

REFERENCE TITLE: STOs; administrative cost allocation

State of Arizona  
House of Representatives  
Fifty-second Legislature  
First Regular Session  
2015

## **HB 2231**

Introduced by  
Representatives Friese, Cardenas, Mendez, Steele: Bolding, Clark,  
Fernandez, Gabaldón, Gonzales, McCune Davis, Meyer

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~~ FAILED or ~~refusing~~ REFUSED to allocate at least ~~ninety-per~~  
21 ~~cent~~ NINETY-FIVE PERCENT of annual revenues from contributions made for the  
22 purposes of sections 20-224.06, 20-224.07, 43-1183 and 43-1184 for  
23 educational scholarships or tuition grants.  
24 2. ~~Failing~~ FAILED or ~~refusing~~ REFUSED to file the annual reports  
25 required by section 43-1506.  
26 3. ~~Limiting~~ LIMITED THE availability of scholarships to students of  
27 only one school.  
28 4. ~~Encouraging~~ ENCOURAGED, ~~facilitating~~ FACILITATED or knowingly  
29 ~~permitting~~ PERMITTED taxpayers to engage in actions prohibited by this  
30 article.  
31 5. Knowingly ~~colluding~~ COLLUDED with any other school tuition  
32 organization to circumvent the limits of section 43-1504, subsection C.  
33 D. A school tuition organization that receives notice from the  
34 department pursuant to subsection C of this section has ninety days to  
35 correct the violation identified by the department in the notice. If a  
36 school tuition organization fails or refuses to comply after ninety days, the  
37 department may remove the organization from the list of certified school  
38 tuition organizations and shall make available to the public notice of  
39 removal as soon as possible. An organization that is removed from the list  
40 of certified school tuition organizations must notify any taxpayer who  
41 attempts to make a contribution that the contribution is not eligible for the  
42 tax credit and offer to refund all donations received after the date of the  
43 notice of termination of certification.  
44 E. A school tuition organization may request an administrative hearing  
45 on the revocation of its certification as provided by title 41, chapter 6,

1 article 10. Except as provided in section 41-1092.08, subsection H, a  
2 decision of the department is subject to judicial review pursuant to title  
3 12, chapter 7, article 6.

4 Sec. 2. Section 43-1503, Arizona Revised Statutes, is amended to read:  
5 43-1503. Operational requirements for school tuition  
6 organizations

7 A. A certified school tuition organization must be established to  
8 receive contributions from taxpayers for the purposes of income tax credits  
9 under sections 43-1183 and 43-1184 and insurance premium tax credits under  
10 sections 20-224.06 and 20-224.07 and to pay educational scholarships or  
11 tuition grants to allow students to attend any qualified school of their  
12 parents' or custodians' choice.

13 B. To be eligible for certification and retain certification, the  
14 school tuition organization:

15 1. Must allocate at least ~~ninety per cent~~ **NINETY-FIVE PERCENT** of its  
16 annual revenue from contributions made for the purposes of sections  
17 20-224.06, 20-224.07, 43-1183 and 43-1184 for educational scholarships or  
18 tuition grants.

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

21 3. Must allow the department of revenue to verify that the educational  
22 scholarships and tuition grants that are issued are awarded to students who  
23 attend a qualified school.

24 4. Must not knowingly collude with any other school tuition  
25 organization to circumvent the limits of section 43-1504, subsection C.

26 Sec. 3. Section 43-1504, Arizona Revised Statutes, is amended to read:  
27 43-1504. Special provisions: corporate donations for low-income  
28 scholarships; rules

29 A. A school tuition organization that receives contributions from a  
30 corporation for the purposes of section 20-224.06 or 43-1183 must use at  
31 least ~~ninety per cent~~ **NINETY-FIVE PERCENT** of those contributions to provide  
32 educational scholarships or tuition grants only to children whose family  
33 income does not exceed one hundred eighty-five ~~per cent~~ **PERCENT** of the income  
34 limit required to qualify a child for reduced price lunches under the  
35 national school lunch and child nutrition acts (42 United States Code  
36 sections 1751 through 1785) and to whom any of the following applies:

37 1. Attended a governmental primary or secondary school as a full-time  
38 student as defined in section 15-901 or attended a preschool program that  
39 offers services to students with disabilities at a governmental school for at  
40 least ninety days of the prior fiscal year or one full semester and  
41 transferred from a governmental school to a qualified school.

42 2. Enroll in a qualified school in a kindergarten program or a  
43 preschool program that offers services to students with disabilities.

44 3. Is the dependent of a member of the armed forces of the United  
45 States who is stationed in this state pursuant to military orders.

1           4. Received an educational scholarship or tuition grant under  
2 paragraph 1, 2 or 3 of this subsection or chapter 16, article 1 of this title  
3 if the children continue to attend a qualified school in a subsequent year.

4           B. A child is eligible to receive an educational scholarship or  
5 tuition grant under subsection A of this section if the child meets the  
6 criteria to receive a reduced price lunch but does not actually claim that  
7 benefit.

8           C. In 2006, a school tuition organization shall not issue an  
9 educational scholarship or a tuition grant for the purposes of section  
10 20-224.06 or 43-1183 in an amount that exceeds four thousand two hundred  
11 dollars for students in a ~~disabled-preschool-or~~ kindergarten program, **IN A**  
12 **PRESCHOOL PROGRAM THAT OFFERS SERVICES TO STUDENTS WITH DISABILITIES** or **IN**  
13 grades one through eight or five thousand five hundred dollars for students  
14 in grades nine through twelve. In each year after 2006, the limitation  
15 amount for a scholarship or a grant under this subsection shall be increased  
16 by one hundred dollars.

17           D. A school tuition organization shall require that student  
18 beneficiaries use the educational scholarships or tuition grants on a  
19 full-time basis. If a child leaves the school before completing an entire  
20 school year, the school shall refund a prorated amount of the educational  
21 scholarship or tuition grant to the school tuition organization that issued  
22 the scholarship or grant. The school tuition organization shall allocate any  
23 refunds it receives under this subsection for educational scholarships or  
24 tuition grants.

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

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

31           Sec. 4. Section 43-1505, Arizona Revised Statutes, is amended to read:

32           43-1505. Special provisions: corporate donations for displaced  
33 students and students with disabilities: definition

34           A. A school tuition organization that receives contributions for the  
35 purposes of section 20-224.07 or 43-1184 must use at least ~~ninety per cent~~  
36 **NINETY-FIVE PERCENT** of those contributions to provide educational  
37 scholarships or tuition grants to qualified students.

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

1 represents the ~~ninety per cent~~ NINETY-FIVE PERCENT limitation prescribed in  
2 this subsection.

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

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

14 E. For the purposes of this section, "qualified student" means a  
15 student, including a student who previously qualified for an educational  
16 scholarship or tuition grant under this section and continues to attend a  
17 qualified school, who has been either:

18 1. Placed in foster care pursuant to title 8, chapter 4 at any time  
19 before the student graduates from high school or obtains a general  
20 equivalency diploma.

21 2. Identified as having a disability under section 504 of the  
22 rehabilitation act (29 United States Code section 794) or identified at any  
23 time by a school district as a child with a disability as defined in section  
24 15-761 or a child with a disability who is eligible to receive services from  
25 a school district under section 15-763.

26 Sec. 5. Section 43-1602, Arizona Revised Statutes, is amended to read:  
27 43-1602. Certification as a school tuition organization

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

35 B. The department shall:

36 1. Maintain a public registry of currently certified school tuition  
37 organizations.

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

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

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

43 1. ~~Failing~~ FAILED or ~~refusing~~ REFUSED to allocate at least ~~ninety per~~  
44 ~~cent~~ NINETY-FIVE PERCENT of annual revenues from contributions made for the

1 purposes of sections 43-1089 and 43-1089.03 for educational scholarships or  
2 tuition grants.

3 2. ~~Failing~~ FAILED or ~~refusing~~ REFUSED to file the annual reports  
4 required by section 43-1604.

5 3. ~~Limiting~~ LIMITED THE availability of scholarships to students of  
6 only one school.

7 4. ~~Encouraging~~ ENCOURAGED, ~~facilitating~~ FACILITATED or knowingly  
8 ~~permitting~~ PERMITTED taxpayers to engage in actions prohibited by this  
9 article.

10 5. ~~Awarding~~ AWARDED, ~~restricting~~ RESTRICTED or ~~reserving~~ RESERVED  
11 educational scholarships or tuition grants for use by a particular student  
12 based solely on the recommendation of the donor.

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

24 E. A school tuition organization may request an administrative hearing  
25 on the revocation of its certification as provided by title 41, chapter 6,  
26 article 10. Except as provided in section 41-1092.08, subsection H, a  
27 decision of the department is subject to judicial review pursuant to title  
28 12, chapter 7, article 6.

29 Sec. 6. Section 43-1603, Arizona Revised Statutes, is amended to read:  
30 43-1603. Operational requirements for school tuition  
31 organizations; notice; qualified schools

32 A. A certified school tuition organization must be established to  
33 receive contributions from taxpayers for the purposes of income tax credits  
34 under sections 43-1089 and 43-1089.03 and to pay educational scholarships or  
35 tuition grants to allow students to attend any qualified school of their  
36 parents' choice.

37 B. To be eligible for certification and retain certification, the  
38 school tuition organization:

39 1. Must allocate at least ~~ninety per cent~~ NINETY-FIVE PERCENT of its  
40 annual revenue from contributions made for the purposes of sections 43-1089  
41 and 43-1089.03 for educational scholarships or tuition grants.

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



1 waiting list for scholarships if the school tuition organization maintains a  
2 waiting list.

3 G. If an individual educational scholarship or tuition grant exceeds  
4 the school's tuition, the amount in excess shall be returned to the school  
5 tuition organization that made the award or grant. The school tuition  
6 organization may allocate the returned monies as a multiyear award for that  
7 student and report the award pursuant to section 43-1604, paragraph 5,  
8 subdivision (b) or may allocate the returned monies for educational  
9 scholarships or tuition grants for other students.