
Education Committee

HB 1140

Brief Description: Establishing empowerED scholarships using educational savings accounts.

Sponsors: Representatives Couture, Walsh, Corry, Ley, Jacobsen and Barnard.

Brief Summary of Bill

- Establishes the EmpowerED Scholarship Program (Program) to provide parents meeting certain requirements with moneys for qualifying expenses related to the education of their public school-aged children.
- Establishes numerous administrative and operational requirements for the Program, including provisions governing the distribution and use of moneys, reporting requirements, and tax credits.

Hearing Date: 2/6/25

Staff: Ethan Moreno (786-7386).

Background:

Basic Education—Instructional Hours and Funding.

Washington's instructional program of basic education (program of basic education) obligates school districts to provide instruction of sufficient quantity and quality and give students the opportunity to complete graduation requirements that are intended to prepare them for postsecondary education, gainful employment, and citizenship. Instructional requirements for the state's program of basic education compel school districts to provide a district-wide average of at least 1,080 instructional hours annually for students enrolled in grades 9 through 12. Students in kindergarten through grade 8 must be provided at least 1,000 instructional hours annually.

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.

For funding purposes, the number of instructional hours a student receives is expressed as a full-time equivalent (FTE) student. Districts are allocated funding for FTE students based on state prototypical school formulas. The amount provided per FTE student depends on student characteristics and the instructional setting.

School Choice.

Washington's school choice laws encourage school districts to honor a resident student's request to attend school in another district. A resident district must release a student if a financial, education, safety, or health condition of the student would likely be improved; the school would be more accessible to a parent's workplace or childcare; or there is a special hardship. Districts must adopt a policy regarding acceptance of nonresident students that is applied equitably. A nonresident district may reject a student due to significant discipline problems, expulsion or suspension, or financial hardship on the district. Rejections may be appealed to the OSPI.

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. In Washington, Article IX, section 4, of the state 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.

Educational Continuity—Best Interest Determinations.

State law includes requirements and protocols for maximizing the educational continuity and achievement for children in out-of-home care. The protocols include provisions for making "best interest determinations" about the school the student should attend when there is a change in the student's placement. The protocols require consideration of numerous factors and example questions when determining whether the student should remain enrolled in their school of origin or transferred to a new school.

Summary of Bill:

Program Establishment and General Operation.

The EmpowerED Scholarship Program (Program) is established as an educational savings account program to assist parents with qualifying educational expenses for their elementary and secondary students. The Program must be administered by the Student Achievement Council (WSAC) and the WSAC is directed to adopt rules for administering the Program.

Parents of eligible students may apply for participation in the Program in a manner set by the WSAC. Approved applications are governed by a written agreement between the WSAC and the parent that establishes the obligations of both parties. Moneys that are provided to parents through the Program are deposited into individual education savings accounts (savings accounts) and must be accessible through a debit card or other electronic means.

The written agreement must obligate the parent to:

- withdraw from or not enroll in the public school the participating student (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, and educational and related services, to the student;
- enroll the student in a private school or adhere to the home-based instruction requirements;
- use the provided moneys in the student's savings account only for qualified expenses; and
- maintain documentation of all expenses paid using the student's savings account and provide the documentation of the expenses to the WSAC upon request.

The written agreement may be terminated by the parent and the agreement terminates automatically if the student is no longer eligible to participate in the Program.

Parents may use the moneys provided from the Program for qualifying expenses, examples of which include:

- tuition, fees, or both at a private school;
- tutoring and other services with a direct nexus to academics;
- curricula and other materials necessary to provide home-based instruction;
- fees for nationally standardized norm-referenced achievement tests and examinations related to college or university admission;
- postsecondary education and workforce program costs;
- computer hardware and technological devices primarily used for an educational purpose; and
- expenses related to transporting a student to and from educational activities and services, and related therapies and services.

Financial Provisions.

The WSAC is required to annually calculate the scholarship amount (amount) of money for deposit into students' savings accounts, and to make those deposits until moneys from a corresponding state account created for the Program (which may be populated with moneys from the Legislature, tax credit contributions, and gifts) are exhausted or nearly exhausted.

The WSAC must prioritize the provision of moneys to eligible students in the following order:

- students who participated in the Program during the prior school year;
- students who are the siblings of those students; and
- students who either: have a disability; are in households at or below 300 percent of the federal poverty level; or are enrolled in public schools identified as challenged schools in need of improvement.

The maximum amount a parent may receive under the Program for a student without a disability is \$12,700. The maximum amount a parent may receive for a student with a disability is \$10,700 multiplied by a special education cost multiplier rate, plus \$12,700. Beginning in fiscal year 2026, these maximum amounts must be adjusted annually for inflation.

The amount that a parent may receive from the Program per student varies according to family income and size. Students with family incomes between 0 and 55 percent of the state median family income, adjusted for family size, must receive the maximum amount appropriate to their disability status. For families with incomes between 56 and 100 percent of the state median family income, adjusted for family size, the amount received through the Program per student is reduced to varying levels between 70 and 10 percent of the maximum amounts.

The WSAC may contract for the management of the students' accounts. If a contractor is used for this purpose, the manager of the accounts must comply with generally accepted accounting principles and may charge reasonable fees for the management of students' accounts.

The Program and all accounts, including students' 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.

Tax Credits.

Beginning January 1, 2026, a credit equal to 100 percent of contributions to the Program or the corresponding state account is allowed against business and occupation (B&O) taxes and public utility taxes. Provisions governing the tax credits, including requirements for applications, limitations, and duties for the Department of Revenue, are established. The credits claimed may not exceed the tax that would otherwise be due, and no taxpayer may claim a credit against B&O taxes and public utility taxes for the same contribution.

Reporting and Comment Receiving Duties.

Annually by November 1, the WSAC must report to the appropriate committees of the Legislature on the Program. Each report must include specified information from the prior school year, including:

- the number of students and the number of applicants, disaggregated by grade level, gender, race, and ethnicity, resident school district or other geographical region, family income level, disability status, if any, and other relevant characteristics;
- the amount of money deposited in the students' savings accounts at the beginning of the school year and the amount of money remaining in the accounts at the end of the school year; and
- a summary of student assessment or other outcome data voluntarily submitted to the WSAC by the parents of students.

The WSAC must also establish processes to receive: comments from parents about the Program, including the management of the students' savings accounts; and student assessment or other outcome data voluntarily submitted by the parents.

Private School Provisions.

Parents and private schools that accept moneys from the Program are expressly specified to not be agents of the state or federal government and must be given maximum freedom to provide for the educational needs of students without governmental control.

Additionally, private schools may not be required to alter their creed, practices, admissions policies, or curricula to admit students whose parents pay tuition or fees using moneys provided through the Program.

Educational Continuity—Best Interest Determinations.

A statutory list of example factors and questions that should be considered when making a best interest determination for deciding which school a child in out-of-home care should attend is expanded to include a question about whether the availability of the Program would make private school or another alternative to traditional public school the best option for the student.

Appropriation: None.

Fiscal Note: Requested on February 4, 2025.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except section 12, relating to treasurer accounts and funds retaining their own interest, takes effect July 1, 2030.