
SENATE BILL 5749

State of Washington

62nd Legislature

2011 Regular Session

By Senators Brown, Hewitt, and Shin

Read first time 02/09/11. Referred to Committee on Higher Education & Workforce Development.

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; adding
3 new sections to chapter 28B.95 RCW; providing an effective date; and
4 declaring an emergency.

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

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

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

10 (1) "Academic year" means the regular nine-month, three-quarter, or
11 two-semester period annually occurring between August 1st and July
12 31st.

13 (2) "Account" means the Washington advanced college tuition payment
14 program account established for the deposit of all money received by
15 the board from eligible purchasers and interest earnings on investments
16 of funds in the account, as well as for all expenditures on behalf of
17 eligible beneficiaries for the redemption of tuition units and for the
18 development of any authorized college savings program pursuant to RCW
19 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 April 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 April 1, 2011, means tuition
18 fees as defined in RCW 28B.15.020 rounded to the nearest whole dollar.

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

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

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

35 This section applies to tuition units purchased or contracted for
36 purchase on a custom monthly plan before April 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 for an equal number of tuition units
8 regardless of any increase in the price of tuition, that may have
9 occurred in the interval.

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

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

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

24 (e) While the Washington advanced college tuition payment program
25 is designed to help all citizens of the state of Washington, the
26 governing body may determine residency requirements for eligible
27 purchasers and eligible beneficiaries to ensure the actuarial soundness
28 and integrity of the program.

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

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

36 (4) The governing body shall determine the conditions under which
37 the tuition benefit may be transferred to another family member. In

1 permitting such transfers, the governing body may not allow the tuition
2 benefit to be bought, sold, bartered, or otherwise exchanged for goods
3 and services by either the beneficiary or the purchaser.

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

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

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

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

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

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

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

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

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

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

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

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

37 (i) Contract for the provision for all or part of the services

1 necessary for the management and operation of the program with other
2 state or nonstate entities authorized to do business in the state;

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

5 (k) Contract with financial consultants, actuaries, auditors, and
6 other consultants as necessary to carry out its responsibilities under
7 this chapter;

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

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

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

14 This section applies to tuition units purchased or contracted for
15 purchase on a custom monthly plan before April 1, 2011.

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

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

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

33 (c) If there is certification by the student of graduation or
34 program completion, the refund shall be as great as one hundred percent
35 of any remaining unused tuition units at the current value, as
36 determined by the governing body, at the time that such certification
37 is submitted to the governing body, less any administrative processing

1 fees assessed by the governing body. The governing body may, at its
2 discretion, impose a penalty if needed to comply with federal tax
3 rules;

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

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

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

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

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

24 This section applies to eligible purchasers who have entered into
25 a tuition unit contract on or after April 1, 2011.

26 (1) The Washington advanced college tuition payment program shall
27 be administered by the committee on advanced tuition payment which
28 shall be chaired by the executive director of the board. The committee
29 shall be supported by staff of the board.

30 (2)(a) The Washington advanced college tuition payment program
31 shall consist of the sale of tuition units, which may be redeemed by
32 the beneficiary at a future date. The value of each tuition unit at
33 the time of redemption shall be the price of tuition and fees at the
34 time a purchaser enters into a tuition unit contract multiplied by the
35 average percentage increase of resident undergraduate tuition and fees
36 at all state institutions of higher education weighted by the number of
37 full-time equivalent resident undergraduate students.

1 (b) The governing body may limit the number of tuition units
2 purchased by any one purchaser or on behalf of any one beneficiary.
3 The governing body also may, at its discretion, limit the number of
4 participants, if needed, to ensure the actuarial soundness and
5 integrity of the program.

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

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

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

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

23 (5) The governing body shall administer the Washington advanced
24 college tuition payment program in a manner reasonably designed to be
25 actuarially sound, such that the assets of the trust will be sufficient
26 to defray the obligations of the trust including the costs of
27 administration.

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (k) Contract with financial consultants, actuaries, auditors, and
22 other consultants as necessary to carry out its responsibilities under
23 this chapter;

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

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

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

30 This section applies to eligible purchasers who have entered into
31 a tuition unit contract on or after April 1, 2011.

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

36 (a)(i) Certification that the beneficiary, who is eighteen years of

1 age or older, will not attend an institution of higher education, will
2 result in a refund not to exceed the lesser of:

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

5 (B) The price of tuition and fees at the time a purchaser enters
6 into a tuition unit contract multiplied by the average percentage
7 increase of resident undergraduate tuition and fees at all state
8 institutions of higher education weighted by the number of full-time
9 equivalent resident undergraduate students in attendance;

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

13 (b) If there is certification of the death or disability of the
14 beneficiary, the refund shall be equal to one hundred percent of any
15 remaining unused tuition units at the current value, as determined by
16 the governing body, at the time that such certification is submitted to
17 the governing body, less any administrative processing fees assessed by
18 the governing body;

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

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

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

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

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

6 (ii) The price of tuition and fees at the time a purchaser enters
7 into a tuition unit contract multiplied by the average percentage
8 increase of resident undergraduate tuition and fees at all state
9 institutions of higher education weighted by the number of full-time
10 equivalent resident undergraduate students in attendance.

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

14 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
15 preservation of the public peace, health, or safety, or support of the
16 state government and its existing public institutions, and takes effect
17 April 1, 2011.

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