



**Bill Number: S.B. 1224**

**Brophy McGee Floor Amendment**

**Reference to: printed bill**

**Amendment drafted by: Leg Council**

## **FLOOR AMENDMENT EXPLANATION**

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- 1. Establishes a process for ADE to close an ESA and return remaining monies to the state upon failure to renew for three academic years.**
- 2. Removes the ability to use ESA monies as contributions to a Coverdell education savings account.**
- 3. Appropriates the following sums in FY 2021 from the state General Fund to ADE's ESA Fund:**
  - a) \$276,000 and 5 full-time equivalent positions (FTEs) for an ESA dedicated call center;**
  - b) \$388,000 and 6 FTEs for ESA case managers; and**
  - c) \$136,00 and 2 FTEs for accounting staff.**
- 4. Appropriates \$150,000 in FY 2021 from the state General Fund to ADE to conduct statewide seminars and trainings for ESA applicants and staff in addition to ESA marketing and community outreach activities.**
- 5. Appropriates \$50,000 in FY 2021 from the state General Fund to the State Board of Education for Attorney General legal services related to appeals.**
- 6. Exempts appropriations from lapsing.**
- 7. Makes technical and conforming changes.**

**Amendment explanation prepared by Julia Paulus**

**2/21/20**

BROPHY MCGEE FLOOR AMENDMENT  
SENATE AMENDMENTS TO S.B. 1224  
(Reference to printed bill)

1 Page 3, after line 19, insert:

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

4 15-2402. Arizona empowerment scholarship accounts; funds

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

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

10 1. Use a portion of the empowerment scholarship account monies  
11 allocated annually to provide an education for the qualified student in at  
12 least the subjects of reading, grammar, mathematics, social studies and  
13 science, unless the empowerment scholarship account is allocated monies  
14 according to a transfer schedule other than quarterly transfers pursuant to  
15 section 15-2403, subsection F.

16 2. Not enroll the qualified student in a school district or charter  
17 school and release the school district from all obligations to educate the  
18 qualified student. This paragraph does not relieve the school district or  
19 charter school that the qualified student previously attended from the  
20 obligation to conduct an evaluation pursuant to section 15-766.

21 3. Not accept a scholarship from a school tuition organization  
22 pursuant to title 43 concurrently with an empowerment scholarship account  
23 for the qualified student in the same year a parent signs the agreement  
24 pursuant to this section.

1           4. Use the money deposited in the qualified student's Arizona  
2 empowerment scholarship account only for the following expenses of the  
3 qualified student:

4           (a) Tuition or fees at a qualified school.

5           (b) Textbooks required by a qualified school.

6           (c) If the qualified student meets any of the criteria specified in  
7 section 15-2401, paragraph ~~6~~ 7, subdivision (a), item (i), (ii) or (iii)  
8 as determined by a school district or by an independent third party  
9 pursuant to section 15-2403, subsection I, the qualified student may use  
10 the following additional services:

11           (i) Educational therapies from a licensed or accredited practitioner  
12 or provider.

13           (ii) A licensed or accredited paraprofessional or educational aide.

14           (iii) Tuition for vocational and life skills education approved by  
15 the department.

16           (iv) Associated services that include educational and psychological  
17 evaluations, assistive technology rentals and braille translation services  
18 approved by the department.

19           (d) Tutoring or teaching services provided by an individual or  
20 facility accredited by a state, regional or national accrediting  
21 organization.

22           (e) Curricula.

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

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

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

32           ~~(i)~~ (h) Tuition or fees at an eligible postsecondary institution.

~~(j)~~ (i) Textbooks required by an eligible postsecondary institution.

~~(k)~~ (j) Fees for management of the empowerment scholarship account.

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

~~(m)~~ (l) Insurance or surety bond payments.

~~(n)~~ (m) Uniforms purchased from or through a qualified school.

~~(o)~~ (n) 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

1 education plan conducted pursuant to this subdivision demonstrate that the  
2 qualified student meets the eligibility criteria prescribed in the annual  
3 education plan.

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

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

9 5. Not file an affidavit of intent to homeschool pursuant to section  
10 15-802, subsection B, paragraph 2 or 3.

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

13 (a) Computer hardware or other technological devices.

14 (b) Transportation of the pupil.

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

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

1 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  
6 is 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  
11 from the provisions of section 35-190 relating to lapsing of  
12 appropriations. If the number of empowerment scholarship accounts  
13 significantly increases after fiscal year 2012-2013, the department may  
14 request an increase in the amount appropriated to the fund in any  
15 subsequent fiscal year in the budget estimate submitted pursuant to section  
16 35-113.

17 E. The state treasurer empowerment scholarship account fund is  
18 established consisting of monies transferred by the department to the state  
19 treasurer pursuant to subsection C of this section. The state treasurer  
20 shall administer the fund. Monies in the fund shall be used for the state  
21 treasurer's costs in administering the empowerment scholarship accounts  
22 under this chapter. If the number of empowerment scholarship accounts  
23 significantly increases after fiscal year 2013-2014, the state treasurer  
24 may request an increase in the amount appropriated to the fund in any  
25 subsequent fiscal year in the budget estimate submitted pursuant to section  
26 35-113. Monies in the fund are subject to legislative appropriation.  
27 Monies in the fund are exempt from the provisions of section 35-190  
28 relating to lapsing of appropriations.

29 F. A parent must renew the qualified student's empowerment  
30 scholarship account on an annual basis.

31 G. Notwithstanding any changes to the student's multidisciplinary  
32 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.

H. IF A PARENT DOES NOT RENEW THE QUALIFIED STUDENT'S ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT FOR A PERIOD OF THREE ACADEMIC YEARS, THE DEPARTMENT SHALL NOTIFY THE PARENT THAT THE QUALIFIED STUDENT'S ACCOUNT WILL BE CLOSED IN SIXTY CALENDAR DAYS. THE NOTIFICATION MUST BE SENT THROUGH CERTIFIED MAIL, EMAIL AND TELEPHONE, IF APPLICABLE. THE PARENT HAS SIXTY CALENDAR DAYS TO RENEW THE QUALIFIED STUDENT'S ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT. IF THE PARENT CHOOSES NOT TO RENEW OR DOES NOT RESPOND IN SIXTY CALENDAR DAYS, THE DEPARTMENT SHALL CLOSE THE ACCOUNT AND ANY REMAINING MONIES SHALL BE RETURNED TO THE STATE.

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

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

Sec. 3. Appropriations: department of education empowerment scholarship account fund; department of education; state board of education; Arizona empowerment scholarship accounts; exemption

A. The following sums are appropriated from the state general fund in fiscal year 2020-2021 to the department of education empowerment scholarship account fund established by section 15-2402, Arizona Revised

1 Statutes, as amended by this act, and are appropriated from the department  
2 of education empowerment scholarship account fund to the department of  
3 education:

4 1. \$276,000 and five FTE positions to establish a dedicated call  
5 center for exclusive use for the Arizona empowerment scholarship account  
6 program at the department of education that works in conjunction with the  
7 exceptional student services division or its successor division.

8 2. \$388,000 and six FTE positions for case managers to review and  
9 approve Arizona empowerment scholarship account applications at the  
10 department of education. In addition to hiring new case managers pursuant  
11 to this paragraph, the department of education shall transition existing  
12 employees who review and approve applications out of their existing roles  
13 to employ a case management approach to serving applicants to the Arizona  
14 empowerment scholarship account program in which an applicant has a main  
15 point of contact.

16 3. \$136,000 and two FTE positions for accounting staff to support  
17 the administrative responsibilities pertaining to a system provided by a  
18 third-party private financial management company.

19 B. The sum of \$150,000 is appropriated from the state general fund  
20 in fiscal year 2020-2021 to the department of education to conduct  
21 statewide seminars and trainings for applicants for Arizona empowerment  
22 scholarship accounts and for staff professional development, marketing and  
23 community outreach activities relating to Arizona empowerment scholarship  
24 accounts, particularly in rural communities.

25 C. The sum of \$100,000 and one FTE position are appropriated from  
26 the state general fund in fiscal year 2020-2021 to the state board of  
27 education to provide administrative support for the rulemaking process and  
28 for the purposes of appeals that are brought to the state board of  
29 education under title 15, chapter 19, Arizona Revised Statutes, as amended  
30 by this act.

31 D. The sum of \$50,000 is appropriated from the state general fund in  
32 fiscal year 2020-2021 to the state board of education for attorney general



1 legal services for the appeals program under title 15, chapter 19, Arizona  
2 Revised Statutes, as amended by this act.

3 E. The appropriations made in this section are exempt from the  
4 provisions of section 35-190, Arizona Revised Statutes, relating to lapsing  
5 of appropriations."

6 Amend title to conform

KATE BROPHY MCGEE

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