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OHIO LEGISLATIVE SERVICE COMMISSION

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Legislative Budget
Office

S.B. 304
135th General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 304's Bill Analysis](#)

Version: As Introduced

Primary Sponsor: Sen. Romanchuk

Local Impact Statement Procedure Required: No

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Highlights

- The bill establishes state-funded, income-based educational savings accounts (ESAs) for students attending nonchartered nonpublic (NCNP) schools beginning in FY 2026. State costs for the 10,000 estimated NCNP students educated in a nonresidential setting are projected to be approximately \$51 million annually if all such students receive an ESA.
- These estimates above should be considered rough, as actual NCNP school enrollment, family incomes of NCNP students, and the ESA amount are uncertain and may vary significantly from the amounts used to estimate the bill's potential cost. Also, some NCNP students may not receive an ESA for various reasons. For every 1,000 students that participate, state expenditures increase by an estimated \$5 million annually.
- The bill will increase personal income tax (PIT) revenues between \$5 million and \$8 million per year, as applicable families will likely eschew the NCNP tuition tax credit authorized under continuing law in favor of the new ESA established by the bill. The GRF would retain 96.6% of this revenue, with the remaining amount credited to the Local Government Fund (1.7%) and Public Library Fund (1.7%).
- Since the state's school funding formula is based on enrollment, school districts and other public schools whose students leave to attend an NCNP school with an ESA may lose state foundation aid. However, the formula's guarantee provisions may partially offset any decreases. Public school expenditures may decrease to educate fewer students.
- The Department of Education and Workforce may incur additional administrative costs to collect data on NCNP school ESA enrollment and operate a system for investigating complaints and reporting violations of program requirements.

- Requiring the Treasurer of State to implement the new ESA program and administer it with the assistance of DEW will increase the Treasurer's administrative costs. Any increase in such costs will be paid from the GRF or certain non-GRF funds.

Detailed Analysis

Overview

Beginning in the 2025-2026 school year (FY 2026), the bill establishes a program to provide educational savings accounts (ESAs) for students attending nonchartered nonpublic (NCNP) schools. These are schools that have not sought a state charter because of truly held religious beliefs. Because the schools do not hold a state charter, they do not receive state funding for auxiliary services or administrative costs and are not eligible to participate in state scholarship programs, unlike chartered nonpublic schools. In addition, NCNP students are not entitled to transportation to and from school by their resident school district. NCNP schools must certify in a report to parents of its students that the school meets certain minimum education standards and provide a copy of the report to the Department of Education and Workforce (DEW).

The state will fund the ESAs, which will be managed by the Treasurer of State with assistance of DEW. NCNP schools that wish to participate in the ESA program must notify the Treasurer and adhere to requirements with respect to documentation of ESA use, among others. The bill also requires a participating school to maintain a physical location in the state at which each student has regular and direct contact with teachers. This location cannot be a building that primarily serves as a residence. Among other requirements, the parents of a student in a participating NCNP school must ensure that the student takes a nationally recognized standard achievement test and, when reapplying for the ESA, provide the student's test scores for the prior school year. The bill sets the base amount of each ESA at 90% of the statewide average base cost per pupil calculated for traditional school districts under the current school funding formula. In FY 2024, that amount equates to \$7,418. The amount for FY 2026 and beyond is uncertain. The bill reduces the amount of an ESA as a student's household income rises using a formula similar to that for the EdChoice Expansion Scholarship Program. This is discussed in further detail below.

The student's family may use an ESA to cover tuition, fees, curriculum, textbooks, instructional materials, and supplies at a participating NCNP school. The parents of a student in a participating NCNP school must instruct the Treasurer to disburse funds from an ESA either (1) directly to the school or an approved vendor that provides educational goods or services to the student or (2) to reimburse the parent for eligible and documented expenses the parent pays. The bill prohibits the parent of a student from depositing funds in the student's ESA. If the parent of a student with an ESA established for a particular school year applies to renew the ESA for the next school year, the Treasurer must rollover the unused balance for use during the next school year.

Estimated cost of ESAs

NCNP enrollment

The bill's fiscal effects will be driven mainly by the number of NCNP students who will elect to receive an ESA. Since the state does not currently support these students, they become

a new state responsibility under the bill. However, DEW does not collect data on NCNP school enrollment. Therefore, the actual number of students enrolled in NCNP schools is uncertain.

Due to this data limitation, we derived a rough estimate of NCNP enrollment using DEW's lists of registered NCNP schools for the 2021-2022 and 2023-2024 school years alongside data from the National Center for Education Statistics (NCES) Private School Universe Survey¹ for the 2021-2022 school year, the most recent year of data available. DEW lists 587 schools that have reported their status as an NCNP school to the Department for the 2023-2024 school year. However, of this total, 463 schools (78.9%) appear to primarily be residences, with the remaining 124 schools (21.1%) being located in a dedicated school, church, synagogue, or other similar building based on an LBO review of the addresses on DEW's list. For brevity, we refer to these latter types of schools as "nonresidential NCNP schools."

To estimate the number of students in nonresidential NCNP schools, we first matched the nonresidential NCNP school buildings in DEW's list for the 2021-2022 school year against enrollment figures provided in the response data to the 2021-2022 NCES Private School Universe Survey. About 40 nonresidential NCNP schools appeared in the NCES survey responses. We augmented the enrollment data from the survey by including enrollment for an additional six nonresidential schools that, in general, we were able to glean from the websites of relevant school associations. This resulted in an average of approximately 80 students per NCNP school. Applying this average to the 124 nonresidential school buildings on DEW's 2023-2024 NCNP school list results in an estimated total of roughly 10,000 nonresidential NCNP school students.

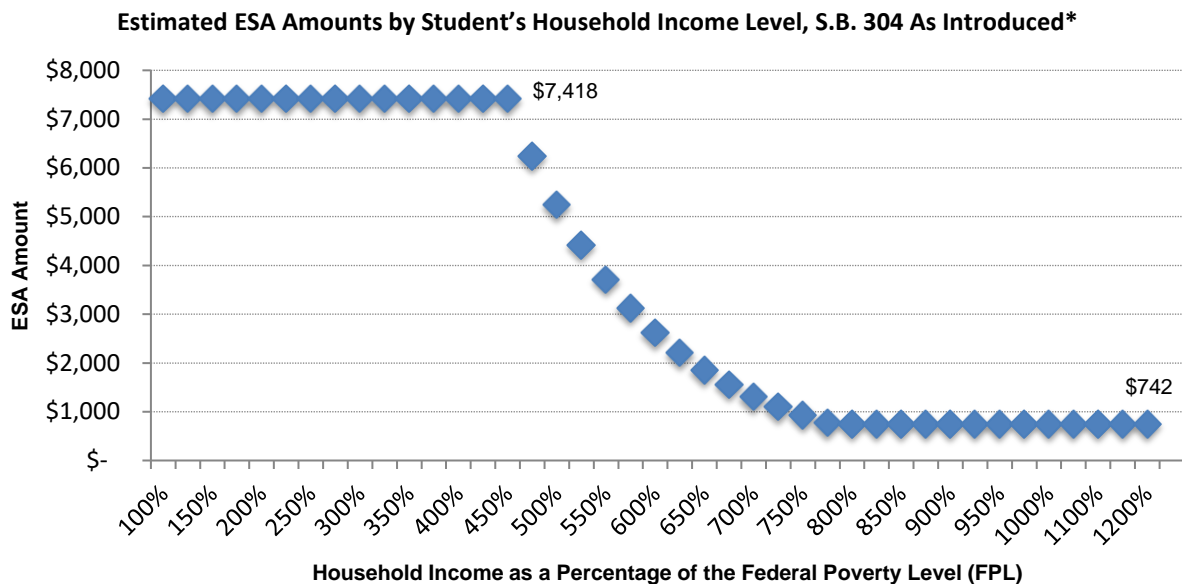
ESA amount

As noted above, the bill sets the base amount of an individual student's ESA at 90% of the statewide average base cost per pupil calculated for traditional school districts under the school funding formula. In FY 2024, the statewide average base cost per pupil is \$8,242; 90% of that amount is \$7,418. It is important to note that the current school funding formula is authorized only through FY 2025, and the General Assembly has yet to determine the formula for FY 2026 and beyond. As such, the future value of the statewide average base cost per pupil and the amount of an ESA in FY 2026 and thereafter are uncertain.

The bill establishes an income-based formula for determining individual students' ESA amounts that aligns with the formula the EdChoice Expansion Scholarship Program uses beginning in FY 2025. As the chart below illustrates, this formula uses a logarithmic function to reduce the amount of an ESA for students whose income is above 450% of the federal poverty level (FPL) until an ESA reaches the minimum amount of 10% of the maximum, or \$742 based on the assumed maximum of \$7,418. Under the bill, an eligible student whose household income is at or below 450% FPL (\$140,400 for a family of four in 2024) may receive the maximum ESA amount. Students with higher incomes are eligible for progressively lower amounts depending

¹ NCES reports the estimated total private school enrollment in grades K-12 by state, based on surveys of private schools. According to NCES, the target population for the survey consists of all private schools (i.e., schools not supported primarily by public funds that provide classroom instruction for one or more of grades K-12 and have one or more teachers). NCES further notes that organizations or institutions that provide support for homeschooling without offering classroom instruction for students are excluded.

on their income. Under this formula, the minimum ESA amount applies to students at or above 783% FPL (\$244,296 or above for a family of four).



*Based on a maximum ESA amount of \$7,418, equal to 90% of the FY 2024-FY 2025 statewide average base cost per pupil of \$8,242.

Potential new state responsibility

Based on the amount of an ESA if the bill were in effect for FY 2025, the state's cost for ESAs for the roughly 10,000 students attending nonresidential schools is an estimated \$51 million annually beginning in FY 2026. This analysis assumes that all students attending NCNP schools will apply for and accept an ESA to capture the full potential of the state's obligation with respect to these students. Additionally, to estimate the effect of means-testing, this analysis assumes the distribution of family income among students enrolled in NCNP schools is the same as the distribution for students enrolled in the EdChoice Expansion Program in FY 2024.

Given the uncertainty surrounding NCNP enrollment, NCNP student family incomes, and the actual amount of an ESA in FY 2026 and future years, these estimates should be considered rough. Actual NCNP enrollment and the ESA amount may vary significantly from the amounts used to estimate the bill's potential cost and the distribution of EdChoice expansion scholarship recipient family incomes may not represent the distribution for students attending nonresidential NCNP schools to some degree. In addition, some NCNP students may not actually receive an ESA for various reasons. For example, some NCNP schools may choose not to participate in the program. In addition, some parents or guardians may be unaware of their student's eligibility for an ESA or choose not to accept one due to the program's requirements.

The table below provides a range of potential costs based on certain hypothetical participation scenarios and an ESA amount based on FY 2025 data. As the table shows, for every 1,000 participants, state expenditures increase by about \$5 million annually.

Potential Annual State Expenditures Under Hypothetical ESA Participation Scenarios					
Number of ESAs	1,000	4,000	7,000	10,000	13,000
Estimated Cost	\$5 million	\$20 million	\$36 million	\$51 million	\$66 million

From a budgetary perspective, the bill includes the ESAs in the “unit funding” approach that currently provides a single allocation of funding for school foundation aid for school districts; community and science, technology, engineering, and mathematics (STEM) schools; and students using state scholarships to attend chartered nonpublic schools. These state aid payments are funded by a combination of GRF, lottery profits, and sports gaming tax revenues. However, since the Treasurer will administer the ESAs, the bill requires DEW to make an annual transfer of the amounts necessary to fund the ESAs to the Treasurer.

Public school student “transfers”

The ESA program may attract some students currently enrolled in public schools to NCNP schools due to the effective reduction in price. From a state perspective, the cost of the ESAs for these students is likely offset, more or less, by a corresponding annual decrease in spending on state foundation aid to public schools. The net cost to the state, therefore, could be somewhat less than the amounts estimated above. However, this also means traditional school districts and community schools may lose revenue, the extent of which will depend in part on the number of students that switch. Guarantee provisions, which have historically been included in the formula, may partially offset any decreases in state aid. Also, school district and other public school expenditures may decrease due to educating fewer students.

Payment of certain ESA balances to school districts

The bill requires remaining balances in ESAs to be distributed to school districts or other public schools under certain circumstances. Specifically, if a student with an ESA disenrolls from a participating NCNP school and enrolls in a traditional or joint vocational school district or a community or STEM school, the bill requires DEW to distribute the amount remaining in the student’s ESA to that district or school. Additionally, if a student disenrolls from a participating NCNP school and enrolls in a chartered nonpublic school, other nonparticipating school, or receives home education, the bill requires DEW to distribute the student’s remaining ESA funds to the student’s resident school district. Finally, if any funds remain in a student’s ESA when the student graduates high school, the bill requires DEW to distribute those funds to the student’s resident school district.

Tax revenue effect on NCNP tuition tax credit

The establishment of ESAs will increase state income tax revenues, as applicable families will have less incentive to claim the existing personal income tax (PIT) credit for NCNP school tuition. The GRF would retain 96.6% of this revenue gain, whereas the remaining amount would be credited to the Local Government Fund (1.7%) and Public Library Fund (1.7%).

A parent of an NCNP student cannot claim the tax credit if a scholarship account is sought on behalf of the student in that same year. Therefore, LBO staff anticipates most – if not all – credit claims otherwise anticipated in future years would not materialize. ESAs provide a larger

financial benefit to the student's family, as compared to paying tuition out of pocket and subsequently claiming the nonrefundable credit for a (presumably) smaller dollar amount.

Under current law, the NCNP tuition credit is estimated to reduce PIT revenue between \$5 million and \$8 million per year. As stated above, the maximum projected ESA is about \$7,418 per child, which is considerably higher than the maximum annual credit value that may be claimed against the PIT. Currently, taxpayers with an income below \$50,000 may claim up to \$1,000 while taxpayers with an income at or above \$50,000 may claim up to \$1,500 per year. The NCNP tuition tax credit originated in tax year (TY) 2021, and statistics show it was claimed on 1,308 tax returns in that initial year. The total amount of credits claimed in TY 2021 equaled \$723,509, or an average of \$553 per tax return. Based on preliminary TY 2023 data, about \$1.8 million of such tax credit was claimed on 1,585 tax returns, or an average of \$807 per tax return for taxpayers with an income less than \$50,000 and an average of \$1,412 per tax return for taxpayers with incomes over \$50,000. The estimated tax revenue losses under current law in FY 2025 and years thereafter reflect this current policy as well as increased utilization among eligible families.

DEW administrative costs

Enrollment and income reporting

Continuing law requires DEW to report the number of students entitled to attend school in a traditional district but who receive services in a community or STEM school, other school districts or educational service centers, chartered nonpublic schools, or certain other organizations. To this, the bill adds the requirement that DEW report the number of students participating in an NCNP school ESA. The bill further requires DEW to collect information on the family incomes of students who apply for an ESA under the bill for purposes of determining the amount of an ESA. The bill requires DEW to use the initial submission to calculate the amount for that school year and each subsequent school year unless the parent requests a recalculation of the ESA. Because DEW does not collect information on students attending NCNP schools, this provision is likely to result in new costs for the collection and reporting of this data.

Because the Treasurer administers the ESA program under the bill (see additional discussion below), it may be able to include as part of its application process the collection of information on a student's resident school district and share that information with DEW. However, while the bill requires the Treasurer to collect a student's and parents' names and address and provide DEW with a list of participating NCNP schools, it does not explicitly require it to share information on students' resident districts. As such, doing so may necessitate a formal data sharing agreement between DEW and the Treasurer of State, subject to applicable student privacy laws.

Violation investigations

The bill may result in additional costs to DEW to establish a formal complaint system for the NCNP school ESA program. Specifically, the bill requires DEW to establish a complaint system under which a student, parent, participating school, or other individual may report alleged violations of the program's requirements. The bill requires DEW to investigate each complaint, including providing updates to and responding to questions from the complainant and the subject of the investigation. Upon completion of an investigation, DEW must submit a report to all parties and to the Treasurer. If DEW reports a violation, the Treasurer must determine a resolution and require corrective action. The bill requires the Treasurer to establish due process

procedures for individuals and participating schools that are determined to be noncompliant. The process must at least include notice of a noncompliance determination, an opportunity for a hearing, and an opportunity for an appeal prior to the Treasurer determining a resolution or taking any action.

Existing administrative rules authorize DEW to conduct periodic monitoring and oversight of chartered nonpublic schools, including investigation of complaints.² As noted above, state law requires NCNP schools to certify to the parents of their students and file with DEW a report that it is in compliance with the minimum statutory requirements for the school to operate. However, NCNP school complaint investigation will represent a new service.

Currently, DEW's Office of Nonpublic Educational Options receives the assurances from NCNP schools and conducts compliance reviews and oversight of chartered nonpublic schools. DEW may choose to place responsibility for the bill's complaint system for ESAs with the Office, which DEW indicates would necessitate additional staff. Any new operating costs for DEW to perform this function are uncertain, as they will depend on the volume of complaints and the scope, duration, and complexity of the investigations. As a point of reference, the base pay rate for an education program specialist starts at \$32.80 per hour. The total annual payroll costs for each such position will range from about \$87,000 to \$102,000, depending on the single or family health insurance coverage the employee may enroll in. Currently, the Office is funded by a portion of GRF line item 200455, Community Schools and Choice Programs.

Treasurer of State

The bill requires the Treasurer of State to implement the ESA program and administer the program with the assistance of DEW, starting with the 2025-2026 school year. The bill requires the Treasurer to establish an ESA for each participating student to purchase educational goods and services, including tuition at participating schools. Under the bill, the Treasurer receives funding from DEW for each educational savings account. The bill also specifies the Treasurer's other responsibilities and administrative duties associated with the program.

ESA administration

The bill requires the Treasurer to develop an application procedure for the program no later than March 1, 2025, for the 2025-2026 school year. For each school year thereafter, the Treasurer must open an application beginning on March 1 and ending on July 1. During the application period, the parent of a student enrolled in a participating school may submit an application to participate in the program in the forthcoming school year. The bill requires the Treasurer to accept and process each application that is submitted. The bill also specifies procedures and requirements concerning the application and reapplication process. Under the bill, a student for whom an ESA is established for a school year must reapply to have an account established for a subsequent school year.

The bill requires the Treasurer to approve a completed application submitted on behalf of a student and establish an ESA for that student, if both of the following apply: (1) the student is enrolling in any of grades K-12 at a participating school in the school year for which an account is sought, and (2) the student's parent affirms not to claim the NCNP tuition tax credit on behalf

² Ohio Administrative Code (O.A.C.) 3301-39-04.

of the dependent student, when the parent files their PIT return for the taxable year ending in the school year for which a scholarship account is sought.

The bill requires the Treasurer to provide certain notifications related to renewal deadlines and procedures to parents of students for whom an ESA is established. The Treasurer must provide support to ensure a smooth transition between school years for renewing parents and students. The bill specifies, to the extent practicable, the Treasurer must establish an ESA prior to the start of the school year for which it is sought, if the parent submits an application prior to the school year's start.

The bill allows the Treasurer to conduct random audits to verify that parents are using funds from a student's account in accordance with the bill. If the Treasurer determines a misuse of funds, the Treasurer is required to take any appropriate actions, including suspension or termination of a student's participation in the program.

As described above, the bill also requires the Treasurer to establish due process procedures for individuals and participating schools that are determined to be noncompliant with program requirements following an investigation by DEW.

The bill's requirements will increase the Treasurer's administrative costs. Any increase in such costs would be paid from one of the Treasurer's operating line items: GRF line item 090321, Operating Expenses, and dedicated purpose fund (DPF) group line items 090603, Securities Lending Income (Fund 4E90), and 090609, Treasurer of State Administrative Fund (Fund 6050).