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SB 1452: Arizona empowerment scholarships accounts; revisions

Sponsor: Senator Boyer, LD 20

Committee on Ways & Means

Overview

Expands eligibility for the Empowerment Scholarship Account (ESA) program to include children eligible for Free and Reduced-Price lunches and children receiving Title I services. Modifies the financing of ESAs. Make several other miscellaneous changes to the program.

History

ESAs were established in 2011 to provide educational options outside of the public school system for students with disabilities. Eligibility now includes: 1) children with disabilities; 2) students attending D and F schools or school districts; 3) previous ESA recipients and previous Arizona Scholarships for Pupils with Disabilities Program recipients; 4) children with a parent in the U.S. Armed Forces who is on active duty or was killed in the line of duty; 5) children who are or were wards of the court with a permanent guardian or prospective permanent guardian; 6) siblings of current or previous ESA recipients; 7) residents of an Indian reservation in Arizona; and 8) children of a parent who is legally blind, deaf or hard of hearing ([A.R.S. § 15-2401](#)).

ESAs are funded at 90% of Basic State Aid per-pupil costs, or the sum of the Base Support Level and additional assistance that would otherwise be allocated to the ESA recipient's prior school district. The Arizona Department of Education (ADE) transfers this amount to the State Treasurer for deposit into each ESA. ESA monies may be used for qualifying school tuition and approved education-related expenses. ([A.R.S. § 15-2402](#))

The Every Student Succeeds Act (ESSA) is the primary legislation that deals with federal education funding of elementary and secondary education. Title I of ESSA provides financial assistance to local educational agencies and schools with high numbers or percentages of children from low-income families to help ensure that all children meet state academic standards. Funds are allocated through four statutory formulas — these formulas are based primarily on census poverty estimates and the cost of education in each state ([U.S. Department of Education](#)).

The Child Nutrition Act (CNA) directs the U.S. Department of Agriculture (USDA) to extend, expand and strengthen the National School Lunch Program (NSLP) ([CNA Declaration of Purpose](#)). NSLP is a federally assisted meal program operating in public and nonprofit private schools and residential child care institutions ([NSLP fact sheet](#)). Children from families with incomes at or below 130% of the federal poverty level are eligible for free meals; those with incomes above 130% but below 185% of the federal poverty level are eligible for reduced-price meals ([Child Nutrition Programs: Income Eligibility Guidelines 85 Fed. Reg. 16,050 \(March 20, 2020\)](#)). For the 2019-2020 school year, ADE [reported](#) that 595,924 Arizona students were eligible for free or reduced-price lunches, for a statewide average eligibility of 55%.

The Classroom Site Fund (CSF) consists of monies raised pursuant to the 0.6% transaction privilege tax and use tax for education established by Proposition 301, as well as K-12 state land trust revenues that are not designated for basic state aid ([A.R.S. § 37-521](#), [42-5029](#), [42-5029.02](#)).

Monies from CSF are allocated to district and charter schools on a weighted per-pupil basis. Currently, statute requires schools to allocate CSF monies as follows: 1) 40% for teacher compensation increases based on performance and employment-related expenses; 2) 20% for teacher base salary increases and employment-related expenses; and 3) 40% for maintenance and operation purposes. ([A.R.S. § 15-977](#))

Provisions

1. Defines *child who receives federal Title I services for low-income students under the ESSA* as:
 - a) A student who receives targeted assistance services or attends a school that qualifies for schoolwide Title I program funding for low-income students under the ESSA; or
 - b) A student who is eligible to attend kindergarten and who resides within the attendance boundary of a school that qualifies for schoolwide Title I program funding for low-income students under the ESSA. (Sec. 1)
2. Defines *child who receives free or reduced-price lunches under NSLP and CNA* as an incoming kindergartener or any other student who meets the eligibility requirements established under the NSLP and CNA for free or reduced-price lunches. (Sec. 1)
3. Adds to the list of *qualified students* a child who receives federal Title I services for low-income students under the ESSA or a child who receives free or reduced-price lunches under the NSLP and CNA. (Sec. 1)
4. Adds that a student counted among the average daily membership at any governmental primary or secondary school in Arizona during the prior fiscal year — including Arizona online instruction — who is eligible for the ESA Program, is a *qualified student*. (Sec. 1)
5. Specifies that a parent of a qualified student may not accept a scholarship from a school tuition organization concurrently with an ESA: a) before the qualified student is in 9th grade; or b) in any year if the combined total scholarship exceeds the total per-pupil spending of the school district in which the student resides — as reported by the Auditor General for the prior year. (Sec. 2)
6. Clarifies that ESA monies used on qualified educational therapies may be used to pay up to any amount not covered by insurance if the expense is partially paid by a health insurance policy for the qualified student. (Sec. 2)
7. Expands expenses which the ESA can be used for to include public transportation services in the state — including a commuter pass for the qualified student, or transportation network services — between the qualified student's residence and a qualified school in which the student is enrolled. (Sec. 2)
8. Declares that a child who participates in an ESA continues to be entitled to an equitable share of the funding that would otherwise be allocated to a charter school or school district for that child from the CSF; therefore:
 - a) A child who is participating in an ESA shall be included in the estimated statewide weighted student count for the purposes of calculating the per-pupil amount from the CSF;
 - b) ADE will annually transfer from the CSF to each ESA an amount that is equivalent to the per-pupil amount multiplied by the student's weighted count that would be calculated if that student were attending the student's prior school district or charter school — or, if the child is an incoming kindergartener, the child's expected school district of attendance; and

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- c) The amount transferred to each ESA will count toward the total amount ADE is required to allocate and transfer to each ESA — these CSF monies may be used for any allowed ESA expenditures. (Sec. 2)
- 9. Stipulates that as long as an account holder continues using a portion of ESA monies for eligible expenses each year, and is in good standing, the ESA must not be closed. (Sec. 2)
- 10. Allows, except in cases where the attorney general determines a parent or account holder has committed fraud, that any expenditure from an ESA for an ineligible purchase — that is subsequently repaid by the parent or account holder — is to be credited back to ESA balance within 30 days after the receipt of payment. (Sec. 2)
- 11. Exempts contested ESA cases from uniform administrative hearing procedures. (Sec. 4)
- 12. Directs the Joint Legislative Budget Committee to revise its calculation of the per-pupil amount from the CSF for FY 2022 to include children participating in an ESA. (Sec. 5)
- 13. Applies the revised CSF calculation retroactively to April 1, 2021. (Sec. 5)
- 14. Reduces, from the first 100 days to any 30 days, the amount of time a full-time student must attend a qualified governmental primary or secondary school to qualify for the ESA Program. (Sec. 1)
- 15. Decreases, from 45 days to 30 days, the amount of time ADE has to enroll and issue award letters to eligible students in the ESA program after receiving completed applications. (Sec. 3)
- 16. Makes technical changes. (Sec. 1)
- 17. Makes conforming changes. (Sec. 1, 2)