AN ACT

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

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 15-2401, Arizona Revised Statutes, is amended to read:

15-2401. Definitions
In this chapter, unless the context otherwise requires:
1. "Annual education plan" means an initial individualized evaluation and subsequent annual reviews that are developed for a qualified student who meets the criteria specified in paragraph 7, subdivision (a), item (i), (ii) or (iii) of this section to determine ongoing annual eligibility through the school year in which the qualified student reaches twenty-two years of age and whether the student may be eligible pursuant to section 36-2981 and should be referred for eligibility determination.
2. "Curriculum" means a complete course of study for content areas or grade levels, including any supplemental materials required by the curriculum, approved by the department.
3. "Department" means the department of education.
4. "Eligible postsecondary institution" means a community college as defined in section 15-1401, a university under the jurisdiction of the Arizona board of regents or an accredited private postsecondary institution.
5. "Parent" means a resident of this state who is the parent or legal guardian of a qualified student.
6. "Qualified school" means a nongovernmental primary or secondary school or a preschool for pupils with disabilities that is located in this state and that does not discriminate on the basis of race, color or national origin.
7. "Qualified student" means a resident of this state who:
   (a) Is any of the following:
   (i) Identified as having a disability under section 504 of the rehabilitation act of 1973 (29 United States Code section 794).
   (ii) Identified by a school district or by an independent third party pursuant to section 15-2403, subsection I as a child with a disability as defined in section 15-731 or 15-761.
   (iii) A child with a disability who is eligible to receive services from a school district under section 15-763.
   (iv) Attending a school or school district that has been assigned a letter grade of D or F pursuant to section 15-241 or who is currently eligible to attend kindergarten and who resides within the attendance boundary of a school that has been assigned a letter grade of D or F pursuant to section 15-241.
   (v) A previous recipient of a scholarship issued pursuant to section 15-891 or this section, unless the qualified student's parent has been removed from eligibility in the program for failure to comply pursuant to section 15-2403, subsection C.
(vi) A child of a parent who is a member of the armed forces of the United States and who is on active duty or was killed in the line of duty. A child who meets the requirements of this item is not subject to subdivision (b) of this paragraph.

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

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

(ix) A child who is the sibling of a current or previous empowerment scholarship account recipient or of an eligible qualified student who accepts the terms of and enrolls in the empowerment scholarship program.

(x) A child who resides within the boundaries of an Indian reservation in this state as determined by the department of education or a tribal government.

(xi) A child of a parent who is legally blind pursuant to section 41-1973, subsection C or IS deaf or hard of hearing pursuant to AS DEFINED IN section 36-1941.

(xii) BEGINNING IN THE 2017-2018 SCHOOL YEAR, A CHILD WHO CURRENTLY ATTENDS OR IS ELIGIBLE TO ATTEND A PUBLIC SCHOOL IN A KINDERGARTEN PROGRAM OR ANY OF GRADES ONE, SIX AND NINE.

(xiii) BEGINNING IN THE 2018-2019 SCHOOL YEAR, A CHILD WHO CURRENTLY ATTENDS OR IS ELIGIBLE TO ATTEND A PUBLIC SCHOOL IN A KINDERGARTEN PROGRAM OR ANY OF GRADES ONE, TWO, SIX, SEVEN, NINE AND TEN.

(xiv) BEGINNING IN THE 2019-2020 SCHOOL YEAR, A CHILD WHO CURRENTLY ATTENDS OR IS ELIGIBLE TO ATTEND A PUBLIC SCHOOL IN A KINDERGARTEN PROGRAM OR ANY OF GRADES ONE THROUGH THREE AND GRADES SIX THROUGH ELEVEN.

(xv) BEGINNING IN THE 2020-2021 SCHOOL YEAR, A CHILD WHO CURRENTLY ATTENDS OR IS ELIGIBLE TO ATTEND A PUBLIC SCHOOL IN A KINDERGARTEN PROGRAM OR ANY OF GRADES ONE THROUGH TWELVE.

(b) And, except as provided in subdivision (a), item (vi) of this paragraph, who meets any of the following requirements:

(i) Attended a governmental primary or secondary school as a full-time student as defined in section 15-901 for at least the first one hundred days of the prior fiscal year and who transferred from a governmental primary or secondary school under a contract to participate in an empowerment scholarship account. First, second and third grade students who are enrolled in Arizona online instruction must receive four hundred hours of logged instruction to be eligible pursuant to this item. Fourth, fifth and sixth grade students who are enrolled in Arizona online instruction must receive five hundred hours of logged instruction to be eligible pursuant to this item. Seventh and eighth grade students who are enrolled in Arizona online instruction must receive five hundred fifty hours of logged instruction to be eligible pursuant to this item. High
school students who are enrolled in Arizona online instruction must receive five hundred hours of logged instruction to be eligible pursuant to this item.

(ii) Previously participated in the empowerment scholarship account program.
(iii) Received a scholarship under section 43-1505 and who continues to attend a qualified school if the student attended a governmental primary or secondary school as a full-time student as defined in section 15-901 for at least ninety days of the prior fiscal year or one full semester prior to attending a qualified school.
(iv) Was eligible for an Arizona scholarship for pupils with disabilities and received monies from a school tuition organization pursuant to section 43-1505 or received an Arizona scholarship for pupils with disabilities but did not receive monies from a school tuition organization pursuant to section 43-1505 and who continues to attend a qualified school if the student attended a governmental primary or secondary school as a full-time student as defined in section 15-901 for at least ninety days of the prior fiscal year or one full semester prior to attending a qualified school.
(v) Has not previously attended a governmental primary or secondary school but is currently eligible to enroll in a kindergarten program in a school district or charter school in this state or attended a program for preschool children with disabilities.
(vi) Has not previously attended a governmental primary or secondary school but is currently eligible to enroll in a program for preschool children with disabilities in this state.

B. "Treasurer" means the office of the state treasurer.

Sec. 2. Section 15-2402, Arizona Revised Statutes, is amended to read:

15-2402. Arizona empowerment scholarship accounts; funds
A. Arizona empowerment scholarship accounts are established to provide options for the education of students in this state.
B. To enroll a qualified student for an empowerment scholarship account, the parent of the qualified student must sign an agreement to do all of the following:
1. Use a portion of the empowerment scholarship account monies allocated annually to provide an education for the qualified student in at least the subjects of reading, grammar, mathematics, social studies and science, unless the empowerment scholarship account is allocated monies according to a transfer schedule other than quarterly transfers pursuant to section 15-2403, subsection F.
2. Not enroll the qualified student in a school district or charter school and release the school district from all obligations to educate the qualified student. This paragraph does not relieve the school district or
charter school that the qualified student previously attended from the
obligation to conduct an evaluation pursuant to section 15-766.
3. Not accept a scholarship from a school tuition organization
pursuant to title 43 concurrently with an empowerment scholarship account
for the qualified student in the same year a parent signs the agreement
pursuant to this section.
4. Use the money deposited in the qualified student's Arizona
empowerment scholarship account only for the following expenses of the
qualified student:
   (a) Tuition or fees at a qualified school.
   (b) Textbooks required by a qualified school.
   (c) If the qualified student meets any of the criteria specified in
section 15-2401, paragraph 6-7, subdivision (a), item (i), (ii) or (iii)
as determined by a school district or by an independent third party
pursuant to section 15-2403, subsection I, the qualified student may use
the following additional services:
      (i) Educational therapies from a licensed or accredited
practitioner or provider.
      (ii) A licensed or accredited paraprofessional or educational aide.
      (iii) Tuition for vocational and life skills education approved by
the department.
      (iv) Associated services that include educational and psychological
evaluations, assistive technology rentals and braille translation services
approved by the department.
   (d) Tutoring or teaching services provided by an individual or
facility accredited by a state, regional or national accrediting
organization.
   (e) Curricula.
   (f) Tuition or fees for a nonpublic online learning program.
   (g) Fees for a nationally standardized norm-referenced achievement
test, an advanced placement examination or any exams related to college or
university admission.
   (h) Contributions to a Coverdell education savings account
established pursuant to 26 United States Code section 530 for the benefit
of the qualified student, except that money used for elementary or
secondary education expenses must be for expenses otherwise allowed under
this section.
   (i) Tuition or fees at an eligible postsecondary institution.
   (j) Textbooks required by an eligible postsecondary institution.
   (k) Fees for management of the empowerment scholarship account.
   (l) Services provided by a public school, including individual
classes and extracurricular programs.
   (m) Insurance or surety bond payments.
   (n) Uniforms purchased from or through a qualified school.
(o) Beginning January 1, 2017, if the qualified student meets the criteria specified in section 15-2401, paragraph 7, subdivision (a), item (i), (ii) or (iii) and if the qualified student is in the second year prior to the final year of a contract executed pursuant to this article, costs associated with an annual education plan conducted by an independent evaluation team. The department shall prescribe minimum qualifications for independent evaluation teams pursuant to this subdivision and factors that teams must use to determine whether the qualified student shall be eligible to continue to receive monies pursuant to this article through the school year in which the qualified student reaches twenty-two years of age. An independent evaluation team that provides an annual education plan pursuant to this subdivision shall submit a written report that summarizes the results of the evaluation to the parent of the qualified student and to the department on or before July 31. The written report submitted by the independent evaluation team is valid for one year. If the department determines that the qualified student meets the eligibility criteria prescribed in the annual education plan, the qualified student is eligible to continue to receive monies pursuant to this article until the qualified student reaches twenty-two years of age, subject to annual review. A parent may appeal the department's decision pursuant to title 41, chapter 6, article 10. As an addendum to a qualified student's final-year contract, the department shall provide the following written information to the parent of the qualified student:

(i) That the qualified student will not be eligible to continue to receive monies pursuant to this article unless the results of an annual education plan conducted pursuant to this subdivision demonstrate that the qualified student meets the eligibility criteria prescribed in the annual education plan.

(ii) That the parent is entitled to obtain an annual education plan pursuant to this subdivision to determine whether the qualified student meets the eligibility criteria prescribed in the annual education plan.

(iii) A list of independent evaluation teams that meet the minimum qualifications prescribed by the department pursuant to this subdivision.

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

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

(a) Computer hardware or other technological devices.

(b) Transportation of the pupil.

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

7. BEGINNING IN THE 2017-2018 SCHOOL YEAR AND EACH YEAR THEREAFTER, ANNUALLY HAVE A QUALIFIED STUDENT WHO IS IN ANY OF GRADES THREE THROUGH TWELVE TAKE ANY NATIONALLY STANDARDIZED NORM-REFERENCED ACHIEVEMENT EXAMINATION, AN ADVANCED PLACEMENT EXAMINATION OR ANY EXAMINATION RELATED
TO COLLEGE OR UNIVERSITY ADMISSIONS THAT ASSESSES READING AND MATHEMATICS. THE EXAMINATION RESULTS SHALL BE REPORTED TO THE PARENT OF THE STUDENT. THIS PARAGRAPH DOES NOT APPLY TO:

(a) A STUDENT WHO IS IDENTIFIED AS HAVING A DISABILITY UNDER SECTION 504 OF THE REHABILITATION ACT OF 1973 (29 UNITED STATES CODE SECTION 794).

(b) A STUDENT WHO IDENTIFIED BY A SCHOOL DISTRICT OR INDEPENDENT THIRD PARTY PURSUANT TO SECTION 15-2403, SUBSECTION I AS A CHILD WITH A DISABILITY AS DEFINED IN SECTION 15-731 OR 15-761.

(c) A CHILD WITH A DISABILITY WHO IS ELIGIBLE TO RECEIVE SERVICES FROM A SCHOOL DISTRICT UNDER SECTION 15-763.

C. In exchange for the parent's agreement pursuant to subsection B of this section, the department shall transfer from the monies that would otherwise be allocated to a recipient's prior school district, or if the child is currently eligible to attend kindergarten, the monies that the department determines would otherwise be allocated to a recipient's expected school district of attendance, to the treasurer for deposit into an Arizona empowerment scholarship account an amount that is equivalent to ninety percent of the sum of the base support level and additional assistance prescribed in sections 15-185 and 15-943 for that particular student if that student were attending a charter school. The department may retain up to five percent of the sum of the base support level and additional assistance prescribed in sections 15-185 and 15-943 for each student with an empowerment scholarship account for deposit in the department of education empowerment scholarship account fund established in subsection D of this section, out of which the department shall transfer one percent of the sum of the base support level and additional assistance prescribed in sections 15-185 and 15-943 for each student with an empowerment scholarship account to the state treasurer for deposit in the state treasurer empowerment scholarship account fund established in subsection E of this section.

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

E. The state treasurer empowerment scholarship account fund is established consisting of monies transferred by the department to the
The state treasurer shall administer the fund. Monies in the fund shall be used for the state treasurer's costs in administering the empowerment scholarship accounts under this chapter. If the number of empowerment scholarship accounts significantly increases after fiscal year 2013-2014, the state treasurer may request an increase in the amount appropriated to the fund in any subsequent fiscal year in the budget estimate submitted pursuant to section 35-113. Monies in the fund are subject to legislative appropriation. Monies in the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

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

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

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

I. On the qualified student's graduation from a postsecondary institution or after any period of four consecutive years after high school graduation in which the student is not enrolled in an eligible postsecondary institution, the qualified student's Arizona empowerment scholarship account shall be closed and any remaining funds shall be returned to the state.

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