
SENATE BILL 5200

State of Washington

67th Legislature

2021 Regular Session

By Senators Schoesler, Dozier, Gildon, Holy, and Honeyford

Read first time 01/13/21. Referred to Committee on Early Learning & K-12 Education.

1 AN ACT Relating to establishing a tax credit for contributions to
2 student scholarship organizations; adding a new section to chapter
3 82.04 RCW; adding a new section to chapter 82.16 RCW; adding a new
4 section to chapter 83.100 RCW; adding a new chapter to Title 28A RCW;
5 and creating a new section.

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

7 NEW SECTION. **Sec. 1.** INTENT. The legislature intends to expand
8 parent and student choice in education by authorizing a tax credit
9 for private contributions to student scholarship organizations. With
10 this tax credit, the legislature intends to enable parents to
11 independently determine which school best meets the educational needs
12 of their children.

13 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
14 section apply throughout this chapter unless the context clearly
15 requires otherwise.

16 (1) "Eligible child" or "eligible student" means a person
17 eligible to attend kindergarten or grades one through 12 in
18 Washington state who is:

19 (a) Eligible to receive special education services; or

1 (b) A child in foster care or a child who is a candidate for
2 foster care as defined in RCW 74.13.020.

3 (2) "Qualified education provider" means an approved private
4 school under chapter 28A.195 RCW or a private tutoring service.

5 (3) "Student scholarship organization" means a charitable
6 organization in Washington state that:

7 (a) Is exempt from federal income taxation under section
8 501(c)(3) of the federal internal revenue code of 1986 (26 U.S.C.
9 Sec. 501(c)(3)); and

10 (b) Allocates not less than 90 percent of its annual revenue for
11 educational scholarships to allow eligible students to receive
12 instruction by any qualified education provider.

13 NEW SECTION. **Sec. 3.** STUDENT SCHOLARSHIP ORGANIZATIONS—
14 REQUIREMENTS. (1) A student scholarship organization must create and
15 maintain an application process under which scholarship applications
16 are accepted, reviewed, approved, and denied.

17 (2) A student scholarship organization may not restrict or
18 reserve scholarships for use at a particular qualified education
19 provider or a particular type of qualified education provider, and
20 must allow an eligible student to receive instruction by any
21 qualified education provider of the parents' or legal guardians'
22 choice.

23 (3) A student scholarship organization must maintain separate
24 accounts for operating funds and scholarship funds. Such funds are
25 subject to the following requirements:

26 (a) At least 90 percent of all revenue received by a student
27 scholarship organization must be used for scholarships;

28 (b) The cost of the annual fiscal review required under section 4
29 of this act may be paid out of the total contributions received by a
30 student scholarship organization before calculation of the 90 percent
31 minimum obligation amount; and

32 (c) All contributions subject to the 90 percent minimum
33 obligation amount that are received in one calendar year must be paid
34 out in scholarships within the next three calendar years.

35 (4) A student scholarship organization may not provide, in any
36 calendar year, a scholarship to an eligible student that exceeds
37 \$15,000.

38 (5) A student scholarship organization may transfer funds to
39 another student scholarship organization.

1 (6) A student scholarship organization that fails to satisfy the
2 conditions of this section is subject to termination as provided in
3 section 8 of this act.

4 NEW SECTION. **Sec. 4.** STUDENT SCHOLARSHIP ORGANIZATIONS—NOTICE
5 AND ANNUAL REVIEW. (1) Each student scholarship organization must
6 submit notice to the state auditor's office of its intent to operate
7 as a student scholarship organization prior to accepting donations.

8 (2) Each student scholarship organization must complete an annual
9 fiscal review of its accounts by an independent certified public
10 accountant within 150 days after the close of each calendar year, and
11 submit the annual fiscal review to the state auditor's office within
12 150 days of the close of the calendar year. The annual fiscal review
13 must disclose the following for each of the three most recent
14 calendar years:

15 (a) The total number and dollar value of individual and corporate
16 contributions;

17 (b) The total number and dollar value of scholarships awarded to
18 eligible students;

19 (c) The names of all qualified education providers that have
20 accepted scholarship funds from the organization; and

21 (d) The cost of the annual fiscal review.

22 (3) A student scholarship organization that fails to satisfy the
23 conditions of this section is subject to termination as provided in
24 section 8 of this act.

25 NEW SECTION. **Sec. 5.** TUITION PAYMENT. (1) A student scholarship
26 organization must deliver scholarship funds directly to a qualified
27 education provider selected by the parents or legal guardians of the
28 eligible student to whom the scholarship was awarded. The qualified
29 education provider must immediately notify the parents or legal
30 guardians that the payment was received.

31 (2) An eligible student is not eligible for a scholarship award
32 amount in excess of \$15,000 in each calendar year. This limitation
33 applies to each eligible student of a parent or legal guardian.

34 NEW SECTION. **Sec. 6.** PUBLICATION. The state auditor's office
35 shall maintain on its website a current list of all student
36 scholarship organizations that have provided notice under section 4

1 of this act and all qualified education providers that have accepted
2 scholarship funds from a student scholarship organization.

3 NEW SECTION. **Sec. 7.** QUALIFIED EDUCATION TAX CREDITS. See
4 sections 9, 10, and 11 of this act for the new tax credits authorized
5 under this chapter.

6 NEW SECTION. **Sec. 8.** REVIEW AND TERMINATION. (1) The state
7 auditor's office is authorized to examine any records of a student
8 scholarship organization that are relevant to determine whether the
9 student scholarship organization is in compliance with sections 3
10 through 5 of this act.

11 (2) If the state auditor's office finds that a student
12 scholarship organization is not in compliance with sections 3 through
13 5 of this act, the state auditor's office must provide written notice
14 to the organization explaining the specific reasons for finding
15 noncompliance. The student scholarship organization has 30 days from
16 the date of the notice to correct any deficiencies.

17 (3) If a student scholarship organization fails to correct all
18 deficiencies after a finding of noncompliance, the state auditor's
19 office must provide a final written notice of failure to the student
20 scholarship organization. This final written notice of failure must:

21 (a) Indicate that the student scholarship organization will be
22 removed from the list of eligible student scholarship organizations;

23 (b) Direct the student scholarship organization to cease all
24 operations as a student scholarship organization; and

25 (c) Direct the student scholarship organization to transfer all
26 scholarship account funds to a properly operating student scholarship
27 organization within 30 days of receiving the final written notice of
28 failure.

29 NEW SECTION. **Sec. 9.** A new section is added to chapter 82.04
30 RCW to read as follows:

31 (1) Subject to the limitations in this section, a credit is
32 allowed against the tax imposed under this chapter for contributions
33 made by a person to a Washington state student scholarship
34 organization.

35 (2) The person must make the contribution before claiming a
36 credit authorized under this section. Credits earned under this
37 section may be claimed against taxes due for the calendar year in

1 which the contribution is made. The amount of credit claimed for a
2 reporting period may not exceed the tax otherwise due under this
3 chapter for that reporting period. No refunds may be granted for any
4 unused credits.

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

8 (4) Any amount of tax credit otherwise allowable under this
9 section not claimed by the person in any calendar year may be carried
10 over and claimed against the person's tax liability for the next
11 succeeding calendar year. Any credit remaining unused in the next
12 succeeding calendar year may be carried forward and claimed against
13 the person's tax liability for the second succeeding calendar year;
14 and any credit not used in that second succeeding calendar year may
15 be carried over and claimed against the person's tax liability for
16 the third succeeding calendar year, but may not be carried over for
17 any calendar year thereafter.

18 (5) Credits are available on a first-in-time basis. The
19 department must disallow any credits, or portion thereof, that would
20 cause the total amount of credits claimed under this section and
21 sections 10 and 11 of this act during any calendar year to exceed the
22 amount specified under subsection (6) of this section. If this
23 limitation is reached, the department must notify all student
24 scholarship organizations that the annual statewide limit has been
25 met. In addition, the department must provide written notice to any
26 person who has claimed tax credits in excess of the limitation in
27 this subsection. The notice must indicate the amount of tax due and
28 provide that the tax be paid within 30 days from the date of the
29 notice. The department may not assess penalties and interest as
30 provided in chapter 82.32 RCW on the amount due in the initial notice
31 if the amount due is paid by the due date specified in the notice, or
32 any extension thereof.

33 (6) In fiscal year 2022, the department must disallow any
34 credits, or portion thereof, that would cause the total amount of
35 credits claimed under this section and sections 10 and 11 of this act
36 during any fiscal year to exceed \$750,000. In fiscal year 2023 and
37 each fiscal year thereafter, the total amount of credits available to
38 be claimed under this section and sections 10 and 11 of this act is
39 the total amount allowable for the prior fiscal year unless the
40 amount of credits actually claimed under this section and sections 10

1 and 11 of this act for the prior fiscal year is equal to or greater
2 than 90 percent of the maximum allowable amount for that fiscal year,
3 in which case the total amount of credits eligible to be claimed
4 under this section and sections 10 and 11 of this act will be
5 increased by 25 percent. The department shall publish on its website
6 information identifying the tax credit cap amount when it is
7 increased under this subsection (6).

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

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

19 (9) A student scholarship organization must provide to the
20 department, upon request, such information needed to verify
21 eligibility for credit under this section, including information
22 regarding contributions received by the student scholarship
23 organization.

24 (10) The department may not allow any credit under this section
25 before July 1, 2021.

26 (11) For the purposes of this section, "student scholarship
27 organization" has the meaning provided in section 2 of this act.

28 NEW SECTION. **Sec. 10.** A new section is added to chapter 82.16
29 RCW to read as follows:

30 (1) Subject to the limitations in this section, a credit is
31 allowed against the tax imposed under this chapter for contributions
32 made by a person to a Washington state student scholarship
33 organization.

34 (2) The person must make the contribution before claiming a
35 credit authorized under this section. Credits earned under this
36 section may be claimed against taxes due for the calendar year in
37 which the contribution is made. The amount of credit claimed for a
38 reporting period may not exceed the tax otherwise due under this

1 chapter for that reporting period. No refunds may be granted for any
2 unused credits.

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

6 (4) Any amount of tax credit otherwise allowable under this
7 section not claimed by the person in any calendar year may be carried
8 over and claimed against the person's tax liability for the next
9 succeeding calendar year. Any credit remaining unused in the next
10 succeeding calendar year may be carried forward and claimed against
11 the person's tax liability for the second succeeding calendar year;
12 and any credit not used in that second succeeding calendar year may
13 be carried over and claimed against the person's tax liability for
14 the third succeeding calendar year, but may not be carried over for
15 any calendar year thereafter.

16 (5) Credits are available on a first-in-time basis. The
17 department must disallow any credits, or portion thereof, that would
18 cause the total amount of credits claimed under this section and
19 sections 9 and 11 of this act during any calendar year to exceed the
20 amount specified under subsection (6) of this section. If this
21 limitation is reached, the department must notify all student
22 scholarship organizations that the annual statewide limit has been
23 met. In addition, the department must provide written notice to any
24 person who has claimed tax credits in excess of the limitation in
25 this subsection. The notice must indicate the amount of tax due and
26 provide that the tax be paid within 30 days from the date of the
27 notice. The department may not assess penalties and interest as
28 provided in chapter 82.32 RCW on the amount due in the initial notice
29 if the amount due is paid by the due date specified in the notice, or
30 any extension thereof.

31 (6) In fiscal year 2022, the department must disallow any
32 credits, or portion thereof, that would cause the total amount of
33 credits claimed under this section and sections 9 and 11 of this act
34 during any fiscal year to exceed \$750,000. In fiscal year 2023 and
35 each fiscal year thereafter, the total amount of credits available to
36 be claimed under this section and sections 9 and 11 of this act is
37 the total amount allowable for the prior fiscal year unless the
38 amount of credits actually claimed under this section and sections 9
39 and 11 of this act for the prior fiscal year is equal to or greater
40 than 90 percent of the maximum allowable amount for that fiscal year,

1 in which case the total amount of credits eligible to be claimed
2 under this section and sections 9 and 11 of this act will be
3 increased by 25 percent. The department shall publish on its website
4 information identifying the tax credit cap amount when it is
5 increased under this subsection (6).

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

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

17 (9) A student scholarship organization must provide to the
18 department, upon request, such information needed to verify
19 eligibility for credit under this section, including information
20 regarding contributions received by the student scholarship
21 organization.

22 (10) The department may not allow any credit under this section
23 before July 1, 2021.

24 (11) For the purposes of this section, "student scholarship
25 organization" has the meaning provided in section 2 of this act.

26 NEW SECTION. **Sec. 11.** A new section is added to chapter 83.100
27 RCW to read as follows:

28 (1) For the purposes of determining the estate tax due under this
29 chapter, a credit is allowed against the tax imposed under this
30 chapter for contributions made by an estate to a Washington state
31 student scholarship organization.

32 (2) The personal representative may not make the contribution to
33 the Washington state student scholarship organization until payment
34 of the tax under this chapter is paid or otherwise secured as
35 provided in RCW 83.100.120.

36 (3) Credits are available on a first-in-time basis. The
37 department must disallow any credits, or portion thereof, that would
38 cause the total amount of credits claimed under this section and
39 sections 9 and 10 of this act during any calendar year to exceed the

1 amount specified under subsection (4) of this section. If this
2 limitation is reached, the department must notify all student
3 scholarship organizations that the annual statewide limit has been
4 met. In addition, the department must provide written notice to the
5 personal representative of any estate that has claimed tax credits in
6 excess of the limitation in this subsection. The notice must indicate
7 the amount of tax due and provide that the tax be paid within 30 days
8 from the date of the notice. The department may not assess penalties
9 and interest as provided in chapter 82.32 RCW on the amount due in
10 the initial notice if the amount due is paid by the due date
11 specified in the notice, or any extension thereof.

12 (4) In fiscal year 2022, the department must disallow any
13 credits, or portion thereof, that would cause the total amount of
14 credits claimed under this section and sections 9 and 10 of this act
15 during any fiscal year to exceed \$750,000. In fiscal year 2023 and
16 each fiscal year thereafter, the total amount of credits available to
17 be claimed under this section and sections 9 and 10 of this act is
18 the total amount allowable for the prior fiscal year unless the
19 amount of credits actually claimed under this section and sections 9
20 and 10 of this act for the prior fiscal year is equal to or greater
21 than 90 percent of the maximum allowable amount for that fiscal year,
22 in which case the total amount of credits eligible to be claimed
23 under this section and sections 9 and 10 of this act will be
24 increased by 25 percent. The department shall publish on its website
25 information identifying the tax credit cap amount when it is
26 increased under this subsection (4).

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

30 (6) A student scholarship organization must provide to the
31 department, upon request, such information needed to verify
32 eligibility for credit under this section, including information
33 regarding contributions received by the student scholarship
34 organization.

35 (7) This section applies to estates of decedents dying on or
36 after January 1, 2022.

37 (8) For the purposes of this section, "student scholarship
38 organization" has the meaning provided in section 2 of this act.

1 NEW SECTION. **Sec. 12.** RCW 82.32.805 and 82.32.808 do not apply
2 to sections 9 through 11 of this act.

3 NEW SECTION. **Sec. 13.** Sections 1 through 8 of this act
4 constitute a new chapter in Title 28A RCW.

5 NEW SECTION. **Sec. 14.** If any provision of this act or its
6 application to any person or circumstance is held invalid, the
7 remainder of the act or the application of the provision to other
8 persons or circumstances is not affected.

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