

State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

CHAPTER 175
HOUSE BILL 2458

AN ACT

AMENDING SECTIONS 15-2402 AND 15-2403, 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 provide
6 options for the education of students in this state.

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

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

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

17 3. Not accept a scholarship from a school tuition organization
18 pursuant to title 43 concurrently with an empowerment scholarship account for
19 the qualified student in the same year a parent signs the agreement pursuant
20 to this section.

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

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

25 (b) Textbooks required by a qualified school.

26 (c) Educational therapies or services for the qualified student from a
27 licensed or accredited practitioner or provider, including licensed or
28 accredited paraprofessionals or educational aides.

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

31 (e) Curriculum.

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

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

36 (h) Contributions to a ~~qualified tuition program~~ COVERDELL EDUCATION
37 SAVINGS ACCOUNT established pursuant to 26 United States Code section ~~529~~ 530
38 for the benefit of the qualified student, EXCEPT THAT MONEY USED FOR
39 ELEMENTARY OR SECONDARY EDUCATION EXPENSES MUST BE FOR EXPENSES OTHERWISE
40 ALLOWED UNDER THIS SECTION.

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

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

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

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

1 (m) INSURANCE OR SURETY BOND PAYMENTS AS REQUIRED BY THE DEPARTMENT OF
2 EDUCATION.

3 5. Not file an affidavit of intent to homeschool pursuant to section
4 15-802, subsection B, paragraph 2 or 3.

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

7 (a) Computer hardware or other technological devices.

8 (b) Transportation of the pupil.

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

10 C. In exchange for the parent's agreement pursuant to subsection B of
11 this section, the department shall transfer from the monies that would
12 otherwise be allocated to a recipient's prior school district to the
13 treasurer for deposit into an Arizona empowerment scholarship account an
14 amount that is equivalent to ninety per cent of the base support level
15 prescribed in section 15-943 for that particular student. The department may
16 retain up to five per cent of the base support level prescribed in section
17 15-943 for each student with an empowerment scholarship account for deposit
18 in the department of education empowerment scholarship account fund
19 established in subsection D of this section, out of which the department
20 shall transfer one per cent of the base support level prescribed in section
21 15-943 for each student with an empowerment scholarship account to the state
22 treasurer for deposit in the state treasurer empowerment scholarship account
23 fund established in subsection E of this section.

24 D. The department of education empowerment scholarship account fund is
25 established consisting of monies retained by the department pursuant to
26 subsection C of this section. The department shall administer the fund.
27 Monies in the fund are subject to legislative appropriation. Monies in the
28 fund shall be used for the department's costs in administering empowerment
29 scholarship accounts under this chapter. Monies in the fund are exempt from
30 the provisions of section 35-190 relating to lapsing of appropriations. If
31 the number of empowerment scholarship accounts significantly increases after
32 fiscal year 2012-2013, the department may request an increase in the amount
33 appropriated to the fund in any subsequent fiscal year in the budget estimate
34 submitted pursuant to section 35-113.

35 E. The state treasurer empowerment scholarship account fund is
36 established consisting of monies transferred by the department to the state
37 treasurer pursuant to subsection C of this section. The state treasurer
38 shall administer the fund. Monies in the fund shall be used for the state
39 treasurer's costs in administering the empowerment scholarship accounts under
40 this chapter. If the number of empowerment scholarship accounts
41 significantly increases after fiscal year 2013-2014, the state treasurer may
42 request an increase in the amount appropriated to the fund in any subsequent
43 fiscal year in the budget estimate submitted pursuant to section 35-113.
44 Monies in the fund are subject to legislative appropriation. Monies in the
45 fund are exempt from the provisions of section 35-190 relating to lapsing of
46 appropriations.

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

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

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

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

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

19 Sec. 2. Section 15-2403, Arizona Revised Statutes, is amended to read:
20 15-2403. Empowerment scholarship accounts; administration;
21 audit; rules

22 A. The treasurer may contract with private financial management firms
23 to manage Arizona empowerment scholarship accounts with the supervision of
24 the treasurer.

25 B. The department shall conduct or contract for annual audits ~~of a~~
26 ~~random sample~~ of empowerment scholarship accounts to ensure compliance with
27 section 15-2402, subsection B, paragraph 4. The department ~~may~~ **SHALL** also
28 conduct or contract for **RANDOM, QUARTERLY AND ANNUAL** audits of empowerment
29 scholarship accounts as needed to ensure compliance with section 15-2402,
30 subsection B, paragraph 4.

31 C. The department may remove any parent or qualified student from
32 eligibility for an Arizona empowerment scholarship account **IF THE PARENT OR**
33 **QUALIFIED STUDENT FAILS TO COMPLY WITH THE TERMS OF THE CONTRACT, APPLICABLE**
34 **LAWS, RULES OR ORDERS OR FOR KNOWINGLY MISUSING FUNDS OR KNOWINGLY FAILING TO**
35 **COMPLY WITH THE TERMS OF THE CONTRACT WITH INTENT TO DEFRAUD** and shall notify
36 the treasurer. **THE DEPARTMENT SHALL:**

37 **1. NOTIFY THE TREASURER TO SUSPEND THE ACCOUNT OF A PARENT OR**
38 **QUALIFIED STUDENT AND SHALL NOTIFY THE PARENT OR QUALIFIED STUDENT IN WRITING**
39 **THAT THE ACCOUNT HAS BEEN SUSPENDED AND THAT NO FURTHER TRANSACTIONS WILL BE**
40 **ALLOWED OR DISBURSEMENTS MADE. THE NOTIFICATION SHALL SPECIFY THE REASON FOR**
41 **THE SUSPENSION AND STATE THAT THE PARENT OR QUALIFIED STUDENT HAS TEN DAYS,**
42 **NOT INCLUDING WEEKENDS, TO RESPOND AND TAKE CORRECTIVE ACTION.**

43 **2. IF THE PARENT OR QUALIFIED STUDENT REFUSES OR FAILS TO CONTACT THE**
44 **DEPARTMENT, FURNISH ANY INFORMATION OR MAKE ANY REPORT THAT MAY BE REQUIRED**
45 **FOR REINSTATEMENT WITHIN THE TEN-DAY PERIOD, THE DEPARTMENT MAY REMOVE THE**
46 **PARENT OR QUALIFIED STUDENT PURSUANT TO THIS SUBSECTION.**

- 1 D. A parent may appeal the department's decision pursuant to title 41,
2 chapter 6, article 10.
- 3 ~~D.~~ E. The department may refer cases of substantial misuse of monies
4 to the attorney general for investigation if the department obtains evidence
5 of fraudulent use of an account.
- 6 ~~E.~~ F. The department shall make quarterly transfers of the amount
7 calculated pursuant to section 15-2402, subsection C to the treasurer for
8 deposit into the empowerment scholarship account of each qualified student.
- 9 ~~F.~~ G. The department shall determine a period that is between July 1
10 and May 1 of each year during which it will accept applications for the
11 following fiscal year. On or before May 30 of each year, the department
12 shall furnish to the joint legislative budget committee an estimate of the
13 amount required to fund empowerment scholarship accounts for the following
14 fiscal year. The department shall include in its budget request for the
15 following fiscal year the amount estimated in section 15-2402, subsection C
16 for each qualified student.
- 17 ~~G.~~ H. The department may adopt rules and policies necessary for the
18 administration of empowerment scholarship accounts, **INCLUDING:**
- 19 1. **POLICIES FOR CONDUCTING OR CONTRACTING FOR EXAMINATIONS OF THE USE**
20 **OF ACCOUNT MONIES.**
- 21 2. **CONDUCTING OR CONTRACTING FOR RANDOM, QUARTERLY AND ANNUAL REVIEWS**
22 **OF ACCOUNTS.**
- 23 3. **ESTABLISHING OR CONTRACTING FOR THE ESTABLISHMENT OF AN ONLINE**
24 **ANONYMOUS FRAUD REPORTING SERVICE.**
- 25 4. **ESTABLISHING AN ANONYMOUS TELEPHONE HOTLINE FOR FRAUD REPORTING.**
- 26 5. **POLICIES THAT REQUIRE A SURETY BOND OR INSURANCE FOR ACCOUNT**
27 **HOLDERS.**

APPROVED BY THE GOVERNOR MAY 2, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 2, 2013.