
Education Committee

HB 1615

Brief Description: Creating the students first program which establishes education savings accounts for students in need of support.

Sponsors: Representatives Eslick, Corry, Graham, Walen, Barkis, Volz, Dent, Couture, Low, Steele, Christian and McEntire.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Creates the Students First Education Savings Account, to be administered by the Washington Student Achievement Council, to provide awards for the education of eligible students.

Hearing Date: 2/2/23

Staff: Megan Wargacki (786-7194).

Background:

Student Enrollments.

In the 2021-22 school year, over a million students were served in public schools, approved private schools reported an enrollment of nearly 78,000 students, and over 32,000 students were registered for home-based instruction.

Washington Student Achievement Council.

The Washington Student Achievement Council (WSAC) was created to provide strategic planning, oversight, advocacy, and programs that support increased student success and higher levels of educational attainment in Washington. The WSAC administers the majority of the state's financial aid programs.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Challenged Schools in Need of Improvement.

The federal Every Student Succeeds Act requires states to have an accountability system that can be used to meaningfully differentiate schools. Among other things, this system must identify schools for comprehensive support and improvement, as well as schools that are consistently underperforming for any subgroup of students.

The Office of the Superintendent of Public Instruction provides comprehensive supports to schools identified as “challenged schools in need of improvement.”

Free Exercise Clause and Forever Free Provision.

Under the *Espinoza* (2020) and *Carson* (2022) decisions of the Supreme Court of the United States, which interpret the federal constitution, states are not obligated to subsidize private education, but once a state decides to do so, it cannot disqualify some private schools solely because they are religious. At the same time, Article IX, section 4, of the Washington Constitution provides that all schools maintained or supported wholly or in part by the public funds shall be forever free from sectarian control or influence.

Summary of Bill:

The Students First Education Savings Account (ESA) Program is established to provide awards for the education of eligible students. The Washington Student Achievement Council (WSAC) must administer the ESA program.

Student Eligibility. The ESA program is open to any person residing in Washington who is at least five years of age and less than 21 years of age, unless the person is ineligible to attend a public school in the state. The parent or guardian of an eligible student must apply to the WSAC for participate in the ESA program.

Student Participation. To participate in the ESA program, the parent or guardian of an eligible student must enter into a written agreement with the WSAC that obligates the parent to:

- withdraw from or not enroll in the public school the participating student attends or is eligible to attend, and release the public school and, if applicable, the school district, from all obligations to provide an education or education services to the participating student;
- enroll the participating student in a private school or adhere to the home-based instruction requirements;
- use the award and any interest that may accrue in the account only for qualified expenses of the participating student; and
- maintain documentation of all expenses paid using the account and provide the documentation to the WSAC upon request.

The parent of a participating student may terminate the agreement by notifying the WSAC. An agreement automatically terminates if the participating student is no longer an eligible student.

Awards. The WSAC must annually provide awards to up to 94,100 participating students, with

priority to eligible students who either: have a disability; are in households at or below 300 percent of federal poverty level; are enrolled in public schools identified as challenged schools in need of improvement; or are an eligible student who is the sibling of a participating student.

The WSAC must consult with the Office of the Superintendent of Public Instruction when calculating the award amounts as follows:

- For a participating student who does not have a disability, the award must be the total of: (1) the estimated total statewide allocation for basic education (except for allocations for career and technical education, skills center allocations, the Learning Assistance Program, the Transitional Bilingual Instruction Program, and the Highly Capable Program) plus the estimated total statewide allocation for professional learning days, divided by the statewide full-time equivalent (FTE) student enrollment in the common schools; and (2) the statewide allocation for pupil transportation services to and from school divided by the statewide FTE student enrollment in the common schools.
- For a participating student with a disability, the award must be the total of: (1) the award provided to a student who does not have a disability; and (2) the excess cost amount equal to the award provided to a student who does not have a disability multiplied by the special education cost multiplier of 1.0075.

Student Accounts. The parent of a participating student must be able to access the money in their participating student's account using a debit card.

The WSAC may contract for the management of the accounts. The manager of the accounts must comply with generally accepted accounting principles and may charge reasonable fees for the management of accounts.

Reports. Annually by November 1, the WSAC must report to the Legislature with the following ESA program and account information from the prior school year:

- the number of participating students disaggregated by grade level, gender, race, ethnicity, resident school district, and prioritization category, if any;
- the amount of awards distributed to accounts;
- the number of ESA program applications received, approved, and denied, including the justification for the denied applications;
- the number of applications processed within 30 days of receipt and the number of administratively incomplete applications;
- a summary of any comments from parents about the ESA program received by the WSAC or any entity contracted to manage the accounts, and a summary of how the WSAC is responding to these comments; and
- information on any entity contracted to manage the accounts.

Audits. The ESA program and all accounts are subject to audit by the State Auditor's Office and by an independent public accounting firm retained by the WSAC for this purpose.

Additional Provisions. Parents and private schools that accept awards from the ESA program are

not agents of the state or federal government and must be given maximum freedom to provide for the educational needs of participating students without governmental control.

Private schools must not be required to alter their creed, practices, admissions policies, or curricula in order to admit participating students whose parents pay tuition or fees using ESA program awards.

Nothing in the bill may be construed to expand the regulatory authority of the state, the WSAC, the State Board of Education, the Office of the Superintendent of Public Instruction, or any of their officers, to impose any additional regulations on private schools beyond those necessary to enforce the requirements of the ESA program.

Appropriation: None.

Fiscal Note: Requested on January 25, 2023.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.