

REFERENCE TITLE: empowerment scholarship accounts; universal eligibility

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

## **HB 2803**

Introduced by  
Representatives Fillmore: Blackman

AN ACT

AMENDING SECTIONS 15-2401 AND 15-2402, ARIZONA REVISED STATUTES; RELATING  
TO ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-2401, Arizona Revised Statutes, is amended to  
3 read:

4 15-2401. Definitions

5 In this chapter, unless the context otherwise requires:

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

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

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

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

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

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

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

32 ~~(a)~~ is any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ~~(ii) Previously participated in an Arizona empowerment scholarship~~  
2 ~~account.~~

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

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

17 ~~(v) Has not previously attended a governmental primary or secondary~~  
18 ~~school but is currently eligible to enroll in a kindergarten program in a~~  
19 ~~school district or charter school in this state or attended a program for~~  
20 ~~preschool children with disabilities.~~

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

24 (d) ELIGIBLE TO ATTEND A PUBLIC SCHOOL IN THIS STATE.

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

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

28 15-2402. Arizona empowerment scholarship accounts; funds

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

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

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

40 2. Not enroll the qualified student in a school district or charter  
41 school and release the school district from all obligations to educate the  
42 qualified student. This paragraph does not relieve the school district or  
43 charter school that the qualified student previously attended from the  
44 obligation to conduct an evaluation pursuant to section 15-766.

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

5           4. Use monies deposited in the qualified student's Arizona  
6 empowerment scholarship account only for the following expenses of the  
7 qualified student:

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

9           (b) Textbooks required by a qualified school.

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

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

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

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

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

25          (d) Tutoring or teaching services provided by an individual or  
26 facility accredited by a state, regional or national accrediting  
27 organization.

28          (e) Curricula and supplementary materials.

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

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

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

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

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

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

38          (l) Insurance or surety bond payments.

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

40          (n) If the qualified student meets the criteria specified in  
41 section 15-2401, paragraph 7, subdivision (a), ~~item (i), (ii)~~ (b) or ~~(iii)~~  
42 (c) and if the qualified student is in the second year prior to the final  
43 year of a contract executed pursuant to this article, costs associated  
44 with an annual education plan conducted by an independent evaluation team.  
45 The department shall prescribe minimum qualifications for independent

1 evaluation teams pursuant to this subdivision and factors that teams must  
2 use to determine whether the qualified student shall be eligible to  
3 continue to receive monies pursuant to this article through the school  
4 year in which the qualified student reaches twenty-two years of age. An  
5 independent evaluation team that provides an annual education plan  
6 pursuant to this subdivision shall submit a written report that summarizes  
7 the results of the evaluation to the parent of the qualified student and  
8 to the department on or before July 31. The written report submitted by  
9 the independent evaluation team is valid for one year. If the department  
10 determines that the qualified student meets the eligibility criteria  
11 prescribed in the annual education plan, the qualified student is eligible  
12 to continue to receive monies pursuant to this article until the qualified  
13 student reaches twenty-two years of age, subject to annual review. A  
14 parent may appeal the department's decision pursuant to title 41, chapter  
15 6, article 10. As an addendum to a qualified student's final-year  
16 contract, the department shall provide the following written information  
17 to the parent of the qualified student:

18 (i) That the qualified student will not be eligible to continue to  
19 receive monies pursuant to this article unless the results of an annual  
20 education plan conducted pursuant to this subdivision demonstrate that the  
21 qualified student meets the eligibility criteria prescribed in the annual  
22 education plan.

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

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

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

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

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

34 (b) Transportation of the pupil.

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

37 C. In exchange for the parent's agreement pursuant to subsection B  
38 of this section, the department shall transfer from the monies that would  
39 otherwise be allocated to a recipient's prior school district, or if the  
40 child is currently eligible to attend kindergarten, the monies that the  
41 department determines would otherwise be allocated to a recipient's  
42 expected school district of attendance, to the treasurer for deposit into  
43 an Arizona empowerment scholarship account an amount that is equivalent to  
44 ninety percent of the sum of the base support level and additional

1 assistance prescribed in sections 15-185 and 15-943 for that particular  
2 student if that student were attending a charter school.

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

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

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

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

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

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

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

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

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