

REFERENCE TITLE: **STO scholarships; ESAs; tuition; fees**

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SB 1279

Introduced by
Senator Shamp

AN ACT

AMENDING SECTIONS 15-2402, 43-1504, 43-1505 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 15-2402, Arizona Revised Statutes, is amended to
3 read:

4 15-2402. Arizona empowerment scholarship accounts; funds

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

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

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

16 2. Not enroll the qualified student in a school district or charter
17 school and release the school district from all obligations to educate the
18 qualified student. This paragraph does not:

19 (a) Relieve the school district or charter school that the
20 qualified student previously attended from the obligation to conduct an
21 evaluation pursuant to section 15-766.

22 (b) Require ~~a~~ THE qualified student to withdraw from ~~a~~ THE school
23 district or charter school before enrolling for an Arizona empowerment
24 scholarship account if the qualified student withdraws from the school
25 district or charter school before receiving any monies in the qualified
26 student's Arizona empowerment scholarship account.

27 (c) Prevent a qualified student from applying in advance for an
28 Arizona empowerment scholarship account to be funded beginning the
29 following school year.

30 3. Not accept a scholarship from a school tuition organization
31 pursuant to title 43 concurrently with an Arizona empowerment scholarship
32 account for the qualified student in the same year a parent signs the
33 agreement pursuant to this section, EXCEPT THAT IF A QUALIFIED SCHOOL'S
34 TUITION AND MANDATORY FEES ARE MORE THAN THE AMOUNT THE QUALIFIED STUDENT
35 RECEIVES PURSUANT TO SUBSECTION C OF THIS SECTION, THE QUALIFIED STUDENT
36 MAY ACCEPT A SCHOLARSHIP FROM A SCHOOL TUITION ORGANIZATION PURSUANT TO
37 TITLE 43 IN AN AMOUNT THAT IS NOT MORE THAN THE DIFFERENCE BETWEEN THE
38 QUALIFIED SCHOOL'S TUITION AND MANDATORY FEES AND THE AMOUNT RECEIVED
39 PURSUANT TO SUBSECTION C OF THIS SECTION.

40 4. Use monies deposited in the qualified student's Arizona
41 empowerment scholarship account only for the following expenses of the
42 qualified student:

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

44 (b) Textbooks required by a qualified school.

1 (c) If the qualified student meets any of the criteria specified in
2 section 15-2401, paragraph 7, subdivision (a), item (i), (ii) or (iii) as
3 determined by a school district or by an independent third party pursuant
4 to section 15-2403, subsection J, the qualified student may use the
5 following additional services:

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

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

11 (iii) Tuition for vocational and life skills education approved by
12 the department.

13 (iv) Associated goods and services that include educational and
14 psychological evaluations, assistive technology rentals and braille
15 translation goods and services approved by the department.

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

19 (e) Curricula and supplementary materials.

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

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

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

25 (i) Textbooks required by an eligible postsecondary institution.

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

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

29 (l) Insurance or surety bond payments.

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

31 (n) If the qualified student meets the criteria specified in
32 section 15-2401, paragraph 7, subdivision (a), item (i), (ii) or (iii) and
33 if the qualified student is in the second year prior to the final year of
34 a contract executed pursuant to this article, costs associated with an
35 annual education plan conducted by an independent evaluation team. The
36 department shall prescribe minimum qualifications for independent
37 evaluation teams pursuant to this subdivision and factors that teams must
38 use to determine whether the qualified student shall be eligible to
39 continue to receive monies pursuant to this article through the school
40 year in which the qualified student reaches twenty-two years of age. An
41 independent evaluation team that provides an annual education plan
42 pursuant to this subdivision shall submit a written report that summarizes
43 the results of the evaluation to the parent of the qualified student and
44 to the department on or before July 31. The written report submitted by
45 the independent evaluation team is valid for one year. If the department

1 determines that the qualified student meets the eligibility criteria
2 prescribed in the annual education plan, the qualified student is eligible
3 to continue to receive monies pursuant to this article until the qualified
4 student reaches twenty-two years of age, subject to annual review. A
5 parent may appeal the department's decision pursuant to title 41, chapter
6 6, article 10. As an addendum to a qualified student's final-year
7 contract, the department shall provide the following written information
8 to the parent of the qualified student:

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

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

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

19 (o) Public transportation services in this state, including a
20 commuter pass for the qualified student, or transportation network
21 services as defined in section 28-9551 between the qualified student's
22 residence and a qualified school in which the qualified student is
23 enrolled.

24 (p) Computer hardware and technological devices primarily used for
25 an educational purpose. For the purposes of this subdivision, "computer
26 hardware and technological devices":

27 (i) Includes calculators, personal computers, laptops, tablet
28 devices, microscopes, telescopes and printers.

29 (ii) Does not include entertainment and other primarily
30 noneducational devices, including televisions, telephones, video game
31 consoles and accessories, and home theatre and audio equipment.

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

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

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

39 (b) Transportation of the pupil, except for transportation services
40 described in paragraph 4, subdivision (o) of this subsection.

41 C. In exchange for the parent's agreement pursuant to subsection B
42 of this section, the department shall transfer from the monies that would
43 otherwise be allocated to a recipient's prior school district, or if the
44 child is currently eligible to attend a preschool program for children
45 with disabilities, a kindergarten program or any of grades one through

1 twelve, the monies that the department determines would otherwise be
2 allocated to a recipient's expected school district of attendance, to the
3 treasurer for deposit into an Arizona empowerment scholarship account an
4 amount that is equivalent to ninety percent of the sum of the base support
5 level and additional assistance prescribed in sections 15-185 and 15-943
6 for that particular student if that student were attending a charter
7 school.

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

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

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

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

40 H. If a parent does not renew the qualified student's Arizona
41 empowerment scholarship account for a period of three academic years, the
42 department shall notify the parent that the qualified student's account
43 will be closed in sixty calendar days. The notification must be sent
44 through certified mail, email and telephone, if applicable. The parent
45 has sixty calendar days to renew the qualified student's Arizona

1 empowerment scholarship account. If the parent chooses not to renew or
2 does not respond in sixty calendar days, the department shall close the
3 account and any remaining monies shall be returned to the state.

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

6 J. A qualified school or a provider of services purchased pursuant
7 to subsection B, paragraph 4 of this section may not share, refund or
8 rebate any Arizona empowerment scholarship account monies with the parent
9 or qualified student in any manner.

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

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

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

22 43-1504. Special provisions; corporate donations for
23 low-income scholarships; rules

24 A. A school tuition organization that receives contributions from a
25 corporation for the purposes of section 20-224.06 or 43-1183 must use at
26 least ninety percent of those contributions to provide educational
27 scholarships or tuition grants only to children whose family income does
28 not exceed one hundred eighty-five percent of the income limit required to
29 qualify a child for reduced-price lunches under the national school lunch
30 and child nutrition acts (42 United States Code sections 1751
31 through 1793) and to whom any of the following applies:

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

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

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

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

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

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

4 7. PARTICIPATES IN AN ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT AND
5 THE QUALIFIED SCHOOL'S TUITION AND MANDATORY FEES ARE MORE THAN THE AMOUNT
6 THE STUDENT RECEIVES PURSUANT TO SECTION 15-2402, SUBSECTION C.

7 ~~7.~~ 8. Received an educational scholarship or tuition grant under
8 paragraph 1, 2, 3, 4, 5, ~~OR~~ 6 OR 7 of this subsection or chapter 16,
9 article 1 of this title if the children continue to attend a qualified
10 school in a subsequent year.

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

15 C. In 2021, a school tuition organization shall not issue an
16 educational scholarship or a tuition grant for the purposes of section
17 20-224.06 or 43-1183 in an amount that exceeds \$5,600 for students who are
18 in a kindergarten program, a preschool program that offers services to
19 students with disabilities or grades one through eight or \$7,500 for
20 students who are in grades nine through twelve. In each year after 2021,
21 the limit amount for a scholarship or a grant under this subsection shall
22 be increased by \$200. FOR A STUDENT WHO PARTICIPATES IN AN ARIZONA
23 EMPOWERMENT SCHOLARSHIP ACCOUNT, THE AMOUNT OF AN EDUCATIONAL SCHOLARSHIP
24 OR TUITION GRANT MAY NOT BE MORE THAN THE DIFFERENCE BETWEEN THE QUALIFIED
25 SCHOOL'S TUITION AND MANDATORY FEES AND THE AMOUNT RECEIVED PURSUANT TO
26 SECTION 15-2402, SUBSECTION C.

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

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

38 F. The department of revenue, with the cooperation of the
39 department of insurance and financial institutions, shall adopt rules and
40 publish and prescribe forms and procedures necessary to administer this
41 section.

1 Sec. 3. 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 of tuition for the student to attend the qualified school
13 or ninety ~~per cent~~ PERCENT of the amount of state aid that otherwise would
14 be computed for the student as provided in title 15, chapter 9, article 5,
15 whichever is less. On request from a school tuition organization, the
16 department of education shall provide to the school tuition organization
17 in a timely manner the amount computed for the student under this
18 subsection that represents the ninety ~~per cent limitation~~ PERCENT LIMIT
19 prescribed in this subsection. FOR A STUDENT WHO PARTICIPATES IN AN
20 ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT, THE AMOUNT OF AN EDUCATIONAL
21 SCHOLARSHIP OR TUITION GRANT MAY NOT BE MORE THAN THE DIFFERENCE BETWEEN
22 THE QUALIFIED SCHOOL'S TUITION AND MANDATORY FEES AND THE AMOUNT RECEIVED
23 PURSUANT TO SECTION 15-2402, SUBSECTION C.

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

1 section 15-761 or a child with a disability who is eligible to receive
2 services from a school district under section 15-763.

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

5 43-1603. Operational requirements for school tuition
6 organizations; notice; qualified schools

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

12 B. To be eligible for certification and retain certification, the
13 school tuition organization:

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

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

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

22 4. Shall not allow donors to designate student beneficiaries as a
23 condition of any contribution to the organization, or facilitate,
24 encourage or knowingly allow the exchange of beneficiary student
25 designations in violation of section 43-1089, subsection F, section
26 43-1089.03, subsection F and section 43-1089.04, subsection E.

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

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

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

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

42 C. A school tuition organization shall include the following notice
43 in any printed materials soliciting donations, in applications for
44 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.

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

4. Are homeschooled before enrolling in a qualified school.

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

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

7. PARTICIPATES IN AN ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT AND THE QUALIFIED SCHOOL'S TUITION AND MANDATORY FEES ARE MORE THAN THE AMOUNT THE STUDENT RECEIVES PURSUANT TO SECTION 15-2402, SUBSECTION C.

~~7.~~ 8. Received an educational scholarship or tuition grant under paragraph 1, 2, 3, 4, 5, ~~or~~ 6 OR 7 of this subsection or under chapter 15 of this title if the student continues to attend a qualified school in a subsequent year.

F. In awarding educational scholarships or tuition grants from contributions made pursuant to section 43-1089.03, a school tuition organization shall give priority to students and siblings of students on a

1 waiting list for scholarships if the school tuition organization maintains
2 a waiting list.

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

10 H. FOR A STUDENT WHO PARTICIPATES IN AN ARIZONA EMPOWERMENT
11 SCHOLARSHIP ACCOUNT, THE AMOUNT OF AN EDUCATIONAL SCHOLARSHIP OR TUITION
12 GRANT MAY NOT BE MORE THAN THE DIFFERENCE BETWEEN THE QUALIFIED SCHOOL'S
13 TUITION AND MANDATORY FEES AND THE AMOUNT RECEIVED PURSUANT TO SECTION
14 15-2402, SUBSECTION C.