

REFERENCE TITLE: universal ESAs; budget; line item

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2023

SB 1707

Introduced by

Senators Marsh: Alston, Burch, Diaz, Epstein, Fernandez, Gabaldón,
Gonzales, Hatathlie, Hernandez, Mendez, Miranda, Sundareshan, Terán;
Representatives De Los Santos, Gutierrez, Mathis, Schwiebert, Stahl
Hamilton, Sun, Terech

AN ACT

AMENDING SECTION 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 15-2402, Arizona Revised Statutes, is amended to
3 read:

4 15-2402. Arizona empowerment scholarship accounts; funds

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

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

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

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

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

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

27 (c) Prevent ~~a~~ THE qualified student from applying in advance for
28 an Arizona empowerment scholarship account to be funded beginning the
29 following school year.

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

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

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

38 (b) Textbooks required by a qualified school.

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

44 (i) Educational therapies from a licensed or accredited
45 practitioner or provider, including and up to any amount not covered by

1 insurance if the expense is partially paid by a health insurance policy
2 for the qualified student.

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

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

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

9 (d) Tutoring or teaching services provided by an individual or
10 facility accredited by a state, regional or national accrediting
11 organization.

12 (e) Curricula and supplementary materials.

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

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

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

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

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

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

22 (l) Insurance or surety bond payments.

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

24 (n) If the qualified student meets the criteria specified in
25 section 15-2401, paragraph 7, subdivision (a), item (i), (ii) or (iii) and
26 if the qualified student is in the second year prior to the final year of
27 a contract executed pursuant to this article, costs associated with an
28 annual education plan conducted by an independent evaluation team. The
29 department shall prescribe minimum qualifications for independent
30 evaluation teams pursuant to this subdivision and factors that teams must
31 use to determine whether the qualified student shall be eligible to
32 continue to receive monies pursuant to this article through the school
33 year in which the qualified student reaches twenty-two years of age. An
34 independent evaluation team that provides an annual education plan
35 pursuant to this subdivision shall submit a written report that summarizes
36 the results of the evaluation to the parent of the qualified student and
37 to the department on or before July 31. The written report submitted by
38 the independent evaluation team is valid for one year. If the department
39 determines that the qualified student meets the eligibility criteria
40 prescribed in the annual education plan, the qualified student is eligible
41 to continue to receive monies pursuant to this article until the qualified
42 student reaches twenty-two years of age, subject to annual review. A
43 parent may appeal the department's decision pursuant to title 41,
44 chapter 6, article 10. As an addendum to a qualified student's final-year

1 contract, the department shall provide the following written information
2 to the parent of the qualified student:

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

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

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

13 (o) Public transportation services in this state, including a
14 commuter pass for the qualified student, or transportation network
15 services as defined in section 28-9551 between the qualified student's
16 residence and a qualified school in which the qualified student is
17 enrolled.

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

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

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

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

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

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

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

35 C. In exchange for the parent's agreement pursuant to subsection B
36 of this section, the department shall transfer from the monies that would
37 otherwise be allocated to a recipient's prior school district, or if the
38 child is currently eligible to attend a preschool program for children
39 with disabilities, a kindergarten program or any of grades one through
40 twelve, the monies that the department determines would otherwise be
41 allocated to a recipient's expected school district of attendance, to the
42 treasurer for deposit into an Arizona empowerment scholarship account an
43 amount that is equivalent to ninety percent of the sum of the base support
44 level and additional assistance prescribed in sections 15-185 and 15-943
45 for that particular student if that student were attending a charter

1 school. THE DEPARTMENT SHALL LIST MONIES TRANSFERRED PURSUANT TO THIS
2 SUBSECTION FOR A QUALIFIED STUDENT AS DEFINED IN SECTION 15-2401.01 AS A
3 SEPARATE LINE ITEM IN ITS BUDGET ESTIMATE, AND THE GENERAL APPROPRIATIONS
4 ACT SHALL LIST THESE MONIES AS A SEPARATE LINE ITEM IN THE DEPARTMENT'S
5 BUDGET.

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

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

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

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

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

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

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

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

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

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