

REFERENCE TITLE: Arizona empowerment scholarship accounts; appropriation

State of Arizona  
House of Representatives  
Fifty-fifth Legislature  
Second Regular Session  
2022

## **HB 2853**

Introduced by

Representatives Toma: Barton, Biasiucci, Blackman, Bolick, Bowers, Burges, Carroll, Carter, Chaplik, Cobb, Cook, Diaz, Dunn, Fillmore, Finchem, Grantham, Griffin, Kaiser, Kavanagh, Martinez, Nguyen, Osborne, Payne, Pingerelli, Weninger, Wilmeth (with permission of Committee on Rules)

AN ACT

AMENDING SECTION 15-2401, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 19, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-2401.01; AMENDING SECTIONS 15-2402 AND 15-2403, ARIZONA REVISED STATUTES; APPROPRIATING MONIES; 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 15-2401, Arizona Revised Statutes, is amended to  
3 read:

4 15-2401. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Annual education plan" means an initial individualized  
7 evaluation and subsequent annual reviews that are developed for a  
8 qualified student who meets the criteria specified in paragraph 7,  
9 subdivision (a), item (i), (ii) or (iii) of this section to determine  
10 ongoing annual eligibility through the school year in which the qualified  
11 student reaches twenty-two years of age and whether the student may be  
12 eligible pursuant to section 36-2981 and should be referred for  
13 eligibility determination.

14 2. "Curriculum" means a course of study for content areas or grade  
15 levels, including any supplemental materials required or recommended by  
16 the curriculum, approved by the department.

17 3. "Department" means the department of education.

18 4. "Eligible postsecondary institution" means a community college  
19 as defined in section 15-1401, a university under the jurisdiction of the  
20 Arizona board of regents or an accredited private postsecondary  
21 institution.

22 5. "Parent" means a resident of this state who is the parent,  
23 stepparent or legal guardian of a qualified student.

24 6. "Qualified school" means a nongovernmental primary or secondary  
25 school or a preschool for pupils with disabilities that is located in this  
26 state or, for qualified students who reside within the boundaries of an  
27 Indian reservation in this state, that is located in an adjacent state and  
28 that is within two miles of the border of the state in which the qualified  
29 student resides, and that does not discriminate on the basis of race,  
30 color or national origin.

31 7. "Qualified student" means a resident of this state who:

32 (a) Is any of the following:

33 (i) Identified as having a disability under section 504 of the  
34 rehabilitation act of 1973 (29 United States Code section 794).

35 (ii) Identified by a school district or by an independent third  
36 party pursuant to section 15-2403, subsection ~~I~~ J as a child with a  
37 disability as defined in section 15-731 or 15-761.

38 (iii) A child with a disability who is eligible to receive services  
39 from a school district under section 15-763.

40 (iv) Attending a school or school district that was assigned a  
41 letter grade of D or F pursuant to section 15-241 for the most recent year  
42 in which letter grades were assigned or is currently eligible to attend  
43 kindergarten and resides within the attendance boundary of a school that  
44 was assigned a letter grade of D or F pursuant to section 15-241 for the  
45 most recent year in which letter grades were assigned. A child who meets

1 the requirements of this item and who meets the income eligibility  
2 requirements for free and reduced-price lunches under the national school  
3 lunch and child nutrition acts (42 United States Code sections 1751  
4 through 1793) is not subject to subdivision (b) of this paragraph.

5 (v) A previous recipient of a scholarship issued pursuant to  
6 section 15-891 or this section, unless the qualified student's parent has  
7 been removed from eligibility in the program for failure to comply  
8 pursuant to section 15-2403, subsection C.

9 (vi) A child of a parent who is a member of the armed forces of the  
10 United States and who is on active duty or was killed in the line of duty.  
11 A child who meets the requirements of this item is not subject to  
12 subdivision (b) of this paragraph.

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

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

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

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

25 (xi) A child of a parent who is legally blind or deaf or hard of  
26 hearing as defined in section 36-1941.

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

29 (i) Attended a governmental primary or secondary school as a  
30 full-time student as defined in section 15-901 for at least forty-five  
31 days of the current or prior fiscal year and who transferred from a  
32 governmental primary or secondary school under a contract to participate  
33 in an Arizona empowerment scholarship account. Kindergarten students who  
34 are enrolled in Arizona online instruction must receive ~~two~~ ONE hundred  
35 hours of logged instruction to be eligible pursuant to this item. First,  
36 second and third grade students who are enrolled in Arizona online  
37 instruction must receive ~~four~~ TWO hundred hours of logged instruction to  
38 be eligible pursuant to this item. Fourth, fifth and sixth grade students  
39 who are enrolled in Arizona online instruction must receive ~~five~~ TWO  
40 hundred FIFTY hours of logged instruction to be eligible pursuant to this  
41 item. Seventh and eighth grade students who are enrolled in Arizona  
42 online instruction must receive ~~five~~ TWO hundred ~~fifty~~ SEVENTY-FIVE hours  
43 of logged instruction to be eligible pursuant to this item. High school  
44 students who are enrolled in Arizona online instruction must receive ~~five~~

1 TWO hundred FIFTY hours of logged instruction to be eligible pursuant to  
2 this item.

3 (ii) Previously participated in an Arizona empowerment scholarship  
4 account.

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

10 (iv) Was eligible for an Arizona scholarship for pupils with  
11 disabilities and received monies from a school tuition organization  
12 pursuant to section 43-1505 or received an Arizona scholarship for pupils  
13 with disabilities but did not receive monies from a school tuition  
14 organization pursuant to section 43-1505 and who continues to attend a  
15 qualified school if the student attended a governmental primary or  
16 secondary school as a full-time student as defined in section 15-901 for  
17 at least ninety days of the prior fiscal year or one full semester before  
18 attending a qualified school.

19 (v) ATTENDED A NONPUBLIC SCHOOL FOR PUPILS WITH DISABILITIES IN THE  
20 PRIOR YEAR IF PLACEMENT AT THE SCHOOL WAS APPROVED BY THE DEPARTMENT OF  
21 EDUCATION AND CONTRACTED FOR BY A PUBLIC SCHOOL DISTRICT.

22 ~~(v)~~ (vi) Has not previously attended a governmental primary or  
23 secondary school but is currently eligible to enroll in a kindergarten  
24 program in a school district or charter school in this state or attended a  
25 program for preschool children with disabilities. FOR THE PURPOSES OF  
26 THIS ITEM, A CHILD IS ELIGIBLE TO ENROLL IN A KINDERGARTEN PROGRAM IF THE  
27 CHILD IS AT LEAST FIVE YEARS OF AGE ON JANUARY 1 OF THE CURRENT SCHOOL  
28 YEAR, IS UNDER SEVEN YEARS OF AGE, HAS NOT ALREADY COMPLETED A  
29 KINDERGARTEN PROGRAM AND IS NOT ENROLLED IN GRADE ONE OF A PRIVATE OR  
30 GOVERNMENTAL SCHOOL IN THE CURRENT YEAR.

31 ~~(vi)~~ (vii) Has not previously attended a governmental primary or  
32 secondary school but is currently eligible to enroll in a program for  
33 preschool children with disabilities in this state.

34 8. "Treasurer" means the office of the state treasurer.

35 Sec. 2. Title 15, chapter 19, article 1, Arizona Revised Statutes,  
36 is amended by adding section 15-2401.01, to read:

37 15-2401.01. Definition of qualified student for Arizona  
38 empowerment scholarship accounts; expansion

39 NOTWITHSTANDING SECTION 15-2401, BEGINNING IN THE 2022-2023 SCHOOL  
40 YEAR, IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES, "QUALIFIED  
41 STUDENT" INCLUDES A RESIDENT OF THIS STATE WHO BOTH:

42 1. IS ELIGIBLE TO ENROLL IN A PUBLIC SCHOOL IN THIS STATE IN ANY OF  
43 THE FOLLOWING:

44 (a) A PRESCHOOL PROGRAM FOR CHILDREN WITH DISABILITIES.

45 (b) A KINDERGARTEN PROGRAM.

1 (c) ANY OF GRADES ONE THROUGH TWELVE.  
2 2. DOES NOT OTHERWISE QUALIFY FOR AN ARIZONA EMPOWERMENT  
3 SCHOLARSHIP ACCOUNT PURSUANT TO THIS CHAPTER.

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

6 15-2402. Arizona empowerment scholarship accounts; funds

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

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

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

18 2. Not enroll the qualified student in a school district or charter  
19 school and release the school district from all obligations to educate the  
20 qualified student. This paragraph does not:

21 (a) Relieve the school district or charter school that the  
22 qualified student previously attended from the obligation to conduct an  
23 evaluation pursuant to section 15-766.

24 (b) REQUIRE A QUALIFIED STUDENT TO WITHDRAW FROM A SCHOOL DISTRICT  
25 OR CHARTER SCHOOL BEFORE ENROLLING FOR AN ARIZONA EMPOWERMENT SCHOLARSHIP  
26 ACCOUNT IF THE QUALIFIED STUDENT WITHDRAWS FROM THE SCHOOL DISTRICT OR  
27 CHARTER SCHOOL BEFORE RECEIVING ANY MONIES IN THE QUALIFIED STUDENT'S  
28 ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT.

29 (c) PREVENT A QUALIFIED STUDENT FROM APPLYING IN ADVANCE FOR AN  
30 ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT TO BE FUNDED BEGINNING THE  
31 FOLLOWING SCHOOL YEAR.

32 3. Not accept a scholarship from a school tuition organization  
33 pursuant to title 43 concurrently with an Arizona empowerment scholarship  
34 account for the qualified student in the same year a parent signs the  
35 agreement pursuant to this section.

36 4. Use monies deposited in the qualified student's Arizona  
37 empowerment scholarship account only for the following expenses of the  
38 qualified student:

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

40 (b) Textbooks required by a qualified school.

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

6 (i) Educational therapies from a licensed or accredited  
7 practitioner or provider, including and up to any amount not covered by  
8 insurance if the expense is partially paid by a health insurance policy  
9 for the qualified student.

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

11 (iii) Tuition for vocational and life skills education approved by  
12 the department.

13 (iv) Associated goods and services that include educational and  
14 psychological evaluations, assistive technology rentals and braille  
15 translation goods and services approved by the department.

16 (d) Tutoring or teaching services provided by an individual or  
17 facility accredited by a state, regional or national accrediting  
18 organization.

19 (e) Curricula and supplementary materials.

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

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

24 (h) Tuition or fees at an eligible postsecondary institution.

25 (i) Textbooks required by an eligible postsecondary institution.

26 (j) Fees to manage the Arizona empowerment scholarship account.

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

29 (l) Insurance or surety bond payments.

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

31 (n) If the qualified student meets the criteria specified in  
32 section 15-2401, paragraph 7, subdivision (a), item (i), (ii) or (iii) and  
33 if the qualified student is in the second year prior to the final year of  
34 a contract executed pursuant to this article, costs associated with an  
35 annual education plan conducted by an independent evaluation team. The  
36 department shall prescribe minimum qualifications for independent  
37 evaluation teams pursuant to this subdivision and factors that teams must  
38 use to determine whether the qualified student shall be eligible to  
39 continue to receive monies pursuant to this article through the school  
40 year in which the qualified student reaches twenty-two years of age. An  
41 independent evaluation team that provides an annual education plan  
42 pursuant to this subdivision shall submit a written report that summarizes  
43 the results of the evaluation to the parent of the qualified student and  
44 to the department on or before July 31. The written report submitted by  
45 the independent evaluation team is valid for one year. If the department

1 determines that the qualified student meets the eligibility criteria  
2 prescribed in the annual education plan, the qualified student is eligible  
3 to continue to receive monies pursuant to this article until the qualified  
4 student reaches twenty-two years of age, subject to annual review. A  
5 parent may appeal the department's decision pursuant to title 41, chapter  
6 6, article 10. As an addendum to a qualified student's final-year  
7 contract, the department shall provide the following written information  
8 to the parent of the qualified student:

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

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

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

19 (o) PUBLIC TRANSPORTATION SERVICES IN THIS STATE, INCLUDING A  
20 COMMUTER PASS FOR THE QUALIFIED STUDENT, OR TRANSPORTATION NETWORK  
21 SERVICES AS DEFINED IN SECTION 28-9551 BETWEEN THE QUALIFIED STUDENT'S  
22 RESIDENCE AND A QUALIFIED SCHOOL IN WHICH THE QUALIFIED STUDENT IS  
23 ENROLLED.

24 (p) COMPUTER HARDWARE AND TECHNOLOGICAL DEVICES PRIMARILY USED FOR  
25 AN EDUCATIONAL PURPOSE. FOR THE PURPOSES OF THIS SUBDIVISION, "COMPUTER  
26 HARDWARE AND TECHNOLOGICAL DEVICES":

27 (i) INCLUDES CALCULATORS, PERSONAL COMPUTERS, LAPTOPS, TABLET  
28 DEVICES, MICROSCOPES, TELESCOPES AND PRINTERS.

29 (ii) DOES NOT INCLUDE ENTERTAINMENT AND OTHER PRIMARILY  
30 NONEDUCATIONAL DEVICES, INCLUDING TELEVISIONS, TELEPHONES, VIDEO GAME  
31 CONSOLES AND ACCESSORIES, AND HOME THEATRE AND AUDIO EQUIPMENT.

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

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

36 (a) Computer hardware or other technological devices, except as  
37 otherwise allowed under paragraph 4, subdivision (c) of this subsection.

38 (b) Transportation of the pupil, EXCEPT FOR TRANSPORTATION SERVICES  
39 DESCRIBED IN PARAGRAPH 4, SUBDIVISION (o) OF THIS SUBSECTION.

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

42 7. BEGINNING IN THE 2022-2023 SCHOOL YEAR AND EACH YEAR THEREAFTER,  
43 ANNUALLY HAVE A QUALIFIED STUDENT AS DEFINED IN SECTION 15-2401.01 WHO  
44 PAYS TUITION AS A FULL-TIME STUDENT AT A QUALIFIED SCHOOL AND WHO IS IN  
45 ANY OF GRADES THREE THROUGH TWELVE TAKE ANY NATIONALLY STANDARDIZED

1 NORM-REFERENCED ACHIEVEMENT EXAMINATION, THE STATEWIDE ASSESSMENT PURSUANT  
2 TO SECTION 15-741 OR ANY EXAMINATION RELATED TO COLLEGE OR UNIVERSITY  
3 ADMISSIONS THAT ASSESSES READING AND MATHEMATICS. A QUALIFIED STUDENT MAY  
4 MEET THE REQUIREMENTS OF THIS PARAGRAPH BY TAKING AN EXAMINATION THAT IS  
5 CHOSEN AND ADMINISTERED BY A QUALIFIED SCHOOL, OR THE STUDENT'S PARENT MAY  
6 CHOOSE A SEPARATE EXAMINATION PURSUANT TO THIS PARAGRAPH THAT IS  
7 ADMINISTERED OUTSIDE OF THE QUALIFIED SCHOOL. THE EXAMINATION RESULTS  
8 SHALL BE REPORTED TO THE STUDENT'S PARENT. THIS PARAGRAPH DOES NOT APPLY  
9 TO:

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

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

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

18 (d) A QUALIFIED STUDENT AS DEFINED IN SECTION 15-2401.

19 C. In exchange for the parent's agreement pursuant to subsection B  
20 of this section, the department shall transfer from the monies that would  
21 otherwise be allocated to a recipient's prior school district, or if the  
22 child is currently eligible to attend A PRESCHOOL PROGRAM FOR CHILDREN  
23 WITH DISABILITIES, A kindergarten PROGRAM OR ANY OF GRADES ONE THROUGH  
24 TWELVE, the monies that the department determines would otherwise be  
25 allocated to a recipient's expected school district of attendance, to the  
26 treasurer for deposit into an Arizona empowerment scholarship account an  
27 amount that is equivalent to ninety percent of the sum of the base support  
28 level and additional assistance prescribed in sections 15-185 and 15-943  
29 for that particular student if that student were attending a charter  
30 school.

31 D. The department of education empowerment scholarship account fund  
32 is established consisting of monies appropriated by the legislature. The  
33 department shall administer the fund. Monies in the fund are subject to  
34 legislative appropriation. Monies in the fund shall be used for the  
35 department's costs in administering Arizona empowerment scholarship  
36 accounts under this chapter. Monies in the fund are exempt from the  
37 provisions of section 35-190 relating to lapsing of appropriations. If  
38 the number of Arizona empowerment scholarship accounts significantly  
39 increases after fiscal year 2020-2021, the department may request an  
40 increase in the amount appropriated to the fund in any subsequent fiscal  
41 year in the budget estimate submitted pursuant to section 35-113. The  
42 department shall list monies in the fund as a separate line item in its  
43 budget estimate.



1 E. The state treasurer empowerment scholarship account fund is  
2 established consisting of monies appropriated by the legislature. The  
3 state treasurer shall administer the fund. Monies in the fund shall be  
4 used for the state treasurer's costs in administering the Arizona  
5 empowerment scholarship accounts under this chapter. If the number of  
6 Arizona empowerment scholarship accounts significantly increases after  
7 fiscal year 2020-2021, the state treasurer may request an increase in the  
8 amount appropriated to the fund in any subsequent fiscal year in the  
9 budget estimate submitted pursuant to section 35-113. Monies in the fund  
10 are subject to legislative appropriation. Monies in the fund are exempt  
11 from the provisions of section 35-190 relating to lapsing of  
12 appropriations. The state treasurer shall list monies in the fund as a  
13 separate line item in its budget estimate.

14 F. A parent must renew the qualified student's Arizona empowerment  
15 scholarship account on an annual basis.

16 G. Notwithstanding any changes to the student's multidisciplinary  
17 evaluation team plan, a student who has previously qualified for an  
18 Arizona empowerment scholarship account remains eligible to apply for  
19 renewal until the student finishes high school.

20 H. If a parent does not renew the qualified student's Arizona  
21 empowerment scholarship account for a period of three academic years, the  
22 department shall notify the parent that the qualified student's account  
23 will be closed in sixty calendar days. The notification must be sent  
24 through certified mail, email and telephone, if applicable. The parent  
25 has sixty calendar days to renew the qualified student's Arizona  
26 empowerment scholarship account. If the parent chooses not to renew or  
27 does not respond in sixty calendar days, the department shall close the  
28 account and any remaining monies shall be returned to the state.

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

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

35 K. Notwithstanding subsection H of this section, on the qualified  
36 student's graduation from a postsecondary institution or after any period  
37 of four consecutive years after high school graduation in which the  
38 student is not enrolled in an eligible postsecondary institution, but not  
39 before this time as long as the account holder continues using a portion  
40 of account monies for eligible expenses each year and is in good standing,  
41 the qualified student's Arizona empowerment scholarship account shall be  
42 closed and any remaining monies shall be returned to the state.

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

1 M. NOTWITHSTANDING SECTION 15-2404, A QUALIFIED SCHOOL THAT ENROLLS  
2 FIFTY OR MORE QUALIFIED STUDENTS AS DEFINED IN SECTION 15-2401.01 SHALL  
3 ANNUALLY MAKE AVAILABLE TO THE PARENTS OF AN ENROLLED OR PROSPECTIVE  
4 QUALIFIED STUDENT AS DEFINED IN SECTION 15-2401.01 THE AGGREGATE TEST  
5 SCORES OF EITHER ALL STUDENTS ENROLLED IN THE QUALIFIED SCHOOL OR ALL  
6 QUALIFIED STUDENTS AS DEFINED IN SECTION 15-2401.01 WHO ARE ENROLLED IN  
7 THE QUALIFIED SCHOOL ON ALL OF THE FOLLOWING EXAMINATIONS AND ASSESSMENTS  
8 BY SCHOOL SITE AND GRADE LEVEL:

9 1. ANY NATIONALLY STANDARDIZED NORM-REFERENCED ACHIEVEMENT  
10 EXAMINATION.

11 2. THE STATEWIDE ASSESSMENT PURSUANT TO SECTION 15-741.

12 3. ANY EXAMINATION RELATED TO COLLEGE OR UNIVERSITY ADMISSIONS THAT  
13 ASSESSES READING AND MATHEMATICS.

14 N. SUBSECTION B, PARAGRAPH 4, SUBDIVISIONS (c) AND (n) OF THIS  
15 SECTION APPLY TO ANY PERSON WHO BOTH:

16 1. IS A QUALIFIED STUDENT AS DEFINED IN SECTION 15-2401 OR  
17 15-2401.01.

18 2. MEETS ANY OF THE CRITERIA SPECIFIED IN SECTION 15-2401,  
19 PARAGRAPH 7, SUBDIVISION (a), ITEM (i), (ii) OR (iii).

20 Sec. 4. Section 15-2403, Arizona Revised Statutes, is amended to  
21 read:

22 15-2403. Arizona empowerment scholarship accounts;  
23 administration; appeals; audit; rules; policy  
24 handbook

25 A. The treasurer may contract with private financial management  
26 firms to manage Arizona empowerment scholarship accounts.

27 B. The department shall conduct or contract for annual audits of  
28 Arizona empowerment scholarship accounts to ensure compliance with section  
29 15-2402, subsection B, paragraph 4. The department shall also conduct or  
30 contract for random, quarterly and annual audits of Arizona empowerment  
31 scholarship accounts as needed to ensure compliance with section 15-2402,  
32 subsection B, paragraph 4.

33 C. The department may remove any parent or qualified student from  
34 eligibility for an Arizona empowerment scholarship account if the parent  
35 or qualified student fails to comply with the terms of the contract or  
36 applicable laws, rules or orders or knowingly misuses monies or knowingly  
37 fails to comply with the terms of the contract with intent to defraud and  
38 shall notify the treasurer. The department shall notify the treasurer to  
39 suspend the account of a parent or qualified student and shall notify the  
40 parent or qualified student in writing that the account has been suspended  
41 and that no further transactions will be allowed or disbursements made.  
42 The notification shall specify the reason for the suspension and state  
43 that the parent or qualified student has ~~ten~~ FIFTEEN days, not including  
44 weekends, to respond and take corrective action. If the parent or  
45 qualified student refuses or fails to contact the department, furnish any

1 information or make any report that may be required for reinstatement  
2 within the ~~ten-day~~ FIFTEEN-DAY period, the department may remove the  
3 parent or qualified student pursuant to this subsection.

4 D. A parent may appeal to the state board of education any  
5 administrative decision the department makes pursuant to this article,  
6 including determinations of allowable expenses, removal from the program  
7 or enrollment eligibility. The department shall notify the parent in  
8 writing that the parent may appeal any administrative decision under this  
9 article and the process by which the parent may appeal at the same time  
10 the department notifies the parent of an administrative decision under  
11 this article. The state board of education shall establish an appeals  
12 process, and the department shall post this information on the  
13 department's website in the same location as the policy handbook developed  
14 pursuant to subsection ~~J~~ K of this section.

15 E. A PARENT MAY REPRESENT HIMSELF OR HERSELF OR DESIGNATE A  
16 REPRESENTATIVE, NOT NECESSARILY AN ATTORNEY, BEFORE ANY APPEALS HEARING  
17 HELD PURSUANT TO THIS SECTION. ANY SUCH DESIGNATED REPRESENTATIVE WHO IS  
18 NOT AN ATTORNEY ADMITTED TO PRACTICE MAY NOT CHARGE FOR ANY SERVICES  
19 RENDERED IN CONNECTION WITH SUCH A HEARING. THE FACT THAT A  
20 REPRESENTATIVE PARTICIPATED IN THE HEARING OR ASSISTED THE ACCOUNT HOLDER  
21 IS NOT GROUNDS FOR REVERSING ANY ADMINISTRATIVE DECISION OR ORDER IF THE  
22 EVIDENCE SUPPORTING THE DECISION OR ORDER IS SUBSTANTIAL, RELIABLE AND  
23 PROBATIVE.

24 ~~F.~~ F. The state board of education may refer cases of substantial  
25 misuse of monies to the attorney general for the purpose of collection or  
26 for the purpose of a criminal investigation if the state board of  
27 education obtains evidence of fraudulent use of an account.

28 ~~F.~~ G. The department shall make quarterly transfers of the amount  
29 calculated pursuant to section 15-2402, subsection C to the treasurer for  
30 deposit in the Arizona empowerment scholarship account of each qualified  
31 student, except the department may make transfers according to another  
32 transfer schedule if the department determines a transfer schedule other  
33 than quarterly transfers is necessary to operate the Arizona empowerment  
34 scholarship account.

35 ~~G.~~ H. The department shall accept applications between July 1 and  
36 June 30 of each year. The department shall enroll and issue an award  
37 letter to eligible applicants within thirty days after receipt of a  
38 completed application and all required documentation. On or before May 30  
39 of each year, the department shall furnish to the joint legislative budget  
40 committee an estimate of the amount required to fund Arizona empowerment  
41 scholarship accounts for the following fiscal year. The department shall  
42 include in its budget request for the following fiscal year the amount  
43 estimated pursuant to section 15-2402, subsection C for each qualified  
44 student.

1           ~~H.~~ I. The state board of education may adopt rules and policies  
2 necessary to administer Arizona empowerment scholarship accounts,  
3 including rules and policies:

4           1. For establishing an appeals process pursuant to subsection D of  
5 this section.

6           2. For conducting or contracting for examinations of the use of  
7 account monies.

8           3. For conducting or contracting for random, quarterly and annual  
9 reviews of accounts.

10          4. For establishing or contracting for the establishment of an  
11 online anonymous fraud reporting service.

12          5. For establishing an anonymous telephone hotline for fraud  
13 reporting.

14          6. That require a surety bond or insurance for account holders.

15           ~~I.~~ J. The department shall contract with an independent third  
16 party for the purposes of determining whether a qualified student is  
17 eligible to receive educational therapies or services pursuant to section  
18 15-2402, subsection B, paragraph 4, subdivision (c). IF DURING ANY PERIOD  
19 ON OR AFTER JANUARY 1, 2023 THE DEPARTMENT FAILS TO ENSURE THAT A CONTRACT  
20 WITH AN INDEPENDENT THIRD PARTY IS IN EFFECT, DURING THAT PERIOD:

21           1. THE COUNTY SCHOOL SUPERINTENDENT OF EACH COUNTY MAY APPROVE A  
22 LIST OF INDEPENDENT THIRD PARTIES WITHIN THE COUNTY WHOSE EVALUATION MAY  
23 BE USED TO DETERMINE WHETHER A STUDENT WHO RESIDES WITHIN THE COUNTY IS  
24 ELIGIBLE TO RECEIVE EDUCATIONAL THERAPIES OR SERVICES PURSUANT TO SECTION  
25 15-2402, SUBSECTION B, PARAGRAPH 4, SUBDIVISION (c).

26           2. IF THE COUNTY SCHOOL SUPERINTENDENT OF A COUNTY DOES NOT PROVIDE  
27 A LIST OF APPROVED INDEPENDENT THIRD PARTIES WITHIN NINETY DAYS AFTER THE  
28 BEGINNING OF ANY PERIOD DURING WHICH THE DEPARTMENT DOES NOT HAVE A  
29 CONTRACT WITH AN INDEPENDENT THIRD PARTY IN EFFECT AS DESCRIBED IN THIS  
30 SUBSECTION, THE PARENT OF A STUDENT WHO RESIDES WITHIN THE COUNTY HAS THE  
31 RIGHT TO OBTAIN AN INDEPENDENT EDUCATIONAL EVALUATION FROM A QUALIFIED  
32 EXAMINER TO DETERMINE WHETHER THE STUDENT IS ELIGIBLE TO RECEIVE  
33 EDUCATIONAL THERAPIES OR SERVICES PURSUANT TO SECTION 15-2402, SUBSECTION  
34 B, PARAGRAPH 4, SUBDIVISION (c). THE EXPENSE FOR AN EDUCATIONAL  
35 EVALUATION UNDERTAKEN PURSUANT TO THIS PARAGRAPH SHALL BE PROVIDED BY THE  
36 SCHOOL DISTRICT WITHIN WHICH THE STUDENT RESIDES AND THAT SERVES THE GRADE  
37 LEVEL OF THE STUDENT. FOR THE PURPOSES OF THIS PARAGRAPH, "QUALIFIED  
38 EXAMINER" MEANS A LICENSED PHYSICIAN, PSYCHIATRIST OR PSYCHOLOGIST.

39           ~~J.~~ K. On or before July 1 of each year, the department shall  
40 develop an applicant and participant handbook that includes information  
41 relating to policies and processes of Arizona empowerment scholarship  
42 accounts. The policy handbook shall comply with the rules adopted by the  
43 state board of education pursuant to this section. The department shall  
44 post the handbook on its website.

1           ~~K.~~ L. Except for cases in which the attorney general determines  
2 that a parent or account holder has committed fraud, any expenditure from  
3 an Arizona empowerment scholarship account for a purchase that is deemed  
4 ineligible pursuant to section 15-2402 and that is subsequently repaid by  
5 the parent or account holder shall be credited back to the Arizona  
6 empowerment scholarship account balance within thirty days after the  
7 receipt of payment.

8           ~~L.~~ M. If, in response to an appeal of an administrative decision  
9 made by the department, the state board of education issues a stay of an  
10 Arizona empowerment scholarship account suspension pursuant to rules  
11 adopted by the board, the department may not withhold funding or contract  
12 renewal for the account holder on account of the appealed administrative  
13 decision during the stay unless directed by the board to do so.

14           Sec. 5. Appropriation; department of education; Arizona  
15                   empowerment scholarship accounts

16           In addition to any other appropriations made in fiscal year  
17 2022-2023 to the department of education, the sum of \$2,200,000 and  
18 twenty-six FTE positions are appropriated from the state general fund in  
19 fiscal year 2022-2023 to the department of education for the purposes of  
20 administering Arizona empowerment scholarship accounts under title 15,  
21 chapter 19, Arizona Revised Statutes.

22           Sec. 6. Retroactivity

23           This act applies retroactively to from and after June 30, 2022.