

State of Arizona  
Senate  
Fiftieth Legislature  
First Regular Session  
2011

# SENATE BILL 1553

AN ACT

AMENDING SECTION 15-1182, ARIZONA REVISED STATUTES; AMENDING TITLE 15, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 19; RELATING TO ARIZONA 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 15-1182, Arizona Revised Statutes, is amended to  
3 read:

4 15-1182. Special education fund; administration

5 A. There is established a special education fund which shall consist  
6 of legislative appropriations made to the fund for purposes of this section  
7 and section 15-1202 **AND CHAPTER 19, ARTICLE 1 OF THIS TITLE**.

8 B. The fund shall be administered by the superintendent of public  
9 instruction for the purposes provided in this article and article 7 of this  
10 chapter **AND CHAPTER 19, ARTICLE I OF THIS TITLE**.

11 C. Each fiscal year the state board of education shall include in its  
12 budget request for assistance to schools a separate line item for the fund.

13 D. The fund shall provide monies for the education of a child who has  
14 been placed in a residential facility by a state placing agency or who  
15 requires a residential special education placement as defined in section  
16 15-761 **OR FOR DEPOSIT INTO AN ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT**  
17 **PURSUANT TO SECTION 15-2402**.

18 E. If a child has been placed in a residential facility by a state  
19 placing agency, the fund shall provide monies for the following types of  
20 vouchers:

21 1. Initial residential education vouchers to fund the educational  
22 costs for any child, whether or not eligible for special education. This  
23 paragraph applies to a child who has been placed in a residential facility  
24 and who has either not received a comprehensive education evaluation as  
25 provided in section 15-766, who has previously received such an evaluation  
26 and was determined to be ineligible for special education services or who is  
27 eligible for special education and for whom necessary procedures for changing  
28 the child's educational placement must be completed. This voucher expires on  
29 the expiration of sixty calendar days or completion of the educational  
30 evaluation or review of special education placement, whichever occurs first.

31 2. Continuing residential education vouchers that fund the educational  
32 costs for any child, whether or not eligible for special education, who  
33 requires placement in a residential facility after the expiration of the  
34 initial education voucher and who is not eligible for a residential special  
35 education voucher.

36 F. When a school district makes a residential special education  
37 placement, the fund shall provide monies to fund the residential special  
38 education placement.

39 G. Monies in the fund are exempt from the provisions of section 35-190  
40 relating to lapsing of appropriations. Any monies left unexpended may be  
41 distributed to school districts by the department of education for the  
42 following purposes:

43 1. To provide educational counseling, training and support services to  
44 a child with a disability in order to maintain the child's educational  
45 placement in the least restrictive environment.



1           6. "TREASURER" MEANS THE OFFICE OF THE STATE TREASURER.  
2           15-2402. Arizona empowerment scholarship accounts  
3           A. ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNTS ARE ESTABLISHED TO PROVIDE  
4           OPTIONS FOR THE EDUCATION OF STUDENTS IN THIS STATE.  
5           B. TO ENROLL A QUALIFIED STUDENT FOR AN EMPOWERMENT SCHOLARSHIP  
6           ACCOUNT, THE PARENT OF THE QUALIFIED STUDENT MUST SIGN AN AGREEMENT TO DO ALL  
7           OF THE FOLLOWING:  
8           1. PROVIDE AN EDUCATION FOR THE QUALIFIED STUDENT IN AT LEAST THE  
9           SUBJECTS OF READING, GRAMMAR, MATHEMATICS, SOCIAL STUDIES AND SCIENCE.  
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.  
13          3. NOT ACCEPT A SCHOLARSHIP FROM A SCHOOL TUITION ORGANIZATION  
14          PURSUANT TO TITLE 43 FOR THE QUALIFIED STUDENT IN THE SAME YEAR A PARENT  
15          SIGNS THE AGREEMENT PURSUANT TO SUBSECTION B OF THIS SECTION.  
16          4. USE THE MONEY DEPOSITED IN THE QUALIFIED STUDENT'S ARIZONA  
17          EMPOWERMENT SCHOLARSHIP ACCOUNT ONLY FOR THE FOLLOWING EXPENSES OF THE  
18          QUALIFIED STUDENT:  
19           (a) TUITION OR FEES AT A QUALIFIED SCHOOL.  
20           (b) TEXTBOOKS REQUIRED BY A QUALIFIED SCHOOL.  
21           (c) EDUCATIONAL THERAPIES OR SERVICES FOR THE QUALIFIED STUDENT FROM A  
22           LICENSED OR ACCREDITED PRACTITIONER OR PROVIDER.  
23           (d) TUTORING SERVICES PROVIDED BY A TUTOR ACCREDITED BY A STATE,  
24           REGIONAL OR NATIONAL ACCREDITING ORGANIZATION.  
25           (e) CURRICULUM.  
26           (f) TUITION OR FEES FOR A NONPUBLIC ONLINE LEARNING PROGRAM.  
27           (g) FEES FOR A NATIONALLY STANDARDIZED NORM-REFERENCED ACHIEVEMENT  
28           TEST, ADVANCED PLACEMENT EXAMINATIONS OR ANY EXAMS RELATED TO COLLEGE OR  
29           UNIVERSITY ADMISSION.  
30           (h) CONTRIBUTIONS TO A QUALIFIED TUITION PROGRAM ESTABLISHED PURSUANT  
31           TO 11 UNITED STATES CODE SECTION 529.  
32           (i) TUITION OR FEES AT AN ELIGIBLE POSTSECONDARY INSTITUTION.  
33           (j) TEXTBOOKS REQUIRED BY AN ELIGIBLE POSTSECONDARY INSTITUTION.  
34           (k) FEES FOR MANAGEMENT OF THE EMPOWERMENT SCHOLARSHIP ACCOUNT BY  
35           FIRMS SELECTED BY THE DEPARTMENT.  
36          C. IN EXCHANGE FOR THE PARENT'S AGREEMENT PURSUANT TO SUBSECTION B OF  
37          THIS SECTION, THE DEPARTMENT SHALL TRANSFER FROM THE SPECIAL EDUCATION FUND  
38          PURSUANT TO SECTION 15-1182 TO THE TREASURER FOR DEPOSIT INTO AN ARIZONA  
39          EMPOWERMENT SCHOLARSHIP ACCOUNT AN AMOUNT THAT IS EQUIVALENT TO NINETY PER  
40          CENT OF THE BASE SUPPORT LEVEL PRESCRIBED IN SECTION 15-943 FOR THAT  
41          PARTICULAR STUDENT.  
42          D. A PARENT MUST RENEW THE QUALIFIED STUDENT'S EMPOWERMENT SCHOLARSHIP  
43          ACCOUNT ON AN ANNUAL BASIS.  
44          E. A SIGNED AGREEMENT UNDER THIS SECTION CONSTITUTES SCHOOL ATTENDANCE  
45          REQUIRED BY SECTION 15-802.

1 F. A QUALIFIED SCHOOL OR A PROVIDER OF SERVICES PURCHASED PURSUANT TO  
2 SUBSECTION B, PARAGRAPH 4 OF THIS SECTION MAY NOT SHARE, REFUND OR REBATE ANY  
3 ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT MONIES WITH THE PARENT OR QUALIFIED  
4 CHILD IN ANY MANNER.

5 G. ON THE QUALIFIED STUDENT'S GRADUATION FROM A POSTSECONDARY  
6 INSTITUTION OR AFTER ANY PERIOD OF FOUR CONSECUTIVE YEARS AFTER HIGH SCHOOL  
7 GRADUATION IN WHICH THE STUDENT IS NOT ENROLLED IN AN ELIGIBLE POSTSECONDARY  
8 INSTITUTION, THE QUALIFIED STUDENT'S ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT  
9 SHALL BE CLOSED AND ANY REMAINING FUNDS SHALL BE RETURNED TO THE STATE.

10 H. MONIES RECEIVED PURSUANT TO THIS ARTICLE DOES NOT CONSTITUTE  
11 TAXABLE INCOME TO THE PARENT OF THE QUALIFYING STUDENT.

12 15-2403. Empowerment scholarship accounts; administration;  
13 audit; rules

14 A. THE TREASURER MAY CONTRACT WITH PRIVATE FINANCIAL MANAGEMENT FIRMS  
15 TO MANAGE ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNTS WITH THE SUPERVISION OF  
16 THE TREASURER.

17 B. THE DEPARTMENT SHALL CONDUCT OR CONTRACT FOR ANNUAL AUDITS OF A  
18 RANDOM SAMPLE OF EMPOWERMENT SCHOLARSHIP ACCOUNTS TO ENSURE COMPLIANCE WITH  
19 SECTION 15-2402, SUBSECTION B, PARAGRAPH 4. THE DEPARTMENT MAY ALSO CONDUCT  
20 OR CONTRACT FOR AUDITS OF EMPOWERMENT SCHOLARSHIP ACCOUNTS AS NEEDED TO  
21 ENSURE COMPLIANCE WITH SECTION 15-2402, SUBSECTION B, PARAGRAPH 4.

22 C. THE DEPARTMENT MAY REMOVE ANY PARENT OR QUALIFIED STUDENT FROM  
23 ELIGIBILITY FOR AN ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT AND SHALL NOTIFY  
24 THE TREASURER. A PARENT MAY APPEAL THE DEPARTMENT'S DECISION PURSUANT TO  
25 TITLE 41, CHAPTER 6, ARTICLE 10.

26 D. THE DEPARTMENT MAY REFER CASES OF SUBSTANTIAL MISUSE OF MONIES TO  
27 THE ATTORNEY GENERAL FOR INVESTIGATION IF THE DEPARTMENT OBTAINS EVIDENCE OF  
28 FRAUDULENT USE OF AN ACCOUNT.

29 E. THE TREASURER MAY DEDUCT UP TO THREE PER CENT OF THE AMOUNT OF  
30 STUDENT STATE AID FROM EACH EMPOWERMENT SCHOLARSHIP ACCOUNT FOR THE COSTS OF  
31 ADMINISTERING EMPOWERMENT SCHOLARSHIP ACCOUNTS UNDER THIS CHAPTER, INCLUDING  
32 COSTS INCURRED BY THE DEPARTMENT.

33 F. THE DEPARTMENT SHALL MAKE QUARTERLY TRANSFERS OF THE AMOUNT  
34 CALCULATED PURSUANT TO SECTION 15-2402, SUBSECTION C TO THE TREASURER FOR  
35 DEPOSIT INTO THE EMPOWERMENT SCHOLARSHIP ACCOUNT OF EACH QUALIFIED STUDENT.

36 G. THE DEPARTMENT MAY ADOPT RULES NECESSARY FOR THE ADMINISTRATION OF  
37 EMPOWERMENT SCHOLARSHIP ACCOUNTS.

38 15-2404. State control over nonpublic schools; prohibition;  
39 application

40 A. THIS CHAPTER DOES NOT PERMIT ANY GOVERNMENT AGENCY TO EXERCISE  
41 CONTROL OR SUPERVISION OVER ANY NONPUBLIC SCHOOL OR HOME SCHOOL.

42 B. A QUALIFIED SCHOOL THAT ACCEPTS A PAYMENT FROM A PARENT PURSUANT TO  
43 THIS CHAPTER IS NOT AN AGENT OF THE STATE OR FEDERAL GOVERNMENT.

1 C. A QUALIFIED SCHOOL SHALL NOT BE REQUIRED TO ALTER ITS CREED,  
2 PRACTICES, ADMISSIONS POLICY OR CURRICULUM IN ORDER TO ACCEPT STUDENTS WHOSE  
3 PARENTS PAY TUITION OR FEES FROM AN EMPOWERMENT SCHOLARSHIP ACCOUNT PURSUANT  
4 TO THIS CHAPTER IN ORDER TO PARTICIPATE AS A QUALIFIED SCHOOL.

5 D. IN ANY LEGAL PROCEEDING CHALLENGING THE APPLICATION OF THIS CHAPTER  
6 TO A QUALIFIED SCHOOL, THE STATE BEARS THE BURDEN OF ESTABLISHING THAT THE  
7 LAW IS NECESSARY AND DOES NOT IMPOSE ANY UNDUE BURDEN ON QUALIFIED SCHOOLS.

8 Sec. 3. Arizona empowerment scholarship accounts; agreements

9 For the 2011 fall semester, the deadline for parents to sign an  
10 agreement with the department is August 1, 2011. For the 2012 spring  
11 semester, the deadline is December 1, 2011. The department has up to thirty  
12 days to process agreements and notify the treasurer of the total number of  
13 qualified students who have properly filled out the agreements for  
14 empowerment scholarship accounts.