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**SUBSTITUTE HOUSE BILL 2662**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** House Higher Education (originally sponsored by Representatives Kilduff, Haler, Muri, Ortiz-Self, Riccelli, Orwall, Walkinshaw, Robinson, Farrell, Bergquist, Stanford, Goodman, Frame, and Fey)

AN ACT Relating to creating the Washington next generation educational savings account program; amending RCW 26.33.390; reenacting and amending RCW 43.79A.040; adding a new chapter to Title 28B RCW; and providing contingent effective dates.

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

NEW SECTION. **Sec.**  (1) Research shows that low-income and moderate-income students who are the beneficiaries of postsecondary educational savings accounts are three times more likely to enroll in college and four times more likely to graduate. Research further indicates that youth without a postsecondary educational savings account of their own experience the greatest erosion between the high school student's aspiration to attend college and his or her subsequent rate of college enrollment by age twenty-two.

(2) The legislature therefore finds that it is of vital importance to the state to encourage young people to pursue their dreams of attending and completing postsecondary educational programs of their choice, whether that may be a college degree, a postsecondary certificate program, or an apprenticeship. The legislature further finds that establishing a postsecondary educational savings account in the name of each child in the state is a promising strategy for helping young Washingtonians achieve their dreams while at the same time stimulating the continued growth and dynamism of the state's economy.

(3) The legislature intends to facilitate the creation of postsecondary educational savings accounts for every child born in Washington or adopted by Washington families. The intent is to finance the program with nonstate funds by partnering with the state's robust philanthropic sector and business and industry leaders. Maine, the first state to launch a universal children's savings account program in 2008, has funded its program entirely with private foundation contributions, thereby creating a model that has been emulated by several states. Based on the successful experience of several other states, the legislature intends to partner with the state's generous private community of funders to create a successful postsecondary educational savings account program for the children of Washington.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Beneficiary" means a child who had an educational savings account opened on his or her behalf by the state.

(2) "College savings plan" means a qualified state tuition program as defined by the internal revenue service under section 529 of the internal revenue code.

(3) "Council" means the student achievement council created in chapter 28B.77 RCW.

(4) "Educational savings account" means an account established for postsecondary education purposes on behalf of a beneficiary by the council in accordance with this chapter and any rules adopted to implement this chapter.

(5) "Program" means the Washington next generation educational savings account program.

(6) "Qualifying higher education expense" means tuition, fees, books, supplies, and equipment required for enrollment or attendance at an eligible educational institution, room and board, and special needs services incurred in connection with such enrollment or attendance at an eligible educational institution, as recognized by the internal revenue service under section 529 of the internal revenue code.

NEW SECTION. **Sec.**  (1) The Washington next generation educational savings account program is established to expand educational opportunity and financial capability for every child born or adopted in the state.

(2) The council shall administer the program and may adopt rules necessary to administer the program. The council shall partner with one or more private organizations to establish and fund the program. The council shall determine when an adequate amount of funding has been secured to begin implementation of the program.

NEW SECTION. **Sec.**  The program must include the following features:

(1)(a) With the registration of each birth record in the state the council shall establish an educational savings account on behalf of the child, contingent upon funding being available. The council shall coordinate with the department of health for birth record notifications.

(b) The beneficiary's family must have the option to opt out of the program.

(c) An adoptive parent shall have the option to opt-in to the program after adopting a child who is not already the beneficiary of an educational savings account if he or she submits the request to the council within one year of the issuance of the decree of adoption.

(2)(a) Upon establishment of an educational savings account, the council shall deposit an initial grant of two hundred fifty dollars into the account.

(b) In addition to the initial grant in (a) of this subsection, for a beneficiary's family with an income less than two hundred fifty percent of the federal poverty level using the most current guidelines available from the United States department of health and human services, the council shall provide a one-time matching grant of two hundred seventy-nine dollars if the family deposits two hundred fifty dollars into the account.

(3) Additional deposits into the account may be made by the beneficiary, the beneficiary's family, and other private and public individuals.

(4) To make a withdrawal from an account the beneficiary must be:

(a) Eighteen years of age; or

(b) Enrolled in an eligible educational institution as recognized by the internal revenue service under section 529 of the internal revenue code; and

(c) Less than twenty-nine years of age, unless the beneficiary serves in a national service program, including the United States armed forces, national guard, americorps, or the peace corps, in which case each month of service shall increase the maturity date of the account by one month.

(5) Withdrawals from an account may only be used for qualifying higher education expenses.

(6) An educational savings account will be considered mature when a beneficiary turns twenty-nine years of age. If a beneficiary does not use the grant funds in his or her account before reaching his or her twenty-ninth birthday for a qualifying higher education expense, or in the event that the beneficiary dies, unused grant money originally deposited by the council and any interest earned on grant money must be returned to the Washington next generation educational savings account program account created in section 10 of this act. Any private contributions added to a beneficiary's account and interest earned on those private contributions must remain with the beneficiary or the beneficiary's family or heir. If private contributions and interest earned on private contributions are not used for a qualifying higher education expense, they may be subject to tax regulations.

NEW SECTION. **Sec.**  The program must be established through the college savings plan.

NEW SECTION. **Sec.**  (1) The council shall seek to contract with a federally insured financial institution to establish the program using traditional savings accounts.

(2) If the program is established as stated in subsection (1) of this section and a Washington college savings plan is established in the future, the council shall study the feasibility of transferring the traditional savings accounts over to the college savings plan. If the council's study deems a transfer as feasible, the council may move forward with transferring and establishing the program through the college savings plan.

NEW SECTION. **Sec.**  (1) Any amounts deposited in an educational savings account established under this chapter shall not be taken into account in determining an individual's eligibility to receive, or the amount of, any federally or state-funded assistance or benefit, including temporary assistance for needy families, medicaid, or student financial aid, unless expressly prohibited by federal law.

(2) An educational savings account opened up for a beneficiary under this chapter is exempt from unclaimed property laws and rules until the beneficiary turns twenty-nine years of age.

NEW SECTION. **Sec.**  The council may coordinate the program with the advanced college tuition payment program in chapter 28B.95 RCW to the extent the council deems appropriate. However, the committee on advanced college tuition payment program shall not have authority over the program.

NEW SECTION. **Sec.**  The council shall coordinate with the financial education public private partnership to make financial literacy information available, including information about resources and curriculum available through the financial education public private partnership, to beneficiaries and their families enrolled in the program.

NEW SECTION. **Sec.**  (1) The Washington next generation educational savings account program account is created in the custody of the state treasurer. Expenditures from the account may be used only for the purposes of the Washington next generation educational savings account program established under this chapter. The account must be a discrete nontreasury account retaining its interest earnings in accordance with RCW 43.79A.040.

(2) The council shall deposit into the account all money received for the program. The account shall be self-sustaining and consist of funds received from public or private sources. The account shall be credited with all investment income earned by the account. Disbursements from the account are exempt from appropriations and the allotment provisions of chapter 43.88 RCW. Money used for program administration is subject to the allotment of all expenditures. However, an appropriation is not required for such expenditures. Program administration shall include, but not be limited to: The salaries and expenses of the program personnel including lease payments, travel, and goods and services necessary for program operation; contracts for program promotion and advertisement, audits, and account management; and other general costs of conducting the business of the program.

(3) The assets of the account may be spent without appropriation for the purpose of making initial deposits to open educational savings accounts and for additional grants for qualifying low-income beneficiaries. Only the council's executive director or the executive director's designee may authorize expenditures from the account.

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

NEW SECTION. **Sec.**  The council shall report to the appropriate committees of the legislature in accordance with the reporting requirements in RCW 43.01.036 by November 1st of the beginning of each biennium on the status of the program. The report must include data on the number of accounts opened, the average balances of the accounts, the demographics of the account holders and their families, and any other relevant data the council deems appropriate.

NEW SECTION. **Sec.**  The Washington state institute for public policy shall conduct a program evaluation after six years of the program's inception, and every six years thereafter.

**Sec.**  RCW 26.33.390 and 1991 c 136 s 5 are each amended to read as follows:

(1) All persons adopting a child through the department shall receive written information on the department's adoption-related services including, but not limited to, adoption support, family reconciliation services, archived records, mental health, ((~~and~~)) developmental disabilities, and information about how to opt-in to the Washington next generation educational savings account program established in chapter 28B.-- RCW (the new chapter created in section 16 of this act).

(2) Any person adopting a child shall receive from the adoption facilitator written information on adoption-related services. This information may be that published by the department or any other social service provider and shall include information about how to find and evaluate appropriate adoption therapists, and may include other resources for adoption-related issues. Information about how to opt-in to the Washington next generation educational savings account program must also be provided.

(3) Any person involved in providing adoption-related services shall respond to requests for written information by providing materials explaining adoption procedures, practices, policies, fees, and services. Information about how to opt-in to the Washington next generation educational savings account program must also be provided.

**Sec.**  RCW 43.79A.040 and 2013 c 251 s 5 and 2013 c 88 s 1 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury, and may be commingled with moneys in the state treasury for cash management and cash balance purposes.

(2) All income received from investment of the treasurer's trust fund must be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments must occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer must distribute the earnings credited to the investment income account to the state general fund except under (b), (c), and (d) of this subsection.

(b) The following accounts and funds must receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the Washington advanced college tuition payment program account, the Washington next generation educational savings account program account, the accessible communities account, the community and technical college innovation account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county enhanced 911 excise tax account, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family leave insurance account, the food animal veterinarian conditional scholarship account, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the industrial insurance rainy day fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the multiagency permitting team account, the pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account, the life sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account, the center for childhood deafness and hearing loss account, the school for the blind account, the Millersylvania park trust fund, the public employees' and retirees' insurance reserve fund, and the radiation perpetual maintenance fund.

(c) The following accounts and funds must receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right-of-way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(d) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the custody of the state treasurer that deposits funds into a fund or account in the custody of the state treasurer pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. **Sec.**  (1) Section 5 of this act takes effect July 1, 2019, only if the notice required in subsection (3) of this section is provided by June 30, 2019, that a college savings plan has been established.

(2) Section 6 of this act takes effect July 1, 2019, only if the notice required in subsection (3) of this section is provided by June 30, 2019, that a college savings plan has not been established.

(3) The chair of the committee on advanced tuition payment shall notify the legislature and the office of the code reviser if the event in subsection (1) of this section occurs or does not occur.

NEW SECTION. **Sec.**  Sections 1 through 12 of this act constitute a new chapter in Title 28B RCW.

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