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REFERENCE TITLE: empowerment scholarships; persons with disabilities

State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

S. B. _____

Introduced by _____

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. "ANNUAL EDUCATION PLAN" MEANS AN INDIVIDUALIZED EVALUATION THAT IS
7 DEVELOPED FOR A QUALIFIED STUDENT WHO MEETS THE CRITERIA SPECIFIED IN
8 PARAGRAPH 7, SUBDIVISION (a), ITEM (i), (ii) OR (iii) OF THIS SECTION TO
9 DETERMINE ONGOING ANNUAL ELIGIBILITY UNTIL THE QUALIFIED STUDENT REACHES
10 TWENTY-TWO YEARS OF AGE.
11 ~~1.~~ 2. "Curriculum" means a complete course of study for a particular
12 content area or grade level, including any supplemental materials required by
13 the curriculum.
14 ~~2.~~ 3. "Department" means the department of education.
15 ~~3.~~ 4. "Eligible postsecondary institution" means a community college
16 as defined in section 15-1401, a university under the jurisdiction of the
17 Arizona board of regents or an accredited private postsecondary institution.
18 ~~4.~~ 5. "Parent" means a resident of this state who is the parent or
19 legal guardian of a qualified student.
20 ~~5.~~ 6. "Qualified school" means a nongovernmental primary or secondary
21 school or a preschool for pupils with disabilities that is located in this
22 state and that does not discriminate on the basis of race, color or national
23 origin.
24 ~~6.~~ 7. "Qualified student" means a resident of this state who:
25 (a) Is any of the following:
26 (i) Identified as having a disability under section 504 of the
27 rehabilitation act of 1973 (29 United States Code section 794).
28 (ii) Identified by a school district or by an independent third party
29 pursuant to section 15-2403, subsection I as a child with a disability as
30 defined in section 15-761.
31 (iii) A child with a disability who is eligible to receive services
32 from a school district under section 15-763.
33 (iv) Attending a school or school district that has been assigned a
34 letter grade of D or F pursuant to section 15-241 or who is currently
35 eligible to attend kindergarten and who resides within the attendance
36 boundary of a school that has been assigned a letter grade of D or F pursuant
37 to section 15-241.
38 (v) A previous recipient of a scholarship issued pursuant to section
39 15-891 or this section.
40 (vi) A child of a parent who is a member of the armed forces of the
41 United States and who is on active duty or was killed in the line of duty. A
42 child who meets the requirements of this item is not subject to subdivision
43 (b) of this paragraph.
44 (vii) A child with a guardian who is a member of the armed forces of
45 the United States and who is on active duty or was killed in the line of

1 duty. A child who meets the requirements of this item is not subject to
2 subdivision (b) of this paragraph.

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

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

8 (x) A child who is the sibling of a current or previous empowerment
9 scholarship account recipient.

10 (xi) A child who resides within the boundaries of an Indian
11 reservation in this state.

12 (b) And, except as provided in subdivision (a), items (vi) and (vii)
13 of this paragraph, who meets any of the following requirements:

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

19 (ii) Previously participated in the empowerment scholarship account
20 program.

21 (iii) Received a scholarship under section 43-1505 and who continues
22 to attend a qualified school if the student attended a governmental primary
23 or secondary school as a full-time student as defined in section 15-901 for
24 at least ninety days of the prior fiscal year or one full semester prior to
25 attending a qualified school.

26 (iv) Was eligible for an Arizona scholarship for pupils with
27 disabilities and received monies from a school tuition organization pursuant
28 to section 43-1505 or received an Arizona scholarship for pupils with
29 disabilities but did not receive monies from a school tuition organization
30 pursuant to section 43-1505 and who continues to attend a qualified school if
31 the student attended a governmental primary or secondary school as a
32 full-time student as defined in section 15-901 for at least ninety days of
33 the prior fiscal year or one full semester prior to attending a qualified
34 school.

35 (v) Has not previously attended a governmental primary or secondary
36 school but is currently eligible to enroll in a kindergarten program in a
37 school district or charter school in this state.

38 (vi) Has not previously attended a governmental primary or secondary
39 school but is currently eligible to enroll in a program for preschool
40 children with disabilities in this state.

41 ~~7-~~ 8. "Treasurer" means the office of the state treasurer.

42 Sec. 2. Section 15-2402, Arizona Revised Statutes, is amended to read:
43 15-2402. Arizona empowerment scholarship accounts; funds

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

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

4 1. Use a portion of the empowerment scholarship account monies
5 allocated each quarter to provide an education for the qualified student in
6 at least the subjects of reading, grammar, mathematics, social studies and
7 science, unless the empowerment scholarship account is allocated monies
8 according to a transfer schedule other than quarterly transfers pursuant to
9 section 15-2403, subsection F.

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

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

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

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

23 (b) Textbooks required by a qualified school.

24 (c) Educational therapies or services from a licensed or accredited
25 practitioner or provider, including licensed or accredited paraprofessionals
26 or educational aides, if the qualified student meets any of the criteria
27 specified in section 15-2401, paragraph ~~6~~ 7, subdivision (a), item (i), (ii)
28 or (iii) as determined by a school district or by an independent third party
29 pursuant to section 15-2403, subsection I.

30 (d) Tutoring or teaching services provided by an individual or
31 facility accredited by a state, regional or national accrediting
32 organization.

33 (e) ~~Curriculum~~ CURRICULA.

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

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

38 (h) Contributions to a Coverdell education savings account established
39 pursuant to 26 United States Code section 530 for the benefit of the
40 qualified student, except that money used for elementary or secondary
41 education expenses must be for expenses otherwise allowed under this section.

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

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

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

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

3 (m) Insurance or surety bond payments as required by the department of
4 education.

5 (n) BEGINNING JANUARY 1, 2017, IF THE QUALIFIED STUDENT MEETS THE
6 CRITERIA SPECIFIED IN SECTION 15-2401, PARAGRAPH 7, SUBDIVISION (a), ITEM
7 (i), (ii) OR (iii) AND IF THE QUALIFIED STUDENT IS AT LEAST SEVENTEEN YEARS
8 OF AGE BUT UNDER NINETEEN YEARS OF AGE OR IS IN THE FINAL YEAR OF A CONTRACT
9 EXECUTED PURSUANT TO THIS ARTICLE, COSTS ASSOCIATED WITH AN ANNUAL EDUCATION
10 PLAN FROM THE SCHOOL DISTRICT WHERE THE QUALIFIED STUDENT RESIDES. IF THE
11 DEPARTMENT DETERMINES THAT THE QUALIFIED STUDENT MEETS THE ELIGIBILITY
12 CRITERIA PRESCRIBED IN THE ANNUAL EDUCATION PLAN, THE QUALIFIED STUDENT IS
13 ELIGIBLE TO CONTINUE TO RECEIVE MONIES PURSUANT TO THIS ARTICLE UNTIL THE
14 QUALIFIED STUDENT REACHES TWENTY-TWO YEARS OF AGE, SUBJECT TO ANNUAL RENEWAL.
15 A PARENT MAY APPEAL THE DEPARTMENT'S DECISION PURSUANT TO TITLE 41, CHAPTER
16 6, ARTICLE 10. AS AN ADDENDUM TO A QUALIFIED STUDENT'S FINAL-YEAR CONTRACT,
17 THE DEPARTMENT SHALL PROVIDE THE FOLLOWING WRITTEN INFORMATION TO THE PARENT
18 OF THE QUALIFIED STUDENT:

19 (i) THAT THE QUALIFIED STUDENT WILL NOT BE ELIGIBLE TO CONTINUE TO
20 RECEIVE MONIES PURSUANT TO THIS ARTICLE UNLESS THE RESULTS OF AN ANNUAL
21 EDUCATION PLAN CONDUCTED PURSUANT TO THIS SUBDIVISION OR SUBDIVISION (o) OF
22 THIS PARAGRAPH DEMONSTRATE THAT THE QUALIFIED STUDENT MEETS THE ELIGIBILITY
23 CRITERIA PRESCRIBED IN THE ANNUAL EDUCATION PLAN.

24 (ii) THAT THE PARENT IS ENTITLED TO OBTAIN AN ANNUAL EDUCATION PLAN
25 PURSUANT TO THIS SUBDIVISION OR SUBDIVISION (o) OF THIS PARAGRAPH TO
26 DETERMINE WHETHER THE QUALIFIED STUDENT MEETS THE ELIGIBILITY CRITERIA
27 PRESCRIBED IN THE ANNUAL EDUCATION PLAN.

28 (iii) A LIST OF INDEPENDENT EVALUATION TEAMS THAT MEET THE MINIMUM
29 QUALIFICATIONS PRESCRIBED BY THE DEPARTMENT PURSUANT TO SUBDIVISION (o) OF
30 THIS PARAGRAPH.

31 (o) BEGINNING JANUARY 1, 2017, IF A SCHOOL DISTRICT REFUSES TO PROVIDE
32 AN ANNUAL EDUCATION PLAN FOR A QUALIFIED STUDENT AS PRESCRIBED IN SUBDIVISION
33 (n) OF THIS PARAGRAPH, COSTS ASSOCIATED WITH AN ANNUAL EDUCATION PLAN
34 CONDUCTED BY AN INDEPENDENT EVALUATION TEAM. THE DEPARTMENT SHALL PRESCRIBE
35 MINIMUM QUALIFICATIONS FOR INDEPENDENT EVALUATION TEAMS PURSUANT TO THIS
36 SUBDIVISION AND FACTORS THAT TEAMS MUST USE TO DETERMINE WHETHER THE
37 QUALIFIED STUDENT IS LIKELY TO GRADUATE FROM HIGH SCHOOL BY THE TIME THE
38 QUALIFIED STUDENT REACHES TWENTY-TWO YEARS OF AGE. AN INDEPENDENT EVALUATION
39 TEAM THAT PROVIDES AN ANNUAL EDUCATION PLAN PURSUANT TO THIS SUBDIVISION
40 SHALL PROVIDE A WRITTEN REPORT THAT SUMMARIZES THE RESULTS OF THE EVALUATION
41 TO THE PARENT OF THE QUALIFIED STUDENT AND THE DEPARTMENT NO LATER THAN JULY
42 31. THE WRITTEN REPORT PROVIDED BY THE INDEPENDENT EVALUATION TEAM IS VALID
43 FOR ONE YEAR. IF THE DEPARTMENT DETERMINES THAT THE RESULTS OF THE ANNUAL
44 EDUCATION PLAN DEMONSTRATE THAT THE QUALIFIED STUDENT MEETS THE ELIGIBILITY
45 CRITERIA PRESCRIBED IN THE ANNUAL EDUCATION PLAN, THE QUALIFIED STUDENT IS

1 ELIGIBLE TO CONTINUE TO RECEIVE MONIES PURSUANT TO THIS ARTICLE UNTIL THE
2 QUALIFIED STUDENT REACHES TWENTY-TWO YEARS OF AGE, SUBJECT TO ANNUAL RENEWAL.
3 THE DEPARTMENT SHALL ADOPT RULES TO IMPLEMENT THIS SUBDIVISION AND
4 SUBDIVISION (n) OF THIS PARAGRAPH THAT INCLUDE DEADLINES AND A PAYMENT SCALE.
5 A PARENT MAY APPEAL THE DEPARTMENT'S DECISION PURSUANT TO TITLE 41, CHAPTER
6 6, ARTICLE 10.

7 5. Not file an affidavit of intent to homeschool pursuant to section
8 15-802, subsection B, paragraph 2 or 3.

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

11 (a) Computer hardware or other technological devices.

12 (b) Transportation of the pupil.

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

14 C. In exchange for the parent's agreement pursuant to subsection B of
15 this section, the department shall transfer from the monies that would
16 otherwise be allocated to a recipient's prior school district, or if the
17 child is currently eligible to attend kindergarten, the monies that the
18 department determines would otherwise be allocated to a recipient's expected
19 school district of attendance, to the treasurer for deposit into an Arizona
20 empowerment scholarship account an amount that is equivalent to ninety ~~per~~
21 ~~cent~~ PERCENT of the sum of the base support level and additional assistance
22 prescribed in sections 15-185 and 15-943 for that particular student if that
23 student were attending a charter school. The department may retain up to
24 five ~~per cent~~ PERCENT of the sum of the base support level and additional
25 assistance prescribed in sections 15-185 and 15-943 for each student with an
26 empowerment scholarship account for deposit in the department of education
27 empowerment scholarship account fund established in subsection D of this
28 section, out of which the department shall transfer one ~~per cent~~ PERCENT of
29 the sum of the base support level and additional assistance prescribed in
30 sections 15-185 and 15-943 for each student with an empowerment scholarship
31 account to the state treasurer for deposit in the state treasurer empowerment
32 scholarship account fund established in subsection E of this section.

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

44 E. The state treasurer empowerment scholarship account fund is
45 established consisting of monies transferred by the department to the state

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

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

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

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

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

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

29 Sec. 3. Annual education plan development council; membership;
30 duties; report; delayed repeal

31 A. The annual education plan development council is established in the
32 department of education to develop eligibility criteria to determine if a
33 qualified student who meets the criteria specified in section 15-2401,
34 paragraph 7, subdivision (a), item (i), (ii) or (iii), Arizona Revised
35 Statutes, as amended by this act, is eligible to receive empowerment
36 scholarship account monies beyond eighteen years of age.

37 B. The council shall:

38 1. Develop the eligibility criteria in the form of an annual education
39 plan.

40 2. If sufficient monies are available for this purpose, approve a
41 request for proposals issued by the department of education for independent
42 evaluation teams to conduct annual education plans.

43 3. Review the department's rules concerning annual education plans.

44 4. Submit a report of its findings and recommendations to the
45 superintendent of public instruction on or before December 31, 2016.

- 1 C. The council may make recommendations to the department of
2 education.
- 3 D. The department of education shall select the members of the council
4 and shall include practitioners in the field of special education.
- 5 E. Members of the council are not eligible to receive compensation
- 6 F. This section is repealed from and after December 31, 2016.