

REFERENCE TITLE: ESAs; children with disabilities; evaluations

State of Arizona  
Senate  
Fifty-seventh Legislature  
First Regular Session  
2025

## **SB 1639**

Introduced by  
Senators Diaz: Alston, Bravo, Sundareshan

AN ACT

AMENDING SECTIONS 15-2402 AND 15-2403, ARIZONA REVISED STATUTES; 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 15-2402, Arizona Revised Statutes, is amended to  
3 read:

4 15-2402. Arizona empowerment scholarship accounts; funds

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

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

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

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

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

22 (b) Require the qualified student to withdraw from ~~a~~ ANY school  
23 district or charter school before enrolling for an Arizona empowerment  
24 scholarship account if the qualified student withdraws from the school  
25 district or charter school before receiving any monies in the qualified  
26 student's Arizona empowerment scholarship account.

27 (c) Prevent the qualified student from applying in advance for an  
28 Arizona empowerment scholarship account to be funded beginning the  
29 following school year, subject to section 15-2403, subsection H.

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

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

37 (a) Tuition or fees at a qualified school that requires all  
38 teaching staff and personnel who have unsupervised contact with students  
39 to be fingerprinted.

40 (b) Textbooks required by a qualified school.

41 (c) If the qualified student meets any of the criteria specified in  
42 section 15-2401, paragraph 7, subdivision (a), item (i), (ii) or (iii) as  
43 determined by a school district or by an independent third party pursuant  
44 to section 15-2403, subsection J, the qualified student may use the  
45 following additional services:

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

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

6 (iii) Tuition for vocational and life skills education approved by  
7 the department.

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

11 (d) Tutoring or teaching services provided by an individual who is  
12 not subject to disciplinary action by the state board of education for  
13 immoral or unprofessional conduct pursuant to section 15-505 or 15-534.04  
14 or a facility that is accredited by a state, regional or national  
15 accrediting organization. The department shall ensure THAT any individual  
16 who provides tutoring or teaching services to one or more qualified  
17 students pursuant to this subdivision is not subject to disciplinary  
18 action by the state board of education. The department shall also remove  
19 any individual who is subject to disciplinary action by the state board of  
20 education from all platforms that the department provides to parents and  
21 qualified students for the purchase of goods or educational services using  
22 account monies.

23 (e) Curricula and supplementary materials.

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

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

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

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

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

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

33 (l) Insurance or surety bond payments.

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

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

1 pursuant to this subdivision shall submit a written report that summarizes  
2 the results of the evaluation to the parent of the qualified student and  
3 to the department on or before July 31. The written report submitted by  
4 the independent evaluation team is valid for one year. If the department  
5 determines that the qualified student meets the eligibility criteria  
6 prescribed in the annual education plan, the qualified student is eligible  
7 to continue to receive monies pursuant to this article until the qualified  
8 student reaches twenty-two years of age, subject to annual review. A  
9 parent may appeal the department's decision pursuant to title 41, chapter  
10 6, article 10. As an addendum to a qualified student's final-year  
11 contract, the department shall provide the following written information  
12 to the parent of the qualified student:

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

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

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

23 (o) Public transportation services in this state, including a  
24 commuter pass for the qualified student, or transportation network  
25 services as defined in section 28-9551 between the qualified student's  
26 residence and a qualified school in which the qualified student is  
27 enrolled.

28 (p) Computer hardware and technological devices primarily used for  
29 an educational purpose. For the purposes of this subdivision, "computer  
30 hardware and technological devices":

31 (i) Includes calculators, personal computers, laptops, tablet  
32 devices, microscopes, telescopes and printers.

33 (ii) Does not include entertainment and other primarily  
34 noneducational devices, including televisions, telephones, video game  
35 consoles and accessories, and home theatre and audio equipment.

36 (q) AN EVALUATION PROVIDED BY A QUALIFIED EXAMINER PURSUANT TO  
37 SECTION 15-2403, SUBSECTION J, PARAGRAPH 2.

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

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

42 (a) Computer hardware or other technological devices, except as  
43 otherwise allowed under paragraph 4, subdivision (c) or (p) of this  
44 subsection.

1 (b) Transportation of the pupil, except for transportation services  
2 described in paragraph 4, subdivision (o) of this subsection.

3 C. In exchange for the parent's agreement pursuant to subsection B  
4 of this section, the department shall transfer from the monies that would  
5 otherwise be allocated to a recipient's prior school district, or if the  
6 child is currently eligible to attend a preschool program for children  
7 with disabilities, a kindergarten program or any of grades one through  
8 twelve, the monies that the department determines would otherwise be  
9 allocated to a recipient's expected school district of attendance, to the  
10 treasurer for deposit into an Arizona empowerment scholarship account an  
11 amount that is equivalent to ninety percent of the sum of the base support  
12 level and additional assistance prescribed in sections 15-185 and 15-943  
13 for that particular student if that student were attending a charter  
14 school.

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

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

41 F. A parent must renew the qualified student's Arizona empowerment  
42 scholarship account on an annual basis. The department of education shall  
43 verify that the parent's child is a qualified student as defined in  
44 section 15-2401 or 15-2401.01 in the year for which the parent seeks to  
45 renew the Arizona empowerment scholarship account. This subsection does

1 not require the department to annually verify the child's disability for  
2 the purpose of section 15-2401, paragraph 7, subdivision (a), item (i),  
3 (ii) or (iii), if applicable.

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

8 H. If a parent does not renew the qualified student's Arizona  
9 empowerment scholarship account for a period of three academic years, the  
10 department shall notify the parent that the qualified student's account  
11 will be closed in sixty calendar days. The notification must be sent  
12 through certified mail, email and telephone, if applicable. The parent  
13 has sixty calendar days to renew the qualified student's Arizona  
14 empowerment scholarship account. If the parent chooses not to renew or  
15 does not respond in sixty calendar days, the department shall close the  
16 account and any remaining monies shall be returned to the state.

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

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

23 K. Notwithstanding subsection H of this section, on the qualified  
24 student's graduation from a postsecondary institution or after any period  
25 of four consecutive years after high school graduation in which the  
26 student is not enrolled in an eligible postsecondary institution, but not  
27 before this time as long as the account holder continues using a portion  
28 of account monies for allowable expenses each year and is in good  
29 standing, the qualified student's Arizona empowerment scholarship account  
30 shall be closed and any remaining monies shall be returned to the state.

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

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

35 15-2403. Arizona empowerment scholarship accounts;  
36 administration; appeals; risk-based audits; rules;  
37 policy handbook

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

40 B. The department shall conduct or contract for annual audits of  
41 Arizona empowerment scholarship accounts to ensure compliance with section  
42 15-2402, subsection B, paragraph 4. The department shall also conduct or  
43 contract for random, quarterly and annual audits of Arizona empowerment  
44 scholarship accounts as needed to ensure compliance with section 15-2402,  
45 subsection B, paragraph 4. The department, in consultation with the

1 office of the auditor general, shall develop risk-based auditing  
2 procedures for audits conducted pursuant to this subsection.

3 C. The department shall annually review a sample of Arizona  
4 empowerment scholarship accounts, selected at random, to determine whether  
5 the parent or qualified student is in compliance with the terms of the  
6 contract, applicable laws, rules and orders relating to the Arizona  
7 empowerment scholarship accounts program. The Arizona empowerment  
8 scholarship account of a parent or qualified student who is in good  
9 standing may be randomly selected pursuant to this subsection only one  
10 time during any five-year period. The department may remove any parent or  
11 qualified student from eligibility for an Arizona empowerment scholarship  
12 account if the parent or qualified student fails to comply with the terms  
13 of the contract or applicable laws, rules or orders or knowingly misuses  
14 monies or knowingly fails to comply with the terms of the contract with  
15 intent to defraud and shall notify the treasurer. The department shall  
16 notify the treasurer to suspend the account of a parent or qualified  
17 student and shall notify the parent or qualified student in writing that  
18 the account has been suspended and that no further transactions will be  
19 allowed or disbursements made. The notification shall specify the reason  
20 for the suspension and state that the parent or qualified student has  
21 fifteen days, not including weekends, to respond and take corrective  
22 action. If the parent or qualified student refuses or fails to contact  
23 the department, furnish any information or make any report that may be  
24 required for reinstatement within the fifteen-day period, the department  
25 may remove the parent or qualified student pursuant to this subsection.

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

37 E. A parent may represent himself or herself or designate a  
38 representative, not necessarily an attorney, before any appeals hearing  
39 held pursuant to this section. Any designated representative who is not  
40 an attorney admitted to practice may not charge for any services rendered  
41 in connection with the hearing. The fact that a representative  
42 participated in the hearing or assisted the account holder is not grounds  
43 for reversing any administrative decision or order if the evidence  
44 supporting the decision or order is substantial, reliable and probative.

1 F. The state board of education may refer cases of substantial  
2 misuse of monies to the attorney general for the purpose of collection or  
3 for the purpose of a criminal investigation if the state board of  
4 education obtains evidence of fraudulent use of an account.

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

12 H. The department shall accept applications between July 1 and June  
13 30 of each year. The department shall issue an award letter to eligible  
14 applicants within thirty days after receipt of a completed application and  
15 all required documentation. If an eligible applicant completes an  
16 application in advance for an Arizona empowerment scholarship account to  
17 be funded beginning on a later date, the department may enroll the  
18 eligible applicant on the later date, except that the department may not  
19 enroll the applicant more than two fiscal quarters after the fiscal  
20 quarter in which the application is completed or on a date that is after  
21 March 31 and before July 1. If an eligible applicant completes an  
22 application after March 31 and before July 1, the department shall enroll  
23 the applicant on or after July 1. The department shall enroll all other  
24 eligible applicants when the department issues an award letter pursuant to  
25 this subsection. This subsection does not allow a qualified student to  
26 receive monies in an Arizona empowerment scholarship account while the  
27 qualified student is enrolled in a school district or charter school. On  
28 or before September 1 and November 1 of each year, the department shall  
29 furnish to the joint legislative budget committee and the governor's  
30 office of strategic planning and budgeting an estimate of the amount  
31 required to fund Arizona empowerment scholarship accounts for the  
32 following fiscal year. The department shall include in its budget request  
33 for the following fiscal year the amount estimated pursuant to section  
34 15-2402, subsection C for each qualified student.

35 I. The state board of education may adopt rules and policies  
36 necessary to administer Arizona empowerment scholarship accounts,  
37 including rules and policies:

38 1. For establishing an appeals process pursuant to subsection D of  
39 this section.

40 2. For conducting or contracting for examinations of the use of  
41 account monies, consistent with subsection L of this section.

42 3. For conducting or contracting for random, quarterly and annual  
43 reviews of accounts.

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



1           5. For establishing an anonymous telephone hotline for fraud  
2 reporting.

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

4           J. The department shall contract with an independent third party  
5 for the purposes of determining whether a qualified student is eligible to  
6 receive educational therapies or services pursuant to section 15-2402,  
7 subsection B, paragraph 4, subdivision (c). If during any period on or  
8 after January 1, 2023 the department fails to ensure that a contract with  
9 an independent third party is in effect, during that period:

10          1. The county school superintendent of each county may approve a  
11 list of independent third parties within the county whose evaluation may  
12 be used to determine whether a qualified student who resides within the  
13 county is eligible to receive educational therapies or services pursuant  
14 to section 15-2402, subsection B, paragraph 4, subdivision (c).

15          2. If the county school superintendent of a county does not provide  
16 a list of approved independent third parties within ninety days after the  
17 beginning of any period during which the department does not have a  
18 contract with an independent third party in effect as described in this  
19 subsection, the parent of a qualified student who resides within the  
20 county has the right to obtain an ~~independent educational~~ evaluation from  
21 a qualified examiner to determine whether the qualified student is  
22 eligible to receive educational therapies or services pursuant to section  
23 15-2402, subsection B, paragraph 4, subdivision (c). ~~The expense for IF~~  
24 ~~ALLOWED UNDER FEDERAL LAW,~~ an ~~educational~~ evaluation undertaken pursuant  
25 to this paragraph shall be ~~provided by~~ PAID FOR BY MONIES FROM THE  
26 QUALIFIED STUDENT'S ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT. IF THE  
27 QUALIFIED STUDENT'S ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT DOES NOT HAVE  
28 SUFFICIENT MONIES FOR THE EVALUATION, the school district within which the  
29 qualified student resides and that serves the grade level of the qualified  
30 student SHALL PAY FOR THE EVALUATION. THE SCHOOL DISTRICT MAY ESTABLISH  
31 REASONABLE REIMBURSEMENT CRITERIA, CONSISTENT WITH FEDERAL LAW, INCLUDING  
32 COST LIMITS. For the purposes of this paragraph, "qualified examiner"  
33 means a licensed physician, psychiatrist or psychologist.

34          K. On or before July 1 of each year, the department shall develop  
35 an applicant and participant handbook that includes information relating  
36 to policies and processes of Arizona empowerment scholarship accounts.  
37 The policy handbook shall comply with the rules adopted by the state board  
38 of education pursuant to this section. The department shall post the  
39 handbook on the department's website.

40          L. The department shall:

41          1. Establish and maintain an online database of allowable and  
42 disallowed categories of expenses and provide a link to the database on  
43 the department's website.

44          2. Allow the use of account monies to reimburse the parent of a  
45 qualified student or a qualified student for the purchase of a good or

1 educational service that is an allowable expense pursuant to section  
2 15-2402, subsection B.

3 M. Except for cases in which the attorney general determines that a  
4 parent or account holder has committed fraud, any expenditure from an  
5 Arizona empowerment scholarship account for a purchase that the department  
6 determines is not an allowable expense pursuant to section 15-2402 and  
7 that is subsequently repaid by the parent or account holder shall be  
8 credited back to the Arizona empowerment scholarship account balance  
9 within thirty days after the receipt of payment.

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