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**HOUSE BILL 1615**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Representatives Eslick, Corry, Graham, Barkis, Volz, Dent, Couture, Low, Steele, Christian, and McEntire

AN ACT Relating to creating the students first program which establishes education savings accounts for students in need of support; adding a new section to chapter 28B.77 RCW; adding a new chapter to Title 28A RCW; and creating a new section.

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

NEW SECTION. **Sec.**  (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 legislature finds the state does not provide for the education of children outside of the public school system. The legislature recognizes that the state has fallen short on its mandate to all children in this state.

(2) The legislature also recognizes the power entrusted to parents to know what is best for their children. Parents can choose to place their student in a common school, charter public school, or private school or provide home-based instruction. However, not all parents have access to every option for their student. Public charter schools are limited in number and space, while home school and private school options require a large investment from families. The legislature intends to put students first and empower families by decreasing these barriers.

(3) While the legislature has spent years increasing funding to the public school system, the legislature finds many students have been left behind. National test scores have been trending down over the last decade and, after extensive school closures, state test scores are down to the lowest they have been since administration of the smarter balanced assessment began. Over 62 percent of Washington's students did not meet grade level standards in math and about half did not meet grade level standards in English.

(4) The legislature further finds the effects from the school closures 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. Since the 2018-19 school year, there has been an over four percent increase in private school students and over 49 percent increase in students receiving home-based instruction. The legislature finds that families are not satisfied with the education their students are receiving.

(5) Therefore, the legislature intends to allow the money invested in students to indeed follow the student by establishing the students first program. The legislature intends to fund education savings accounts for students with priority given to students eligible for special education services, low-income students, and students in failing schools. Parents who apply for the students first program on behalf of their students must agree to only use the funds for education-related expenses. The legislature intends to make the funds accessible with the use of a debit card managed by the state with oversight capability. Students eligible for special education services will qualify for additional support. This program will empower parents to do what is best for their student regardless of income level or zip code, while also meeting the state's moral and constitutional obligation to put students first.

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

(1) "Account" means a Washington education savings account accessible by the parent of a participating student.

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

(3) "Award" means the amount of money deposited by the state into a participating student's account.

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

(5) "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.

(6) "Home-based instruction" has the meaning provided in RCW 28A.225.010.

(7) "Parent" means a parent, guardian, or other person or entity having legal custody of an eligible or participating student.

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

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

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

(11) "Qualified expenses" means the following expenses related to the education of a participating student for which money in an account may be used:

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

(b) Textbooks required by a private school;

(c) Tutoring and other services with a direct nexus to academics;

(d) Curricula and other materials necessary to provide home-based instruction;

(e) Tuition, fees, or both for a private online learning program;

(f) Fees for nationally standardized norm-referenced achievement tests, advanced placement examinations, and any examinations related to college or university admission;

(g) Uniforms required to attend a private school;

(h) Costs for annual standardized testing or the academic progress assessment required under RCW 28A.200.010 for participating students receiving home-based instruction;

(i) Educational services and related therapies, services, and supports, including assistive technology devices and services;

(j) Expenses associated with participating in classes or extracurricular activities, including athletics, at a public school;

(k) Postsecondary education and workforce program costs;

(l) 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;

(m) Expenses related to transporting a participating student to and from educational activities and services, and related therapies and services; and

(n) Other consumable educational supplies.

(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, 20 U.S.C. Sec. 1400 et seq.

(13) "Students first program" means the students first education savings account program.

NEW SECTION. **Sec.**  (1) The students first education savings account program is established to provide awards for the education of eligible students. The council shall administer the students first program as required by this section.

(2) The council shall annually provide awards to up to 94,100 participating students, with priority to eligible students who either:

(a) Have a disability;

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

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

(d) Are an eligible student who is the sibling of a participating student.

(3)(a) For a participating student who is not a student with a disability, the award provided under this section must be the total of:

(i) The estimated total statewide allocation generated by the distribution formula under RCW 28A.150.260 (4)(a), (5), (6), and (8) and the allocation under RCW 28A.150.415, divided by the statewide full-time equivalent enrollment in common schools; and

(ii) The statewide allocation for pupil transportation services to and from school in accordance with RCW 28A.160.150 through 28A.160.180 divided by the statewide full-time equivalent enrollment in common schools.

(b) For a participating student with a disability, the award provided under this section must be the total of:

(i) The award provided under subsection (a) of this section; and

(ii) The excess cost amount equal to (a)(i) of this subsection multiplied by the special education cost multiplier under RCW 28A.150.390(2)(b)(i)(B)(I).

(c) The council shall consult with the office of the superintendent of public instruction when calculating the award amounts.

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

(5) The council may contract for the management of the accounts. The manager of the accounts must comply with generally accepted accounting principles and may charge reasonable fees for the management of accounts.

(6) The council must establish a process to receive comments from parents about the students first program, including the management of accounts.

(7) The students first program and all accounts are subject to audit by the state auditor's office and by an independent public accounting firm retained by the council for this purpose.

NEW SECTION. **Sec.**  (1) To apply for the students first 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) To participate in the students first program, the parent of an eligible 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 or education 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 award and any interest that may accrue in the account only for qualified expenses of the participating student; and

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

(3) 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.

(4) An agreement entered into under this section terminates automatically if the participating student is no longer an eligible student. Any money remaining in an account that is terminated under this subsection reverts to the council for future deposit into accounts.

NEW SECTION. **Sec.**  (1) Parents and private schools that accept awards from the students first 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 students first program awards.

(3) Nothing in this section 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 beyond those necessary to enforce the requirements of the students first program.

NEW SECTION. **Sec.**  Annually by November 1st, and in accordance with RCW 43.01.036, the council shall report to the appropriate committees of the legislature with the following students first program and account information from the prior school year:

(1) The number of participating students disaggregated by grade level, gender, race, and ethnicity as described in RCW 28A.300.042(1), resident school district, and prioritization category, if any;

(2) The amount of awards distributed to accounts;

(3) The number of students first program applications received, approved, and denied, including the justification for the denied applications;

(4) The number of applications processed within 30 days of receipt and the number of administratively incomplete applications;

(5) A summary of any comments from parents about the students first program received by the council or any entity contracted to manage the accounts, and a summary of how the council is responding to these comments; and

(6) Information on any entity contracted to manage the accounts.

NEW SECTION. **Sec.**  The students first program account is created in the custody of the state treasurer. The account shall consist of funds appropriated by the legislature and money from accounts terminated under section 6 of this act. The council shall deposit into the students first program account all moneys received for the students first education savings account program established under section 3 of this act. Expenditures from the students first program account may be used only for depositing students first program awards into the students first program accounts of participating students as required under section 3 of this act, and for students first program administration, including any contract for management of students first program accounts, as permitted by section 3 of this act. Only the director of council or the director's designee may authorize expenditures from the students first program account. The students first program account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. **Sec.**  The council shall adopt rules under chapter 34.05 RCW for the administration of the students first program.

NEW SECTION. **Sec.**  A new section is added to chapter 28B.77 RCW to read as follows:

The council shall administer the students first education savings account program established under section 3 of this act.

NEW SECTION. **Sec.**  Sections 2 through 8 of this act constitute a new chapter in Title 28A RCW.

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