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HOUSE BILL 1138

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State of Washington

67th Legislature

2021 Regular Session

By Representatives Bergquist and Paul

1 AN ACT Relating to ensuring price accuracy for tuition units in  
2 the guaranteed education tuition program; and amending RCW 28B.95.020  
3 and 28B.95.030.

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

5 **Sec. 1.** RCW 28B.95.020 and 2018 c 188 s 1 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.95.085.

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~~  
18 ~~as provided in RCW 28B.95.030 (7) and (8))~~).

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) and~~  
7 ~~(8))~~).

8 (~~(23) ("Unit cash value price" means the total value of assets~~  
9 ~~under management in the advanced college tuition payment program on a~~  
10 ~~date to be determined by the committee, divided by the total number~~  
11 ~~of outstanding units purchased by eligible purchasers before July 1,~~  
12 ~~2015, and any outstanding units accrued by eligible purchasers as a~~  
13 ~~result of the July 2017 unit rebase. For purposes of this~~  
14 ~~calculation, the total market value of assets shall exclude the total~~  
15 ~~accumulated market value of proceeds from units purchased after June~~  
16 ~~30, 2015.~~

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

27 (24) "Actual accumulated value" means an individual advanced  
28 college tuition payment program account's averaged accumulated value  
29 of all tuition units purchased using actual program investment  
30 returns from the time of purchase to the time of redemption,  
31 excluding expense and reserve components of a tuition unit's purchase  
32 price and if applicable, any finance charges or amortization fees.

33 (25) "Adjusted accumulated value" is determined for an individual  
34 advanced college tuition payment program account by taking the lesser  
35 of its actual accumulated value or its assumed accumulated value.

36 (26) "Assumed accumulated value" means an individual advanced  
37 college tuition payment program account's averaged accumulated value  
38 of all tuition units purchased using the assumed investment returns  
39 that were used to determine a tuition unit's purchase price from the  
40 time of purchase to the time of redemption, excluding expense and

1 reserve components of a tuition unit's purchase price and if  
2 applicable, any finance charges or amortization fees.

3 (27) "Individual advanced college tuition payment program  
4 account" means the formal record of transactions relating to an  
5 advanced college tuition payment program account beneficiary.

6 **Sec. 2.** RCW 28B.95.030 and 2018 c 188 s 2 are each amended to  
7 read as follows:

8 (1) The Washington advanced college tuition payment program shall  
9 be administered by the committee on advanced tuition payment which  
10 shall be chaired by the director of the office. The committee shall  
11 be supported by staff of the office.

12 (2)(a) The Washington advanced college tuition payment program  
13 shall consist of the sale of tuition units, which may be redeemed by  
14 the beneficiary at a future date for an equal number of tuition units  
15 regardless of any increase in the price of tuition, that may have  
16 occurred in the interval(~~(, except as provided in subsections (7) and~~  
17 ~~(8) of this section)~~).

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

22 (c) The number of tuition units necessary to pay for a full  
23 year's, full-time undergraduate tuition and fee charges at a state  
24 institution of higher education shall be set by the governing body at  
25 the time a purchaser enters into a tuition unit contract(~~(, except as~~  
26 ~~provided in subsections (7) and (8) of this section)~~).

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,  
32 at its discretion, limit the number of participants, if needed, to  
33 ensure 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  
37 purchasers and eligible beneficiaries to ensure the actuarial  
38 soundness and integrity of the program.

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

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

7 (c) Units redeemed at a nonstate institution of higher education  
8 or for graduate enrollment shall be redeemed at the rate for state  
9 public 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  
13 tuition benefit to be bought, sold, bartered, or otherwise exchanged  
14 for goods 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  
18 sufficient to defray the obligations of the trust including the costs  
19 of administration. The governing body may, at its discretion,  
20 discount the minimum purchase price for certain kinds of purchases  
21 such as those from families with young children, as long as the  
22 actuarial soundness of the account is not jeopardized.

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

25 ~~(7) ((For the 2015-16 and 2016-17 academic years only, the~~  
26 ~~governing body shall set the payout value for units redeemed during~~  
27 ~~that academic year only at one hundred seventeen dollars and eighty-~~  
28 ~~two cents per unit. For academic years after the 2016-17 academic~~  
29 ~~year, the governing body shall make program adjustments it deems~~  
30 ~~necessary and appropriate to ensure that the total payout value of~~  
31 ~~each account on October 9, 2015, is not decreased or diluted as a~~  
32 ~~result of the initial application of any changes in tuition under~~  
33 ~~section 3, chapter 36, Laws of 2015 3rd sp. sess. In the event the~~  
34 ~~committee or governing body provides additional units under chapter~~  
35 ~~36, Laws of 2015 3rd sp. sess., the committee and governing body~~  
36 ~~shall also increase the maximum number of units that can be redeemed~~  
37 ~~in any year to mitigate the reduction in available account value~~  
38 ~~during any year as a result of chapter 36, Laws of 2015 3rd sp. sess.~~  
39 ~~The governing body must notify holders of tuition units after the~~

1 ~~adjustment in this subsection is made and must include a statement~~  
2 ~~concerning the adjustment.~~

3 ~~(8) The governing body shall allow account owners who purchased~~  
4 ~~units before July 1, 2015, to redeem such units at the unit cash~~  
5 ~~value price provided that all the redeemed funds are deposited~~  
6 ~~immediately into an eligible Washington college savings program~~  
7 ~~account established by the governing body. Within ninety days of~~  
8 ~~April 15, 2018, the committee, in consultation with the state actuary~~  
9 ~~and state investment board, shall:~~

10 ~~(a) Establish a period that is not less than ninety days during~~  
11 ~~which eligible purchasers may redeem units at the unit cash value~~  
12 ~~price for the purposes of this subsection and provide at least thirty~~  
13 ~~days' notice prior to the ninety-day window to all eligible account~~  
14 ~~holders about the redemption option; and~~

15 ~~(b) Establish the unit cash value price. The committee, in~~  
16 ~~consultation with the state actuary and the state investment board,~~  
17 ~~may revalue the unit cash value price established in this subsection~~  
18 ~~(8)(b) up to three times during the ninety-day period in which~~  
19 ~~eligible purchasers may redeem units for the unit cash value price.~~

20 ~~(9)(a) After the governing body completes the requirements of~~  
21 ~~subsection (8) of this section, the governing body shall adjust, by~~  
22 ~~March 1, 2019, all remaining unredeemed units purchased before July~~  
23 ~~1, 2015, as follows:~~

24 ~~(i) First, the governing body shall take the difference between~~  
25 ~~the average unit purchase price in each individual's account and the~~  
26 ~~2016-17 unit payout value and increase the number of units in each~~  
27 ~~individual's account by a number of units of equivalent total value~~  
28 ~~at the 2017-18 unit purchase price, if the average unit purchase~~  
29 ~~price is more than the 2016-17 unit payout value; and~~

30 ~~(ii) Second, after (a)(i) of this subsection is completed, the~~  
31 ~~governing body, with assistance from the state actuary, shall grant~~  
32 ~~an additional number of units to each account holder with unredeemed~~  
33 ~~and purchased units before July 1, 2015, in order to lower the best-~~  
34 ~~estimate funded status of the program to one hundred twenty-five~~  
35 ~~percent, subject to a limit of an increase of fifteen percent of~~  
36 ~~unredeemed and purchased units per account holder. The state actuary~~  
37 ~~shall select the measurement date, assumptions, and methods necessary~~  
38 ~~to perform an actuarial measurement consistent with the purpose of~~  
39 ~~this subsection.~~

1 ~~(b) For the purpose of this subsection (9), and for account~~  
2 ~~holders with uncompleted custom monthly contracts, the governing body~~  
3 ~~shall only include purchased and unredeemed units before July 1,~~  
4 ~~2015.~~

5 (10)) Beginning with academic year 2022-23, the first time a  
6 beneficiary redeems tuition units for a qualified higher education  
7 expense, the governing body shall set the total original number of  
8 qualifying tuition units for the beneficiary's individual advanced  
9 college tuition payment program account for purposes of calculating a  
10 dividend.

11 (a) The governing body shall calculate a possible dividend for  
12 the individual advanced college tuition payment program account each  
13 time the beneficiary redeems tuition units based on the total  
14 original number of qualifying tuition units.

15 (b) The governing body shall determine the possible dividend by  
16 calculating the following for the individual advanced college tuition  
17 payment program account:

18 (i) The actual accumulated value;

19 (ii) The assumed accumulated value; and

20 (iii) The adjusted accumulated value.

21 (c) If the adjusted accumulated value exceeds the unit payout  
22 value at the time of redemption, the individual advanced college  
23 tuition payment program account is eligible for a dividend. The  
24 dividend is the difference between the adjusted accumulated value and  
25 the unit payout value. The beneficiary shall receive a proportion of  
26 the dividend equal to the proportion of tuition units redeemed  
27 compared to the total original number of qualifying tuition units.  
28 The beneficiary has two options for receiving the dividend:

29 (i) In addition to the tuition units requested for redemption; or

30 (ii) In place of an equal number of tuition units requested for  
31 redemption.

32 (d) The remaining unused portion of the dividend must not be held  
33 in a beneficiary's individual advanced college tuition payment  
34 program account for future use, and the unused dividend expires upon  
35 the beneficiary's receipt of requested tuition units.

36 (e) The legislature reserves the right to amend or repeal the  
37 dividend at any time in the future, and no individual advanced  
38 college tuition payment program account holder or beneficiary has a  
39 contractual right to receive a dividend not granted prior to that  
40 time.



1       (8) The governing body shall collect an amortization fee as a  
2 component of each future unit sold whenever the governing body  
3 determines amortization fees are necessary to increase the best-  
4 estimate funded status of the program.

5       ~~((11))~~ (9) The governing body shall promote, advertise, and  
6 publicize the Washington advanced college tuition payment program.  
7 Materials and online publications advertising the Washington advanced  
8 college tuition payment program shall include a disclaimer that the  
9 Washington advanced college tuition payment program's guarantee is  
10 that one hundred tuition units will equal one year of full-time,  
11 resident, undergraduate tuition at the most expensive state  
12 institution of higher education, and that if resident, undergraduate  
13 tuition is reduced, a tuition unit may lose monetary value.

14       ~~((12))~~ (10) In addition to any other powers conferred by this  
15 chapter, the governing body may:

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

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

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

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

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

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

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

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

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

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

1           (k) Contract with financial consultants, actuaries, auditors, and  
2 other consultants as necessary to carry out its responsibilities  
3 under this chapter;

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

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

--- **END** ---