a qualified actuarial consulting firm. Requires the Committee on Advanced Tuition Payment, with the State Actuary, to review the program in light of passage of E2SHB 1795 (higher education opportunity act) and to make any necessary changes to the program for units purchased on or after September 1, 2011. Establishes a Legislative Advisory Committee to the Committee on Advanced Tuition Payment to provide advice regarding the administration of the program. Removes all other provisions pertaining to new requirements after August 1, 2011.

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