

REFERENCE TITLE: **STOs; contributions; allowable uses**

State of Arizona  
Senate  
Fifty-fifth Legislature  
First Regular Session  
2021

# **SB 1273**

Introduced by  
Senator Mesnard

**AN ACT**

**AMENDING SECTIONS 43-1501, 43-1505, 43-1601 AND 43-1603, ARIZONA REVISED STATUTES; RELATING TO SCHOOL TUITION ORGANIZATION SCHOLARSHIPS.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 43-1501, Arizona Revised Statutes, is amended to  
3 read:

4 ~~43-1501.~~ Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Allocate" includes reserving ~~money~~ MONIES for an award of a  
7 multiyear educational scholarship or tuition grant for a specific student.

8 2. "CAREER AND TECHNICAL EDUCATION INDUSTRY CERTIFICATION  
9 ASSESSMENT" MEANS AN ASSESSMENT FOR CAREER AND TECHNICAL PREPARATION  
10 PROGRAMS FOR PUPILS.

11 ~~2.~~ 3. "Custodian" means a resident of this state who is a parent  
12 or an authorized out-of-home care provider or, if none, the legal guardian  
13 of a qualified student, as defined in section 43-1505.

14 4. "EDUCATIONAL SCHOLARSHIP OR TUITION GRANT" INCLUDES MONIES FOR  
15 REGISTRATION FEES, EXTRACURRICULAR ACTIVITIES AND STANDARDIZED TESTING FOR  
16 COLLEGE CREDIT OR READINESS OFFERED BY A WIDELY RECOGNIZED AND ACCEPTED  
17 EDUCATIONAL TESTING ORGANIZATION.

18 5. "EXTRACURRICULAR ACTIVITIES" MEANS SCHOOL-SPONSORED ACTIVITIES  
19 THAT MAY REQUIRE ENROLLED STUDENTS TO PAY A FEE IN ORDER TO PARTICIPATE,  
20 INCLUDING FEES FOR:

21 (a) BAND UNIFORMS.

22 (b) EQUIPMENT OR UNIFORMS FOR VARSITY ATHLETIC ACTIVITIES.

23 (c) SCIENTIFIC LABORATORY MATERIALS.

24 (d) IN-STATE OR OUT-OF-STATE TRIPS THAT ARE SOLELY FOR COMPETITIVE  
25 EVENTS. EXTRACURRICULAR ACTIVITIES DO NOT INCLUDE ANY SENIOR TRIPS OR  
26 EVENTS THAT ARE RECREATIONAL, AMUSEMENT OR TOURIST ACTIVITIES.

27 ~~3.~~ 6. "Fiscal year" means the fiscal year of the state as  
28 prescribed in section 35-102.

29 ~~4.~~ 7. "Qualified school" means a preschool that offers services to  
30 students with disabilities, nongovernmental primary school or secondary  
31 school that is located in this state, ~~and~~ that does not discriminate on  
32 the basis of race, color, disability, familial status or national origin  
33 and that requires all teaching staff and personnel that have unsupervised  
34 contact with students to be fingerprinted. Qualified school does not  
35 include a charter school or programs operated by a charter school.

36 8. "STANDARDIZED TESTING FOR COLLEGE CREDIT OR READINESS" INCLUDES  
37 SAT, PSAT, ACT, ADVANCED PLACEMENT AND INTERNATIONAL BACCALAUREATE DIPLOMA  
38 EXAMINATIONS AND OTHER SIMILAR EXAMINATIONS.

39 9. "WIDELY RECOGNIZED AND ACCEPTED EDUCATIONAL TESTING  
40 ORGANIZATION" MEANS THE COLLEGE BOARD, THE ACT, THE INTERNATIONAL  
41 BACCALAUREATE AND OTHER ORGANIZATIONS THAT ARE WIDELY RECOGNIZED AND  
42 ACCEPTED BY COLLEGES AND UNIVERSITIES IN THE UNITED STATES AND THAT OFFER  
43 COLLEGE CREDIT AND READINESS EXAMINATIONS.

1           Sec. 2. Section 43-1505, Arizona Revised Statutes, is amended to  
2 read:

3           43-1505. Special provisions; corporate donations for  
4                                   displaced students and students with disabilities;  
5                                   definition

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

10          B. The amount of an educational scholarship or a tuition grant that  
11 is issued by a school tuition organization under this section shall not  
12 exceed the ~~cost~~ COMBINED COSTS of tuition AND REGISTRATION for the student  
13 to attend the qualified school AND, AS APPLICABLE, ANY ADDITIONAL COSTS  
14 FOR EXTRACURRICULAR ACTIVITIES, STANDARDIZED TESTING FOR COLLEGE CREDIT OR  
15 READINESS AND CAREER AND TECHNICAL EDUCATION INDUSTRY CERTIFICATION  
16 ASSESSMENTS FOR THE STUDENT WHILE ATTENDING THE QUALIFIED SCHOOL or ninety  
17 ~~per cent~~ PERCENT of the amount of state aid that otherwise would be  
18 computed for the student as provided in title 15, chapter 9, article 5,  
19 whichever is less. On request from a school tuition organization, the  
20 department of education shall provide to the school tuition organization  
21 in a timely manner the amount computed for the student under this  
22 subsection that represents the ninety ~~per cent limitation~~ PERCENT LIMIT  
23 prescribed in this subsection.

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

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

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

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

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

1           Sec. 3. Section 43-1601, Arizona Revised Statutes, is amended to  
2 read:

3           43-1601. Definitions

4           In this chapter, unless the context otherwise requires:

5           1. "Allocate" includes reserving ~~money~~ MONIES for an award of a  
6 multiyear educational scholarship or tuition grant for a specific student.

7           2. "CAREER AND TECHNICAL EDUCATION INDUSTRY CERTIFICATION  
8 ASSESSMENT" MEANS AN ASSESSMENT FOR CAREER AND TECHNICAL PREPARATION  
9 PROGRAMS.

10           3. "EDUCATIONAL SCHOLARSHIP OR TUITION GRANT" INCLUDES MONIES FOR  
11 REGISTRATION FEES, EXTRACURRICULAR ACTIVITIES AND STANDARDIZED TESTING FOR  
12 COLLEGE CREDIT OR READINESS OFFERED BY A WIDELY RECOGNIZED AND ACCEPTED  
13 EDUCATIONAL TESTING ORGANIZATION.

14           4. "EXTRACURRICULAR ACTIVITIES" MEANS SCHOOL-SPONSORED ACTIVITIES  
15 THAT MAY REQUIRE ENROLLED STUDENTS TO PAY A FEE IN ORDER TO PARTICIPATE,  
16 INCLUDING FEES FOR:

17           (a) BAND UNIFORMS.

18           (b) EQUIPMENT OR UNIFORMS FOR VARSITY ATHLETIC ACTIVITIES.

19           (c) SCIENTIFIC LABORATORY MATERIALS.

20           (d) IN-STATE OR OUT-OF-STATE TRIPS THAT ARE SOLELY FOR COMPETITIVE  
21 EVENTS. EXTRACURRICULAR ACTIVITIES DO NOT INCLUDE ANY SENIOR TRIPS OR  
22 EVENTS THAT ARE RECREATIONAL, AMUSEMENT OR TOURIST ACTIVITIES.

23           ~~5.~~ 5. "Fiscal year" means the fiscal year of the state as  
24 prescribed in section 35-102.

25           ~~6.~~ 6. "Qualified school" means a preschool that offers services to  
26 students with disabilities, nongovernmental primary school or secondary  
27 school that is located in this state, ~~and~~ that does not discriminate on  
28 the basis of race, color, disability, familial status or national origin  
29 and that requires all teaching staff and personnel that have unsupervised  
30 contact with students to be fingerprinted. Qualified school does not  
31 include a charter school or programs operated by a charter school.

32           7. "STANDARDIZED TESTING FOR COLLEGE CREDIT OR READINESS" INCLUDES  
33 SAT, PSAT, ACT, ADVANCED PLACEMENT AND INTERNATIONAL BACCALAUREATE DIPLOMA  
34 EXAMINATIONS AND OTHER SIMILAR EXAMINATIONS.

35           ~~8.~~ 8. "Students with disabilities" means students who have any of  
36 the following conditions:

37           (a) Hearing impairment.

38           (b) Visual impairment.

39           (c) Developmental delay.

40           (d) Preschool severe delay.

41           (e) Speech/language impairment.

42           9. "WIDELY RECOGNIZED AND ACCEPTED EDUCATIONAL TESTING  
43 ORGANIZATION" MEANS THE COLLEGE BOARD, THE ACT, THE INTERNATIONAL  
44 BACCALAUREATE AND OTHER ORGANIZATIONS THAT ARE WIDELY RECOGNIZED AND  
45 ACCEPTED BY COLLEGES AND UNIVERSITIES IN THE UNITED STATES AND THAT OFFER  
46 COLLEGE CREDIT AND READINESS EXAMINATIONS.

1           Sec. 4. Section 43-1603, Arizona Revised Statutes, is amended to  
2 read:

3           43-1603. Operational requirements for school tuition  
4                               organizations; notice; qualified schools

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

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

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

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

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

20           4. Shall not allow donors to designate student beneficiaries as a  
21 condition of any contribution to the organization, or facilitate,  
22 encourage or knowingly ~~permit~~ ALLOW the exchange of beneficiary student  
23 designations in violation of section 43-1089, subsection F, section  
24 43-1089.03, subsection F and section 43-1089.04, subsection E.

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

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

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

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

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

43   Notice

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

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

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

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

9           2. Shall consider the financial need of applicants.

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

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

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

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

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

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

35          G. If an individual educational scholarship or tuition grant  
36          exceeds the school's ~~COST OF~~ tuition, ~~REGISTRATION,~~ ~~EXTRACURRICULAR~~  
37          ~~ACTIVITIES,~~ ~~STANDARDIZED TESTING FOR COLLEGE CREDIT OR READINESS AND~~  
38          ~~CAREER AND TECHNICAL EDUCATION INDUSTRY CERTIFICATION ASSESSMENTS FOR THE~~  
39          ~~STUDENT,~~ the amount in excess shall be returned to the school tuition  
40          organization that made the award or grant. The school tuition  
41          organization may allocate the returned monies as a multiyear award for  
42          that student and report the award pursuant to section 43-1604, subsection  
43          A, paragraph 5, subdivision (b) or may allocate the returned monies for  
44          educational scholarships or tuition grants for other students.