

REFERENCE TITLE: STOs; administrative cost allocation

State of Arizona
House of Representatives
Fifty-second Legislature
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2016

HB 2209

Introduced by
Representatives Friese, Alston, Cardenas, Fernandez, Gabaldón, Mendez,
Otundo, Saldate: Andrade, Clark, Gonzales, Hale, Larkin, Mach, Velasquez

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~~ COLLUSED 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 NINETY-FIVE** percent of its annual
16 revenue from contributions made for the purposes of sections 20-224.06,
17 20-224.07, 43-1183 and 43-1184 for educational scholarships or tuition
18 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 5. Must not award educational scholarships or tuition grants to
27 students who are simultaneously enrolled in a district school or charter
28 school and a qualified school.

29 6. Shall include on the organization's website, if one exists, the
30 percentage and total dollar amount of educational scholarships and tuition
31 grants awarded during the previous fiscal year to:

32 (a) Students whose family income meets the economic eligibility
33 requirements established under the national school lunch and child nutrition
34 acts (42 United States Code sections 1751 through 1785) for free or
35 reduced-price lunches.

36 (b) Students whose family income exceeds the threshold prescribed by
37 subdivision (a) of this paragraph but does not exceed one hundred eighty-five
38 percent of the economic eligibility requirements established under the
39 national school lunch and child nutrition acts (42 United States Code
40 sections 1751 through 1785) for free or reduced-price lunches.

41 Sec. 3. Section 43-1504, Arizona Revised Statutes, is amended to read:

42 **43-1504. Special provisions; corporate donations for low-income
43 scholarships; rules**

44 A. A school tuition organization that receives contributions from a
45 corporation for the purposes of section 20-224.06 or 43-1183 must use at

1 least ~~ninety per cent~~ **NINETY-FIVE PERCENT** of those contributions to provide
2 educational scholarships or tuition grants only to children whose family
3 income does not exceed one hundred eighty-five ~~per cent~~ **PERCENT** of the income
4 limit required to qualify a child for ~~reduced price~~ **REDUCED-PRICE** lunches
5 under the national school lunch and child nutrition acts (42 United States
6 Code sections 1751 through 1785) and to whom any of the following applies:

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

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

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

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

19 B. A child is eligible to receive an educational scholarship or
20 tuition grant under subsection A of this section if the child meets the
21 criteria to receive a ~~reduced price~~ **REDUCED-PRICE** lunch but does not actually
22 claim that benefit.

23 C. In 2006, a school tuition organization shall not issue an
24 educational scholarship or a tuition grant for the purposes of section
25 20-224.06 or 43-1183 in an amount that exceeds four thousand two hundred
26 dollars for students in a ~~disabled preschool or~~ kindergarten program, **IN A**
27 **PRESCHOOL PROGRAM THAT OFFERS SERVICES TO STUDENTS WITH DISABILITIES** or **IN**
28 grades one through eight or five thousand five hundred dollars for students
29 in grades nine through twelve. In each year after 2006, the limitation
30 amount for a scholarship or a grant under this subsection shall be increased
31 by one hundred dollars.

32 D. A school tuition organization shall require that student
33 beneficiaries use the educational scholarships or tuition grants on a
34 full-time basis. If a child leaves the school before completing an entire
35 school year, the school shall refund a prorated amount of the educational
36 scholarship or tuition grant to the school tuition organization that issued
37 the scholarship or grant. The school tuition organization shall allocate any
38 refunds it receives under this subsection for educational scholarships or
39 tuition grants.

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

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

1 Sec. 4. Section 43-1505, Arizona Revised Statutes, is amended to read:
2 43-1505. Special provisions: corporate donations for displaced
3 students and students with disabilities: definition

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

8 B. The amount of an educational scholarship or a tuition grant that is
9 issued by a school tuition organization under this section shall not exceed
10 the cost of tuition for the student to attend the qualified school or ~~ninety~~
11 **per cent** **NINETY-FIVE PERCENT** of the amount of state aid that otherwise would
12 be computed for the student as provided in title 15, chapter 9, article 5,
13 whichever is less. On request from a school tuition organization, the
14 department of education shall provide to the school tuition organization in a
15 timely manner the amount computed for the student under this subsection that
16 represents the ~~ninety per cent~~ **NINETY-FIVE PERCENT** limitation prescribed in
17 this subsection.

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

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

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

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

36 2. Identified as having a disability under section 504 of the
37 rehabilitation act (29 United States Code section 794) or identified at any
38 time by a school district as a child with a disability as defined in section
39 15-761 or a child with a disability who is eligible to receive services from
40 a school district under section 15-763.

41 Sec. 5. Section 43-1602, Arizona Revised Statutes, is amended to read:
42 43-1602. Certification as a school tuition organization

43 A. A nonprofit organization in this state that is exempt or has
44 applied for exemption from federal taxation under section 501(c)(3) of the
45 internal revenue code may apply to the department of revenue for

1 certification as a school tuition organization, and the department shall
2 certify the school tuition organization if it meets the requirements
3 prescribed by this chapter. An organization must apply for certification on
4 a form prescribed and furnished on request by the department.

5 B. The department shall:

6 1. Maintain a public registry of currently certified school tuition
7 organizations.

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

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

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

13 1. ~~Failing~~ FAILED or ~~refusing~~ REFUSED to allocate at least ~~ninety per~~
14 ~~cent~~ ~~NINETY-FIVE PERCENT~~ of annual revenues from contributions made for the
15 purposes of sections 43-1089 and 43-1089.03 for educational scholarships or
16 tuition grants.

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

19 3. ~~Limiting~~ LIMITED THE availability of scholarships to students of
20 only one school.

21 4. ~~Encouraging~~ ENCOURAGED, ~~facilitating~~ FACILITATED or knowingly
22 ~~permitting~~ PERMITTED taxpayers to engage in actions prohibited by this
23 article.

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

27 D. A school tuition organization that receives notice from the
28 department pursuant to subsection C of this section has ninety days to
29 correct the violation identified by the department in the notice. If a
30 school tuition organization fails or refuses to comply after ninety days, the
31 department may remove the organization from the list of certified school
32 tuition organizations and shall make available to the public notice of
33 removal as soon as possible. An organization that is removed from the list
34 of certified school tuition organizations must notify any taxpayer who
35 attempts to make a contribution that the contribution is not eligible for the
36 tax credit and offer to refund all donations received after the date of the
37 notice of termination of certification.

38 E. A school tuition organization may request an administrative hearing
39 on the revocation of its certification as provided by title 41, chapter 6,
40 article 10. Except as provided in section 41-1092.08, subsection H, a
41 decision of the department is subject to judicial review pursuant to title
42 12, chapter 7, article 6.

1 Sec. 6. Section 43-1603, Arizona Revised Statutes, is amended to read:
2 43-1603. Operational requirements for school tuition
3 organizations: notice: qualified schools

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

9 B. To be eligible for certification and retain certification, the
10 school tuition organization:

11 1. Must allocate at least ~~ninety~~ NINETY-FIVE percent of its annual
12 revenue from contributions made for the purposes of sections 43-1089 and
13 43-1089.03 for educational scholarships or tuition grants.

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

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

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

23 5. Shall include on the organization's website, if one exists, the
24 percentage and total dollar amount of educational scholarships and tuition
25 grants awarded during the previous fiscal year to:

26 (a) Students whose family income meets the economic eligibility
27 requirements established under the national school lunch and child nutrition
28 acts (42 United States Code sections 1751 through 1785) for free or
29 reduced-price lunches.

30 (b) Students whose family income exceeds the threshold prescribed by
31 subdivision (a) of this paragraph but does not exceed one hundred eighty-five
32 percent of the economic eligibility requirements established under the
33 national school lunch and child nutrition acts (42 United States Code
34 sections 1751 through 1785) for free or reduced-price lunches.

35 6. Must not award educational scholarships or tuition grants to
36 students who are simultaneously enrolled in a district school or charter
37 school and a qualified school.

38 C. A school tuition organization shall include the following notice in
39 any printed materials soliciting donations, in applications for scholarships
40 and on its website, if one exists:

Notice

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

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

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

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

2. Shall consider the financial need of applicants.

E. A taxpayer's contribution to a school tuition organization that exceeds the amount of the credit allowed by section 43-1089 but does not exceed the amount of the credit allowed by section 43-1089.03 is considered a contribution pursuant to section 43-1089.03. A school tuition organization must use at least **ninety** **NINETY-FIVE** percent of contributions made pursuant to section 43-1089.03 for educational scholarships or tuition grants for students to whom any of the following applies:

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

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

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

4. Received an educational scholarship or tuition grant under paragraph 1, 2 or 3 of this subsection or under chapter 15 of this title if the student continues to attend a qualified school in a subsequent year.

F. In awarding educational scholarships or tuition grants from contributions made pursuant to section 43-1089.03, a school tuition organization shall give priority to students and siblings of students on a waiting list for scholarships if the school tuition organization maintains a waiting list.

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