

HOUSE BILL NO. HB0199

Wyoming Freedom Scholarship Act.

Sponsored by: Representative(s) Andrew, Angelos, Bear, Brady, Brown, G, Filer, Haroldson, Heiner, Hoeft, Knapp, Lien, Lucas, McCann, Neiman, Ottman, Riggins, Rodriguez-Williams, Singh, Smith, S, Webb, Webber, Wharff and Winter and Senator(s) Biteman, Boner, Brennan, Kolb, Laursen, D, Olsen, Pearson, Scott, Smith, D and Steinmetz

A BILL

for

1 AN ACT relating to education; modifying the education
2 savings accounts program; changing the name of the program
3 to the Wyoming freedom scholarship act; creating the
4 Wyoming freedom scholarship program account; modifying
5 distribution of state funds; modifying definitions;
6 increasing the maximum scholarship award; modifying
7 eligibility requirements; repealing provisions; providing
8 appropriations; making conforming amendments; and providing
9 for an effective date.

10

11 *Be It Enacted by the Legislature of the State of Wyoming:*

12

1 **Section 1.** W.S. 9-4-601(a)(ii) is amended to read:

2

3 **9-4-601. Distribution and use; funds, accounts,**
4 **cities and towns benefited; exception for bonus payments.**

5

6 (a) All monies received by the state of Wyoming from
7 the secretary of the treasury of the United States under
8 the provisions of the act of congress of February 25, 1920
9 (41 Stat. 437, 450; 30 U.S.C. 181, 191), as amended, or
10 from lessees or authorized mine operators and all monies
11 received by the state from its sale of production from
12 federal mineral leases subject to the act of congress of
13 February 25, 1920 (41 Stat. 437, 450; 30 U.S.C. 181, 191)
14 as amended, except as provided by subsection (b) of this
15 section, shall be deposited into an account and the first
16 two hundred million dollars (\$200,000,000.00) of revenues
17 received in any fiscal year shall be distributed by the
18 state treasurer as provided in this subsection. One percent
19 (1%) of these revenues shall be credited to the general
20 fund as an administrative fee, and the remainder shall be
21 distributed as follows:

22

1 (ii) Forty-seven and one-half percent (47.5%),
2 ~~to the public school foundation program account~~ subject to
3 allocations under W.S. 9-4-605 as follows:

4
5 (A) Fifty-two and eight-tenths percent
6 (52.8%) of the amount under this paragraph to the public
7 school foundation program account; and

8
9 (B) Forty-seven and two-tenths percent
10 (47.2%) of the amount under this paragraph to the Wyoming
11 freedom scholarship program account created by W.S.
12 21-2-903(b).

13
14 **Section 2.** W.S. 21-2-901, 21-2-902(a)(vii),
15 21-2-903(a), (b), by creating a new subsection (c), by
16 amending and renumbering (c) as (d) and by creating a new
17 subsection (e), 21-2-904(a)(intro), (b)(i)(J), by creating
18 a new subparagraph (Q), (ii) and (e), 21-2-905(e) and
19 (f)(intro), 21-2-906(a)(i), (iv), (ix), (xi), (xii), by
20 creating a new paragraph (xiii) and by creating new
21 subsections (d) and (e) and 21-2-909, as amended by 2024
22 Wyoming Session Laws, Chapter 108, Section 1 and effective
23 January 1, 2025, are amended to read:

1

2

ARTICLE 9

3

WYOMING FREEDOM SCHOLARSHIP ACT

4

5

21-2-901. Short title.

6

7

This act shall be known as the "Wyoming ~~Education Savings~~

8

~~Accounts~~ Freedom Scholarship Act." The program created by

9

this act shall be known as the "ESA program."

10

11

21-2-902. Definitions.

12

13

(a) As used in this act:

14

15

(vii) "Qualified school" means ~~a~~

16

~~pre-kindergarten or~~ a nonpublic primary or secondary

17

school, certified by the state superintendent of public

18

instruction pursuant to W.S. 21-2-906(a), located in or

19

that provides education services in this state, that may

20

include through online means;

21

22

21-2-903. Education savings accounts; Wyoming freedom

23

scholarship program account.

1

2 (a) For school year 2025-2026, the total amount to be
3 deposited in an education savings account for an ESA
4 student each year shall be ~~determined by the student's~~
5 ~~household income compared to the federal poverty levels,~~
6 ~~using the most recent federal poverty guidelines for the~~
7 ~~student's household size and income, as follows; six~~
8 ~~thousand dollars (\$6,000.00) for students whose household~~
9 ~~income is at or below one hundred fifty percent (150%) of~~
10 ~~the federal poverty level~~ seven thousand dollars
11 (\$7,000.00).

12

13 (b) Payments to ESAs under this act shall be made by
14 the state superintendent of public instruction from the
15 Wyoming ~~education savings accounts expenditure~~ freedom
16 scholarship program account, which is hereby created. The
17 Wyoming ~~education savings accounts expenditure~~ freedom
18 scholarship program account shall consist of funds
19 transferred to the ~~expenditure~~ account and other funds
20 appropriated by the legislature to the ~~expenditure~~ account.
21 All earnings from investment of the ~~expenditure~~ Wyoming
22 freedom scholarship program account shall be credited to
23 the ~~expenditure~~ account. Except as provided by subsection

1 (c) of this section, any unencumbered, unobligated balance
2 of the ~~expenditure~~ Wyoming freedom scholarship program
3 account at the end of each fiscal year shall not revert but
4 shall remain in the ~~expenditure~~ account and shall be
5 expended to fund ESAs as provided by this act.

6

7 (c) If at the end of a fiscal year the state
8 superintendent determines the amount in the Wyoming freedom
9 scholarship program account is more than thirty million
10 dollars (\$30,000,000.00) and is more than one hundred and
11 fifty percent (150%) of the amount required to fund all
12 approved ESAs for the applicable fiscal year, the state
13 superintendent shall request the state treasurer transfer
14 the excess amount determined under this subsection to the
15 public school foundation program account.

16

17 ~~(e)~~ (d) Payments to each approved ESA shall be
18 disbursed on a quarterly basis by the state superintendent
19 or another state agency or person designated by the state
20 superintendent to administer and disburse funds to
21 education savings accounts.

22

1 (e) The ESA program shall not be funded with county,
2 city or school district tax revenues.

3
4 **21-2-904. ESA parent agreement; ESA administration.**

5
6 (a) Subject to the availability of funds as
7 determined by the legislature, any child who is a Wyoming
8 resident, who ~~meets one (1) of the following~~
9 ~~qualifications, and subject to W.S. 21-2-903(a)~~ has not
10 graduated from high school or received a high school
11 equivalency certificate and who is eligible to attend a
12 public school in this state, shall be eligible to receive
13 an ESA subject to the provisions of this act. ~~+~~

14
15 (b) To participate in the ESA program, the custodial
16 parent of an ESA student shall sign an agreement with the
17 state superintendent that:

18
19 (i) Requires use of the ESA funds for the
20 following qualifying expenses to educate the ESA student:

21

1 (J) Tuition and fees for summer education
2 programs and specialized after school education programs,
3 but not including after school childcare programs;

4
5 (Q) Tuition and fees for nongovernmental
6 online learning programs.

7
8 (ii) ~~For students eligible for an ESA under~~
9 ~~paragraph (a)(i) of this section:~~

10
11 (A) Requires that the ESA student receive
12 instruction in, ~~at minimum,~~ reading, writing, mathematics,
13 civics, including studies of the United States constitution
14 and the constitution of the state of Wyoming, history,
15 literature and science and is assessed on academic
16 progress. No parent shall be required to include any
17 instruction that conflicts with the parent's or the ESA
18 student's religious doctrines;

19
20 (B) ~~Requires that the ESA student take the~~
21 ~~statewide assessments administered pursuant to W.S.~~
22 ~~21-2-304(a) or a nationally normed achievement exam;~~

23

1 ~~(C)~~(iii) Certifies that the ESA student is not,
2 or will not be, enrolled in a public school district upon
3 receipt of the ESA and releases the applicable school
4 district from all obligations to educate the ESA student.
5 This ~~subparagraph~~paragraph shall not:

6

7 ~~(I)~~(A) Require an eligible student to
8 withdraw from a public school district before applying for
9 or receiving an ESA if the student withdraws from the
10 public school district before receiving or expending any
11 monies in the student's ESA;

12

13 ~~(II)~~(B) Prevent a qualified student from
14 applying in advance for an ESA student to be funded
15 beginning the following school year; or

16

17 ~~(III)~~(C) Prevent a public school district
18 from charging an ESA for any services provided to the
19 qualified student to the extent authorized by law.

20

21 (e) An ESA shall remain active and any unused funds
22 shall not revert until the parent withdraws the ESA student
23 from the ESA program or until the ESA student is no longer

1 eligible for the ESA program, unless the ESA is closed
2 because of a substantial misuse of funds. When an ESA is
3 closed, any unused funds shall revert to the Wyoming
4 ~~education savings accounts expenditure~~ freedom scholarship
5 program account.

6
7 **21-2-905. Application.**

8
9 (e) ~~Except as provided under this subsection, eighty~~
10 ~~percent (80%) of the ESAs shall be awarded to students~~
11 ~~eligible pursuant to W.S. 21-2-904(a)(i) and the remaining~~
12 ~~twenty percent (20%) shall be awarded to students eligible~~
13 ~~pursuant to W.S. 21-2-904(a)(ii) each year. Any funds~~
14 ~~allocated under this subsection for the award of ESAs to~~
15 ~~students eligible pursuant to W.S. 21-2-904(a)(ii) that are~~
16 ~~not awarded in any school year may be awarded to students~~
17 ~~eligible pursuant to W.S. 21-2-904(a)(i).~~ If the number of
18 applications for ESAs exceeds the available funds for any
19 school year, the students shall be selected on a
20 first-come, first-served basis, except preference shall be
21 given to the following students:

22

1 (i) An eligible student who received funds under
2 the ESA program in the immediately preceding school year;;
3 or

4
5 (ii) A sibling of an eligible student who:

6
7 (A) Receives scholarship funds from an ESA
8 at the time the sibling applied for an ESA; or

9
10 (B) Received an ESA in the school year
11 immediately preceding the school year in which the sibling
12 applies for an ESA.

13
14 (f) For students ~~eligible for receiving~~ an ESA, ~~under~~
15 ~~W.S. 21-2-904(a)(i),~~ the following shall apply:

16
17 **21-2-906. Duties of the state superintendent.**

18
19 (a) The state superintendent of public instruction
20 shall:

21
22 (i) Establish a certification process for
23 education service providers, which shall, ~~at minimum,~~

1 ensure ESA students attending qualified schools in
2 kindergarten through grade twelve (12) receive instruction
3 in reading, writing, mathematics, civics, including studies
4 of the United States constitution and the constitution of
5 the state of Wyoming, history, literature and science; ~~and~~
6 ~~for pre-kindergarten ensure ESA students at minimum receive~~
7 ~~instruction necessary for preparation to enter~~
8 ~~kindergarten;~~

9
10 (iv) ~~For students eligible for an ESA under W.S.~~
11 ~~21-2-904(a)(i),~~ Ensure that parents of ESA students with
12 disabilities receive notice that participation in the ESA
13 program is a parental placement under 20 U.S.C. § 1412,
14 Individuals with Disabilities Education Act (IDEA), along
15 with an explanation of the rights that parentally placed
16 students possess under IDEA and any applicable state laws
17 and regulations;

18
19 (ix) Investigate reports of intentional and
20 substantial misuse of ESA funds and prohibit an eligible
21 ESA student from receipt of ESA funds if the state
22 superintendent determines that the ESA student or ESA
23 student's parent intentionally and substantially misused

1 ESA funds. The state superintendent shall by rule create
2 procedures to ensure that a fair process exists to
3 determine whether an intentional and substantial misuse of
4 ESA funds has occurred. If an ESA student is free from
5 personal misconduct, that student shall be eligible for an
6 ESA in the future if placed with a different parent or
7 other person with the legal authority to act on behalf of
8 the student. The state superintendent shall have the
9 authority to refer suspected cases of intentional and
10 substantial misuse of ESA funds to the department of audit
11 or to law enforcement and the attorney general for
12 investigation and prosecution if evidence of fraudulent use
13 of ESA funds is obtained. A parent or ESA student may
14 appeal a final decision of the state superintendent to make
15 the parent or ESA student ineligible for the ESA program as
16 provided by the Wyoming Administrative Procedures Act;

17

18 (xi) ~~Notify parents and ESA students within ten~~
19 ~~(10) business days if the state superintendent prohibits~~ By
20 rule create procedures to ensure that a fair process exists
21 to determine whether an education service provider should
22 be prohibited from receiving ESA funds under paragraph (x)
23 of this subsection. Education service providers may appeal

1 a final decision of the state superintendent under this
2 paragraph as provided by the Wyoming Administrative
3 Procedures Act;

4
5 (xii) ~~For students eligible for an ESA under~~
6 ~~W.S. 21-2-904(a)(i),~~ Ensure ESA students, who choose to,
7 participate in the statewide assessments administered
8 pursuant to W.S. 21-2-304(a) and compile the assessment
9 results to analyze student proficiency and academic
10 progress among the students participating in the ESA
11 program, including an analysis of graduation rates,
12 proficiency and progress based on grade level. The results
13 of the analysis under this paragraph shall be included in
14 the annual report required pursuant to W.S. 21-2-204(k) ~~i~~.

15
16 (xiii) If the state superintendent determines it
17 is necessary, withhold from the funds to be deposited in
18 ESAs, a maximum of five percent (5%) annually of the funds
19 to be deposited in ESAs in the first two (2) school years
20 of the ESA program and a maximum of three percent (3%)
21 annually of the funds to be deposited in ESAs thereafter to
22 pay for the costs of administering the ESA program.

23

1 (d) Rules adopted by the state superintendent under
2 subsection (c) of this section shall focus on simplifying
3 parental access to the program and encouraging educational
4 service providers to provide parents and ESA students with
5 a broad array of educational options.

6
7 (e) The state superintendent may accept gifts and
8 grants from any source to cover administrative costs of the
9 program, to inform the public about the ESA program or to
10 fund ESAs.

11
12 **21-2-909. Legal proceedings.**

13
14 (a) No liability shall arise on the part of the state
15 superintendent of public instruction or the state or any
16 public school or school district based on the award of or
17 use of an ESA pursuant to this act.

18
19 (b) In any legal proceeding challenging the
20 application of this act or rule adopted under this act to
21 an education service provider, the state bears the burden
22 of proof to establish that the law is necessary and does

1 not impose any undue burden on the education service
2 provider.

3
4 (c) If any part of this act is challenged in a state
5 court as violating either the state or federal
6 constitutions, parents of eligible students and parents of
7 ESA students shall be permitted to intervene in any lawsuit
8 for the purposes of defending the ESA program's
9 constitutionality. However, for the purposes of judicial
10 administration, a court may require that all parents file a
11 joint brief as long as the parents are not required to join
12 any brief filed on behalf of any named state defendant.

13
14 (d) If any provision of this act or its application
15 to an individual or circumstance is held invalid, the
16 invalidity does not affect other provisions or applications
17 of this act which can be given effect without the invalid
18 provision or application, and to this end the provisions of
19 this act are severable.

20
21 **Section 3.** W.S. 21-2-902(a)(vi) and 21-2-904(a)(i),
22 (ii) and (b)(ii)(B) are repealed.

23

