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# OHIO LEGISLATIVE SERVICE COMMISSION

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**H.B. 339**  
**135<sup>th</sup> General Assembly**

## Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Rep. Click

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### SUMMARY

- Establishes the Nonchartered Educational Savings Account Program to provide eligible students with an educational savings account (ESA) beginning in the 2025-2026 school year.
- Requires the Treasurer of State to administer the program with the assistance of the Department of Education and Workforce.
- Qualifies a student for an ESA if the student's parent applies to participate in the program and, for the school year for which the ESA is sought if:
  - The student is enrolling in any of grades K-12 in a participating nonchartered nonpublic school; and
  - The student's parent has not claimed a tax credit for nonchartered nonpublic school tuition for the taxable year ending in that school year.
- Establishes an ESA award amount for a school year as 90% of the statewide average base cost per pupil for that school year.
- Requires the Department of Education and Workforce to use state operating funding to meet the program's ESA financial obligations in a manner similar to how other state scholarship programs are funded under current law.

### DETAILED ANALYSIS

#### Nonchartered Educational Savings Account Program

The bill establishes the Nonchartered Educational Savings Account Program to begin operating in the 2025-2026 school year for eligible students enrolling in participating nonchartered nonpublic schools. The Treasurer of State must administer the program with the assistance of the Department of Education and Workforce. Under the program, the Treasurer of State must establish an education savings account for participating students to purchase

educational goods and services, including tuition at participating nonchartered nonpublic schools. The Department must fund those accounts in a manner similar to how other state scholarship programs are funded under current law.<sup>1</sup>

### **Application for an education savings account (ESA)**

The bill requires the Treasurer of State, by March 1, 2025, to develop an application procedure for the program. Under that procedure, the Treasurer must open an application period for a school year on March 1 immediately prior to the start of that year. The application must require a parent to:

1. Provide the student's and parent's names and address;
2. Provide documentation verifying the student's enrollment and attendance at a participating school;
3. Provide the student's participating school's tuition and fee schedule;
4. If the parent is applying to renew an ESA, provide the student's standardized assessment scores for the prior school year – though the student's school may submit them on behalf of the parent as a matter of convenience;
5. Affirm the parent will maintain records and related documentation regarding the educational expenses on which the parent spent funds from the ESA, including any receipts for tuition, textbooks, and curriculum materials;
6. Affirm the parent will not enroll the student in a school district, community school, STEM school, or chartered nonpublic school while the student is participating in the program;
7. Affirm the parent has not and will not claim a tax credit for nonchartered nonpublic school tuition for the taxable year ending in the school year for which the ESA is sought;
8. Affirm the parent will not use funds in an ESA for any purpose other than approved uses listed in statute; and
9. Provide other information determined necessary by the Treasurer.

Beginning with ESAs sought for the 2025-2026 school year, the Treasurer must approve a completed application and establish an ESA for an eligible student, if the student is enrolling in any of grades K-12 in a participating school and the student's parent has not claimed a tax credit for nonchartered nonpublic school tuition for the taxable year ending in the school year for which an ESA is sought.

The bill further specifies that a student for whom an ESA is established must reapply to have an ESA established for a subsequent school year. The Treasurer must notify parents of students of the renewal process, the deadline for renewal, and that the failure to renew in a

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<sup>1</sup> R.C. 3310.21 and 3310.22(A).

timely manner may result in a temporary suspension of access to funds until the ESA is renewed. The Treasurer also must provide support to ensure a smooth transition from school year to school year for renewing parents and students.

To the extent practicable, the Treasurer must establish an ESA prior to the start of the school year for which it is sought prior to the start of that year if a parent submits an application prior to the start of that year.<sup>2</sup>

### **ESA amount**

The bill establishes an ESA award amount for a school year as 90% of the statewide average base cost per pupil for that year.<sup>3</sup>

### **Funding of ESAs**

The bill requires the Department of Education and Workforce to use state operating funding to meet the program's financial obligations regarding ESAs in a manner similar to how other state scholarship programs are funded under current law.

Specifically, the bill prescribes a "nonchartered educational savings account unit" that consists of all students for whom an ESA is established for a fiscal year. It requires the Department to compute the sum of all students in the unit multiplied by their ESA amounts. The Department must pay the computed amount using state operating funding and transfer those funds to each student's ESA. The Department must distribute funds in one annual payment. To the extent practicable, the Department must make that payment for an ESA established prior to the school year before the first day of that school year.<sup>4</sup>

### **Use of ESA funds**

The bill permits a student's parent to use funds in an ESA for the following purposes:

1. Tuition and fees at a participating school;
2. Tutoring or intervention services by an individual or educational facility, provided those services are not provided by an immediate family member;
3. Educational services, including occupational, behavioral, physical, speech-language, and audiology therapies;
4. Curriculum, textbooks, instructional materials, and supplies; and
5. Fees for after-school and summer education programs.<sup>5</sup>

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<sup>2</sup> R.C. 3310.23(A) to (C).

<sup>3</sup> R.C. 3317.022(A)(14).

<sup>4</sup> R.C. 3317.02(K)(8) and (OO) and 3317.022(A)(14) and (I), and 3317.03(A)(2)(k).

<sup>5</sup> R.C. 3310.24(A).

The bill states that it does not prohibit the parent of a student for whom an ESA is established from making payments for the costs of educational goods or services not covered by funds in the ESA. Though, the bill does prohibit a parent from depositing funds in the ESA.<sup>6</sup>

### **Disbursal of funds**

Upon the request of the parent, the Treasurer must disburse funds from a student's ESA by either of the following methods as selected by the parent:

1. The Treasurer must disburse funds directly to a participating school that complies with the requirements prescribed for such a school (see below); or
2. The Treasurer must disburse funds to reimburse the student's parent for any costs the parent incurred for prescribed educational goods and services (see above) for the student. Prior to reimbursing a parent, the Treasurer must require the parent to provide appropriate documentation, as determined by the Treasurer, that the costs incurred for prescribed goods and services.<sup>7</sup>

The bill requires any refund or other repayment of funds by a participating school or other educational provider to be returned to the ESA. It expressly prohibits repayment from being made directly to the student or the student's parent.<sup>8</sup>

The bill authorizes the Treasurer to conduct random audits to verify parents are using funds in an ESA for the prescribed purposes. If the Treasurer determines a misuse of funds, the Treasurer may take any action the Treasurer determines appropriate, including suspension or termination of a student's participating in the program.<sup>9</sup>

### **Disposition of remaining ESA funds**

#### **Disenrollment midyear**

If a student with an ESA established for a particular school year disenrolls from the student's participating school and does not enroll in a different participating school during that school year, the Treasurer must transfer the balance of any funds in the student's ESA, including any prorated refund from a school, to the Department. The Department must distribute those funds to:

1. If the student enrolls in a school district, community school, or STEM school in that year, the student's new school;

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<sup>6</sup> R.C. 3310.24(G).

<sup>7</sup> R.C. 3310.24(B).

<sup>8</sup> R.C. 3310.24(C).

<sup>9</sup> R.C. 3310.24(H).

2. If the student enrolls in a chartered nonpublic school or begins a home education in that year, the student's resident school district.<sup>10</sup>

### **Student applies for an ESA in subsequent year**

If the parent of a student with an ESA established for a particular school year applies to have an ESA established for the next school year, the Treasurer must, on June 30, transfer to the student's new ESA the balance of any funds in the student's old ESA.<sup>11</sup>

### **Student does not apply for an ESA in subsequent year**

If the parent of a student with an ESA established for a particular school year does not apply for a new account for the next school year, the Treasurer must, on June 30, transfer the balance of any funds in the student's old ESA to the Department. The Department must then distribute the funds to the school district, community school, or STEM school in which the student enrolls in the subsequent year. If the student has graduated high school or does not enroll in a district or school, or receive a home education, the Department must distribute the funds to the student's resident school district.<sup>12</sup>

## **Participating nonpublic schools**

### **Notification of intent to participate**

The bill requires a nonchartered nonpublic school that elects to participate in the program to notify the Treasurer by a deadline established by the Treasurer for each school year it elects to participate.<sup>13</sup>

### **Requirements for schools**

Each participating school must:

1. Administer a standardized assessment, selected by a student's parent from a list approved by the Department, to each student who is enrolled in the school and for whom an ESA has been established;
2. Maintain records and related documentation regarding the educational expenses on which the school spends the funds it receives under the program, including receipts for tuition, textbooks, and curricula;
3. Maintain a physical location in Ohio at which each student has regular and direct contact with teachers; and

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<sup>10</sup> R.C. 3310.24(D).

<sup>11</sup> R.C. 3310.24(E).

<sup>12</sup> R.C. 3310.24(F).

<sup>13</sup> R.C. 3310.25(A).

4. Notify the Treasurer and the Department of any change in the school's name, school director, mailing address, or physical location within 15 days of the change.<sup>14</sup>

### **Oversight of school compliance**

The bill permits the Treasurer to remove a school from the list of participating nonpublic schools if the Treasurer determines the school has failed to comply with the requirements prescribed for those schools.<sup>15</sup>

The Treasurer also must provide the Department with a list of participating schools. Annually, the Department must do all of the following regarding each participating school:

1. Verify the school has filed with the Department, in accordance with continuing law, a copy of the report certifying to the school's parents that the school meets the minimum education standards for nonchartered nonpublic schools;
2. Request from the board of health of the city or general health district in which the school's physical location is located a copy of any report of any inspection conducted by the board of health of that location;
3. Request from the State Fire Marshal a copy of any report of any fire inspection of the school's physical location; and
4. Prepare and submit to the Treasurer a report regarding, based on that collected information, the school is compliant with the minimum education standards and health, fire, and safety laws.

If the Department's report demonstrates that a school is not compliant, the Treasurer must take any action the Treasurer determines appropriate against the school.<sup>16</sup>

Additionally, the bill authorizes the Treasurer to conduct random audits to verify that participating schools are using funds in accordance with the bill's requirements. If the Treasurer determines a misuse of funds, the Treasurer must take any action the Treasurer determines appropriate, including suspension or termination of a school's participation in the program.<sup>17</sup>

### **Rights of participating schools**

The bill states that, while participating schools must comply with requirements prescribed for them, they are autonomous and not an agent of the state or federal government. As such, it further specifies that:

1. The Treasurer is prohibited from regulating the educational or instructional program of a school;

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<sup>14</sup> R.C. 3310.25(B).

<sup>15</sup> R.C. 3310.25(D).

<sup>16</sup> R.C. 3310.25(E).

<sup>17</sup> R.C. 3310.25(F).

2. The program does not expand the authority of the Treasurer to impose additional requirements on schools beyond those prescribed under the bill;
3. Schools that elect to participate must be given maximum freedom to provide for the educational needs of their students.<sup>18</sup>

### **Complaint system**

The bill requires the Department of Education and Workforce to establish a system under which a student, parent, participating school, or any other individual may submit a complaint about an alleged violation of the program's requirements. The Department must investigate each complaint it receives. During the investigation, the Department must provide updates to, and respond to questions from, both the subject of the complaint and the party who submitted the complaint. The Department must complete each investigation promptly.

Upon completion of an investigation, the Department must submit to the party who submitted a complaint, the subject of the complaint, and the Treasurer a report regarding the investigation's findings, including whether the program's requirements were violated. If the Department's report indicates the program's requirements were violated, the Treasurer must determine a resolution to the complaint and require corrective action to be taken, including remediation plans and other potential consequences for the subject of the complaint.<sup>19</sup>

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## **HISTORY**

Action	Date
Introduced	11-27-23

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ANHB0339IN-135/ts

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<sup>18</sup> R.C. 3310.25(C).

<sup>19</sup> R.C. 3310.22(B).