

REFERENCE TITLE: STOs; administrative cost allocation

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

HB 2765

Introduced by
Representatives Mathis: Abraham, Andrade, Butler, Cano, Epstein, Hernandez
M, Liguori, Powers Hannley, Schwiebert, Solorio

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; requirements; violations; hearing

5 A. A nonprofit organization in this state that is exempt or that
6 has applied for exemption from federal taxation under section 501(c)(3) of
7 the 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
11 on 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 notice by certified mail or by ~~e-mail~~
18 EMAIL to a school tuition organization if the department determines that
19 the school tuition organization has engaged in any of the following
20 activities:

21 1. Failed or refused to allocate at least ~~ninety~~ NINETY-FIVE
22 percent of annual revenues from contributions made for the purposes of
23 sections 20-224.06, 20-224.07, 43-1183 and 43-1184 for educational
24 scholarships or tuition grants.

25 2. Failed or refused to file the annual reports required by section
26 43-1506.

27 3. Limited the availability of scholarships to students of only one
28 school.

29 4. Encouraged, facilitated or knowingly ~~permitted~~ ALLOWED taxpayers
30 to engage in actions prohibited by this article.

31 5. Knowingly colluded with any other school tuition organization to
32 circumvent the limits of section 43-1504, subsection C.

33 6. Failed or refused to meet any of the requirements in section
34 43-1503, subsection B.

35 7. Failed or refused to comply with the audit or financial review
36 requirements of section 43-1507.

37 D. A school tuition organization that receives notice from the
38 department pursuant to subsection C of this section has ninety days to
39 correct the violation identified by the department in the notice. If a
40 school tuition organization fails or refuses to comply after ninety days,
41 the department may remove the organization from the list of certified
42 school tuition organizations and shall make available to the public notice
43 of removal as soon as possible. An organization that is removed from the
44 list of certified school tuition organizations must notify any taxpayer
45 ~~who~~ THAT attempts to make a contribution that the contribution is not

1 eligible for the tax credit and offer to refund all donations received
2 after the date of the notice of termination of certification.

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

8 Sec. 2. Section 43-1503, Arizona Revised Statutes, is amended to
9 read:

10 43-1503. Operational requirements for school tuition
11 organizations

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

18 B. To be eligible for certification and retain certification, the
19 school tuition organization:

20 1. Must allocate at least ~~ninety~~ NINETY-FIVE percent of its annual
21 revenue from contributions made for the purposes of sections 20-224.06,
22 20-224.07, 43-1183 and 43-1184 for educational scholarships or tuition
23 grants.

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

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

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

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

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

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

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

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

3 43-1504. Special provisions; corporate donations for
4 low-income scholarships; rules

5 A. A school tuition organization that receives contributions from a
6 corporation for the purposes of section 20-224.06 or 43-1183 must use at
7 least ~~ninety~~ **NINETY-FIVE** percent of those contributions to provide
8 educational scholarships or tuition grants only to children whose family
9 income does not exceed one hundred eighty-five percent of the income limit
10 required to qualify a child for reduced-price lunches under the national
11 school lunch and child nutrition acts (42 United States Code sections 1751
12 through 1793) and to whom any of the following applies:

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

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

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

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

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

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

29 7. Received an educational scholarship or tuition grant under
30 paragraph 1, 2, 3, 4, 5 or 6 of this subsection or chapter 16, article 1
31 of this title if the children continue to attend a qualified school in a
32 subsequent year.

33 B. A child is eligible to receive an educational scholarship or
34 tuition grant under subsection A of this section if the child meets the
35 criteria to receive a reduced-price lunch but does not actually claim that
36 benefit.

37 C. In 2021, a school tuition organization shall not issue an
38 educational scholarship or a tuition grant for the purposes of section
39 20-224.06 or 43-1183 in an amount that exceeds \$5,600 for students who are
40 in a kindergarten program, a preschool program that offers services to
41 students with disabilities or grades one through eight or \$7,500 for
42 students who are in grades nine through twelve. In each year after 2021,
43 the limit amount for a scholarship or a grant under this subsection shall
44 be increased by \$200.

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

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

12 F. The department of revenue, with the cooperation of the
 13 department of insurance and financial institutions, shall adopt rules and
 14 publish and prescribe forms and procedures necessary to administer this
 15 section.

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

18 43-1505. Special provisions: corporate donations for
 19 displaced students and students with disabilities:
 20 definition

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

25 B. The amount of an educational scholarship or a tuition grant that
 26 is issued by a school tuition organization under this section ~~shall~~ MAY
 27 not exceed the cost of tuition for the student to attend the qualified
 28 school or ninety ~~per cent~~ PERCENT of the amount of state aid that
 29 otherwise would be computed for the student as provided in title 15,
 30 chapter 9, article 5, whichever is less. On request from a school tuition
 31 organization, the department of education shall provide to the school
 32 tuition organization in a timely manner the amount computed for the
 33 student under this subsection that represents the ninety ~~per cent~~
 34 ~~limitation~~ PERCENT LIMIT prescribed in this subsection.

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

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

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

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

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

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

15 43-1602. Certification; requirements; violations; hearing

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

23 B. The department shall:

24 1. Maintain a public registry of currently certified school tuition
25 organizations.

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

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

28 C. The department shall send notice by certified mail or by ~~e-mail~~
29 EMAIL to a school tuition organization if the department determines that
30 the school tuition organization has engaged in any of the following
31 activities:

32 1. Failed or refused to allocate at least ~~ninety~~ NINETY-FIVE
33 percent of annual revenues from contributions made for the purposes of
34 sections 43-1089 and 43-1089.03 for educational scholarships or tuition
35 grants.

36 2. Failed or refused to file the annual reports required by section
37 43-1604.

38 3. Limited the availability of scholarships to students of only one
39 school.

40 4. Encouraged, facilitated or knowingly ~~permitted~~ ALLOWED taxpayers
41 to engage in actions prohibited by this article.

42 5. Awarded, restricted or reserved educational scholarships or
43 tuition grants for use by a particular student based solely on the
44 recommendation of the donor.

1 6. Failed or refused to meet any of the requirements in section
2 43-1603, subsection B.

3 7. Failed or refused to include the notice required in section
4 43-1603, subsection C.

5 8. Failed or refused to comply with the audit or financial review
6 requirements of section 43-1605.

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

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

23 Sec. 6. Section 43-1603, Arizona Revised Statutes, is amended to
24 read:

25 43-1603. Operational requirements for school tuition
26 organizations; notice; qualified schools

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 43-1089 and 43-1089.03 and to pay educational
30 scholarships or tuition grants to allow students to attend any qualified
31 school of their parents' choice.

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

34 1. Must allocate at least ~~ninety~~ NINETY-FIVE percent of its annual
35 revenue from contributions made for the purposes of sections 43-1089 and
36 43-1089.03 for educational scholarships or tuition grants.

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

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

42 4. Shall not allow donors to designate student beneficiaries as a
43 condition of any contribution to the organization, or facilitate,
44 encourage or knowingly allow the exchange of beneficiary student

designations in violation of section 43-1089, subsection F, section 43-1089.03, subsection F and section 43-1089.04, subsection E.

5. Shall include on the organization's website, if one exists, the percentage and total dollar amount of educational scholarships and tuition 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.

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.

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

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

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

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

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

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

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

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