

REFERENCE TITLE: ESAs; STOs; student empowerment fund

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SB 1657

Introduced by
Senators Boyer: Gray, Kerr, Mesnard, Shope

AN ACT

AMENDING SECTIONS 15-2401, 15-2402 AND 15-2403, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 19, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-2405; AMENDING SECTIONS 42-5029.02, 43-222, 43-401 AND 43-1089, ARIZONA REVISED STATUTES; REPEALING SECTION 43-1089.03, ARIZONA REVISED STATUTES; AMENDING SECTIONS 43-1184, 43-1501, 43-1502, 43-1503, 43-1504, 43-1505, 43-1601, 43-1602, 43-1603 AND 43-1604, ARIZONA REVISED STATUTES; RELATING TO EDUCATION.

(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 **OR IDENTIFIED AS HAVING**
38 **A DISABILITY BY A PUBLIC SCHOOL SYSTEM IN ANOTHER STATE.**

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

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

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

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

10 (vi) A child of a parent who is a member of the armed forces of the
11 United States and who is on active duty or was killed in the line of duty
12 **OR WHO IS A VETERAN OF THE ARMED FORCES OF THE UNITED STATES**. A child who
13 meets the requirements of this item is not subject to subdivision (b) of
14 this paragraph.

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

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

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

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

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

29 (xii) **A CHILD WHO MEETS THE INCOME ELIGIBILITY REQUIREMENTS UNDER**
30 **THE NATIONAL SCHOOL LUNCH AND CHILD NUTRITION ACTS (42 UNITED STATES CODE**
31 **SECTIONS 1751 THROUGH 1793) FOR FREE OR REDUCED-PRICE LUNCHES, OR AN**
32 **EQUIVALENT MEASURE RECOGNIZED FOR PARTICIPATING IN THE FEDERAL FREE AND**
33 **REDUCED-PRICE LUNCH PROGRAM AND OTHER SCHOOL PROGRAMS DEPENDENT ON A**
34 **POVERTY MEASURE, INCLUDING AN INCOMING KINDERGARTENER OR ANY OTHER STUDENT**
35 **WHO MEETS THE ELIGIBILITY REQUIREMENTS ESTABLISHED UNDER THE NATIONAL**
36 **SCHOOL LUNCH AND CHILD NUTRITION ACTS (42 UNITED STATES CODE SECTIONS 1751**
37 **THROUGH 1793) FOR FREE OR REDUCED-PRICE LUNCHES, OR AN EQUIVALENT MEASURE**
38 **RECOGNIZED FOR PARTICIPATING IN THE FEDERAL FREE AND REDUCED-PRICE LUNCH**
39 **PROGRAM AND OTHER SCHOOL PROGRAMS DEPENDENT ON A POVERTY MEASURE.**

40 (xiii) **A CHILD WHOSE HOUSEHOLD RECEIVES BENEFITS UNDER THE**
41 **SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM ESTABLISHED BY THE FOOD AND**
42 **NUTRITION ACT OF 2008 (P.L. 88-525; 78 STAT. 703; 7 UNITED STATES CODE**
43 **SECTIONS 2011 THROUGH 2036d), TEMPORARY ASSISTANCE FOR NEEDY FAMILIES**
44 **PURSUANT TO SECTION 46-292 OR SECTION 8 PUBLIC HOUSING ASSISTANCE.**

1 (xiv) A CHILD WHO RECEIVES TARGETED ASSISTANCE SERVICES OR WHO
2 RESIDES WITHIN THE ATTENDANCE BOUNDARY OF A SCHOOL THAT QUALIFIES FOR
3 SCHOOLWIDE TITLE I PROGRAM FUNDING FOR LOW-INCOME STUDENTS PURSUANT TO
4 TITLE I, PART A, SUBPART 1, SECTION 1114 OR 1115 OF THE ELEMENTARY AND
5 SECONDARY EDUCATION ACT OF 1965 (P.L. 89-10; 79 STAT. 27), AS AMENDED BY
6 THE EVERY STUDENT SUCCEEDS ACT (P.L. 114-95; 129 STAT. 1802), OR ITS
7 SUCCESSOR LEGISLATION, AND WHO ATTENDS THE SCHOOL OR IS ELIGIBLE TO ATTEND
8 A KINDERGARTEN PROGRAM AT THE SCHOOL.

9 (xv) A CHILD WHO PARTICIPATES IN OR PREVIOUSLY PARTICIPATED IN THE
10 EDUCATIONAL RECOVERY BENEFIT PROGRAM, THE OPEN FOR LEARNING RECOVERY
11 BENEFIT PROGRAM OR ANY SUCCESSOR GRANT PROGRAM ESTABLISHED BY THIS STATE
12 THAT PROVIDES EDUCATIONAL SERVICES TO STUDENTS ATTENDING A PRIMARY OR
13 SECONDARY SCHOOL IN A SCHOOL DISTRICT THAT CEASES TO PROVIDE IN-PERSON
14 INSTRUCTION DURING A SCHOOL YEAR OR IMPLEMENTS ANY STUDENT MANDATE IN
15 VIOLATION OF STATE LAW.

16 (xvi) A CHILD WHO RESIDES WITHIN THE ATTENDANCE BOUNDARY OF A
17 SCHOOL DISTRICT WHOSE GOVERNING BOARD SUBMITTED A PLAN WITHIN THE
18 PRECEDING TWO YEARS TO THE SCHOOL FACILITIES OVERSIGHT BOARD PURSUANT TO
19 SECTION 41-5741 REQUESTING MONIES FOR NEW CONSTRUCTION OR AN ADDITION TO
20 AN EXISTING SCHOOL DUE TO ENROLLMENT PROJECTIONS EXCEEDING EXISTING
21 CAPACITY ACCORDING TO THE BUILDING ADEQUACY STANDARDS PRESCRIBED IN
22 SECTION 41-5711.

23 (xvii) A CHILD OF A PARENT WHO IS A FIRST RESPONDER. FOR THE
24 PURPOSES OF THIS ITEM, "FIRST RESPONDER" MEANS A PEACE OFFICER, A
25 FIREFIGHTER OF A CITY, TOWN, FIRE DISTRICT OR VOLUNTEER FIRE DEPARTMENT OR
26 AN EMERGENCY MEDICAL TECHNICIAN OR PARAMEDIC.

27 (xviii) A CHILD OF A HEALTH PROFESSIONAL AS DEFINED IN SECTION
28 32-3201 WHO IS EMPLOYED FULL TIME AND WHO PROVIDES DIRECT PATIENT CARE.

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

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

1 students who are enrolled in Arizona online instruction must receive ~~five~~
2 ~~TWO~~ hundred ~~FIFTY~~ hours of logged instruction to be eligible pursuant to
3 this item.

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

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

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

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

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

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

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

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

38 15-2402. Arizona empowerment scholarship accounts; funds

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

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

44 1. Use a portion of the Arizona empowerment scholarship account
45 monies allocated annually to provide an education for the qualified

1 student in at least the subjects of reading, grammar, mathematics, social
2 studies and science, unless the Arizona empowerment scholarship account is
3 allocated monies according to a transfer schedule other than quarterly
4 transfers pursuant to section 15-2403, subsection ~~F~~ G.

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

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

11 (b) REQUIRE A QUALIFIED STUDENT TO WITHDRAW FROM A SCHOOL DISTRICT
12 OR CHARTER SCHOOL BEFORE ENROLLING FOR AN ARIZONA EMPOWERMENT SCHOLARSHIP
13 ACCOUNT IF THE QUALIFIED STUDENT WITHDRAWS FROM THE SCHOOL DISTRICT OR
14 CHARTER SCHOOL BEFORE RECEIVING ANY MONIES IN THE QUALIFIED STUDENT'S
15 ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT.

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

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

23 4. Use monies deposited in the qualified student's Arizona
24 empowerment scholarship account only for the following expenses of the
25 qualified student:

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

27 (b) Textbooks required by a qualified school.

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

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

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

38 (iii) Tuition for vocational and life skills education approved by
39 the department.

40 (iv) Associated goods and services that include educational and
41 psychological evaluations, assistive technology rentals and braille
42 translation goods and services approved by the department.

43 (d) Tutoring or teaching services provided by an individual or
44 facility accredited by a state, regional or national accrediting
45 organization.

- (e) Curricula and supplementary materials.
- (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) Tuition or fees at an eligible postsecondary institution.
- (i) Textbooks required by an eligible postsecondary institution.
- (j) Fees to manage the Arizona empowerment scholarship account.
- (k) Services provided by a public school, including individual classes and extracurricular programs.
- (l) Insurance or surety bond payments.
- (m) Uniforms purchased from or through a qualified school.
- (n) 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.

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

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

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

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

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, except as otherwise allowed under paragraph 4, subdivision (c) OR (p) of this subsection.

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

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

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.

D. A CHILD WHO PARTICIPATES IN AN ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT CONTINUES TO BE ENTITLED TO AN EQUITABLE SHARE OF THE FUNDING THAT WOULD OTHERWISE BE ALLOCATED TO A CHARTER SCHOOL OR SCHOOL DISTRICT FOR THAT CHILD FROM THE CLASSROOM SITE FUND ESTABLISHED BY SECTION 15-977. TO ENSURE THIS EQUITY, AND INrecognition OF THE FACT THAT A CHILD'S PRIMARY INSTRUCTION MAY TAKE PLACE IN A VARIETY OF SETTINGS:

1. NOTWITHSTANDING ANY OTHER LAW, A CHILD WHO IS PARTICIPATING IN AN ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT SHALL BE INCLUDED IN THE ESTIMATED STATEWIDE WEIGHTED STUDENT COUNT FOR THE PURPOSES OF CALCULATING THE PER PUPIL AMOUNT FROM THE CLASSROOM SITE FUND PURSUANT TO SECTION

1 15-977, SUBSECTION G, PARAGRAPH 1 AS LONG AS THAT STUDENT CONTINUES TO
2 PARTICIPATE IN AN ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT.

3 2. IN ADDITION TO ANY AMOUNTS TRANSFERRED FROM THE CLASSROOM SITE
4 FUND ESTABLISHED BY SECTION 15-977 TO A SCHOOL DISTRICT OR CHARTER SCHOOL,
5 THE DEPARTMENT SHALL ANNUALLY TRANSFER FROM THE CLASSROOM SITE FUND TO THE
6 TREASURER FOR DEPOSIT IN EACH ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT AN
7 AMOUNT THAT IS EQUIVALENT TO THE PER PUPIL AMOUNT CALCULATED PURSUANT TO
8 SECTION 15-977, SUBSECTION G, PARAGRAPH 1 MULTIPLIED BY THE STUDENT'S
9 WEIGHTED COUNT THAT WOULD BE CALCULATED IF THAT STUDENT WERE ATTENDING THE
10 STUDENT'S PRIOR SCHOOL DISTRICT OR CHARTER SCHOOL OR, IF THE CHILD IS AN
11 INCOMING KINDERGARTENER, THE CHILD'S EXPECTED SCHOOL DISTRICT OF
12 ATTENDANCE.

13 3. NOTWITHSTANDING ANY OTHER LAW, THE AMOUNT TRANSFERRED TO EACH
14 ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT PURSUANT TO PARAGRAPH 2 OF THIS
15 SUBSECTION COUNTS TOWARD THE TOTAL AMOUNT THE DEPARTMENT IS REQUIRED TO
16 ALLOCATE AND TRANSFER TO EACH ACCOUNT AND MAY BE USED FOR ANY ARIZONA
17 EMPOWERMENT SCHOLARSHIP ACCOUNT EXPENDITURE ALLOWED PURSUANT TO SUBSECTION
18 B OF THIS SECTION.

19 4. TO PROVIDE FOR THE FUNDING OF ARIZONA EMPOWERMENT SCHOLARSHIP
20 ACCOUNTS FROM THE CLASSROOM SITE FUND PURSUANT TO PARAGRAPH 2 OF THIS
21 SUBSECTION, THE DEPARTMENT SHALL DEPOSIT A SUFFICIENT PORTION OF THE
22 REVENUES TRANSFERRED TO THE CLASSROOM SITE FUND IN EACH FISCAL YEAR
23 PURSUANT TO SECTION 42-5029.02 INTO A CLASSROOM SITE FUND SUBACCOUNT.
24 MONIES IN THE SUBACCOUNT MAY BE USED TO FUND THE TRANSFER OF CLASSROOM
25 SITE FUND MONIES FOR SCHOOL DISTRICTS, CHARTER SCHOOLS OR ARIZONA
26 EMPOWERMENT SCHOLARSHIP ACCOUNTS MADE PURSUANT TO PARAGRAPH 2 OF THIS
27 SUBSECTION AND SECTION 15-977.

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

41 ~~E.~~ F. The state treasurer empowerment scholarship account fund is
42 established consisting of monies appropriated by the legislature. The
43 state treasurer shall administer the fund. Monies in the fund shall be
44 used for the state treasurer's costs in administering the Arizona
45 empowerment scholarship accounts under this chapter. If the number of

1 Arizona empowerment scholarship accounts significantly increases after
2 fiscal year 2020-2021, the state treasurer may request an increase in the
3 amount appropriated to the fund in any subsequent fiscal year in the
4 budget estimate submitted pursuant to section 35-113. Monies in the fund
5 are subject to legislative appropriation. Monies in the fund are exempt
6 from the provisions of section 35-190 relating to lapsing of
7 appropriations. The state treasurer shall list monies in the fund as a
8 separate line item in its budget estimate.

9 ~~F.~~ G. A parent must renew the qualified student's Arizona
10 empowerment scholarship account on an annual basis.

11 ~~G.~~ H. Notwithstanding any changes to the student's
12 multidisciplinary evaluation team plan, a student who has previously
13 qualified for an Arizona empowerment scholarship account remains eligible
14 to apply for renewal until the student finishes high school.

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

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

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

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

38 ~~L.~~ M. Monies received pursuant to this article do not constitute
39 taxable income to the parent of the qualified student.

1 Sec. 3. Section 15-2403, Arizona Revised Statutes, is amended to
2 read:

3 15-2403. Arizona empowerment scholarship accounts;
4 administration; appeals; audit; rules; policy
5 handbook

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

8 B. The department shall conduct or contract for annual audits of
9 Arizona empowerment scholarship accounts to ensure compliance with section
10 15-2402, subsection B, paragraph 4. The department shall also conduct or
11 contract for random, quarterly and annual audits of Arizona empowerment
12 scholarship accounts as needed to ensure compliance with section 15-2402,
13 subsection B, paragraph 4.

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

30 D. A parent may appeal to the state board of education any
31 administrative decision the department makes pursuant to this article,
32 including determinations of allowable expenses, removal from the program
33 or enrollment eligibility. The department shall notify the parent in
34 writing that the parent may appeal any administrative decision under this
35 article and the process by which the parent may appeal at the same time
36 the department notifies the parent of an administrative decision under
37 this article. The state board of education shall establish an appeals
38 process, and the department shall post this information on the
39 department's website in the same location as the policy handbook developed
40 pursuant to subsection ~~J~~ K of this section.

41 E. A PARENT MAY REPRESENT HIMSELF OR HERSELF OR DESIGNATE A
42 REPRESENTATIVE, NOT NECESSARILY AN ATTORNEY, BEFORE ANY APPEALS HEARING
43 HELD PURSUANT TO THIS SECTION. ANY SUCH DESIGNATED REPRESENTATIVE WHO IS
44 NOT AN ATTORNEY ADMITTED TO PRACTICE MAY NOT CHARGE FOR ANY SERVICES
45 RENDERED IN CONNECTION WITH SUCH A HEARING. THE FACT THAT A

1 REPRESENTATIVE PARTICIPATED IN THE HEARING OR ASSISTED THE ACCOUNT HOLDER
2 IS NOT GROUNDS FOR REVERSING ANY ADMINISTRATIVE DECISION OR ORDER IF THE
3 EVIDENCE SUPPORTING THE DECISION OR ORDER IS SUBSTANTIAL, RELIABLE AND
4 PROBATIVE.

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

9 ~~F.~~ G. The department shall make quarterly transfers of the amount
10 calculated pursuant to section 15-2402, subsection C to the treasurer for
11 deposit in the Arizona empowerment scholarship account of each qualified
12 student, except the department may make transfers according to another
13 transfer schedule if the department determines a transfer schedule other
14 than quarterly transfers is necessary to operate the Arizona empowerment
15 scholarship account.

16 ~~G.~~ H. The department shall accept applications between July 1 and
17 June 30 of each year. The department shall enroll and issue an award
18 letter to eligible applicants within thirty days after receipt of a
19 completed application and all required documentation. On or before May 30
20 of each year, the department shall furnish to the joint legislative budget
21 committee an estimate of the amount required to fund Arizona empowerment
22 scholarship accounts for the following fiscal year. The department shall
23 include in its budget request for the following fiscal year the amount
24 estimated pursuant to section 15-2402, subsection C for each qualified
25 student.

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

29 1. For establishing an appeals process pursuant to subsection D of
30 this section.

31 2. For conducting or contracting for examinations of the use of
32 account monies.

33 3. For conducting or contracting for random, quarterly and annual
34 reviews of accounts.

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

37 5. For establishing an anonymous telephone hotline for fraud
38 reporting.

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

40 ~~I.~~ J. The department shall contract with an independent third
41 party for the purposes of determining whether a qualified student is
42 eligible to receive educational therapies or services pursuant to section
43 15-2402, subsection B, paragraph 4, subdivision (c). **IF DURING ANY PERIOD
44 ON OR AFTER JANUARY 1, 2023 THE DEPARTMENT FAILS TO ENSURE THAT A CONTRACT
45 WITH AN INDEPENDENT THIRD PARTY IS IN EFFECT, DURING THAT PERIOD:**

1 1. THE COUNTY SCHOOL SUPERINTENDENT OF EACH COUNTY MAY APPROVE A
2 LIST OF INDEPENDENT THIRD PARTIES WITHIN THE COUNTY WHOSE EVALUATION MAY
3 BE USED TO DETERMINE WHETHER A STUDENT WHO RESIDES WITHIN THE COUNTY IS
4 ELIGIBLE TO RECEIVE EDUCATIONAL THERAPIES OR SERVICES PURSUANT TO SECTION
5 15-2402, SUBSECTION B, PARAGRAPH 4, SUBDIVISION (c).

6 2. IF THE COUNTY SCHOOL SUPERINTENDENT OF A COUNTY DOES NOT PROVIDE
7 A LIST OF APPROVED INDEPENDENT THIRD PARTIES WITHIN NINETY DAYS AFTER THE
8 BEGINNING OF ANY PERIOD DURING WHICH THE DEPARTMENT DOES NOT HAVE A
9 CONTRACT WITH AN INDEPENDENT THIRD PARTY IN EFFECT AS DESCRIBED IN THIS
10 SUBSECTION, THE PARENT OF A STUDENT WHO RESIDES WITHIN THE COUNTY HAS THE
11 RIGHT TO OBTAIN AN INDEPENDENT EDUCATIONAL EVALUATION FROM A QUALIFIED
12 EXAMINER TO DETERMINE WHETHER THE STUDENT IS ELIGIBLE TO RECEIVE
13 EDUCATIONAL THERAPIES OR SERVICES PURSUANT TO SECTION 15-2402, SUBSECTION
14 B, PARAGRAPH 4, SUBDIVISION (c). THE EXPENSE FOR AN EDUCATIONAL
15 EVALUATION UNDERTAKEN PURSUANT TO THIS PARAGRAPH SHALL BE PROVIDED BY THE
16 SCHOOL DISTRICT WITHIN WHICH THE STUDENT RESIDES AND THAT SERVES THE GRADE
17 LEVEL OF THE STUDENT. FOR THE PURPOSES OF THIS PARAGRAPH, "QUALIFIED
18 EXAMINER" MEANS A LICENSED PHYSICIAN, PSYCHIATRIST OR PSYCHOLOGIST.

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

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

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

38 Sec. 4. Title 15, chapter 19, article 1, Arizona Revised Statutes,
39 is amended by adding section 15-2405, to read:

40 15-2405. Student empowerment fund; definitions

41 A. THE STUDENT EMPOWERMENT FUND IS ESTABLISHED CONSISTING OF MONIES
42 TRANSFERRED TO THE FUND PURSUANT TO SECTION 42-5029.02, SUBSECTION A AND
43 ANY OTHER TRANSFERS OR APPROPRIATIONS TO THE FUND DETERMINED BY THE
44 LEGISLATURE. THE DEPARTMENT SHALL ADMINISTER THE FUND. MONIES IN THE

1 FUND ARE CONTINUOUSLY APPROPRIATED AND ARE EXEMPT FROM THE PROVISIONS OF
2 SECTION 35-190 RELATING TO THE LAPsing OF APPROPRIATIONS.

3 B. NOTWITHSTANDING SECTION 15-2401, PARAGRAPH 7, MONIES IN THE FUND
4 SHALL BE USED TO PROVIDE ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNTS TO
5 STUDENTS WHO RESIDE WITHIN THE BOUNDARIES OF ANY SCHOOL DISTRICT THAT
6 EITHER:

7 1. RECEIVES MORE IN ANNUAL FUNDING PER PUPIL THAN THE AMOUNT
8 CHARGED FOR TUITION AND FEES PER STUDENT AT A UNIVERSITY UNDER THE
9 JURISDICTION OF THE ARIZONA BOARD OF REGENTS.

10 2. SPENDS LOCAL REVENUES IN EXCESS OF THE SCHOOL DISTRICT
11 EXPENDITURE LIMITATION ESTABLISHED BY VOTERS IN THE CONSTITUTION OF
12 ARIZONA.

13 C. IN ADDITION TO ANY OTHER ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT
14 ELIGIBILITY CATEGORY THAT IS PRESCRIBED IN SECTION 15-2401, PARAGRAPH 7 OR
15 THAT MAY OTHERWISE BE ESTABLISHED BY THE LEGISLATURE, A STUDENT IS
16 CONSIDERED A QUALIFIED STUDENT FOR PURPOSES OF THIS CHAPTER IF THE STUDENT
17 MEETS BOTH OF THE FOLLOWING REQUIREMENTS:

18 1. RESIDES WITHIN A SCHOOL DISTRICT THAT MEETS AT LEAST ONE OF THE
19 CRITERIA PRESCRIBED IN SUBSECTION B OF THIS SECTION.

20 2. IS ELIGIBLE TO ATTEND A KINDERGARTEN PROGRAM OR HAS ATTENDED A
21 SCHOOL WITHIN THE SCHOOL DISTRICT IN ANY OF GRADES ONE THROUGH TWELVE FOR
22 FORTY-FIVE DAYS OF THE CURRENT OR PRIOR YEAR AND HAS NOT YET GRADUATED
23 FROM HIGH SCHOOL. ALL OTHER REQUIREMENTS AND PRIVILEGES PRESCRIBED IN
24 THIS CHAPTER APPLY.

25 D. THE DEPARTMENT SHALL ACCEPT APPLICATIONS FOR ARIZONA EMPOWERMENT
26 SCHOLARSHIP ACCOUNTS FUNDED PURSUANT TO THIS SECTION ON A FIRST-COME,
27 FIRST-SERVED BASIS EACH YEAR UNTIL THE CUMULATIVE CONTRACTED AWARD AMOUNTS
28 EXHAUST THE MONIES IN THE STUDENT EMPOWERMENT FUND EACH YEAR. THE ARIZONA
29 EMPOWERMENT SCHOLARSHIP ACCOUNT OF A STUDENT WHO RECEIVES AN ARIZONA
30 EMPOWERMENT SCHOLARSHIP ACCOUNT PURSUANT TO THIS SECTION SHALL BE FUNDED
31 IN THE FIRST YEAR EXCLUSIVELY THROUGH MONIES FROM THE STUDENT EMPOWERMENT
32 FUND AND THE CLASSROOM SITE FUND IN LIEU OF, AND IN EQUAL AMOUNT TO, ANY
33 OTHER MONIES THAT WOULD BE ALLOCATED TO THE STUDENT'S ARIZONA EMPOWERMENT
34 SCHOLARSHIP ACCOUNT PURSUANT TO SECTION 15-2402, SUBSECTION C.

35 E. A STUDENT WHO RECEIVES AN ARIZONA EMPOWERMENT SCHOLARSHIP
36 ACCOUNT PURSUANT TO THIS SECTION REMAINS A QUALIFIED STUDENT FOR THE
37 PURPOSES OF THIS CHAPTER THROUGH GRADE TWELVE AS LONG AS THE STUDENT
38 REMAINS IN GOOD STANDING, DOES NOT ENROLL IN A SCHOOL DISTRICT OR CHARTER
39 SCHOOL AND HAS NOT BEEN REMOVED FROM ELIGIBILITY FOR THE ACCOUNT FOR
40 FAILING TO COMPLY PURSUANT TO SECTION 15-2403, SUBSECTION C.

41 F. MONIES FROM THE STUDENT EMPOWERMENT FUND SHALL BE RESERVED FOR
42 STUDENTS WHO QUALIFY FOR AN ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT
43 PURSUANT TO SUBSECTION B OF THIS SECTION AND WHO DO NOT ALREADY MEET OTHER
44 ELIGIBILITY CRITERIA FOR A QUALIFIED STUDENT AS PRESCRIBED IN SECTION
45 15-2401, PARAGRAPH 7.

1 G. FOR THE PURPOSES OF THIS SECTION:

2 1. "AMOUNT CHARGED FOR TUITION AND FEES PER STUDENT AT A UNIVERSITY
3 UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS" MEANS THE FULL
4 ANNUAL RESIDENT UNDERGRADUATE BASE TUITION AND FEE RATE PER STUDENT,
5 BEFORE THE APPLICATION OF ANY SCHOLARSHIP, GRANT OR TUITION WAIVER, AS
6 REPORTED BY THE JOINT LEGISLATIVE BUDGET COMMITTEE FOR A UNIVERSITY UNDER
7 THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS FOR THE YEAR
8 CORRESPONDING TO THE MOST RECENTLY ISSUED AUDITOR GENERAL DISTRICT
9 SPENDING REPORT DATA.

10 2. "ANNUAL FUNDING PER PUPIL" MEANS THE GREATER OF THE SCHOOL
11 DISTRICT'S TOTAL PER PUPIL REVENUE OR SPENDING FROM ALL SOURCES AS
12 REPORTED BY THE AUDITOR GENERAL IN ITS MOST RECENTLY ISSUED ARIZONA SCHOOL
13 DISTRICT SPENDING REPORT.

14 3. "LOCAL REVENUES" HAS THE SAME MEANING PRESCRIBED IN ARTICLE IX,
15 SECTION 21, CONSTITUTION OF ARIZONA.

16 4. "SCHOOL DISTRICT EXPENDITURE LIMITATION" MEANS THE AMOUNT THAT
17 EACH SCHOOL DISTRICT WOULD BE LIMITED TO PURSUANT TO SECTION 15-911,
18 SUBSECTION E IN THE ABSENCE OF AUTHORIZATION BY THE LEGISLATURE OF
19 EXPENDITURES IN EXCESS OF THE EXPENDITURE LIMITATION FOR ALL SCHOOL
20 DISTRICTS PRESCRIBED PURSUANT TO ARTICLE IX, SECTION 21, CONSTITUTION OF
21 ARIZONA.

22 Sec. 5. Section 42-5029.02, Arizona Revised Statutes, is amended to
23 read:

24 42-5029.02. Distribution of revenues for education; definitions

25 A. All monies collected pursuant to section 42-5010.01 and section
26 42-5155, subsection E shall be distributed each fiscal year pursuant to
27 this subsection. The monies distributed pursuant to this subsection are
28 in addition to any other appropriation, transfer or other allocation of
29 public or private monies from any other source and may not supplant,
30 replace or cause a reduction in other school district, charter school,
31 university or community college funding sources. The monies shall be
32 distributed as follows:

33 1. \$64,100,000 is appropriated each fiscal year, to be paid in
34 monthly installments, to the superintendent of public instruction for
35 basic state aid.

36 2. After any transfer of monies pursuant to paragraph 1 of this
37 subsection, twelve percent of the remaining monies collected during the
38 preceding month shall be transferred to the technology and research
39 initiative fund established by section 15-1648 to be distributed among the
40 universities under the jurisdiction of the Arizona board of regents for
41 the purpose of investment in technology and research-based initiatives.

42 3. After the transfer of monies pursuant to paragraph 1 of this
43 subsection, three percent of the remaining monies collected during the
44 preceding month shall be transferred to the workforce development account

1 established in each community college district pursuant to section 15-1472
2 for the purpose of investment in workforce development programs.

3 4. After the transfer of monies pursuant to paragraphs 1, 2 and 3
4 of this subsection, one-twelfth of the amount a community college that is
5 owned, operated or chartered by a qualifying Indian tribe on its own
6 Indian reservation would receive pursuant to section 15-1472,
7 subsection D, paragraph 2 if it were a community college district shall be
8 distributed each month to the treasurer or other designated depository of
9 the qualifying Indian tribe. Monies distributed pursuant to this
10 paragraph are for the exclusive purpose of providing support to one or
11 more community colleges that are owned, operated or chartered by a
12 qualifying Indian tribe and shall be used in a manner consistent with
13 section 15-1472, subsection B.

14 5. After the transfer of monies pursuant to paragraphs 1, 2 and 3
15 of this subsection, one-twelfth of \$86,280,500 shall be transferred each
16 month to the department of education for the increased cost of basic state
17 aid under section 15-971 due to added school days and associated teacher
18 salary increases that were enacted in 2000.

19 6. After the transfer of monies pursuant to paragraphs 1, 2 and 3
20 of this subsection, \$7,800,000 is appropriated each fiscal year, to be
21 paid in monthly installments, to the department of education to be used
22 for school safety as provided in section 15-154 and \$200,000 is
23 appropriated each fiscal year, to be paid in monthly installments, to the
24 department of education to be used for the character education matching
25 grant program as provided in section 15-154.01.

26 7. After the transfer of monies pursuant to paragraphs 1, 2 and 3
27 of this subsection, the legislature may not appropriate more than
28 \$7,000,000 each fiscal year to the department of education to be used for
29 accountability purposes as described in section 15-241.02 and title 15,
30 chapter 9, article 8.

31 8. After the transfer of monies pursuant to paragraphs 1, 2 and 3
32 of this subsection, \$1,500,000 is appropriated each fiscal year, to be
33 paid in monthly installments, to the failing schools tutoring fund
34 established by section 15-241.

35 9. After the transfer of monies pursuant to paragraphs 1, 2 and 3
36 of this subsection, \$25,000,000 shall be transferred each fiscal year to
37 the state general fund to reimburse the state general fund for the cost of
38 the income tax credit allowed by section 43-1072.02.

39 10. BEGINNING IN FISCAL YEAR 2022-2023, AFTER THE TRANSFER OF
40 MONIES PURSUANT TO PARAGRAPHS 1 THROUGH 9 OF THIS SUBSECTION, \$25,000,000
41 SHALL BE TRANSFERRED EACH FISCAL YEAR TO THE STUDENT EMPOWERMENT FUND
42 ESTABLISHED BY SECTION 15-2405.

43 10. 11. After the transfer of monies pursuant to paragraphs 1
44 through 10 of this subsection, the remaining monies collected during
45 the preceding month shall be transferred to the classroom site fund

1 established by section 15-977. The monies shall be allocated in the
2 manner prescribed by section 15-977.

3 B. For the purposes of this section:

4 1. "Community college district" means a community college district
5 that is established pursuant to sections 15-1402 and 15-1403 and that is a
6 political subdivision of this state and, unless otherwise specified,
7 includes a community college tuition financing district established
8 pursuant to section 15-1409.

9 2. "Qualifying Indian tribe" has the same meaning as defined in
10 section 42-5031.01.

11 Sec. 6. Section 43-222, Arizona Revised Statutes, is amended to
12 read:

13 **43-222. Income tax credit review schedule**

14 The joint legislative income tax credit review committee shall
15 review the following income tax credits:

16 1. For years ending in 0 and 5, sections 43-1079.01, 43-1088,
17 43-1089.04, 43-1167.01 and 43-1175.

18 2. For years ending in 1 and 6, sections 43-1072.02, 43-1074.02,
19 43-1075, 43-1076.01, 43-1077, 43-1078, 43-1083, 43-1083.02, 43-1162,
20 43-1164.03 and 43-1183.

21 3. For years ending in 2 and 7, sections 43-1073, 43-1085, 43-1086,
22 43-1089, 43-1089.01, 43-1089.02, ~~43-1089.03~~, 43-1164, 43-1169 and 43-1181.

23 4. For years ending in 3 and 8, sections 43-1074.01, 43-1081,
24 43-1168, 43-1170 and 43-1178.

25 5. For years ending in 4 and 9, sections 43-1073.01, 43-1076,
26 43-1081.01, 43-1083.03, 43-1084, 43-1164.04, 43-1164.05 and 43-1184.

27 Sec. 7. Section 43-401, Arizona Revised Statutes, is amended to
28 read:

29 **43-401. Withholding tax: rates: election by employee**

30 A. Except as provided by subsections B and H of this section, every
31 employer at the time of ~~the payment of~~ PAYING wages, salary, bonus or
32 other emolument to any employee whose compensation is for services
33 performed within this state shall deduct and retain from the compensation
34 an amount prescribed by tables adopted by the department.

35 B. An employer may voluntarily elect to not withhold tax during
36 December by notifying:

37 1. The department on a form prescribed by the department.

38 2. The employer's employees in writing in a manner prescribed by
39 the department.

40 C. If the amount collected and payable by the employer to the
41 department in each of the preceding four calendar quarters did not exceed
42 an average of ~~one thousand five hundred dollars~~ \$1,500, the amount
43 collected shall be paid to the department on or before April 30, July 31,
44 October 31 and January 31 for the preceding calendar quarter. If the
45 amount exceeded ~~one thousand five hundred dollars~~ \$1,500 in each of the

1 preceding four calendar quarters, the employer shall pay to the department
2 the amount the employer deducts and retains pursuant to this section at
3 the same time ~~as~~ the employer is required to ~~make deposits of~~ DEPOSIT
4 federal tax pursuant to section 6302 of the internal revenue code. On or
5 before April 30, July 31, October 31 and January 31 each year, the
6 employer shall reconcile the amounts payable during the preceding calendar
7 quarter in a manner prescribed by the department, except that if the full
8 amount collected and payable is paid timely to the department under this
9 subsection, the employer may reconcile the amounts on or before May 10,
10 August 10, November 10 and February 10 each year. The department by rule
11 may allow and determine which employers qualify for annual payments of
12 withholding taxes, with an annual report by the employer pursuant to
13 section 43-412, subsection B, if the qualifying employer has established
14 sufficient payment history to indicate that the employer is current and in
15 good standing pursuant to standards established by rule. For any business
16 that has not had a withholding certificate for the four preceding
17 consecutive quarters, the quarterly average shall be computed in a manner
18 prescribed by the department.

19 D. If an employer fails to make a timely monthly payment because
20 ~~prior to~~ BEFORE that reporting period it reported on a quarterly basis
21 instead of on a monthly basis, the department shall notify the employer
22 that it is out of compliance with this section. Notwithstanding section
23 42-1125, the department shall not assess a penalty against an employer for
24 failing to make a timely monthly payment if the employer had filed and
25 remitted all taxes due on a quarterly basis and brings all filings and
26 payments into current compliance within thirty days after being notified
27 by the department.

28 E. Each employee shall elect the amount authorized by subsection A
29 of this section to be withheld ~~for application~~ TO APPLY toward the
30 employee's state income tax liability. The election provided under this
31 subsection shall be exercised by each employee, in writing on a form
32 prescribed by the department. The election shall be made within five days
33 ~~of~~ AFTER STARTING employment. Each employer shall notify the employees of
34 the election made available under this subsection and shall have election
35 forms available at all times. Each form shall be completed in triplicate,
36 with one copy each for the department, the employer and the employee. The
37 employer shall file a copy of each completed form with the department.
38 Any employee failing to complete an election form as prescribed ~~shall be~~
39 ~~IS~~ deemed to have elected the withholding percentage prescribed by the
40 department.

41 F. Before July 1 of each year, each employer who chooses to not
42 withhold tax pursuant to subsection B of this section shall notify each
43 employee that:

44 1. State income taxes will not be withheld from compensation in
45 December.

1 2. The employee may elect to change the rate of withholding tax
2 prescribed by this section to compensate for the resulting change in
3 annual withholdings from the employee's compensation.

4 G. At an employee's written request, the employer may agree to
5 reduce the amount withheld under this section by the amount of credit that
6 the employee represents to the employer that the employee will qualify for
7 and be entitled to under sections 43-1088, 43-1089, ~~AND~~ 43-1089.01 ~~and~~
8 ~~43-1089.03~~. The employee's request must include the name and address of
9 the qualifying charitable organization, qualified school tuition
10 organization or public school. Within thirty days after agreeing to the
11 employee's request, the employer shall reduce the withholding amount by
12 the amount of the credit, but not below zero, prorated for the number of
13 pay periods remaining in the employee's taxable year after the employee
14 makes the request. If an employer agrees to reduce the withholding amount
15 pursuant to this subsection, the following apply:

16 1. Within fifteen days after the end of each calendar quarter, the
17 employer must pay the entire amount of the reduction in withholding tax
18 for that quarter to the designated charitable organization, school tuition
19 organization or public school. These payments are considered to be on the
20 employee's behalf, and not the employer's, for the purposes of qualifying
21 for the income tax credits under sections 43-1088, 43-1089, ~~AND~~
22 43-1089.01 ~~and 43-1089.03~~.

23 2. The employee is responsible and accountable for the accuracy and
24 the amount of reduction in withholding tax and the payments to the
25 charitable organization, school tuition organization or public school.

26 3. The employer is responsible and accountable to the charitable
27 organization, school tuition organization or public school, to the
28 employee and to the department for actually making the required payments.

29 4. Within thirty days after the end of each calendar year, or
30 within fifteen days after ~~the termination of~~ TERMINATING employment, the
31 employer must furnish to each electing employee a statement of the amount
32 withheld and paid on behalf of the employee during that year.

33 H. An employer shall not withhold tax on the wages of the
34 employer's nonresident employees who are in this state on a temporary
35 basis for the purpose of performing disaster recovery from a declared
36 disaster during a disaster period as defined in section 42-1130.

37 Sec. 8. Section 43-1089, Arizona Revised Statutes, is amended to
38 read:

39 43-1089. Credit for contributions to school tuition
40 organization

41 A. A credit is allowed against the taxes imposed by this title for
42 the amount of voluntary cash contributions by the taxpayer or on the
43 taxpayer's behalf pursuant to section 43-401, subsection G during the
44 taxable year to a school tuition organization that is certified pursuant
45 to chapter 16 of this title at the time of donation. Except as provided

1 by subsection C of this section, the amount of the credit shall not
2 exceed:

3 1. ~~Five hundred dollars~~ \$1,243 in any taxable year for a single
4 individual or a head of household.

5 2. ~~One thousand dollars~~ \$2,483 in any taxable year for a married
6 couple filing a joint return.

7 B. A husband and wife who file separate returns for a taxable year
8 in which they could have filed a joint return may each claim only one-half
9 of the tax credit that would have been allowed for a joint return.

10 C. For each taxable year beginning ~~on or after January 1~~ FROM AND
11 AFTER DECEMBER 31, 2022, the department shall adjust the dollar amounts
12 prescribed by subsection A, paragraphs 1 and 2 of this section ~~according~~
13 ~~to~~ BY THE GREATER OF EITHER:

14 1. The average annual change in the metropolitan Phoenix consumer
15 price index published by the United States DEPARTMENT OF LABOR, bureau of
16 labor statistics, except that the dollar amounts shall not be revised
17 downward below the amounts allowed in the prior taxable year. The revised
18 dollar amounts shall be raised to the nearest whole dollar.

19 2. \$250 FOR THE DOLLAR AMOUNT PRESCRIBED BY SUBSECTION A, PARAGRAPH
20 1 OF THIS SECTION AND \$500 FOR THE DOLLAR AMOUNT PRESCRIBED BY SUBSECTION
21 A, PARAGRAPH 2 OF THIS SECTION.

22 D. If the allowable tax credit exceeds the taxes otherwise due
23 under this title on the claimant's income, or if there are no taxes due
24 under this title, the taxpayer may carry the amount of the claim not used
25 to offset the taxes under this title forward for not more than five
26 consecutive taxable years' income tax liability.

27 E. The credit allowed by this section is in lieu of any deduction
28 pursuant to section 170 of the internal revenue code and taken for state
29 tax purposes.

30 F. The tax credit is not allowed if the taxpayer designates the
31 taxpayer's contribution to the school tuition organization for the direct
32 benefit of any dependent of the taxpayer or if the taxpayer designates a
33 student beneficiary as a condition of the taxpayer's contribution to the
34 school tuition organization. The tax credit is not allowed if the
35 taxpayer, with the intent to benefit the taxpayer's dependent, agrees with
36 one or more other taxpayers to designate each taxpayer's contribution to
37 the school tuition organization for the direct benefit of the other
38 taxpayer's dependent.

39 G. For the purposes of this section, a contribution, for which a
40 credit is claimed, that is made on or before the fifteenth day of the
41 fourth month following the close of the taxable year may be applied to
42 either the current or preceding taxable year and is considered to have
43 been made on the last day of that taxable year.

44 Sec. 9. Repeal

45 Section 43-1089.03, Arizona Revised Statutes, is repealed.

Sec. 10. Section 43-1184, Arizona Revised Statutes, is amended to read:

43-1184. Credit for contributions to school tuition organization; displaced students; students with disabilities

A. Beginning from and after June 30, 2009, a credit is allowed against the taxes imposed by this title for the amount of voluntary cash contributions made by the taxpayer during the taxable year to a school tuition organization that is certified pursuant to chapter 15 of this title at the time of donation.

B. The amount of the credit is the total amount of the taxpayer's contributions for the taxable year under subsection A of this section and is preapproved by the department of revenue pursuant to subsection D of this section.

c. The department of revenue:

1. Shall not allow tax credits under this section and section 20-224.07 that exceed in the aggregate a combined total of ~~\$5,000,000~~ \$6,000,000 in ~~any fiscal year through~~ fiscal year ~~2020-2021~~ 2021-2022 AND \$10,000,000 IN FISCAL YEAR 2022-2023. ~~Beginning in fiscal year 2021-2022, the aggregate dollar amount of the tax credits allowed is \$6,000,000 in any fiscal year. BEGINNING IN FISCAL YEAR 2023-2024 AND EACH FISCAL YEAR THEREAFTER, THE AGGREGATE DOLLAR AMOUNT OF THE TAX CREDIT CAP FROM THE PREVIOUS FISCAL YEAR SHALL BE INCREASED BY THE GREATER OF:~~

(a) THE PERCENTAGE OF THE ANNUAL INCREASE, IF ANY, IN THE METROPOLITAN PHOENIX CONSUMER PRICE INDEX PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS.

(b) TWO PERCENT.

2. Shall preapprove tax credits under this section and section 20-224.07 subject to subsection D of this section.

3. Shall allow the tax credits under this section and section 20-224.07 on a first-come, first-served basis.

D. For the purposes of subsection C, paragraph 2 of this section, before making a contribution to a school tuition organization, the taxpayer under this title or title 20 must notify the school tuition organization of the total amount of contributions that the taxpayer intends to make to the school tuition organization. Before accepting the contribution, the school tuition organization shall request preapproval from the department of revenue for the taxpayer's intended contribution amount. The department of revenue shall preapprove or deny the requested amount within twenty days after receiving the request from the school tuition organization. If the department of revenue preapproves the request, the school tuition organization shall immediately notify the taxpayer that the requested amount was preapproved by the department of revenue. In order to receive a tax credit under this subsection, the taxpayer shall make the contribution to the school tuition organization

1 within twenty days after receiving notice from the school tuition
2 organization that the requested amount was preapproved. If the school
3 tuition organization does not receive the preapproved contribution from
4 the taxpayer within the required twenty days, the school tuition
5 organization shall immediately notify the department of revenue and the
6 department shall no longer include this preapproved contribution amount
7 when calculating the limit prescribed in subsection C, paragraph 1 of this
8 section.

9 E. If the allowable tax credit exceeds the taxes otherwise due
10 under this title on the claimant's income, or if there are no taxes due
11 under this title, the taxpayer may carry the amount of the claim not used
12 to offset the taxes under this title forward for not more than five
13 consecutive taxable years' income tax liability.

14 F. Co-owners of a business, including corporate partners in a
15 partnership and stockholders of an S corporation as defined in section
16 1361 of the internal revenue code, may each claim only the pro rata share
17 of the credit allowed under this section based on the ownership interest.
18 The total of the credits allowed all such owners may not exceed the amount
19 that would have been allowed a sole owner.

20 G. The credit allowed by this section is in lieu of any deduction
21 pursuant to section 170 of the internal revenue code and taken for state
22 tax purposes.

23 H. A taxpayer shall not claim a credit under this section and also
24 under section 43-1183 with respect to the same contribution.

25 I. The tax credit is not allowed if the taxpayer designates the
26 taxpayer's contribution to the school tuition organization for the direct
27 benefit of any specific student.

28 J. The department of revenue shall adopt rules necessary to
29 administer this section.

30 Sec. 11. Section 43-1501, Arizona Revised Statutes, is amended to
31 read:

32 **43-1501. Definitions**

33 In this chapter, unless the context otherwise requires:

34 1. "Allocate" includes reserving ~~money~~ MONIES for an award of a
35 multiyear educational scholarship or tuition grant for a specific student.

36 2. "Custodian" means a resident of this state who is a parent or an
37 authorized out-of-home care provider or, if none, the legal guardian of a
38 qualified student, as defined in section 43-1505.

39 3. "Fiscal year" means the fiscal year of ~~the~~ THIS state as
40 prescribed in section 35-102.

41 4. "Qualified school" means a ~~preschool that offers services to~~
42 ~~students with disabilities~~, nongovernmental primary school or secondary
43 school OR, FOR A PRESCHOOL STUDENT WITH A DISABILITY, A PRESCHOOL PROGRAM
44 that is located in this state, ~~and~~ that does not discriminate on the basis
45 of race, color, disability, familial status or national origin and that

1 requires all teaching staff and personnel that have unsupervised contact
2 with students to be fingerprinted. Qualified school does not include a
3 charter school or programs operated by a charter school.

4 Sec. 12. Section 43-1502, Arizona Revised Statutes, is amended to
5 read:

6 **43-1502. Certification as a school tuition organization**

7 A. A nonprofit organization in this state that is exempt or that
8 has applied for exemption from federal taxation under section 501(c)(3) of
9 the internal revenue code may apply to the department of revenue for
10 certification as a school tuition organization, and the department shall
11 certify the school tuition organization if it meets the requirements
12 prescribed by this chapter. An organization must apply for certification
13 on a form prescribed and furnished on request by the department.

14 B. The department shall:

15 1. Maintain a public registry of currently certified school tuition
16 organizations.

17 2. Make the registry available to the public on request.

18 3. Post the registry on the department's official website.

19 C. The department shall send notice by certified mail or by ~~e-mail~~
20 **EMAIL** to a school tuition organization if the department determines that
21 the school tuition organization has engaged in any of the following
22 activities:

23 1. Failed or refused to allocate at least ninety percent of annual
24 revenues from contributions made for the purposes of sections 20-224.06,
25 20-224.07, 43-1183 and 43-1184 for educational scholarships or tuition
26 grants.

27 2. Failed or refused to file the annual reports required by section
28 43-1506.

29 3. Limited the availability of scholarships to students of only one
30 school.

31 4. Encouraged, facilitated or knowingly ~~permitted~~ ALLOWED taxpayers
32 to engage in actions prohibited by this article.

33 5. ~~Knowingly colluded with any other school tuition organization to
34 circumvent the limits of section 43-1504, subsection C.~~

35 6. Failed or refused to meet any of the requirements in section
36 43-1503, subsection B.

37 7. Failed or refused to comply with the audit or financial
38 review requirements of section 43-1507.

39 D. A school tuition organization that receives notice from the
40 department pursuant to subsection C of this section has ninety days to
41 correct the violation identified by the department in the notice. If a
42 school tuition organization fails or refuses to comply after ninety days,
43 the department may remove the organization from the list of certified
44 school tuition organizations and shall make available to the public notice
45 of removal as soon as possible. An organization that is removed from the

1 list of certified school tuition organizations must notify any taxpayer
2 ~~who THAT~~ attempts to make a contribution that the contribution is not
3 eligible for the tax credit and offer to refund all donations received
4 after the date of the notice of termination of certification.

5 E. A school tuition organization may request an administrative
6 hearing on the revocation of its certification as provided by title 41,
7 chapter 6, article 10. Except as provided in section 41-1092.08,
8 subsection H, a decision of the department is subject to judicial review
9 pursuant to title 12, chapter 7, article 6.

10 Sec. 13. Section 43-1503, Arizona Revised Statutes, is amended to
11 read:

12 **43-1503. Operational requirements for school tuition
13 organizations**

14 A. A certified school tuition organization must be established to
15 receive contributions from taxpayers for the purposes of income tax
16 credits under sections 43-1183 and 43-1184 and insurance premium tax
17 credits under sections 20-224.06 and 20-224.07 and to pay educational
18 scholarships or tuition grants to allow students to attend any qualified
19 school of their parents' or custodians' choice.

20 B. To be eligible for certification and retain certification, the
21 school tuition organization:

22 1. Must allocate at least ninety percent of its annual revenue from
23 contributions made for the purposes of sections 20-224.06, 20-224.07,
24 43-1183 and 43-1184 for educational scholarships or tuition grants.

25 2. Shall not limit the availability of educational scholarships or
26 tuition grants to only students of one school.

27 3. Must allow the department of revenue to verify that the
28 educational scholarships and tuition grants that are issued are awarded to
29 students who attend a qualified school.

30 ~~4. Must not knowingly collude with any other school tuition
31 organization to circumvent the limits of section 43-1504, subsection 6.~~

32 ~~5.~~ 4. Must not award educational scholarships or tuition grants to
33 students who are simultaneously enrolled in a district school or charter
34 school and a qualified school.

35 ~~6.~~ 5. Shall include on the organization's website, if one exists,
36 the percentage and total dollar amount of educational scholarships and
37 tuition grants awarded during the previous fiscal year to:

38 (a) Students whose family income meets the economic eligibility
39 requirements established under the national school lunch and child
40 nutrition acts (42 United States Code sections 1751 through ~~1785~~ 1793) for
41 free or reduced-price lunches.

42 (b) Students whose family income exceeds the threshold prescribed
43 by subdivision (a) of this paragraph but does not exceed one hundred
44 eighty-five percent of the economic eligibility requirements established

1 under the national school lunch and child nutrition acts (42 United States
2 Code sections 1751 through ~~1785~~ 1793) for free or reduced-price lunches.

3 Sec. 14. Section 43-1504, Arizona Revised Statutes, is amended to
4 read:

5 43-1504. Special provisions; corporate donations for
6 low-income scholarships; rules

7 A. A school tuition organization that receives contributions from a
8 corporation for the purposes of section 20-224.06 or 43-1183 must use at
9 least ninety percent of those contributions to provide educational
10 scholarships or tuition grants only to children whose family income does
11 not exceed one hundred eighty-five percent of the income limit required to
12 qualify a child for reduced-price lunches under the national school lunch
13 and child nutrition acts (42 United States Code sections 1751
14 through 1793) and to whom any of the following applies:

15 1. Attended a governmental primary or secondary school as a
16 full-time student as defined in section 15-901 or attended a preschool
17 program that offers services to students with disabilities at a
18 governmental school for at least ninety days of the prior fiscal year or
19 one full semester and transferred from a governmental school to a
20 qualified school.

21 2. Enroll in a qualified school in a kindergarten program or, **FOR A**
22 **PRESCHOOL STUDENT WITH A DISABILITY**, a preschool program ~~that offers~~
23 ~~services to students with disabilities~~.

24 3. Are the dependent of a member of the armed forces of the United
25 States who is stationed in this state pursuant to military orders.

26 4. Are homeschooled before enrolling in a qualified school.

27 5. Moved to this state from out of state before enrolling in a
28 qualified school.

29 6. Participated in an Arizona empowerment scholarship account and
30 did not renew the account or accept the scholarship in order to accept a
31 scholarship or tuition grant under this section.

32 7. Received an educational scholarship or tuition grant under
33 paragraph 1, 2, 3, 4, 5 or 6 of this subsection or chapter 16, article 1
34 of this title if the children continue to attend a qualified school in a
35 subsequent year.

36 B. A child is eligible to receive an educational scholarship or
37 tuition grant under subsection A of this section if the child meets the
38 criteria to receive a reduced-price lunch but does not actually claim that
39 benefit.

40 ~~C. In 2021, a school tuition organization shall not issue an~~
41 ~~educational scholarship or a tuition grant for the purposes of section~~
42 ~~20-224.06 or 43-1183 in an amount that exceeds \$5,600 for students who are~~
43 ~~in a kindergarten program, a preschool program that offers services to~~
44 ~~students with disabilities or grades one through eight or \$7,500 for~~
45 ~~students who are in grades nine through twelve. In each year after 2021,~~

1 ~~the limit amount for a scholarship or a grant under this subsection shall~~
2 ~~be increased by \$200.~~

3 ~~D.~~ C. A school tuition organization shall require that student
4 beneficiaries use the educational scholarships or tuition grants on a
5 full-time basis. If a child leaves the school before completing an entire
6 school year, the school shall refund a prorated amount of the educational
7 scholarship or tuition grant to the school tuition organization that
8 issued the scholarship or grant. The school tuition organization shall
9 allocate any refunds it receives under this subsection for educational
10 scholarships or tuition grants.

11 ~~E.~~ D. Students who receive an educational scholarship or tuition
12 grant under this section shall be allowed to attend any qualified school
13 of their parents' choice.

14 ~~F.~~ E. The department of revenue, with the cooperation of the
15 department of insurance and financial institutions, shall adopt rules and
16 publish and prescribe forms and procedures necessary to administer this
17 section.

18 Sec. 15. Section 43-1505, Arizona Revised Statutes, is amended to
19 read:

20 43-1505. Special provisions; corporate donations for
21 displaced students and students with disabilities;
22 definitions

23 A. A school tuition organization that receives contributions for
24 the purposes of section 20-224.07 or 43-1184 must use at least ninety ~~per~~
25 ~~cent~~ PERCENT of those contributions to provide educational scholarships or
26 tuition grants to qualified students.

27 B. The amount of an educational scholarship or a tuition grant that
28 is issued by a school tuition organization under this section shall not
29 exceed the cost of tuition for the student to attend the qualified school
30 or ninety ~~per cent~~ PERCENT of the amount of state aid that otherwise would
31 be computed for the student as provided in title 15, chapter 9, article 5,
32 whichever is less. On request from a school tuition organization, the
33 department of education shall provide to the school tuition organization
34 in a timely manner the amount computed for the student under this
35 subsection that represents the ninety ~~per cent~~ PERCENT limitation
36 prescribed in this subsection.

37 C. A school tuition organization shall require that student
38 beneficiaries use the educational scholarships or tuition grants on a
39 full-time basis. If a child leaves the school before completing an entire
40 school year, the school shall refund a prorated amount of the educational
41 scholarship or tuition grant to the school tuition organization that
42 issued the scholarship or grant. The school tuition organization shall
43 allocate any refunds it receives under this subsection for educational
44 scholarships or tuition grants.

1 D. Qualified students who receive an educational scholarship or
2 tuition grant under this section shall be allowed to attend any qualified
3 school of their custodians' choice.

4 E. For the purposes of this section: ~~,~~

5 1. "QUALIFIED EXAMINER" MEANS A THIRD PARTY APPROVED BY THE COUNTY
6 SCHOOL SUPERINTENDENT PURSUANT TO SECTION 15-2403, SUBSECTION J OR ANY
7 LICENSED PHYSICIAN, PSYCHIATRIST OR PSYCHOLOGIST.

8 2. "Qualified student" means a student, including a student who
9 previously qualified for an educational scholarship or tuition grant under
10 this section and continues to attend a qualified school, who has been
11 either:

12 ~~1.~~ (a) Placed in foster care pursuant to title 8, chapter 4 at any
13 time before the student graduates from high school or obtains a general
14 equivalency diploma.

15 ~~2.~~ (b) Identified as having a disability under section 504 of the
16 rehabilitation act (29 United States Code section 794) or identified at
17 any time by a school district as a child with a disability as defined in
18 section 15-761 or a child with a disability who is eligible to receive
19 services from a school district under section 15-763.

20 (c) IDENTIFIED AS HAVING A DISABILITY BY A PUBLIC SCHOOL SYSTEM IN
21 ANOTHER STATE OR THROUGH AN INDEPENDENT EDUCATION EVALUATION BY A
22 QUALIFIED EXAMINER.

23 Sec. 16. Section 43-1601, Arizona Revised Statutes, is amended to
24 read:

25 43-1601. Definitions

26 In this chapter, unless the context otherwise requires:

27 1. "Allocate" includes reserving ~~money~~ MONIES for an award of a
28 multiyear educational scholarship or tuition grant for a specific student.

29 2. "Fiscal year" means the fiscal year of ~~the~~ THIS state as
30 prescribed in section 35-102.

31 3. "Qualified school" means a ~~preschool that offers services to~~
32 ~~students with disabilities~~, nongovernmental primary school or secondary
33 school OR, FOR PRESCHOOL STUDENTS WITH A DISABILITY, A PRESCHOOL PROGRAM
34 that is located in this state, ~~and~~ that does not discriminate on the basis
35 of race, color, disability, familial status or national origin and that
36 requires all teaching staff and personnel that have unsupervised contact
37 with students to be fingerprinted. Qualified school does not include a
38 charter school or programs operated by a charter school.

39 4. "Students with disabilities" means students who have any of the
40 following conditions:

- 41 (a) A hearing impairment.
- 42 (b) A visual impairment.
- 43 (c) A developmental delay.
- 44 (d) A preschool severe delay.
- 45 (e) A speech/language impairment.

1 Sec. 17. Section 43-1602, Arizona Revised Statutes, is amended to
2 read:

3 **43-1602. Certification: requirements; violations; hearing**

4 A. A nonprofit organization in this state that is exempt or has
5 applied for exemption from federal taxation under section 501(c)(3) of the
6 internal revenue code may apply to the department of revenue for
7 certification as a school tuition organization, and the department shall
8 certify the school tuition organization if it meets the requirements
9 prescribed by this chapter. An organization must apply for certification
10 on a form prescribed and furnished on request by the department.

11 B. The department shall:

12 1. Maintain a public registry of currently certified school tuition
13 organizations.

14 2. Make the registry available to the public on request.

15 3. Post the registry on the department's official website.

16 C. The department shall send notice by certified mail or by ~~e-mail~~
17 **EMAIL** to a school tuition organization if the department determines that
18 the school tuition organization has engaged in any of the following
19 activities:

20 1. Failed or refused to allocate at least ninety percent of annual
21 revenues from contributions made for the purposes of ~~sections~~ **SECTION**
22 **43-1089 and 43-1089.03** for educational scholarships or tuition grants.

23 2. Failed or refused to file the annual reports required by section
24 43-1604.

25 3. Limited the availability of scholarships to students of only one
26 school.

27 4. Encouraged, facilitated or knowingly ~~permitted~~ **ALLOWED** taxpayers
28 to engage in actions prohibited by this article.

29 5. Awarded, restricted or reserved educational scholarships or
30 tuition grants for use by a particular student based solely on the
31 recommendation of the donor.

32 6. Failed or refused to meet any of the requirements in section
33 43-1603, subsection B.

34 7. Failed or refused to include the notice required in section
35 43-1603, subsection C.

36 8. Failed or refused to comply with the audit or financial review
37 requirements of section 43-1605.

38 D. A school tuition organization that receives notice from the
39 department pursuant to subsection C of this section has ninety days to
40 correct the violation identified by the department in the notice. If a
41 school tuition organization fails or refuses to comply after ninety days,
42 the department may remove the organization from the list of certified
43 school tuition organizations and shall make available to the public notice
44 of removal as soon as possible. An organization that is removed from the
45 list of certified school tuition organizations must notify any taxpayer

1 who attempts to make a contribution that the contribution is not eligible
2 for the tax credit and offer to refund all donations received after the
3 date of the notice of termination of certification.

4 E. A school tuition organization may request an administrative
5 hearing on the revocation of its certification as provided by title 41,
6 chapter 6, article 10. Except as provided in section 41-1092.08,
7 subsection H, a decision of the department is subject to judicial review
8 pursuant to title 12, chapter 7, article 6.

9 Sec. 18. Section 43-1603, Arizona Revised Statutes, is amended to
10 read:

11 43-1603. Operational requirements for school tuition
12 organizations; notice; qualified schools

13 A. A certified school tuition organization must be established to
14 receive contributions from taxpayers for the purposes of income tax
15 credits under ~~sections~~ SECTION 43-1089 ~~and 43-1089.03~~ and to pay
16 educational scholarships or tuition grants to allow students to attend any
17 qualified school of their parents' choice.

18 B. To be eligible for certification and retain certification, the
19 school tuition organization:

20 1. Must allocate at least ninety percent of its annual revenue from
21 contributions made for the purposes of ~~sections~~ SECTION 43-1089 ~~and~~
22 ~~43-1089.03~~ for educational scholarships or tuition grants.

23 2. Shall not limit the availability of educational scholarships or
24 tuition grants to only students of one school.

25 3. May allow donors to recommend student beneficiaries, but shall
26 not award, designate or reserve scholarships solely on the basis of donor
27 recommendations.

28 4. Shall not allow donors to designate student beneficiaries as a
29 condition of any contribution to the organization, or facilitate,
30 encourage or knowingly allow the exchange of beneficiary student
31 designations in violation of section 43-1089, subsection F, ~~section~~
32 ~~43-1089.03, subsection F~~ and section 43-1089.04, subsection E.

33 5. Shall include on the organization's website, if one exists, the
34 percentage and total dollar amount of educational scholarships and tuition
35 grants awarded during the previous fiscal year to:

36 (a) Students whose family income meets the economic eligibility
37 requirements established under the national school lunch and child
38 nutrition acts (42 United States Code sections 1751 through 1793) for free
39 or reduced-price lunches.

40 (b) Students whose family income exceeds the threshold prescribed
41 by subdivision (a) of this paragraph but does not exceed one hundred
42 eighty-five percent of the economic eligibility requirements established
43 under the national school lunch and child nutrition acts (42 United States
44 Code sections 1751 through 1793) for free or reduced-price lunches.

1 6. Must not award educational scholarships or tuition grants to
2 students who are simultaneously enrolled in a district school or charter
3 school and a qualified school.

4 C. A school tuition organization shall include the following notice
5 in any printed materials soliciting donations, in applications for
6 scholarships and on its website, if one exists:

Notice

8 A school tuition organization cannot award, restrict or reserve
9 scholarships solely on the basis of a donor's recommendation.

10 A taxpayer may not claim a tax credit if the taxpayer agrees to
11 swap donations with another taxpayer to benefit either taxpayer's own
12 dependent.

13 D. In evaluating applications and awarding, designating or
14 reserving scholarships, a school tuition organization:

15 1. Shall not award, designate or reserve a scholarship solely on
16 the recommendation of any person contributing money to the organization,
17 but may consider the recommendation among other factors.

18 2. Shall consider the financial need of applicants.

19 E. A taxpayer's contribution to a school tuition organization that
20 exceeds the amount of the credit allowed by section 43-1089 but does not
21 exceed the amount of the credit allowed by section 43-1089.03 is
22 considered a contribution pursuant to section 43-1089.03. A school
23 tuition organization must use at least ninety percent of contributions
24 made pursuant to section 43-1089.03 for educational scholarships or
25 tuition grants for students to whom any of the following applies:

1. Attended a governmental primary or secondary school as a full-time student as defined in section 15-901 or attended a preschool program that offers services to students with disabilities at a governmental school for at least ninety days of the prior fiscal year and transferred from a governmental school to a qualified school.

2. Enroll in a qualified school in a kindergarten program or a preschool program that offers services to students with disabilities.

3. Are the dependent of a member of the armed forces of the United States who is stationed in this state pursuant to military orders.

4. Are homeschooled before enrolling in a qualified school.

36 5. Moved to this state from out of state before enrolling in a
37 qualified school.

38 6. Participated in an Arizona empowerment scholarship account and
39 did not renew the account or accept the scholarship in order to accept a
40 scholarship or tuition grant under this section.

41 7. Received an educational scholarship or tuition grant under
42 paragraph 1, 2, 3, 4, 5 or 6 of this subsection or under chapter 15 of
43 this title if the student continues to attend a qualified school in a
44 subsequent year.

1 ~~F. In awarding educational scholarships or tuition grants from~~
2 ~~contributions made pursuant to section 43-1089.03, a school tuition~~
3 ~~organization shall give priority to students and siblings of students on a~~
4 ~~waiting list for scholarships if the school tuition organization maintains~~
5 ~~a waiting list.~~

6 ~~G.~~ E. If an individual educational scholarship or tuition grant
7 exceeds the school's tuition, the amount in excess shall be returned to
8 the school tuition organization that made the award or grant. The school
9 tuition organization may allocate the returned monies as a multiyear award
10 for that student and report the award pursuant to section 43-1604,
11 subsection A, paragraph 5, subdivision (b) or may allocate the returned
12 monies for educational scholarships or tuition grants for other students.

13 Sec. 19. Section 43-1604, Arizona Revised Statutes, is amended to
14 read:

15 43-1604. Annual report; posting

16 A. On or before September 30 of each year, each school tuition
17 organization shall report electronically to the department, in a form
18 prescribed by the department, the following information, separately
19 compiled and identified for the purposes of ~~sections~~ SECTION 43-1089 ~~and~~
20 ~~43-1089.03~~:

21 1. The name, address and contact person of the school tuition
22 organization.

23 2. The total number of contributions received during the previous
24 fiscal year.

25 3. The total dollar amount of contributions received during the
26 previous fiscal year.

27 4. The total number of children awarded educational scholarships or
28 tuition grants during the previous fiscal year.

29 5. The total dollar amount of:

30 (a) Educational scholarships and tuition grants distributed during
31 the previous fiscal year.

32 (b) Money being held for identified students' scholarships and
33 tuition grants in future years.

34 6. The cost of audits pursuant to section 43-1605 paid during the
35 fiscal year.

36 7. The total dollar amount of educational scholarships and tuition
37 grants awarded during the previous fiscal year to:

38 (a) Students whose family income meets the economic eligibility
39 requirements established under the national school lunch and child
40 nutrition acts (42 United States Code sections 1751 through 1793) for free
41 or reduced-price lunches.

42 (b) Students whose family income exceeds the threshold prescribed
43 by subdivision (a) of this paragraph but does not exceed one hundred
44 eighty-five percent of the economic eligibility requirements established

1 under the national school lunch and child nutrition acts (42 United States
2 Code sections 1751 through 1793) for free or reduced-price lunches.

3 8. For each school to which educational scholarships or tuition
4 grants were awarded:

5 (a) The name and address of the school.
6 (b) The number of educational scholarships and tuition grants
7 awarded during the previous fiscal year.

8 (c) The total dollar amount of educational scholarships and tuition
9 grants awarded during the previous fiscal year.

10 9. The names, job titles and annual salaries of the three employees
11 who receive the highest annual salaries from the school tuition
12 organization.

13 B. The department shall post on its website a report of the
14 information it receives pursuant to subsection A of this section on or
15 before March 31 of the calendar year following the year in which the
16 information is received.

17 Sec. 20. Classroom site fund: per pupil calculation;
18 recalculation: fiscal year 2022-2023;
19 retroactivity

20 A. Notwithstanding section 15-977, subsection G, paragraph 1,
21 Arizona Revised Statutes, within ten days after the effective date of this
22 act, the staff of the joint legislative budget committee shall revise its
23 calculation of the per pupil amount from the classroom site fund
24 established by section 15-977, Arizona Revised Statutes, for fiscal year
25 2022-2023 to include children participating in an Arizona empowerment
26 scholarship account as prescribed in section 15-2402, subsection D,
27 Arizona Revised Statutes, as added by this act.

28 B. Subsection A of this section applies retroactively to from and
29 after March 29, 2022.

30 Sec. 21. Severability

31 If a provision of this act or its application to any person or
32 circumstance is held invalid, the invalidity does not affect other
33 provisions or applications of the act that can be given effect without the
34 invalid provision or application, and to this end the provisions of this
35 act are severable.

36 Sec. 22. Short title

37 This act may be cited as the "Arizona Equal Opportunity Education
38 Act".