

Arizona empowerment scholarship accounts; appropriation

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

CHAPTER 388

HOUSE BILL 2853

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 ~~(vi)~~ (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 ~~(vii)~~ (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.

1 (b) A KINDERGARTEN PROGRAM.

2 (c) ANY OF GRADES ONE THROUGH TWELVE.

3 2. DOES NOT OTHERWISE QUALIFY FOR AN ARIZONA EMPOWERMENT
4 SCHOLARSHIP ACCOUNT PURSUANT TO THIS CHAPTER.

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

7 15-2402. Arizona empowerment scholarship accounts; funds

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

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

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

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

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

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

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

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

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

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

41 (b) Textbooks required by a qualified school.

42 (c) If the qualified student meets any of the criteria specified in
43 section 15-2401, paragraph 7, subdivision (a), item (i), (ii) or (iii) as
44 determined by a school district or by an independent third party pursuant

1 to section 15-2403, subsection ~~I~~ J, the qualified student may use the
2 following additional services:

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

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

8 (iii) Tuition for vocational and life skills education approved by
9 the department.

10 (iv) Associated goods and services that include educational and
11 psychological evaluations, assistive technology rentals and braille
12 translation goods and services approved by the department.

13 (d) Tutoring or teaching services provided by an individual or
14 facility accredited by a state, regional or national accrediting
15 organization.

16 (e) Curricula and supplementary materials.

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

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

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

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

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

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

26 (l) Insurance or surety bond payments.

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

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

1 student reaches twenty-two years of age, subject to annual review. A
2 parent may appeal the department's decision pursuant to title 41, chapter
3 6, article 10. As an addendum to a qualified student's final-year
4 contract, the department shall provide the following written information
5 to the parent of the qualified student:

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

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

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

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

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

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

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

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

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

33 (a) Computer hardware or other technological devices, except as
34 otherwise allowed under paragraph 4, subdivision (c) OR (p) of this
35 subsection.

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

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

40 C. In exchange for the parent's agreement pursuant to subsection B
41 of this section, the department shall transfer from the monies that would
42 otherwise be allocated to a recipient's prior school district, or if the
43 child is currently eligible to attend A PRESCHOOL PROGRAM FOR CHILDREN
44 WITH DISABILITIES, A kindergarten PROGRAM OR ANY OF GRADES ONE THROUGH
45 TWELVE, the monies that the department determines would otherwise be

1 allocated to a recipient's expected school district of attendance, to the
2 treasurer for deposit into an Arizona empowerment scholarship account an
3 amount that is equivalent to ninety percent of the sum of the base support
4 level and additional assistance prescribed in sections 15-185 and 15-943
5 for that particular student if that student were attending a charter
6 school.

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

20 E. The state treasurer empowerment scholarship account fund is
21 established consisting of monies appropriated by the legislature. The
22 state treasurer shall administer the fund. Monies in the fund shall be
23 used for the state treasurer's costs in administering the Arizona
24 empowerment scholarship accounts under this chapter. If the number of
25 Arizona empowerment scholarship accounts significantly increases after
26 fiscal year 2020-2021, the state treasurer may request an increase in the
27 amount appropriated to the fund in any subsequent fiscal year in the
28 budget estimate submitted pursuant to section 35-113. Monies in the fund
29 are subject to legislative appropriation. Monies in the fund are exempt
30 from the provisions of section 35-190 relating to lapsing of
31 appropriations. The state treasurer shall list monies in the fund as a
32 separate line item in its budget estimate.

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

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

39 H. If a parent does not renew the qualified student's Arizona
40 empowerment scholarship account for a period of three academic years, the
41 department shall notify the parent that the qualified student's account
42 will be closed in sixty calendar days. The notification must be sent
43 through certified mail, email and telephone, if applicable. The parent
44 has sixty calendar days to renew the qualified student's Arizona
45 empowerment scholarship account. If the parent chooses not to renew or

1 does not respond in sixty calendar days, the department shall close the
2 account and any remaining monies shall be returned to the state.

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

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

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

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

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

21 15-2403. Arizona empowerment scholarship accounts;
22 administration; appeals; audit; rules; policy
23 handbook

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

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

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

1 within the ~~ten-day~~ FIFTEEN-DAY period, the department may remove the
2 parent or qualified student pursuant to this subsection.

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

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

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

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

34 ~~G.~~ H. The department shall accept applications between July 1 and
35 June 30 of each year. The department shall enroll and issue an award
36 letter to eligible applicants within thirty days after receipt of a
37 completed application and all required documentation. On or before May 30
38 of each year, the department shall furnish to the joint legislative budget
39 committee an estimate of the amount required to fund Arizona empowerment
40 scholarship accounts for the following fiscal year. The department shall
41 include in its budget request for the following fiscal year the amount
42 estimated pursuant to section 15-2402, subsection C for each qualified
43 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,
34 SUBSECTION B, PARAGRAPH 4, SUBDIVISION (c). THE EXPENSE FOR AN
35 EDUCATIONAL EVALUATION UNDERTAKEN PURSUANT TO THIS PARAGRAPH SHALL BE
36 PROVIDED BY THE SCHOOL DISTRICT WITHIN WHICH THE STUDENT RESIDES AND THAT
37 SERVES THE GRADE LEVEL OF THE STUDENT. FOR THE PURPOSES OF THIS
38 PARAGRAPH, "QUALIFIED EXAMINER" MEANS A LICENSED PHYSICIAN, PSYCHIATRIST
39 OR PSYCHOLOGIST.

40 ~~J.~~ K. On or before July 1 of each year, the department shall
41 develop an applicant and participant handbook that includes information
42 relating to policies and processes of Arizona empowerment scholarship
43 accounts. The policy handbook shall comply with the rules adopted by the
44 state board of education pursuant to this section. The department shall
45 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.

APPROVED BY THE GOVERNOR JULY 7, 2022.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 7, 2022.