



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

**AMENDED**  
FACT SHEET FOR S.B. 1452

Arizona empowerment scholarships accounts; revisions

Purpose

Deems students receiving Title I services or free or reduced-price lunches (FRPLs) eligible for the Arizona Empowerment Scholarship Account (ESA) Program and allows ESA monies to be spent on transportation services. Modifies ESA program funding and expenditure requirements.

Background

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 and 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 percent 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 the following expenses, as specified: 1) approved tuition or fees; 2) textbooks; 3) educational therapies; 4) paraprofessionals; 5) associated goods and services; 6) tutoring services; 7) curricula and supplementary materials; 8) insurance; and 9) uniforms ([A.R.S. § 15-2402](#)).

The Every Student Succeeds Act (ESSA) is a federal act that 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 challenging state academic standards. Title I of ESSA allocates funds through four statutory formulas that are based primarily on census poverty estimates and the cost of education in each state ([U.S. Department of Education](#)).

The Child Nutrition Act directs the U.S. Department of Agriculture (USDA) to extend, expand and strengthen the National School Lunch Program (NSLP) ([USDA](#)). NSLP is a federally assisted meal program operating in public and nonprofit private schools and residential child care institutions. Children from families with incomes at or below 130 percent of the federal poverty level are eligible for free meals. Those with incomes between 130 percent and 185 percent of the federal poverty level are eligible for reduced-price meals ([ADE](#)).

According to the Joint Legislative Budget Committee (JLBC), S.B. 1452 would result in the following impacts to the K-12 Basic State Aid General Fund formula: 1) a savings of \$4.3 million in FY 2022; 2) a savings of \$1.6 million in FY 2023; and 3) a cost of \$3.5 million in FY 2024. These estimates are speculative due to the uncertain rates of students switching from public schools into the ESA Program. The impact after FY 2024 is even more speculative and depends on the cumulative growth of newly eligible students ([JLBC Fiscal Note](#)).

### Provisions

#### ***Qualified Student Modifications***

1. Includes, as a *qualified student*, a child who:
  - a) receives federal Title I services for low-income students under the ESSA; or
  - b) receives FRPLs under the National School Lunch and Child Nutrition Acts.
2. Defines *child who receives federal Title I services for low-income students under the ESSA* as:
  - a) a student receiving targeted assistance services or attending a school that qualifies for schoolwide Title I program funding for low-income students pursuant to federal legislation; and
  - b) a student eligible to attend kindergarten and resides within the attendance boundary of a school that qualifies for schoolwide Title I program funding.
3. Defines *child who receives FRPLs under the National School Lunch and Child Nutrition Acts* as an incoming kindergartener or any other student eligible for:
  - a) the National School Lunch and Child Nutrition Acts; or
  - b) an equivalent measure for participating in the federal FRPL Program or other school programs based on a poverty measure.
4. 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.
5. Deems qualified students attending a governmental primary or secondary school during the current fiscal year eligible for the ESA Program.
6. Deems qualified students counted among the average daily membership at any governmental primary or secondary school in Arizona during the prior fiscal year eligible for the ESA Program, including Arizona online instruction students.

#### ***Funding Modifications***

7. Entitles a child participating in the ESA Program to an equitable share of the funding that would otherwise be allocated to a charter school or school district from the Classroom Site Fund (CSF) for that child.
8. Includes a child participating in the ESA Program in the estimated statewide weighted student count for the purposes of calculating the per pupil amount from the CSF, as long as the student continues to participate in the ESA Program.

9. Requires the ADE to annually transfer, from the ESA Fund to the State Treasurer for deposit into each ESA, an amount equal to the per-pupil amount multiplied by the student's weighted count that would be calculated by the student's prior or expected district or charter school of attendance.
10. Counts the amount transferred to each ESA from the ESA Fund toward the total amount ADE is required to allocate to each ESA and allows the funds to be used for any approved expenditures.

### *Expenditure and Program Modifications*

11. Allows ESA monies to be used on public transportation services in Arizona, including a commuter pass for the qualified student or specified transportation network services between the qualified student's residence and a qualified school.
12. Allows ESA monies to fund any amount of educational therapies from a licensed or accredited provider not covered by a health insurance policy, if the expense is partially paid by insurance for the qualified student.
13. Allows an ESA to remain open after the qualified student's graduation from a postsecondary institution or after four consecutive years following high school graduation without enrollment in a postsecondary institution if the account holder continues using a portion of monies for eligible expenses and is in good standing.
14. 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 grade nine; 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, reported by the Auditor General for the prior year.
15. Requires an expenditure for a purchase that is deemed ineligible and subsequently repaid by the parent or ESA holder to be credited back to the ESA within 30 days of payment receipt, unless the Attorney General determines fraud has been committed.
16. Specifies that the letter grades for schools or school districts, used to determine qualifying students for the ESA program, are from the most recent year in which letter grades were assigned.

### *Miscellaneous*

17. Exempts the State Board of Education from uniform administrative hearing procedure requirements for contested cases and appealable agency action in connection to the ESA program.
18. 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.

19. Requires, retroactive to March 30, 2021, the Joint Legislative Budget Committee (JLBC) to revise the calculation of the per pupil amount from the CSF for FY 2022 to include children participating in the ESA Program with 10 days of the effective date.
20. Makes technical and conforming changes.
21. Becomes effective on the general effective date, with a retroactive provision as noted.

Amendments Adopted by Committee

1. Includes incoming kindergarten students as eligible to qualify for the ESA program as a child who receives FRPLs under the National School Lunch and Child Nutrition Acts.
2. Removes the establishment of a FY 2022 base level amount.
3. Modifies the types of transportation services considered as allowable expenditures under the ESA program.
4. Makes specifications regarding school letter grade eligibility requirements and that amount of scholarship monies an ESA holder may accept.
5. Decreases the amount of time ADE has to enroll and issue award letters to ESA eligible students.
6. Requires JLBC to revise the calculation of the per pupil amount related to the CSF within 10 days of the effective date and includes a retroactivity clause.

Amendments Adopt by Committee of Whole

- Removes the establishment of a levy for school districts that do not qualify for basic state aid and related levy calculations, limitations and requirements.

Senate Action

ED            2/2/21    DPA    5-3-0

Prepared by Senate Research

February 18, 2021

JO/JP/gs