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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF MARICOPA

WARREN PETERSEN, in his official  
capacity as President of the Arizona  
Senate; STEVE MONTENEGRO, in his  
official capacity as Speaker of the Arizona  
House of Representatives,

Plaintiffs,

v.

ADRIAN FONTES, in his official capacity  
as Arizona Secretary of State; KRISTIN  
MAYES, in her official capacity as  
Attorney General of the State of Arizona,

Defendants.

No. CV2026-030486

**VERIFIED SPECIAL ACTION  
COMPLAINT**

For their Verified Complaint, Plaintiffs Warren Petersen, President of the Arizona Senate, and Steve Montenegro, Speaker of the Arizona House of Representatives, allege as follows:

**PRELIMINARY STATEMENT**

1. This action challenges the proposed "Descriptive Title" and "Yes/No Language" (collectively, "Ballot Language") that the Attorney General has approved for use on the 2026 General Election Official Ballot for Prop. 145 — a proposed

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1 Constitutional Amendment that was referred to the public by the Arizona Legislature in  
2 H.C.R. 2048. *See* Exhibit A (proposed final Ballot Language); Exhibit B (Prop. 145).

3         2. Ballot Language “is important because it might be the last or only  
4 description the electorate sees before voting on the measure.” *Lane v. City of Scottsdale*,  
5 258 Ariz. 460, 466 ¶ 16 (App. 2004) (quotation omitted). Accordingly, it may not be  
6 “false or clearly misleading,” may not be “lacking in neutrality,” or “argumentative.”  
7 *Quality Educ. & Jobs Supporting I-16-2012 v. Bennett*, 231 Ariz. 206, 208 ¶¶ 6-7 (2013)  
8 (quotation omitted) (hereinafter, “*Quality Educ.*”). Stated plainly, Ballot Language may  
9 only state “the essential change in the existing law should the measure receive a majority  
10 of votes.” A.R.S. § 19-125(D).

11         3. Prop. 145 would revise the Arizona Constitution to prohibit the State from  
12 confiscating (e.g., seizing, transferring, or taking) monies from qualifying scholarship  
13 accounts for children of military families, including those children who have had a parent  
14 killed in the line of duty.

15         4. Opponents of Prop. 145, however, claim that the Legislature’s “true”  
16 intention in referring Prop 145 was to void an entirely separate measure — Prop. 212,  
17 which imposes certain restrictions on Empowerment Scholarship Accounts (ESAs).  
18 Exhibit C (Prop. 212). This is true even though Prop. 145 does not once mention Prop.  
19 212 or ESAs, and is textually limited specifically to scholarship monies for military  
20 families instead of the ESA scholarship system addressed by Prop. 212.

21         5. Unfortunately, the Attorney General’s approved final Ballot Language for  
22 Prop. 145 has adopted these partisan talking points by claiming, in both the Descriptive  
23 Title and Yes/No Language, that the primary purpose of Prop. 145 is to “nullify” Prop.  
24 212. Indeed, the proposed final Ballot Language for Prop. 145 mentions Prop. 212 an  
25 astonishing three separate times; specifically instructs voters of the supposed benefits that  
26 Prop. 212 would provide if enacted by the voters; and instructs voters to look for Prop.  
27 212 “below.” In contrast, the Proposed Yes/No Language only refers to the actual benefits  
28 of Prop. 145 — securing scholarship monies for military families — in a single sentence

1 buried in the middle of the language.

2         6. This partisan, argumentative, framing of Prop. 145 violates A.R.S. § 19-  
3 125(D) by itself. *Quality Educ.*, 231 Ariz. at 208 ¶¶ 6-7. But the Ballot Language  
4 separately violates Section 19-125(D) because, by focusing exclusively on *potential*  
5 future impacts on Prop. 212, the Ballot Language fails to accurately summarize “the  
6 essential change in existing law should the measure receive a majority of votes.” A.R.S.  
7 § 19-125(D) (emphasis added). Prop. 212 is not “existing” law — in fact, it has not even  
8 yet qualified for the Ballot as of the filing of this Complaint and may not ultimately be  
9 approved by the voters. The Attorney General’s supposition that a provision in Prop. 145  
10 might ultimately “nullify” Prop. 212 is speculation and commentary which does not  
11 adequately describe change to “existing” scholarship law that would occur if Prop. 145 is  
12 approved by voters.

13         7. The Ballot Language is also impermissibly misleading for the same reason:  
14 the question of whether Prop. 145 “nullifies” Prop. 212 is a question that may be decided  
15 by the Courts in due time. But it is not a ripe issue now, and the Attorney General’s  
16 presumption that such a “nullification” would occur is, at best, an advisory opinion based  
17 on an incomplete factual record.

18         8. In order to ensure that the Ballot Language for Prop. 145 is neutral, non-  
19 argumentative, and states the essential changes in existing law consistently with A.R.S. §  
20 19-125, President Petersen and Speaker Montenegro accordingly file this action for  
21 injunctive, special action, and mandamus relief to prohibit the Secretary of State from  
22 publishing the Ballot Language on the Official General Election Ballot. Given the  
23 imminency of the upcoming printing deadlines for both the official ballot and the  
24 publicity pamphlet, expedited relief is appropriate and necessary.

### 25 PARTIES

26         9. Plaintiff Warren Petersen is the President of the Arizona State Senate for  
27 the 2025-2026 legislative sessions.

28         10. Plaintiff Steve Montenegro is the Speaker of the Arizona House of

Representatives for the 2025-2026 legislative sessions.

11. Defendant Adrian Fontes (the “Secretary”) is the Arizona Secretary of State, a division of the executive department of the government of the State of Arizona with its primary address in Maricopa County. The Secretary is responsible for providing draft Ballot Language to the Arizona Attorney General for review and approval. A.R.S. § 19-125(D).

12. Defendant Kristin Mayes (the “Attorney General”) is the Arizona Attorney General, a division of the executive department of the government of the State of Arizona with its primary address in Maricopa County. The Attorney General is tasked with approving Ballot Language proposed by the Secretary. *Id.*

### STANDING

13. President Petersen and Speaker Montenegro have the authority to take legal action to prevent institutional injuries to the Legislature. State of Arizona, Senate Rules, 57th Legislature 2025-2026, Rule 2(N), (authorizing the President “to bring or assert in any forum on behalf of the Senate any claim or right arising out of any injury to the Senate’s powers or duties under the constitution or laws of this state”); State of Arizona, Rules of the Ariz. House of Representatives, 57th Legislature 2025-2026, Rule 4(K), (authorizing the Speaker to do the same on behalf of the Arizona House of Representatives); Ariz. Const. art. IV, pt. 2, § 8 (authorizing each house of the Legislature to “determine its own rules of procedure”).

14. The Legislature has an institutional interest in defending the effectiveness of its right to refer matters to the electorate. Ariz. Const. art. IV, Pt. 1 § 1(1), (15); Ariz. Const. art. XXI, § 1; A.R.S. § 12-1841(D); *see Montenegro v. Fontes*, 260 Ariz. 443, 576 P.3d 692, 699 ¶ 28 (2025) (“[T]he Legislature has standing to challenge actions that inflict institutional injury”); *Biggs v. Cooper*, 236 Ariz. 415, 418 ¶ 11 (2014) (citing with approval U.S. Supreme Court reasoning that found the Legislature had an interest in “maintaining the effectiveness” of a vote); *see also* A.R.S. § 12-1832; *Ariz. Pub. Integrity Alliance v. Fontes*, 250 Ariz. 58, 62 ¶¶ 10–11 (2020); *Forty-Seventh Legislature v.*

1 *Napolitano*, 213 Ariz. 482, 486–87 ¶¶ 14–18 (2006); *Ariz. State Legislature v. Ariz.*  
2 *Indep. Redistricting Comm’n*, 576 U.S. 787, 803–04 (2015); *Priorities USA v. Nessel*,  
3 978 F.3d 976, 980–81 (6th Cir. 2020) (“Denying the legislature standing to defend its  
4 own law would allow the state executive to nullify a state statute without any ultimate  
5 judicial determination.”).

6 15. By acting in conflict with statutory provisions, the Secretary’s presentation  
7 of false and clearly misleading language describing Prop. 145, and the Attorney General’s  
8 approval thereof, causes the Legislature institutional injury because it interferes with, and  
9 thereby nullifies, its right to have the measure properly and fairly referred to the electorate  
10 for consideration. *See Biggs*, 236 Ariz. 415, ¶ 9 (reasoning institutional legislative injury  
11 is present if an executive action, a veto, “improperly overrides a validly enacted law”).  
12 Courts have described institutional injuries to the Legislature to include “disruption of the  
13 legislative process,” “a usurpation of [legislative] authority,” nullification of votes, or  
14 interference “with a legislative body’s. . . constitutionally assigned power.” *See Tenn.*  
15 *Gen. Assembly v. United States Dep’t of State*, 931 F.3d 499, 508, 511–12, 514 (6th Cir.  
16 2019); *United States v. AT&T*, 551 F.2d 384, 391 (D.C. Cir. 1976) (House of  
17 Representatives had standing due to interference with its ability to subpoena witnesses);  
18 *Forty-Seventh Legislature*, 213 Ariz. at 486–87 ¶¶ 14–18 (institutional injury where  
19 another branch seizes or exercises legislative powers it cannot lawfully possess because  
20 that interferes with the Legislature’s “authority to make and amend laws.”); *Ariz. State*  
21 *Legislature*, 576 U.S. at 803–04; *see also Coleman v. Miller*, 307 U.S. 433, 438 (1939);  
22 *U.S. House of Representatives v. Burwell*, 130 F. Supp. 3d 53, 67 (D.C. Cir. 2015).

23 16. There is a controversy between the parties concerning the lawfulness of  
24 Prop. 145’s description and a judgment of the Court will resolve that controversy. The  
25 proposed official Ballot Language is an existing and ongoing threat to the Legislature’s  
26 interest in referring matters to the electorate. Plaintiffs have a real and present need to  
27 know whether the proposed Ballot Language complies with A.R.S. § 19-125(D).  
28

## JURISDICTION AND VENUE

17. This Court has jurisdiction over this action pursuant to Article 6, § 14 of the Arizona Constitution, A.R.S. §§ 12-123, 12-1801, 12-1831, 12-2021, and Arizona Rule of Special Action Procedure 4(a)–(c).

18. Venue lies in Maricopa County pursuant to A.R.S. § 12-401(16) and Arizona Rule of Special Action Procedure 5(a)(2) because Defendants reside and hold office in Maricopa County.

19. This Court has personal jurisdiction over Defendants.

## GENERAL ALLEGATIONS

### I. Ballot Language in General

20. The Arizona Legislature is constitutionally vested with the authority to “order the submission to the people at the polls of any measure, item, section or part of any measure.” Ariz. Const. art. IV, Pt. 1 § 1(1), (15); *see also* Ariz. Const. art. XXI, § 1 (“Any amendment or amendments to this constitution may be proposed in either house of the legislature . . . When any proposed amendment or amendments shall be thus passed by a majority of each house of the legislature . . . the [Secretary] shall submit such proposed amendment or amendments to the vote of the people at the next general election.”).

21. For all ballot referrals, including referrals from the Legislature, the Secretary must prepare and submit for approval by the Attorney General a descriptive title of each measure that will appear on the official ballot.

22. Relevant here, A.R.S. § 19-125(D) states:

A descriptive title shall be printed on the official ballot immediately below the number of the measure and the official title of each measure. The descriptive title shall contain a summary of the principal provisions of the measure, not to exceed fifty words, which . . . shall include the following .

..

A “yes” vote shall have the effect of \_\_\_\_\_.

A “no” vote shall have the effect of \_\_\_\_\_.

1 The blank spaces shall be filled with a brief phrase, approved by the  
2 attorney general, stating the essential change in the existing law should the  
measure receive a majority of votes cast in that particular manner . . .

3 23. A.R.S. § 19-125(D) further states that the “yes” and “no” language shall be  
4 posted on the [Secretary’s] website after being approved by the attorney general and  
5 before the date on which the official ballots and the publicity pamphlet are sent to be  
6 printed.”

7 24. The Arizona Supreme Court first evaluated A.R.S. § 19-125(D) in *Quality*  
8 *Education & Jobs Supporting I-16-2012 v. Bennett*, 231 Ariz. 206 (2013). Among other  
9 things, the Court confirmed that A.R.S. § 19-125(D) requires that ballot language may  
10 not be “so overemphasized as to be misleading, inaccurate, lacking in neutrality, or  
11 argumentative.” 231 Ariz. at 208 ¶ 6; *see also Lane*, 258 Ariz. 466 ¶ 16 (similar).

12 25. In contrast to the neutral Ballot Language required by A.R.S. § 19-125(D),  
13 A.R.S. § 19-124(A) allows persons to submit written arguments for or against proposed  
14 ballot measures. These written arguments must be included in the publicity pamphlet that  
15 is provided to the voters before the election. A.R.S. § 19-124(A), (D).

16 **II. History of School-Choice and Prop. 212.**

17 26. To understand why the Ballot Language for Prop. 145 violates A.R.S. § 19-  
18 125(D), some background information is necessary.

19 27. To give parents more academic options for their children, the Legislature  
20 approved the ESA program in 2011. The ESA program provides “qualifying students”  
21 that choose to attend private educational institutions, rather than public or charter  
22 institutions, with monies from the state to pay for educational expenses. A.R.S. § 15-  
23 2402(C). In 2022, the Legislature expanded the definition of “qualified student” in the  
24 ESA program to include all K-12 students in the State. *See* A.R.S. § 15-2401.01.

25 28. Against this backdrop, a political action committee called “Protect  
26 Education, Accountability Now” has recently submitted petition sheets to the Secretary  
27 to have Initiative No. I-09-2026 on the 2026 General Election Ballot. This initiative has  
28

1 been assigned Prop. Number 212.

2 29. The Secretary is still currently reviewing the petition sheets submitted by  
3 “Protect Education, Accountability Now” for Prop. 212. As of this Complaint, the  
4 Secretary has not confirmed that Prop. 212 has received sufficient signatures to be placed  
5 on the ballot.

6 30. On July 20, 2026, several plaintiffs filed a lawsuit against the Secretary and  
7 “Protect Education, Accountability Now” challenging the legal sufficiency of the  
8 signatures submitted by Protect Education, Accountability Now. *Clark et al. v. Fontes et*  
9 *al.*, Case No. CV2026-029802 (Mar. Cty. Sup. Ct., Filed July 20, 2026).

10 **III. H.C.R. 2048**

11 31. During the 2025-2026 legislative session, the Legislature adopted House  
12 Continuing Resolution 2048 — titled the “Military Families College Savings and  
13 Scholarship Protection Act” — and referred the measure to Arizona voters pursuant to  
14 Ariz. Const. Art. XXI. H.C.R. 2048 has subsequently been assigned Prop. Number 145.

15 32. If approved by the voters, H.C.R. 2048 will amend Article XI of the Arizona  
16 Constitution by adding a new “Section 12.”

17 33. Subsection (A) of Proposed Art. XI § 12 will prohibit the State from  
18 “confiscat[ing] monies from “any scholarship account of any student who is a child of a  
19 military family” if two requirements are met. Ex. A at Prpsd. Art. XI § 12(A).

20 34. First, the scholarship account must be “established and maintained by th[e]  
21 State pursuant to a program that designates any student who is a child of a military family  
22 and who satisfies enrollment requirements as eligible to receive scholarship monies.” *Id.*  
23 at Prpsd. Art. XI § 12(A)(1).

24 35. Second, the student must be able to use “monies in the scholarship account  
25 for tuition or fees at eligible postsecondary educational institutions.” *Id.* at Prpsd. Art. XI  
26 § 12 (A)(2).

27 36. Subsection (B) of Proposed Art. XI § 12 provides that “if a bill enacted into  
28 law or a measure approved by the voters on or after November 1, 2026, violates

1 Subsection A of this Section, the entire bill or measure is void. A court may not sever any  
2 portion of a bill or measure that violates Subsection A of this Section.” *Id.* at Prpsd. Art.  
3 XI § 12(B).

4 37. Subsection (C) of Proposed Art. XI § 12 defines terms used in the Section.

5 38. “Child of a Military Family” is defined as “ a student who is a child of a  
6 person who meets any of the following: (a) is serving on active duty as a member of the  
7 Armed Forces of the United States; (b) was serving on active duty as a member of the  
8 Armed Forces of the United States when the Student’s eligibility was initially determined;  
9 (c) was a member of the Armed Forces of the United States who was killed in the line of  
10 duty.” *Id.* at Prpsd. Art. XI § 12(C)(1)

11 39. “Confiscate” is defined to “include[] seizing, transferring or otherwise  
12 taking monies from a scholarship account.” *Id.* at Prpsd. Art. XI § 12(C)(2). The term  
13 “does not include acts relating to the closure of a scholarship account if any of the  
14 following applies: (i) the student or account holder is found personally responsible for  
15 illegal activity or wrongdoing in a proceeding in which the student or account holder  
16 receives individualized due process of law; (ii) the student or account holder voluntarily  
17 closes or fails to renew a scholarship account; (iii) the student graduates from an eligible  
18 postsecondary educational institution; (iv) the student is ineligible to maintain a  
19 scholarship account under a scholarship program because the student did not enroll in an  
20 eligible postsecondary educational institution for a period of at least four consecutive  
21 years after graduating from high school.” *Id.*

22 40. Finally, “eligible postsecondary educational institution” is defined to  
23 include a State University, community college district, or an accredited private  
24 postsecondary educational institution. *Id.* at Prpsd Art. XI § 12(C)(3).

25 41. Prop. 145 is textually limited to children of military families and does not  
26 once mention the ESA program or Prop. 212.

1 **IV. The Challenged Ballot Language**

2 42. In or around July 2026, the Secretary transmitted proposed final Ballot  
3 Language for review to the Attorney General. Exhibit D (Secretary draft language). The  
4 Secretary provided this draft language to counsel for the Legislature on July 15, 2026, in  
5 response to a public records request.

6 43. The Secretary's draft Descriptive Title and Yes/No Language for Prop. 145  
7 was as follows:

8 **DESCRIPTIVE TITLE:** PROHIBITS THE STATE FROM WITHDRAWING  
9 FUNDS FROM CERTAIN STUDENTS' EMPOWERMENT SCHOLARSHIP  
10 ACCOUNTS AND NULLIFIES THE "PROTECT EDUCATION ACT" IN THE  
EVENT BOTH MEASURES ARE APPROVED BY THE VOTERS.

11 A "yes" vote shall have the effect of amending the Arizona Constitution to:  
12 (1) prohibit the state from transferring or taking any monies in the empowerment  
13 scholarship account of an eligible child of a military family and other non-military  
14 affiliated families if those funds are otherwise being lawfully utilized; (2) allow  
those funds to be used for postsecondary education; and (3) invalidate any bill or  
initiative enacted in to law on or after November 1, 2026, that contradicts this  
amendment, including Prop. XXX, [sic] known as the "Protect Education Act,"  
should it pass.

15 A "no" vote shall have the effect of maintaining the current laws governing ESAs  
16 and of permitting the "Protect Education Act" to go into effect if approved by the  
voters.

17 Exhibit D at 10.

18 44. On July 20, 2026, the Legislature wrote a letter to the Attorney General  
19 raising "several concerns about the proposed ballot language for H.C.R. 2048." Exhibit  
20 E at 2.

21 45. In particular, the draft Ballot Language had "clearly been drafted in a  
22 partisan and/or non-neutral manner." *Id.* at 3. The Ballot Language "frequently references  
23 ESAs — a polarizing issue — despite the fact that ESAs are *not* mentioned anywhere  
24 within H.C.R. 2048" and "specifically refers to the 'Protect Education Act' — an entirely  
25 separate measure — *three separate times* without once using H.C.R. 2048's own short  
26 title, the 'Military Families College Savings and Scholarship Protection Act.'" *Id.*  
27 (emphasis in original). Moreover, the Ballot Language "discusses the supposed impact  
28

1 that H.C.R. 2048 would have on the ‘Protect Education Act’ even though H.C.R. 2048  
2 does not mention or purport to override or invalidate the ‘Protect Education Act’ and this  
3 issue has never been tested in court.”

4 46. The Legislature also explained that the Ballot Language incorrectly stated  
5 or implied that “H.C.R. 2048 ... only applies specially to ESAs.” *Id.* at 2. “[R]ather it  
6 applies to all state scholarship accounts that meet the criteria proposed in Article XI, §  
7 12(A)(1)-(2). For instance, H.C.R. 2048 would apply to existing programs for military  
8 families like the Veterans Donations Fund.”

9 47. The Legislature also raised other concerns, including the fact that the Ballot  
10 Language “incorrectly states that H.C.R. 2048 prohibits the State from ‘withdrawing’  
11 monies from qualifying scholarship accounts.” *Id.* at 4. In fact, H.C.R. 2048 only prohibits  
12 the State from “confiscating” those monies, meaning that the State was only prohibited  
13 from seizing “qualifying scholarship monies from the military family students in the  
14 absence of wrongdoing.” *Id.* at 3-4.

15 48. On July 21, 2026, the Attorney General responded that it was considering  
16 the Legislature’s proposed edits to the Ballot Language and had already addressed several  
17 of the concerns the Legislature had raised in the July 20, 2026, Letter.

18 49. Despite the Attorney General’s suggestion that it was still considering  
19 changes to Prop. 145’s Ballot Language, however, the Attorney General concurrently  
20 provided the Legislature with a link to supposedly “final” ballot language for the 2026  
21 General Election. *See* A.R.S. § 19-125(D) (stating that the Yes/No Language “shall be  
22 posted on the Secretary of State’s website after being approved by the Attorney  
23 General...”)

24 50. The apparently final Ballot Language for Prop. 145 states as follows:

25 **DESCRIPTIVE TITLE:** WOULD NULLIFY PROPOSITION 212  
26 (BELOW) IF VOTERS ENACT IT THIS ELECTION; PROHIBITS THE  
27 STATE FROM SWEEPING FUNDS FROM CERTAIN STATE-RUN  
28 SCHOLARSHIP ACCOUNTS IF THE STUDENT’S PARENT HAS  
PROVIDED CERTAIN ACTIVE-DUTY MILITARY SERVICE;

1 NULLIFIES ALL LAWS THAT WOULD SWEEP ANY SUCH FUNDS,  
2 INCLUDING UNRELATED PROVISIONS OF THOSE LAWS

3 A “yes” vote shall have the effect of amending the Arizona Constitution to:  
4 (1) nullify Prop. 212, which imposes spending and income limits on the  
5 Empowerment Scholarship Account (ESA) program, if the people enact that  
6 Prop. during this election; (2) prohibit the state from sweeping funds from  
7 certain state-run scholarship accounts if the student’s parent has provided  
8 certain active-duty military service; and (3) nullify all parts of any law that  
9 would sweep any such funds, including unrelated provisions of those laws,  
10 applying retroactively to all laws enacted on or after November 1, 2026.

11 A “no” vote shall have the effect of maintaining current constitutional  
12 provisions related to scholarship accounts and allowing Prop. 212 to go into  
13 effect if voters enact it this election.

14 Exhibit A.

15 51. Although the final Ballot Language is slightly different from the language  
16 proposed by the Secretary, the Legislature remained concerned that the frequent  
17 references to Prop. 212 were argumentative, biased, and partisan, and that the Ballot  
18 Language misled voters by claiming that Prop. 145 would somehow “nullify” a Prop.  
19 which has not even yet qualified for the ballot.

20 52. Accordingly, on July 22, 2026, the Legislature sent a correspondence to the  
21 Attorney General requesting that they revise the proposed Ballot Language to remove any  
22 reference to Prop. 212. In light of the quickly upcoming ballot printing deadline, this  
23 correspondence asked for confirmation that the language would be removed by 3 p.m.  
24 July 23, 2026.

25 53. The Attorney General has confirmed that it will not revise the language.

26 54. Accordingly, this action followed.

27 **FIRST CLAIM FOR RELIEF**

28 **Declaratory and Injunctive Relief (A.R.S. §§ 12-1801 *et seq.*; 12-1831 *et seq.*)**

**Violation of A.R.S. § 19-125(D)**

55. The Speaker and President incorporate the preceding allegations.

1        56.     A.R.S. § 19-125(D) requires the Descriptive Title for each ballot measure  
2 to “contain a summary of the principal provisions of the measure” and the Yes/No  
3 Language to “stat[e] the essential change in the existing law should the measure receive  
4 a majority of votes cast in that particular manner . . .” *Id.*

5        57.     Ballot Language must “reasonably be regarded as an attempt to provide  
6 necessary and appropriate information to the voting public.” *Quality Educ.*, 231 Ariz. at  
7 208 ¶ 6 (citation omitted).

8        58.     Thus, Ballot Language may not be “false or clearly misleading” and may  
9 not be “lacking in neutrality, or argumentative.” *Id.* at 208 ¶¶ 6-7.

10       59.     The final proposed Ballot Language for Prop. 145 here violates these  
11 precepts for three separate and independent reasons.

12       60.     First, by focusing on the impact that Prop. 145 may have on Prop. 212, the  
13 final Ballot Language is improperly argumentative, biased, and partisan.

14       61.     Rather than discussing what Prop. 145 would do for the children of military  
15 families, the final Ballot Language indicates to voters that the sole purpose of the measure  
16 is simply to “nullify” Prop. 212 — a Proposition that is not mentioned in the actual text  
17 of Prop. 145, at all.

18       62.     This is illustrated by the fact that the literal first sentences of the Descriptive  
19 Title and Yes/No Language both declare that Prop. 145 would “nullify Prop. 212.”

20       63.     The Yes/No Language also illustrates the partisan or argumentative nature  
21 of the Ballot Language by, for no reason, specifically explaining to voters what *Prop. 212*  
22 would do if enacted by the voters.

23       64.     In addition, the Ballot Language’s descriptions of the impact that Prop. 145  
24 *might* have on Prop. 212 (on the one hand) is starkly different from its description of the  
25 concrete benefits that would be provided by Prop. 145 to children of military families if  
26 it is approved by the voters (on the other hand). The Ballot Language declares without  
27 qualification that Prop. 145 would certainly “nullify” Prop. 212 if passed. In contrast, the  
28 actual benefits of Prop. 145 — preventing the State from confiscating scholarship funds

1 from children of military families — are presented in passive voice, hidden in the text,  
2 and are filled with unnecessary and vague qualifying terms. The Ballot Language also  
3 omits the fact that Prop. 145 applies to children who have had their parents killed in the  
4 line of duty.

5 65. Subsection (1) of the Yes/No Language is also entirely unnecessary, as  
6 subsections (1) and (3) describe the *same* section of Prop. 145 (proposed Art. XI § 12(B)).  
7 Subsection “(3)” states that Prop. 145 would “nullify all parts of any law that would sweep  
8 such funds.” This language neutrally and accurately captures the text of Prop. 145,  
9 whereas subsection “(1)” contains a particularly egregious hyper partisan focus on Prop.  
10 212

11 66. Second, by focusing on the supposed impact that Prop. 145 would have on  
12 Prop. 212, the final Ballot Language fails to accurately describe changes in “*existing*”  
13 law, in violation of A.R.S § 19-125(D).

14 67. Prop. 212 is not “existing” law. It is an initiative petition that: (1) has not  
15 yet been certified by the Secretary as containing a sufficient number of signatures to  
16 qualify for the ballot and (2) is currently subject to legal challenge on the same grounds.  
17 Even if Prop. 212 qualifies for the ballot, it may not be approved by a sufficient number  
18 of voters to become law in any event.

19 68. By framing Prop. 212 as if it is currently existing law, the Ballot Language  
20 here is fundamentally misleading for similar reasons described in *Lane*. There, the Court  
21 of Appeals determined that ballot language claiming a proposition would “reduce” taxes  
22 was misleading because in reality, if the proposition were to pass, the existing tax rate of  
23 .20% would expire and then be replaced by a .15% tax rate — thus, technically the  
24 proposition *raised* taxes from 0% to .15%. *See Lane*, 258 Ariz. at 467-68 ¶¶ 22-28. In  
25 other words, the problem in *Lane*, as here, is that the Ballot Language describes what the  
26 Attorney General believes would be the effective outcome of a “YES” vote (here, the  
27 nullification of Prop. 212; in *Lane*, the “reduction” of a tax from .20% to .15%) rather  
28 than neutrally describing what Prop. 145 actually does (here, rendering void any “bill ...

1 or measure approved by voters after November 1, 2026” that violates Prpsd Art. XI §  
2 12(A); in *Lane*, the technical increase from 0% to .20%).

3 69. Third, and relatedly, the final Ballot Language is misleading. For one, the  
4 question of whether Prop. 145 would actually “nullify” Prop. 212 is far from clear. The  
5 matter is not ripe for review and has never been tested in a court of law. Whether Prop.  
6 212 “violates” Proposed Art. XI § 12(A) is also potentially contingent on facts and other  
7 eventualities that cannot be known until (and if) Prop. 212 actually becomes law. *See*  
8 *Vlasco v. Mallory*, 5 Ariz. App. 406, 411-12 (App. 1967) (“We will not render advisor  
9 opinions anticipative of troubles which do not exist; may never exist; and the precise form  
10 of which, should they ever arise, we cannot predict.”).

11 70. Even if it were a ripe issue, A.R.S. § 19-125(D) simply does not permit the  
12 Attorney General to opine on the potential down-stream legal impacts of Prop. 145 should  
13 it pass. *See Western Devcor, Inc. v. City of Scottsdale*, 168 Ariz. 426, 431 (1991) (“Our  
14 statutes do not authorize, nor would our constitution permit, that [the Secretary of State’s  
15 office] to pass ultimate judgment on whether petitions comply with constitutional  
16 requirements. That is a judicial function.”).

17 71. In addition, even assuming that Proposed Art. XI § 12(B) would serve to  
18 “nullify” Prop. 212, the Ballot Language is misleading because it suggests that only Prop.  
19 212 might be impacted by Prop. 145. Proposed Art. XI § 12(B) makes clear that it applies  
20 to *any* “law or measure” approved by voters on or after November 1, 2026, that violations  
21 Art. XI § 12(A).

22 72. Defendants have no authority to insert into Ballot Language non-neutral,  
23 misleading, and argumentative partisan talking points or conjectural legal arguments that  
24 are more appropriate elsewhere. Accordingly, Plaintiffs request that this Court declare  
25 that Prop. 145’s Ballot Language violates A.R.S. § 19-125(D), and award special action  
26 and injunctive relief enjoining the Secretary from printing that Language on the official  
27 ballot.  
28

**SECOND CLAIM FOR RELIEF****Mandamus Relief (A.R.S. § 12-2021)**

73. The Speaker and President incorporate the preceding allegations.

74. The Court may issue a writ of mandamus to compel government officials to perform an act which they have a legal duty to perform, where there is not a plain, adequate, and speedy remedy at law. A.R.S. § 12-2021.

75. The Secretary has a non-discretionary legal duty to print on the official ballot a descriptive title containing the principal provisions of Prop. 145, as well as “yes/no” language stating the essential changes to the existing law should Prop. 145 pass, as detailed above. A.R.S. § 19-125(A), (D). That language may neither be “false or clearly misleading,” nor completely “lacking in neutrality, or argumentative.” *Quality Educ.*, 231 Ariz. at 208 ¶¶ 6-7.

76. The Attorney General likewise has a non-discretionary legal duty to approve the descriptive title and “yes/no” language drafted by the Secretary. A.R.S. § 19-125(D).

77. Permitting the Secretary to prepare and print on the official ballot a descriptive title containing false and clearly misleading descriptions of the measure’s principal provisions would result in the Secretary proceeding without or in excess of his legal authority, and would result in a determination by the Secretary which is arbitrary and capricious, or an abuse of discretion.

78. Likewise, permitting the Attorney General to maintain her approval of the descriptive title and “yes/no” language as drafted would result in the Attorney General proceeding without or in excess of her legal authority, and would result in activity by the Attorney General which is arbitrary and capricious, or an abuse of discretion.

79. On information and belief, the deadline by which the Secretary will submit ballot language for the official general election ballot is August 20, 2026.

1           80.     Plaintiffs lack a plain, speedy, and adequate remedy at law to compel the  
2 Secretary and Attorney General to perform the non-discretionary legal duties imposed  
3 upon them by statute.

4           81.     Accordingly, Plaintiffs seek mandamus relief requiring the Secretary to  
5 prepare, and the Attorney General to approve, a descriptive title and “yes/no” language  
6 for Prop 145 that complies with the requirements of A.R.S. § 19-125(D).

7                               **REQUEST FOR RELIEF**

8           WHEREFORE, Plaintiffs pray for:

9           A.     A declaration pursuant to A.R.S. § 12-1831 that Prop 145’s descriptive title  
10 and “yes/no” language violate A.R.S. § 19-125(D);

11          B.     An injunction pursuant to A.R.S. § 12-1801, Arizona Rule of Civil  
12 Procedure 65, and other applicable law preliminarily and permanently enjoining the  
13 Secretary from printing the Prop 145 descriptive title and “yes/no” language on the  
14 official ballot as currently drafted;

15          C.     The issuance of a writ of mandamus compelling the Secretary to fully and  
16 effectively discharge his non-discretionary legal duties to prepare and print on the official  
17 ballot a descriptive title and “yes/no” language for Prop 145 that complies with the  
18 requirements of A.R.S. § 19-125(D);

19          D.     The issuance of a writ of mandamus compelling the Attorney General to  
20 fully and effectively discharge her non-discretionary legal duties to approve a descriptive  
21 title and “yes/no” language for Prop 145 that complies with the requirements of A.R.S. §  
22 19-125(D);

23          E.     An order awarding Plaintiffs’ attorney’s fees and nontaxable expenses  
24 incurred in this action under:

25               1.     The private attorney general doctrine as established in *Arnold v.*  
26 *Ariz. Dep’t of Health Servs.*, 160 Ariz. 593, 609 (1989), *disagreed with on other grounds*  
27 *by, Ansley v. Banner Health Network*, 248 Ariz. 143 (2020), because the rights sought to  
28 be vindicated here benefit a large number of people, require private enforcement, and are

of societal importance;

2. A.R.S. § 12-348,

3. A.R.S. § 12-348.01,

4. A.R.S. § 12-2030, and

5. any other applicable law or common law authorizing the award of attorney's fees and nontaxable expenses to Plaintiffs.

F. An order awarding Plaintiffs their taxable costs under A.R.S. §§ 12-341, 12-1840, and any other applicable law authorizing the award of taxable costs; and

G. Such other relief as the Court deems necessary, equitable, proper, and just.

DATED this 24th day of July, 2026\_\_

SNELL & WILMER L.L.P.

By:

  
Joseph Kanefield  
Brett W. Johnson  
Ian R. Joyce  
One East Washington Street  
Suite 2700  
Phoenix, Arizona 85004-2556  
Telephone: 602.382.6000  
Facsimile: 602.382.6070

*Attorneys for Plaintiffs Senate  
President Warren Petersen and  
Speaker of the House Steve  
Montenegro*

SNELL  
& WILMER

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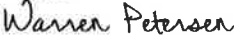
**VERIFICATION**

STATE OF ARIZONA            )  
                                          ) ss.  
COUNTY OF MARICOPA        )

1. I, Warren Petersen, am President of the Arizona Senate residing in Arizona.  
2. I have read the forgoing Verified Complaint for Special Action and know the  
contents thereof.

I declare under penalty of perjury that the foregoing is true and correct to the best  
of my knowledge.

DATED July 24, 2026

Signed by:  
  
\_\_\_\_\_  
Warren Petersen  
President of the Arizona Senate

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VERIFICATION

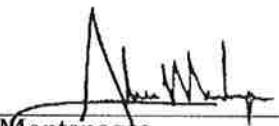
STATE OF ARIZONA            )  
                                          ) ss.  
COUNTY OF MARICOPA        )

1. I, Steve Montenegro, am Speaker of the Arizona House of Representatives  
residing in Arizona.

2. I have read the forgoing Verified Complaint for Special Action and know the  
contents thereof.

I declare under penalty of perjury that the foregoing is true and correct to the best  
of my knowledge.

DATED July 24, 2026

  
\_\_\_\_\_  
Steve Montenegro  
Speaker of the Arizona House of Representatives

# **EXHIBIT A**

PROPOSITION 145

HCR 2048 (2026)

PROPOSED AMENDMENT TO THE CONSTITUTION BY THE LEGISLATURE RELATING  
TO EDUCATION SCHOLARSHIPS

**OFFICIAL TITLE**

AMENDING ARTICLE XI, CONSTITUTION OF ARIZONA, BY ADDING SECTION 12.

**DESCRIPTIVE TITLE**

WOULD NULLIFY PROPOSITION 212 (BELOW) IF VOTERS ENACT IT THIS ELECTION; PROHIBITS THE STATE FROM SWEEPING FUNDS FROM CERTAIN STATE-RUN SCHOLARSHIP ACCOUNTS IF THE STUDENT’S PARENT HAS PROVIDED CERTAIN ACTIVE-DUTY MILITARY SERVICE; NULLIFIES ALL LAWS THAT WOULD SWEEP ANY SUCH FUNDS, INCLUDING UNRELATED PROVISIONS OF THOSE LAWS.

A “yes” vote shall have the effect of amending the Arizona Constitution to: (1) nullify Proposition 212, which imposes spending and income limits on the Empowerment Scholarship Account (ESA) program, if the people enact that Proposition during this election; (2) prohibit the state from sweeping funds from certain state-run scholarship accounts if the student’s parent has provided certain active-duty military service; and (3) nullify all parts of any law that would sweep any such funds, including unrelated provisions of those laws, applying retroactively to all laws enacted on or after November 1, 2026.

A “no” vote shall have the effect of maintaining current constitutional provisions related to scholarship accounts and allowing Proposition 212 to go into effect if voters enact it this election.

# **EXHIBIT B**

Senate Engrossed

~~elected officials; salary; prohibition~~  
(now: military families; scholarship accounts)

State of Arizona  
House of Representatives  
Fifty-seventh Legislature  
Second Regular Session  
2026

## HOUSE CONCURRENT RESOLUTION 2048

### A CONCURRENT RESOLUTION

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE XI, CONSTITUTION OF ARIZONA, BY ADDING SECTION 12; RELATING TO EDUCATION SCHOLARSHIPS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the House of Representatives of the State of Arizona, the  
2 Senate concurring:

3 1. Article XI, Constitution of Arizona, is proposed to be amended by  
4 adding section 12 as follows if approved by the voters and on proclamation  
5 of the Governor:

6 12. Scholarship accounts; confiscation of monies  
7 prohibited; voidability of future bills or  
8 measures; definitions

9 SECTION 12. A. THIS STATE MAY NOT CONFISCATE MONIES FROM  
10 ANY SCHOLARSHIP ACCOUNT OF ANY STUDENT WHO IS A CHILD OF A  
11 MILITARY FAMILY IF BOTH OF THE FOLLOWING APPLY:

12 1. THE SCHOLARSHIP ACCOUNT IS ESTABLISHED AND MAINTAINED  
13 BY THIS STATE PURSUANT TO A PROGRAM THAT DESIGNATES ANY STUDENT  
14 WHO IS A CHILD OF A MILITARY FAMILY AND WHO SATISFIES ENROLLMENT  
15 REQUIREMENTS AS ELIGIBLE TO RECEIVE SCHOLARSHIP MONIES. THIS  
16 PARAGRAPH DOES NOT LIMIT THIS SUBSECTION TO SCHOLARSHIP ACCOUNT  
17 PROGRAMS THAT ARE ESTABLISHED AND MAINTAINED BY THIS STATE FOR  
18 ONLY CHILDREN OF MILITARY FAMILIES.

19 2. THE STUDENT MAY USE MONIES IN THE SCHOLARSHIP ACCOUNT  
20 FOR TUITION OR FEES AT ELIGIBLE POSTSECONDARY EDUCATIONAL  
21 INSTITUTIONS.

22 B. NOTWITHSTANDING ARTICLE IV, IF A BILL ENACTED INTO  
23 LAW OR A MEASURE APPROVED BY THE VOTERS ON OR AFTER NOVEMBER 1,  
24 2026 VIOLATES SUBSECTION A OF THIS SECTION, THE ENTIRE BILL OR  
25 MEASURE IS VOID. A COURT MAY NOT SEVER ANY PORTION OF A BILL OR  
26 MEASURE THAT VIOLATES SUBSECTION A OF THIS SECTION.

27 C. FOR THE PURPOSES OF THIS SECTION:

28 1. "CHILD OF A MILITARY FAMILY" MEANS A STUDENT WHO IS A  
29 CHILD OF A PERSON WHO MEETS ANY OF THE FOLLOWING:

30 (a) IS SERVING ON ACTIVE DUTY AS A MEMBER OF THE ARMED  
31 FORCES OF THE UNITED STATES.

32 (b) WAS SERVING ON ACTIVE DUTY AS A MEMBER OF THE ARMED  
33 FORCES OF THE UNITED STATES WHEN THE STUDENT'S ELIGIBILITY WAS  
34 INITIALLY DETERMINED.

35 (c) WAS A MEMBER OF THE ARMED FORCES OF THE UNITED STATES  
36 WHO WAS KILLED IN THE LINE OF DUTY.

37 2. "CONFISCATE":

38 (a) INCLUDES SEIZING, TRANSFERRING OR OTHERWISE TAKING  
39 MONIES FROM A SCHOLARSHIP ACCOUNT.

40 (b) DOES NOT INCLUDE ACTS RELATED TO THE CLOSURE OF A  
41 SCHOLARSHIP ACCOUNT IF ANY OF THE FOLLOWING APPLIES:

42 (i) THE STUDENT OR ACCOUNT HOLDER IS FOUND PERSONALLY  
43 RESPONSIBLE FOR ILLEGAL ACTIVITY OR WRONGDOING IN A PROCEEDING  
44 IN WHICH THE STUDENT OR ACCOUNT HOLDER RECEIVES INDIVIDUALIZED

1 DUE PROCESS OF LAW.  
2 (ii) THE STUDENT OR ACCOUNT HOLDER VOLUNTARILY CLOSES OR  
3 FAILS TO RENEW A SCHOLARSHIP ACCOUNT.  
4 (iii) THE STUDENT GRADUATES FROM AN ELIGIBLE  
5 POSTSECONDARY EDUCATIONAL INSTITUTION.  
6 (iv) THE STUDENT IS INELIGIBLE TO MAINTAIN A SCHOLARSHIP  
7 ACCOUNT UNDER A SCHOLARSHIP PROGRAM BECAUSE THE STUDENT DID NOT  
8 ENROLL IN AN ELIGIBLE POSTSECONDARY EDUCATIONAL INSTITUTION FOR  
9 A PERIOD OF AT LEAST FOUR CONSECUTIVE YEARS AFTER GRADUATING  
10 FROM HIGH SCHOOL.  
11 3. "ELIGIBLE POSTSECONDARY EDUCATIONAL INSTITUTION"  
12 MEANS:  
13 (a) A UNIVERSITY THAT IS ESTABLISHED PURSUANT TO SECTION  
14 1 OF THIS ARTICLE.  
15 (b) A COMMUNITY COLLEGE DISTRICT IN THIS STATE.  
16 (c) AN ACCREDITED PRIVATE POSTSECONDARY EDUCATIONAL  
17 INSTITUTION.  
18 2. Short title  
19 This act may be cited as the "Military Families College  
20 Savings and Scholarship Protection Act".  
21 3. The Secretary of State shall submit this proposition to the voters  
22 at the next general election as provided by article XXI, Constitution of  
23 Arizona.

PASSED BY THE HOUSE MARCH 2, 2026.

PASSED BY THE SENATE JUNE 13, 2026.

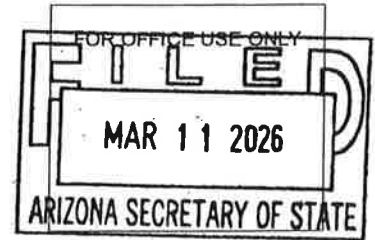
FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 15, 2026.

# **EXHIBIT C**



STATE OF ARIZONA

Application for Serial Number  
Initiative Petition  
A.R.S. § 19-111



The undersigned intends to circulate and file an initiative petition and hereby makes application for the issuance of an official serial number to be printed in the lower right-hand corner of each side of each signature sheet of such petition. Attached hereto is the full title and text, in no less than eight-point type of the measure or constitutional amendment intended to be initiated at the next general election.

☒ Statutory Measure ☐ Constitutional Amendment

Date of Application 03/11/2026  
Signatures Required 255,949  
Deadline for Filing 07/02/2026  
Serial Number Issued I-09-2026

Strengthens transparency, accountability, and safety in Empowerment Scholarship Account (ESA) program (commonly called "vouchers"), while protecting access for students with disabilities and other pre-2022 eligibility categories. Limits eligibility under 2022 expansion to families with annual income of \$150,000 or less (adjusted annually). Further restricts use of "Arizona ESA monies" (as defined), including for luxury items. "Qualified tutors" and personnel at "qualified schools" and "qualified tutoring service providers" (QTSP) (as defined) need valid fingerprint clearance and are subject to State Board of Education (SBE) discipline. SBE must adopt implementing rules (exempt from formal rulemaking requirements), including for safety. Qualified schools, QTSPs, and qualified tutors must pay fee and register annually with Department of Education (ADE) to receive ESA monies. Qualified schools must be accredited or administer state assessments (except for students with disabilities). ADE must report ESA-related information. Prescribes disqualification grounds, expands grounds for recouping unspent funds, allocates recouped funds (including to classroom site fund). Requires Attorney General enforcement. Lets legislature impose additional ESA program requirements. Funded by transfer from medical marijuana fund, registration fees, and recouped funds. Defines terms. Removes state's heightened legal burden to justify ESA requirements. Allows specified state oversight over nonpublic schools receiving ESA monies.

Delia Lyding

Name of Applicant

6625 South Rural Road, Suite 111

Address

Tempe AZ 85283

City

State

Zip

(602) 616-0535

Telephone Number

james@bartonmendezsoto.com

E-mail Address

Protect Education, Accountability Now

Committee Name

102119

Committee ID No.

Delia Lyding

Chairperson

Dacey Montoya

Treasurer

6625 South Rural Road, Suite 111

Committee Address

Tempe AZ 85283

City

State

Zip

602-616-0535

Committee Telephone Number

dacey@tmwcompliance.com

Committee E-mail Address

By submitting this Application for Serial Number and checking all boxes below, I acknowledge the following:



That I have received and will review the accompanying Instructions for Statewide Initiatives, including the Secretary of State's recommended best practices for printing copies of the Statewide Initiative Petition to be circulated.



That at the time of filing, I was provided instructions regarding accurate completion of the electronic Statewide Initiative Petition form.

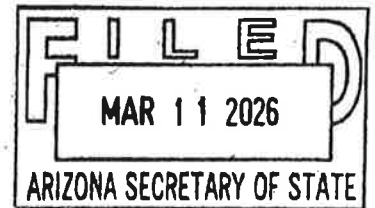
Delia Lyding  
Applicant Signature

03/11/2026

Date

Office of the Secretary of State  
1700 W. Washington Street  
Phoenix, Arizona 85007

Rev. 12/17/2025



## OFFICIAL TITLE

### AN INITIATIVE MEASURE

AMENDING SECTIONS 15-161, 15-2401, 15-2401.01 AND 15-2402, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 19, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-2403.01; AMENDING SECTIONS 15-2404 AND 15-2405, ARIZONA REVISED STATUTES; RELATING TO ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNTS; APPROPRIATING MONIES.

Be it enacted by the People of the State of Arizona:

#### Section 1. Short title

This Act may be cited as the "Protect Education Act".

#### Sec. 2. Findings and declaration of purpose

The People of the State of Arizona find and declare as follows:

1. Arizona's Empowerment Scholarship Accounts (ESA) program—colloquially referred to as "school vouchers"—began in 2011 as a targeted program for students with disabilities. Over time, the Legislature expanded eligibility to additional targeted categories of students. In 2022, the Legislature enacted a broad expansion of school vouchers, including to all students eligible to enroll in kindergarten to twelfth grade in a public school. Since then, the ESA voucher program has grown rapidly and is expected to exceed \$1 billion in taxpayer monies in the 2025-2026 school year. Meanwhile, the lack of sufficient oversight and accountability in the program has resulted in waste and misuse of taxpayer monies, including on items like bounce houses, commercial appliances, jewelry, lingerie and more.

2. Standards of transparency, oversight and responsible use of public monies should apply to all recipients of state education funds. This Act is intended to enhance student safety and promote transparency, accountability and fiscal responsibility in Arizona's ESA program while preserving flexibility for students with disabilities. This Act imposes an income limit for ESA voucher eligibility under the broad expansion enacted in 2022. This Act does not impose an income limit for students who qualify for ESAs under the eligibility categories that existed before 2022, including students with disabilities and children of members of the armed forces.

3. This Act does not limit further regulation of the ESA voucher program if such regulation furthers the purpose and spirit of the Act as stated above and as embodied in the Act's amendments, consistent with the Arizona Constitution.

4. This Act should be liberally construed to effectuate the purposes set forth in the declarations and findings above.

#### Sec. 3. Section 15-161, Arizona Revised Statutes, is amended to read:

##### 15-161. State control over private schools

~~Nothing in this~~ THIS title ~~shall be construed to~~ DOES NOT provide the state board of education or the governing boards of school districts WITH control or supervision over private schools EXCEPT AS PROVIDED IN CHAPTER 19 OF THIS TITLE IF THE SCHOOL RECEIVES ARIZONA ESA MONIES.

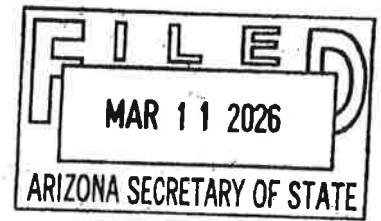
#### Sec. 4. Section 15-2401, Arizona Revised Statutes, is amended to read:

##### 15-2401. Definitions

In this chapter, unless the context otherwise requires:

1. "Annual education plan" means an initial individualized evaluation and subsequent annual reviews that are developed for a qualified student who meets the criteria specified in paragraph 7-10, subdivision (a), item (i), (ii) or (iii) of this section to determine ongoing annual eligibility through the school year in which the qualified student reaches twenty-two years of age and whether the student may be eligible pursuant to ~~section 36-2981~~ TITLE 36, CHAPTER 29, ARTICLE 4 and should be referred for eligibility determination.

2. "ANNUAL FAMILY INCOME" MEANS THE FEDERAL ADJUSTED GROSS INCOME. AS DEFINED IN SECTION 43-



3. "ARIZONA ESA MONIES":

(a) MEANS ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNTS AND ANY PUBLIC MONIES PROVIDED BY THE STATE TO A PARENT, A QUALIFIED STUDENT, A NONPUBLIC SCHOOL OR ANY OTHER PERSON OR ENTITY FOR THE PURPOSE OF OBTAINING A NONPUBLIC EDUCATION, NONPUBLIC EDUCATIONAL SERVICES OR RELATED EDUCATIONAL MATERIALS FOR A STUDENT ELIGIBLE TO ENROLL IN A PUBLIC SCHOOL IN THIS STATE IN A KINDERGARTEN PROGRAM OR ANY OF GRADES ONE THROUGH TWELVE.

(b) DOES NOT INCLUDE MONIES PROVIDED THROUGH THE SPECIAL EDUCATION PROGRAMS ESTABLISHED PURSUANT TO CHAPTER 10, ARTICLES 6 AND 7 OF THIS TITLE OR TITLE 43, CHAPTERS 15 AND 16 OR ANY OTHER STATUTORILY CREATED PROGRAM IN EXISTENCE AS OF JANUARY 1, 2026 OTHER THAN THE ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT PROGRAM.

2-4. "Curriculum" means a course of study for content areas or grade levels, including any supplemental materials required or recommended by the curriculum, approved by the department. SUPPLEMENTAL MATERIALS MUST BE DIRECTLY AND SUBSTANTIALLY RELATED TO CURRICULAR CONTENT AND USED TO TEACH OR ENHANCE AN APPROVED CURRICULUM.

3-5. "Department" means the department of education.

4-6. "Eligible postsecondary institution" means a community college as defined in section 15-1401, a university under the jurisdiction of the Arizona board of regents or an accredited private postsecondary institution.

5-7. "Parent" means a resident of this state who is the parent, stepparent or legal guardian of a qualified student.

8. "PROTECT EDUCATION ACT" MEANS THE AMENDMENTS APPROVED BY THE PEOPLE OF THIS STATE PURSUANT TO THIS ACT AT THE NOVEMBER 2026 GENERAL ELECTION.

6-9. "Qualified school" means a ~~nongovernmental~~ NONPUBLIC primary or secondary school or a preschool for pupils with disabilities that MEETS ALL OF THE FOLLOWING REQUIREMENTS:

(a) Is located in this state or, for qualified students who reside within the boundaries of an Indian reservation in this state, that is located in an adjacent state and that is within two miles of the border of the state in which the qualified student resides, ~~and that~~.

(b) ~~d~~Does not discriminate on the basis of race, color or national origin.

(c) UNLESS THE SCHOOL SERVES ONLY QUALIFIED STUDENTS WHO MEET ANY OF THE CRITERIA SPECIFIED IN SECTION 15-2401, PARAGRAPH 10, SUBDIVISION (a), ITEM (i), (ii) OR (iii), EITHER:

(i) IS ACCREDITED BY A REGIONALLY OR NATIONALLY RECOGNIZED ACCREDITING ORGANIZATION.

(ii) PAYS FOR AND ADMINISTERS TO ALL QUALIFIED STUDENTS AN ASSESSMENT ADOPTED BY THE STATE BOARD OF EDUCATION FOR USE IN PUBLIC SCHOOLS PURSUANT TO TITLE 15, CHAPTER 7, ARTICLE 3, EXCEPT THAT, TO QUALIFY UNDER THIS ITEM, THE SCHOOL IS NOT REQUIRED TO ADMINISTER AN ASSESSMENT TO QUALIFIED STUDENTS WHO MEET ANY OF THE CRITERIA SPECIFIED IN PARAGRAPH 10, SUBDIVISION (a), ITEM (i), (ii) OR (iii) OF THIS SECTION.

(d) ANY ADDITIONAL REQUIREMENTS ENACTED BY THE LEGISLATURE.

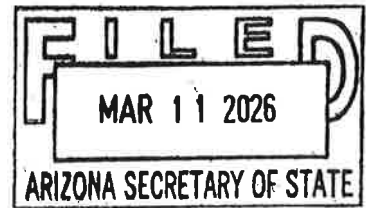
7-10. "Qualified student" means a resident of this state who:

(a) Is any of the following:

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

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

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



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

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

(ix) A child who is the sibling of a current or previous Arizona empowerment scholarship account recipient PURSUANT TO THIS SECTION, or of an eligible qualified student PURSUANT TO THIS SECTION who accepts the terms of and enrolls in an Arizona empowerment scholarship account.

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

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

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

(i) Attended a governmental primary or secondary school as a full-time student as defined in section 15-901 for at least forty-five days of the current or prior fiscal year and who transferred from a governmental primary or secondary school under a contract to participate in an Arizona empowerment scholarship account. Kindergarten students who are enrolled in Arizona online instruction must receive one hundred hours of logged instruction to be eligible pursuant to this item. First, second and third grade students who are enrolled in Arizona online instruction must receive two hundred hours of logged instruction to be eligible pursuant to this item. Fourth, fifth and sixth grade students who are enrolled in Arizona online instruction must receive two hundred fifty hours of logged instruction to be eligible pursuant to this item. Seventh and eighth grade students who are enrolled in Arizona online instruction must receive two hundred seventy-five hours of logged instruction to be eligible pursuant to this item. High school students who are enrolled in Arizona online instruction must receive two hundred fifty hours of logged instruction to be eligible pursuant to this item.

(ii) Previously participated in an Arizona empowerment scholarship account PURSUANT TO THIS SECTION.

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

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

(v) Attended a nonpublic school for pupils with disabilities in the prior year if placement at the school was approved by the department of education and contracted for by a public school district.

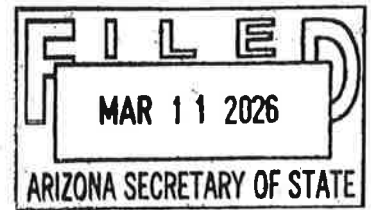
(vi) Has not previously attended a governmental primary or secondary school but is currently eligible to enroll in a kindergarten program in a school district or charter school in this state or attended a program for preschool children with disabilities. For the purposes of this item, a child is eligible to enroll in a kindergarten program if the child is at least five years of age on January 1 of the current school year, is under seven years of age, has not already completed a kindergarten program and is not enrolled in grade one of a private or governmental school in the current year.

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

11. "QUALIFIED TUTOR" MEANS AN INDIVIDUAL WHO PROVIDES EDUCATIONAL TUTORING OR TEACHING SERVICES AND WHO MEETS ALL OF THE FOLLOWING REQUIREMENTS:

(a) IS AT LEAST EIGHTEEN YEARS OF AGE.

(b) HAS GRADUATED FROM HIGH SCHOOL OR OBTAINED A GENERAL EQUIVALENCY DIPLOMA OR, IF REQUIRED BY THE LEGISLATURE, HAS A HIGHER DEGREE.



(b) ANY ADDITIONAL REQUIREMENTS ENACTED BY THE LEGISLATURE.

§-13. "Treasurer" means the office of the state treasurer.

Sec. 5. Section 15-2401.01, Arizona Revised Statutes, is amended to read:

15-2401.01. Definition of qualified student for Arizona empowerment scholarship accounts; expansion; INCOME LIMIT

A. ~~Notwithstanding~~ IN ADDITION TO THE DEFINITION OF "QUALIFIED STUDENT" IN section 15-2401, ~~beginning in the 2022-2023 school year~~, in this chapter, unless the context otherwise requires, "qualified student" includes a resident of this state who ~~both~~ MEETS ALL OF THE FOLLOWING REQUIREMENTS:

1. Is eligible to enroll in a public school in this state in any of the following:

(a) A preschool program for children with disabilities.

(b) A kindergarten program.

(c) Any of grades one through twelve.

2. BEGINNING IN THE 2027-2028 SCHOOL YEAR, HAS AN ANNUAL FAMILY INCOME AT OR BELOW THE LESSER OF THE FOLLOWING BASED ON EITHER A COPY OF THE MOST RECENT STATE OR FEDERAL INCOME TAX RETURN OR RETURNS NECESSARY TO DETERMINE THE ANNUAL FAMILY INCOME OR PROOF OF CURRENT ENROLLMENT IN A PROGRAM ADMINISTERED BY THIS STATE THAT HAS AN INCOME ELIGIBILITY REQUIREMENT AT OR BELOW THE INCOME LIMIT PRESCRIBED BY THIS PARAGRAPH:

(a) \$150,000, ADJUSTED ANNUALLY BY EITHER TWO PERCENT OR THE ANNUAL PERCENTAGE CHANGE IN THE GDP PRICE DEFLATOR AS DEFINED IN SECTION 15-901, WHICHEVER IS LESS.

(b) AN AMOUNT ESTABLISHED BY THE LEGISLATURE.

2 3. Does not otherwise qualify for an Arizona empowerment scholarship account pursuant to ~~this chapter~~ THE DEFINITION OF "QUALIFIED STUDENT" IN SECTION 15-2401.

4. ANY ADDITIONAL REQUIREMENTS ENACTED BY THE LEGISLATURE.

B. THE INCOME LIMIT PRESCRIBED BY SUBSECTION A, PARAGRAPH 2 OF THIS SECTION DOES NOT APPLY TO STUDENTS WHO ARE ELIGIBLE FOR AN ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT PURSUANT TO THE DEFINITION OF "QUALIFIED STUDENT" IN SECTION 15-2401, INCLUDING STUDENTS WITH A DISABILITY WHO MEET ANY OF THE CRITERIA SPECIFIED IN SECTION 15-2401, PARAGRAPH 10, SUBDIVISION (a), ITEM (i), (ii) or (iii).

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

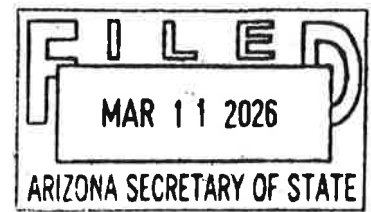
15-2402. Arizona empowerment scholarship accounts; funds; REGISTRATION; QUARTERLY REPORTS; ENFORCEMENT

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

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

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

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



4. Use monies deposited in the qualified student's Arizona empowerment scholarship account OR ANY OTHER ARIZONA ESA MONIES only for the following expenses of the qualified student:

(a) Tuition or fees at a qualified school that ~~requires all teaching staff and personnel who have unsupervised contact with students to be fingerprinted.~~ MEETS ALL OF THE FOLLOWING REQUIREMENTS:

(i) IS REGISTERED WITH THE DEPARTMENT PURSUANT TO SUBSECTIONS P AND Q OF THIS SECTION.

(ii) REQUIRES ALL TEACHING STAFF AND SCHOOL PERSONNEL WHO HAVE CONTACT WITH STUDENTS THAT IS NOT SUPERVISED AS DEFINED IN SECTION 15-505 TO OBTAIN AND MAINTAIN A VALID FINGERPRINT CLEARANCE CARD PURSUANT TO TITLE 41, CHAPTER 12, ARTICLE 3.1.

(iii) IF THE QUALIFIED SCHOOL CHOOSES TO ADMINISTER AN ASSESSMENT PURSUANT TO SECTION 15-2401, PARAGRAPH 9, SUBDIVISION (c), ITEM (ii), MAKES AGGREGATED TEST SCORES PUBLICLY AVAILABLE ON AN ANNUAL BASIS, INCLUDING ON THE QUALIFIED SCHOOL'S WEBSITE. THE DISCLOSURE OF AGGREGATED TEST SCORES SHALL COMPLY WITH APPLICABLE LAW, INCLUDING RESTRICTIONS IN 20 UNITED STATES CODE SECTION 1232g.

(iv) ANY ADDITIONAL REQUIREMENTS ENACTED BY THE LEGISLATURE.

(b) Textbooks required by a qualified school.

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

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

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

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

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

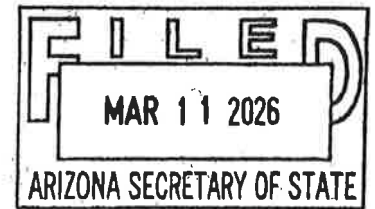
(d) Tutoring or teaching services provided by an individual who IS A QUALIFIED TUTOR, WHETHER INDIVIDUALLY OR THROUGH A QUALIFIED SCHOOL OR QUALIFIED TUTORING SERVICE PROVIDER, PROVIDED THAT THE QUALIFIED TUTOR MEETS ALL OF THE FOLLOWING REQUIREMENTS:

(i) IS REGISTERED WITH THE DEPARTMENT PURSUANT TO SUBSECTIONS P AND Q OF THIS SECTION OR PROVIDES SERVICES THROUGH A QUALIFIED SCHOOL OR QUALIFIED TUTORING SERVICE PROVIDER THAT IS REGISTERED PURSUANT TO SUBSECTIONS P AND Q OF THIS SECTION.

(ii) is not subject to disciplinary action by the state board of education for immoral or unprofessional conduct pursuant to section 15-505 or 15-534.04 or a facility, INCLUDING A QUALIFIED SCHOOL OR QUALIFIED TUTORING SERVICE PROVIDER, that is accredited by a state, regional or national accrediting organization. The department shall ensure THAT any individual QUALIFIED TUTOR who provides tutoring or teaching services to one or more qualified students pursuant to this subdivision is not subject to disciplinary action by the state board of education. The department shall also remove any individual QUALIFIED TUTOR who is subject to disciplinary action by the state board of education from all platforms that the department provides to parents and qualified students for the purchase of goods or educational services using ~~account~~ ARIZONA ESA monies.

(iii) ANY ADDITIONAL REQUIREMENTS ENACTED BY THE LEGISLATURE.

(e) Curricula, ~~and supplementary~~ SUPPLEMENTAL materials AND REASONABLE SCHOOL SUPPLIES, INCLUDING PENS, PENCILS, AND NOTEBOOKS. SUPPLEMENTAL MATERIALS MUST BE REQUIRED OR RECOMMENDED BY THE CURRICULUM APPROVED BY THE DEPARTMENT, DIRECTLY AND SUBSTANTIALLY RELATED TO CURRICULAR CONTENT AND USED TO TEACH OR ENHANCE AN APPROVED CURRICULUM.



(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 7-10, subdivision (a), item (i), (ii) or (iii) and if the qualified student is in the second year ~~prior to~~ BEFORE 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 and technological devices primarily used for an educational purpose. For the purposes of this subdivision, "computer hardware and 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.

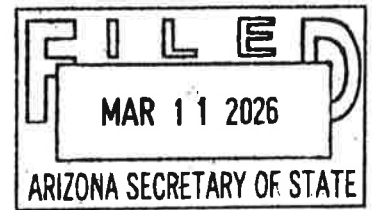
6. Not use monies deposited in the qualified student's account for any of the following:

(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) NONEDUCATIONAL ITEMS OR LUXURY GOODS, INCLUDING HOUSEHOLD FURNITURE, FIXTURES OR ITEMS NOT PRIMARILY USED FOR EDUCATIONAL PURPOSES, COMMERCIAL OR HOUSEHOLD APPLIANCES OR MACHINERY, HOME OR PROPERTY IMPROVEMENTS, JEWELRY, LINGERIE, ADMISSION TO WATER PARKS OR AMUSEMENT PARKS, HOME SWIMMING POOLS, HOT TUBS, SAUNAS, GIFT CARDS OR GIFT CERTIFICATES, OUT-OF-STATE OR INTERNATIONAL TRAVEL, OUT-OF-STATE OR INTERNATIONAL MUSEUMS OR EXCURSIONS, CHILD CARE OR BABYSITTING, RESTAURANT DINING, HOTELS OR LODGING, BOUNCE HOUSES, WATER SLIDES OR MOTOR-OPERATED VEHICLES OR WATERCRAFT.

(d) NOTWITHSTANDING ANY OTHER LAW, PAYING A MEMBER OF THE FAMILY, AS DEFINED IN SECTION 15-1871, OF THE QUALIFIED STUDENT UNLESS THE QUALIFIED STUDENT MEETS THE CRITERIA SPECIFIED IN SECTION 15-2401, PARAGRAPH 10, SUBDIVISION (a), ITEM (i), (ii) or (iii).



significantly increases after fiscal year 2020-2021, the department may request an increase in the amount appropriated to the fund in any subsequent fiscal year in the budget estimate submitted pursuant to section 35-113. The department shall list monies in the fund as a separate line item in its budget estimate.

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

F. A parent must renew the qualified student's Arizona empowerment scholarship account on an annual basis. The department of education shall verify that the parent's child is a qualified student as defined in section 15-2401 or 15-2401.01 in the year for which the parent seeks to renew the Arizona empowerment scholarship account. This subsection does not require the department to annually verify the child's disability for the purpose of section 15-2401, paragraph 7-10, subdivision (a), item (i), (ii) or (iii), if applicable.

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

H. If a parent does not renew the qualified student's Arizona empowerment scholarship account for a period of ~~three~~ ONE academic years YEAR, the department shall notify the parent that the qualified student's account will be closed in sixty calendar days. The notification must be sent ~~through~~ BY certified mail, email and telephone, if applicable. The parent has sixty calendar days to renew the qualified student's Arizona empowerment scholarship account. If the parent chooses not to renew or does not respond ~~in~~ WITHIN sixty calendar days, the department shall close the account and any remaining monies shall be returned to ~~the~~ THIS state.

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

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

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

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

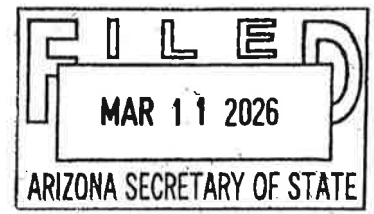
M. THE DEPARTMENT SHALL NOT REIMBURSE OR OTHERWISE PROVIDE ARIZONA ESA MONIES TO A QUALIFIED STUDENT, PARENT OR ACCOUNT HOLDER OR A NONPUBLIC SCHOOL OR ANY OTHER PERSON OR ENTITY EXCEPT AS PRESCRIBED BY THIS SECTION. THE DEPARTMENT SHALL TAKE REASONABLE STEPS TO ENSURE THAT ARIZONA ESA MONIES ARE NOT USED IN VIOLATION OF THIS SECTION.

N. A QUALIFIED STUDENT, PARENT OR ACCOUNT HOLDER WHO IS FOUND TO HAVE INTENTIONALLY SPENT ARIZONA ESA MONIES IN VIOLATION OF THIS SECTION AFTER BEING PROVIDED NOTICE AND AN OPPORTUNITY TO BE HEARD PURSUANT TO RULES ESTABLISHED BY THE STATE BOARD OF EDUCATION IS PERMANENTLY DISQUALIFIED FROM THE ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT PROGRAM. THE DEPARTMENT SHALL CLOSE THE ACCOUNT AT ISSUE, AND ANY REMAINING MONIES SHALL BE RECOUPED BY THE DEPARTMENT AND RETURNED TO THIS STATE.

O. NOTWITHSTANDING ANY OTHER LAW:

1. EXCEPT AS PROVIDED BY PARAGRAPH 2 OF THIS SUBSECTION, ALL ARIZONA ESA MONIES THAT REMAIN UNSPENT AND UNENCUMBERED ON JULY 1 OF EACH YEAR AND THAT WERE ALLOCATED FOR A QUALIFIED STUDENT IN ANY PRIOR FISCAL YEAR SHALL BE RECOUPED BY THE DEPARTMENT AND RETURNED TO THIS STATE.

2. IF THE QUALIFIED STUDENT MEETS ANY OF THE CRITERIA SPECIFIED IN SECTION 15-2401, PARAGRAPH 10,



QUALIFIED TUTORING SERVICE PROVIDER AND NOT TO THE QUALIFIED TUTOR DIRECTLY. TO REGISTER WITH THE DEPARTMENT:

1. A QUALIFIED SCHOOL MUST SUBMIT EVIDENCE THAT IT MEETS THE REQUIREMENTS OF SECTION 15-2401, PARAGRAPH 9 AND CERTIFY THAT THE QUALIFIED SCHOOL IS IN COMPLIANCE WITH STUDENT AND SITE SAFETY RULES ADOPTED BY THE STATE BOARD OF EDUCATION PURSUANT TO SECTION 15-2403.01. AN ENTITY THAT OPERATES MULTIPLE CAMPUSES OR LOCATIONS SHALL REGISTER EACH CAMPUS OR LOCATION AS A SEPARATE QUALIFIED SCHOOL.

2. A QUALIFIED TUTORING SERVICE PROVIDER MUST CERTIFY THAT IT MEETS THE REQUIREMENTS OF SECTION 15-2401, PARAGRAPH 12. AN ENTITY THAT OPERATES MULTIPLE LOCATIONS SHALL REGISTER EACH LOCATION AS A SEPARATE QUALIFIED TUTORING SERVICE PROVIDER.

3. A QUALIFIED TUTOR MUST SUBMIT A COPY OF THE QUALIFIED TUTOR'S FINGERPRINT CLEARANCE CARD AND CERTIFY THAT THE QUALIFIED TUTOR IS NOT SUBJECT TO DISCIPLINARY ACTION BY THE STATE BOARD OF EDUCATION FOR IMMORAL OR UNPROFESSIONAL CONDUCT PURSUANT TO SECTION 15-505 OR 15-534.04 OR BY A FACILITY THAT IS ACCREDITED BY A STATE, REGIONAL OR NATIONAL ACCREDITING ORGANIZATION.

Q. REGISTRATION PURSUANT TO SUBSECTION P OF THIS SECTION SHALL BE RENEWED ON AN ANNUAL BASIS. THE REGISTRATION FORM AND SUPPORTING DOCUMENTS SUBMITTED BY QUALIFIED SCHOOLS, QUALIFIED TUTORING SERVICE PROVIDERS AND QUALIFIED TUTORS ARE PUBLIC RECORDS. THE DEPARTMENT SHALL NOTIFY REGISTERED QUALIFIED SCHOOLS, REGISTERED QUALIFIED TUTORING SERVICE PROVIDERS AND REGISTERED QUALIFIED TUTORS OF THE REQUIREMENTS THAT APPLY TO THOSE PERSONS OR ENTITIES PURSUANT TO THIS CHAPTER.

R. NOTWITHSTANDING ANY OTHER LAW:

1. A QUALIFIED SCHOOL OR QUALIFIED TUTORING SERVICE PROVIDER THAT REGISTERS TO RECEIVE ARIZONA ESA MONIES IS SUBJECT TO SECTIONS 15-350, 15-505, 15-534.04 AND 15-550 IN THE SAME MANNER AS SCHOOLS AND SCHOOL DISTRICTS UNDER THOSE SECTIONS.

2. A QUALIFIED TUTOR WHO REGISTERS WITH THE DEPARTMENT TO RECEIVE ARIZONA ESA MONIES, OR WHO PROVIDES TUTORING OR TEACHING SERVICES TO A QUALIFIED STUDENT THROUGH A REGISTERED QUALIFIED TUTORING SERVICE PROVIDER OR REGISTERED QUALIFIED SCHOOL, AND WHO IS NOT CERTIFICATED PURSUANT TO SECTION 15-501.01 AND SUBJECT TO THE DISCIPLINARY AUTHORITY OF THE STATE BOARD OF EDUCATION PURSUANT TO THAT CERTIFICATION, IS SUBJECT TO SECTIONS 15-350, 15-505, 15-534.04 AND 15-550 IN THE SAME MANNER AS A NONCERTIFICATED PERSON WHO IS EMPLOYED BY A PUBLIC SCHOOL.

S. BEGINNING OCTOBER 1, 2028, AND QUARTERLY THEREAFTER, THE DEPARTMENT SHALL REPORT THE FOLLOWING INFORMATION FOR THE PRECEDING QUARTER TO THE ATTORNEY GENERAL AND SHALL MAKE ANY REPORTS AVAILABLE ON THE DEPARTMENT'S WEBSITE:

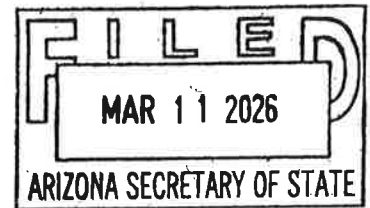
1. THE TOTAL AMOUNT OF ARIZONA ESA MONIES RECEIVED BY OR REIMBURSED FOR PAYMENTS TO EACH REGISTERED QUALIFIED SCHOOL, REGISTERED QUALIFIED TUTORING SERVICE PROVIDER AND REGISTERED QUALIFIED TUTOR.

2. THE TOTAL NUMBER OF QUALIFIED STUDENTS FOR WHOM EACH REGISTERED QUALIFIED SCHOOL, REGISTERED QUALIFIED TUTORING SERVICE PROVIDER AND REGISTERED QUALIFIED TUTOR RECEIVED ARIZONA ESA MONIES.

3. THE TOTAL NUMBER OF ACCOUNT HOLDERS DISQUALIFIED FROM THE ARIZONA ESA PROGRAM PURSUANT TO SUBSECTION N OF THIS SECTION.

4. THE AMOUNTS TRANSFERRED PURSUANT TO SUBSECTIONS H, K, N, O AND T OF THIS SECTION TO THIS STATE, THE CLASSROOM SITE FUND ESTABLISHED BY SECTION 15-977, THE FUND ESTABLISHED PURSUANT TO SUBSECTION D OF THIS SECTION AND THE STATE BOARD OF EDUCATION.

T. NOTWITHSTANDING ANY OTHER LAW, NINETY PERCENT OF ARIZONA ESA MONIES THAT ARE RECOUPED BY THE DEPARTMENT PURSUANT TO SUBSECTIONS N AND O OF THIS SECTION SHALL BE TRANSFERRED BY SEPTEMBER 1



2. FILE A CIVIL ACTION AGAINST ANY PERSON FOR VIOLATING THIS SECTION AND SEEK, AS APPROPRIATE, INJUNCTIVE RELIEF, DECLARATORY RELIEF OR RESTITUTION TO THIS STATE. AS THE PREVAILING PARTY, THE ATTORNEY GENERAL MAY SEEK, AND THE COURT MAY AWARD, REASONABLE ATTORNEY FEES AND COSTS INCURRED IN INVESTIGATING AND BRINGING THE CIVIL ACTION. ALL MONIES RECOVERED AS RESTITUTION SHALL BE DEPOSITED IN THE CLASSROOM SITE FUND ESTABLISHED BY SECTION 15-977.

Sec. 7. Title 15, chapter 19, article 1, Arizona Revised Statutes, is amended by adding section 15-2403.01 to read:

15-2403.01. Arizona ESA monies; safety and transparency; rulemaking

A. WITHIN SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS SECTION, THE STATE BOARD OF EDUCATION SHALL ADOPT RULES:

1. PRESCRIBING REQUIREMENTS FOR STUDENT AND SITE SAFETY FOR ALL QUALIFIED SCHOOLS, INCLUDING REQUIREMENTS FOR COMPLIANCE WITH LOCAL FIRE AND SAFETY CODES, BACKGROUND CHECKS, SECURING HEAVY MACHINERY, TOOLS AND WEAPONS ON THE PREMISES, POOL FENCES, DRUGS AND ALCOHOL ON THE PREMISES, FOOD SAFETY, SANITATION AND ANY OTHER MATTER NECESSARY TO ENHANCE STUDENT AND SITE SAFETY, PROVIDED THAT SUCH REQUIREMENTS ARE SUBSTANTIALLY SIMILAR TO THOSE REQUIRED FOR STUDENT AND SITE SAFETY AT DISTRICT OR CHARTER SCHOOLS.

2. REASONABLY NECESSARY TO EFFECTIVELY IMPLEMENT AND ENFORCE SECTION 15-2402, INCLUDING ESTABLISHING REASONABLE SPENDING AND OTHER LIMITS FOR CERTAIN CATEGORIES OF GOODS AND SERVICES PURCHASED WITH ARIZONA ESA MONIES.

3. REASONABLY NECESSARY TO EFFECTIVELY IMPLEMENT THE ACCREDITATION AND TESTING OPTIONS IN SECTION 15-2401, PARAGRAPH 9, SUBDIVISION (c).

4. REASONABLY NECESSARY TO EFFECTIVELY IMPLEMENT THE INCOME LIMIT FOR ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT ELIGIBILITY PURSUANT TO SECTION 15-2401.01, SUBSECTION A, PARAGRAPH 2, INCLUDING RULES TO VERIFY THE ANNUAL FAMILY INCOME IF EITHER OR BOTH OF THE PARENTS WITH FINANCIAL RESPONSIBILITY FOR THE QUALIFIED STUDENT DID NOT FILE TAX RETURNS IN THE TWO PRIOR TAXABLE YEARS.

5. REASONABLY NECESSARY TO EFFECTIVELY IMPLEMENT THE REGISTRATION PROCESS REQUIRED IN SECTION 15-2402, SUBSECTIONS P AND Q AND TO SET THE REGISTRATION FEE REQUIRED PURSUANT TO SECTION 15-2402, SUBSECTION P IN AN AMOUNT THAT IS REASONABLE AND RELATED TO THE ACTUAL COST OF ESTABLISHING AND MAINTAINING THE REGISTRATION PLATFORM AND PROCESSING REGISTRATIONS.

Sec. 8. Section 15-2404, Arizona Revised Statutes, is amended to read:

15-2404. State control over nonpublic schools; prohibition; application

A. This chapter does not ~~permit~~ ALLOW any government agency to exercise control or supervision over any nonpublic school or homeschool, EXCEPT AS PROVIDED IN THIS CHAPTER IF IT RECEIVES ARIZONA ESA MONIES.

B. A qualified school that accepts a payment from a parent pursuant to this chapter is not an agent of the state or federal government.

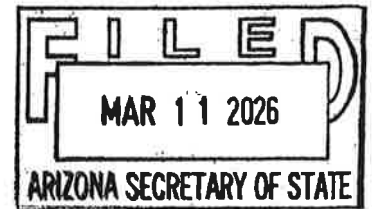
C. A qualified school shall not be required to alter its creed, practices, admissions policy or curriculum in order to accept students whose parents pay tuition or fees from an ARIZONA empowerment scholarship account pursuant to this chapter in order to participate as a qualified school.

~~D. In any legal proceeding challenging the application of this chapter to a qualified school, the state bears the burden of establishing that the law is necessary and does not impose any undue burden on qualified schools.~~

Sec. 9. Section 15-2405, Arizona Revised Statutes, is amended to read:

15-2405. Arizona empowerment scholarship accounts parent oversight committee; membership; duties

A. The Arizona empowerment scholarship accounts parent oversight committee is established consisting of six members who are



B. At a minimum, the members appointed pursuant to subsection A, paragraphs 1, 2, 3 and 4 of this section shall be parents of qualified students who both:

1. Meet any of the criteria specified in section 15-2401, paragraph 7-10, subdivision (a), item (i), (ii) or (iii) as determined by an independent third party pursuant to section 15-2403, subsection F-J.

2. Use monies deposited in the qualified student's Arizona empowerment scholarship account for expenses as prescribed in section 15-2402, subsection B, paragraph 4, subdivision (c).

C. The members of the committee shall annually elect a chairperson from among its members.

D. The committee shall meet at least once each calendar quarter. A majority of the membership constitutes a quorum for the transaction of business.

E. The committee shall collaborate and interact with the department, the state board of education, the attorney general and, as appropriate, the auditor general to review all of the following:

1. The implementation of policies and procedures relating to the Arizona empowerment scholarship account program under this chapter and the program's effectiveness.

2. The concerns of parents of qualified students who receive Arizona ~~empowerment scholarship account~~ ESA monies under this chapter.

3. The work of the ombudsman-citizens aide on complaints associated with administering the Arizona empowerment scholarship account program.

F. A parent may not serve on the committee if any of the following applies:

1. The parent is an employee or the relative of an employee of the department.

2. The parent receives monies or compensation from or is otherwise associated in any manner with a lobbyist organization, a school choice advocacy group or a private financial management firm that manages Arizona empowerment scholarship accounts pursuant to section 15-2403, subsection A.

3. The parent provides goods or services to qualified students that are purchased pursuant to section 15-2402, subsection B, paragraph 4.

#### **Sec. 10. Limited exemption from rulemaking requirements**

Notwithstanding any other law, for the purposes of this Act and for eight months after the effective date of this Act, the state board of education is exempt from the rulemaking requirements of title 41, chapters 6 and 6.1, Arizona Revised Statutes and any executive order or other directive purporting to limit or restrict the ability to adopt new rules, except that the state board of education shall provide the public with a reasonable opportunity to comment on proposed rules and shall publish otherwise exempted rules.

#### **Sec. 11. Transfer of monies**

Notwithstanding any other law, on the effective date of the Protect Education Act, the director of the department of health services shall transfer the following sums from the medical marijuana fund established by section 36-2817 to be used for any mandatory expenditure of state revenues required by the Protect Education Act:

1. \$500,000 to the department of education.

2. \$500,000 to the state board of education.

3. \$500,000 to the department of public safety.

4. \$250,000 to the attorney general.

#### **Sec. 12. Severability**

The provisions of this Act are severable. If any provision of this measure or its application to any person or circumstance is held to

# **EXHIBIT D**

PROPOSITION 141

SCR 1004 (2025)

PROPOSED AMENDMENT TO THE CONSTITUTION BY THE LEGISLATURE  
RELATING TO TAXATION

**OFFICIAL TITLE**

AMENDING ARTICLE IX, CONSTITUTION OF ARIZONA, BY ADDING SECTION 26.

**DESCRIPTIVE TITLE**

PROHIBITS TAXES OR FEES BASED ON MILES DRIVEN AND LAWS MONITORING OR LIMITING VEHICLE MILES TRAVELED WITHOUT A PERSON'S VOLUNTARY CONSENT.

A "yes" vote shall have the effect of amending the Arizona Constitution to: (1) prohibit the State and its political subdivisions from imposing taxes or fees on any person based on vehicle miles traveled, such as in an electric car, for personal and some commercial use; and (2) further prohibit the creation of any rule that monitors or limits a person's vehicle miles traveled without the person's voluntary consent.

A "no" vote shall have the effect of maintaining the current constitutional language related to taxation.

PROPOSITION 316

HCR 2021 (2025)

REFERRED TO THE PEOPLE BY THE LEGISLATURE RELATING TO MUNICIPAL  
TRANSACTION PRIVILEGE TAX

**OFFICIAL TITLE**

RETROACTIVELY AMENDING SECTION 42-6015, ARIZONA REVISED STATUTES.

**DESCRIPTIVE TITLE**

PROHIBITS LOCAL GOVERNMENTS FROM IMPOSING A TRANSACTION  
PRIVILEGE (“SALES”) TAX OR FEE ON GROCERIES WITHOUT VOTER APPROVAL.

A “yes” vote shall have the effect of: (1) prohibiting a city, town, or other taxing jurisdiction from levying a sales tax on the sale of food items for home consumption from January 1, 2025, to June 30, 2027; and (2) after that time, requires a jurisdiction to obtain voter approval before levying a new or additional sales tax on groceries and limits that tax to a maximum rate of 2%.

A “no” vote shall have the effect of maintaining the current laws relating to municipal taxation.

PROPOSITION 317

HCR 2055 (2025)

REFERRED TO THE PEOPLE BY THE LEGISLATURE RELATING TO THE ARIZONA  
DEPARTMENT OF HOMELAND SECURITY

**OFFICIAL TITLE**

AMENDING TITLE 41, CHAPTER 41, ARTICLE 1, ARIZONA REVISED STATUTES, BY  
ADDING SECTION 41-4256.

**DESCRIPTIVE TITLE**

DECLARING THAT DRUG CARTELS ARE TERRORIST ORGANIZATIONS FOR  
PURPOSES OF ARIZONA LAW.

A “yes” vote shall have the effect of declaring drug cartels as terrorist organizations and directing the Arizona Department of Homeland Security to address the threat they pose. The term “drug cartel” includes any person involved with an ongoing association of persons engaged in human smuggling, drug trafficking or any act already defined as terrorism under Arizona law. Prohibits this measure from being used as support for a noncitizen asylum claim.

A “no” vote shall have the effect of maintaining the current laws relating to terrorism and the Arizona Department of Homeland Security.

PROPOSITION \_\_\_\_

HCR 2003 (2026)

REFERRED TO THE PEOPLE BY THE LEGISLATURE RELATING TO STUDENT  
ATHLETICS

**OFFICIAL TITLE**

AMENDING TITLE 15, CHAPTER 1, SECTION 15-120.02, ARIZONA REVISED  
STATUTES.

**DESCRIPTIVE TITLE**

REQUIRING ALL PRIVATE SCHOOLS AND ATHLETIC ASSOCIATIONS TO  
DESIGNATE EVERY ATHLETIC TEAM AS “MALE,” “FEMALE,” OR “COED/MIXED”  
BASED ON THE BIOLOGICAL SEX OF THE ATHLETE AT BIRTH, AND PROVIDING  
SEPARATE PRIVATE, GENDER-SPECIFIC SPACES FOR STUDENTS.

A “yes” vote shall have the effect of: (1) broadening the existing state law requiring public school athletic teams be designated by an athletes' biological sex (male or female) or be coeducational/mixed to apply to private schools and athletic associations, with biological sex defined as what is recorded on an individual's original birth certificate; (2) prohibiting schools or athletic associations from permitting individuals, including employees, to use restrooms, locker rooms, shower rooms, and other private spaces that are not designated for that individual's biological sex; and (3) expanding the existing private right of action to sue a public school for a violation of this section to also include private schools and athletic associations.

A “no” vote shall have the effect of maintaining the current laws relating to student athletics.

PROPOSITION \_\_\_\_

HCR 2044 (2026)

REFERRED TO THE PEOPLE BY THE LEGISLATURE RELATING TO THE PROHIBITION  
OF PREFERENTIAL TREATMENT AND DISCRIMINATION

**OFFICIAL TITLE**

AMENDING ARTICLE II, SECTION 36, CONSTITUTION OF ARIZONA.

**DESCRIPTIVE TITLE**

CHANGES ANTI-DISCRIMINATION LAWS TO PROHIBIT STATE AND LOCAL JURISDICTIONS FROM IMPLEMENTING POLICIES AND PRACTICES COMMONLY KNOWN AS “DIVERSITY, EQUITY, AND INCLUSION.”

A “yes” vote shall have the effect of amending the Arizona Constitution to: (1) prohibit the state, including state agencies, local governments, universities, schools, and any of their contractors from making hiring, promotion, contracting, admissions or discipline policies or decisions on the basis of race or ethnicity; (2) prohibits spending any public monies for a position in any public school or university to promote preferential treatment based on race or ethnicity; and (3) prohibits promoting belief systems commonly known as “Diversity, Equity, and Inclusion.”

A “no” vote shall have the effect of maintaining the current laws prohibiting discrimination on the basis of race or ethnicity.

PROPOSITION \_\_\_\_\_

SCR 1004 (2026)

REFERRED TO THE PEOPLE BY THE LEGISLATURE RELATING TO PHOTO  
ENFORCEMENT SYSTEMS

**OFFICIAL TITLE**

AMENDING TITLE 28, CHAPTER 3, ARTICLE 21, SECTIONS 28-1201 AND ADDING SECTION 28-1207, ARIZONA REVISED STATUTES.

**DESCRIPTIVE TITLE**

PROHIBITS THE USE OF UNMANNED TRAFFIC CAMERAS BY LOCAL GOVERNMENTS FOR TRAFFIC ENFORCEMENT WITHOUT THE APPROVAL OF THE VOTERS.

A “yes” vote shall have the effect of prohibiting local governments from using unmanned photo enforcement systems commonly known as “traffic cameras” unless: (1) they enter contracts to use those systems by December 31, 2026; and (2) they gain voter approval at the next regular general election for continued use of those systems and resubmit the issue to the voters for reconsideration and approval every 10 years.

A “no” vote shall have the effect of maintaining the current laws governing unmanned photo enforcement systems.

PROPOSITION \_\_\_\_

HCR 2040 (2026)

REFERRED TO THE PEOPLE BY THE LEGISLATURE RELATING TO PUBLIC SCHOOL  
DISTRICTS AND LABOR ORGANIZATIONS

**OFFICIAL TITLE**

AMENDING ARTICLE XVIII, CONSTITUTION OF ARIZONA, BY ADDING SECTION 11.

**DESCRIPTIVE TITLE**

PROHIBITS POLITICAL JURISDICTIONS FROM NEGOTIATING CONTRACTS WITH  
LABOR UNIONS AND PUBLIC SCHOOL DISTRICTS AND EMPLOYEES FROM USING  
DISTRICT RESOURCES IN SUPPORT OF ANY LABOR ORGANIZATION.

A “yes” vote shall have the effect of amending the Arizona Constitution to: (1) prohibit the state and its political subdivisions from negotiating contracts with labor organizations; (2) prohibit use of paid leave by public school employees for labor organization activities; and (3) restrict school districts and school district employees from using any public monies or resources to support the operation of a labor organization. This would include prohibiting a school district from making voluntary payroll deductions, use of school facilities for meetings during work hours, and the use of any communications systems, such as email, to distribute labor organization information.

A “no” vote shall have the effect of maintaining the current laws governing labor relations with public school districts and public sector unions.

PROPOSITION \_\_\_\_

SCR 1032 (2026)

REFERRED TO THE PEOPLE BY THE LEGISLATURE RELATING TO PUBLIC SCHOOL  
DISTRICTS BUDGETS

**OFFICIAL TITLE**

AMENDING TITLE 15, CHAPTER 9, ARTICLE 1, ARIZONA REVISED STATUTES BY  
ADDING SECTION 15-917.

**DESCRIPTIVE TITLE**

REQUIRES LARGE SCHOOL DISTRICTS TO SPEND AT LEAST SIXTY PERCENT OF  
THEIR OPERATIONAL SPENDING ON DIRECT INSTRUCTIONAL EXPENSES AS  
DEFINED BY THE AUDITOR GENERAL.

A “yes” vote shall have the effect of requiring school districts with 7,500 or more students or that operate in a county with a population of 500,000 or more people (currently Maricopa, Pima, and Pinal) to spend at least 60% of their operational spending on direct instructional expenses. Schools that do not comply will have their allocation of state funding reduced by 25% each year they are out of compliance, subject to limited waivers.

A “no” vote shall have the effect of maintaining the current laws governing public school district budgets.

PROPOSITION \_\_\_\_

HCR 2001 (2026)

REFERRED TO THE PEOPLE BY THE LEGISLATURE RELATING TO ELECTION  
REQUIREMENTS

**OFFICIAL TITLE**

AMENDING ARTICLE VII, CONSTITUTION OF ARIZONA, BY ADDING SECTION 19.

**DESCRIPTIVE TITLE**

MAKES CHANGES TO EARLY VOTING IDENTIFICATION REQUIREMENTS,  
ELECTION ADMINISTRATION, AND CAMPAIGN FINANCE PROHIBITIONS.

A “yes” vote shall have the effect of: (1) restricting early voting by requiring voters show government-issued identification before voting, including for ballots returned by mail, the implementation of which is not specified in the text; (2) requiring counties to purchase equipment to allow voters to tabulate ballots at their voting location; (3) adding prohibitions mirroring federal law to state campaign finance law related to contributions and expenditures by foreign nationals; (4) lowering the legal standard regarding proposed election laws, making it harder to challenge election laws in court; and (5) requiring the legislature to appropriate funds to implement these provisions.

A “no” vote shall have the effect of maintaining current laws governing elections and campaign finance requirements.

PROPOSITION \_\_\_\_

HCR 2048 (2026)

REFERRED TO THE PEOPLE BY THE LEGISLATURE RELATING TO EDUCATION  
SCHOLARSHIPS

**OFFICIAL TITLE**

AMENDING ARTICLE XI, CONSTITUTION OF ARIZONA, BY ADDING SECTION 12.

**DESCRIPTIVE TITLE**

PROHIBITS THE STATE FROM WITHDRAWING FUNDS FROM CERTAIN STUDENTS' EMPOWERMENT SCHOLARSHIP ACCOUNTS AND NULLIFIES THE "PROTECT EDUCATION ACT" IN THE EVENT BOTH MEASURES ARE APPROVED BY THE VOTERS.

A "yes" vote shall have the effect of amending the Arizona Constitution to: (1) prohibit the state from transferring or taking any monies in the empowerment scholarship account of an eligible child of a military family and other non-military affiliated families if those funds are otherwise being lawfully utilized; (2) allow those funds to be used for postsecondary education; and (3) invalidate any bill or initiative enacted in to law on or after November 1, 2026, that contradicts this amendment, including Proposition XXX, known as the "Protect Education Act," should it pass.

A "no" vote shall have the effect of maintaining the current laws governing ESAs and of permitting the "Protect Education Act" to go into effect if approved by the voters.

# **EXHIBIT E**

July 20, 2026

**VIA EMAIL AND U.S. MAIL**

Joshua Bendor, Solicitor General  
Office of the Arizona Attorney General  
2005 N. Central Ave  
Phoenix, AZ 85004  
[jbendor@azag.gov](mailto:jbendor@azag.gov)

**Re: 2026 General Election Ballot Measure Language**

Dear Mr. Bendor:

Our firm has been retained by Arizona Senate President Warren Petersen and Arizona House of Representatives Speaker Steve Montenegro (the “Arizona Legislature”) to review the 2026 general election ballot language prepared by the Secretary of State (the “Secretary”) in accordance with A.R.S. § 19-125(D), and for which we understand is currently under review and approval by the Office of the Arizona Attorney General.<sup>1</sup> The Attorney General’s Office and Secretary have historically considered the Legislature’s viewpoint when evaluating proposed ballot language. And the Legislature has a significant interest in the proposed ballot language during this cycle as it is the main source of initiative referrals this year.<sup>2</sup> There are also many initiatives that bear on topics that are of keen importance to Arizona citizens, including initiatives relating to the Empowerment Scholarship Account (“ESA”) program, labor relations, school funding, voting procedures, and sales taxes.<sup>3</sup>

With that in mind, after reviewing the Secretary’s proposed 2026 language, the Legislature has substantial concerns that certain of the proposed ballot language violates A.R.S. § 19-125(D), to the detriment of Arizona voters. As you know, “[b]allot language is important because it might

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<sup>1</sup> The Secretary transmitted the final proposed ballot language to the Legislature on July 15, 2026.

<sup>2</sup> See *Montenegro v. Fontes*, 260 Ariz. 443, ¶ 28 (2025) (“As our cases abundantly demonstrate, the Legislature has standing to challenge actions that inflict institutional injury.”).

<sup>3</sup> See e.g., *State ex rel. Brnovich v. City of Tucson*, 251 Ariz. 45, 52 ¶ 32 (2021) (the State has an interest in election-related procedures); *Cave Creek Unified Sch. Dist. v. Ducey*, 231 Ariz. 342, 353 ¶ 35 (App. 2013) (“[I]t is undeniable that funding for public education . . . has continual importance in this state.”); *Ariz. Farmworkers Union v. Agric. Emp’t Rels. Bd.*, 148 Ariz. 47, 52 – 53 (App. 1985) (holding that the State has a legitimate interest in labor relations); *Ariz. Downs v. Ariz. Horsemen’s Found.*, 130 Ariz. 550, 556 (1981) (the State has a legitimate interest in revenue raising operations).

be the last or only description the electorate sees before voting on the measure.”<sup>4</sup> Accordingly, the ballot language must “stat[e] the essential change in the existing law should the measure receive a majority of votes,”<sup>5</sup> may not be “false or clearly misleading,” and may not be completely “lacking in neutrality, or argumentative.”<sup>6</sup> As discussed in more detail below, certain of the proposed ballot language violates these precepts, for many reasons. Accordingly, the remainder of this letter identifies the Legislature’s concerns and proposes revised language for your consideration to address these concerns.

**I. HCR 2048**

**Current Draft Descriptive Title and “Yes/No” Language:**

DESCRIPTIVE TITLE: PROHIBITS THE STATE FROM WITHDRAWING FUNDS FROM CERTAIN STUDENTS’ EMPOWERMENT SCHOLARSHIP ACCOUNTS AND NULLIFIES THE “PROTECT EDUCATION ACT” IN THE EVENT BOTH MEASURES ARE APPROVED BY THE VOTERS.

A “yes” vote shall have the effect of amending the Arizona Constitution to: (1) prohibit the state from transferring or taking any monies in the empowerment scholarship account of an eligible child of a military family and other non-military affiliated families if those funds are otherwise being lawfully utilized; (2) allow those funds to be used for postsecondary education; and (3) invalidate any bill or initiative enacted in to law on or after November 1, 2026, that contradicts this amendment, including Proposition XXX, known as the “Protect Education Act,” should it pass.

A “no” vote shall have the effect of maintaining the current laws governing ESAs and of permitting the “Protect Education Act” to go into effect if approved by the voters.

**Concerns:** The Legislature has several concerns about the proposed ballot language for HCR 2048.

First, the “Yes/No” language and Descriptive Title incorrectly state or imply that HCR 2048 somehow only applies specifically to ESAs. HCR 2048’s plain language shows that this incorrect. HCR 2048 is not limited specifically to ESAs; rather it applies to all state scholarship accounts

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<sup>4</sup> *Lane v. City of Scottsdale*, 258 Ariz. 460, 466 ¶16 (App. 2004) (citation modified and quotation omitted).

<sup>5</sup> A.R.S. § 19-125(D).

<sup>6</sup> *Quality Educ. & Jobs Supporting I-16-2012 v. Bennett*, 231 Ariz. 206, 208 ¶¶ 6-7 (2013) (hereinafter “*Quality Educ.*”); *Lane*, 258 Ariz. at 466 ¶16.

that meet the criteria in proposed Article XI, § 12(A)(1)-(2).<sup>7</sup> For instance, HCR 2048 would apply to existing programs for military families like the Veterans Donations Fund.<sup>8</sup>

Second, the “Yes/No” language and Descriptive Title have been clearly drafted in a partisan and/or non-neutral manner, in violation of A.R.S. § 19-125(D).<sup>9</sup> The Secretary’s political opposition to HCR 2048 and school choice programs in general should not be allowed to taint the proposed ballot language. Specifically, the proposed ballot language frequently references ESAs — a polarizing issue — despite the fact that ESAs are *not* mentioned anywhere within HCR 2048 and, as discussed, HCR 2048 applies to other forms of scholarships. Moreover, the “Yes/No” description specifically refers to the “Protect Education Act” — an entirely separate measure — *three separate times* without once using HCR 2048’s own short title, “Military Families College Savings and Scholarship Protection Act.” The “Yes/No” description also discusses the supposed impact that HCR 2048 would have on the “Protect Education Act” even though HCR 2048 does not mention or purport to override or invalidate the “Protect Education Act” and this issue has never been tested in court. Combined, the ballot language is blatantly drafted in a way to steer voters’ impressions of the “Protect Education Act” rather than provide a neutral discussion of the “essential change in the existing laws should [HCR 2048] receive a majority of votes.”<sup>10</sup>

Third, the proposed ballot language incorrectly states that HCR 2048 would apply to scholarship accounts for “non-military affiliated families.” In fact, HCR 2048’s prohibition explicitly only applies to “any scholarship account of any student who is a child of a *military family*.”<sup>11</sup> As such, the plain language of HCR 2048 does not prohibit the State from removing monies from scholarship accounts for students of “non-military affiliated families” or “certain” other students. This inaccurate statement implies that HCR 2048’s prohibitions are broader than the parameters of the proposed law.

Fourth, the “Yes/No” language incorrectly states that HCR 2048 allows scholarship funds to be used for “post secondary education.” The reference to “post-secondary education” in HCR 2048 is defining the type of scholarships that are protected by HCR 2048 (*i.e.*, scholarships for students in military families that may be used for post-secondary education). The plain language does not somehow create a new right for persons to use funds for post-secondary education.

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<sup>7</sup> HCR 2048, Proposed Ariz. Const. Art. XI, § 12(A)(1)-(2).

<sup>8</sup> See A.R.S. § 41-608 (awarding “scholarship monies” to children of current or former army, navy, and marine corps members).

<sup>9</sup> See *Quality Educ.*, 231 Ariz. at 208 ¶¶ 6-7.

<sup>10</sup> See A.R.S. § 19-125(D).

<sup>11</sup> HCR 2048, Proposed Ariz. Const. Art. XI § 12(A); see also Leg. Council Analysis of HCR 2048, <https://www.azleg.gov/alispdfs/Council/2026BallotMeasures/Adopted%20analysis%20HCR2048%20-%202026.pdf>

Fifth, the Descriptive Title incorrectly states that HCR 2048 prohibits the State from “withdrawing” monies from qualifying scholarship accounts. HCR 2048 only prohibits the State from “confiscating” these monies, which is defined in the resolution to include “seizing, transferring or otherwise taking monies from a scholarship account.”<sup>12</sup> As such, HCR 2048 only prohibits the State from seizing qualifying scholarship monies from the military family students in the absence of wrongdoing. This does not prohibit the State from withdrawing funds from a qualifying scholarship account to process or pay for allowable scholarship expenditures.

**Proposed Revised Descriptive Title and “Yes/No” Language:** In light of the foregoing concerns, the Legislature proposes the following edits to the Descriptive Title and “Yes/No” language for HCR 2048 based on the plain reading of the proposal and the required neutral description.

DESCRIPTIVE TITLE: PROHIBITS THE STATE FROM ~~WITHDRAWING~~  
~~CONFISCATING~~ FUNDS FROM ~~CERTAIN STUDENTS’ EMPOWERMENT~~  
SCHOLARSHIP ACCOUNTS OF CHILDREN OF MILITARY FAMILIES.  
~~AND NULLIFIES THE “PROTECT EDUCATION ACT” IN THE EVENT~~  
~~BOTH MEASURES ARE APPROVED BY THE VOTERS.~~

A “yes” vote shall have the effect of amending the Arizona Constitution to:  
(1) prohibit the state from transferring or taking any monies ~~in the empowerment~~  
~~from~~ scholarship accounts of an eligible child of a military family ~~and other non-~~  
~~military-affiliated families~~ if those funds are otherwise being lawfully utilized; ~~(2)~~  
~~allow those funds to be used for postsecondary education; and (3) and (2)~~ invalidate  
any bill or initiative enacted in to law on or after November 1, 2026, that contradicts  
this amendment., ~~including Proposition XXX, known as the “Protect Education~~  
~~Act,” should it pass.~~

A “no” vote shall have the effect of maintaining the current laws governing ~~state~~  
~~scholarships.~~ ~~ESAs and of permitting the “Protect Education Act” to go into effect~~  
~~if approved by the voters.~~

## II. HCR 2040

### Current Draft “Yes/No” Language:

A “yes” vote shall have the effect of amending the Arizona Constitution to:  
(1) prohibit the state and its political subdivisions from negotiating contracts with  
labor organizations; (2) prohibit use of paid leave by public school employees for  
labor organization activities; and (3) restrict school districts and school district  
employees from using any public monies or resources to support the operation of a

<sup>12</sup> HCR 2048, Proposed Ariz. Const. Art. XI, § 12(C)(2)(a).

labor organization. This would include prohibiting a school district from making voluntary payroll deductions, use of school facilities for meetings during work hours, and the use of any communications systems, such as email, to distribute labor organization information.

A “no” vote shall have the effect of maintaining the current laws governing labor relations with public school districts and public sector unions.

**Concerns:** The Legislature has several concerns with the proposed “Yes/No” language for HCR 2040.

First, the proposed “yes/no” language states that HCR 2040 would prohibit the State from negotiating *any* contracts with “labor organizations.” This language implies that HCR 2040 would ban all collective bargaining with public labor organizations representing any public employee. This is not correct. HCR 2040 only prohibits school districts, not the “State,” from negotiating with labor organizations — in context, the relevant “labor organizations” are teachers unions, not all labor unions.<sup>13</sup> “Yes/No” language is fundamentally misleading in this respect, as it implies that HCR 2040 is far broader. The proposed language takes an absurd reading of the proposal, which appears designed to support certain talking points of groups that oppose the measure.

Second, the proposed “Yes/No” language only lists prohibitions in HCR 2040 without also mentioning the rights afforded to school district employees. In particular, the “Yes/No” Language fails to encompass the provision in Proposed Ariz. Const. Art. XVIII § 11(G) granting a school district employee the “right to negotiate the ... employee’s own terms and conditions of employment, including wages, benefits and working conditions.”<sup>14</sup> By focusing only on the prohibitions in HCR 2040, the proposed “Yes/No” language attempts to persuade voters to view HCR 2040 in a negative light.<sup>15</sup>

Third, the proposed “Yes/No” language states that HCR 2040 prohibits the State from negotiating “contracts” with labor organizations. However, the plain language of the proposal reflects that HCR 2040 only prohibits school districts from negotiating an agreement with a labor organization regarding the school district employees’ terms and conditions of employment.<sup>16</sup> It is simply inappropriate to apply a preferred interpretation of the proposal in an attempt to influence a voter

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<sup>13</sup> HCR 2040 § 1, Proposed Ariz. Const. Art. XVIII, § 11(A).

<sup>14</sup> HCR 2040 § 1, Proposed Ariz. Const. Art. XVII § 11(G).

<sup>15</sup> See Lane, 258 Ariz. at 467-68 (explaining that the “repeated reference to a tax increase attempts to persuade the reader at the very outset that the initiative is contrary to his or her financial interests and as such may be misleading.” (citation modified) (quotation omitted)).

<sup>16</sup> Leg. Council Analysis of HCR 2040, <https://www.azleg.gov/alispdfs/Council/2026BallotMeasures/Adopted%20analysis%20HCR2040%20-%202026.pdf>

decision. As in any statutory interpretation, the statute must be read as a whole. Again, the attempts to parse out one sentence out of context and devoid from the rest of the proposal is inappropriate.

**Proposed Revised “Yes/No” Language:** In light of the foregoing concerns, the Legislature proposes the following edits to the “Yes/No” language for HCR 2040:

A “yes” vote shall have the effect of amending the Arizona Constitution to: (1) prohibit ~~school districts the state and its political subdivisions~~ from negotiating ~~terms and conditions of employment~~ contracts with “labor organizations” ~~(which in practice will be teachers’ unions)~~; (2) prohibit use of paid leave by public school employees for labor organization activities; ~~and~~ (3) restrict school districts and school district employees from using any public monies or resources to support the operation of a labor organization~~;~~; and (4) ~~grant public school employees the right to negotiate the negotiate their own terms and conditions of employment.~~ This would include prohibiting a school district from making voluntary payroll deductions, use of school facilities for ~~labor organization’s~~ meetings during work hours, and the use of any communications systems, such as email, to distribute labor organization information.

A “no” vote shall have the effect of maintaining the current laws governing labor relations with ~~teachers’ unions. public school districts and public sector unions.~~

### III. SCR1032

#### **Current Draft “Yes/No” Language:**

A “yes” vote shall have the effect of requiring school districts with 7,500 or more students or that operate in a county with a population of 500,000 or more people (currently Maricopa, Pima, and Pinal) to spend at least 60% of their operational spending on direct instructional expenses. Schools that do not comply will have their allocation of state funding reduced by 25% each year they are out of compliance, subject to limited waivers.

A “no” vote shall have the effect of maintaining the current laws governing public school district budgets.

**Concerns:** The Legislature has several concerns about the proposed “yes/no” language for SCR1032.

First, the proposed description incorrectly states that school districts which spend less than 60% of their operational spending on direct instructional expenses will have their allocation of “state funding” reduced by 25% each year. However, the funding reduction only applies to school

districts that fall below the 60% threshold *and* fail to increase their share of instructional spending by at least .5% in each year.<sup>17</sup> This is a critical missing distinction based on the plain language of the proposal because it substantially decreases the potential number of school districts impacted by the funding reduction.

Second, the proposed description inaccurately states that the funding reduction is “25%” of “state funding.” However, the reduction only applies to one source of state funding — the classroom site fund — and is an incrementally increasing reduction, not a flat 25%.<sup>18</sup> As your office is well aware based on the on-going litigation and appeals related to capital financing of public schools, there are over 26 sources of funding for school districts, including federal monies and those received from property taxes. As such, the proposed ballot language’s implication that *all* funding would be impacted is overexaggerated and not appropriate.

Third, the second sentence of the proposed description inaccurately states that the funding reduction applies to “schools.” As the first sentence acknowledges, the reduction applies to school *districts* that fail to meet the operational spending target.<sup>19</sup> Again, as your office is well aware, there are several types of schools in Arizona, including charter schools and private schools. This proposal only applies to school districts. Any language otherwise is misleading because it incorrectly suggests that individual school sites or non-school districts may face funding reductions.

**Proposed Revised “Yes/No” Language:** In light of the foregoing concerns, the Legislature proposes the following edits to the “Yes/No” language for SCR 1032:

A “yes” vote shall have the effect of requiring school districts with 7,500 or more students or that operate in a county with a population of 500,000 or more people (currently Maricopa, Pima, and Pinal) to spend at least 60% of their operational spending on direct instructional expenses. School districts spending below this level would be required to increase their share of spending on direct instructional expenses by at least 0.5% per year. School districts that do not comply will have their allocation of state funding from the Classroom Site Fund reduced incrementally by 25% each year they are out of compliance, subject to limited waivers.

<sup>17</sup> SCR 1032 § 1, Proposed A.R.S. § 15-917(A).

<sup>18</sup> SCR 1032, § 1, Proposed A.R.S. § 15-917(B)(1)-(4); *see also* Leg.Council Analysis of SCR 1032, <https://www.azleg.gov/alispdfs/Council/2026BallotMeasures/Adopted%20analysis%20SCR1032%20-%202026.pdf>.

<sup>19</sup> SCR 1032, § 1, Proposed A.R.S. § 15-917(B); *see also* Leg. Council Analysis of SCR 1032.

A “no” vote shall have the effect of maintaining the current laws governing public school district budgets.

**IV. HCR 2001**

**Current Draft Descriptive Title and “Yes/No” Language:**

DESCRIPTIVE TITLE: MAKES CHANGES TO EARLY VOTING IDENTIFICATION REQUIREMENTS, ELECTION ADMINISTRATION, AND CAMPAIGN FINANCE PROHIBITIONS.

A “yes” vote shall have the effect of: (1) restricting early voting by requiring voters show government-issued identification before voting, including for ballots returned by mail, the implementation of which is not specified in the text; (2) requiring counties to purchase equipment to allow voters to tabulate ballots at their voting location; (3) adding prohibitions mirroring federal law to state campaign finance law related to contributions and expenditures by foreign nationals; (4) lowering the legal standard regarding proposed election laws, making it harder to challenge election laws in court; and (5) requiring the legislature to appropriate funds to implement these provisions.

A “no” vote shall have the effect of maintaining current laws governing elections and campaign finance requirements.

**Concerns:** The Legislature has several concerns about the proposed ballot language for HCR 2001.

First, the proposed ballot language is partisan, argumentative, and non-neutral.<sup>20</sup> The proposed ballot language frequently references the supposed impacts that HCR 2001 would have on “early voting” — a polarizing topic — even though HCR 2001 applies to all types of voting.<sup>21</sup> The “Yes” language also uses the inflammatory phrase “restrict[s] early voting” — a clear use of partisan virtue signaling that could easily be remedied with neutral alternative terms.

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<sup>20</sup> There are several reasons to question the Secretary’s neutrality with regards to HCR 2001. The Secretary has publicly criticized HCR 2001 and has referred to it as a “voter suppression” act. The Secretary also backed a separate, competing measure, which failed to gather sufficient signatures to qualify for the November ballot. And HCR 2001’s primary sponsor, Representative Alexander Kolodin, is currently running for Secretary of State and may face the Secretary in the November General Election.

<sup>21</sup> HCR 2001, Proposed Ariz. Const. Art. VII, § 19(C).

The “Yes” language further includes gratuitous legal arguments that go well beyond the “essential change in existing law,” like the unnecessary and opinionated claim that HCR 2001 does not specify “implementation” procedures. The proposed “Yes/No” language also claims that HCR 2001 would “lower the legal standard” applicable to election laws and make it “harder to challenge election laws in court.” While Proposed Ariz. Const. Art. VII § 19(F) would apply a rational-basis test to election laws, whether this is a higher, lower, or unchanged standard to the baseline is a legal issue and not a neutral fact. The proposed “Yes/No” language also claims that certain portions of HCR 2001 “mirror” federal law — an inaccurate framing that seems designed to infer that HCR 2001 is redundant or not necessary.

Second, the proposed “Yes/No” language omits two material provisions of HCR 2001: (1) the fact that Proposed Ariz. Const. Art. VII § 19(C) would eliminate the ability of a person to prove their identification with non-government issued identification (*e.g.*, a utility bill or bank statement), which effectively nullifies portions of A.R.S. § 16-579 and (2) the fact that Proposed Ariz. Const. Art. VII § 19(A) makes citizenship an express constitutional prerequisite to register and vote.

Third, the proposed “Yes/No” language inaccurately states that HCR 2001 requires Counties to “purchase equipment.” It appears this statement is referencing Proposed Ariz. Const. Art. VII § 19(E), which grants voters the “option to have their ballot tabulated at their voting location.” Whether this requirement would require Counties to “purchase equipment” is speculative and County-dependent. Maricopa County, for instance, is already planning on implementing on-site tabulation this election cycle regardless of whether HCR 2001 passes and therefore would not be required to “purchase” additional “equipment.” And there are many ways that Counties could use their existing equipment to comply with this mandate, including by changing the way they format early ballots.

**Proposed Revised Descriptive Title and “Yes/No” Language:** In light of the foregoing concerns, the Legislature proposes the following edits to the Descriptive Title and “Yes/No” language for HCR 2001:

DESCRIPTIVE TITLE: MAKES CHANGES TO ~~EARLY~~ VOTING  
IDENTIFICATION REQUIREMENTS, ELECTION ADMINISTRATION, AND  
CAMPAIGN FINANCE PROHIBITIONS.

A “yes” vote shall have the effect of: (1) requiring individuals to be citizens of the United States to register to vote and to cast a vote; ~~(+)~~ (2) ~~restricting early voting by~~ requiring all voters show government-issued identification before voting regardless of voting method ~~including for ballots returned by mail, the implementation of which is not specified in the text;~~ (2) (3) requiring counties to ~~purchase equipment to~~ allowing voters to have their ballots tabulated ~~tabulate~~ ballots at their voting location; (3) (4) ~~adding prohibitions mirroring federal law to state campaign finance law related to~~ prohibiting campaign contributions and expenditures by foreign nationals; ~~(4)~~ (5) allowing the people and the Legislature

to enact election laws provided that they are rationally connected to a legitimate state interest ~~lowering the legal standard regarding proposed election laws, making it harder to challenge election laws in court~~; and ~~(5)~~ (6) requiring the legislature to appropriate funds to implement these provisions.

A “no” vote shall have the effect of maintaining current laws governing elections and campaign finance requirements.

**V. HCR 2044**

**Current Draft “Yes/No” Language:**

A “yes” vote shall have the effect of amending the Arizona Constitution to: (1) prohibit the state, including state agencies, local governments, universities, schools, and any of their contractors from making hiring, promotion, contracting, admissions or discipline policies or decisions on the basis of race or ethnicity; (2) prohibits spending any public monies for a position in any public school or university to promote preferential treatment based on race or ethnicity; and (3) prohibits promoting belief systems commonly known as “Diversity, Equity, and Inclusion.”

A “no” vote shall have the effect of maintaining the current laws prohibiting discrimination on the basis of race or ethnicity.

**Concerns:** The Legislature has several concerns with the proposed “Yes/No” language for HCR 2044.

First, the proposed “Yes” language should be revised to make clear that HCR 2044 prohibits the *State* from promoting “Diversity, Equity, and Inclusion” policies.<sup>22</sup> As written, the proposed “Yes/No” language, particularly the “prohibits promoting belief systems commonly known as “Diversity, Equity, and Inclusion” language, implies that HCR 2044 would create a constitutional provision prohibiting the general promotion of these policies by private citizens, which is not accurate.

Second, the proposed “Yes/No” language omits a material provision in HCR 2044 prohibiting the State from requiring applicants, employees, students, or contractors to endorse or support policies giving preferential treatment to or discriminating against individuals based on race or ethnicity as a condition of admission, graduation, hiring, promotion, certification, contracting, or other employment or scholarship opportunities.

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<sup>22</sup> HCR 2044, Proposed Ariz. Const. Art. II § 36(A)(1)-(4).

Third, the proposed “Yes/No” language uses the inflammatory and vague phrase “belief systems commonly known as ‘Diversity, Equity, and Inclusion’” even though the phrase “should be rewritten in a more neutral manner that is more consistent with the actual text of HCR 2044, which focuses on improper discrimination on the basis of race or ethnicity, rather than the general “belief systems commonly known as ‘Diversity, Equity, and Inclusion.’”

Fourth, the word “prohibiting” in the proposed “no” language can be changed to the more neutral phrase “relating to” without altering the impact of a “no” vote.

**Proposed Revised “Yes/No” Language:** In light of the foregoing concerns, the Legislature proposes the following edits to the “Yes/No” language for HCR 2044:

A “yes” vote shall have the effect of amending the Arizona Constitution to:

- (1) prohibit the state, including state agencies, local governments, universities, schools, and any of their contractors from making hiring, promotion, contracting, admissions or discipline policies or decisions on the basis of race or ethnicity;
- (2) prohibit the state from compelling applicants, employees, students, or contractors to endorse or support policies that would give preferential treatment to or discriminate against individuals on the basis of race or ethnicity as a condition of admission, graduation, hiring, promotion, certification, or contracting decision;
- (2) (3) prohibits the state from spending any public monies for a position in any public school or university to promote preferential treatment based on race or ethnicity; and (3) (4) prohibits the state from implementing any disciplinary policy or practice that treats an individual student or employee or group of students or employees differently on the basis of race or ethnicity. promoting belief systems commonly known as “Diversity, Equity, and Inclusion.”

A “no” vote shall have the effect of maintaining the current laws prohibiting relating to discrimination on the basis of race or ethnicity.

## VI. SCR 1004

### **Current Draft “Yes/No” Language:**

A “yes” vote shall have the effect of amending the Arizona Constitution to:

- (1) prohibit the State and its political subdivisions from imposing taxes or fees on any person based on vehicle miles traveled, such as in an electric car, for personal and some commercial use; and (2) further prohibit the creation of any rule that monitors or limits a person’s vehicle miles traveled without the person’s voluntary consent.

A “no” vote shall have the effect of maintaining the current constitutional language related to taxation.

**Concerns:** The Legislature has two concerns with the proposed “Yes/No” language for SCR 1004.

First, the “Yes/No” language refers specifically to “an electric car,” even though SCR 1004 clearly applies to all “motor vehicle[s]” and is agnostic towards fuel type, propulsion, or vehicle class.<sup>23</sup> The inclusion of the term “electric car” invites the reader to infer that SCR 1004 specifically applies only to electric vehicle taxes, which is not the case.

Second, the phrase “some commercial use” in Subsection (1) of the “Yes” section is unnecessarily generic and vague. SCR 1004 broadly prohibits the State from imposing taxes or fees on any person based on vehicle miles travelled except in two, limited, circumstances: (1) the prohibition does not apply to “an Interstate Agreement that is established to administer the payment or reporting of Fuel Taxes or Registration Fees for Commercial Vehicles that Operating in More than One State” and (2) the prohibition does not apply to motor vehicles owned and operated by the State, Counties, Cities, Towns, Municipal Corporations, or other Political Subdivisions. As drafted, the “Yes/No” language implies that many more “commercial uses” are potentially exempt from the prohibition.

**Proposed Revised “Yes/No” Language:** In light of the foregoing concerns, the Legislature proposes the following edits to the “Yes/No” language for SCR 1004:

A “yes” vote shall have the effect of amending the Arizona Constitution to: (1) prohibit the State and its political subdivisions from imposing taxes or fees on any person based on vehicle miles traveled, ~~such as in an electric car, for personal and some commercial use~~; and (2) further prohibit the creation of any rule that monitors or limits a person’s vehicle miles traveled without the person’s voluntary consent. ~~This measure would not apply to: (1) interstate agreements established to administer or report fuel taxes or registration fees for interstate commercial vehicles or (2) to vehicles owned by the State and its political subdivisions.~~

A “no” vote shall have the effect of maintaining the current constitutional language related to vehicle taxation.

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<sup>23</sup> SCR 1004, Proposed Ariz. Const. Art. IX § 26(A)(1)-(2).

**VII. Proposition XX**

**Current Draft Descriptive Title and “Yes/No” Language:**

DESCRIPTIVE TITLE: CREATES ELIGIBILITY REQUIREMENTS AND RESTRICTS THE USE OF FUNDS FOR EMPOWERMENT SCHOLARSHIP ACCOUNTS (“ESA’S”), COMMONLY KNOWN AS “SCHOOL VOUCHERS.”

A “yes” vote shall have the effect of limiting eligibility for Empowerment Scholarship Accounts (“ESAs”) to families earning less than \$150,000 per year, increased by 2% annually to adjust for inflation, with limited exceptions; prohibiting the use of ESA funds on luxury items and purchases for items and supplies not directly associated with education curriculum; further prohibiting the payment of ESA funds to family members of the recipient except for students with disabilities; requiring schools that receive ESA funds to register annually, fingerprint personnel, and be accredited or administer state assessments to their students; further requiring tutors and tutoring organizations to register annually, fingerprint personnel and meet other criteria; and additionally requiring that ESA funds that were allocated for the preceding year but not spent before July 1 be returned to the Department of Education’s classroom site fund for distribution to public school districts for specific purposes. Additionally establishes reporting requirements, funding from revenue in the medical marijuana fund for state agency administration and oversight of the program, investigatory authority for the Attorney General, and an oversight committee made up of legislators and members of the public. Lastly, requires schools and tutoring organizations receiving ESA funds to follow state law regarding immoral, illegal and unprofessional conduct of their employees and directs the state Board of Education to adopt the rules necessary to implement this Act

A “no” vote shall have the effect of maintaining the current ESA voucher program.

**Concerns:** The proposed ballot language should be revised to remove references to “school vouchers.” The term “vouchers” is a politically loaded and ambiguous term that is not used in the ESA statutes or the proposed ballot measure.<sup>24</sup> The term is unnecessary to convey the effect that a yes/no vote would have on existing law.

**Proposed Revised Descriptive Title and “Yes/No” Language:** In light of the foregoing concerns, the Legislature proposes the following edits to the Descriptive Title and “Yes/No” language for Proposition XX:

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<sup>24</sup> See A.R.S. § 15-2401 through 2406.

DESCRIPTIVE TITLE: CREATES ELIGIBILITY REQUIREMENTS AND RESTRICTS THE USE OF FUNDS FOR EMPOWERMENT SCHOLARSHIP ACCOUNTS (“ESA’S”), ~~COMMONLY KNOWN AS “SCHOOL VOUCHERS.”~~

A “yes” vote shall have the effect of limiting eligibility for Empowerment Scholarship Accounts (“ESAs”) to families earning less than \$150,000 per year, increased by 2% annually to adjust for inflation, with limited exceptions; prohibiting the use of ESA funds on luxury items and purchases for items and supplies not directly associated with education curriculum; further prohibiting the payment of ESA funds to family members of the recipient except for students with disabilities; requiring schools that receive ESA funds to register annually, fingerprint personnel, and be accredited or administer state assessments to their students; further requiring tutors and tutoring organizations to register annually, fingerprint personnel and meet other criteria; and additionally requiring that ESA funds that were allocated for the preceding year but not spent before July 1 be returned to the Department of Education’s classroom site fund for distribution to public school districts for specific purposes. Additionally establishes reporting requirements, funding from revenue in the medical marijuana fund for state agency administration and oversight of the program, investigatory authority for the Attorney General, and an oversight committee made up of legislators and members of the public. Lastly, requires schools and tutoring organizations receiving ESA funds to follow state law regarding immoral, illegal and unprofessional conduct of their employees and directs the state Board of Education to adopt the rules necessary to implement this Act

A “no” vote shall have the effect of maintaining the current ESA ~~voucher~~ program.

#### **VIII. HCR 2021**

##### **Current Draft Descriptive Title and “Yes/No” Language:**

DESCRIPTIVE TITLE: PROHIBITS LOCAL GOVERNMENTS FROM IMPOSING A TRANSACTION PRIVILEGE (“SALES”) TAX OR FEE ON GROCERIES WITHOUT VOTER APPROVAL.

A “yes” vote shall have the effect of: (1) prohibiting a city, town, or other taxing jurisdiction from levying a sales tax on the sale of food items for home consumption from January 1, 2025, to June 30, 2027; and (2) after that time, requires a jurisdiction to obtain voter approval before levying a new or additional sales tax on groceries and limits that tax to a maximum rate of 2%.

A “no” vote shall have the effect of maintaining the current laws relating to municipal taxation.

**Concerns:** The ballot language is inaccurate or misleading because the prohibition on adopting or increasing a new sales tax or fee applies from June 30, 2025 to June 30, 2027 — not January 1, 2025.<sup>25</sup> In addition, the proposed ballot language is drafted in a way that implies that local governments are entirely banned from taxing the sale of food items for home consumption from June 30, 2025, through June 30, 2027. However, for local governments that levied these taxes prior to January 1, 2025, HCR 2021 only limits the local government’s ability to increase that pre-existing tax. Nothing in HCR 2021 purports to invalidate these pre-existing taxes.

**Proposed Revised Descriptive Title and “Yes/No” Language:** In light of the foregoing concerns, the Legislature proposes the following edits to the Descriptive Title and “Yes/No” language for HCR 2021:

DESCRIPTIVE TITLE: ~~PROHIBITS LIMITS~~ LOCAL GOVERNMENTS  
~~ABILITY TO IMPOSE FROM IMPOSING OR INCREASE~~ A TRANSACTION  
PRIVILEGE (“SALES”) TAX OR FEE ON GROCERIES WITHOUT VOTER  
APPROVAL.

A “yes” vote shall have the effect of limiting a city, town, or other taxing jurisdiction from increasing or imposing a sales tax or fee on food and certain nonalcoholic beverages intended for home consumption as follows: (1) for a city, town, or other taxing jurisdiction that had approved such a tax or fee by January 1, 2025, prohibits that jurisdiction from increasing the tax between June 30, 2025 and June 30, 2027; (2) for a city, town, or other taxing jurisdiction that had not approved such a tax or fee by January 1, 2025, prohibits the jurisdiction from adopting a new tax or fee between June 30, 2025 and June 30, 2027; and (3) after June 30, 2027, ~~prohibiting a city, town, or other taxing jurisdiction from levying a sales tax on the sale of food items for home consumption from January 1, 2025, to June 30, 2027; and (2) after that time,~~ requires a jurisdiction to obtain voter approval before levying a new or additional sales tax on groceries and limits that tax to a maximum rate of 2%.

A “no” vote shall have the effect of maintaining the current laws relating to municipal taxation.

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The Legislature understands the importance of ballot language and has proposed the foregoing amendments purely to ensure that descriptive titles and “yes/no” language is neutral, accurate, and encompasses all critical provisions of the proposed measures. These are common

<sup>25</sup> HCR 2021, Proposed A.R.S. § 42-6015(C)(1)(c), (C)(2)(b); *see also* Leg. Council Analysis of HCR 2021, <https://www.azleg.gov/alispdfs/Council/2026BallotMeasures/Adopted%20analysis%20HCR2021%20-%202025.pdf>

sense revisions designed to ensure compliance with A.R.S. § 19-125(D). Please contact me if you have any questions or would like to schedule a call to discuss these requests.

Sincerely,

Snell & Wilmer L.L.P.



Joseph Kanefield

cc: Joshua Whitaker  
Nathan Arrowsmith  
Kara Karlson  
Karen Hartman-Tellez  
Tracy Olson