



**ARIZONA STATE SENATE**  
*Fifty-Fifth Legislature, Second Regular Session*

FACT SHEET FOR H.B. 2853

Arizona empowerment scholarship accounts; appropriation

Purpose

Expands empowerment scholarship account (ESA) eligibility, beginning in FY 2023, to an Arizona resident who is eligible to enroll in an Arizona public school and does not otherwise qualify. Adds to permissible ESA expenditures and modifies certain administration requirements. Appropriates \$2,200,000 and 26 FTE positions from the state General Fund in FY 2023 to the Arizona Department of Education (ADE).

Background

A student with an ESA account may use ESA monies for permissible expenses, including: 1) qualifying tuition or fees; 2) textbooks, curricula and supplementary materials; and 3) outlined goods and services. A *qualified student* for an ESA account includes a: 1) child with a disability; 2) student attending a D or F school or school district; 3) previous ESA and Arizona Scholarships for Pupils with Disabilities Program recipient; 4) child of a parent in the U.S. Armed Forces who is on active duty or was killed in the line of duty; 5) child who is or was a ward of the court with a permanent guardian or prospective permanent guardian; 6) sibling of a current or previous ESA recipient; 7) resident of an Indian reservation in Arizona; and 8) child of a parent who is legally blind, deaf or hard of hearing. An ESA is funded at 90 percent of the Base Support Level and charter additional assistance that a student would have been allocated if the student were attending a charter school (A.R.S. §§ [15-2401](#) and [15-2402](#)).

The Joint Legislative Budget Committee fiscal note estimates that the ESA eligibility expansions would increase state General Fund K-12 education costs by \$33,400,000 in FY 2023, \$64,500,000 in FY 2023 and \$125,400,000 in FY 2021. JLBC notes that these estimates are highly speculative as the participation rate among currently ineligible pupils is difficult to know in advance ([JLBC fiscal note](#)).

Provisions

1. Appropriates \$2,200,000 and 26 FTE positions from the state General Fund in FY 2023 to ADE for ESA administration.
2. Includes, in *qualified student* beginning in the FY 2023 school year, unless the context otherwise requires, an Arizona resident who:
  - a) does not otherwise qualify for an ESA; and
  - b) is eligible to enroll in an Arizona public school in a preschool program for children with disabilities, a kindergarten program or any of grades 1 through 12.
3. Deems, as eligible for an ESA, a child who meets one of the qualifying categories and, in lieu of meeting outlined attendance requirements, attended a nonpublic school for pupils with disabilities in the prior year, if placement was approved by ADE and contracted for by a public school district.

4. Deems a child *eligible to enroll in a kindergarten program* for the purposes of meeting school attendance eligibility criteria, if the child:
  - a) is at least five, and under seven, years of age on January 1 of the current school year;
  - b) has not already completed a kindergarten program; and
  - c) is not enrolled in grade 1 of a school in the current year.
5. Reduces the logged instructional hours a qualifying student in Arizona online instruction must have received in the current or prior fiscal year to meet school attendance eligibility criteria:
  - a) from 200 to 100, for kindergarten students;
  - b) from 400 to 200, for student in grades 1 through 3;
  - c) from 500 to 250, for students in grades 4 through 6;
  - d) from 550 to 275, for students in grades 7 and 8; and
  - e) from 500 to 250, for high school students.
6. Determines that the ESA enrollment parent agreement to not enroll a qualified student in a school district or charter school does not:
  - a) require a qualified student to withdraw from a public school before enrolling for an ESA if the student withdraws before receiving any ESA monies; or
  - b) prevent a qualified student from applying in advance for an ESA to be funded beginning the following school year.
7. Adds, to permissible ESA expenditures:
  - a) public transportation services in Arizona, including a computer pass or transportation network services between the qualified student's residence and school; and
  - b) computer hardware and technological devices primarily used for an educational purpose, including calculators, personal computers, laptops, tablet devices, microscopes, telescopes and printers.
8. Specifies that permissible *computer hardware or technological devices* does not include entertainment and other primarily noneducational devices, including televisions, telephones, video game consoles and accessories, and home theatre and audio equipment.
9. Removes, from the specified list of prohibited ESA expenditures, consumable educational supplies, including paper, pens or markers.
10. Authorizes, during any period beginning January 1, 2023, in which ADE fails to ensure that a contract is in effect with an independent third party for determining whether qualifying students with disabilities are eligible to expend ESA monies for outlined educational therapies or services:
  - a) a county school superintendent to approve a list of independent third parties in the county whose evaluation may be used to make the determination; and
  - b) if the county school superintendent does not provide the list within 90 days of ADE not having a contract in effect, the parent to obtain an independent educational evaluation from a qualified examiner to make the determination.
11. Requires the school district in which the student resides and that serves the student's grade level to provide the expense for an independent educational evaluation obtained by a parent from a qualified examiner.

12. Defines *qualified examiner* as a licensed physician, psychiatrist or psychologist.
13. Extends, from 10 days to 15 days, the time frame after notification of an ESA suspension within which a parent or qualified student must respond or take corrective action before ADE may remove the student from ESA eligibility.
14. Allows a parent to represent themselves or designate a representative who is not necessarily an attorney before an appeals hearing to the State Board of Education of any ADE administrative decision relating to ESAs.
15. Prohibits, from charging for services related to an ESA appeals hearing, a designated representative who is not an attorney.
16. Specifies that a representative participating in the hearing or assisting the ESA holder is not grounds for reversing an administrative decision or order, if the supporting evidence is substantial, reliable and probative.
17. Makes technical and conforming changes.
18. Becomes effective on the general effective date, with retroactive to July 1, 2022.

House Action

WM	6/15/22	DP	6-4-0-0
3 <sup>rd</sup> Read	6/22/22		31-26-3

Prepared by Senate Research

June 23, 2022

LB/ /slp