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**HOUSE BILL 1969**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Representatives Corry, Griffey, Caldier, Vick, Hoff, McCaslin, and Barkis

AN ACT Relating to creating and funding a school choice scholarship program for foster students; adding new sections to chapter 43.216 RCW; adding a new section to chapter 82.04 RCW; creating a new section; and providing a contingent effective date.

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

**FOSTER STUDENT SCHOLARSHIP**

NEW SECTION. **Sec.**  A new section is added to chapter 43.216 RCW to read as follows:

(1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Caregiver" has the meaning provided in RCW 74.13.710.

(b) "Child or youth in foster care" means a child or youth under the placement and care authority of the department or a supervising agency as defined in RCW 74.13.020.

(c) "Eligible student" means a child or youth who: (i) Was either eligible to attend a public elementary or secondary school in Washington in the preceding school term or is eligible to attend a public elementary or secondary school in Washington in the next school year; and (ii) is either in foster care or is the biological sibling of a child or youth in foster care.

(d) "Participating school" means a public elementary or secondary school located outside of the resident school district, including public schools that are not operated by school districts, or a private elementary or secondary school approved by the state under chapter 28A.195 RCW that has notified the department of its intention to participate in the program and comply with program requirements.

(e) "Program" means the foster student scholarship program created in this section.

(f) "Program participant" means a child or youth who qualifies for a scholarship under the program.

(g) "Resident school district" means a school district in which an eligible student resided at the time the student became a child or youth in foster care.

(2) The foster student scholarship program is established. The purpose of the program is to provide children and youth in foster care with the option to attend the public or private school of their caregiver's choice.

(a) An eligible student qualifies for a scholarship to enroll in and attend a participating school if:

(i) The eligible student has been accepted for admission at the participating school;

(ii) The eligible student's caregiver submits a scholarship application to the department that complies with applicable requirements established by the department; and

(iii) Sufficient moneys are available in the foster student scholarship account created in section 2 of this act, as determined by the department.

(b)(i) A program participant who is a child or youth in foster care remains qualified for the program until his or her graduation from high school or his or her twenty-first birthday, whichever comes first.

(ii) A program participant who exits the foster care system qualifies for the program through the school year in which he or she exited the system and for one additional school year.

(iii) A program participant who qualifies as an eligible student because he or she is the biological sibling of a child or youth in foster care qualifies for the program through the school year in which all of his or her biological siblings exit the system and for one additional school year.

(c) To the extent allowed by state and federal laws, the decision to enroll an eligible student in the participating school must be made by the eligible student's caregiver for a child or youth in foster care, or by a parent for a child or youth who exits the foster care system.

(d) The annual scholarship amount must be equal to the lesser of either:

(i) The annual cost per pupil of the participating school at which the program participant is accepted for admission, including both operational and capital facility costs, and including any costs to the school associated with special needs of the program participant; or

(ii) Ten thousand dollars.

(e) The department may only award a program participant's scholarship to the participating school in which he or she is enrolled. A participating school may not, in any manner, refund, rebate, or share a program participant's scholarship with the program participant, or the program participant's caregiver or parent.

(f) The participating school may use the scholarship moneys for educational purposes including tuition, special education and related services, transportation to the extent allowed under state and federal laws, uniforms, books or other school fees, tutoring, and extracurricular programs with an educational purpose. The participating school may provide the educational services to the program participant directly or contract with a third party to provide these services.

(g) A scholarship awarded under this section is not an entitlement for a program participant or a participating school.

(h) A participating school must accept program participants for admission on a first-come, first-serve basis until the school's capacity is insufficient to enroll additional applicants. In such case, a participating school must grant an enrollment preference to siblings of program participants, with any remaining enrollments allocated through a lottery.

(i) A program participant who is denied admission to a participating school due to insufficient enrollment capacity may transfer his or her scholarship to a participating school with enrollment capacity.

(3) The department must administer the program created under this section, including performing the following duties:

(a) Provide annually the list of participating schools to eligible students and their caregivers, school district foster care liaisons, and public and private entities involved in foster care issues;

(b) Create standard forms, including a scholarship application and an application for admission to participating schools, and make the forms available to eligible students and their caregivers through various sources, including the internet. Participating schools may require supplemental information from applicants;

(c) Establish a process to bar a school from participating in the program, including for any of the following reasons: Intentionally and substantially misrepresenting accountability information required by the department; routinely failing to comply with the regulations or accountability standards established by the department; and failure to refund to the department any scholarship overpayment in a timely manner;

(d) Establish a process to notify, as soon as possible, eligible students and their caregivers, and program participants and their caregivers or parents, of the department's decision to bar a school from participating in the program;

(e) Establish a process to allow program participants enrolled in or attending a school barred from participating in the program to transfer their scholarships to other participating schools;

(f) Establish, in consultation with the state auditor's office, the office of the superintendent of public instruction, and the state board of education, standards for participating schools related to administrative accountability, financial accountability, and academic accountability;

(g) Conduct satisfaction surveys of program participants and their caregivers, and participating schools;

(h) Receive contributions for the program and deposit the contributions in the account created in section 2 of this act;

(i) Notify the department of revenue regarding receipt of contributions; and

(j) Adopt rules necessary to implement this section.

(4)(a) By December 1, 2021, and by December 1st every two years thereafter, and in compliance with RCW 43.01.036, the department must submit a program report to the appropriate committees of the legislature. At a minimum the report must contain:

(i) The number of, and demographic information for, eligible students applying for the program;

(ii) The number of, and demographic information for, program participants;

(iii) The educational outcomes of program participants;

(iv) A list of participating schools and the number of program participants at each school;

(v) The amount of scholarship moneys awarded;

(vi) The administrative costs of the program;

(vii) The fund balance of the foster student scholarship account created in section 2 of this act; and

(viii) Recommendations for statutory improvements to the program.

(b) The office of the superintendent of public instruction and the state board of education must cooperate with the department to provide any data needed for the report.

NEW SECTION. **Sec.**  A new section is added to chapter 43.216 RCW to read as follows:

The foster student scholarship account is created in the custody of the state treasurer. All moneys received for the foster student scholarship program created in section 1 of this act must be deposited into the account. Expenditures from the account may be used only for foster student scholarships under section 1 of this act and costs associated with program administration by the department. Only the secretary or the secretary's designee may authorize expenditures from the account. The account is not subject to allotment procedures under chapter 43.88 RCW, except for moneys used for program administration and an appropriation is not required for expenditures.

**TAX PREFERENCE AND TAX CREDIT**

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for the tax preferences in chapter . . ., Laws of 2019 (this act). This performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to incentivize taxpayers to make contributions to the foster student scholarship account, created in section 2 of this act, as indicated in RCW 82.32.808(2)(a).

(3) It is the legislature's specific public policy objective to generate funds in order to provide children and youth in foster care with the option to attend the public or private school of their caregiver's choice.

(4) The legislative auditor will review and present the following metrics to the legislature two years before the tax preference is set to expire:

(a) The number of taxpayers that claimed the credit provided under this section;

(b) The total amount of donations made to the foster student scholarship program by taxpayers that claimed the credit under this section, by year; and

(c) The total number of foster children and youth that received scholarships from the foster student scholarship program, by year.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to any available data source, and the department of children, youth, and families is directed to cooperate with any requests for data pursuant to facilitating the review authorized in this section.

NEW SECTION. **Sec.**  A new section is added to chapter 82.04 RCW to read as follows:

(1) Subject to the limitations in this section, a credit is allowed against the tax imposed under this chapter for contributions made by a person to the foster student scholarship account created in section 2 of this act.

(2) The person must make a contribution before claiming a credit authorized under this section. Credits earned under this section may be claimed against taxes due for the calendar year in which the contribution is made. The amount of credit claimed for a reporting period may not exceed the tax otherwise due under this chapter for that reporting period. No person may claim more than two hundred thousand dollars of credit in any calendar year. No refunds may be granted for any unused credits.

(3) The maximum credit that can be earned for each calendar year under this section for a person is limited to the lesser of two hundred thousand dollars or an amount equal to one hundred percent of the contributions made by the person to the foster student scholarship program during the calendar year.

(4) Except as provided under subsection (5) of this section, a tax credit claimed under this section may not be carried over to another year.

(5) Any amount of tax credit otherwise allowable under this section not claimed by the person in any calendar year may be carried over and claimed against the person's tax liability for the next succeeding calendar year. Any credit remaining unused in the next succeeding calendar year may be carried forward and claimed against the person's tax liability for the second succeeding calendar year; and any credit not used in that second succeeding calendar year may be carried over and claimed against the person's tax liability for the third succeeding calendar year, but may not be carried over for any calendar year thereafter.

(6) Credits are available on a first in-time basis. The department must disallow any credits, or portion thereof, that would cause the total amount of credits claimed under this section during any calendar year to exceed twenty million dollars. If this limitation is reached, the department must notify all taxpayers who apply for the credit provided under this section that the annual statewide limit has been met. In addition, the department must provide written notice to any person who has claimed tax credits in excess of the limitation in this subsection. The notice must indicate the amount of tax due and provide that the tax be paid within thirty days from the date of the notice. The department may not assess penalties and interest as provided in chapter 82.32 RCW on the amount due in the initial notice if the amount due is paid by the due date specified in the notice, or any extension thereof.

(7) To claim a credit under this section, a person must electronically file with the department all returns, forms, and any other information required by the department, in an electronic format as provided or approved by the department. Any return, form, or information required to be filed in an electronic format under this section is not filed until received by the department in an electronic format. As used in this subsection, "returns" has the same meaning as "return" in RCW 82.32.050.

(8) No application is necessary for the tax credit. The person must keep records necessary for the department to verify eligibility under this section.

(9) The department may not allow any credit under this section before January 1, 2020.

(10) No credit may be earned for contributions made on or after January 1, 2030.

**MISCELLANEOUS PROVISIONS**

NEW SECTION. **Sec.**  (1) Section 1 of this act takes effect on the date that the contributions to the foster student scholarship account, created in section 2 of this act, exceed one million five hundred thousand dollars, or on July 1, 2020, whichever date is later.

(2) The department of children, youth, and families must provide written notice of the effective date of section 1 of this act to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the department.

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