Senate Engrossed

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SENATE BILL 1553

AN ACT

AMENDING TITLE 15, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 19; RELATING TO ARIZONA EMPOWERMENT ACCOUNTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Title 15, Arizona Revised Statutes, is amended by adding chapter 19, to read:

CHAPTER 19

ARIZONA EMPOWERMENT ACCOUNTS

ARTICLE 1. GENERAL PROVISIONS

15-2401. Definitions

IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "DEPARTMENT" MEANS THE DEPARTMENT OF EDUCATION.

2. "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.

3. "PARENT" MEANS A RESIDENT OF THIS STATE WHO IS THE PARENT OR LEGAL GUARDIAN OF A QUALIFIED STUDENT.

4. "QUALIFIED SCHOOL" MEANS A NONGOVERNMENTAL PRIMARY OR SECONDARY SCHOOL OR A PRESCHOOL FOR HANDICAPPED STUDENTS THAT IS LOCATED IN THIS STATE AND THAT DOES NOT DISCRIMINATE ON THE BASIS OF RACE, COLOR OR NATIONAL ORIGIN.

5. "QUALIFIED STUDENT" MEANS A RESIDENT OF THIS STATE WHO IS EITHER IDENTIFIED AS HAVING A DISABILITY UNDER SECTION 504 OF THE REHABILITATION ACT (29 UNITED STATES CODE SECTION 794), IDENTIFIED BY A SCHOOL DISTRICT AS A CHILD WITH A DISABILITY AS DEFINED IN SECTION 15-761 OR A CHILD WITH A DISABILITY WHO IS ELIGIBLE TO RECEIVE SERVICES FROM A SCHOOL DISTRICT UNDER SECTION 15-763 AND WHO DID ANY OF THE FOLLOWING:

(a) 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 DAYS OF THE PRIOR FISCAL YEAR AND WHO TRANSFERRED FROM A GOVERNMENTAL PRIMARY OR SECONDARY SCHOOL TO A QUALIFIED SCHOOL.

(b) PARTICIPATED IN THE EMPOWERMENT ACCOUNT PROGRAM IN THE PREVIOUS YEAR AND WHOSE PARENT RENEWS THE AGREEMENT PURSUANT TO SECTION 15-2402, SUBSECTION B.

(c) RECEIVED A SCHOLARSHIP UNDER SECTION 43-1505 AND WHO CONTINUES TO ATTEND A QUALIFIED SCHOOL.

6. "TREASURER" MEANS THE OFFICE OF THE STATE TREASURER.

15-2402. Arizona empowerment accounts

A. ARIZONA EMPOWERMENT ACCOUNTS ARE ESTABLISHED TO PROVIDE OPTIONS FOR THE EDUCATION OF STUDENTS IN THIS STATE.

B. TO ENROLL A QUALIFIED STUDENT FOR AN EMPOWERMENT ACCOUNT, THE PARENT OF THE QUALIFIED STUDENT MUST SIGN AN AGREEMENT TO DO ALL OF THE FOLLOWING:

1. PROVIDE AN EDUCATION FOR THE QUALIFIED STUDENT IN AT LEAST THE SUBJECTS OF READING, GRAMMAR, MATHEMATICS, SOCIAL STUDIES AND SCIENCE.

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.

3. NOT ACCEPT A SCHOLARSHIP FROM A SCHOOL TUITION ORGANIZATION PURSUANT TO TITLE 43 FOR THE QUALIFIED STUDENT.

4. USE THE MONEY DEPOSITED IN THE QUALIFIED STUDENT'S ARIZONA EMPOWERMENT 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) EDUCATIONAL THERAPIES OR SERVICES FOR THE QUALIFIED STUDENT FROM A LICENSED OR ACCREDITED PRACTITIONER OR PROVIDER.

(d) TUTORING SERVICES PROVIDED BY A TUTOR ACCREDITED BY A STATE, REGIONAL OR NATIONAL ACCREDITING ORGANIZATION.

(e) CURRICULUM.

(f) TUITION OR FEES FOR A NONPUBLIC ONLINE LEARNING PROGRAM.

(g) FEES FOR A NATIONALLY STANDARDIZED NORM-REFERENCED ACHIEVEMENT TEST, ADVANCED PLACEMENT EXAMINATIONS OR ANY EXAMS RELATED TO COLLEGE OR UNIVERSITY ADMISSION.

(h) CONTRIBUTIONS TO A QUALIFIED TUITION PROGRAM ESTABLISHED PURSUANT TO 11 UNITED STATES CODE SECTION 529.

(i) TUITION OR FEES AT AN ELIGIBLE POSTSECONDARY INSTITUTION.

(j) TEXTBOOKS REQUIRED BY AN ELIGIBLE POSTSECONDARY INSTITUTION.

(k) FEES FOR MANAGEMENT OF THE EMPOWERMENT ACCOUNT BY FIRMS SELECTED BY THE DEPARTMENT.

C. IN EXCHANGE FOR THE PARENT'S AGREEMENT PURSUANT TO SUBSECTION B OF THIS SECTION, THE DEPARTMENT SHALL TRANSFER TO THE TREASURER FOR DEPOSIT INTO AN ARIZONA EMPOWERMENT ACCOUNT AN AMOUNT THAT IS EQUIVALENT TO NINETY PER CENT OF THE BASE SUPPORT LEVEL PRESCRIBED IN SECTION 15-943 FOR THAT PARTICULAR STUDENT.

D. A PARENT MUST RENEW THE QUALIFIED STUDENT'S EMPOWERMENT ACCOUNT ON AN ANNUAL BASIS.

E. A SIGNED AGREEMENT UNDER THIS SECTION CONSTITUTES SCHOOL ATTENDANCE REQUIRED BY SECTION 15-802.

F. 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 ACCOUNT MONIES WITH THE PARENT OR QUALIFIED CHILD IN ANY MANNER.

G. 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, THE QUALIFIED STUDENT'S ARIZONA EMPOWERMENT ACCOUNT SHALL BE CLOSED AND ANY REMAINING FUNDS SHALL BE RETURNED TO THE STATE.

15-2403. Empowerment accounts; administration; audit; rules

A. THE TREASURER MAY CONTRACT WITH PRIVATE FINANCIAL MANAGEMENT FIRMS TO MANAGE ARIZONA EMPOWERMENT ACCOUNTS WITH THE SUPERVISION OF THE TREASURER.

B. THE DEPARTMENT SHALL CONDUCT OR CONTRACT FOR ANNUAL AUDITS OF A RANDOM SAMPLE OF EMPOWERMENT ACCOUNTS TO ENSURE COMPLIANCE WITH SECTION 15-2402, SUBSECTION B, PARAGRAPH 4. THE DEPARTMENT MAY ALSO CONDUCT OR

CONTRACT FOR AUDITS OF EMPOWERMENT 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 ACCOUNT AND SHALL NOTIFY THE TREASURER. A PARENT MAY APPEAL THE DEPARTMENT'S DECISION PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10.

D. THE DEPARTMENT MAY REFER CASES OF SUBSTANTIAL MISUSE OF MONIES TO THE ATTORNEY GENERAL FOR INVESTIGATION IF THE DEPARTMENT OBTAINS EVIDENCE OF FRAUDULENT USE OF AN ACCOUNT.

E. THE TREASURER MAY DEDUCT UP TO THREE PER CENT OF THE AMOUNT OF STUDENT STATE AID FROM EACH EMPOWERMENT ACCOUNT FOR THE COSTS OF ADMINISTERING EMPOWERMENT ACCOUNTS UNDER THIS CHAPTER, INCLUDING COSTS INCURRED BY THE DEPARTMENT.

F. THE DEPARTMENT SHALL MAKE QUARTERLY TRANSFERS OF THE AMOUNT CALCULATED PURSUANT TO SECTION 15-2402, SUBSECTION C TO THE TREASURER FOR DEPOSIT INTO THE EMPOWERMENT ACCOUNT OF EACH QUALIFIED STUDENT.

G. THE DEPARTMENT MAY ADOPT RULES NECESSARY FOR THE ADMINISTRATION OF EMPOWERMENT ACCOUNTS.

15-2404. State control over nonpublic schools; prohibition; application

A. THIS CHAPTER DOES NOT PERMIT ANY GOVERNMENT AGENCY TO EXERCISE CONTROL OR SUPERVISION OVER ANY NONPUBLIC SCHOOL OR HOME SCHOOL.

B. A QUALIFIED SCHOOL THAT ACCEPTS A PAYMENT FROM A PARENT PURSUANT TO THIS CHAPTER IS NOT AN AGENT OF THE STATE OR FEDERAL GOVERNMENT.

C. A QUALIFIED SCHOOL SHALL NOT BE REQUIRED TO ALTER ITS CREED, PRACTICES, ADMISSIONS POLICY OR CURRICULUM IN ORDER TO ACCEPT STUDENTS WHOSE PARENTS PAY TUITION OR FEES FROM AN EMPOWERMENT ACCOUNT PURSUANT TO THIS CHAPTER IN ORDER TO PARTICIPATE AS A QUALIFIED SCHOOL.

D. IN ANY LEGAL PROCEEDING CHALLENGING THE APPLICATION OF THIS CHAPTER TO A QUALIFIED SCHOOL, THE STATE BEARS THE BURDEN OF ESTABLISHING THAT THE LAW IS NECESSARY AND DOES NOT IMPOSE ANY UNDUE BURDEN ON QUALIFIED SCHOOLS.

Sec. 2. Arizona empowerment accounts; agreements

For the 2011 fall semester, the deadline for parents to sign an agreement with the department is August 1, 2011. For the 2012 spring semester, the deadline is December 1, 2011. The department has up to thirty days to process agreements and notify the treasurer of the total number of qualified students who have properly filled out the agreements for empowerment accounts.