
HOUSE BILL 1969

State of Washington

66th Legislature

2019 Regular Session

By Representatives Corry, Griffey, Caldier, Vick, Hoff, McCaslin, and Barkis

1 AN ACT Relating to creating and funding a school choice
2 scholarship program for foster students; adding new sections to
3 chapter 43.216 RCW; adding a new section to chapter 82.04 RCW;
4 creating a new section; and providing a contingent effective date.

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

6 **FOSTER STUDENT SCHOLARSHIP**

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.216
8 RCW to read as follows:

9 (1) The definitions in this subsection apply throughout this
10 section unless the context clearly requires otherwise.

11 (a) "Caregiver" has the meaning provided in RCW 74.13.710.

12 (b) "Child or youth in foster care" means a child or youth under
13 the placement and care authority of the department or a supervising
14 agency as defined in RCW 74.13.020.

15 (c) "Eligible student" means a child or youth who: (i) Was either
16 eligible to attend a public elementary or secondary school in
17 Washington in the preceding school term or is eligible to attend a
18 public elementary or secondary school in Washington in the next
19 school year; and (ii) is either in foster care or is the biological
20 sibling of a child or youth in foster care.

1 (d) "Participating school" means a public elementary or secondary
2 school located outside of the resident school district, including
3 public schools that are not operated by school districts, or a
4 private elementary or secondary school approved by the state under
5 chapter 28A.195 RCW that has notified the department of its intention
6 to participate in the program and comply with program requirements.

7 (e) "Program" means the foster student scholarship program
8 created in this section.

9 (f) "Program participant" means a child or youth who qualifies
10 for a scholarship under the program.

11 (g) "Resident school district" means a school district in which
12 an eligible student resided at the time the student became a child or
13 youth in foster care.

14 (2) The foster student scholarship program is established. The
15 purpose of the program is to provide children and youth in foster
16 care with the option to attend the public or private school of their
17 caregiver's choice.

18 (a) An eligible student qualifies for a scholarship to enroll in
19 and attend a participating school if:

20 (i) The eligible student has been accepted for admission at the
21 participating school;

22 (ii) The eligible student's caregiver submits a scholarship
23 application to the department that complies with applicable
24 requirements established by the department; and

25 (iii) Sufficient moneys are available in the foster student
26 scholarship account created in section 2 of this act, as determined
27 by the department.

28 (b)(i) A program participant who is a child or youth in foster
29 care remains qualified for the program until his or her graduation
30 from high school or his or her twenty-first birthday, whichever comes
31 first.

32 (ii) A program participant who exits the foster care system
33 qualifies for the program through the school year in which he or she
34 exited the system and for one additional school year.

35 (iii) A program participant who qualifies as an eligible student
36 because he or she is the biological sibling of a child or youth in
37 foster care qualifies for the program through the school year in
38 which all of his or her biological siblings exit the system and for
39 one additional school year.

1 (c) To the extent allowed by state and federal laws, the decision
2 to enroll an eligible student in the participating school must be
3 made by the eligible student's caregiver for a child or youth in
4 foster care, or by a parent for a child or youth who exits the foster
5 care system.

6 (d) The annual scholarship amount must be equal to the lesser of
7 either:

8 (i) The annual cost per pupil of the participating school at
9 which the program participant is accepted for admission, including
10 both operational and capital facility costs, and including any costs
11 to the school associated with special needs of the program
12 participant; or

13 (ii) Ten thousand dollars.

14 (e) The department may only award a program participant's
15 scholarship to the participating school in which he or she is
16 enrolled. A participating school may not, in any manner, refund,
17 rebate, or share a program participant's scholarship with the program
18 participant, or the program participant's caregiver or parent.

19 (f) The participating school may use the scholarship moneys for
20 educational purposes including tuition, special education and related
21 services, transportation to the extent allowed under state and
22 federal laws, uniforms, books or other school fees, tutoring, and
23 extracurricular programs with an educational purpose. The
24 participating school may provide the educational services to the
25 program participant directly or contract with a third party to
26 provide these services.

27 (g) A scholarship awarded under this section is not an
28 entitlement for a program participant or a participating school.

29 (h) A participating school must accept program participants for
30 admission on a first-come, first-serve basis until the school's
31 capacity is insufficient to enroll additional applicants. In such
32 case, a participating school must grant an enrollment preference to
33 siblings of program participants, with any remaining enrollments
34 allocated through a lottery.

35 (i) A program participant who is denied admission to a
36 participating school due to insufficient enrollment capacity may
37 transfer his or her scholarship to a participating school with
38 enrollment capacity.

39 (3) The department must administer the program created under this
40 section, including performing the following duties:

1 (a) Provide annually the list of participating schools to
2 eligible students and their caregivers, school district foster care
3 liaisons, and public and private entities involved in foster care
4 issues;

5 (b) Create standard forms, including a scholarship application
6 and an application for admission to participating schools, and make
7 the forms available to eligible students and their caregivers through
8 various sources, including the internet. Participating schools may
9 require supplemental information from applicants;

10 (c) Establish a process to bar a school from participating in the
11 program, including for any of the following reasons: Intentionally
12 and substantially misrepresenting accountability information required
13 by the department; routinely failing to comply with the regulations
14 or accountability standards established by the department; and
15 failure to refund to the department any scholarship overpayment in a
16 timely manner;

17 (d) Establish a process to notify, as soon as possible, eligible
18 students and their caregivers, and program participants and their
19 caregivers or parents, of the department's decision to bar a school
20 from participating in the program;

21 (e) Establish a process to allow program participants enrolled in
22 or attending a school barred from participating in the program to
23 transfer their scholarships to other participating schools;

24 (f) Establish, in consultation with the state auditor's office,
25 the office of the superintendent of public instruction, and the state
26 board of education, standards for participating schools related to
27 administrative accountability, financial accountability, and academic
28 accountability;

29 (g) Conduct satisfaction surveys of program participants and
30 their caregivers, and participating schools;

31 (h) Receive contributions for the program and deposit the
32 contributions in the account created in section 2 of this act;

33 (i) Notify the department of revenue regarding receipt of
34 contributions; and

35 (j) Adopt rules necessary to implement this section.

36 (4) (a) By December 1, 2021, and by December 1st every two years
37 thereafter, and in compliance with RCW 43.01.036, the department must
38 submit a program report to the appropriate committees of the
39 legislature. At a minimum the report must contain:

1 (i) The number of, and demographic information for, eligible
2 students applying for the program;
3 (ii) The number of, and demographic information for, program
4 participants;
5 (iii) The educational outcomes of program participants;
6 (iv) A list of participating schools and the number of program
7 participants at each school;
8 (v) The amount of scholarship moneys awarded;
9 (vi) The administrative costs of the program;
10 (vii) The fund balance of the foster student scholarship account
11 created in section 2 of this act; and
12 (viii) Recommendations for statutory improvements to the program.
13 (b) The office of the superintendent of public instruction and
14 the state board of education must cooperate with the department to
15 provide any data needed for the report.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.216
17 RCW to read as follows:

18 The foster student scholarship account is created in the custody
19 of the state treasurer. All moneys received for the foster student
20 scholarship program created in section 1 of this act must be
21 deposited into the account. Expenditures from the account may be used
22 only for foster student scholarships under section 1 of this act and
23 costs associated with program administration by the department. Only
24 the secretary or the secretary's designee may authorize expenditures
25 from the account. The account is not subject to allotment procedures
26 under chapter 43.88 RCW, except for moneys used for program
27 administration and an appropriation is not required for expenditures.

28 **TAX PREFERENCE AND TAX CREDIT**

29 NEW SECTION. **Sec. 3.** (1) This section is the tax preference
30 performance statement for the tax preferences in chapter . . . , Laws
31 of 2019 (this act). This performance statement is only intended to be
32 used for subsequent evaluation of the tax preferences. It is not
33 intended to create a private right of action by any party or be used
34 to determine eligibility for preferential tax treatment.

35 (2) The legislature categorizes this tax preference as one
36 intended to incentivize taxpayers to make contributions to the foster

1 student scholarship account, created in section 2 of this act, as
2 indicated in RCW 82.32.808(2) (a).

3 (3) It is the legislature's specific public policy objective to
4 generate funds in order to provide children and youth in foster care
5 with the option to attend the public or private school of their
6 caregiver's choice.

7 (4) The legislative auditor will review and present the following
8 metrics to the legislature two years before the tax preference is set
9 to expire:

10 (a) The number of taxpayers that claimed the credit provided
11 under this section;

12 (b) The total amount of donations made to the foster student
13 scholarship program by taxpayers that claimed the credit under this
14 section, by year; and

15 (c) The total number of foster children and youth that received
16 scholarships from the foster student scholarship program, by year.

17 (5) In order to obtain the data necessary to perform the review
18 in subsection (4) of this section, the joint legislative audit and
19 review committee may refer to any available data source, and the
20 department of children, youth, and families is directed to cooperate
21 with any requests for data pursuant to facilitating the review
22 authorized in this section.

23 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.04
24 RCW to read as follows:

25 (1) Subject to the limitations in this section, a credit is
26 allowed against the tax imposed under this chapter for contributions
27 made by a person to the foster student scholarship account created in
28 section 2 of this act.

29 (2) The person must make a contribution before claiming a credit
30 authorized under this section. Credits earned under this section may
31 be claimed against taxes due for the calendar year in which the
32 contribution is made. The amount of credit claimed for a reporting
33 period may not exceed the tax otherwise due under this chapter for
34 that reporting period. No person may claim more than two hundred
35 thousand dollars of credit in any calendar year. No refunds may be
36 granted for any unused credits.

37 (3) The maximum credit that can be earned for each calendar year
38 under this section for a person is limited to the lesser of two
39 hundred thousand dollars or an amount equal to one hundred percent of

1 the contributions made by the person to the foster student
2 scholarship program during the calendar year.

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

6 (5) 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 (6) 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 during
19 any calendar year to exceed twenty million dollars. If this
20 limitation is reached, the department must notify all taxpayers who
21 apply for the credit provided under this section that the annual
22 statewide limit has been met. In addition, the department must
23 provide written notice to any person who has claimed tax credits in
24 excess of the limitation in this subsection. The notice must indicate
25 the amount of tax due and provide that the tax be paid within thirty
26 days from the date of the notice. The department may not assess
27 penalties and interest as provided in chapter 82.32 RCW on the amount
28 due in the initial notice if the amount due is paid by the due date
29 specified in the notice, or any extension thereof.

30 (7) To claim a credit under this section, a person must
31 electronically file with the department all returns, forms, and any
32 other information required by the department, in an electronic format
33 as provided or approved by the department. Any return, form, or
34 information required to be filed in an electronic format under this
35 section is not filed until received by the department in an
36 electronic format. As used in this subsection, "returns" has the same
37 meaning as "return" in RCW 82.32.050.

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

1 (9) The department may not allow any credit under this section
2 before January 1, 2020.

3 (10) No credit may be earned for contributions made on or after
4 January 1, 2030.

5 **MISCELLANEOUS PROVISIONS**

6 NEW SECTION. **Sec. 5.** (1) Section 1 of this act takes effect on
7 the date that the contributions to the foster student scholarship
8 account, created in section 2 of this act, exceed one million five
9 hundred thousand dollars, or on July 1, 2020, whichever date is
10 later.

11 (2) The department of children, youth, and families must provide
12 written notice of the effective date of section 1 of this act to
13 affected parties, the chief clerk of the house of representatives,
14 the secretary of the senate, the office of the code reviser, and
15 others as deemed appropriate by the department.

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