

State of Arizona  
House of Representatives  
Fifty-second Legislature  
First Regular Session  
2015

# HOUSE BILL 2250

AN ACT

AMENDING SECTIONS 15-2401, 15-2402 AND 15-2403, ARIZONA REVISED STATUTES;  
RELATING TO EMPOWERMENT SCHOLARSHIP ACCOUNTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 15-2401, Arizona Revised Statutes, is amended to  
3 read:  
4 15-2401. Definitions  
5 In this chapter, unless the context otherwise requires:  
6 1. "Curriculum" means a complete course of study for a particular  
7 content area or grade level, including any supplemental materials required by  
8 the curriculum.  
9 2. "Department" means the department of education.  
10 3. "Eligible postsecondary institution" means a community college as  
11 defined in section 15-1401, a university under the jurisdiction of the  
12 Arizona board of regents or an accredited private postsecondary institution.  
13 4. "Parent" means a resident of this state who is the parent or legal  
14 guardian of a qualified student.  
15 5. "Qualified school" means a nongovernmental primary or secondary  
16 school or a preschool for pupils with disabilities that is located in this  
17 state and that does not discriminate on the basis of race, color or national  
18 origin.  
19 6. "Qualified student" means a resident of this state who:  
20 (a) Is any of the following:  
21 (i) Identified as having a disability under section 504 of the  
22 rehabilitation act of 1973 (29 United States Code section 794).  
23 (ii) Identified by a school district or by an independent third party  
24 pursuant to section 15-2403, subsection ~~I~~ J, as a child with a disability as  
25 defined in section 15-761.  
26 (iii) A child with a disability who is eligible to receive services  
27 from a school district under section 15-763.  
28 (iv) Attending a school or school district that has been assigned a  
29 letter grade of D or F pursuant to section 15-241 or who is currently  
30 eligible to attend kindergarten and who resides within the attendance  
31 boundary of a school that has been assigned a letter grade of D or F pursuant  
32 to section 15-241.  
33 (v) A previous recipient of a scholarship issued pursuant to section  
34 15-891 or this section, **UNLESS THE QUALIFIED STUDENT'S PARENT HAS FORFEITED**  
35 **PARTICIPATION IN THE PROGRAM FOR FAILURE TO COMPLY WITH SECTION 15-2403,**  
36 **SUBSECTION C.**  
37 (vi) A child of a parent who is a member of the armed forces of the  
38 United States and who is on active duty or was killed in the line of duty. A  
39 child who meets the requirements of this item is not subject to subdivision  
40 (b) of this paragraph.  
41 (vii) A child with a guardian who is a member of the armed forces of  
42 the United States and who is on active duty or was killed in the line of  
43 duty. A child who meets the requirements of this item is not subject to  
44 subdivision (b) of this paragraph.

1 (viii) A child who is a ward of the juvenile court and who is residing  
2 with a prospective permanent placement pursuant to section 8-862 and the case  
3 plan is adoption or permanent guardianship.

4 (ix) A child who was a ward of the juvenile court and who achieved  
5 permanency through adoption or permanent guardianship.

6 (x) A child who is the sibling of a **FIRST-TIME** current or previous  
7 empowerment scholarship account recipient.

8 (b) And, except as provided in subdivision (a), items (vi) and (vii)  
9 of this paragraph, who meets any of the following requirements:

10 (i) Attended a governmental primary or secondary school as a full-time  
11 student as defined in section 15-901 for at least the first one hundred days  
12 of the prior fiscal year and who transferred from a governmental primary or  
13 secondary school under a contract to participate in an empowerment  
14 scholarship account.

15 (ii) Previously participated in the empowerment scholarship account  
16 program.

17 (iii) Received a scholarship under section 43-1505 and who continues  
18 to attend a qualified school if the student attended a governmental primary  
19 or secondary school as a full-time student as defined in section 15-901 for  
20 at least ninety days of the prior fiscal year or one full semester prior to  
21 attending a qualified school.

22 (iv) Was eligible for an Arizona scholarship for pupils with  
23 disabilities and received monies from a school tuition organization pursuant  
24 to section 43-1505 or received an Arizona scholarship for pupils with  
25 disabilities but did not receive monies from a school tuition organization  
26 pursuant to section 43-1505 and who continues to attend a qualified school if  
27 the student attended a governmental primary or secondary school as a  
28 full-time student as defined in section 15-901 for at least ninety days of  
29 the prior fiscal year or one full semester prior to attending a qualified  
30 school.

31 (v) Has not previously attended a governmental primary or secondary  
32 school but is currently eligible to enroll in a kindergarten program in a  
33 school district or charter school in this state.

34 (vi) Has not previously attended a governmental primary or secondary  
35 school but is currently eligible to enroll in a program for preschool  
36 children with disabilities in this state **OR ATTENDED A PROGRAM FOR PRESCHOOL  
37 CHILDREN WITH DISABILITIES FOR FEWER THAN ONE HUNDRED DAYS.**

38 7. "Treasurer" means the office of the state treasurer.

39 **8. "VOCATIONAL AND LIFE SKILLS EDUCATION" MEANS PRIVATE VOCATIONAL AND  
40 TECHNICAL PREPARATION PROGRAMS FOR PUPILS IN GRADES NINE THROUGH TWELVE IN  
41 THIS STATE.**

42 Sec. 2. Section 15-2402, Arizona Revised Statutes, is amended to read:  
43 **15-2402. Arizona empowerment scholarship accounts; funds**

44 A. Arizona empowerment scholarship accounts are established to provide  
45 options for the education of students in this state.

1 B. To enroll a qualified student for an empowerment scholarship  
2 account, the parent of the qualified student must sign an agreement to do all  
3 of the following:

4 1. Use a portion of the empowerment scholarship account monies  
5 allocated each quarter to provide an education for the qualified student in  
6 at least the subjects of reading, grammar, mathematics, social studies and  
7 science, unless the empowerment scholarship account is allocated monies  
8 according to a transfer schedule other than quarterly transfers pursuant to  
9 section 15-2403, subsection F.

10 2. Not enroll the qualified student in a school district or charter  
11 school and release the school district from all obligations to educate the  
12 qualified student. This paragraph does not relieve the school district or  
13 charter school that the qualified student previously attended from the  
14 obligation to conduct an evaluation pursuant to section 15-766.

15 3. Not accept a scholarship from a school tuition organization  
16 pursuant to title 43 concurrently with an empowerment scholarship account for  
17 the qualified student in the same year a parent signs the agreement pursuant  
18 to this section.

19 4. Use the money deposited in the qualified student's Arizona  
20 empowerment scholarship account only for the following expenses of the  
21 qualified student:

22 (a) Tuition ~~or~~ AND THE FOLLOWING fees at a qualified school: ~~—~~

23 ~~(b) Textbooks required by a qualified school.~~

24 ~~(c) Educational therapies or services from a licensed or accredited  
25 practitioner or provider, including licensed or accredited paraprofessionals  
26 or educational aides, if the qualified student meets any of the criteria  
27 specified in section 15-2401, paragraph 6, subdivision (a), item (i), (ii) or  
28 (iii) as determined by a school district or by an independent third party  
29 pursuant to section 15-2403, subsection I.~~

30 (i) REGISTRATION FEES.

31 (ii) LIBRARY FEES.

32 (iii) STUDENT TRANSFER FEES.

33 (iv) LABORATORY FEES.

34 (v) LATE ENROLLMENT FEES.

35 (b) TEXTBOOKS REQUIRED BY A QUALIFIED SCHOOL.

36 (c) IF THE QUALIFIED STUDENT MEETS ANY OF THE CRITERIA SPECIFIED IN  
37 SECTION 15-2401, PARAGRAPH 6, SUBDIVISION (a), ITEM (i), (ii) OR (iii) AS  
38 DETERMINED BY A SCHOOL DISTRICT OR BY AN INDEPENDENT THIRD PARTY PURSUANT TO  
39 SECTION 15-2403, SUBSECTION J, THE FOLLOWING ADDITIONAL SERVICES:

40 (i) EDUCATIONAL THERAPIES FROM A LICENSED OR ACCREDITED PRACTITIONER  
41 OR PROVIDER.

42 (ii) A LICENSED OR ACCREDITED PARAPROFESSIONAL OR EDUCATIONAL AIDE.

43 (iii) TUITION FOR VOCATIONAL AND LIFE SKILLS EDUCATION PROVIDED BY AN  
44 INSTRUCTOR WHO IS ACCREDITED BY A STATE REGIONAL OR NATIONAL ACCREDITING  
45 ORGANIZATION.

1 (iv) ASSOCIATED SERVICES THAT INCLUDE EDUCATIONAL AND PSYCHOLOGICAL  
2 EVALUATIONS, ASSISTIVE TECHNOLOGY RENTALS AND BRAILLE TRANSLATION SERVICES.

3 (d) Tutoring or teaching services provided by an individual or  
4 facility accredited by a state, regional or national accrediting  
5 organization.

6 (e) Curriculum.

7 (f) Tuition or fees for a nonpublic online learning program.

8 (g) Fees for a nationally standardized norm-referenced achievement  
9 test, an advanced placement examination or any exams related to college or  
10 university admission.

11 (h) Contributions to a Coverdell education savings account established  
12 pursuant to 26 United States Code section 530 for the benefit of the  
13 qualified student, except that money used for elementary or secondary  
14 education expenses must be for expenses otherwise allowed under this section.

15 (i) Tuition or fees at an eligible postsecondary institution.

16 (j) Textbooks required by an eligible postsecondary institution.

17 (k) Fees for management of the empowerment scholarship account by  
18 firms selected by the treasurer.

19 (l) Services provided by a public school, including individual classes  
20 and extracurricular programs.

21 (m) Insurance or surety bond payments as required by the department of  
22 education.

23 5. Not file an affidavit of intent to homeschool pursuant to section  
24 15-802, subsection B, paragraph 2 or 3.

25 6. Not use monies deposited in the qualified student's account for any  
26 of the following:

27 (a) Computer hardware or other technological devices.

28 (b) Transportation of the pupil.

29 (c) Consumable educational supplies, including paper, pens or markers.

30 C. In exchange for the parent's agreement pursuant to subsection B of  
31 this section, the department shall transfer from the monies that would  
32 otherwise be allocated to a recipient's prior school district, or if the  
33 child is currently eligible to attend kindergarten, the monies that the  
34 department determines would otherwise be allocated to a recipient's expected  
35 school district of attendance, to the treasurer for deposit into an Arizona  
36 empowerment scholarship account an amount that is equivalent to ninety ~~per~~  
37 ~~cent~~ PERCENT of the sum of the base support level and additional assistance  
38 prescribed in sections 15-185 and 15-943 for that particular student if that  
39 student were attending a charter school. The department may retain up to  
40 five ~~per cent~~ PERCENT of the sum of the base support level and additional  
41 assistance prescribed in sections 15-185 and 15-943 for each student with an  
42 empowerment scholarship account for deposit in the department of education  
43 empowerment scholarship account fund established in subsection D of this  
44 section, out of which the department shall transfer ~~one per cent~~ TWO AND  
45 ONE-HALF PERCENT of the sum of the base support level and additional

1 assistance prescribed in sections 15-185 and 15-943 for each student with an  
2 empowerment scholarship account to the state treasurer for deposit in the  
3 state treasurer empowerment scholarship account fund established in  
4 subsection E of this section.

5 D. The department of education empowerment scholarship account fund is  
6 established consisting of monies retained by the department pursuant to  
7 subsection C of this section. The department shall administer the fund.  
8 Monies in the fund are subject to legislative appropriation. Monies in the  
9 fund shall be used for the department's costs in administering empowerment  
10 scholarship accounts under this chapter. Monies in the fund are exempt from  
11 the provisions of section 35-190 relating to lapsing of appropriations. If  
12 the number of empowerment scholarship accounts significantly increases after  
13 fiscal year 2012-2013, the department may request an increase in the amount  
14 appropriated to the fund in any subsequent fiscal year in the budget estimate  
15 submitted pursuant to section 35-113.

16 E. The state treasurer empowerment scholarship account fund is  
17 established consisting of monies transferred by the department to the state  
18 treasurer pursuant to subsection C of this section. The state treasurer  
19 shall administer the fund. Monies in the fund shall be used for the state  
20 treasurer's costs in administering the empowerment scholarship accounts under  
21 this chapter, INCLUDING MANAGING ACCOUNT HOLDER TRANSACTIONS TO ENSURE THAT  
22 THE TRANSACTIONS ARE MANAGED IN ACCORDANCE WITH THIS CHAPTER, OR THE STATE  
23 TREASURER MAY CONTRACT WITH ANOTHER ENTITY TO ENSURE THAT THE TRANSACTIONS  
24 ARE MANAGED IN ACCORDANCE WITH THIS CHAPTER. If the number of empowerment  
25 scholarship accounts significantly increases after fiscal year 2013-2014, the  
26 state treasurer may request an increase in the amount appropriated to the  
27 fund in any subsequent fiscal year in the budget estimate submitted pursuant  
28 to section 35-113. Monies in the fund are subject to legislative  
29 appropriation. Monies in the fund are exempt from the provisions of section  
30 35-190 relating to lapsing of appropriations.

31 F. A parent must renew the qualified student's empowerment scholarship  
32 account on an annual basis. Notwithstanding any changes to the student's  
33 multidisciplinary evaluation team plan, a student who has previously  
34 qualified for an empowerment scholarship account shall remain eligible to  
35 apply for renewal until the student finishes high school.

36 G. A signed agreement under this section constitutes school attendance  
37 required by section 15-802.

38 H. A qualified school or a provider of services purchased pursuant to  
39 subsection B, paragraph 4 of this section may not share, refund or rebate any  
40 Arizona empowerment scholarship account monies with the parent or qualified  
41 student in any manner.

42 I. On the qualified student's graduation from a postsecondary  
43 institution or after any period of four consecutive years after high school  
44 graduation in which the student is not enrolled in an eligible postsecondary

1 institution, the qualified student's Arizona empowerment scholarship account  
2 shall be closed and any remaining funds shall be returned to the state.

3 J. Monies received pursuant to this article do not constitute taxable  
4 income to the parent of the qualified student.

5 Sec. 3. Section 15-2403, Arizona Revised Statutes, is amended to read:  
6 15-2403. Empowerment scholarship accounts; administration;  
7 audit; rules

8 A. The treasurer may contract with private financial management firms  
9 to manage Arizona empowerment scholarship accounts with the supervision of  
10 the treasurer.

11 B. The ~~department~~ TREASURER shall conduct or contract for annual  
12 audits of empowerment scholarship accounts to ensure compliance with section  
13 15-2402, subsection B, paragraph 4. The ~~department~~ TREASURER shall also  
14 conduct or contract for random, quarterly and annual audits of empowerment  
15 scholarship accounts as needed to ensure compliance with section 15-2402,  
16 subsection B, paragraph 4.

17 C. The department may remove any parent or qualified student from  
18 eligibility for an Arizona empowerment scholarship account if the parent or  
19 qualified student fails to comply with the terms of the contract or  
20 applicable laws, rules or orders or knowingly misuses monies or knowingly  
21 fails to comply with the terms of the contract with intent to defraud and  
22 shall notify the treasurer. The department shall notify the treasurer to  
23 suspend the account of a parent or qualified student and shall notify the  
24 parent or qualified student in writing that the account has been suspended  
25 and that no further transactions will be allowed or disbursements made. The  
26 notification shall specify the reason for the suspension and state that the  
27 parent or qualified student has ten days, not including weekends, to respond  
28 and take corrective action. If the parent or qualified student refuses or  
29 fails to contact the department, furnish any information or make any report  
30 that may be required for reinstatement within the ten-day period, the  
31 department may remove the parent or qualified student pursuant to this  
32 subsection.

33 D. A parent may appeal the department's decision pursuant to title 41,  
34 chapter 6, article 10.

35 E. The ~~department~~ TREASURER may refer cases of substantial misuse of  
36 monies to the attorney general for investigation if the ~~department~~ TREASURER  
37 obtains evidence of fraudulent use of an account.

38 F. The department shall make quarterly transfers of the amount  
39 calculated pursuant to section 15-2402, subsection C to the treasurer for  
40 deposit into the empowerment scholarship account of each qualified student,  
41 except the department may make transfers according to another transfer  
42 schedule if the department determines a transfer schedule other than  
43 quarterly transfers is necessary for the operation of the empowerment  
44 scholarship account.

1 G. The department shall ~~determine a period that is~~ ACCEPT APPLICATIONS  
2 between July 1 and May 1 of each year ~~during which it will accept~~  
3 ~~applications~~ for the following fiscal year. THE DEPARTMENT SHALL ISSUE A  
4 CONTRACT TO ELIGIBLE APPLICANTS WITHIN FORTY-FIVE DAYS AFTER RECEIPT OF A  
5 COMPLETED APPLICATION AND ALL REQUIRED DOCUMENTATION, SUBJECT TO THE  
6 ENROLLMENT CAP PRESCRIBED BY LAW AND, FOR NEW APPLICANTS, SUBJECT TO THE  
7 REQUIREMENTS PRESCRIBED IN SECTION 15-2401, PARAGRAPH 6, SUBDIVISION (b),  
8 ITEM (i). On or before May 30 of each year, the department shall furnish to  
9 the joint legislative budget committee an estimate of the amount required to  
10 fund empowerment scholarship accounts for the following fiscal year. The  
11 department shall include in its budget request for the following fiscal year  
12 the amount estimated in section 15-2402, subsection C for each qualified  
13 student.

14 H. THE DEPARTMENT SHALL INCLUDE A DESIGNATION ON EMPOWERMENT  
15 SCHOLARSHIP ACCOUNT APPLICATIONS WHERE QUALIFIED STUDENTS MAY NOTIFY THE  
16 DEPARTMENT WHETHER THE QUALIFIED STUDENT'S SIBLINGS ARE ALSO APPLYING FOR AN  
17 EMPOWERMENT SCHOLARSHIP ACCOUNT IN THE CURRENT YEAR.

18 ~~H-~~ I. The ~~department~~ TREASURER may adopt rules and policies necessary  
19 for the administration of empowerment scholarship accounts, including:

20 1. Policies for conducting or contracting for examinations of the use  
21 of account monies.

22 2. Conducting or contracting for random, quarterly and annual reviews  
23 of accounts.

24 3. Establishing or contracting for the establishment of an online  
25 anonymous fraud reporting service.

26 4. Establishing an anonymous telephone hotline for fraud reporting.

27 5. Policies that require a surety bond or insurance for account  
28 holders.

29 ~~I-~~ J. The department shall contract with an independent third party  
30 for the purposes of determining if a qualified student is eligible to receive  
31 educational therapies or services pursuant to section 15-2402, subsection B,  
32 paragraph 4, subdivision (c).