

State of Arizona
Senate
Fifty-first Legislature
First Regular Session
2013

CHAPTER 250

SENATE BILL 1363

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. "Curriculum" means a complete course of study for a particular
7 content area or grade level, including any supplemental materials required by
8 the curriculum.

9 2. "Department" means the department of education.

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

13 4. "Parent" means a resident of this state who is the parent or legal
14 guardian of a qualified student.

15 5. "Qualified school" means a nongovernmental primary or secondary
16 school or a preschool for handicapped students that is located in this state
17 and that does not discriminate on the basis of race, color or national
18 origin.

19 6. "Qualified student" means a resident of this state who:

20 (a) Is, OR IF THE CHILD IS CURRENTLY ELIGIBLE TO ATTEND KINDERGARTEN,
21 THE DEPARTMENT DETERMINES WOULD BE, any of the following:

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

24 (ii) Identified by a school district as a child with a disability as
25 defined in section 15-761.

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

28 (iv) Attending a school or school district that has been assigned a
29 letter grade of D or F pursuant to section 15-241.

30 (v) A previous recipient of a scholarship issued pursuant to section
31 15-891 or this section.

32 (vi) A child of a parent who is a member of the armed forces of the
33 United States and who is on active duty.

34 (vii) A child with a guardian who is a member of the armed forces of
35 the United States and who is on active duty.

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

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

41 (b) And who ~~did~~ MEETS any of the following REQUIREMENTS:

42 (i) Attended a governmental primary or secondary school as a full-time
43 student as defined in section 15-901 for at least the first one hundred days
44 of the prior fiscal year and who transferred from a governmental primary or
45 secondary school under a contract to participate in an empowerment
46 scholarship account.

1 (ii) Previously participated in the empowerment scholarship account
2 program.

3 (iii) Received a scholarship under section 43-1505 and who continues
4 to attend a qualified school.

5 (iv) Was eligible for an Arizona scholarship for pupils with
6 disabilities and received monies from a school tuition organization pursuant
7 to section 43-1505 or received an Arizona scholarship for pupils with
8 disabilities but did not receive monies from a school tuition organization
9 pursuant to section 43-1505 and who continues to attend a qualified school.

10 (v) HAS NOT PREVIOUSLY ATTENDED A GOVERNMENTAL PRIMARY OR SECONDARY
11 SCHOOL BUT IS CURRENTLY ELIGIBLE TO ENROLL IN A KINDERGARTEN PROGRAM IN A
12 SCHOOL DISTRICT OR CHARTER SCHOOL IN THIS STATE.

13 7. "Treasurer" means the office of the state treasurer.

14 Sec. 2. Section 15-2402, Arizona Revised Statutes, is amended to read:
15 15-2402. Arizona empowerment scholarship accounts; funds

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

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

21 1. Provide an education for the qualified student in at least the
22 subjects of reading, grammar, mathematics, social studies and science.

23 2. Not enroll the qualified student in a school district or charter
24 school and release the school district from all obligations to educate the
25 qualified student. This paragraph does not relieve the school district or
26 charter school that the qualified student previously attended from the
27 obligation to conduct an evaluation pursuant to section 15-766.

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

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

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

36 (b) Textbooks required by a qualified school.

37 (c) Educational therapies or services for the qualified student from a
38 licensed or accredited practitioner or provider, including licensed or
39 accredited paraprofessionals or educational aides.

40 (d) Tutoring services provided by a tutor accredited by a state,
41 regional or national accrediting organization.

42 (e) Curriculum.

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

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

1 (h) Contributions to a qualified tuition program established pursuant
2 to 26 United States Code section 529 for the benefit of the qualified
3 student.

4 (i) Tuition or fees at an eligible postsecondary institution.

5 (j) Textbooks required by an eligible postsecondary institution.

6 (k) Fees for management of the empowerment scholarship account by
7 firms selected by the treasurer.

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

10 5. Not file an affidavit of intent to homeschool pursuant to section
11 15-802, subsection B, paragraph 2 or 3.

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

14 (a) Computer hardware or other technological devices.

15 (b) Transportation of the pupil.

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

17 C. In exchange for the parent's agreement pursuant to subsection B of
18 this section, the department shall transfer from the monies that would
19 otherwise be allocated to a recipient's prior school district, **OR IF THE**
20 **CHILD IS CURRENTLY ELIGIBLE TO ATTEND KINDERGARTEN, THE MONIES THAT THE**
21 **DEPARTMENT DETERMINES WOULD OTHERWISE BE ALLOCATED TO A RECIPIENT'S EXPECTED**
22 **SCHOOL DISTRICT OF ATTENDANCE,** to the treasurer for deposit into an Arizona
23 empowerment scholarship account an amount that is equivalent to ninety per
24 cent of **THE SUM OF** the base support level **AND ADDITIONAL ASSISTANCE**
25 prescribed in ~~section 15-943~~ **SECTIONS 15-185 AND 15-943** for that particular
26 student **IF THAT STUDENT WERE ATTENDING A CHARTER SCHOOL.** The department may
27 retain up to five per cent of **THE SUM OF** the base support level **AND**
28 **ADDITIONAL ASSISTANCE** prescribed in ~~section 15-943~~ **SECTIONS 15-185 AND 15-943**
29 for each student with an empowerment scholarship account for deposit in the
30 department of education empowerment scholarship account fund established in
31 subsection D of this section, out of which the department shall transfer one
32 per cent of **THE SUM OF** the base support level **AND ADDITIONAL ASSISTANCE**
33 prescribed in ~~section 15-943~~ **SECTIONS 15-185 AND 15-943** for each student with
34 an empowerment scholarship account to the state treasurer for deposit in the
35 state treasurer empowerment scholarship account fund established in
36 subsection E of this section.

37 D. The department of education empowerment scholarship account fund is
38 established consisting of monies retained by the department pursuant to
39 subsection C of this section. The department shall administer the fund.
40 Monies in the fund are subject to legislative appropriation. Monies in the
41 fund shall be used for the department's costs in administering empowerment
42 scholarship accounts under this chapter. Monies in the fund are exempt from
43 the provisions of section 35-190 relating to lapsing of appropriations. If
44 the number of empowerment scholarship accounts significantly increases after
45 fiscal year 2012-2013, the department may request an increase in the amount

1 appropriated to the fund in any subsequent fiscal year in the budget estimate
2 submitted pursuant to section 35-113.

3 E. The state treasurer empowerment scholarship account fund is
4 established consisting of monies transferred by the department to the state
5 treasurer pursuant to subsection C of this section. The state treasurer
6 shall administer the fund. Monies in the fund shall be used for the state
7 treasurer's costs in administering the empowerment scholarship accounts under
8 this chapter. If the number of empowerment scholarship accounts
9 significantly increases after fiscal year 2013-2014, the state treasurer may
10 request an increase in the amount appropriated to the fund in any subsequent
11 fiscal year in the budget estimate submitted pursuant to section 35-113.
12 Monies in the fund are subject to legislative appropriation. Monies in the
13 fund are exempt from the provisions of section 35-190 relating to lapsing of
14 appropriations.

15 F. A parent must renew the qualified student's empowerment scholarship
16 account on an annual basis. Notwithstanding any changes to the student's
17 multidisciplinary evaluation team plan, a student who has previously
18 qualified for an empowerment scholarship account shall remain eligible to
19 apply for renewal until the student finishes high school.

20 G. A signed agreement under this section constitutes school attendance
21 required by section 15-802.

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

26 I. On the qualified student's graduation from a postsecondary
27 institution or after any period of four consecutive years after high school
28 graduation in which the student is not enrolled in an eligible postsecondary
29 institution, the qualified student's Arizona empowerment scholarship account
30 shall be closed and any remaining funds shall be returned to the state.

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

33 Sec. 3. New empowerment scholarship accounts authorized in 2014
34 through 2019; delayed repeal

35 A. During 2014, 2015, 2016, 2017, 2018 and 2019, the number of new
36 empowerment scholarship accounts approved by the department of education each
37 year shall not exceed 0.5 per cent of the total number of pupils enrolled in
38 school districts and charter schools in this state during the previous school
39 year.

40 B. This section is repealed from and after December 31, 2019.

APPROVED BY THE GOVERNOR JUNE 20, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 21, 2013.