

Senate Engrossed

Arizona empowerment scholarships accounts; revisions

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

SENATE BILL 1452

AN ACT

AMENDING SECTIONS 15-2401, 15-2402, 15-2403 AND 41-1092.02, ARIZONA REVISED STATUTES; RELATING TO ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. 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~~ 9, 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 and should be referred for eligibility determination.

2. "CHILD WHO RECEIVES FEDERAL TITLE I SERVICES FOR LOW-INCOME STUDENTS UNDER THE EVERY STUDENT SUCCEEDS ACT (P.L. 114-95; 129 STAT. 1802)":

(a) MEANS A STUDENT WHO RECEIVES TARGETED ASSISTANCE SERVICES OR ATTENDING A SCHOOL THAT QUALIFIES FOR SCHOOLWIDE TITLE I PROGRAM FUNDING FOR LOW-INCOME STUDENTS PURSUANT TO TITLE I, PART A, SUBPART 1, SECTION 1114 OR 1115 OF THE EVERY STUDENT SUCCEEDS ACT (P.L. 114-95; 129 STAT. 1802), OR ITS SUCCESSOR LEGISLATION.

(b) INCLUDES A STUDENT WHO IS ELIGIBLE TO ATTEND KINDERGARTEN AND WHO RESIDES WITHIN THE ATTENDANCE BOUNDARY OF A SCHOOL THAT QUALIFIES FOR SCHOOLWIDE TITLE I PROGRAM FUNDING FOR LOW-INCOME STUDENTS PURSUANT TO TITLE I, PART A, SUBPART 1, SECTION ~~1114~~ 1114 OF THE EVERY STUDENT SUCCEEDS ACT (P.L. 114-95; 129 STAT. 1802), OR ITS SUCCESSOR LEGISLATION.

3. "CHILD WHO RECEIVES FREE OR REDUCED-PRICE LUNCHES UNDER THE NATIONAL SCHOOL LUNCH AND CHILD NUTRITION ACTS" INCLUDES AN INCOMING KINDERGARTENER OR ANY OTHER STUDENT WHO MEETS THE ELIGIBILITY REQUIREMENTS ESTABLISHED UNDER THE NATIONAL SCHOOL LUNCH AND CHILD NUTRITION ACTS (42 UNITED STATES CODE SECTIONS 1751 THROUGH 1793) FOR FREE OR REDUCED-PRICE LUNCHES, OR AN EQUIVALENT MEASURE RECOGNIZED FOR PARTICIPATING IN THE

FEDERAL FREE AND REDUCED-PRICE LUNCH PROGRAM AND OTHER SCHOOL PROGRAMS DEPENDENT ON A POVERTY MEASURE.

~~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.

~~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.

~~6.~~ **8.** "Qualified school" means a nongovernmental primary or secondary school or a preschool for pupils with disabilities that 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 does not discriminate on the basis of race, color or national origin.

~~7.~~ **9.** "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 I 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.

(iv) Attending a school or school district that ~~has been~~ **WAS** assigned a letter grade of D or F pursuant to section 15-241 **FOR THE MOST RECENT YEAR IN WHICH LETTER GRADES WERE ASSIGNED** or who is currently eligible to attend kindergarten and who resides within the attendance boundary of a school that ~~has been~~ **WAS** assigned a letter grade of D or F pursuant to section 15-241 **FOR THE MOST RECENT YEAR IN WHICH LETTER GRADES WERE ASSIGNED**.

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

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

(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 or of an eligible qualified student 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.

(xii) **A CHILD WHO RECEIVES FEDERAL TITLE I SERVICES FOR LOW-INCOME STUDENTS UNDER THE EVERY STUDENT SUCCEEDS ACT (P.L. 114-95; 129 STAT. 1802) OR A CHILD WHO RECEIVES FREE OR REDUCED-PRICE LUNCHES UNDER THE NATIONAL SCHOOL LUNCH AND CHILD NUTRITION ACTS.**

(b) And, except as provided in subdivision (a), item (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 ~~the first one hundred~~ **THIRTY** 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. ♦ First, second and third grade students who are enrolled in Arizona online instruction must receive four 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 five hundred 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 five hundred fifty hours of logged instruction to be eligible pursuant to this item. ♦ High school students who are enrolled in Arizona online instruction must receive five hundred hours of logged instruction to be eligible pursuant to this item.

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

(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 ~~prior to~~ **BEFORE** attending a qualified school.

(v) 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.

(vi) 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.

(vii) **WAS COUNTED AMONG THE AVERAGE DAILY MEMBERSHIP FOR THE PURPOSES OF DETERMINING STATE FUNDING AT ANY GOVERNMENTAL PRIMARY OR SECONDARY SCHOOL IN THIS STATE IN THE PRIOR FISCAL YEAR, INCLUDING AS AN ARIZONA ONLINE INSTRUCTION STUDENT.**

8-10. "Treasurer" means the office of the state treasurer.

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

15-2402. Arizona empowerment scholarship accounts; funds

A. Arizona empowerment scholarship accounts are established to provide options for the education of 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 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 F.

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 relieve the school district or charter school that the qualified student previously attended from the obligation to conduct an evaluation pursuant to section 15-766.

3. Not accept a scholarship from a school tuition organization pursuant to title 43 concurrently with an Arizona empowerment scholarship account for the qualified student in the same year a parent signs the agreement pursuant to this section **BEFORE GRADE NINE OR IN ANY YEAR IF THE COMBINED TOTAL OF SCHOLARSHIP AWARDS AND ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT MONIES FOR THE STUDENT THAT YEAR WOULD EXCEED THE TOTAL PER PUPIL SPENDING OF THE PUBLIC SCHOOL DISTRICT IN WHICH THE STUDENT RESIDES, AS REPORTED BY THE STATE AUDITOR GENERAL FOR THE PRIOR YEAR.**

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

(a) Tuition or fees at a qualified school.

(b) Textbooks required by a qualified school.

(c) If the qualified student meets any of the criteria specified in section 15-2401, paragraph ~~7-9~~, 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 I, 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 or facility accredited by a state, regional or national accrediting organization.

(e) Curricula and supplementary materials.

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

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

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

(i) Textbooks required by an eligible postsecondary institution.

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

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

(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 9, subdivision (a), item (i), (ii) or (iii) and if the qualified student is in the second year prior to 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.

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) of this subsection.

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

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

C. In exchange for the parent's agreement pursuant to subsection B of this section, the department shall transfer from the monies that would otherwise be allocated to a recipient's prior school district, or if the child is currently eligible to attend kindergarten, the monies that the department determines would otherwise be allocated to a recipient's expected school district of attendance, to the treasurer for deposit into an Arizona empowerment scholarship account an amount that is equivalent to ninety percent of the sum of the base support level and additional assistance prescribed in sections 15-185 and 15-943 for that particular student if that student were attending a charter school.

D. A CHILD WHO PARTICIPATES IN AN ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT CONTINUES TO BE ENTITLED TO AN EQUITABLE SHARE OF THE FUNDING THAT WOULD OTHERWISE BE ALLOCATED TO A CHARTER SCHOOL OR SCHOOL DISTRICT FOR THAT CHILD FROM THE CLASSROOM SITE FUND ESTABLISHED BY SECTION 15-977. TO ENSURE THIS EQUITY, AND IN RECOGNITION OF THE FACT A CHILD'S PRIMARY INSTRUCTION MAY TAKE PLACE IN A VARIETY OF SETTINGS:

1. NOTWITHSTANDING ANY OTHER LAW, A CHILD WHO IS PARTICIPATING IN AN ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT SHALL BE INCLUDED IN THE ESTIMATED STATEWIDE WEIGHTED STUDENT COUNT FOR THE PURPOSES OF CALCULATING THE PER PUPIL AMOUNT FROM THE CLASSROOM SITE FUND PURSUANT TO SECTION 15-977, SUBSECTION G, PARAGRAPH 1 AS LONG AS THAT STUDENT CONTINUES TO PARTICIPATE IN AN ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT.

2. IN ADDITION TO ANY AMOUNTS TRANSFERRED FROM THE CLASSROOM SITE FUND ESTABLISHED BY SECTION 15-977 TO A SCHOOL DISTRICT OR CHARTER SCHOOL, THE DEPARTMENT SHALL ANNUALLY TRANSFER FROM THE FUND TO THE TREASURER FOR DEPOSIT IN EACH ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT AN AMOUNT THAT IS EQUIVALENT TO THE PER PUPIL AMOUNT MULTIPLIED BY THE STUDENT'S WEIGHTED COUNT THAT WOULD BE CALCULATED IF THAT STUDENT WERE ATTENDING THE STUDENT'S PRIOR SCHOOL DISTRICT OR CHARTER SCHOOL OR, IF THE CHILD IS AN INCOMING KINDERGARTENER, THE CHILD'S EXPECTED SCHOOL DISTRICT OF ATTENDANCE.

3. NOTWITHSTANDING ANY OTHER LAW, THE AMOUNT TRANSFERRED TO EACH ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT PURSUANT TO PARAGRAPH 2 OF THIS SUBSECTION SHALL

COUNT TOWARD THE TOTAL AMOUNT THE DEPARTMENT IS REQUIRED TO ALLOCATE AND TRANSFER TO EACH ACCOUNT PURSUANT TO SUBSECTION C OF THIS SECTION AND MAY BE USED FOR ANY ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT EXPENDITURE ALLOWED PURSUANT TO SUBSECTION B OF THIS SECTION, NOTWITHSTANDING ANY OTHER LAW.

D. E. The department of education empowerment scholarship account fund is established consisting of monies appropriated by the legislature. The department shall administer the fund. Monies in the fund are subject to legislative appropriation. Monies in the fund shall be used for the department's costs in administering Arizona empowerment scholarship accounts under this chapter. Monies in the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations. If the number of Arizona empowerment scholarship accounts 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. F. 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. G. A parent must renew the qualified student's Arizona empowerment scholarship account on an annual basis.

G. H. 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. I. If a parent does not renew the qualified student's Arizona empowerment scholarship account for a period of three academic years, 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 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 sixty calendar days, the department shall close the account and any remaining monies shall be returned to the state.

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

J. K. 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. L. **NOTWITHSTANDING SUBSECTION I 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 AS LONG AS THE ACCOUNT HOLDER CONTINUES USING A PORTION OF ACCOUNT MONIES FOR ELIGIBLE 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 state.

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

Sec. 3. Section 15-2403, Arizona Revised Statutes, is amended to read:

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

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

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

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

within the ten-day period, the department may remove the parent or qualified student pursuant to this subsection.

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

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

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

G. The department shall accept applications between July 1 and June 30 of each year. The department shall enroll and issue an award letter to eligible applicants within ~~forty-five~~ THIRTY days after receipt of a completed application and all required documentation. On or before May 30 of each year, the department shall furnish to the joint legislative budget committee an estimate of the amount required to fund Arizona empowerment scholarship accounts for the following fiscal year. The department shall include in its budget request for the following fiscal year the amount estimated pursuant to section 15-2402, subsection C for each qualified student.

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

1. For establishing an appeals process pursuant to subsection D of this section.
2. For conducting or contracting for examinations of the use of account monies.
3. For conducting or contracting for random, quarterly and annual reviews of accounts.
4. For establishing or contracting for the establishment of an online anonymous fraud reporting service.
5. For establishing an anonymous telephone hotline for fraud reporting.
6. That require a surety bond or insurance for account holders.

I. The department shall contract with an independent third party for the purposes of determining whether a qualified student is eligible to receive educational therapies or services pursuant to section 15-2402, subsection B, paragraph 4, subdivision (c).

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

K. EXCEPT FOR CASES IN WHICH THE ATTORNEY GENERAL DETERMINES A PARENT OR ACCOUNT HOLDER HAS COMMITTED FRAUD, ANY EXPENDITURE FROM AN ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT FOR A PURCHASE THAT IS DEEMED INELIGIBLE PURSUANT TO SECTION 15-2402 AND THAT IS SUBSEQUENTLY REPAID BY THE PARENT OR ACCOUNT HOLDER SHALL BE CREDITED BACK TO THE ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT BALANCE WITHIN THIRTY DAYS AFTER THE RECEIPT OF PAYMENT.

Sec. 4. Section 41-1092.02, Arizona Revised Statutes, is amended to read:

41-1092.02. Appealable agency actions; application of procedural rules; exemption from article

A. This article applies to all contested cases as defined in section 41-1001 and all appealable agency actions, except contested cases with or appealable agency actions of:

1. The state department of corrections.
2. The board of executive clemency.
3. The industrial commission of Arizona.
4. The Arizona corporation commission.
5. The Arizona board of regents and institutions under its jurisdiction.
6. The state personnel board.
7. The department of juvenile corrections.
8. The department of transportation, except as provided in title 28, chapter 30, article 2.
9. The department of economic security except as provided in section 46-458.
10. The department of revenue regarding:
 - (a) Income tax or withholding tax.

(b) Any tax issue related to information associated with the reporting of income tax or withholding tax unless the taxpayer requests in writing that this article apply and waives confidentiality under title 42, chapter 2, article 1.

11. The board of tax appeals.

12. The state board of equalization.

13. The state board of education, but only in connection with contested cases and appealable agency actions related to

EITHER:

(a) Applications for issuance or renewal of a certificate and discipline of certificate holders pursuant to sections 15-203, 15-534, 15-534.01, 15-535, 15-545 and 15-550.

(b) **THE ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT PROGRAM PURSUANT TO TITLE 15, CHAPTER 19.**

14. The board of fingerprinting.

15. The department of child safety except as provided in sections 8-506.01 and 8-811.

B. Unless waived by all parties, an administrative law judge shall conduct all hearings under this article, and the procedural rules set forth in this article and rules made by the director apply.

C. Except as provided in subsection A of this section:

1. A contested case heard by the office of administrative hearings regarding taxes administered under title 42 shall be subject to section 42-1251.

2. A final decision of the office of administrative hearings regarding taxes administered under title 42 may be appealed by either party to the director of the department of revenue, or a taxpayer may file and appeal directly to the board of tax appeals pursuant to section 42-1253.

D. Except as provided in subsections A, B, E, F and G of this section and notwithstanding any other administrative proceeding or judicial review process established in statute or administrative rule, this article applies to all appealable agency actions and to all contested cases.

E. Except for a contested case or an appealable agency action regarding unclaimed property, sections 41-1092.03, 41-1092.08 and 41-1092.09 do not apply to the department of revenue.

F. The board of appeals established by section 37-213 is exempt from:

1. The time frames for hearings and decisions provided in section 41-1092.05, subsection A, section 41-1092.08 and section 41-1092.09.

2. The requirement in section 41-1092.06, subsection A to hold an informal settlement conference at the appellant's request if the sole subject of an appeal pursuant to section 37-215 is the estimate of value reported in an appraisal of lands or improvements.

G. Auction protest procedures pursuant to title 37, chapter 2, article 4.1 are exempt from this article.

Sec. 5. Classroom site fund; per pupil calculation; recalculation; fiscal year 2021-2022; retroactivity

A. Notwithstanding section 15-977, subsection G, paragraph 1, Arizona Revised Statutes, within ten days after the effective date of this act, the staff of the joint legislative budget committee shall revise its calculation of the per pupil amount from the classroom site fund established by section 15-977, Arizona Revised Statutes, for fiscal year 2021-2022 to include children participating in an Arizona empowerment scholarship account as prescribed in section 15-2402, subsection D, Arizona Revised Statutes, as added by this act.

B. Subsection A of this section applies retroactively to from and after March 29, 2021.