

REFERENCE TITLE: school choice scholarships; failing schools

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

HB 2069

Introduced by
Representatives Biggs, Mason, Senator Gorman: Representatives Barto,
Burgess

AN ACT

AMENDING TITLE 15, CHAPTER 8, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 1.3; AMENDING TITLE 43, CHAPTER 10, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1033; RELATING TO PARENTAL EDUCATIONAL CHOICE GRANTS FOR CHILDREN ATTENDING FAILING SCHOOLS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 15, chapter 8, Arizona Revised Statutes, is amended
3 by adding article 1.3, to read:

4 ARTICLE 1.3. PARENTAL EDUCATIONAL CHOICE GRANTS FOR PUPILS
5 ATTENDING FAILING SCHOOLS

6 15-818. Findings and legislative purpose

7 THE LEGISLATURE FINDS AND DECLARES:

8 1. THERE IS A CRISIS IN ELEMENTARY AND SECONDARY EDUCATION IN THIS
9 COUNTRY. MANY SCHOOLCHILDREN, PARTICULARLY THOSE ATTENDING FAILING SCHOOLS,
10 ARE PERFORMING SIGNIFICANTLY BELOW NATIONAL STANDARDS. OTHER CHILDREN ARE
11 DROPPING OUT OF SCHOOL BEFORE COMPLETING THE ORDINARY COURSE OF SECONDARY
12 EDUCATION. SUBSTANTIAL NUMBERS OF YOUNG PEOPLE ARE LEAVING SCHOOL WITHOUT
13 THE BASIC SKILLS AND KNOWLEDGE THAT WILL ENABLE THEM TO FIND AND HOLD A JOB
14 OR OTHERWISE FUNCTION AS PRODUCTIVE CITIZENS.

15 2. THE FREEDOM OF PARENTS TO CHOOSE SCHOOLS FOR THEIR CHILDREN THAT
16 ARE ACCEPTABLE TO THEIR PERSONAL EDUCATIONAL CONVICTIONS IS AN INHERENT AND
17 INALIENABLE PERSONAL RIGHT UNDER THE STATE AND FEDERAL CONSTITUTIONS. THE
18 CURRENT SYSTEM OF SCHOOL FINANCE LIMITS PARENTS' FREEDOM TO SELECT SCHOOLS
19 THAT THEY BELIEVE CAN PROVIDE THEIR CHILDREN WITH A QUALITY EDUCATION.

20 3. ALLOWING PARENTS TO CHOOSE SCHOOLS, PUBLIC AS WELL AS PRIVATE, FOR
21 THEIR CHILDREN WILL PROMOTE A HEALTHY COMPETITION AMONG SCHOOLS AND EMPOWER
22 PARENTS TO INFLUENCE EDUCATIONAL POLICIES AND PROCEDURES, LEADING TO BETTER
23 QUALITY EDUCATION. COMPETITION CAN ALSO LEAD TO LOWER COSTS AS WASTE AND
24 UNNECESSARY EXPENDITURES OF PUBLIC MONIES ARE NO LONGER TOLERATED.

25 4. THIS ARTICLE IS IN THE PUBLIC INTEREST AND FOR THE PUBLIC BENEFIT
26 AND SERVES A SECULAR PUBLIC PURPOSE.

27 15-818.01. Definitions

28 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

29 1. "CUSTODIAN" MEANS A RESIDENT OF THIS STATE WHO IS A PARENT OR THE
30 LEGAL GUARDIAN OF A QUALIFYING PUPIL.

31 2. "GRANT" MEANS A GRANT OF AID MADE UNDER THIS ARTICLE TO A
32 QUALIFYING PUPIL, THROUGH THE QUALIFYING PUPIL'S CUSTODIAN, TO BE USED BY AND
33 FOR THE BENEFIT OF THE PUPIL AS PROVIDED IN THIS ARTICLE.

34 3. "GRANT SCHOOL" MEANS A PRIVATE SCHOOL, WHETHER SECULAR OR
35 SECTARIAN, THAT MAINTAINS ONE OR MORE GRADE LEVELS FROM KINDERGARTEN THROUGH
36 GRADE TWELVE AND THAT ELECTS AND IS ENTITLED TO PARTICIPATE IN AND REDEEM
37 GRANTS PURSUANT TO THIS ARTICLE.

38 4. "QUALIFYING PUPIL" MEANS A STUDENT WHO IS ELIGIBLE TO RECEIVE A
39 GRANT UNDER THIS ARTICLE.

40 15-818.02. Parental educational choice grant program; nature of
41 grants

42 A. THE PARENTAL EDUCATIONAL CHOICE GRANT PROGRAM IS ESTABLISHED UNDER
43 WHICH EACH CUSTODIAN OF A QUALIFYING PUPIL WHO COMPLETES AN APPLICATION FOR A
44 GRANT UNDER THIS ARTICLE SHALL RECEIVE A GRANT THAT IS TO BE REDEEMED AT THE
45 GRANT SCHOOL IN WHICH THE QUALIFYING PUPIL ENROLLS AND APPLIED TOWARD PAYMENT

1 OF THE TUITION AND FEES PAYABLE FOR THE EDUCATIONAL AND RELATED SERVICES
2 PROVIDED TO THE QUALIFYING PUPIL BY THAT GRANT SCHOOL.

3 B. A GRANT PROVIDED UNDER THIS ARTICLE CONSTITUTES A GRANT OF AID TO A
4 QUALIFYING PUPIL THROUGH THE QUALIFYING PUPIL'S RESPECTIVE CUSTODIAN AND NOT
5 TO THE GRANT SCHOOL IN WHICH THE QUALIFYING PUPIL IS ENROLLED. THE GRANT
6 DOES NOT CONSTITUTE TAXABLE INCOME TO THE CUSTODIAN OR THE QUALIFYING PUPIL.

7 C. A QUALIFYING PUPIL SHALL NOT RECEIVE A GRANT FOR ANY PORTION OF A
8 SCHOOL YEAR IN WHICH THE QUALIFYING PUPIL IS ENROLLED IN A PRIVATE SCHOOL
9 THAT DOES NOT REDEEM GRANTS UNDER THIS ARTICLE.

10 D. A CUSTODIAN IS FREE TO CHOOSE ANY GRANT SCHOOL FOR ENROLLMENT OF
11 THE QUALIFYING PUPIL, AND THAT CHOICE OR SELECTION IS NOT AND SHALL NOT BE
12 DEEMED TO BE A DECISION OR ACT OF THIS STATE OR ANY OF ITS POLITICAL
13 SUBDIVISIONS.

14 15-818.03. Grant eligibility

15 A. A PUPIL IS ELIGIBLE TO RECEIVE A GRANT UNDER THIS ARTICLE IF BOTH:

16 1. DURING THE SCHOOL YEAR IN WHICH THE GRANT IS TO BE EFFECTIVE, THE
17 PUPIL MEETS ALL OF THE FOLLOWING CONDITIONS:

18 (a) RESIDES IN THIS STATE.

19 (b) IS UNDER TWENTY-TWO YEARS OF AGE AND HAS NOT GRADUATED FROM HIGH
20 SCHOOL OR OBTAINED A GENERAL EQUIVALENCY DIPLOMA.

21 (c) ENROLLS AS A FULL-TIME PUPIL IN A GRANT SCHOOL AT A GRADE LEVEL IN
22 WHICH ALL QUALIFYING PUPILS IN THAT GRADE ARE ENTITLED TO RECEIVE A GRANT
23 PURSUANT TO THIS ARTICLE.

24 2. DURING THE YEAR BEFORE QUALIFYING FOR AND ACCEPTING A GRANT, THE
25 PUPIL WAS ENROLLED IN AND ATTENDING FOR AT LEAST NINETY PER CENT OF THE
26 SCHOOL YEAR A PUBLIC SCHOOL IN THIS STATE THAT HAS BEEN DESIGNATED PURSUANT
27 TO SECTION 15-241 AS A SCHOOL FAILING TO MEET ACADEMIC STANDARDS. PUPILS
28 ENTERING KINDERGARTEN OR FIRST GRADE ARE EXEMPT FROM THE PREVIOUS SCHOOL YEAR
29 ATTENDANCE ELIGIBILITY REQUIREMENT.

30 B. A QUALIFYING PUPIL WHO RECEIVES A GRANT PURSUANT TO THIS ARTICLE
31 SHALL CONTINUE TO RECEIVE A GRANT EACH YEAR IF THE QUALIFYING PUPIL COMPLETED
32 ALL NECESSARY COURSEWORK TO BE PROMOTED TO AT LEAST THE NEXT GRADE LEVEL IN
33 THE GRANT SCHOOL, THE QUALIFYING PUPIL IS IN GOOD ACADEMIC STANDING WITH THE
34 GRANT SCHOOL AND THE CUSTODIAN COMPLETES ALL APPLICATIONS REQUIRED BY THE
35 GRANT SCHOOL AND THE DEPARTMENT.

36 15-818.04. Implementation schedule

37 BEGINNING WITH THE 2010-2011 SCHOOL YEAR, EACH QUALIFYING PUPIL IN A
38 KINDERGARTEN PROGRAM, GRADE ONE AND GRADE SEVEN IN A GRANT SCHOOL IS ENTITLED
39 TO RECEIVE A GRANT. BEGINNING WITH THE 2011-2012 SCHOOL YEAR, EACH
40 QUALIFYING PUPIL IN GRADES TWO, THREE, EIGHT AND NINE IS ENTITLED TO RECEIVE
41 A GRANT. BEGINNING WITH THE 2012-2013 SCHOOL YEAR, EACH QUALIFYING PUPIL IN
42 GRADES FOUR AND TEN IS ENTITLED TO RECEIVE A GRANT. BEGINNING WITH THE
43 2013-2014 SCHOOL YEAR, EACH QUALIFYING PUPIL IN GRADES FIVE AND ELEVEN IS
44 ENTITLED TO RECEIVE A GRANT. BEGINNING WITH THE 2014-2015 SCHOOL YEAR, EACH
45 QUALIFYING PUPIL IN GRADES SIX AND TWELVE IS ENTITLED TO RECEIVE A GRANT.

1 15-818.05. Participation by grant schools: report

2 A. A PRIVATE SCHOOL, WHETHER SECULAR OR SECTARIAN, THAT MAINTAINS ANY
3 GRADE IN WHICH AN ENROLLED QUALIFYING PUPIL IS ENTITLED TO RECEIVE A GRANT
4 PURSUANT TO THIS ARTICLE SHALL OPT EACH SCHOOL YEAR TO PARTICIPATE OR NOT
5 PARTICIPATE IN THE GRANT PROGRAM ESTABLISHED UNDER THIS ARTICLE. A SCHOOL
6 THAT WISHES TO PARTICIPATE IN THE PROGRAM AS A GRANT SCHOOL MUST COMPLETE A
7 NOTICE OF INTENT TO PARTICIPATE WITH THE DEPARTMENT ON OR BEFORE FEBRUARY 15
8 OF EACH CALENDAR YEAR FOR INCLUSION IN THE PROGRAM FOR THE FOLLOWING SCHOOL
9 YEAR.

10 B. A PRIVATE SCHOOL THAT PARTICIPATES IN THE GRANT PROGRAM AND THAT IS
11 ENTITLED TO REDEEM A GRANT FOR A QUALIFYING PUPIL WHO ENROLLS IN THAT GRANT
12 SCHOOL IS NOT REQUIRED TO ACCEPT THE GRANT AS FULL PAYMENT FOR THE
13 EDUCATIONAL AND RELATED SERVICES THAT THE SCHOOL PROVIDES TO THAT QUALIFYING
14 PUPIL AND MAY CHARGE THE QUALIFYING PUPIL AN ADDITIONAL AMOUNT REPRESENTING
15 THE BALANCE OF THE TUITION AND FEES THAT REMAINS PAYABLE AFTER CREDITING THE
16 QUALIFYING PUPIL WITH THE AMOUNT OF THE GRANT RECEIVED BY THE QUALIFYING
17 PUPIL UNDER THIS ARTICLE. A PRIVATE SCHOOL THAT REDEEMS GRANTS UNDER THIS
18 ARTICLE SHALL USE THE GRANT PROCEEDS SOLELY TO PROVIDE EDUCATIONAL GOODS,
19 SERVICES AND FACILITIES FOR ITS QUALIFYING PUPILS AND IS NOT ENTITLED TO
20 RECEIVE, FOR REDEEMING A GRANT, ANY AMOUNT IN EXCESS OF THE TUITION AND FEES
21 CUSTOMARILY CHARGED BY THE SCHOOL TO COVER THE COST OF PROVIDING THOSE
22 EDUCATIONAL GOODS, SERVICES AND FACILITIES.

23 C. EACH GRANT SCHOOL SHALL:

24 1. ENSURE THE ELIGIBILITY OF EACH APPLICANT FOR A GRANT ISSUED
25 PURSUANT TO THIS ARTICLE.

26 2. ON OR BEFORE AUGUST 1 OF EACH YEAR, SUBMIT A LIST OF QUALIFYING
27 PUPILS AND THE CONTACT INFORMATION OF EACH CUSTODIAN OF A QUALIFYING PUPIL
28 ACCEPTED INTO THE SCHOOL FOR THAT SCHOOL YEAR TO THE DEPARTMENT.

29 3. SUBMIT A LIST OF QUALIFYING PUPILS ENROLLED IN AND ATTENDING THE
30 SCHOOL WITH A GRANT AS OF THE DATE OF THE REPORT TO THE DEPARTMENT ON AUGUST
31 15, OCTOBER 15, JANUARY 15 AND APRIL 15 OF EACH YEAR. THE REPORT SHALL
32 CONSTITUTE THE BASE PUPIL LEVEL OF QUALIFYING PUPILS. THE BASE PUPIL LEVEL
33 SHALL ACCURATELY REFLECT THE NUMBER OF QUALIFYING STUDENTS ENROLLED IN AND
34 ATTENDING THE GRANT SCHOOL.

35 4. ANNUALLY MEET AT LEAST ONE OF THE FOLLOWING STANDARDS:

36 (a) AT LEAST SEVENTY PER CENT OF THE QUALIFYING PUPILS IN THE PROGRAM
37 ADVANCE AT LEAST ONE GRADE LEVEL EACH YEAR.

38 (b) THE GRANT SCHOOL'S AVERAGE ATTENDANCE RATE FOR THE PUPILS IN THE
39 PROGRAM IS AT LEAST NINETY PER CENT.

40 (c) AT LEAST EIGHTY PER CENT OF THE QUALIFYING PUPILS IN THE PROGRAM
41 DEMONSTRATE SIGNIFICANT ACADEMIC PROGRESS.

42 (d) AT LEAST SEVENTY PER CENT OF THE FAMILIES OF QUALIFYING PUPILS IN
43 THE PROGRAM MEET PARENT INVOLVEMENT CRITERIA ESTABLISHED BY THE GRANT SCHOOL.

1 B. THE GRANT VALUE SHALL BE ANNUALLY ADJUSTED TO REFLECT THE
2 PERCENTAGE INCREASE IN THE BASE LEVEL PRESCRIBED IN SECTION 15-901.01.

3 15-818.08. Distribution of grant monies; transfer from grant
4 school; excess value of grant

5 A. THE MONIES TO PAY A GRANT THAT IS ISSUED FOR THE BENEFIT OF A
6 QUALIFYING PUPIL AND THAT IS TO BE EFFECTIVE DURING THE SCHOOL YEAR WITH
7 RESPECT TO WHICH THOSE MONIES ARE PAID SHALL BE DISTRIBUTED BY THE DEPARTMENT
8 IMMEDIATELY ON RECEIPT OF PROOF OF THE PUPIL'S ENROLLMENT IN THE GRANT SCHOOL
9 DURING A SCHOOL YEAR AND IN THE FORM OF A GRANT TO THE CUSTODIAN. THE
10 CUSTODIAN SHALL RESTRICTIVELY ENDORSE THE GRANT FOR THE USE OF THE GRANT
11 SCHOOL AND SURRENDER THE GRANT TO THE GRANT SCHOOL. THE GRANT SCHOOL SHALL
12 IMMEDIATELY CREDIT THE ACCOUNT OF THE CUSTODIAN OF THE QUALIFYING PUPIL AND
13 APPLY THE GRANT FOR THE BENEFIT OF THE QUALIFYING PUPIL IN PAYMENT OF THE
14 TUITION AND FEES DUE FROM, OR THE COSTS OF PROVIDING EDUCATIONAL AND RELATED
15 SERVICES TO, THAT PUPIL.

16 B. THE DEPARTMENT SHALL ANNUALLY MAKE FOUR PAYMENTS TO A GRANT SCHOOL
17 BASED ON THE BASE PUPIL LEVEL PURSUANT TO SECTION 15-818.05, SUBSECTION C,
18 PARAGRAPH 3. THE PAYMENTS SHALL BE ISSUED TO THE GRANT SCHOOLS ON SEPTEMBER
19 1, NOVEMBER 1, FEBRUARY 1 AND MAY 1.

20 C. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, IF A
21 QUALIFYING PUPIL TRANSFERS FROM A GRANT SCHOOL TO ANOTHER SCHOOL DURING THE
22 SCHOOL YEAR IN WHICH A GRANT ISSUED FOR THE BENEFIT OF THAT PUPIL IS
23 EFFECTIVE, THE GRANT SCHOOL FROM WHICH THE PUPIL TRANSFERS SHALL:

24 1. PROVIDE WRITTEN NOTICE OF THE TRANSFER, WITHIN TEN DAYS AFTER THE
25 TRANSFER OCCURS, TO THE DEPARTMENT.

26 2. RETURN TO THE DEPARTMENT, TO BE HELD IN TRUST AND MAINTAINED BY THE
27 DEPARTMENT IN THE NAME OF THE TRANSFERRING PUPIL'S CUSTODIAN FOR THE BENEFIT
28 OF THAT PUPIL, ANY GRANT MONIES ALREADY PAID OR DISTRIBUTED TO THE GRANT
29 SCHOOL UNDER SUBSECTION A OF THIS SECTION FOR THE BENEFIT OF THAT PUPIL FOR
30 THAT SCHOOL YEAR AND NOT YET DUE OR EARNED AS TUITION AND FEES OR AS THE COST
31 OF PROVIDING EDUCATIONAL AND RELATED SERVICES FOR THAT PUPIL FOR THAT SCHOOL
32 YEAR.

33 15-818.09. Parental educational choice grant fund

34 A. THE PARENTAL EDUCATIONAL CHOICE GRANT FUND IS ESTABLISHED
35 CONSISTING OF LEGISLATIVE APPROPRIATIONS. THE DEPARTMENT SHALL ADMINISTER
36 THE FUND. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED. MONIES IN THE
37 FUND SHALL BE USED FOR PARENTAL EDUCATIONAL CHOICE GRANTS PURSUANT TO THIS
38 ARTICLE.

39 B. MONIES IN THE FUND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190
40 RELATING TO LAPSING OF APPROPRIATIONS.

41 C. THE DEPARTMENT MAY USE UP TO ONE PER CENT OF THE ANNUAL LEGISLATIVE
42 APPROPRIATION FOR PAYMENT OF THE COSTS AND EXPENSES THAT ARE INCURRED BY THE
43 DEPARTMENT IN PERFORMING THE DUTIES AND RESPONSIBILITIES UNDER THIS ARTICLE.

1 15-818.10. Violations: classification

2 A PERSON WHO DOES ANY OF THE FOLLOWING IS GUILTY OF A CLASS 6 FELONY:

3 1. USES OR ATTEMPTS TO USE A GRANT OR CERTIFICATE OF GRANT FOR ANY
4 PURPOSE OTHER THAN THOSE PERMITTED BY THIS ARTICLE.

5 2. WITH INTENT TO DEFRAUD, KNOWINGLY FORGES, ALTERS OR MISREPRESENTS
6 INFORMATION ON A GRANT OR CERTIFICATE OF GRANT OR ON ANY DOCUMENTS SUBMITTED
7 IN APPLICATION FOR A GRANT.

8 3. ISSUES OR DELIVERS ANY GRANT, CERTIFICATE OF GRANT OR OTHER GRANT
9 RELATED DOCUMENT KNOWING IT HAS BEEN FORGED, ALTERED OR BASED ON
10 MISREPRESENTATION.

11 4. POSSESSES, WITH INTENT TO ISSUE OR DELIVER, ANY GRANT, CERTIFICATE
12 OF GRANT OR OTHER GRANT RELATED DOCUMENT KNOWING IT HAS BEEN FORGED, ALTERED
13 OR BASED ON MISREPRESENTATION.

14 15-818.11. Limitation on regulation of private schools

15 A. IN ANY LEGAL PROCEEDING CHALLENGING THE APPLICATION OF THIS ARTICLE
16 TO A PRIVATE SCHOOL, THIS STATE BEARS THE BURDEN OF ESTABLISHING THAT THE LAW
17 IS NECESSARY AND DOES NOT IMPOSE ANY UNDUE BURDEN ON PRIVATE SCHOOLS.

18 B. A PRIVATE SCHOOL SHALL NOT BE REQUIRED TO ALTER ITS CREED,
19 PRACTICES OR CURRICULUM IN ORDER TO REDEEM GRANTS ISSUED PURSUANT TO THIS
20 ARTICLE OR IN ORDER TO PARTICIPATE AS A GRANT SCHOOL.

21 15-818.12. Program termination

22 THE PARENTAL EDUCATIONAL CHOICE GRANT PROGRAM ESTABLISHED BY THIS
23 ARTICLE ENDS ON JULY 1, 2019 PURSUANT TO SECTION 41-3102.

24 Sec. 2. Title 43, chapter 10, article 3, Arizona Revised Statutes, is
25 amended by adding section 43-1033, to read:

26 43-1033. Parental educational choice grants not taxable income

27 PARENTAL EDUCATIONAL CHOICE GRANTS AWARDED PURSUANT TO TITLE 15,
28 CHAPTER 8, ARTICLE 1.3 SHALL NOT BE CONSIDERED TAXABLE INCOME OF THE
29 CUSTODIAN OF THE CHILD OR THE CHILD WHO RECEIVES THE PARENTAL EDUCATIONAL
30 CHOICE GRANT.