

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; eliminating certification of
8 education service providers; creating a voluntary
9 registration for education service providers; repealing
10 provisions; providing appropriations; making conforming
11 amendments; and providing for an effective date.

12

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

2

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

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5 **9-4-601. Distribution and use; funds, accounts,**
6 **cities and towns benefited; exception for bonus payments.**

7

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

1

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

5

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

9

10 (B) Forty-seven and two-tenths percent
11 (47.2%) of the amount under this paragraph to the Wyoming
12 freedom scholarship program account created by W.S.
13 21-2-903(b).

14

15 **Section 2.** W.S. 21-2-901, 21-2-902(a)(vii),
16 21-2-903(a), (b), by creating a new subsection (c), by
17 amending and renumbering (c) as (d) and by creating a new
18 subsection (e), 21-2-904(a)(intro), (b)(i)(J), by creating
19 a new subparagraph (Q), (ii) and (e), 21-2-905(e) and
20 (f)(intro), 21-2-906(a)(i), (ii), (iv), (ix), (xi), (xii),
21 by creating a new paragraph (xiii) and by creating new
22 subsections (d) and (e), 21-2-907(a)(intro) and 21-2-909,
23 as amended by 2024 Wyoming Session Laws, Chapter 108,

1 Section 1 and effective January 1, 2025, are amended to
2 read:

3

4

ARTICLE 9

5

WYOMING FREEDOM SCHOLARSHIP ACT

6

7

21-2-901. Short title.

8

9 This act shall be known as the "Wyoming ~~Education Savings~~
10 ~~Accounts~~ Freedom Scholarship Act." The program created by
11 this act shall be known as the "ESA program."

12

13

21-2-902. Definitions.

14

15 (a) As used in this act:

16

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(vii) "Qualified school" means a

18

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

19

school, ~~certified by the state superintendent of public~~

20

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

21

that provides education services in this state, that may

22

include through online means;

23

1 **21-2-903. Education savings accounts; Wyoming freedom**
2 **scholarship program account.**

3
4 (a) For school year 2025-2026, the total amount to be
5 deposited in an education savings account for an ESA
6 student each year shall be ~~determined by the student's~~
7 ~~household income compared to the federal poverty levels,~~
8 ~~using the most recent federal poverty guidelines for the~~
9 ~~student's household size and income, as follows; six~~
10 ~~thousand dollars (\$6,000.00) for students whose household~~
11 ~~income is at or below one hundred fifty percent (150%) of~~
12 ~~the federal poverty level~~ seven thousand dollars
13 (\$7,000.00). Each school year thereafter this amount shall
14 be adjusted by the state superintendent for the costs of
15 inflation using the consumer price index or its successor
16 index of the United States department of labor, bureau of
17 labor statistics.

18
19 (b) Payments to ESAs under this act shall be made by
20 the state superintendent of public instruction from the
21 Wyoming ~~education savings accounts expenditure~~ freedom
22 scholarship program account, which is hereby created. The
23 Wyoming ~~education savings accounts expenditure~~ freedom

1 scholarship program account shall consist of funds
2 transferred to the ~~expenditure~~ account and other funds
3 appropriated by the legislature to the ~~expenditure~~ account.
4 All earnings from investment of the ~~expenditure~~ Wyoming
5 freedom scholarship program account shall be credited to
6 the ~~expenditure~~ account. Except as provided by subsection
7 (c) of this section, any unencumbered, unobligated balance
8 of the ~~expenditure~~ Wyoming freedom scholarship program
9 account at the end of each fiscal year shall not revert but
10 shall remain in the ~~expenditure~~ account and shall be
11 expended to fund ESAs as provided by this act.

12

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

22

1 ~~(e)~~(d) Payments to each approved ESA shall be
2 disbursed on a quarterly basis by the state superintendent
3 or another state agency or person designated by the state
4 superintendent to administer and disburse funds to
5 education savings accounts.

6
7 (e) The ESA program shall not be funded with county,
8 city or school district tax revenues.

9
10 **21-2-904. ESA parent agreement; ESA administration.**

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

20
21 (b) To participate in the ESA program, the custodial
22 parent of an ESA student shall sign an agreement with the
23 state superintendent that:

1

2 (i) Requires use of the ESA funds for the
3 following qualifying expenses to educate the ESA student:

4

5 (J) Tuition and fees for summer education
6 programs and specialized after school education programs,
7 but not including after school childcare programs;

8

9 (Q) Tuition and fees for nongovernmental
10 online learning programs.

11

12 ~~(ii) For students eligible for an ESA under~~
13 ~~paragraph (a)(i) of this section:~~

14

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

22

1 (B) ~~Requires that the ESA student take the~~
2 ~~statewide assessments administered pursuant to W.S.~~
3 ~~21-2-304(a) or a nationally normed achievement exam;~~

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

10

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

16

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

20

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

1

2 (e) An ESA shall remain active and any unused funds
3 shall not revert until the parent withdraws the ESA student
4 from the ESA program or until the ESA student is no longer
5 eligible for the ESA program, unless the ESA is closed
6 because of a substantial misuse of funds. When an ESA is
7 closed, any unused funds shall revert to the Wyoming
8 ~~education savings accounts expenditure~~ freedom scholarship
9 program account.

10

11 **21-2-905. Application.**

12

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

1 first-come, first-served basis, except preference shall be
2 given to the following students:

3

4 (i) An eligible student who received funds under
5 the ESA program in the immediately preceding school year;
6 or

7

8 (ii) A sibling of an eligible student who:

9

10 (A) Receives scholarship funds from an ESA
11 at the time the sibling applied for an ESA; or

12

13 (B) Received an ESA in the school year
14 immediately preceding the school year in which the sibling
15 applies for an ESA.

16

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

19

20 **21-2-906. Duties of the state superintendent.**

21

22 (a) The state superintendent of public instruction
23 shall:

1

2 (i) Establish a ~~certification~~ voluntary
3 registration process for education service providers;
4 ~~which shall, at minimum, ensure ESA students attending~~
5 ~~qualified schools in kindergarten through grade twelve (12)~~
6 ~~receive instruction in reading, writing, mathematics,~~
7 ~~civics, including studies of the United States constitution~~
8 ~~and the constitution of the state of Wyoming, history,~~
9 ~~literature and science and for pre-kindergarten ensure ESA~~
10 ~~students at minimum receive instruction necessary for~~
11 ~~preparation to enter kindergarten;~~

12

13 (ii) Maintain a list of ~~certified~~ education
14 service providers and ensure the list is available to
15 parents of ESA students. The list shall enable the
16 education service provider to indicate if the education
17 service provider is accepting new ESA students;

18

19 (iv) ~~For students eligible for an ESA under W.S.~~
20 ~~21-2-904(a)(i),~~ Ensure that parents of ESA students with
21 disabilities receive notice that participation in the ESA
22 program is a parental placement under 20 U.S.C. 1412,
23 Individuals with Disabilities Education Act (IDEA), along

1 with an explanation of the rights that parentally placed
2 students possess under IDEA and any applicable state laws
3 and regulations;

4
5 (ix) Investigate reports of intentional and
6 substantial misuse of ESA funds and prohibit an eligible
7 ESA student from receipt of ESA funds if the state
8 superintendent determines that the ESA student or ESA
9 student's parent intentionally and substantially misused
10 ESA funds. The state superintendent shall by rule create
11 procedures to ensure that a fair process exists to
12 determine whether an intentional and substantial misuse of
13 ESA funds has occurred. If an ESA student is free from
14 personal misconduct, that student shall be eligible for an
15 ESA in the future if placed with a different parent or
16 other person with the legal authority to act on behalf of
17 the student. The state superintendent shall have the
18 authority to refer suspected cases of intentional and
19 substantial misuse of ESA funds to the department of audit
20 or to law enforcement and the attorney general for
21 investigation and prosecution if evidence of fraudulent use
22 of ESA funds is obtained. A parent or ESA student may
23 appeal a final decision of the state superintendent to make

1 the parent or ESA student ineligible for the ESA program as
2 provided by the Wyoming Administrative Procedures Act;

3
4 (xi) ~~Notify parents and ESA students within ten~~
5 ~~(10) business days if the state superintendent prohibits~~ By
6 rule create procedures to ensure that a fair process exists
7 to determine whether an education service provider should
8 be prohibited from receiving ESA funds under paragraph (x)
9 of this subsection. Education service providers may appeal
10 a final decision of the state superintendent under this
11 paragraph as provided by the Wyoming Administrative
12 Procedures Act;

13
14 (xii) ~~For students eligible for an ESA under~~
15 ~~W.S. 21-2-904(a)(i),~~ Ensure ESA students, who choose to,
16 participate in the statewide assessments administered
17 pursuant to W.S. 21-2-304(a) and compile the assessment
18 results to analyze student proficiency and academic
19 progress among the students participating in the ESA
20 program, including an analysis of graduation rates,
21 proficiency and progress based on grade level. The results
22 of the analysis under this paragraph shall be included in
23 the annual report required pursuant to W.S. 21-2-204(k) ;

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

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

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

21-2-907. Education service providers.

1 (a) The state superintendent may approve education
2 service providers on his own initiative, at the request of
3 parents or by receipt of notice provided by prospective
4 education service providers under this section. Before
5 receiving payment from an ESA, a prospective education
6 service provider shall:

7
8 **21-2-909. Legal proceedings.**

9
10 (a) No liability shall arise on the part of the state
11 superintendent of public instruction or the state or any
12 public school or school district based on the award of or
13 use of an ESA pursuant to this act.

14
15 (b) In any legal proceeding challenging the
16 application of this act or rule adopted under this act to
17 an education service provider, the state bears the burden
18 of proof to establish that the law is necessary and does
19 not impose any undue burden on the education service
20 provider.

21
22 (c) If any part of this act is challenged in a state
23 court as violating either the state or federal

1 constitutions, parents of eligible students and parents of
2 ESA students shall be permitted to intervene in any lawsuit
3 for the purposes of defending the ESA program's
4 constitutionality. However, for the purposes of judicial
5 administration, a court may require that all parents file a
6 joint brief as long as the parents are not required to join
7 any brief filed on behalf of any named state defendant.

8
9 (d) If any provision of this act or its application
10 to an individual or circumstance is held invalid, the
11 invalidity does not affect other provisions or applications
12 of this act which can be given effect without the invalid
13 provision or application, and to this end the provisions of
14 this act are severable.

15
16 **Section 3.** W.S. 21-2-902(a)(vi), 21-2-904(a)(i), (ii)
17 and (b)(ii)(B) and 21-2-907(a)(i) are repealed.

18
19 **Section 4.** 2024 Wyoming Session Laws, Chapter 108,
20 Section 3 and Section 6(c) is repealed.

21
22 **Section 5.** There is appropriated fifty million
23 dollars (\$50,000,000.00) from the general fund to the

1 Wyoming freedom scholarship program account created by
2 section 2 of this act for the purposes of the Wyoming
3 Freedom Scholarship Act.

4

5 **Section 6.** This act is effective immediately upon
6 completion of all acts necessary for a bill to become law
7 as provided by Article 4, Section 8 of the Wyoming
8 Constitution.

9

10

(END)