H-3830.2

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**HOUSE BILL 2902**

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

**By** Representatives Hargrove and Magendanz

AN ACT Relating to funding state charter schools by creating a business and occupation tax credit to incentivize businesses to donate revenue to a charter school fund; reenacting and amending RCW 43.84.092; and adding a new chapter to Title 82 RCW.

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

NEW SECTION. **Sec.**  INTENT. (1) The legislature finds that the citizens of Washington state decided by a vote of the people, passing Initiative Measure No. 1240 in 2012, that state charter schools should be an educational option for the families of the state. The legislature further finds that forty-one other states and the District of Columbia have public charter schools and this option should be available and funded for the parents of Washington that want to provide the best learning environment for their children.

(2) The legislature further finds the state supreme court's ruling invalidating Initiative Measure No. 1240 based on the court's conclusion that charter schools are not common schools therefore cannot be funded from sources dedicated to common schools creates an immediate need for a new funding option for state charter schools.

(3) Therefore, the legislature intends to authorize a permanent tax credit for businesses that donate money to a charter school fund to ensure the citizens of Washington have the charter school option they voted for in 2012.

NEW SECTION. **Sec.**  AUTHORIZATION AND COLLECTION OF CONTRIBUTIONS. (1) Applications for tax credits under this chapter must be made to the department before making a contribution to the Washington charter school account created in section 4 of this act. The application must be made to the department in a form and manner prescribed by the department. The application must contain information regarding the proposed amount of contribution to the Washington charter school account, and other information required by the department to determine eligibility. The department must rule on the application within forty-five days. Applications must be approved on a first-come basis.

(2) The person must make the contribution described in the approved application by the end of the fiscal year in which the application is approved to claim a credit under section 3 of this act.

(3) The department may not accept any applications before July 1, 2016.

NEW SECTION. **Sec.**  CREDIT AUTHORIZED—LIMITATIONS. (1) Subject to the limitations in this chapter, a credit is allowed against the tax imposed by chapters 82.04 and 82.16 RCW for approved contributions that are made by a person to the Washington charter school account created in section 4 of this act.

(2) The credit allowed under this section is equal to one hundred percent of the approved contribution made by a person to the Washington charter school account. The amount of credit claimed for a reporting period may not exceed the tax otherwise due under this chapter or chapter 82.16 RCW for that reporting period.

(3) The total credits allowed under this section for any person may not exceed twenty-five thousand dollars in a fiscal year, including credits carried over from a previous fiscal year. No refunds may be granted for any unused credits under this section.

(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. Credits earned may be claimed against any tax due under chapters 82.04 and 82.16 RCW starting in the fiscal year in which the credit was approved by the department and the contribution was made to the Washington charter school account.

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

(6) Credits are available on a first-in-time basis. The department must keep a running total of all credits approved under this chapter for each fiscal year. The department may not approve any credits under this section that would cause the total amount of approved credits statewide to exceed the amount appropriated for the use of funds in the Washington charter school account identified in the omnibus appropriations act, in any fiscal year. If this limitation is reached, the department must notify the state treasurer 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. "Returns" has the same meaning as "return" in RCW 82.32.050.

(8) The state treasurer must provide to the department, upon request, such information needed to verify eligibility for credit under this section, including information regarding contributions made to the Washington charter school account.

NEW SECTION. **Sec.**  The Washington charter school account is created in the state treasury. Money in the account may be spent only after appropriation. All receipts from contributions authorized under section 2 of this act must be deposited in the account. In addition, the account may consist of moneys appropriated to the account by the legislature in the omnibus appropriations act. Expenditures from the account may only be used for support of state charter schools.

NEW SECTION. **Sec.**  The tax credit authorized in section 3 of this act is not subject to the requirements in RCW 82.32.805 and 82.32.808.

NEW SECTION. **Sec.**  The administrative provisions in chapter 82.32 RCW apply to this chapter.

**Sec.**  RCW 43.84.092 and 2015 3rd sp.s. c 44 s 107 and 2015 3rd sp.s. c 12 s 3 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the Alaskan Way viaduct replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the diesel idle reduction account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the Interstate 405 express toll lanes operations account, the education construction fund, the education legacy trust account, the election account, the electric vehicle charging infrastructure account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the high occupancy toll lanes operations account, the hospital safety net assessment fund, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 civil penalties account, the state route number 520 corridor account, the state wildlife account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington charter school account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, the state university permanent fund, and the state reclamation revolving account shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury 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 treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. **Sec.**  Sections 1 through 6 of this act constitute a new chapter in Title 82 RCW.

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