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SENATE BILL 5926

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State of Washington

59th Legislature

2005 Regular Session

By Senators McAuliffe, Schmidt, Pridemore, Kohl-Welles, Rockefeller, Shin and Schoesler; by request of Committee on Advanced College Tuition Payment

Read first time 02/15/2005. Referred to Committee on Early Learning, K-12 & Higher Education.

1 AN ACT Relating to the advanced college tuition payment program;  
2 amending RCW 28B.95.020, 28B.95.030, 28B.95.090, 28B.95.110, and  
3 6.15.010; and adding a new section to chapter 28B.95 RCW.

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

5 **Sec. 1.** RCW 28B.95.020 and 2004 c 275 s 59 are each amended to  
6 read as follows:

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

9 (1) "Academic year" means the regular nine-month, three-quarter, or  
10 two-semester period annually occurring between (~~July 1st and June~~  
11 ~~30th~~) August 1st and July 31st.

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

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

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

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

13 (6) "Contractual obligation" means a legally binding contract of  
14 the state with the purchaser and the beneficiary establishing that  
15 purchases of tuition units will be worth the same number of tuition  
16 units at the time of redemption as they were worth at the time of the  
17 purchase.

18 (7) "Eligible beneficiary" means the person for whom the tuition  
19 unit will be redeemed for attendance at an institution of higher  
20 education. The beneficiary is that person named by the purchaser at  
21 the time that a tuition unit contract is accepted by the governing  
22 body. ~~((With the exception of tuition unit contracts purchased by))~~  
23 Qualified organizations, as allowed under section 529 of the federal  
24 internal revenue code, purchasing tuition unit contracts as future  
25 scholarships ~~((, the beneficiary must reside in the state of Washington~~  
26 ~~or otherwise be a resident of the state of Washington at the time the~~  
27 ~~tuition unit contract is accepted by the governing body))~~ need not  
28 designate a beneficiary at the time of purchase.

29 (8) "Eligible purchaser" means an individual or organization that  
30 has entered into a tuition unit contract with the governing body for  
31 the purchase of tuition units for an eligible beneficiary.

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

35 (10) "Institution of higher education" means an institution that  
36 offers education beyond the secondary level and is recognized by the  
37 internal revenue service under chapter 529 of the internal revenue  
38 code.

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

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

5 (13) "Tuition and fees" means undergraduate tuition and services  
6 and activities fees as defined in RCW 28B.15.020 and 28B.15.041 rounded  
7 to the nearest whole dollar. (~~The maximum tuition and fees charges~~  
8 ~~recognized for beneficiaries enrolled in a state technical college~~  
9 ~~shall be equal to the tuition and fees for the community college~~  
10 ~~system.~~) For purposes of this chapter, services and activities fees  
11 do not include fees charged for the payment of bonds heretofore or  
12 hereafter issued for, or other indebtedness incurred to pay, all or  
13 part of the cost of acquiring, constructing, or installing any lands,  
14 buildings, or facilities.

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

20 (15) "Unit purchase price" means the minimum cost to purchase one  
21 tuition unit for an eligible beneficiary. Generally, the minimum  
22 purchase price is one percent of the undergraduate (~~weighted average~~)  
23 tuition and fees for the current year, rounded to the nearest whole  
24 dollar, adjusted for the costs of administration and adjusted to ensure  
25 the actuarial soundness of the account. The analysis for price setting  
26 shall also include, but not be limited to consideration of past and  
27 projected patterns of tuition increases, program liability, past and  
28 projected investment returns, and the need for a prudent stabilization  
29 reserve.

30 (~~(16) "Weighted average tuition" shall be calculated as the sum of~~  
31 ~~the undergraduate tuition and services and activities fees for each~~  
32 ~~four-year state institution of higher education, multiplied by the~~  
33 ~~respective full-time equivalent student enrollment at each institution~~  
34 ~~divided by the sum total of undergraduate full-time equivalent student~~  
35 ~~enrollments of all four-year state institutions of higher education,~~  
36 ~~rounded to the nearest whole dollar.~~

37 (~~17) "Weighted average tuition unit" is the value of the weighted~~

1 ~~average tuition and fees divided by one hundred. The weighted average~~  
2 ~~is the basis upon which tuition benefits may be calculated as the basis~~  
3 ~~for any refunds provided from the program.))~~

4 **Sec. 2.** RCW 28B.95.030 and 2000 c 14 s 3 are each amended to read  
5 as follows:

6 (1) The Washington advanced college tuition payment program shall  
7 be administered by the committee on advanced tuition payment which  
8 shall be chaired by the executive director of the board. The committee  
9 shall be supported by staff of the board.

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

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

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

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

29 (e) While the Washington advanced college tuition payment program  
30 is designed to help all citizens of the state of Washington, the  
31 governing body may determine residency requirements for eligible  
32 purchasers and eligible beneficiaries to ensure the actuarial soundness  
33 and integrity of the program.

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

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

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

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

17 (6) The governing body shall annually determine current value of a  
18 tuition unit (~~(and the value of the weighted average tuition unit)~~).

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

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

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

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

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

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

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

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

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

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

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

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

9 (k) Contract with financial consultants, actuaries, auditors, and  
10 other consultants as necessary to carry out its responsibilities under  
11 this chapter;

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

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

16 **Sec. 3.** RCW 28B.95.090 and 1997 c 289 s 9 are each amended to read  
17 as follows:

18 (1) In the event that the state determines that the program is not  
19 financially feasible, or for any other reason, the state may declare  
20 the discontinuance of the program. At the time of such declaration,  
21 the governing body will cease to accept any further tuition unit  
22 contracts or purchases.

23 (2) The remaining tuition units for all beneficiaries who have  
24 either enrolled in higher education or who are within four years of  
25 graduation from a secondary school shall be honored until such tuition  
26 units have been exhausted, or for ten fiscal years from the date that  
27 the program has been discontinued, whichever comes first. All other  
28 contract holders shall receive a refund equal to the value of the  
29 current (~~weighted average~~) tuition units in effect at the time that  
30 the program was declared discontinued.

31 (3) At the end of the ten-year period, any tuition units remaining  
32 unused by currently active beneficiaries enrolled in higher education  
33 shall be refunded at the value of the current (~~weighted average~~)  
34 tuition unit in effect at the end of that ten-year period.

35 (4) At the end of the ten-year period, all other funds remaining in  
36 the account not needed to make refunds or to pay for administrative  
37 costs shall be deposited to the state general fund.

1 (5) The governing body may make refunds under other exceptional  
2 circumstances as it deems fit, however, no tuition units may be honored  
3 after the end of the tenth fiscal year following the declaration of  
4 discontinuance of the program.

5 **Sec. 4.** RCW 28B.95.110 and 2001 c 184 s 3 are each amended to read  
6 as follows:

7 (1) The intent of the Washington advanced college tuition payment  
8 program is to redeem tuition units for attendance at an institution of  
9 higher education. Refunds shall be issued under specific conditions  
10 that may include the following:

11 (a) Certification that the beneficiary, who is eighteen years of  
12 age or older, will not attend an institution of higher education, will  
13 result in a refund not to exceed the current (~~(weighted average tuition~~  
14 ~~and fees)) value, as determined by the governing body, in effect at the  
15 time of such certification minus a penalty at the rate established by  
16 the (~~(internal revenue service under chapter [section] 529 of the~~  
17 ~~internal revenue code. No more than one hundred tuition units may be~~  
18 ~~refunded per year to any individual making this certification))  
19 governing body. The refund shall be made no sooner than ninety days  
20 after such certification, less any administrative processing fees  
21 assessed by the governing body;~~~~

22 (b) If there is certification of the death or disability of the  
23 beneficiary, the refund shall be equal to one hundred percent of any  
24 remaining unused tuition units at the current value, as determined by  
25 the governing body, at the time that such certification is submitted to  
26 the governing body, less any administrative processing fees assessed by  
27 the governing body;

28 (c) If there is certification by the student of graduation or  
29 program completion, the refund shall be as great as one hundred percent  
30 of any remaining unused tuition units at the current value, as  
31 determined by the governing body, at the time that such certification  
32 is submitted to the governing body, less any administrative processing  
33 fees assessed by the governing body. The governing body may, at its  
34 discretion, impose a penalty if needed to comply with federal tax  
35 rules;

36 (d) If there is certification of other tuition and fee  
37 scholarships, which will cover the cost of tuition for the eligible

1 beneficiary. The refund shall be equal to one hundred percent of the  
2 current value of tuition units, as determined by the governing body, in  
3 effect at the time of the refund request, less any administrative  
4 processing fees assessed by the governing body. The refund under this  
5 subsection may not exceed the value of the scholarship;

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

11 (f) The governing body may determine other circumstances qualifying  
12 for refunds of remaining unused tuition units and may determine the  
13 value of that refund.

14 (2) With the exception of subsection (1)(b), (e), and (f) of this  
15 section no refunds may be made before the units have been held for two  
16 years.

17 NEW SECTION. **Sec. 5.** A new section is added to chapter 28B.95 RCW  
18 to read as follows:

19 In regard to bankruptcy filings and enforcement of judgments under  
20 Title 6 RCW, tuition units purchased more than two years prior to the  
21 date of filing or judgment will be considered excluded personal assets.

22 **Sec. 6.** RCW 6.15.010 and 2002 c 265 s 1 are each amended to read  
23 as follows:

24 Except as provided in RCW 6.15.050, the following personal property  
25 shall be exempt from execution, attachment, and garnishment:

26 (1) All wearing apparel of every individual and family, but not to  
27 exceed one thousand dollars in value in furs, jewelry, and personal  
28 ornaments for any individual.

29 (2) All private libraries of every individual, but not to exceed  
30 fifteen hundred dollars in value, and all family pictures and  
31 keepsakes.

32 (3) To each individual or, as to community property of spouses  
33 maintaining a single household as against a creditor of the community,  
34 to the community:

35 (a) The individual's or community's household goods, appliances,  
36 furniture, and home and yard equipment, not to exceed two thousand



1 seven hundred dollars in value for the individual or five thousand four  
2 hundred dollars for the community, said amount to include provisions  
3 and fuel for the comfortable maintenance of the individual or  
4 community;

5 (b) Other personal property, except personal earnings as provided  
6 under RCW 6.15.050(1), not to exceed two thousand dollars in value, of  
7 which not more than two hundred dollars in value may consist of cash,  
8 and of which not more than two hundred dollars in value may consist of  
9 bank accounts, savings and loan accounts, stocks, bonds, or other  
10 securities;

11 (c) For an individual, a motor vehicle used for personal  
12 transportation, not to exceed two thousand five hundred dollars or for  
13 a community two motor vehicles used for personal transportation, not to  
14 exceed five thousand dollars in aggregate value;

15 (d) Any past due, current, or future child support paid or owed to  
16 the debtor, which can be traced;

17 (e) All professionally prescribed health aids for the debtor or a  
18 dependent of the debtor; and

19 (f) To any individual, the right to or proceeds of a payment not to  
20 exceed sixteen thousand one hundred fifty dollars on account of  
21 personal bodily injury, not including pain and suffering or  
22 compensation for actual pecuniary loss, of the debtor or an individual  
23 of whom the debtor is a dependent; or the right to or proceeds of a  
24 payment in compensation of loss of future earnings of the debtor or an  
25 individual of whom the debtor is or was a dependent, to the extent  
26 reasonably necessary for the support of the debtor and any dependent of  
27 the debtor. The exemption under this subsection (3)(f) does not apply  
28 to the right of the state of Washington, or any agent or assignee of  
29 the state, as a lienholder or subrogee under RCW 43.20B.060.

30 (4) To each qualified individual, one of the following exemptions:

31 (a) To a farmer, farm trucks, farm stock, farm tools, farm  
32 equipment, supplies and seed, not to exceed five thousand dollars in  
33 value;

34 (b) To a physician, surgeon, attorney, clergyman, or other  
35 professional person, the individual's library, office furniture, office  
36 equipment and supplies, not to exceed five thousand dollars in value;

37 (c) To any other individual, the tools and instruments and

1 materials used to carry on his or her trade for the support of himself  
2 or herself or family, not to exceed five thousand dollars in value.

3 For purposes of this section, "value" means the reasonable market  
4 value of the debtor's interest in an article or item at the time it is  
5 selected for exemption, exclusive of all liens and encumbrances  
6 thereon.

7 (5) Tuition units, under chapter 28B.95 RCW, purchased more than  
8 two years prior to the date of a bankruptcy filing or court judgment.

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