

Schooling tax-credit scrutiny often lags

By Ronald J. Hansen
Staff Writer

Arizona's private-school tax-credit programs require less public disclosure and have fewer restrictions than similar programs in other states, a review of state laws and education records shows.

The five other states that offer either individual or corporate private-school tax credits have regulations that are lacking in Arizona, including penalties for violations by tuition organizations, which distribute tax-credit money, and timetables to spend donations.

An *Arizona Republic* analysis found that of 10 common requirements used by the six states to make their programs accountable and transparent, Arizona uses two for its individual tax credit and five for its corporate one. The five other states require more.

Two committees at the Legislature are reviewing Arizona's tax-credit laws in the wake of a series of reports in *The Republic* that found that 12 years after the first tax-credit program began, many donations are not being used as intended.

The tax credits for individuals and businesses last year steered \$67-million in state income tax to private schools and tuition organizations. Under those credits, taxpayers can donate up to \$1,000 toward private-school scholarships and take a dollar-for-dollar reduction on their income tax.

The Republic found that last year, 10 of 53 school tuition organizations had failed so far to commit the required 90 percent of their revenues to scholarships. Some public charter schools have used the law to collect hundreds of thousands of dollars intended for private schooling. There are also signs that many donations do not go to low-income students as originally intended. In many cases, affluent families partner to steer tuition donations to each other's children.

U.S. Rep. Trent Franks, who helped write Arizona's original law, said last week that other states have since built on Arizona's 1997 law, and Arizona could benefit from their lessons.

"Of course, (the tax-credit law) hasn't met all of my hopes," the Glendale Republican said. But "the ultimate impact has been profoundly positive," putting more responsibility for a child's education in the hands of parents.

Who gets the money

An area where other states differ from Arizona is in who gets the donations.

Arizona officials have no way of knowing how many students receive tax-credit scholarships because the law doesn't require tuition groups to report the number. The organizations do report the number and amounts of scholar-

ships, but some students receive multiple scholarships.

The state also has no idea which types of students receive the scholarships — by income, gender or city of residence. While Arizona has never required that donations from individuals help students who are poor, that group was the stated target when the law was passed. By comparison, programs in Florida, Iowa, Pennsylvania and Rhode Island restrict scholarships to students from low-income families. Georgia does not.

Arizona's corporate tax-credit law is different: Donations must go to low-income students, though it offers no way to ensure that is happening.

Rhode Island's organizations must disclose the ZIP code of each participating student, offering a hint at whether they live in a low-income area. Pennsylvania identifies students by their county.

Florida goes even further. Officials there know how many low-income students from each school district receive scholarships, including their race and gender. The students are identified by name to the state and cross-checked for financial eligibility.

Florida also requires annual academic reviews of recipients to determine if the program is aiding achievement. Arizona does not for either of its tax-credit programs.

Florida's lengthy requirements, which run more than 5,400 words, have not hindered school choice, said Jon East, a spokesman for Step Up for Students, Florida's largest tuition organization.

"I would say they are entirely reasonable," he said. "This is money that would otherwise be in the state treasury. People have a right to know how the money is spent."

Some of the provisions came about after one man stole \$268,000 of donations in a case that showed how the tax-credit program could be exploited, East said. As the law has been refined, political support for the program has broadened, he said.

How money is used

All states with private-school tax credits route donations through non-profit school-tuition organizations. But how those groups spend the money varies greatly.

Most states, including Arizona, allow up to 10 percent of donations to be used for administrative expenses. Florida limits overhead to 3 percent. Pennsylvania allows up to 20 percent, though the statewide average is 6 percent, according to state reports.

The Republic found that Arizona's expenses are about the same as Pennsylvania's, although there is no way to know precisely because

tuition groups don't have to report interest or investment income to the state.

Arizona also sets no restriction on when tuition organizations must allocate their money to private schools for scholarships. The groups usually collect most donations near the end of the calendar year and spend them the following year. But at least one organization is hoarding some of its money to establish scholarships for an indefinite period.

In contrast, Florida and Georgia require tuition organizations to spend three-fourths of their money within the state's or group's fiscal year.

In Iowa, while banking donations aren't specifically forbidden, tuition groups there do not hoard, said Jim McNulty, a program manager for the Iowa Department of Revenue.

Franks said he would support requiring that most funds in Arizona be spent within a year.

"What I've said informally to these groups is it should be spent by the next calendar year," McNulty said, adding, "I think we would take a dim view of (hoarding)."

In terms of monitoring tuition finances, Arizona doesn't require tuition organizations to have an independent audit done of their books for the individual private-school tax credits, which totaled \$55 million in 2008. Georgia does, but Iowa doesn't.

Arizona's corporate program requires verification that an accountant reviewed a tuition group's financial statements. But six of the 15 Arizona organizations that collected corporate donations last year had not completed the accounting review by August, when the Department of Revenue finished its annual report.

Florida and Georgia require formal audits. Two other states offering the corporate credits do not.

Violation penalties

For both the individual and corporate programs, Arizona offers no process to determine violations of its law and imposes no penalties if anyone does.

It's different in Florida and Pennsylvania.

In Florida, if less than 75 percent of a group's donations are spent within a fiscal year, the shortfall must go back to the state's general fund. Participating schools there also are subject to random visits and must administer annual standardized tests for students receiving the publicly funded scholarships. There is a legal process to strip organizations and schools from the program.

In Pennsylvania, scholarship organizations will be removed from the state-approved list if they fail to meet requirements. Submitting intentionally false information in an annual report is grounds for criminal prosecution.