
SUBSTITUTE SENATE BILL 5749

State of Washington

62nd Legislature

2011 Regular Session

By Senate Higher Education & Workforce Development (originally sponsored by Senators Brown, Hewitt, and Shin)

READ FIRST TIME 02/21/11.

1 AN ACT Relating to the Washington advanced college tuition payment
2 program; amending RCW 28B.95.020, 28B.95.030, and 28B.95.110; and
3 adding new sections 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 2007 c 405 s 8 are each amended to read
6 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 August 1st and July
11 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 for four-year terms, one
8 representing program participants and one private business
9 representative with marketing, public relations, or financial
10 expertise.

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

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

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

27 (8) "Eligible purchaser" means an individual or organization that
28 has entered into a tuition unit contract with the governing body for
29 the purchase of tuition units for an eligible beneficiary. The state
30 of Washington may be an eligible purchaser for purposes of purchasing
31 tuition units to be held for granting Washington college bound
32 scholarships.

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

36 (10) "Institution of higher education" means an institution that
37 offers education beyond the secondary level and is recognized by the

1 internal revenue service under chapter 529 of the internal revenue
2 code.

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

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

7 (13)(a) "Tuition and fees," for tuition units purchased or
8 contracted for purchase on a custom monthly plan before August 1, 2011,
9 means undergraduate tuition and services and activities fees as defined
10 in RCW 28B.15.020 and 28B.15.041 rounded to the nearest whole dollar.
11 For purposes of this chapter, services and activities fees do not
12 include fees charged for the payment of bonds heretofore or hereafter
13 issued for, or other indebtedness incurred to pay, all or part of the
14 cost of acquiring, constructing, or installing any lands, buildings, or
15 facilities.

16 (b) "Tuition and fees," for eligible purchasers who have entered
17 into a tuition unit contract on or after August 1, 2011, means tuition
18 fees as defined in RCW 28B.15.020 rounded to the nearest whole dollar.

19 (14)(a) "Tuition unit contract" means a contract, for tuition units
20 purchased or contracted for purchase on a custom monthly plan before
21 August 1, 2011, between an eligible purchaser and the governing body,
22 or a successor agency appointed for administration of this chapter, for
23 the purchase of tuition units for a specified beneficiary that may be
24 redeemed at a later date for an equal number of tuition units.

25 (b) "Tuition unit contract" for eligible purchasers who have
26 entered into a tuition unit contract on or after August 1, 2011, means
27 a contract between an eligible purchaser and the governing body, or a
28 successor agency appointed for administration of this chapter, for the
29 purchase of tuition units for a specified beneficiary that may be
30 redeemed at a later date for a value that is equivalent to the price of
31 tuition and fees at the time a purchaser enters into a tuition unit
32 contract multiplied by the average percentage increase of resident
33 undergraduate tuition and fees at all state institutions of higher
34 education weighted by the number of full-time equivalent resident
35 undergraduate students.

36 (15) "Unit purchase price" means the minimum cost to purchase one
37 tuition unit for an eligible beneficiary. Generally, the minimum
38 purchase price is one percent of the undergraduate tuition and fees for

1 the current year, rounded to the nearest whole dollar, adjusted for the
2 costs of administration and adjusted to ensure the actuarial soundness
3 of the account. The analysis for price setting shall also include, but
4 not be limited to consideration of past and projected patterns of
5 tuition increases, program liability, past and projected investment
6 returns, and the need for a prudent stabilization reserve.

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

9 This section applies to tuition units purchased or contracted for
10 purchase on a custom monthly plan before August 1, 2011.

11 (1) The Washington advanced college tuition payment program shall
12 be administered by the committee on advanced tuition payment which
13 shall be chaired by the executive director of the board. The committee
14 shall be supported by staff of the board.

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

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

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

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

34 (e) While the Washington advanced college tuition payment program
35 is designed to help all citizens of the state of Washington, the
36 governing body may determine residency requirements for eligible

1 purchasers and eligible beneficiaries to ensure the actuarial soundness
2 and integrity of the program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (k) Contract with financial consultants, actuaries, auditors, and
16 other consultants as necessary to carry out its responsibilities under
17 this chapter;

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

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

22 **Sec. 3.** RCW 28B.95.110 and 2005 c 272 s 4 are each amended to read
23 as follows:

24 This section applies to tuition units purchased or contracted for
25 purchase on a custom monthly plan before August 1, 2011.

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

30 (a) Certification that the beneficiary, who is eighteen years of
31 age or older, will not attend an institution of higher education, will
32 result in a refund not to exceed the current value, as determined by
33 the governing body, in effect at the time of such certification minus
34 a penalty at the rate established by the governing body. The refund
35 shall be made no sooner than ninety days after such certification, less
36 any administrative processing fees assessed by the governing body;

1 (b) If there is certification of the death or disability of the
2 beneficiary, the refund shall be equal to one hundred percent of any
3 remaining unused tuition units at the current value, as determined by
4 the governing body, at the time that such certification is submitted to
5 the governing body, less any administrative processing fees assessed by
6 the governing body;

7 (c) If there is certification by the student of graduation or
8 program completion, the refund shall be as great as one hundred percent
9 of any remaining unused tuition units at the current value, as
10 determined by the governing body, at the time that such certification
11 is submitted to the governing body, less any administrative processing
12 fees assessed by the governing body. The governing body may, at its
13 discretion, impose a penalty if needed to comply with federal tax
14 rules;

15 (d) If there is certification of other tuition and fee
16 scholarships, which will cover the cost of tuition for the eligible
17 beneficiary. The refund shall be equal to one hundred percent of the
18 current value of tuition units, as determined by the governing body, in
19 effect at the time of the refund request, less any administrative
20 processing fees assessed by the governing body. The refund under this
21 subsection may not exceed the value of the scholarship;

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

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

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

33 NEW SECTION. **Sec. 4.** A new section is added to chapter 28B.95 RCW
34 to read as follows:

35 This section applies to eligible purchasers who have entered into
36 a tuition unit contract on or after August 1, 2011.

1 (1) The Washington advanced college tuition payment program shall
2 be administered by the committee on advanced tuition payment which
3 shall be chaired by the executive director of the board. The committee
4 shall be supported by staff of the board.

5 (2)(a) The Washington advanced college tuition payment program
6 shall consist of the sale of tuition units, which may be redeemed by
7 the beneficiary at a future date. The value of each tuition unit at
8 the time of redemption shall be the price of tuition and fees at the
9 time a purchaser enters into a tuition unit contract multiplied by the
10 average percentage increase of resident undergraduate tuition and fees
11 at all state institutions of higher education weighted by the number of
12 full-time equivalent resident undergraduate students.

13 (b) The governing body may limit the number of tuition units
14 purchased by any one purchaser or on behalf of any one beneficiary.
15 The governing body also may, at its discretion, limit the number of
16 participants, if needed, to ensure the actuarial soundness and
17 integrity of the program.

18 (c) While the Washington advanced college tuition payment program
19 is designed to help all citizens of the state of Washington, the
20 governing body may determine residency requirements for eligible
21 purchasers and eligible beneficiaries to ensure the actuarial soundness
22 and integrity of the program.

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

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

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

35 (5) The governing body shall administer the Washington advanced
36 college tuition payment program in a manner reasonably designed to be
37 actuarially sound, such that the assets of the trust will be sufficient

1 to defray the obligations of the trust including the costs of
2 administration.

3 (6) The governing body shall annually determine current value of a
4 tuition unit in accordance with subsection (2)(a) of this section.

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

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

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

11 (b) Determine and set any time limits, if necessary, for the use of
12 benefits under this chapter, however after redemption of the first
13 tuition unit the remaining units must be used within six years;

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

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

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

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

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

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

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

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

34 (k) Contract with financial consultants, actuaries, auditors, and
35 other consultants as necessary to carry out its responsibilities under
36 this chapter;

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

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

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

5 This section applies to eligible purchasers who have entered into
6 a tuition unit contract on or after August 1, 2011.

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 shall include the following:

11 (a)(i) 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 lesser of:

14 (A) The actual dollar value of the purchaser's contributions plus
15 any interest earned as reported by the state investment board; or

16 (B) The price of tuition and fees at the time a purchaser enters
17 into a tuition unit contract multiplied by the average percentage
18 increase of resident undergraduate tuition and fees at all state
19 institutions of higher education weighted by the number of full-time
20 equivalent resident undergraduate students in attendance;

21 (ii) The refund shall be made no sooner than ninety days after the
22 certification in this subsection (1)(a), less any administrative
23 processing fees assessed by the governing body;

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

30 (c) If there is certification by the student of graduation or
31 program completion, the refund shall be as great as one hundred percent
32 of any remaining unused tuition units at the current value, as
33 determined by the governing body, at the time that the certification
34 under this subsection (1)(c) is submitted to the governing body, less
35 any administrative processing fees assessed by the governing body. The
36 governing body may, at its discretion, impose a penalty if needed to
37 comply with federal tax rules;

1 (d) If there is certification of other tuition and fee
2 scholarships, which will cover the cost of tuition for the eligible
3 beneficiary, the refund shall be equal to one hundred percent of the
4 current value of tuition units, as determined by the governing body, in
5 effect at the time of the refund request, less any administrative
6 processing fees assessed by the governing body. The refund under this
7 subsection (1)(d) may not exceed the value of the scholarship;

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

13 (f) The governing body may determine other circumstances qualifying
14 for refunds of remaining unused tuition units provided that the value
15 of the refund does not exceed the lesser of:

16 (i) The actual dollar value of the purchaser's contributions plus
17 any interest earned as reported by the state investment board; or

18 (ii) The price of tuition and fees at the time a purchaser enters
19 into a tuition unit contract multiplied by the average percentage
20 increase of resident undergraduate tuition and fees at all state
21 institutions of higher education weighted by the number of full-time
22 equivalent resident undergraduate students in attendance.

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

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