

REFERENCE TITLE: **STO scholarships; means testing**

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

# **HB 2814**

Introduced by  
Representative Liguori

**AN ACT**

**AMENDING SECTIONS 43-1602, 43-1603 AND 43-1605, 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 43-1602, Arizona Revised Statutes, is amended to  
3 read:

4 43-1602. Certification; requirements; violations; hearing

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  
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 percent of annual  
22 revenues from contributions made for the purposes of sections 43-1089 and  
23 43-1089.03 for educational scholarships or tuition grants.

24 2. FAILED TO AWARD AT LEAST SIXTY-SIX PERCENT OF EDUCATIONAL  
25 SCHOLARSHIPS AND TUITION GRANTS FROM CONTRIBUTIONS MADE PURSUANT TO  
26 SECTIONS 43-1089 AND 43-1089.03 ONLY TO STUDENTS WHOSE FAMILY INCOME DOES  
27 NOT EXCEED ONE HUNDRED EIGHTY-FIVE PERCENT OF THE INCOME LIMIT REQUIRED TO  
28 QUALIFY A CHILD FOR REDUCED-PRICE LUNCHES UNDER THE NATIONAL SCHOOL LUNCH  
29 AND CHILD NUTRITION ACTS (42 UNITED STATES CODE SECTIONS 1751 THROUGH  
30 1793).

31 ~~2.~~ 3. Failed or refused to file the annual reports required by  
32 section 43-1604.

33 ~~3.~~ 4. Limited the availability of scholarships to students of only  
34 one school.

35 ~~4.~~ 5. Encouraged, facilitated or knowingly ~~permitted~~ ALLOWED  
36 taxpayers to engage in actions prohibited by this article.

37 ~~5.~~ 6. Awarded, restricted or reserved educational scholarships or  
38 tuition grants for use by a particular student based solely on the  
39 recommendation of the donor.

40 ~~6.~~ 7. Failed or refused to meet any of the requirements in section  
41 43-1603, subsection B.

42 ~~7.~~ 8. Failed or refused to include the notice required in section  
43 43-1603, subsection C.

44 ~~8.~~ 9. Failed or refused to comply with the audit or financial  
45 review requirements of section 43-1605.

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

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

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

19 43-1603. Operational requirements for school tuition  
20 organizations; notice; qualified schools

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

26 B. To be eligible for certification and retain certification, the  
27 school tuition organization:

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

31 2. SHALL AWARD AT LEAST SIXTY-SIX PERCENT OF EDUCATIONAL  
32 SCHOLARSHIPS AND TUITION GRANTS FROM CONTRIBUTIONS MADE PURSUANT TO  
33 SECTIONS 43-1089 AND 43-1089.03 ONLY TO STUDENTS WHOSE FAMILY INCOME DOES  
34 NOT EXCEED ONE HUNDRED EIGHTY-FIVE PERCENT OF THE INCOME LIMIT REQUIRED TO  
35 QUALIFY A CHILD FOR REDUCED-PRICE LUNCHESES UNDER THE NATIONAL SCHOOL LUNCH  
36 AND CHILD NUTRITION ACTS (42 UNITED STATES CODE SECTIONS 1751 THROUGH  
37 1793).

38 ~~2.~~ 3. Shall not limit the availability of educational scholarships  
39 or tuition grants to only students of one school.

40 ~~3.~~ 4. May allow donors to recommend student beneficiaries, but  
41 shall not award, designate or reserve scholarships solely on the basis of  
42 donor recommendations.

43 ~~4.~~ 5. Shall not allow donors to designate student beneficiaries as  
44 a condition of any contribution to the organization, or facilitate,  
45 encourage or knowingly allow the exchange of beneficiary student

1 designations in violation of section 43-1089, subsection F, section  
2 43-1089.03, subsection F and section 43-1089.04, subsection E.

3 ~~5.~~ 6. Shall include on the organization's website, if one exists,  
4 the percentage and total dollar amount of educational scholarships and  
5 tuition grants awarded during the previous fiscal year to:

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

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

15 ~~6.~~ 7. Must not award educational scholarships or tuition grants to  
16 students who are simultaneously enrolled in a district school or charter  
17 school and a qualified school.

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

21 Notice

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

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

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

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

33 2. Shall consider the financial need of applicants.

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

41 1. Attended a governmental primary or secondary school as a  
42 full-time student as defined in section 15-901 or attended a preschool  
43 program that offers services to students with disabilities at a  
44 governmental school for at least ninety days of the prior fiscal year and  
45 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.

27           Sec. 3. Section 43-1605, Arizona Revised Statutes, is amended to  
28 read:

29           43-1605. Audits and financial reviews

30           A. On or before September 30 of each year, each school tuition  
31 organization that received ~~one million dollars~~ \$1,000,000 or more in total  
32 donations in the previous fiscal year shall provide for a financial audit  
33 of the organization. The audit must be conducted in accordance with  
34 generally accepted auditing standards and must evaluate the organization's  
35 compliance with section 43-1603, subsection B, ~~paragraph~~ PARAGRAPHS 1 AND  
36 2. The audit must be conducted by an independent certified public  
37 accountant who is licensed in this state or who has a limited reciprocity  
38 privilege pursuant to section 32-725. The certified public accountant and  
39 the firm the certified public accountant is affiliated with shall be  
40 independent with respect to the organization, its officers and directors,  
41 services performed and all other independent relationships prescribed by  
42 generally accepted auditing standards.

43           B. On or before September 30 of each year, each school tuition  
44 organization that received less than ~~one million dollars~~ \$1,000,000 in  
45 total donations in the previous fiscal year shall provide for a financial

1 review of the organization. The review must be conducted in accordance  
2 with standards for accounting and review services and must evaluate the  
3 organization's compliance with the fiscal requirements of this article.  
4 The review must be conducted by an independent certified public accountant  
5 who is licensed in this state or who has a limited reciprocity privilege  
6 pursuant to section 32-725. The certified public accountant and the firm  
7 the certified public accountant is affiliated with shall be independent  
8 with respect to the organization, its officers and directors, services  
9 performed and all other independent relationships prescribed by generally  
10 accepted auditing standards.

11 C. Within five days after receiving the audit or financial review,  
12 the school tuition organization shall file a signed copy of the audit or  
13 financial review with the department.

14 D. The school tuition organization shall pay the fees and costs of  
15 the certified public accountant under this section from the organization's  
16 operating monies. The fees and costs shall be excluded from the  
17 calculation of total revenues spent on scholarships and tuition grants.