

HOUSE BILL NO. HB0019

Education savings accounts.

Sponsored by: Joint Education Interim Committee

A BILL

for

1 AN ACT relating to education; authorizing education savings
2 accounts; creating the Wyoming education savings accounts
3 expenditure account; providing for a transfer of funds to
4 the Wyoming education savings accounts expenditure account;
5 providing for the use and administration of education
6 savings accounts for education; specifying duties of the
7 state superintendent of public instruction; providing
8 rulemaking authority; making conforming amendments;
9 providing appropriations; authorizing full-time positions;
10 and providing for effective dates.

11

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

13

14 **Section 1.** W.S. 21-2-901 through 21-2-909 are created
15 to read:

16

1

ARTICLE 9

2

WYOMING EDUCATION SAVINGS ACCOUNTS

3

4

21-2-901. Short title.

5

6

This act shall be known as the "Wyoming Education Savings Accounts Act." The program created by this act shall be known as the "ESA program."

9

10

21-2-902. Definitions.

11

12

(a) As used in this act:

13

14

(i) "Curriculum" means a course of study for content areas or grade levels, including any supplemental materials required or recommended by the curriculum;

17

18

(ii) "Education savings account" or "ESA" means the spending account for a child's education to which funds are allocated by the state superintendent of public instruction, for which a parent of an ESA student enters into an agreement with the state superintendent to choose and pay for qualifying education expenses to educate the

23

1 ESA student, subject to the requirements and conditions of
2 this act;

3

4 (iii) "Education service provider" means a person
5 or organization, including a qualified school, that receives
6 payments authorized by a parent from education savings
7 accounts to provide educational goods and services to ESA
8 students;

9

10 (iv) "ESA student" means a student eligible for
11 an ESA pursuant to W.S. 21-2-904(a) who is participating in
12 the ESA program;

13

14 (v) "Parent" means a resident of this state who
15 is the parent or legal guardian of an eligible student or
16 ESA student and may include an eligible student or ESA
17 student who is an emancipated minor;

18

19 (vi) "Qualified school" means a preschool or a
20 nonpublic primary or secondary school, certified by the
21 state superintendent of public instruction pursuant to W.S.
22 21-2-906(a), located in or that provides education services
23 in this state, that may include through online means;

1

2 (vii) "This act" means W.S. 21-2-901 through
3 21-2-909.

4

5 **21-2-903. Education savings accounts; Wyoming**
6 **education savings accounts expenditure account.**

7

8 (a) The total amount to be deposited in an education
9 savings account for an ESA student each year shall be five
10 thousand dollars (\$5,000.00).

11

12 (b) Payments to ESAs under this act shall be made by
13 the state superintendent of public instruction from the
14 Wyoming education savings accounts expenditure account,
15 which is hereby created. The Wyoming education savings
16 accounts expenditure account shall consist of funds
17 transferred to the expenditure account and other funds
18 appropriated by the legislature to the expenditure account.
19 All earnings from investment of the expenditure account
20 shall be credited to the expenditure account. Any
21 unencumbered, unobligated balance of the expenditure
22 account at the end of each fiscal year shall not revert but

1 shall remain in the expenditure account and shall be
2 expended to fund ESAs as provided by this act.

3

4 (c) Payments to each approved ESA shall be disbursed
5 on a quarterly basis by the state superintendent.

6

7 **21-2-904. ESA program eligibility; parent agreement;**
8 **ESA administration.**

9

10 (a) Subject to the availability of funds as
11 determined by the legislature, any child who is a Wyoming
12 resident, who's household income is at or below two hundred
13 fifty percent (250%) of the federal poverty level,
14 determined using the most recent federal poverty guidelines
15 for the student's household size and income, and who meets
16 one (1) of the following qualifications shall be eligible
17 to receive an ESA subject to the provisions of this act:

18

19 (i) The child has not graduated from high
20 school, received a high school equivalency certificate or
21 completed the equivalent of high school through a
22 home-based educational program and is eligible to attend a
23 public school in this state; or

1

2 (ii) The child is not less than three (3) years
3 of age as of August 1 of the year in which the application
4 for an ESA is made and has not yet attained the age to
5 attend public school in this state.

6

7 (b) To participate in the ESA program, parents of an
8 ESA student shall sign an agreement with the state
9 superintendent that:

10

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

13

14 (A) Tuition and fees at a qualified school;

15

16 (B) Tutoring services provided by an
17 individual or a tutoring facility. The tutoring services
18 shall not be provided by an ESA student's immediate family;

19

20 (C) Services contracted for and provided by
21 a public school district, including services provided by a
22 public charter school. Services under this subparagraph may

1 include, without limitation, individual classes and
2 extracurricular activities and programs;

3

4 (D) Textbooks, curriculum and other
5 instructional materials, including, but not limited to, any
6 supplemental materials or associated online instruction
7 required by either a curriculum or an education service
8 provider;

9

10 (E) Computer hardware or other
11 technological devices that are primarily used to help meet
12 an ESA student's educational needs;

13

14 (F) Educational software and applications;

15

16 (G) School uniforms;

17

18 (H) Fees for nationally standardized
19 assessments, advanced placement examinations, examinations
20 related to college or university admission and tuition and
21 fees for preparatory courses for the exams;

22

1 (J) Tuition and fees for summer education
2 programs and specialized after school education programs;

3

4 (K) Tuition, fees, instructional materials
5 and examination fees at a career or technical school;

6

7 (M) Educational services and therapies
8 including, but not limited to, occupational, behavioral,
9 physical, speech-language and audiology therapies;

10

11 (N) Tuition and fees at an institution of
12 higher education;

13

14 (O) Fees for transportation paid to a
15 fee-for-service transportation provider for the student to
16 travel to and from an education service provider;

17

18 (P) Any other educational expense approved
19 by the state superintendent.

20

21 (ii) For students eligible for an ESA under
22 paragraph (a)(i) of this section:

23

1 (A) Requires that the ESA student receive
2 instruction in, at minimum, reading, writing, mathematics,
3 civics, history, literature and science. No parent shall be
4 required to include any instruction that conflicts with the
5 parent's or the ESA student's religious doctrines;

6

7 (B) Requires that the ESA student take the
8 statewide assessments administered pursuant to W.S.
9 21-2-304(a) or a nationally normed achievement exam;

10

11 (C) Certifies that the ESA student is not,
12 or will not be, enrolled in a public school district upon
13 receipt of the ESA and releases the applicable school
14 district from all obligations to educate the ESA student.
15 This subparagraph shall not:

16

17 (I) Require an eligible student to
18 withdraw from a public school district before applying for
19 or receiving an ESA if the student withdraws from the
20 public school district before receiving or expending any
21 monies in the student's ESA;

22

1 (II) Prevent a qualified student from
2 applying in advance for an ESA student to be funded
3 beginning the following school year; or

4

5 (III) Prevent a public school district
6 from charging an ESA for any services provided to the
7 qualified student to the extent authorized by law.

8

9 (c) Funds in an ESA shall not be refunded, rebated or
10 shared with a parent of an ESA student in any manner. Any
11 refund or rebate for goods or services purchased with ESA
12 funds shall be credited directly to the student's ESA.

13

14 (d) Parents may make payments for costs of
15 educational goods and services not covered by the funds in
16 the ESA. Personal deposits into an ESA shall not be
17 permitted.

18

19 (e) An ESA shall remain active and any unused funds
20 shall not revert until the parent withdraws the ESA student
21 from the ESA program or until the ESA student is no longer
22 eligible for the ESA program, unless the ESA is closed
23 because of a substantial misuse of funds. When an ESA is

1 closed, any unused funds shall revert to the Wyoming
2 education savings accounts expenditure account.

3

4 (f) Nothing in this act shall be construed to require
5 an ESA student to be enrolled, full-time or part-time, in a
6 private school or a nonpublic school. An ESA student
7 receiving individualized instruction in a nonschool setting
8 shall not be construed to be a home-based educational
9 program as defined in W.S. 21-4-101(a)(v).

10

11 **21-2-905. Application, award and allocation of ESAs.**

12

13 (a) A parent may apply to the state superintendent of
14 public instruction to establish an ESA for an eligible
15 student.

16

17 (b) The state superintendent shall establish
18 procedures for approving applications in an expeditious
19 manner.

20

21 (c) The state superintendent shall create a standard
22 form that parents may submit to establish their student's
23 eligibility for the ESA program and shall ensure that the

1 application form is publicly available and that completed
2 applications may be submitted through various sources,
3 including the internet.

4

5 (d) Except as provided under subsection (e) of this
6 section, the state superintendent shall approve an
7 application for an ESA if:

8

9 (i) The parent submits an application for an ESA
10 in accordance with application procedures established by
11 the state superintendent;

12

13 (ii) The student is an eligible student pursuant
14 to W.S. 21-2-904(a);

15

16 (iii) Funds are available for the ESA;

17

18 (iv) The parent signs an agreement with the
19 state superintendent as provided in W.S. 21-2-904(b).

20

21 (e) Seventy percent (70%) of the ESAs shall be
22 awarded to students eligible pursuant to W.S.
23 21-2-904(a)(i) and the remaining thirty percent (30%) shall

1 be awarded to students eligible pursuant to W.S.
2 21-2-904(a)(ii) each year. If the number of applications
3 for ESAs exceeds the available funds for any school year,
4 the students shall be selected on a first-come, first-
5 served basis, except preference shall be given to an
6 eligible student who received funds under the ESA program
7 in the immediately preceding school year.

8

9 (f) For students eligible for an ESA under W.S.
10 21-2-904(a)(i), the following shall apply:

11

12 (i) A signed agreement between the parent and
13 state superintendent under W.S. 21-2-904(b) shall satisfy
14 the compulsory school attendance requirements of W.S.
15 21-4-102 and the parent shall annually provide the
16 student's resident public school district notice of intent
17 to participate in the ESA program;

18

19 (ii) Upon notice to the state superintendent, an
20 ESA student may choose to stop receiving an ESA and enroll
21 full-time in a public school. Enrolling as a full-time
22 student in a public school shall result in the immediate
23 suspension of payment of additional funds to the student's

1 ESA and the state superintendent may close the ESA. If an
2 eligible student applies to the state superintendent to
3 return to the ESA program, payments into the student's
4 existing ESA may resume if the ESA is still open and
5 active. A new ESA may be established if an eligible
6 student's ESA was closed;

7

8 (iii) The state superintendent may adopt rules
9 and policies to provide the least disruptive process for
10 ESA students who choose to enroll full-time in a public
11 school.

12

13 **21-2-906. Duties of the state superintendent of**
14 **public instruction to administer the education savings**
15 **accounts program.**

16

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

19

20 (i) Establish a certification process for
21 education service providers, which shall, at minimum,
22 ensure ESA students attending qualified schools in
23 kindergarten through grade twelve (12) receive instruction

1 in reading, writing, mathematics, civics, history,
2 literature and science;

3

4 (ii) Maintain a list of certified education
5 service providers and ensure the list is available to
6 parents of ESA students. The list shall enable the
7 education service provider to indicate if the education
8 service provider is accepting new ESA students;

9

10 (iii) Provide parents with a written explanation
11 of the qualified expenses for ESA funds, the
12 responsibilities of parents and the duties of the state
13 superintendent related to administration of the ESA
14 program;

15

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

1

2 (v) If determined necessary by the state
3 superintendent, contract with one (1) or more private
4 organizations to administer the ESA program or specific
5 functions of the ESA program including, without limitation,
6 contracting with private financial management firms to
7 manage ESAs. The state superintendent shall comply with
8 applicable procurement statutes and rules in securing
9 services under this paragraph;

10

11 (vi) Implement a commercially viable,
12 cost-effective and user-friendly system for payment of
13 services from ESAs to education service providers by
14 electronic or online funds transfer. The payment system
15 shall not rely exclusively on requiring parents to be
16 reimbursed for out-of-pocket expenses. The payment system
17 shall provide maximum flexibility to parents by
18 facilitating direct payments to education service providers
19 as well as requests for pre-approval of and reimbursements
20 for qualifying expenses listed in W.S. 21-2-904(b)(i). The
21 state superintendent may contract with private
22 organizations to develop the payment system;

23

1 (vii) Continue certifying deposits into a
2 student's ESA until:

3

4 (A) The state superintendent determines
5 that the ESA student is no longer an eligible student;

6

7 (B) The state superintendent determines
8 there was an intentional and substantial misuse of the
9 funds in the ESA;

10

11 (C) The ESA student withdraws from the ESA
12 program; or

13

14 (D) The ESA student enrolls full-time in a
15 public school.

16

17 (viii) Conduct or contract for the auditing of
18 individual ESAs and shall at a minimum conduct or contract
19 for audits of not less than two percent (2%) of all ESAs,
20 selected randomly, on an annual basis;

21

22 (ix) Investigate reports of intentional and
23 substantial misuse of ESA funds and prohibit an eligible

1 ESA student from receipt of ESA funds if the state
2 superintendent determines that the ESA student or ESA
3 student's parent intentionally and substantially misused
4 ESA funds. The state superintendent shall by rule create
5 procedures to ensure that a fair process exists to
6 determine whether an intentional and substantial misuse of
7 ESA funds has occurred. The state superintendent shall have
8 the authority to refer suspected cases of intentional and
9 substantial misuse of ESA funds to the department of audit
10 or the attorney general for investigation if evidence of
11 fraudulent use of ESA funds is obtained;

12

13 (x) Establish rules to prohibit an education
14 service provider from accepting payments from ESAs if the
15 state superintendent determines the education service
16 provider has:

17

18 (A) Intentionally and substantially
19 misrepresented information or failed to refund any
20 overpayments in a timely manner; or

21

22 (B) Routinely failed to provide students
23 with required educational goods or services.

1

2 (xi) Shall notify parents and ESA students
3 within ten (10) business days if the state superintendent
4 prohibits an education service provider from receiving ESA
5 funds under paragraph (x) of this subsection;

6

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

17

18 (b) If an education service provider requires partial
19 payment of tuition or fees prior to the start of the school
20 year to reserve space for an ESA student admitted to the
21 education service provider, the state superintendent may
22 certify the partial payment prior to the start of the
23 school year in which the ESA is awarded and deduct that

1 amount from subsequent quarterly ESA deposits. If an ESA
2 student decides not to use the education service provider,
3 the partial payment made under this subsection shall be
4 returned to the state superintendent by the education
5 service provider and credited to the student's ESA.

6

7 (c) The state superintendent may adopt rules that are
8 not inconsistent with this act and that are necessary for
9 the administration of this act including rules:

10

11 (i) Establishing or contracting for the
12 establishment of an online anonymous fraud reporting
13 service;

14

15 (ii) Establishing an anonymous telephone hotline
16 for fraud reporting;

17

18 (iii) Requiring a surety bond for education
19 service providers receiving more than one hundred fifty
20 thousand dollars (\$150,000.00) in ESA funds; and

21

22 (iv) Establishing a procedure for refunding
23 payments from education service providers to ESAs.

1

2 **21-2-907. Education service providers.**

3

4 (a) Before receiving payment from an ESA, a
5 prospective education service provider shall:

6

7 (i) Be certified by the state superintendent of
8 public instruction pursuant to W.S. 21-2-906(a) to receive
9 payments from ESAs;

10

11 (ii) Agree not to refund, rebate or share ESA
12 funds with parents or ESA students in any manner, except
13 that funds may be remitted or refunded to an ESA in
14 accordance with procedures established by the state
15 superintendent.

16

17 (b) Nothing in this act shall be deemed to limit the
18 independence or autonomy of an education service provider
19 or to make the actions of an education service provider the
20 actions of state government or public school district.

21

22 (c) Education service providers shall be given
23 maximum freedom to provide instruction and services in

1 their usual and customary manner to meet the educational
2 needs of ESA students.

3

4 (d) An education service provider that accepts
5 payment from an ESA pursuant to this act is not an agent of
6 the state or federal government or a public school
7 district.

8

9 (e) Nothing in this act shall be construed to expand
10 the regulatory authority of the state, its officers, or any
11 school district to impose any additional regulation of
12 education service providers beyond those necessary to
13 enforce the requirements of the ESA program.

14

15 (f) An education service provider shall not be
16 required to alter its creed, practices or curriculum to
17 accept payments authorized by a parent from an ESA.

18

19 **21-2-908. Responsibilities of public schools and**
20 **school districts.**

21

22 A public school or school district that previously enrolled
23 an ESA student shall provide an education service provider

1 that has enrolled the ESA student with a complete copy of
2 the ESA student's school records as necessary, while
3 complying with 20 U.S.C. § 1232g, the Family Educational
4 Rights and Privacy Act of 1974.

5

6 **21-2-909. Legal liability.**

7

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

12

13 **Section 2.** W.S. 21-4-102 by creating a new subsection
14 (d), 21-4-301 and 21-13-310(a)(ix) are amended to read:

15

16 **21-4-102. When attendance required; exemptions;**
17 **withdrawal.**

18

19 (d) A child participating in the ESA program
20 specified by W.S. 21-2-901 and who provides notice of
21 participation in the ESA program to the child's school
22 district shall be deemed to be in compliance with the
23 compulsory attendance requirement under this section.

1

2 **21-4-301. Schools to be free and accessible to all**
3 **children; minimum school year.**

4

5 (a) Except as otherwise provided by law, the public
6 schools of each school district in the state shall at all
7 times be equally free and accessible to all children
8 resident therein of five (5) years of age as of August 1,
9 or September 15 if pursuant to an approved request under
10 W.S. 21-3-110(a)(xxxviii), of the year in which they may
11 register in kindergarten as provided in W.S. 21-4-302(b)
12 and under the age of twenty-one (21), subject to
13 regulations of the board of trustees. Each school district
14 shall operate its schools and its classes for a minimum of
15 one hundred seventy-five (175) days each school year unless
16 an alternative schedule has been approved by the state
17 board. Prior to submission of a proposed alternative
18 schedule to the state board, the board of trustees shall
19 hold at least two (2) advertised public meetings within the
20 district, at which the board shall present the proposed
21 alternative schedule and respond to public questions and
22 comments. Any school district operating under an
23 alternative schedule shall annually evaluate the

1 effectiveness of that schedule in meeting the educational
2 goals and purposes for which the schedule was adopted.

3

4 (b) A parent, guardian or other person having control
5 or charge of any child eligible to attend public school in
6 Wyoming under subsection (a) of this section shall have the
7 option to apply for the ESA program specified by W.S.
8 21-2-901 on behalf of the child.

9

10 **21-13-310. Annual computation of district revenues.**

11

12 (a) To ensure revenues available to each district are
13 uniformly sufficient to enable compliance with the uniform
14 standards for educational programs prescribed under W.S.
15 21-9-101 and 21-9-102 and to secure state board
16 accreditation of educational programs under W.S.
17 21-2-304(a)(ii), the revenues specified under this
18 subsection shall be deemed state revenues and shall be
19 considered in determining the amount to be distributed to
20 each district under W.S. 21-13-311. A district shall make
21 an annual computation of the following revenues:

22

1 (ix) The amount of tuition paid to the district
2 during the previous school year, including any amount
3 charged under W.S. 21-4-501 and any amount assessed in
4 excess of the costs incurred for adult education programs,
5 summer school programs, programs provided under an
6 agreement for cooperative educational programs under W.S.
7 21-20-101 through 21-20-111 and any amount assessed for
8 programs and services for children with disabilities, but
9 excluding any tuition assessed by a district for the
10 provision of virtual education programs to participating
11 students pursuant to W.S. 21-13-330, any tuition assessed
12 by a district for the provision of part-time educational
13 programs to participating students pursuant to W.S.
14 21-2-904(b)(i)(C) and 21-4-502(c), any revenues received by
15 a district from post secondary education option programs
16 provided under W.S. 21-20-201 or for the provision of
17 educational programs to a nonresident student placed in a
18 juvenile detention facility pursuant to an agreement with
19 the student's resident school district;

20

21 **Section 3.** There is appropriated forty million
22 dollars (\$40,000,000.00) from the general fund to the
23 education savings accounts expenditure account created by

1 W.S. 21-2-903(b) for purposes of the Wyoming education
2 savings accounts program. This appropriation shall be
3 subject to the terms of W.S. 21-2-903(b).

4

5 **Section 4.**

6

7 (a) The department of education is authorized two (2)
8 full-time employees for the purposes of this act. There is
9 appropriated four hundred eighty thousand dollars
10 (\$480,000.00) from the general fund for the salary and
11 benefits of the positions created by this section for the
12 period beginning July 1, 2024 and ending June 30, 2026.
13 These funds shall not be transferred or expended for any
14 other purpose and any unexpended, unobligated funds
15 remaining from this appropriation shall revert as provided
16 by law. It is the intent of the legislature that four
17 hundred eighty thousand dollars (\$480,000.00) and these
18 positions be included in the department of education's
19 standard budget for the immediately succeeding fiscal
20 biennium.

21

22 (b) There is appropriated to the department of
23 education four hundred thousand dollars (\$400,000.00) from

1 the general fund for contractual services (900 series)
2 necessary to implement this act for the period beginning
3 July 1, 2024 and ending June 30, 2026. These funds shall
4 not be transferred or expended for any other purpose and
5 any unexpended, unobligated funds remaining from this
6 appropriation shall revert as provided by law. It is the
7 intent of the legislature that four hundred thousand
8 dollars (\$400,000.00) for contractual services (900 series)
9 necessary to implement this act be included in the
10 department of education's standard budget for the
11 immediately succeeding fiscal biennium. As a condition of
12 this appropriation, the department of education shall
13 regularly report on the expenditures from the appropriation
14 under this subsection to the legislature through the joint
15 education interim committee.

16

17 **Section 5.** The state superintendent of public
18 instruction shall adopt rules and take other actions as
19 necessary to enable students to enroll in the ESA program
20 created by this act for school year 2025-2026. The state
21 superintendent shall begin accepting applications for the
22 ESA program not later than January 1, 2025.

23

1 **Section 6.**

2

3 (a) Except as provided in subsections (b) and (c) of
4 this section, this act is effective July 1, 2024.

5

6 (b) Sections 1 and 2 of this act are effective
7 January 1, 2025.

8

9 (c) Section 3 of this act is effective July 1, 2025.

10

11

(END)