

# SENATE BILL REPORT

## SB 5200

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As of January 27, 2021

**Title:** An act relating to establishing a tax credit for contributions to student scholarship organizations.

**Brief Description:** Establishing a tax credit for contributions to student scholarship organizations.

**Sponsors:** Senators Schoesler, Dozier, Gildon, Holy and Honeyford.

**Brief History:**

**Committee Activity:** Early Learning & K-12 Education: 1/29/21.

**Brief Summary of Bill**

- Authorizes a tax credit for the business and occupation tax, public utility tax, and estate tax for contributions made to a student scholarship organization.
- Requires student scholarship organizations to award scholarship funds to eligible K-12 students to receive instruction by qualified education providers.

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### SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

**Staff:** Alexandra Fairfortune (786-7416)

**Background:** Business and Occupation Tax. The state business and occupation tax is a gross receipts tax measured on the value of products, gross proceeds of sale, or gross income of the business. The business and occupation tax rate varies by classification, such as retailing, wholesaling, manufacturing, or other specialized service.

Public Utility Tax. The public utility tax is a tax on public service businesses, including

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businesses that engage in transportation, communications, and the supply of energy, natural gas, and water. The tax is in lieu of the business and occupation tax. The public utility tax rate varies depending on the specific utility activity.

Estate Tax. The executor of a decedent's estate is required to file a Washington estate tax return if the decedent owned property in Washington State and the gross estate exceeds the filing threshold, which is \$2.19 million in 2021.

**Summary of Bill:** Tax Credits. A business and occupation tax credit, a public utility tax credit, and an estate tax credit are authorized for contributions made to a student scholarship organization. Credits are available on a first-in-time basis and the maximum allowable amount of all tax credits claimed may not exceed \$750,000 in fiscal year 2022. If the amount of credits claimed in a fiscal year is 90 percent or more of the maximum allowable amount, then the maximum allowable amount is permanently increased by 25 percent in the following year. The Department of Revenue must publish information on its website identifying the maximum allowable amount when it is increased.

If the maximum allowable amount is reached, the Department of Revenue must notify all student scholarship organizations and those who have claimed a tax credit in excess of the maximum allowable amount. Notice to individuals must indicate the amount of tax due and provide that the tax be paid within 30 days without penalty or interest.

The business and occupation tax credit and public utility tax credit are allowed after July 1, 2021. The estate tax credit is applicable to estates of decedents dying on or after January 1, 2022. To claim a credit, a person must electronically file with the Department of Revenue. No other application is required. Unclaimed credits may be carried over for three years.

No tax preference performance statement is required.

Student Scholarship Organizations. Student scholarship organizations are established as tax exempt, 501(c)(3) charitable organizations in Washington allocating at least 90 percent of their annual revenue to educational scholarships allowing eligible students to receive instruction by qualified education providers.

Eligible students are those eligible to attend grades K-12 in Washington, and who are either eligible to receive special education services, are in foster care, or are a candidate for foster care. Qualifying education providers (providers) are approved private schools and private tutoring services.

*Scholarships.* Student scholarship organizations must create and maintain an application process for accepting, reviewing, approving, and denying scholarship applications. Student scholarship amounts are limited to \$15,000 per eligible student in each calendar year, and may not be restricted for use at a particular provider or type of provider. Student scholarship organizations must directly deliver scholarship funds to the provider chosen by

the eligible student's parent or guardian. Upon receipt of the funds, the provider must provide notice to the parent or guardian.

*Operations.* Each student scholarship organization must submit notice to the State Auditor's Office of its intent to operate as a student scholarship organization. Student scholarship organizations must maintain separate accounts for operating funds and scholarship funds. With the exception of paying for an annual fiscal review, each organization must use at least 90 percent of all revenue for student scholarships. All contributions subject to the 90 percent minimum received in one calendar year must be paid out in scholarships within the next three calendar years. A student scholarship organization may transfer funds to another student scholarship organization.

*Annual Fiscal Review.* Each student scholarship organization must complete an annual fiscal review of its accounts by an independent certified public accountant within 150 days after the close of each calendar year, and submit it to the State Auditor's Office within the same timeframe. The fiscal review must disclose the following for the three most recent years:

- total number and dollar value of individual and corporate contributions;
- total number and dollar value of scholarships awarded to eligible students;
- the names of all providers that have accepted scholarship funds from the organization; and
- the cost of the annual fiscal review.

*State Auditor's Office.* The State Auditor's Office (SAO) must maintain, on its website, a current list of all student scholarship organizations that have provided notice and all providers that have accepted scholarship funds.

The SAO may examine any records of a student scholarship organization that are relevant to determine compliance. If the SAO finds a lack of compliance, it must provide written notice to the student scholarship organization, after which the organization has 30 days to correct any deficiencies. If the deficiencies are not corrected, the SAO must provide a final written notice of failure to the organization. The final notice must indicate the student scholarship organization will be removed from the list of eligible organizations and direct the organization to cease operations and transfer funds to a properly operating organization within 30 days.

**Appropriation:** None.

**Fiscal Note:** Requested on January 19, 2021.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.