

REFERENCE TITLE: school tuition organizations; administration expenses

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

HB 2098

Introduced by
Representative Heinz

AN ACT

AMENDING SECTIONS 43-1502, 43-1503, 43-1504, 43-1505, 43-1602 AND 43-1603,
ARIZONA REVISED STATUTES; RELATING TO SCHOOL TUITION ORGANIZATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 43-1502, Arizona Revised Statutes, is amended to
3 read:
4 43-1502. Certification as a school tuition organization
5 A. A nonprofit organization in this state that is exempt or has
6 applied for exemption from federal taxation under section 501(c)(3) of the
7 internal revenue code may apply to the department of revenue for
8 certification as a school tuition organization, and the department shall
9 certify the school tuition organization if it meets the requirements
10 prescribed by this chapter. An organization must apply for certification on
11 a form prescribed and furnished on request by the department.
12 B. The department shall:
13 1. Maintain a public registry of currently certified school tuition
14 organizations.
15 2. Make the registry available to the public on request.
16 3. Post the registry on the department's official website.
17 C. The department shall send written notice by certified mail to a
18 school tuition organization if the department determines that the school
19 tuition organization has engaged in any of the following activities:
20 1. Failing or refusing to allocate at least ~~ninety~~ NINETY-SEVEN per
21 cent of annual revenues for educational scholarships or tuition grants.
22 2. Failing or refusing to file the annual reports required by section
23 43-1506.
24 3. Limiting availability of scholarships to students of only one
25 school.
26 4. Encouraging, facilitating or knowingly permitting taxpayers to
27 engage in actions prohibited by this article.
28 D. A school tuition organization that receives notice from the
29 department pursuant to subsection C of this section has ninety days to
30 correct the violation identified by the department in the notice. If a
31 school tuition organization fails or refuses to comply after ninety days, the
32 department may remove the organization from the list of certified school
33 tuition organizations and shall make available to the public notice of
34 removal as soon as possible. An organization that is removed from the list
35 of certified school tuition organizations must notify any taxpayer who
36 attempts to make a contribution that the contribution is not eligible for the
37 tax credit and offer to refund all donations received after the date of the
38 notice of termination of certification.
39 E. A school tuition organization may request an administrative hearing
40 on the revocation of its certification as provided by title 41, chapter 6,
41 article 10. Except as provided in section 41-1092.08, subsection H, a
42 decision of the department is subject to judicial review pursuant to title
43 12, chapter 7, article 6.

1 five thousand five hundred dollars for students in grades nine through
2 twelve. In each year after 2006, the limitation amount for a scholarship or
3 a grant under this subsection shall be increased by one hundred dollars.

4 D. A school tuition organization shall require that student
5 beneficiaries use the educational scholarships or tuition grants on a
6 full-time basis. If a child leaves the school before completing an entire
7 school year, the school shall refund a prorated amount of the educational
8 scholarship or tuition grant to the school tuition organization that issued
9 the scholarship or grant. The school tuition organization shall allocate any
10 refunds it receives under this subsection for educational scholarships or
11 tuition grants in the following year.

12 E. Students who receive an educational scholarship or tuition grant
13 under this section shall be allowed to attend any qualified school of their
14 parents' choice.

15 F. The department of revenue, with the cooperation of the department
16 of insurance, shall adopt rules and publish and prescribe forms and
17 procedures necessary for the administration of this section.

18 Sec. 4. Section 43-1505, Arizona Revised Statutes, is amended to read:
19 43-1505. Special provisions; corporate donations for displaced
20 students and students with disabilities; definition

21 A. A school tuition organization that receives contributions for the
22 purposes of section ~~28-224.07~~ 20-224.07 or 43-1184 must use at least ~~ninety~~
23 **NINETY-SEVEN** per cent of those contributions to provide educational
24 scholarships or tuition grants to qualified students who either:

25 1. Received a grant or scholarship under title 15, chapter 8, article
26 1.2 or 8 in order to attend a qualified school during the 2008-2009 academic
27 year.

28 2. Attended a governmental primary or secondary school as a full-time
29 student as defined in section 15-901 for at least the first one hundred days
30 of the prior fiscal year and transferred from a governmental primary or
31 secondary school to a qualified school.

32 3. Qualified for an educational scholarship or tuition grant under
33 paragraph 1 or 2 if the qualified student continues to attend a qualified
34 school in a subsequent year.

35 B. The amount of an educational scholarship or a tuition grant that is
36 issued by a school tuition organization under this section shall not exceed
37 the cost of tuition for the student to attend the qualified school or ninety
38 per cent of the amount of state aid that otherwise would be computed for the
39 student as provided in title 15, chapter 9, article 5, whichever is less. On
40 request from a school tuition organization, the department of education shall
41 provide to the school tuition organization in a timely manner the amount
42 computed for the student under this subsection that represents the ninety per
43 cent limitation prescribed in this subsection.

44 C. A school tuition organization shall require that student
45 beneficiaries use the educational scholarships or tuition grants on a

1 full-time basis. If a child leaves the school before completing an entire
2 school year, the school shall refund a prorated amount of the educational
3 scholarship or tuition grant to the school tuition organization that issued
4 the scholarship or grant. The school tuition organization shall allocate any
5 refunds it receives under this subsection for educational scholarships or
6 tuition grants in the following year.

7 D. Qualified students who receive an educational scholarship or
8 tuition grant under this section shall be allowed to attend any qualified
9 school of their custodians' choice.

10 E. For the purposes of this section, "qualified student" means a
11 student who has been either:

12 1. Placed in foster care pursuant to title 8, chapter 5 at any time
13 before the student graduates from high school or obtains a general
14 equivalency diploma.

15 2. Identified as having a disability under section 504 of the
16 rehabilitation act (29 United States Code section 794) or identified by a
17 school district as a child with a disability as defined in section 15-761 or
18 a child with a disability who is eligible to receive services from a school
19 district under section 15-763.

20 Sec. 5. Section 43-1602, Arizona Revised Statutes, is amended to read:

21 43-1602. Certification as a school tuition organization

22 A. A nonprofit organization in this state that is exempt or has
23 applied for exemption from federal taxation under section 501(c)(3) of the
24 internal revenue code may apply to the department of revenue for
25 certification as a school tuition organization, and the department shall
26 certify the school tuition organization if it meets the requirements
27 prescribed by this chapter. An organization must apply for certification on
28 a form prescribed and furnished on request by the department.

29 B. The department shall:

30 1. Maintain a public registry of currently certified school tuition
31 organizations.

32 2. Make the registry available to the public on request.

33 3. Post the registry on the department's official website.

34 C. The department shall send written notice by certified mail to a
35 school tuition organization if the department determines that the school
36 tuition organization has engaged in any of the following activities:

37 1. Failing or refusing to allocate at least ~~ninety~~ **NINETY-SEVEN** per
38 cent of annual revenues for educational scholarships or tuition grants.

39 2. Failing or refusing to file the annual reports required by section
40 43-1604.

41 3. Limiting availability of scholarships to students of only one
42 school.

43 4. Encouraging, facilitating or knowingly permitting taxpayers to
44 engage in actions prohibited by this article.

1 5. Awarding, restricting or reserving educational scholarships or
2 tuition grants for use by a particular student based solely on the
3 recommendation of the donor.

4 D. A school tuition organization that receives notice from the
5 department pursuant to subsection C of this section has ninety days to
6 correct the violation identified by the department in the notice. If a
7 school tuition organization fails or refuses to comply after ninety days, the
8 department may remove the organization from the list of certified school
9 tuition organizations and shall make available to the public notice of
10 removal as soon as possible. An organization that is removed from the list
11 of certified school tuition organizations must notify any taxpayer who
12 attempts to make a contribution that the contribution is not eligible for the
13 tax credit and offer to refund all donations received after the date of the
14 notice of termination of certification.

15 E. A school tuition organization may request an administrative hearing
16 on the revocation of its certification as provided by title 41, chapter 6,
17 article 10. Except as provided in section 41-1092.08, subsection H, a
18 decision of the department is subject to judicial review pursuant to title
19 12, chapter 7, article 6.

20 Sec. 6. Section 43-1603, Arizona Revised Statutes, is amended to read:
21 43-1603. Operational requirements for school tuition
22 organizations; notice; qualified schools

23 A. A certified school tuition organization must be established to
24 receive contributions from taxpayers for the purposes of income tax credits
25 under section 43-1089 and to pay educational scholarships or tuition grants
26 to allow students to attend any qualified school of their parents' choice.

27 B. To be eligible for certification and retain certification, the
28 school tuition organization:

29 1. Must allocate at least ~~ninety~~ **NINETY-SEVEN** per cent of its annual
30 revenue for educational scholarships or tuition grants.

31 2. Shall not limit the availability of educational scholarships or
32 tuition grants to only students of one school.

33 3. May allow donors to recommend student beneficiaries, but shall not
34 award, designate or reserve scholarships solely on the basis of donor
35 recommendations.

36 4. Shall not allow donors to designate student beneficiaries as a
37 condition of any contribution to the organization, or facilitate, encourage
38 or knowingly permit the exchange of beneficiary student designations in
39 violation of section 43-1089, subsection F.

40 C. A school tuition organization shall include the following notice in
41 any printed materials soliciting donations, in applications for scholarships
42 and on its website:

Notice

1
2 A school tuition organization cannot award, restrict or
3 reserve scholarships solely on the basis of a donor's
4 recommendation.

5 A taxpayer may not claim a tax credit if the taxpayer
6 agrees to swap donations with another taxpayer to benefit either
7 taxpayer's own dependent.

8 D. In evaluating applications and awarding, designating or reserving
9 scholarships, a school tuition organization:

10 1. Shall not award, designate or reserve a scholarship solely on the
11 recommendation of any person contributing money to the organization, but may
12 consider the recommendation among other factors.

13 2. Shall consider the financial need of applicants.

14 E. A qualified school shall not accept an educational scholarship or
15 tuition grant from a school tuition organization in an amount that exceeds
16 the school's total cost of educating the student in whose name the
17 scholarship or grant is received.