Conference Engrossed

FILED

JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

CHAPTER 358

SENATE BILL 1164

AN ACT

AMENDING TITLE 15, CHAPTER 8, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 1.2; AMENDING TITLE 43, CHAPTER 10, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1032; PROVIDING FOR THE DELAYED REPEAL OF TITLE 15, CHAPTER 8, ARTICLE 1.2 AND SECTION 43-1032, AS ADDED BY THIS ACT; MAKING AN APPROPRIATION; RELATING TO DISPLACED PUPIL CHOICE GRANTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Title 15, chapter 8, Arizona Revised Statutes, is amended by adding article 1.2, to read:

ARTICLE 1.2. DISPLACED PUPILS CHOICE GRANTS

15-817. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

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

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

3. "GRANT SCHOOL" MEANS A NONGOVERNMENTAL PRIMARY SCHOOL OR SECONDARY SCHOOL OR A PRESCHOOL FOR HANDICAPPED STUDENTS THAT IS LOCATED IN THIS STATE, THAT DOES NOT DISCRIMINATE ON THE BASIS OF RACE, COLOR, HANDICAP, FAMILIAL STATUS OR NATIONAL ORIGIN, THAT MAINTAINS ONE OR MORE GRADE LEVELS FROM KINDERGARTEN THROUGH GRADE TWELVE AND ELECTS AND IS ENTITLED TO PARTICIPATE IN AND REDEEM GRANTS PURSUANT TO THIS ARTICLE.

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

15-817.01. Displaced pupils choice grant program; nature of grants

A. THE DISPLACED PUPILS CHOICE GRANT PROGRAM IS ESTABLISHED UNDER WHICH EACH CUSTODIAN OF A QUALIFYING PUPIL WHO COMPLETES AN APPLICATION FOR A GRANT UNDER THIS ARTICLE SHALL RECEIVE A GRANT THAT IS TO BE REDEEMED AT THE GRANT SCHOOL IN WHICH THE QUALIFYING PUPIL ENROLLS AND APPLIED TOWARD PAYMENT OF THE TUITION AND FEES PAYABLE FOR THE EDUCATIONAL AND RELATED SERVICES PROVIDED TO THE QUALIFYING PUPIL BY THAT GRANT SCHOOL.

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

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

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

15-817.02. Grant eligibility

A. A PUPIL IS ELIGIBLE TO RECEIVE A GRANT UNDER THIS ARTICLE IF THE PUPIL HAS BEEN PLACED IN FOSTER CARE PURSUANT TO TITLE 8, CHAPTER 5 AT ANY TIME BEFORE THE PUPIL GRADUATES FROM HIGH SCHOOL OR OBTAINS A GENERAL EQUIVALENCY DIPLOMA.

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

C. THE DISPLACED PUPILS CHOICE GRANT PROGRAM IS LIMITED TO THE FIRST FIVE HUNDRED QUALIFYING PUPILS ANNUALLY, INCLUDING QUALIFYING PUPILS PURSUANT TO SUBSECTION B OF THIS SECTION.

15-817.03. Participation by grant schools

A. A GRANT SCHOOL IS ENTITLED TO RECEIVE A GRANT PURSUANT TO THIS ARTICLE AND SHALL HAVE THE OPTION EACH SCHOOL YEAR OF PARTICIPATING OR NOT PARTICIPATING IN THE GRANT PROGRAM ESTABLISHED UNDER THIS ARTICLE. A SCHOOL THAT WISHES TO PARTICIPATE IN THE PROGRAM AS A GRANT SCHOOL MUST COMPLETE ALL APPLICATIONS WITH THE DEPARTMENT BY FEBRUARY 15 OF EACH CALENDAR YEAR FOR INCLUSION IN THE PROGRAM FOR THE FOLLOWING SCHOOL YEAR.

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

15-817.04. Grant value

A GRANT ISSUED UNDER THIS ARTICLE FOR THE BENEFIT OF A QUALIFYING PUPIL SHALL HAVE A VALUE EQUAL TO FIVE THOUSAND DOLLARS OR THE TOTAL AMOUNT OF TUITION AND FEES CHARGED BY THE GRANT SCHOOL, WHICHEVER IS LESS.

15-817.05. Distribution of grant monies

THE MONIES TO PAY A GRANT THAT IS ISSUED FOR THE BENEFIT OF A QUALIFYING PUPIL AND THAT IS TO BE EFFECTIVE DURING THE SCHOOL YEAR WITH RESPECT TO WHICH THOSE MONIES ARE PAID SHALL BE DISTRIBUTED BY THE DEPARTMENT IN QUARTERLY INSTALLMENTS IMMEDIATELY ON RECEIPT OF PROOF OF THE PUPIL'S ENROLLMENT IN THE GRANT SCHOOL DURING A SCHOOL YEAR AND IN THE FORM OF A GRANT TO THE CUSTODIAN. ALL INSTALLMENTS SHALL BE MADE ON VERIFICATION OF CONTINUED ENROLLMENT AND ATTENDANCE AT THE GRANT SCHOOL. THE CUSTODIAN SHALL RESTRICTIVELY ENDORSE THE GRANT FOR THE USE OF THE GRANT SCHOOL AND SURRENDER THE GRANT TO THE GRANT SCHOOL. THE GRANT SCHOOL SHALL IMMEDIATELY CREDIT THE ACCOUNT OF THE CUSTODIAN OF THE QUALIFYING PUPIL AND APPLY THE GRANT FOR THE

BENEFIT OF THE QUALIFYING PUPIL IN PAYMENT OF THE TUITION AND FEES DUE FROM, OR THE COSTS OF PROVIDING EDUCATIONAL AND RELATED SERVICES TO, THAT PUPIL.

15-817.06. Displaced pupils choice grant fund

A. THE DISPLACED PUPILS CHOICE GRANT FUND IS ESTABLISHED. THE DEPARTMENT SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED. MONIES IN THE FUND SHALL BE USED FOR DISPLACED PUPILS CHOICE GRANTS PURSUANT TO THIS ARTICLE.

B. MONIES IN THE FUND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS UNTIL JUNE 30, 2008.

15-817.07. Limitation on regulation of grant schools

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

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

Sec. 2. Title 43, chapter 10, article 3, Arizona Revised Statutes, is amended by adding section 43-1032, to read:

43-1032. Displaced pupils choice grants not taxable income

DISPLACED PUPILS CHOICE GRANTS AWARDED PURSUANT TO TITLE 15, CHAPTER 8, ARTICLE 1.2 SHALL NOT BE CONSIDERED TAXABLE INCOME OF THE CUSTODIAN OF THE CHILD OR THE CHILD WHO RECEIVES THE DISPLACED PUPILS CHOICE GRANT.

Sec. 3. Appropriation; purpose

The sum of $2,500,000 is appropriated from the state general fund in fiscal year 2006-2007 to the department of education for deposit into the displaced pupils choice grant fund established by section 15-817.06, Arizona Revised Statutes, as added by this act.

Sec. 4. Delayed repeal

Title 15, chapter 8, article 1.2 and section 43-1032, as added by this act, are repealed from and after June 30, 2011.

APPROVED BY THE GOVERNOR JUNE 21, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 21, 2006.