

REFERENCE TITLE: STOs; ESAs; assessments; accountability

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HB 2185

Introduced by
Representatives Udall: John, Osborne

AN ACT

AMENDING TITLE 15, CHAPTER 7, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-744; AMENDING SECTIONS 15-2402, 43-1503 AND 43-1603, ARIZONA REVISED STATUTES; RELATING TO ASSESSMENTS AND ACCOUNTABILITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 15, chapter 7, article 3, Arizona Revised
3 Statutes, is amended by adding section 15-744, to read:

4 **15-744. Assessments; Arizona empowerment scholarship**
5 **accounts; school tuition organizations; posting;**
6 **definitions**

7 A. NOTWITHSTANDING ANY OTHER LAW, BEGINNING IN THE 2022-2023 SCHOOL
8 YEAR AND EACH YEAR THEREAFTER, BEFORE ANY QUALIFIED STUDENT ACCEPTS A
9 SCHOLARSHIP FROM A SCHOOL TUITION ORGANIZATION PURSUANT TO TITLE 43, THE
10 PARENT OF THE QUALIFIED STUDENT MUST SIGN AN AGREEMENT TO ANNUALLY HAVE
11 THE QUALIFIED STUDENT TAKE ANY NATIONALLY STANDARDIZED NORM-REFERENCED
12 ACHIEVEMENT EXAMINATION, THE STATEWIDE ASSESSMENT PURSUANT TO SECTION
13 15-741 OR ANY EXAMINATION RELATED TO COLLEGE OR UNIVERSITY ADMISSIONS THAT
14 ASSESSES READING AND MATHEMATICS FOR ANY YEAR THAT THE QUALIFIED STUDENT
15 PAYS TUITION AS A FULL-TIME STUDENT AT A QUALIFIED SCHOOL AND IS IN ANY OF
16 GRADES THREE THROUGH TWELVE. A QUALIFIED STUDENT MAY MEET THE
17 REQUIREMENTS OF THIS SUBSECTION BY TAKING AN EXAMINATION THAT IS CHOSEN
18 AND ADMINISTERED BY A QUALIFIED SCHOOL, OR A PARENT MAY CHOOSE A SEPARATE
19 EXAMINATION PURSUANT TO THIS SUBSECTION THAT IS ADMINISTERED OUTSIDE OF
20 THE QUALIFIED SCHOOL. THE EXAMINATION RESULTS SHALL BE REPORTED TO THE
21 PARENT OF THE STUDENT. THIS SUBSECTION DOES NOT APPLY TO:

22 1. A STUDENT WHO IS IDENTIFIED AS HAVING A DISABILITY UNDER SECTION
23 504 OF THE REHABILITATION ACT OF 1973 (29 UNITED STATES CODE SECTION 794).

24 2. A STUDENT WHO IS IDENTIFIED BY A SCHOOL DISTRICT OR INDEPENDENT
25 THIRD PARTY PURSUANT TO SECTION 15-2403, SUBSECTION I AS A CHILD WITH A
26 DISABILITY AS DEFINED IN SECTION 15-731 OR 15-761.

27 3. A CHILD WITH A DISABILITY WHO IS ELIGIBLE TO RECEIVE SERVICES
28 FROM A SCHOOL DISTRICT UNDER SECTION 15-763.

29 B. NOTWITHSTANDING ANY OTHER LAW, A QUALIFIED SCHOOL THAT ENROLLS
30 ONE OR MORE QUALIFIED STUDENTS SHALL ANNUALLY POST ON THE QUALIFIED
31 SCHOOL'S WEBSITE THE AGGREGATE TEST SCORES OF ALL STUDENTS ENROLLED IN THE
32 QUALIFIED SCHOOL ON ALL OF THE FOLLOWING EXAMINATIONS AND ASSESSMENTS BY
33 SCHOOL SITE AND GRADE LEVEL:

34 1. ANY NATIONALLY STANDARDIZED NORM-REFERENCED ACHIEVEMENT
35 EXAMINATION.

36 2. THE STATEWIDE ASSESSMENT PURSUANT TO SECTION 15-741.

37 3. ANY EXAMINATION RELATED TO COLLEGE OR UNIVERSITY ADMISSIONS THAT
38 ASSESSES READING AND MATHEMATICS.

39 C. FOR THE PURPOSES OF THIS SECTION:

40 1. "QUALIFIED SCHOOL" MEANS A QUALIFIED SCHOOL AS DEFINED IN
41 SECTION 43-1501 OR 43-1601.

42 2. "QUALIFIED STUDENT" MEANS A STUDENT WHO ACCEPTS A SCHOLARSHIP
43 FROM A SCHOOL TUITION ORGANIZATION PURSUANT TO TITLE 43.

1 Sec. 2. Section 15-2402, Arizona Revised Statutes, is amended to
2 read:

3 **15-2402. Arizona empowerment scholarship accounts; funds**

4 A. Arizona empowerment scholarship accounts are established to
5 provide options for the education of students in this state.

6 B. To enroll a qualified student for an Arizona empowerment
7 scholarship account, the parent of the qualified student must sign an
8 agreement to do all of the following:

9 1. Use a portion of the Arizona empowerment scholarship account
10 monies allocated annually to provide an education for the qualified
11 student in at least the subjects of reading, grammar, mathematics, social
12 studies and science, unless the Arizona empowerment scholarship account is
13 allocated monies according to a transfer schedule other than quarterly
14 transfers pursuant to section 15-2403, subsection F.

15 2. Not enroll the qualified student in a school district or charter
16 school and release the school district from all obligations to educate the
17 qualified student. This paragraph does not relieve the school district or
18 charter school that the qualified student previously attended from the
19 obligation to conduct an evaluation pursuant to section 15-766.

20 3. Not accept a scholarship from a school tuition organization
21 pursuant to title 43 concurrently with an Arizona empowerment scholarship
22 account for the qualified student in the same year a parent signs the
23 agreement pursuant to this section.

24 4. Use monies deposited in the qualified student's Arizona
25 empowerment scholarship account only for the following expenses of the
26 qualified student:

27 (a) Tuition or fees at a qualified school.

28 (b) Textbooks required by a qualified school.

29 (c) If the qualified student meets any of the criteria specified in
30 section 15-2401, paragraph 7, subdivision (a), item (i), (ii) or (iii) as
31 determined by a school district or by an independent third party pursuant
32 to section 15-2403, subsection I, the qualified student may use the
33 following additional services:

34 (i) Educational therapies from a licensed or accredited
35 practitioner or provider, including and up to any amount not covered by
36 insurance if the expense is partially paid by a health insurance policy
37 for the qualified student.

38 (ii) A licensed or accredited paraprofessional or educational aide.

39 (iii) Tuition for vocational and life skills education approved by
40 the department.

41 (iv) Associated goods and services that include educational and
42 psychological evaluations, assistive technology rentals and braille
43 translation goods and services approved by the department.

(d) Tutoring or teaching services provided by an individual or facility accredited by a state, regional or national accrediting organization.

(e) Curricula and supplementary materials.

(f) Tuition or fees for a nonpublic online learning program.

(g) Fees for a nationally standardized norm-referenced achievement test, an advanced placement examination or any exams related to college or university admission.

(h) Tuition or fees at an eligible postsecondary institution.

(i) Textbooks required by an eligible postsecondary institution.

(j) Fees to manage the Arizona empowerment scholarship account.

(k) Services provided by a public school, including individual classes and extracurricular programs.

(l) Insurance or surety bond payments.

(m) Uniforms purchased from or through a qualified school.

(n) If the qualified student meets the criteria specified in section 15-2401, paragraph 7, subdivision (a), item (i), (ii) or (iii) and if the qualified student is in the second year prior to the final year of a contract executed pursuant to this article, costs associated with an annual education plan conducted by an independent evaluation team. The department shall prescribe minimum qualifications for independent evaluation teams pursuant to this subdivision and factors that teams must use to determine whether the qualified student shall be eligible to continue to receive monies pursuant to this article through the school year in which the qualified student reaches twenty-two years of age. An independent evaluation team that provides an annual education plan pursuant to this subdivision shall submit a written report that summarizes the results of the evaluation to the parent of the qualified student and to the department on or before July 31. The written report submitted by the independent evaluation team is valid for one year. If the department determines that the qualified student meets the eligibility criteria prescribed in the annual education plan, the qualified student is eligible to continue to receive monies pursuant to this article until the qualified student reaches twenty-two years of age, subject to annual review. A parent may appeal the department's decision pursuant to title 41, chapter 6, article 10. As an addendum to a qualified student's final-year contract, the department shall provide the following written information to the parent of the qualified student:

(i) That the qualified student will not be eligible to continue to receive monies pursuant to this article unless the results of an annual education plan conducted pursuant to this subdivision demonstrate that the qualified student meets the eligibility criteria prescribed in the annual education plan.

(ii) That the parent is entitled to obtain an annual education plan pursuant to this subdivision to determine whether the qualified student meets the eligibility criteria prescribed in the annual education plan.

(iii) A list of independent evaluation teams that meet the minimum qualifications prescribed by the department pursuant to this subdivision.

5. Not file an affidavit of intent to homeschool pursuant to section 15-802, subsection B, paragraph 2 or 3.

6. Not use monies deposited in the qualified student's account for any of the following:

(a) Computer hardware or other technological devices, except as otherwise allowed under paragraph 4, subdivision (c) of this subsection.

- (b) Transportation of the pupil.
- (c) Consumable educational supplies, including paper, pens or

7. BEGINNING IN THE 2022-2023 SCHOOL YEAR AND EACH YEAR THEREAFTER, ANNUALLY HAVE A QUALIFIED STUDENT WHO PAYS TUITION AS A FULL-TIME STUDENT AT A QUALIFIED SCHOOL AND WHO IS IN ANY OF GRADES THREE THROUGH TWELVE TAKE ANY NATIONALLY STANDARDIZED NORM-REFERENCED ACHIEVEMENT EXAMINATION, THE STATEWIDE ASSESSMENT PURSUANT TO SECTION 15-741 OR ANY EXAMINATION RELATED TO COLLEGE OR UNIVERSITY ADMISSIONS THAT ASSESSES READING AND MATHEMATICS. A QUALIFIED STUDENT MAY MEET THE REQUIREMENTS OF THIS PARAGRAPH BY TAKING AN EXAMINATION THAT IS CHOSEN AND ADMINISTERED BY A QUALIFIED SCHOOL, OR A PARENT MAY CHOOSE A SEPARATE EXAMINATION PURSUANT TO THIS PARAGRAPH THAT IS ADMINISTERED OUTSIDE OF THE QUALIFIED SCHOOL. THE EXAMINATION RESULTS SHALL BE REPORTED TO THE PARENT OF THE STUDENT. THIS PARAGRAPH DOES NOT APPLY TO:

(a) A STUDENT WHO IS IDENTIFIED AS HAVING A DISABILITY UNDER SECTION 504 OF THE REHABILITATION ACT OF 1973 (29 UNITED STATES CODE SECTION 794).

(b) A STUDENT WHO IS IDENTIFIED BY A SCHOOL DISTRICT OR INDEPENDENT THIRD PARTY PURSUANT TO SECTION 15-2403, SUBSECTION I AS A CHILD WITH A DISABILITY AS DEFINED IN SECTION 15-731 OR 15-761.

(c) A CHILD WITH A DISABILITY WHO IS ELIGIBLE TO RECEIVE SERVICES FROM A SCHOOL DISTRICT UNDER SECTION 15-763.

C. In exchange for the parent's agreement pursuant to subsection B of this section, the department shall transfer from the monies that would otherwise be allocated to a recipient's prior school district, or if the child is currently eligible to attend kindergarten, the monies that the department determines would otherwise be allocated to a recipient's expected school district of attendance, to the treasurer for deposit into an Arizona empowerment scholarship account an amount that is equivalent to ninety percent of the sum of the base support level and additional assistance prescribed in sections 15-185 and 15-943 for that particular student if that student were attending a charter school.

1 D. The department of education empowerment scholarship account fund
2 is established consisting of monies appropriated by the legislature. The
3 department shall administer the fund. Monies in the fund are subject to
4 legislative appropriation. Monies in the fund shall be used for the
5 department's costs in administering Arizona empowerment scholarship
6 accounts under this chapter. Monies in the fund are exempt from the
7 provisions of section 35-190 relating to lapsing of appropriations. If
8 the number of Arizona empowerment scholarship accounts significantly
9 increases after fiscal year 2020-2021, the department may request an
10 increase in the amount appropriated to the fund in any subsequent fiscal
11 year in the budget estimate submitted pursuant to section 35-113. The
12 department shall list monies in the fund as a separate line item in its
13 budget estimate.

14 E. The state treasurer empowerment scholarship account fund is
15 established consisting of monies appropriated by the legislature. The
16 state treasurer shall administer the fund. Monies in the fund shall be
17 used for the state treasurer's costs in administering the Arizona
18 empowerment scholarship accounts under this chapter. If the number of
19 Arizona empowerment scholarship accounts significantly increases after
20 fiscal year 2020-2021, the state treasurer may request an increase in the
21 amount appropriated to the fund in any subsequent fiscal year in the
22 budget estimate submitted pursuant to section 35-113. Monies in the fund
23 are subject to legislative appropriation. Monies in the fund are exempt
24 from the provisions of section 35-190 relating to lapsing of
25 appropriations. The state treasurer shall list monies in the fund as a
26 separate line item in its budget estimate.

27 F. A parent must renew the qualified student's Arizona empowerment
28 scholarship account on an annual basis.

29 G. Notwithstanding any changes to the student's multidisciplinary
30 evaluation team plan, a student who has previously qualified for an
31 Arizona empowerment scholarship account remains eligible to apply for
32 renewal until the student finishes high school.

33 H. If a parent does not renew the qualified student's Arizona
34 empowerment scholarship account for a period of three academic years, the
35 department shall notify the parent that the qualified student's account
36 will be closed in sixty calendar days. The notification must be sent
37 through certified mail, email and telephone, if applicable. The parent
38 has sixty calendar days to renew the qualified student's Arizona
39 empowerment scholarship account. If the parent chooses not to renew or
40 does not respond in sixty calendar days, the department shall close the
41 account and any remaining monies shall be returned to the state.

42 I. A signed agreement under this section constitutes school
43 attendance required by section 15-802.

44 J. A qualified school or a provider of services purchased pursuant
45 to subsection B, paragraph 4 of this section may not share, refund or

1 rebate any Arizona empowerment scholarship account monies with the parent
2 or qualified student in any manner.

3 K. Notwithstanding subsection H of this section, on the qualified
4 student's graduation from a postsecondary institution or after any period
5 of four consecutive years after high school graduation in which the
6 student is not enrolled in an eligible postsecondary institution, but not
7 before this time as long as the account holder continues using a portion
8 of account monies for eligible expenses each year and is in good standing,
9 the qualified student's Arizona empowerment scholarship account shall be
10 closed and any remaining monies shall be returned to the state.

11 L. Monies received pursuant to this article do not constitute
12 taxable income to the parent of the qualified student.

13 M. NOTWITHSTANDING SECTION 15-2404, A QUALIFIED SCHOOL THAT ENROLLS
14 ONE OR MORE QUALIFIED STUDENTS SHALL ANNUALLY POST ON THE QUALIFIED
15 SCHOOL'S WEBSITE THE AGGREGATE TEST SCORES OF ALL STUDENTS ENROLLED IN THE
16 QUALIFIED SCHOOL ON ALL OF THE FOLLOWING EXAMINATIONS AND ASSESSMENTS BY
17 SCHOOL SITE AND GRADE LEVEL:

18 1. ANY NATIONALLY STANDARDIZED NORM-REFERENCED ACHIEVEMENT
19 EXAMINATION.

20 2. THE STATEWIDE ASSESSMENT PURSUANT TO SECTION 15-741.

21 3. ANY EXAMINATION RELATED TO COLLEGE OR UNIVERSITY ADMISSIONS THAT
22 ASSESSES READING AND MATHEMATICS.

23 Sec. 3. Section 43-1503, Arizona Revised Statutes, is amended to
24 read:

25 43-1503. Operational requirements for school tuition
26 organizations

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

33 B. To be eligible for certification and retain certification, the
34 school tuition organization:

35 1. Must allocate at least ninety percent of its annual revenue from
36 contributions made for the purposes of sections 20-224.06, 20-224.07,
37 43-1183 and 43-1184 for educational scholarships or tuition grants.

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

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

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

1 5. Must not award educational scholarships or tuition grants to
2 students who are simultaneously enrolled in a district school or charter
3 school and a qualified school.

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

7 (a) Students whose family income meets the economic eligibility
8 requirements established under the national school lunch and child
9 nutrition acts (42 United States Code sections 1751 through ~~1785~~ 1793) for
10 free or reduced-price lunches.

11 (b) Students whose family income exceeds the threshold prescribed
12 by subdivision (a) of this paragraph but does not exceed one hundred
13 eighty-five percent of the economic eligibility requirements established
14 under the national school lunch and child nutrition acts (42 United States
15 Code sections 1751 through ~~1785~~ 1793) for free or reduced-price lunches.

16 7. **MUST NOT AWARD EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS TO**
17 **STUDENTS WHOSE PARENTS HAVE NOT SIGNED THE AGREEMENT REQUIRED BY SECTION**
18 **15-744.**

19 Sec. 4. Section 43-1603, Arizona Revised Statutes, is amended to
20 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
25 credits under sections 43-1089 and 43-1089.03 and to pay educational
26 scholarships or tuition grants to allow students to attend any qualified
27 school of their parents' choice.

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

30 1. Must allocate at least ninety percent of its annual revenue from
31 contributions made for the purposes of sections 43-1089 and 43-1089.03 for
32 educational scholarships or tuition grants.

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

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

38 4. Shall not allow donors to designate student beneficiaries as a
39 condition of any contribution to the organization, or facilitate,
40 encourage or knowingly allow the exchange of beneficiary student
41 designations in violation of section 43-1089, subsection F, section
42 43-1089.03, subsection F and section 43-1089.04, subsection E.

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

(a) Students whose family income meets the economic eligibility requirements established under the national school lunch and child nutrition acts (42 United States Code sections 1751 through 1793) for free or reduced-price lunches.

(b) Students whose family income exceeds the threshold prescribed by subdivision (a) of this paragraph but does not exceed one hundred eighty-five percent of the economic eligibility requirements established under the national school lunch and child nutrition acts (42 United States Code sections 1751 through 1793) for free or reduced-price lunches.

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

7. MUST NOT AWARD EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS TO STUDENTS WHOSE PARENTS HAVE NOT SIGNED THE AGREEMENT REQUIRED BY SECTION 15-744.

C. A school tuition organization shall include the following notice in any printed materials soliciting donations, in applications for scholarships 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 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. Enroll in a qualified school in a kindergarten program or a preschool program that offers services to students with disabilities.

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

3 4. Are homeschooled before enrolling in a qualified school.

4 5. Moved to this state from out of state before enrolling in a
5 qualified school.

6 6. Participated in an Arizona empowerment scholarship account and
7 did not renew the account or accept the scholarship in order to accept a
8 scholarship or tuition grant under this section.

9 7. Received an educational scholarship or tuition grant under
10 paragraph 1, 2, 3, 4, 5 or 6 of this subsection or under chapter 15 of
11 this title if the student continues to attend a qualified school in a
12 subsequent year.

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

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