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SENATE BILL 5923

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State of Washington

65th Legislature

2017 Regular Session

By Senators Mullet, Palumbo, Braun, Pedersen, and Carlyle

1 AN ACT Relating to the Washington higher education tuition  
2 payment and college savings programs; and amending RCW 28B.95.020,  
3 28B.95.030, 28B.95.045, 28B.95.060, and 28B.95.092.

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

5 **Sec. 1.** RCW 28B.95.020 and 2016 c 69 s 2 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,  
10 or two-semester period annually occurring between August 1st and July  
11 31st.

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

19 (3) "Advisor sold" means a channel through which a broker dealer,  
20 investment advisor, or other financial intermediary recommends the  
21 Washington college savings program established pursuant to RCW

1 28B.95.010 to eligible investors and assists with the opening and  
2 servicing of individual college savings program accounts.

3 (4) "College savings program account" means the Washington  
4 college savings program account established pursuant to RCW  
5 (~~28B.95.010~~) 28B.95.085.

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

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 in the advanced college tuition payment  
16 program will be worth the same number of tuition units at the time of  
17 redemption as they were worth at the time of the purchase, except as  
18 provided in RCW 28B.95.030(7).

19 (7) "Dual credit fees" means any fees charged to a student for  
20 participation in college in the high school under RCW 28A.600.290 or  
21 running start under RCW 28A.600.310.

22 (8) "Eligible beneficiary" means the person designated as the  
23 individual whose education expenses are to be paid from the advanced  
24 college tuition payment program or the college savings program.  
25 Qualified organizations, as allowed under section 529 of the federal  
26 internal revenue code, purchasing tuition unit contracts as future  
27 scholarships need not designate a beneficiary at the time of  
28 purchase.

29 (9) "Eligible contributor" means an individual or organization  
30 that contributes money for the purchase of tuition units, and for an  
31 individual college savings program account established pursuant to  
32 this chapter for an eligible beneficiary.

33 (10) "Eligible purchaser" means an individual or organization  
34 that has entered into a tuition unit contract with the governing body  
35 for the purchase of tuition units in the advanced college tuition  
36 payment program for an eligible beneficiary, or that has entered into  
37 a participant college savings program account contract for an  
38 eligible beneficiary. The state of Washington may be an eligible  
39 purchaser for purposes of purchasing tuition units to be held for  
40 granting Washington college bound scholarships.

1 (11) "Full-time tuition charges" means resident tuition charges  
2 at a state institution of higher education for enrollments between  
3 ten credits and eighteen credit hours per academic term.

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

7 (13) "Individual college savings program account" means the  
8 formal record of transactions relating to a Washington college  
9 savings program beneficiary.

10 (14) "Institution of higher education" means an institution that  
11 offers education beyond the secondary level and is recognized by the  
12 internal revenue service under chapter 529 of the internal revenue  
13 code.

14 (15) "Investment board" means the state investment board as  
15 defined in chapter 43.33A RCW.

16 (16) "Investment manager" means the state investment board,  
17 another state, or any other entity as selected by the governing body,  
18 including another college savings plan established pursuant to  
19 section 529 of the internal revenue code.

20 (17) "Office" means the office of student financial assistance as  
21 defined in chapter 28B.76 RCW.

22 (18) "Owner" means the eligible purchaser or the purchaser's  
23 successor in interest who shall have the exclusive authority to make  
24 decisions with respect to the tuition unit contract or the individual  
25 college savings program contract. The owner has exclusive authority  
26 and responsibility to establish and change the asset investment  
27 options for a beneficiaries' individual college savings program  
28 account.

29 (19) "Participant college savings program account contract" means  
30 a contract to participate in the Washington college savings program  
31 between an eligible purchaser and the office.

32 (20) "State institution of higher education" means institutions  
33 of higher education as defined in RCW 28B.10.016.

34 (21) "Tuition and fees" means undergraduate tuition and services  
35 and activities fees as defined in RCW 28B.15.020 and 28B.15.041  
36 rounded to the nearest whole dollar. For purposes of this chapter,  
37 services and activities fees do not include fees charged for the  
38 payment of bonds heretofore or hereafter issued for, or other  
39 indebtedness incurred to pay, all or part of the cost of acquiring,  
40 constructing, or installing any lands, buildings, or facilities.

1 (22) "Tuition unit contract" means a contract between an eligible  
2 purchaser and the governing body, or a successor agency appointed for  
3 administration of this chapter, for the purchase of tuition units in  
4 the advanced college tuition payment program for a specified  
5 beneficiary that may be redeemed at a later date for an equal number  
6 of tuition units, except as provided in RCW 28B.95.030(7).

7 (23) "Unit cash value price" means the total value of assets  
8 under management in the advanced college tuition payment program in  
9 which eligible purchasers opened accounts before July 1, 2015,  
10 divided by the total number outstanding credits purchased by eligible  
11 purchasers that opened accounts before July 1, 2015.

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

22 **Sec. 2.** RCW 28B.95.030 and 2016 c 69 s 4 are each amended to  
23 read as follows:

24 (1) The Washington advanced college tuition payment program shall  
25 be administered by the committee on advanced tuition payment which  
26 shall be chaired by the director of the office. The committee shall  
27 be supported by staff of the office.

28 (2)(a) The Washington advanced college tuition payment program  
29 shall consist of the sale of tuition units, which may be redeemed by  
30 the beneficiary at a future date for an equal number of tuition units  
31 regardless of any increase in the price of tuition, that may have  
32 occurred in the interval, except as provided in subsection (7) of  
33 this section.

34 (b) Each purchase shall be worth a specific number of or fraction  
35 of tuition units at each state institution of higher education as  
36 determined by the governing body, except as provided in subsections  
37 (7) and (8) of this section.

38 (c) The number of tuition units necessary to pay for a full  
39 year's, full-time undergraduate tuition and fee charges at a state

1 institution of higher education shall be set by the governing body at  
2 the time a purchaser enters into a tuition unit contract, except as  
3 provided in subsection (7) of this section.

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

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

16 (3)(a) No tuition unit may be redeemed until two years after the  
17 purchase of the unit.

18 (b) Units may be redeemed for enrollment at any institution of  
19 higher education that is recognized by the internal revenue service  
20 under chapter 529 of the internal revenue code. Units may also be  
21 redeemed to pay for dual credit fees.

22 (c) Units redeemed at a nonstate institution of higher education  
23 or for graduate enrollment shall be redeemed at the rate for state  
24 public institutions in effect at the time of redemption.

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

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

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

1 (7) For the 2015-16 and 2016-17 academic years only, the  
2 governing body shall set the payout value for units redeemed during  
3 that academic year only at one hundred seventeen dollars and eighty-  
4 two cents per unit. For academic years after the 2016-17 academic  
5 year, the governing body shall make program adjustments it deems  
6 necessary and appropriate to ensure that the total payout value of  
7 each account on October 9, 2015, is not decreased or diluted as a  
8 result of the initial application of any changes in tuition under  
9 section 3, chapter 36, Laws of 2015 3rd sp. sess. In the event the  
10 committee or governing body provides additional units under chapter  
11 36, Laws of 2015 3rd sp. sess., the committee and governing body  
12 shall also increase the maximum number of units that can be redeemed  
13 in any year to mitigate the reduction in available account value  
14 during any year as a result of chapter 36, Laws of 2015 3rd sp. sess.  
15 The governing body must notify holders of tuition units after the  
16 adjustment in this subsection is made and must include a statement  
17 concerning the adjustment.

18 (8) Once the Washington college savings plan is established, the  
19 governing body shall allow eligible purchasers to redeem units at the  
20 unit cash value price provided that all of the redeemed funds are  
21 deposited immediately into an eligible Washington college savings  
22 plan established by the governing body. Eligible purchasers may  
23 redeem units at the cash value price for the first six months after  
24 the Washington college savings plan has been established. Once the  
25 Washington college savings plan has been established for six months,  
26 tuition units may only be redeemed for the payout value determined by  
27 the governing board.

28 (9) The governing body shall promote, advertise, and publicize  
29 the Washington advanced college tuition payment program. Materials  
30 and online publications advertising the Washington advanced college  
31 tuition payment program shall include a disclaimer that the  
32 Washington advanced college tuition payment program's guarantee is  
33 that one hundred tuition units will equal one year of full-time,  
34 resident, undergraduate tuition at the most expensive state  
35 institution of higher education, and that if resident, undergraduate  
36 tuition is reduced, a tuition unit may lose monetary value.

37 ((+9)) (10) In addition to any other powers conferred by this  
38 chapter, the governing body may:

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

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

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

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

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

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

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

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

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

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

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

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

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

30 **Sec. 3.** RCW 28B.95.045 and 2016 c 69 s 6 are each amended to  
31 read as follows:

32 (1) The committee shall create an expedited process by which  
33 owners can complete a direct rollover of a 529 account from (a) a  
34 state-sponsored prepaid tuition plan to a state-sponsored college  
35 savings plan, (b) a state-sponsored college savings plan to a state-  
36 sponsored prepaid tuition plan, or (c) a state-sponsored prepaid  
37 tuition plan or a state-sponsored college savings plan to an out-of-  
38 state eligible 529 plan. Owners may only rollover units purchased in  
39 the Washington advanced college tuition payment program at the unit

1 cash value price when the funds are deposited immediately into an  
2 eligible Washington college savings account for the first six months  
3 that the Washington college savings account is open. Credits may not  
4 be distributed at the unit cash value price when deposited into an  
5 out-of-state eligible 529 plan.

6 (2) The committee shall report annually to the governor and the  
7 appropriate committees of the legislature on (a) the number of  
8 accounts that have been rolled into the Washington college savings  
9 program from out of state and (b) the number of accounts rolled out  
10 of the Washington college savings program to 529 plans into other  
11 states.

12 **Sec. 4.** RCW 28B.95.060 and 2011 1st sp.s. c 11 s 172 are each  
13 amended to read as follows:

14 (1) The Washington advanced college tuition payment program  
15 account is created in the custody of the state treasurer. The account  
16 shall be a discrete nontreasury account retaining its interest  
17 earnings in accordance with RCW 43.79A.040.

18 (2)(a) Except as provided in (b) of this subsection, the  
19 governing body shall deposit in the account all money received for  
20 the program. The state treasurer must track funds associated with any  
21 new Washington advanced college tuition payment program accounts  
22 created after July 1, 2017, separately from those accounts created  
23 June 30, 2015, or earlier. The account shall be self-sustaining and  
24 consist of payments received from purchasers of tuition units and  
25 funds received from other sources, public or private. With the  
26 exception of investment and operating costs associated with the  
27 investment of money by the investment board paid under RCW 43.33A.160  
28 and 43.84.160, the account shall be credited with all investment  
29 income earned by the account. Disbursements from the account are  
30 exempt from appropriations and the allotment provisions of chapter  
31 43.88 RCW. Money used for program administration is subject to the  
32 allotment of all expenditures. However, an appropriation is not  
33 required for such expenditures. Program administration shall include,  
34 but not be limited to: The salaries and expenses of the program  
35 personnel including lease payments, travel, and goods and services  
36 necessary for program operation; contracts for program promotion and  
37 advertisement, audits, and account management; and other general  
38 costs of conducting the business of the program.



1 (b) All money received by the program from the office for the GET  
2 ready for math and science scholarship program shall be deposited in  
3 the GET ready for math and science scholarship account created in RCW  
4 28B.105.110.

5 (3) The assets of the account may be spent without appropriation  
6 for the purpose of making payments to institutions of higher  
7 education on behalf of the qualified beneficiaries, making refunds,  
8 transfers, or direct payments upon the termination of the Washington  
9 advanced college tuition payment program. Disbursements from the  
10 account shall be made only on the authorization of the governing  
11 body.

12 (4) With regard to the assets of the account, the state acts in a  
13 fiduciary, not ownership, capacity. Therefore the assets of the  
14 program are not considered state money, common cash, or revenue to  
15 the state.

16 **Sec. 5.** RCW 28B.95.092 and 2016 c 69 s 11 are each amended to  
17 read as follows:

18 The governing body shall begin and continue to accept  
19 applications for new tuition unit contracts and authorize the sale of  
20 new tuition units (~~((by July 1, 2017))~~) once the state opens the  
21 Washington college savings program. Upon reopening the advanced  
22 college tuition payment program, in any year in which the total  
23 annual sale of tuition units is below five hundred thousand, the  
24 governing body shall determine how to reinvigorate the advanced  
25 college tuition payment program to incentivize Washingtonians to  
26 enter into tuition unit contracts and purchase tuition units.

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