

REFERENCE TITLE: administrative costs; limit; STOs.

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
First Regular Session  
2023

## **HB 2795**

Introduced by  
Representatives Mathis: Contreras P, Gutierrez, Pawlik, Travers

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

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. Shall include on the organization's website, if one exists, the  
4 percentage and total dollar amount of educational scholarships and tuition  
5 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. 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 reserve  
23 scholarships solely on the basis of a donor's recommendation.

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

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

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

32 2. Shall consider the financial need of applicants.

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