

AN ACT Relating to creating school choice with empowerED scholarships using educational savings accounts; amending RCW 28A.225.350; reenacting and amending RCW 43.79A.040 and 43.79A.040; adding a new section to chapter 28B.77 RCW; adding a new chapter to Title 28A RCW; adding a new chapter to Title 82 RCW; creating new sections; providing an effective date; and providing an expiration date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

**Section 1. New section.** (1) The state Constitution makes clear that it is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex. The people find the state is failing to meet that paramount duty by providing an education system that, as it exists in statute, discriminates based on these protected classes by forcing children into schools based on their zip code. This creates a system where children and their families often have no other choice but a failing local public school. The state does not provide for the education of children outside of the public school system which means the quality of their education is set by what neighborhood they live in. This is a blatant injustice and a profound violation of civil rights.

(2) The people also recognize the power entrusted to parents to do what is best for their children. Parents can choose to place their student in a common school, charter public school, private school, micro school, or provide home-based instruction. However, not all parents have access to every option. Public charter schools are limited in number and space, while private school options require an extra financial investment from families. Home school requires both, extra financial and time investments, from parents. The people know that wealthy families can pay to send their students to a private school but the families for many kids in rural and poor communities often do not have this ability. The people intend to allow all students regardless of protected or socioeconomic status to have the same opportunity to succeed.

(3) While the state has spent years increasing funding to the public school system, the people acknowledge that many students have been left behind. National test scores for Washington students have been falling over the last decade and, after extensive school closures, state test scores are down to the lowest levels since administration of the smarter balanced assessment began. For the 2023-24 school year, over 60 percent of Washington's students did not meet grade level standards in math and half did not meet grade level standards in English. School

closures also disproportionately impacted students with the most need, specifically those from underrepresented communities. Students with disabilities who were eligible for special education services were delayed in getting their needed supports for too long. It is clear Washington state's public school system is failing families by not preparing students for their future.

(4) Academic outcomes are not the only reason public schools in Washington are failing students and families. Our schools are unsafe. With a shift in focus toward divisive instruction, rising childhood mental and behavioral health problems, ineffective discipline policies, rampant bullying, drug abuse, and troubling allegations of sexual misconduct, parents, teachers, and communities are abandoning the system. Recent data paints a disturbing picture: 18 percent of students statewide report feeling unsafe at school, and a staggering 70 percent of teachers feel afraid to go to work. Even more alarming, 79 percent of teachers have been subjected to physical violence, and 67 percent say that violence has driven them to consider leaving the profession. Yet, school districts and the state continue failing to fix these issues, allowing this crisis to fester. Since the 2018-19 school year, there has been a 10 percent increase in private school students and an over 32 percent increase in students receiving home-based instruction. This means less funding for public schools. Pair that with communities failing to pass levies and bonds and the state has an even tougher financial dilemma for public schools. If Washington is serious about fixing its schools, its law must allow funding to follow students, shattering the public school monopoly and forcing the system to address its deep-rooted problems. By introducing more educational competition, the state has the opportunity to rebuild trust, confront these urgent challenges, and provide every child with a safe and world-class education, worthwhile of the investment from Washington taxpayers.

(5) The people understand many interests served by the current system of public education in our state will oppose families having the freedom to find an adequate education for their children. Longstanding jurisprudence has said that education is a foundational purpose of government, therefore education savings accounts are in no way a gift of public funds. It is in the best interest of Washington state to educate its citizenry and empower parents to do what is best for their child, regardless of their zip code.

(6) The people acknowledge that some will object to some of the choices families may make. Namely that some families will choose for a myriad of reasons to send their student to a religious private school. However, the United States supreme court has made it clear through two

recent cases, *Carson v. Makin* and *Espinoza v. Montana Department of Revenue*, that if the government creates a program, it cannot then discriminate against religious institutions' participation. This is not a new concept for Washington state. This state has a history of providing education funding support in private religious institutions, specifically for postsecondary education programs.

(7) The people anticipate that some advocates for public schools and public school teachers will argue this scholarship will defund or damage public schools. However, in no state where education savings accounts have been implemented has this been the case. To the contrary, research shows that test results and outcomes for students in public schools have universally improved in states that have implemented education savings accounts. The competition introduced into these state systems have actually alleviated the harms that a public school monopoly creates.

(8) The people find that the increased funding and current leadership of the public school system has not led to any positive measurable outcomes for students. The current approach of increasing funding to teachers and administration in hopes of it trickling down to better educational outcomes for students has failed. It is time to empower parents to do what is best for their children by joining the majority of states in expanding school choice. Measures like this enjoy overwhelming, bipartisan support wherever they are implemented. Washington now has the opportunity to not just follow suit, but to take the lead in improving their model of success.

(9) Therefore, the people intend to allow the money invested in students to follow the student by establishing the empowerED scholarship program. The program would fund education savings accounts for students with priority given to those students who are being failed by the current model, specifically students eligible for special education services, low-income students, and students in failing schools. Parents who apply for the scholarship on behalf of their students are legally required to only use the funds for education-related expenses. The people intend to make the funds accessible with the use of a debit card managed by the state with oversight capability so that the system can be audited. The accounts will be funded on a progressive scale, with the lowest income students, qualifying for a greater award. Students eligible for special education services will qualify for additional support. The fund will receive revenue from the legislature, as well as a B&O tax credit, so businesses can provide direct support to students. This measure will empower parents to do what is best for their students,

regardless of income level or zip code, while also meeting the state's moral and constitutional obligation to put all students first, not just the wealthy ones.

**Section 2. New section.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agreement" means a written agreement between the council and the parent of an eligible student that establishes the obligations of the parent and the council.

(2) "Council" means the student achievement council created under chapter 28B.77 RCW.

(3) "Eligible student" means a 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.

(4) "EmpowerED scholarship program" means the Washington education savings account program established under this chapter.

(5) "Home-based instruction" has the meaning as described in RCW 28A.225.010.

(6) "Participating student" means an eligible student whose parent has submitted a signed agreement to the council.

(7) "Participating student's account" means a Washington education savings account accessible by the parent of a participating student.

(8) "Private school" means a school approved under chapter 28A.195 RCW.

(9) "Public school" has the same meaning as in RCW 28A.150.010.

(10) "Qualified expenses" means those enumerated in section 3 of this act.

(11) "Scholarship" means the amount of money deposited by the council into a participating student's account.

(12) "Student with a disability" means an eligible student who has been evaluated and determined to need special education and related services under the federal individuals with disabilities education act, Title 20 U.S.C. Sec. 1400 et seq.

**Section 3. New section.** Qualified expenses means expenses related to the education of a participating student for which money in a participating student's account may be used, for example:

(1) Tuition, fees, or both at a private school;

- (2) Textbooks required by a private school;
- (3) Tutoring and other services with a direct nexus to academics;
- (4) Curricula and other materials necessary to provide home-based instruction;
- (5) Tuition, fees, or both for a private online learning program;
- (6) Fees for nationally standardized norm-referenced achievement tests, advanced placement examinations, and any examinations related to college or university admission;
- (7) Uniforms required to attend a private school;
- (8) Costs for annual standardized testing or the academic progress assessment required under RCW 28A.200.010 for participating students receiving home-based instruction;
- (9) Educational services and related therapies, services, and supports, including assistive technology devices and services;
- (10) Expenses associated with participating in classes or extracurricular activities, including athletics, at a public school;
- (11) Postsecondary education and workforce program costs;
- (12) Computer hardware and technological devices primarily used for an educational purpose, which may include calculators, personal computers, laptops, tablet devices, microscopes, telescopes, and printers. The following technological devices are not qualified expenses: Entertainment and other primarily noneducational devices, for example, televisions, telephones, video game consoles and accessories, and home theater and audio equipment;
- (13) Expenses related to transporting a participating student to and from educational activities and services, and related therapies and services; and
- (14) Consumer goods not otherwise listed in this subsection, whether consumable or nonconsumable, primarily used for an educational purpose.

**Section 4. New section.** (1) The empowerED scholarship program is established to assist parents with the qualifying educational expenses of their elementary and secondary students.

(2) The council shall administer the empowerED scholarship program as required by this chapter.

(3)(a) On an annual basis, the council shall calculate scholarship amounts as described in (b) and (c) of this subsection (3) and deposit scholarships in participating students' accounts until

funds in the empowerED scholarship program account created in section 10 of this act are exhausted or nearly exhausted.

(b)(i) The maximum scholarship amount for participating students without disabilities is \$12,700.

(ii) The maximum scholarship amount for participating students with disabilities is the sum of (b)(ii)(A) and (B) of this subsection (3):

(A) \$10,700 multiplied by the special education cost multiplier rate identified under RCW 28A.150.390(2)(b)(i)(A)(I); and

(B) \$12,700.

(iii) Beginning with fiscal year 2026, the maximum scholarship amounts identified in (b)(i) and (ii) of this subsection (3) must be adjusted annually for inflation as measured by the consumer price index.

(c) Participating students with family incomes between zero and 55 percent of the state median family income, adjusted for family size, must receive the maximum scholarship amount identified in (b) of this subsection (3) appropriate to their disability status. Scholarship amounts for participating students with family incomes between 56 and 100 percent of the state median family income, adjusted for family size, must be prorated at the following percentages of the maximum scholarship amount identified in (b) of this subsection (3):

(i) 70 percent of the maximum scholarship amount for students with family incomes between 56 and 60 percent of the state median family income, adjusted for family size;

(ii) 60 percent of the maximum scholarship amount for students with family incomes between 61 and 65 percent of the state median family income, adjusted for family size;

(iii) 50 percent of the maximum scholarship amount for students with family incomes between 66 and 70 percent of the state median family income, adjusted for family size;

(iv) 24.5 percent of the maximum scholarship amount for students with family incomes between 71 and 75 percent of the state median family income, adjusted for family size; and

(v) 10 percent of the maximum scholarship amount for students with family incomes between 76 and 100 percent of the state median family income, adjusted for family size.

(4) The council shall prioritize scholarships to eligible students in the following order:

(a) First, to eligible students who participated in the empowerED scholarship program during the prior school year;

(b) Second, to eligible students who are the siblings of participating students, where “sibling” means both an eligible student who shares at least one biological or legal parent with another eligible student and an eligible student who is the subject of a dependency proceeding as defined in RCW 26A.150.010 and who resides in the same household as another eligible student; and

(c) Third, to eligible students who either:

(i) Have a disability;

(ii) Are in households at or below 300 percent of the federal poverty level; or

(iii) Are enrolled in public schools identified as challenged schools in need of improvement under RCW 28A.657.020.

(5) The council shall adopt rules under chapter 34.05 RCW for the administration of the empowerED scholarship program.

**Section 5. New section.** (1) To apply for the empowerED scholarship program, the parent of an eligible student must submit an application to the council in the manner and by the deadline set by the council.

(2) For an eligible student to participate in the empowerED scholarship program, the parent of the participating student must enter into a written agreement with the council that obligates the parent to:

(a) 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, and educational and related services, to the participating student;

(b) Enroll the participating student in a private school or adhere to the home-based instruction requirements of RCW 28A.225.010 and 28A.200.010;

(c) Use the scholarship and any interest that may accrue in the participating student’s account only for qualified expenses of the participating student as provided in section 3 of this act; and

(d) Maintain documentation of all expenses paid using the participating student’s account and provide the documentation of the expenses to the council upon request.

(3)(a) The parent of a participating student may terminate the agreement entered into under this section by notifying the council in the manner specified by the council.

(b) An agreement entered into under this section terminates automatically if the participating student is no longer an eligible student.

(c) Any money remaining in a participating student's account that is terminated under this subsection (3) reverts to the council to be redeposited to the empowerED scholarship program account created in section 10 of this act.

**Section 6. New section.** (1) Parents and private schools that accept scholarships from the empowerED scholarship 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.

(2) 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 empowerED scholarships.

(3) Nothing in this chapter may be construed to expand the regulatory authority of the state, the council, 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 or parents providing home-based instruction beyond those necessary to enforce the requirements of the empowerED scholarship program.

**Section 7. New section.** (1) The council shall establish a process to receive comments from parents about the empowerED scholarship program, including the management of the participating students' accounts.

(2) The council shall establish a process to receive student assessment or other outcome data submitted by the parents of participating students. Parents are not required to submit student assessment or other outcome data.

(3) The council shall annually notify the parents of participating students of the processes established under this section.



**Section 8. New section.** (1) Annually by November 1st, and in accordance with RCW 43.01.036, the council shall submit to the appropriate committees of the legislature a report on the empowerED scholarship program.

(2) The report must include the following information from the prior school year:

(a) The number of participating students and the number of applicants, disaggregated by grade level, gender, race, and ethnicity as described in RCW 28A.300.042(1), resident school district or other geographical region, family income level, disability status, if any, and other relevant characteristics;

(b) The amount of money deposited in the participating students' accounts at the beginning of the school year and the amount of money remaining in the accounts at the end of the school year;

(c) A summary of student assessment or other outcome data submitted by the parents of participating students through the process established under section 7 of this act, for example the number of assessments submitted, the types of assessments submitted, and the percentage of participating students who met standard on the submitted assessments;

(d) A summary of any comments from parents about the program received through the process established under section 7 of this act, and a summary of how the council is responding to the comments;

(e) Information on any entity contracted to manage the participating students' accounts as permitted under section 9 of this act; and

(f) Information on whether the program or any of its accounts, including participating students' accounts and the empowerED scholarship program account, have been audited and the results of the audit.

**Section 9. New section.** (1) The council may contract for the management of the participating students' accounts.

(2) The manager of the accounts must comply with generally accepted accounting principles and may charge reasonable fees for the management of participating students' accounts.

(3) The manager of the participating students' accounts may use the money in the accounts to earn interest.

(4) The parent of a participating student must be able to access the money in the participating student's account using a debit card or other electronic means.

(5) The empowerED scholarship program and all accounts, including participating students' accounts and the empowerED scholarship program account, are subject to audit by the state auditor's office and by an independent public accounting firm retained by the council for this purpose.

**Section 10. New section.** The empowerED scholarship program account is created in the custody of the state treasurer. All receipts from transfers made by the legislature, contributions received by taxpayers utilizing the education choice tax credit created in section 13 of this act, moneys received from gifts, grants, and bequests, and interest earned on the fund must be deposited in the account. Expenditures from the account may be used only for the purposes within this chapter. Only the executive director of the council or the director's designee may authorize expenditures from the account. Moneys within the account may not be appropriated into any other fund or account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**Section 11.** RCW 43.79A.040 and 2024 c 327 s 16 and 2024 c 168 s 10 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury, and may be commingled with moneys in the state treasury for cash management and cash balance purposes.

(2) All income received from investment of the treasurer's trust fund must be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments must occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer must distribute the earnings credited to the investment income account to the state general fund except under (b), (c), and (d) of this subsection.

(b) The following accounts and funds must receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The 24/7 sobriety account, the Washington promise scholarship account, the Gina Grant Bull memorial legislative page scholarship account, the Rosa Franklin legislative internship program scholarship account, the Washington advanced college tuition payment program account, the Washington college savings program account, the empowerED scholarship program account, the accessible communities account, the Washington achieving a better life experience program account, the Washington career and college pathways innovation challenge program account, the community and technical college innovation account, the agricultural local fund, the American Indian scholarship endowment fund, the behavioral health loan repayment and scholarship program account, the Billy Frank Jr. national statutory hall collection fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county 911 excise tax account, the county road administration board emergency loan account, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the energy facility site evaluation council account, the fair fund, the family and medical leave insurance account, the Fern Lodge maintenance account, the fish and wildlife federal lands revolving account, the natural resources federal lands revolving account, the food animal veterinarian conditional scholarship account, the forest health revolving account, the fruit and vegetable inspection account, the educator conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the Washington history day account, the industrial insurance rainy day fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the low-income home rehabilitation account, the medication for people living with HIV rebate revenue account, the homeowner recovery account, the multiagency permitting team account, the northeast Washington wolf-livestock management account, the pollution liability insurance program trust account, the produce railcar pool account, the public use general aviation airport loan revolving account, the regional

transportation investment district account, the rural rehabilitation account, the Washington sexual assault kit account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account, the life sciences discovery fund, the Washington state library-archives building account, the reduced cigarette ignition propensity account, the center for deaf and hard of hearing youth account, the school for the blind account, the Millersylvania park trust fund, the public employees' and retirees' insurance reserve fund, the school employees' benefits board insurance reserve fund, the public employees' and retirees' insurance account, the school employees' insurance account, the long-term services and supports trust account, the radiation perpetual maintenance fund, the Indian health improvement reinvestment account, the department of licensing tuition recovery trust fund, the student achievement council tuition recovery trust fund, the tuition recovery trust fund, the industrial insurance premium refund account, the mobile home park relocation fund, the natural resources deposit fund, the Washington state health insurance pool account, the federal forest revolving account, the Washington saves administrative treasury trust account, and the library operations account.

(c) The following accounts and funds must receive 80 percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advance right-of-way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(d) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the custody of the state treasurer that deposits funds into a fund or account in the custody of the state treasurer pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**Section 12.** RCW 43.79A.040 and 2024 c 327 s 17 and 2024 c 168 s 11 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury, and may be commingled with moneys in the state treasury for cash management and cash balance purposes.

(2) All income received from investment of the treasurer's trust fund must be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments must occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer must distribute the earnings credited to the investment income account to the state general fund except under (b), (c), and (d) of this subsection.

(b) The following accounts and funds must receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The 24/7 sobriety account, the Washington promise scholarship account, the Gina Grant Bull memorial legislative page scholarship account, the Rosa Franklin legislative internship program scholarship account, the Washington advanced college tuition payment program account, the Washington college savings program account, the empowerED scholarship program account, the accessible communities account, the Washington achieving a better life experience program account, the Washington career and college pathways innovation challenge program account, the community and technical college innovation account, the agricultural local fund, the American Indian scholarship endowment fund, the behavioral health loan repayment and scholarship program account, the Billy Frank Jr. national statuary hall collection fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county 911 excise tax account, the county road administration board emergency loan account, the toll collection account, the developmental disabilities endowment

trust fund, the energy account, the energy facility site evaluation council account, the fair fund, the family and medical leave insurance account, the Fern Lodge maintenance account, the fish and wildlife federal lands revolving account, the natural resources federal lands revolving account, the food animal veterinarian conditional scholarship account, the forest health revolving account, the fruit and vegetable inspection account, the educator conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the Washington history day account, the industrial insurance rainy day fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the low-income home rehabilitation account, the medication for people living with HIV rebate revenue account, the homeowner recovery account, the multiagency permitting team account, the northeast Washington wolf-livestock management account, the produce railcar pool account, the public use general aviation airport loan revolving account, the regional transportation investment district account, the rural rehabilitation account, the Washington sexual assault kit account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account, the life sciences discovery fund, the Washington state library-archives building account, the reduced cigarette ignition propensity account, the center for deaf and hard of hearing youth account, the school for the blind account, the Millersylvania park trust fund, the public employees' and retirees' insurance reserve fund, the school employees' benefits board insurance reserve fund, the public employees' and retirees' insurance account, the school employees' insurance account, the long-term services and supports trust account, the radiation perpetual maintenance fund, the Indian health improvement reinvestment account, the department of licensing tuition recovery trust fund, the student achievement council tuition recovery trust fund, the tuition recovery trust fund, the industrial insurance premium refund account, the mobile home park relocation fund, the natural resources deposit fund, the Washington state health insurance pool account, the federal forest revolving account, the Washington saves administrative treasury trust account, and the library operations account.

(c) The following accounts and funds must receive 80 percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advance right-of-way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(d) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the custody of the state treasurer that deposits funds into a fund or account in the custody of the state treasurer pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**Section 13. New section.** Beginning January 1, 2026, a credit equal to 100 percent of contributions to the empowerED scholarship program or the empowerED scholarship program account is allowed against taxes imposed by chapters 82.04 RCW and 82.16 RCW.

**Section 14. New section.** (1) Applications for tax credits under this chapter must be submitted to the department before making a contribution to the empowerED scholarship program or to the empowerED scholarship program account. The application must be made to the department in a form and manner prescribed by the department. The application must contain information regarding the proposed amount of contribution to the empowerED scholarship program or the empowerED scholarship program account and other information required by the department to determine eligibility under this chapter. The department must rule on the application within 30 days. Applications must be approved on a first-come basis.

(2) The department may not accept any applications before the second Monday in January of each calendar year.

(3) A taxpayer approved for a credit as provided in this act, must send the total approved contribution by November 15th of the calendar year in which the application is approved. If November 15th falls upon a Saturday, Sunday, or legal holiday, the payment of the contribution will be considered timely if sent on the next business day.

(4)(a) A taxpayer that does not make an approved contribution as required in subsection (1) of this section forfeits all credits for the approved contribution.

(b) The department must make credits forfeited as provided in (a) of this subsection available to new applicants.

(c) A taxpayer that was approved for credit as provided in this chapter after November 15th must make the total approved contribution by the end of the calendar year in which the contribution was approved.

(5) The credit claimed may not exceed the tax that would otherwise be due under chapters 82.04 and 82.16 RCW. Refunds may not be granted in the place of credits. Any amount of credit earned under this section not claimed by the taxpayer in one calendar year may be carried forward for no more than two calendar years immediately following the year that the credit was earned.

**Section 15. New section.** (1) The total credits allowed under this chapter for contributions made to the empowerED scholarship program or the empowerED scholarship program account may not exceed \$300,000,000 in a calendar year.

(2) The department must keep a running total of all credits approved under this chapter for each calendar year.

(3) If approved contributions in a calendar year exceed 90 percent of total allowable credits, the total allowable credit amount must be increased by 10 percent beginning with the calendar year immediately following the calendar year in which the contributions exceed 90 percent.

**Section 16. New section.** No taxpayer may claim a credit against taxes due under both chapter 82.04 and 82.16 RCW for the same contribution.

**Section 17. New section.** For purposes of this chapter, the following definitions apply:

(1) “Applicant” means a person applying for a tax credit under this chapter.

(2) “Approved contribution” means cash contributions to the empowerED scholarship program or the empowerED scholarship program account which have been approved pursuant to the department’s application requirements.



(3) “EmpowerED scholarship program” means the Washington educational savings account program established in section 4 of this act.

(4) “EmpowerED scholarship program account” means the empowerED scholarship program account created under section 10 of this act.

**Section 18. New section.** The superintendent of public instruction must provide information to the department to administer this chapter.

**Section 19. New section.** Chapter 82.32 RCW applies to the administration of this chapter.

**Section 20. New section.** A new section is added to chapter 28B.77 RCW to read as follows:

The council shall administer the empowerED scholarship program established under section 4 of this act.

**Section 21.** RCW 28A.225.350 and 2022 c 78 s 4 are each amended to read as follows:

(1)(a) The protocols required by RCW 74.13.560 for making best interest determinations for students who are the subject of a dependency proceeding pursuant to chapter 13.34 RCW must comply with the provisions of this section.

(b) The requirements of this section, and the development protocols described in RCW 74.13.560 for making best interest determinations for students who are the subject of a dependency proceeding pursuant to chapter 13.34 RCW, may also be applied to students who are the subject of a federally recognized tribal court shelter care or dependency order that is the equivalent of a shelter care or dependency order issued pursuant to chapter 13.34 RCW, and students who are eligible for benefits under the federal foster care system as defined in RCW 28B.117.020.

(2)(a) Best interest determinations should be made as quickly as possible in order to prevent educational discontinuity for the student.

(b) When making best interest determinations, every effort should be made to gather meaningful input from relevant and appropriate persons on their perspectives regarding which school the student should attend while the subject of a dependency proceeding, consistent with the student’s case plan. Relevant and appropriate persons include:

(i) Representatives of the department of children, youth, and families for students who are the subject of a dependency proceeding pursuant to chapter 13.34 RCW, or representatives of other applicable child welfare agencies;

(ii) Representatives of the school of origin, such as a teacher, counselor, coach, or other meaningful person in the student's life;

(iii) Biological parents;

(iv) Foster parents;

(v) Educational liaisons identified under RCW 13.34.045;

(vi) The student's relatives; and

(vii) Depending on the student's age, the student.

(3) In accordance with RCW 74.13.550, whenever practical and in their best interest, students who are the subject of a dependency proceeding must remain enrolled in their school of origin.

(4) Student-centered factors must be used to determine what is in a student's best interest. In order to make a well-informed best interest determination, a variety of student-centered factors should be considered, including:

(a) How long is the student's current care placement expected to last?

(b) What is the student's permanency plan and how does it relate to school stability?

(c) How many schools has the student attended in the current year?

(d) How many schools has the student attended over the past few years?

(e) Considering the impacts of past transfers, how may transferring to a new school impact the student academically, emotionally, physically, and socially?

(f) What are the immediate and long-term educational plans of, and for, the student?

(g) How strong is the student academically?

(h) If the student has special needs, what impact will transferring to a new school have on the student's progress and services?

(i) To what extent are the programs and activities at the potential new school comparable to, or more appropriate than, those at the school of origin?

(j) Does one school have programs and activities that address the unique needs or interests of the student that the other school does not have?

(k) Which school does the student prefer?

(l) How deep are the student's ties to the student's school of origin?

(m) Would the timing of the school transfer coincide with a logical juncture, such as after testing, after an event that is significant to the student, or at the end of the school year?

(n) How would changing schools affect the student's ability to earn full academic credit, participate in sports or other extracurricular activities, proceed to the next grade, or graduate on time?

(o) How would the commute to the school under consideration impact the student, in terms of distance, mode of transportation, and travel time?

(p) How anxious is the student about having been removed from the home or about any upcoming moves?

(q) What school does the student's sibling attend?

(r) Are there safety issues to consider?

(s) Would the availability of the empowerED scholarship program established in section 4 of this act make private school or another alternative to traditional public school the best option for the student?

(5) The student must remain in the student's school of origin while a best interest determination is made and while disputes are resolved in order to minimize disruption and reduce the number of school transfers.

(6) School districts are encouraged to use any:

(a) Best interest determination guide developed by the office of the superintendent of public instruction during the discussion about the advantages and disadvantages of keeping the student in the school of origin or transferring the student to a new school; and

(b) Dispute resolution process developed by the office of the superintendent of public instruction when there is a disagreement about school placement, a best interest determination, or a dispute between agencies.

(7) The special education services of a student must not be interrupted by a transfer to a new school.

(8)(a) If the student's care placement changes to an area served by another school district, and it is determined to be in the best interest of the student to remain in the school of origin, the school district of origin and the school district in which the student is living shall agree upon a method to apportion the responsibility and costs for providing the student with transportation to

and from the school of origin. If the school districts are unable to agree upon an apportionment method, the responsibility and costs for transportation shall be shared equally between the districts.

(b) In accordance with this subsection, the department of children, youth, and families will reimburse school districts for half of all excess transportation costs for students under the placement and care authority of the department of children, youth, and families.

(9) For the purposes of this section, “students who are the subject of a dependency proceeding” has the same meaning as in RCW 26A.150.510, and “school of origin” means the school in which a child is enrolled at the time of placement in foster care. If a child’s foster care placement changes, the school of origin must be considered the school in which the child is enrolled at the time of the placement change.

**Section 22. New section.** The provisions of RCW 82.32.805 and 82.32.808 do not apply to this act.

**Section 23. New section.** Sections 2 through 10 of this act constitute a new chapter in Title 28A RCW.

**Section 24. New section.** Sections 13 through 19 of this act constitute a new chapter in Title 82 RCW.

**Section 25. New section.** Section 11 of this act expires July 1, 2030.

**Section 26. New section.** Section 12 of this act takes effect July 1, 2030.

**Section 27. Severability.** If any provision or clause of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act which can be given effect without an invalid provision or application, and to this end the provisions of this Act are severable.

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