
HOUSE BILL 2063

State of Washington 63rd Legislature 2013 1st Special Session

By Representatives Pike, Klippert, Hargrove, Haler, Orcutt, Warnick,
and Magendanz

Read first time 05/22/13. Referred to Committee on Education.

1 AN ACT Relating to establishing an education investment tax credit;
2 and adding a new chapter to Title 82 RCW.

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

4 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

5 (a) Expanding educational opportunities, improving the quality of
6 educational services within the state, and ensuring that all parents
7 may exercise and enjoy their basic right to educate their children are
8 valid public purposes; and

9 (b) Expanding educational opportunities for children and promoting
10 healthy competition among education providers to serve children are
11 critical to improving the quality of education in the state and
12 ensuring that all children have the opportunity to receive a high
13 quality education.

14 (2) The legislature intends to:

15 (a) Allow maximum freedom to parents to provide for the educational
16 needs of children;

17 (b) Promote the general welfare by expanding educational
18 opportunities for children;

1 (c) Enable children in this state to achieve a higher level of
2 excellence in their education; and

3 (d) Improve the quality of education in this state, both by
4 expanding educational opportunities for children and by creating
5 incentives for schools to achieve excellence.

6 NEW SECTION. **Sec. 2.** The definitions in this section apply
7 throughout this chapter unless the context clearly requires otherwise.

8 (1) "Approved private school" means a school that is an approved
9 private school for purposes of RCW 28A.225.010(3).

10 (2) "Contribution receipt" means a document submitted by a
11 scholarship organization to the department and to the person who made
12 a contribution to the scholarship organization, which contains:

13 (a) The name, address, and federal taxpayer identification number
14 of the person who made the contribution;

15 (b) The scholarship organization's name and address; and

16 (c) The contribution amount and date received.

17 (3) "Educational expenses" means the total amount of money charged
18 for the cost of an eligible student to be educated at an approved
19 private school, including, but not limited to: Tuition, education-
20 related transportation fees, and other instruction-related expenses,
21 subject to the approval of the scholarship organization.

22 (4) "Eligible student" means a Washington resident who:

23 (a) Is at least five years of age and no more than twenty-one years
24 of age;

25 (b) Has not graduated from high school; and

26 (c) Meets at least one of the following requirements:

27 (i) Has an annual household income of less than or equal to two
28 hundred twenty-five percent of the federal poverty guidelines as
29 updated annually by the United States department of health and human
30 services under 42 U.S.C. Sec. 9902(2) and either is enrolled in
31 kindergarten at an approved private school or attended a public primary
32 or secondary school as a full-time student in the preceding fiscal year
33 and transferred from such school to an approved private school;

34 (ii) Received a scholarship pursuant to (c)(i) of this subsection
35 (4) or pursuant to this subsection (4)(c)(ii) in the prior fiscal year
36 and has an annual household income of less than or equal to two hundred

1 seventy-five percent of the federal poverty guidelines as updated
2 annually by the United States department of health and human services
3 under 42 U.S.C. Sec. 9902(2);

4 (iii) Has been identified as having a disability under 29 U.S.C.
5 Sec. 794 or has been identified at any time by a school district as a
6 child with a disability for purposes of RCW 28A.155.020;

7 (iv) Has an annual household income of less than or equal to two
8 hundred twenty-five percent of the federal poverty guidelines as
9 updated annually by the United States department of health and human
10 services under 42 U.S.C. Sec. 9902(2); or

11 (v) Received a scholarship pursuant to (c)(iv) of this subsection
12 (4) or pursuant to this subsection (4)(c)(v) in the prior fiscal year
13 and has an annual household income of less than or equal to two hundred
14 seventy-five percent of the federal poverty guidelines as updated
15 annually by the United States department of health and human services
16 under 42 U.S.C. Sec. 9902(2).

17 (5) "Fiscal year" means the twelve-month period from July 1st of
18 the calendar year to June 30th of the next calendar year.

19 (6) "Parent" means the natural or adoptive parent or legal guardian
20 of a child.

21 (7) "Scholarship organization" means an entity that is exempt from
22 taxation under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue
23 code of 1986, as amended, as of January 1, 2013, and that does not
24 discriminate on the basis of race, color, disability, or national
25 origin.

26 NEW SECTION. **Sec. 3.** (1) The education investment tax credit
27 program is created. Under this program, beginning January 1, 2014, a
28 credit is allowed against the tax imposed under chapter 82.04 RCW for
29 approved contributions made by a person to a scholarship organization.

30 (2) Prior to claiming a credit under this section, a person must
31 submit an application to the department, in the form and manner
32 determined by the department, which includes the requested contribution
33 amount. No applications may be accepted under this section prior to
34 January 1, 2014. Applications must be approved by the department
35 within thirty days on a first-come basis, subject to the limits
36 provided in this subsection. Notice of the approval must be provided
37 to the applicant and include the approved contribution amount and the

1 date of the approval. Partial credit approval is permitted if the
2 partial credit approval is necessary to prevent exceeding the aggregate
3 tax credit amount allowable under this subsection.

4 (a) In calendar year 2014, the department may not approve any
5 credits under this section that would cause the total amount of credits
6 claimed under this section to exceed one hundred million dollars. In
7 subsequent calendar years, the total amount of credits that may be
8 claimed under this section must be the same as in the prior calendar
9 year, except as provided otherwise under (b) of this subsection (2).

10 (b) If the total amount of credits claimed under this section in
11 any calendar year exceeds ninety percent of the total amount of credits
12 allowed during that year, the total amount of credits that may be
13 claimed under this section during subsequent calendar years must be
14 increased by forty percent.

15 (c) To receive a tax credit under this section, a person must make
16 a contribution within thirty days from the date of application approval
17 by the department. Contributions may be made to multiple scholarship
18 organizations, but a tax credit is only available under this section
19 for the total amount contributed by the person, up to the amount
20 approved by the department. Any credit amount approved by the
21 department under this section, or any portion thereof, that is not
22 contributed to a scholarship organization within thirty days from the
23 date of application approval may not be counted towards the aggregate
24 tax credit amount under this subsection (2).

25 (3) To participate in the education investment tax credit program,
26 a scholarship organization must:

27 (a) Have submitted to the department a notice of intent to
28 participate in the education investment tax credit program, in the form
29 and manner determined by the department, certifying that the
30 scholarship organization is a tax exempt entity under 26 U.S.C. Sec.
31 501(c)(3) of the federal internal revenue code;

32 (b) Provide scholarships to eligible students for educational
33 expenses. An eligible student may not receive more than one
34 scholarship in a single fiscal year and may not receive a scholarship
35 from more than one scholarship organization in a single fiscal year.
36 Scholarships may not extend beyond a single fiscal year, and an
37 eligible student with a scholarship must reapply for a scholarship in
38 subsequent fiscal years;

1 (c)(i) In fiscal years 2013 and 2014, limit the highest value of
2 any scholarship awarded to:

3 (A) Five thousand dollars or less for an eligible student, other
4 than an eligible student defined under section 2(4)(c)(iii) of this
5 act; and

6 (B) Ten thousand three hundred fifty dollars or less for an
7 eligible student defined under section 2(4)(c)(iii) of this act.

8 (ii) Beginning in fiscal year 2015, the department must annually
9 adjust the limits in (c)(i) of this subsection (3) for inflation as
10 provided in the consumer price index for all urban consumers, northwest
11 region, using the "services less medical care services" special
12 aggregate index, as published by the United States department of labor,
13 bureau of labor statistics;

14 (d) In fiscal years 2013 and 2014, award one hundred percent of all
15 scholarships funded with contributions received under this section as
16 scholarships to eligible students defined under section 2(4)(c) (i) and
17 (ii) of this act. Beginning in fiscal year 2015, the percentage of
18 scholarships funded with contributions required to be awarded to
19 eligible students defined under section 2(4)(c)(i) of this act must be
20 reduced ten percentage points annually. Beginning in fiscal year 2024,
21 there is no required minimum percentage of scholarships reserved only
22 for eligible students defined under section 2(4)(c) (i) and (ii) of
23 this act;

24 (e) Provide scholarships for use at a minimum of two different
25 approved private schools and not restrict or reserve contributions for
26 the use of specific students;

27 (f) Verify a student's eligibility to apply for and receive a
28 scholarship. The office of the superintendent of public instruction
29 must assist scholarship organizations, upon request, in assessing a
30 student's eligibility under section 2(4)(c)(i) of this act by verifying
31 the student's attendance at a public primary or secondary school as a
32 full-time student;

33 (g) Within fifteen days of receiving a contribution from a person
34 pursuant to this section, send a contribution receipt to the department
35 and to the person who made the contribution;

36 (h) Not have a director, officer, or employee who:

37 (i) Owns or operates an approved private school that enrolls
38 children who have received scholarships under this section; or

1 (ii) Has filed within the previous seven years for personal
2 bankruptcy or corporate bankruptcy in a business of which he or she
3 owned more than twenty percent;

4 (i) Maintain a separate account for contributions received under
5 this section;

6 (j) Not award a scholarship to any lineal descendent or equivalent
7 stepchild of any of its directors, officers, or employees;

8 (k) Use at least ninety percent of the revenue received from
9 contributions under this section in each fiscal year to fund
10 scholarships under this section during the same fiscal year in which
11 the contributions were received or in the next succeeding fiscal year;

12 (l) Require that students receiving a scholarship under this
13 section use the scholarship on a full-time basis. If a student ceases
14 to attend an approved private school before completing an entire school
15 year, the school must refund a prorated amount of the scholarship to
16 the scholarship organization that awarded the scholarship. The
17 scholarship organization must use any refunds it receives under this
18 subsection to fund scholarships under this section;

19 (m) Allow the parents of a student who receives a scholarship under
20 this section to choose any approved private school at which the
21 scholarship organization allows its scholarships to be used and that
22 has enrolled the student or accepted the student for enrollment;

23 (n) On or before September 30th of each year, submit a scholarship
24 organization report, in the form and manner as determined by the
25 department, to the department, which is a public document and must
26 contain the following, at a minimum:

27 (i) The total number and total dollar amount of contributions
28 received under this section during the previous fiscal year;

29 (ii) The total number and total dollar amount of scholarships
30 granted under this section during the previous fiscal year, with a
31 subtotal itemizing the number and dollar amount of such scholarships
32 that were granted under section 2(4)(c) (i) through (v) of this act;
33 and

34 (iii) Itemized for each school that enrolled an eligible student
35 who received a scholarship from a scholarship organization under this
36 section during the previous fiscal year, the name and address of the
37 school, the number of such students who attended the school, and the
38 total dollar amount of such scholarships.

1 (4) Credits earned under this section may be claimed against taxes
2 due for the calendar year in which the contribution is made. The
3 amount of credit claimed under this section for a reporting period may
4 not exceed the tax otherwise due under chapter 82.04 RCW for that
5 reporting period.

6 (5) The amount of credit that may be earned by a person in each
7 calendar year under this section may not exceed the amount of approved
8 contributions made by the person to a scholarship organization during
9 that calendar year.

10 (6) Unused credit may be carried over and used in subsequent tax
11 reporting periods, except that no credit may be claimed more than three
12 years from the end of the calendar year in which the credit was earned.
13 Credits carried over must be applied to tax liability before new
14 credits. No refunds may be granted for credits under this section.

15 (7) No credit may be received for any contribution that is
16 directed, assigned, or restricted for the use of a particular student
17 or a particular approved private school.

18 (8) A person claiming the credit under this section is subject to
19 the provisions of chapter 82.32 RCW in such manner and to such extent
20 as indicated in chapter 82.04 RCW.

21 (9) To claim a credit under this section, a person must
22 electronically file with the department all returns, forms, and any
23 other information required by the department, in an electronic format
24 as provided or approved by the department. Any return, form, or
25 information required to be filed in an electronic format under this
26 section is not filed until received by the department in an electronic
27 format. As used in this subsection, "returns" has the same meaning as
28 "return" in RCW 82.32.050.

29 (10) Any contribution made by a person to a scholarship
30 organization for which the person does not seek a tax credit under this
31 section is not subject to the requirements of this chapter.

32 NEW SECTION. **Sec. 4.** (1)(a) The department must create and
33 maintain a public list of all scholarship organizations that meet the
34 requirements of this chapter. The department must post this list on
35 the department's web site and update the list as frequently as the
36 department determines necessary. The department must provide the list

1 created under this section to the office of the superintendent of
2 public institution, which must post the list on its web site, including
3 any updates made by the department.

4 (b) The department must create, maintain, and post on its web site
5 any forms and reports necessary for the administration of this chapter.
6 Any reports published under this section are subject to all applicable
7 public disclosure laws.

8 (c) The department must post an up-to-date total of the amount of
9 credits available during the current calendar year on its web site.

10 (2) Within fifteen days of receiving a contribution receipt from a
11 scholarship organization, the department must notify the scholarship
12 organization and the person who made the contribution to that
13 scholarship organization as to how much of the contribution was within
14 the amount approved under section 3 of this act.

15 (3)(a) The department must send written notice by certified mail or
16 electronically to a scholarship organization not in compliance with the
17 provisions of this chapter.

18 (b) A scholarship organization that receives a notice of
19 noncompliance under this subsection has ninety days to correct the
20 violation identified in the notice. If a scholarship organization
21 fails or refuses to comply after ninety days, the department may revoke
22 the scholarship organization's approval and remove the organization
23 from the list of approved scholarship organizations posted on the
24 department's web site under this section. A scholarship organization
25 whose approval is revoked must notify any person who attempts to make
26 a contribution to the scholarship organization under this chapter that
27 the contribution is not eligible for a tax credit under this chapter
28 and offer to refund any contribution received under this chapter after
29 the department's revocation of approval.

30 (c) Upon request by the department, the office of the
31 superintendent of public instruction must assist the department in
32 determining noncompliance by a scholarship organization under this
33 chapter.

34 (4) The department may adopt rules, as the department deems
35 necessary, to implement this chapter.

36 (5) The administrative procedure act, chapter 34.05 RCW, applies to
37 this chapter.

1 NEW SECTION. **Sec. 5.** An approved private school is not considered
2 an agent of the state or federal government as a result of accepting a
3 student who has received a scholarship from a scholarship organization
4 under this chapter. An approved private school's acceptance of a
5 student who has received a scholarship from a scholarship organization
6 does not provide any state or local governmental entity the authority
7 to regulate the educational program of that school. The provisions of
8 this chapter regarding the relationship of approved private schools and
9 scholarship organizations apply only to approved private schools that
10 choose to accept students with scholarships provided under this
11 chapter.

12 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act constitute
13 a new chapter in Title 82 RCW.

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

--- END ---