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**ENGROSSED SUBSTITUTE SENATE BILL 5954**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Braun, Bailey, Hill, Becker, Fain, Miloscia, Parlette, Angel, Schoesler, Brown, Litzow, Warnick, Honeyford, Sheldon, Rivers, Roach, and Benton)

AN ACT Relating to reducing tuition; amending RCW 28B.15.031, 28B.15.066, 28B.15.067, and 28B.15.069; reenacting and amending RCW 28B.95.020 and 28B.95.030; adding a new section to chapter 28B.92 RCW; creating a new section; and repealing RCW 28B.15.068 and 28B.15.102.

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

**Sec.**  RCW 28B.15.031 and 2012 c 230 s 6 are each amended to read as follows:

(1) The term "operating fees" as used in this chapter shall include the fees, other than building fees, charged all students registering at the state's colleges and universities but shall not include fees for short courses, self-supporting degree credit programs and courses, marine station work, experimental station work, correspondence or extension courses, and individual instruction and student deposits or rentals, disciplinary and library fines, which colleges and universities shall have the right to impose, laboratory, gymnasium, health, technology and student activity fees, or fees, charges, rentals, and other income derived from any or all revenue producing lands, buildings and facilities of the colleges or universities heretofore or hereafter acquired, constructed or installed, including but not limited to income from rooms, dormitories, dining rooms, hospitals, infirmaries, housing or student activity buildings, vehicular parking facilities, land, or the appurtenances thereon, or such other special fees as may be established by any college or university board of trustees or regents from time to time. All moneys received as operating fees at any institution of higher education shall be deposited in a local account containing only operating fees revenue and related interest: PROVIDED, That ((~~a minimum of five percent of operating fees shall be retained by the four-year institutions of higher education that increase tuition for resident undergraduate students above assumed tuition increases in the omnibus appropriations act,~~)) a minimum of four percent of operating fees shall be retained by four‑year institutions of higher education ((~~that do not increase tuition for resident undergraduates above assumed increases in the omnibus appropriations act,~~)) and a minimum of three and one-half percent of operating fees shall be retained by the community and technical colleges for the purposes of RCW 28B.15.820. At least thirty percent of operating fees required to be retained by the four-year institutions for purposes of RCW 28B.15.820 shall be used only for the purposes of RCW 28B.15.820(10).

(2) In addition to the three and one-half percent of operating fees retained by the institutions under subsection (1) of this section, up to three percent of operating fees charged to students at community and technical colleges shall be transferred to the community and technical college innovation account for the implementation of the college board's strategic technology plan in RCW 28B.50.515. The percentage to be transferred to the community and technical college innovation account shall be determined by the college board each year but shall not exceed three percent of the operating fees collected each year.

(3) Local operating fee accounts shall not be subject to appropriation by the legislature but shall be subject to allotment procedures by budget program and fiscal year under chapter 43.88 RCW.

**Sec.**  RCW 28B.15.066 and 2003 c 232 s 3 are each amended to read as follows:

((~~It is the intent of the legislature that:~~

~~In making appropriations from the state's general fund to institutions of higher education, each appropriation shall conform to the following:~~

~~(1) The appropriation shall not be reduced by the amount of operating fees revenue estimated to be collected from students enrolled at the state-funded enrollment level specified in the omnibus biennial operating appropriations act;~~

~~(2) The appropriation shall not be reduced by the amount of operating fees revenue collected from students enrolled above the state-funded level specified in the omnibus biennial operating appropriations act; and~~

~~(3) The general fund state appropriation shall not be reduced by the amount of operating fees revenue collected as a result of waiving less operating fees revenue than the amounts authorized under RCW 28B.15.910. State general fund appropriations shall not be provided for revenue foregone as a result of or for waivers granted under RCW 28B.15.915.~~)) (1) Beginning with the 2015-2017 omnibus appropriations act, the legislature shall appropriate to the state board for community and technical colleges and to each of the four-year institutions of higher education an amount that is at least equal to the total state funds appropriated in the 2013-2015 biennium and the net revenue loss from resident undergraduate tuition operating fees based on budgeted full-time equivalent enrollment received for the 2015-2017 fiscal biennium under RCW 28B.15.067 (3) and (6), each adjusted for inflation in subsequent biennia.

(2) As used in this section and RCW 28B.15.069, "inflation" shall be based on the consumer price index, using the official current base, compiled by the bureau of labor statistics, United States department of labor for the state of Washington. If the bureau of labor statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people and covering areas exclusively within the boundaries of the state shall be used.

**Sec.**  RCW 28B.15.067 and 2013 2nd sp.s. c 4 s 958 are each amended to read as follows:

(1) Tuition fees shall be established under the provisions of this chapter.

(2) Beginning in the 2011-12 academic year and through the 2014-15 academic year, reductions or increases in full-time tuition fees shall be as provided in the omnibus appropriations act for resident undergraduate students at community and technical colleges.

(3)(a) As specified in the omnibus appropriations act, in the 2015-16 academic year, full-time tuition operating fees for resident undergraduates at community and technical colleges shall be no more than the 2014-15 tuition operating fee and no less than six percent of the state's average wage as defined in RCW 50.04.355.

(b) Beginning in the 2016-17 academic year, full-time tuition operating fees for resident undergraduates at community and technical colleges shall be six percent of the state's average wage as defined in RCW 50.04.355.

(4) The governing boards of the state universities, regional universities, and The Evergreen State College; and the state board for community and technical colleges may reduce or increase full-time tuition fees for all students other than resident undergraduates, including nonresident students, summer school students, and students in other self-supporting degree programs. Percentage increases in full-time tuition may exceed the fiscal growth factor. Except during the 2013-2015 fiscal biennium, the state board for community and technical colleges may pilot or institute differential tuition models. The board may define scale, scope, and rationale for the models.

((~~(3)~~)) (5)(a) Beginning with the 2011-12 academic year and through the end of the 2014-15 academic year, the governing boards of the state universities, the regional universities, and The Evergreen State College may reduce or increase full-time tuition fees for all students, including summer school students and students in other self-supporting degree programs. Percentage increases in full-time tuition fees may exceed the fiscal growth factor. Reductions or increases may be made for all or portions of an institution's programs, campuses, courses, or students; however, during the 2013-2015 fiscal biennium, reductions or increases in tuition must be uniform among resident undergraduate students.

(b) Prior to reducing or increasing tuition for each academic year, the governing boards of the state universities, the regional universities, and The Evergreen State College shall consult with existing student associations or organizations with student undergraduate and graduate representatives regarding the impacts of potential tuition increases. Each governing board shall make public its proposal for tuition and fee increases twenty-one days before the governing board of the institution considers adoption and allow opportunity for public comment. However, the requirement to make public a proposal for tuition and fee increases twenty-one days before the governing board considers adoption shall not apply if the omnibus appropriations act has not passed the legislature by May 15th. Governing boards shall be required to provide data regarding the percentage of students receiving financial aid, the sources of aid, and the percentage of total costs of attendance paid for by aid.

(c) Prior to reducing or increasing tuition for each academic year, the state board for community and technical college system shall consult with existing student associations or organizations with undergraduate student representation regarding the impacts of potential tuition increases. The state board for community and technical colleges shall provide data regarding the percentage of students receiving financial aid, the sources of aid, and the percentage of total costs of attendance paid for by aid.

((~~(4) Beginning with~~)) (6)(a) In the 2015-16 academic year ((~~through the 2018-19 academic year, the governing boards of the state universities, regional universities, and The Evergreen State College may set tuition for resident undergraduates as follows:~~

~~(a) If state funding for a college or university falls below the state funding provided in the operating budget for fiscal year 2011, the governing board may increase tuition up to the limits set in (d) of this subsection, reduce enrollments, or both;~~

~~(b) If state funding for a college or university is at least at the level of state funding provided in the operating budget for fiscal year 2011, the governing board may increase tuition up to the limits set in (d) of this subsection and shall continue to at least maintain the actual enrollment levels for fiscal year 2011 or increase enrollments as required in the omnibus appropriations act;~~

~~(c) If state funding is increased so that combined with resident undergraduate tuition the sixtieth percentile of the total per-student funding at similar public institutions of higher education in the global challenge states under RCW 28B.15.068 is exceeded, the governing board shall decrease tuition by the amount needed for the total per-student funding to be at the sixtieth percentile under RCW 28B.15.068; and~~

~~(d) The amount of tuition set by the governing board for an institution under this subsection (4) may not exceed the sixtieth percentile of the resident undergraduate tuition of similar public institutions of higher education in the global challenge states.~~

~~(5)~~)), full-time tuition operating fees for resident undergraduates shall be provided in the omnibus appropriations act and for:

(i) State universities shall be no more than the 2014-15 tuition operating fee and no less than fourteen percent of the state's average wage as defined in RCW 50.04.355; and

(ii) Regional universities and The Evergreen State College shall be no more than the 2014-15 tuition operating fee and no less than ten percent of the state's average wage as defined in RCW 50.04.355.

(b) Beginning with the 2016-17 academic year, full-time tuition operating fees for resident undergraduates at state universities shall be fourteen percent of the state's average wage as defined in RCW 50.04.355 and full-time tuition operating fees for resident undergraduates at regional universities and The Evergreen State College shall be ten percent of the state's average wage as defined in RCW 50.04.355.

(7) The tuition fees established under this chapter shall not apply to high school students enrolling in participating institutions of higher education under RCW 28A.600.300 through 28A.600.400.

((~~(6)~~)) (8) The tuition fees established under this chapter shall not apply to eligible students enrolling in a dropout reengagement program through an interlocal agreement between a school district and a community or technical college under RCW 28A.175.100 through 28A.175.110.

((~~(7)~~)) (9) The tuition fees established under this chapter shall not apply to eligible students enrolling in a community or technical college participating in the pilot program under RCW 28B.50.534 for the purpose of obtaining a high school diploma.

((~~(8) Beginning in the 2019-20 academic year, reductions or increases in full-time tuition fees for resident undergraduates at four-year institutions of higher education shall be as provided in the omnibus appropriations act.~~

~~(9)~~)) (10) The legislative advisory committee to the committee on advanced tuition payment established in RCW 28B.95.170 shall:

(a) Review the impact of differential tuition rates on the funded status and future unit price of the Washington advanced college tuition payment program; and

(b) No later than January 14, 2013, make a recommendation to the appropriate policy and fiscal committees of the legislature regarding how differential tuition should be addressed in order to maintain the ongoing solvency of the Washington advanced college tuition payment program.

(11) As a result of any changes in tuition under section 3, chapter ..., Laws of 2015 (this section), the governing boards of the state universities, the regional universities, and The Evergreen State College shall not reduce resident undergraduate enrollment below the 2014-15 academic year levels.

NEW SECTION. **Sec.**  A new section is added to chapter 28B.92 RCW to read as follows:

Beginning with the 2015-2017 omnibus appropriations act and each biennium thereafter, reductions in tuition levels resulting from section 3, chapter ..., Laws of 2015 (section 3 of this act) will allow the legislature to reduce state need grant appropriations by an equal amount from the 2013-2015 fiscal biennium amounts.

**Sec.**  RCW 28B.15.069 and 2013 2nd sp.s. c 4 s 959 are each amended to read as follows:

(1) The building fee for each academic year shall be a percentage of total tuition fees. This percentage shall be calculated by the office of financial management and be based on the actual percentage the building fee is of total tuition for each tuition category in the 1994-95 academic year, rounded up to the nearest half percent. After the effective date of this section, the dollar value of the building fee shall not be reduced below the level in the 2014-15 academic year adjusted for inflation. As used in this subsection, "inflation" has the meaning in RCW 28B.15.066(2).

(2) The governing boards of each institution of higher education, except for the technical colleges, shall charge to and collect from each student a services and activities fee. A governing board may increase the existing fee annually, consistent with budgeting procedures set forth in RCW 28B.15.045, by a percentage not to exceed the annual percentage increase in student tuition fees for resident undergraduate students: PROVIDED, That such percentage increase shall not apply to that portion of the services and activities fee previously committed to the repayment of bonded debt. These rate adjustments may exceed the fiscal growth factor. For the 2013-2015 fiscal biennium, each governing board is authorized to increase the services and activities fees by amounts judged reasonable and necessary by the services and activities fee committee and the governing board consistent with the budgeting procedures set forth in RCW 28B.15.045. The services and activities fee committee provided for in RCW 28B.15.045 may initiate a request to the governing board for a fee increase.

(3) Tuition and services and activities fees consistent with subsection (2) of this section shall be set by the state board for community and technical colleges for community college summer school students unless the community college charges fees in accordance with RCW 28B.15.515.

(4) Subject to the limitations of RCW 28B.15.910, each governing board of a community college may charge such fees for ungraded courses, noncredit courses, community services courses, and self-supporting courses as it, in its discretion, may determine, consistent with the rules of the state board for community and technical colleges.

(5) The governing board of a college offering an applied baccalaureate degree program under RCW 28B.50.810 may charge tuition fees for those courses above the associate degree level at rates consistent with rules adopted by the state board for community and technical colleges, not to exceed tuition fee rates at the regional universities.

**Sec.**  RCW 28B.95.020 and 2012 c 229 s 606 are each reenacted and amended to read as follows:

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

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

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

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

(4) "Contractual obligation" means a legally binding contract of the state with the purchaser and the beneficiary establishing that purchases of tuition units will be worth the same number of tuition units at the time of redemption as they were worth at the time of the purchase, except as provided in RCW 28B.95.030(7).

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

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

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

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

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

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

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

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

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

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

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

**Sec.**  RCW 28B.95.030 and 2011 1st sp.s. c 12 s 2 and 2011 1st sp.s. c 11 s 170 are each reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

(7) For the 2015-16 and 2016-17 academic years, the committee and the governing body shall make such one-time adjustments to all unredeemed tuition units purchased before the effective date of this section as may be necessary to ensure that the total payout value of each account at the effective date of this section is not decreased or diluted as a result of the initial application of any changes in tuition under section 3, chapter ..., Laws of 2015 (section 3 of this act). The first notification to holders of tuition units after the adjustment in this subsection is made must include a statement concerning the adjustment. For accounts that are opened prior to the effective date of this section, the committee and the governing body shall make such adjustments to the number of tuition units that may be redeemed in one year as may be necessary to ensure that any change in tuition policy under section 3 of this act does not result in the decrease of the dollar value of the maximum tuition units that may be used in any one year.

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

((~~(8)~~)) (9) In addition to any other powers conferred by this chapter, the governing body may:

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

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

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

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

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

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

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

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

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

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

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

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

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

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1) RCW 28B.15.068 (Tuition fees increase limitations—State funding goals—Reports—"Global challenge states"—Notification of availability of American opportunity tax credit) and 2012 c 229 s 525, 2012 c 229 s 524, 2011 1st sp.s. c 50 s 928, 2011 1st sp.s. c 10 s 7, 2009 c 540 s 1, & 2007 c 151 s 1; and

(2) RCW 28B.15.102 (Institutional tuition increases—Financial aid offset—Reports—Resident first-year undergraduate enrollment at the University of Washington, Seattle campus) and 2014 c 162 s 1, 2013 c 23 s 53, 2012 c 229 s 526, & 2011 1st sp.s. c 10 s 6.

NEW SECTION. **Sec.**  This act may be known and cited as the college affordability program.

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