

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1047
(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section. 1. Section 43-222, Arizona Revised Statutes, is amended to
3 read:

4 43-222. Income tax credit review schedule

5 The joint legislative income tax credit review committee shall review
6 the following income tax credits:

7 1. For years ending in 0 and 5, sections 43-1075, 43-1075.01,
8 43-1079.01, 43-1087, 43-1088, 43-1090.01, 43-1163, 43-1163.01, 43-1167.01,
9 43-1175 and 43-1182.

10 2. For years ending in 1 and 6, sections 43-1074.02, 43-1083,
11 43-1083.02, 43-1085.01, 43-1164.02, 43-1164.03 and 43-1183.

12 3. For years ending in 2 and 7, sections 43-1073, 43-1079, 43-1080,
13 43-1085, 43-1086, 43-1089, 43-1089.01, 43-1089.02, 43-1089.03, 43-1090,
14 43-1164, 43-1167, 43-1169, 43-1176 and 43-1181.

15 4. For years ending in 3 and 8, sections 43-1074.01, 43-1081, 43-1168,
16 43-1170 and 43-1178.

17 5. For years ending in 4 and 9, sections 43-1076, 43-1081.01,
18 43-1083.01, 43-1084, 43-1162, 43-1164.01, 43-1170.01 and 43-1184.

19 Sec. 2. Section 43-401, Arizona Revised Statutes, is amended to read:

20 43-401. Withholding tax; rates; election by employee

21 A. Except as provided by subsection B of this section, every employer
22 at the time of the payment of wages, salary, bonus or other emolument to any
23 employee whose compensation is for services performed within this state shall
24 deduct and retain from the compensation an amount that is determined by the
25 department pursuant to subsection D of this section or that is equal to a
26 percentage, determined pursuant to subsection C of this section, of the total
27 amount of the federal income tax deducted and withheld by an employer from
28 the total value of such wages, bonus or other emolument of an employee under
29 the provisions of the United States internal revenue code computed without
30 deductions for any amount withheld.

31 B. An employer may voluntarily elect to not withhold tax during
32 December by notifying:

33 1. The department on a form prescribed by the department.

34 2. The employer's employees in writing in a manner prescribed by the
35 department.

36 C. The percentage deducted and retained under subsection A of this
37 section:

1 1. Through April 30, 2009 shall be:

2 (a) If the employee's annual compensation is less than fifteen
3 thousand dollars, ten per cent, nineteen per cent, twenty-three per cent,
4 twenty-five per cent, thirty-one per cent or thirty-seven per cent, at the
5 employee's election pursuant to subsection G of this section.

6 (b) If the employee's annual compensation is fifteen thousand dollars
7 or more, nineteen per cent, twenty-three per cent, twenty-five per cent,
8 thirty-one per cent or thirty-seven per cent, at the employee's election
9 pursuant to subsection G of this section.

10 (c) Zero per cent at the election of an employee who had no state
11 income tax liability in the prior taxable year and expects to have no state
12 income tax liability for the current taxable year.

13 2. Beginning from and after April 30, 2009 through December 31, 2009,
14 if an employee's rate of withholding under paragraph 1 of this subsection
15 immediately before May 1, 2009 was:

16 (a) Zero per cent at the election of an employee who had no state
17 income tax liability in the prior taxable year and expects to have no state
18 income tax liability for the current taxable year, the withholding tax rate
19 shall remain zero per cent.

20 (b) Ten per cent, the withholding tax rate shall be increased to 11.5
21 per cent.

22 (c) Nineteen per cent, the withholding tax rate shall be increased to
23 21.9 per cent.

24 (d) Twenty-three per cent, the withholding tax rate shall be increased
25 to 26.5 per cent.

26 (e) Twenty-five per cent, the withholding tax rate shall be increased
27 to 28.8 per cent.

28 (f) Thirty-one per cent, the withholding tax rate shall be increased
29 to 35.7 per cent.

30 (g) Thirty-seven per cent, the withholding tax rate shall be increased
31 to 42.6 per cent.

32 3. Beginning from and after December 31, 2009 through June 30, 2010,
33 if an employee's rate of withholding under paragraph 2 of this subsection
34 immediately before January 1, 2010 was:

35 (a) Zero per cent at the election of an employee who had no state
36 income tax liability in the prior taxable year and expects to have no state
37 income tax liability for the current taxable year, the withholding tax rate
38 shall remain zero per cent.

39 (b) 11.5 per cent, the withholding tax rate shall be decreased to 10.7
40 per cent.

1 (c) 21.9 per cent, the withholding tax rate shall be decreased to 20.3
2 per cent.

3 (d) 26.5 per cent, the withholding tax rate shall be decreased to 24.5
4 per cent.

5 (e) 28.8 per cent, the withholding tax rate shall be decreased to 26.7
6 per cent.

7 (f) 35.7 per cent, the withholding tax rate shall be decreased to 33.1
8 per cent.

9 (g) 42.6 per cent, the withholding tax rate shall be decreased to 39.5
10 per cent.

11 D. Beginning from and after June 30, 2010, the amount deducted and
12 retained under subsection A of this section shall be prescribed by tables
13 adopted by the department. On or before March 15, 2010, the department shall
14 submit to the joint legislative budget committee a copy of the table.

15 E. If the amount collected and payable by the employer to the
16 department in each of the preceding four calendar quarters did not exceed an
17 average of one thousand five hundred dollars, the amount collected shall be
18 paid to the department on or before April 30, July 31, October 31 and January
19 31 for the preceding calendar quarter. If such amount exceeded one thousand
20 five hundred dollars in each of the preceding four calendar quarters, the
21 employer shall pay to the department the amount the employer deducts and
22 retains pursuant to this section at the same time as the employer is required
23 to make deposits of federal tax pursuant to section 6302 of the internal
24 revenue code. On or before April 30, July 31, October 31 and January 31 each
25 year the employer shall reconcile the amounts payable during the preceding
26 calendar quarter in a manner prescribed by the department, except that if the
27 full amount collected and payable is paid timely to the department under this
28 subsection, the employer may reconcile the amounts on or before May 10,
29 August 10, November 10 and February 10 each year. The department by rule may
30 allow and determine which employers qualify for annual payments of
31 withholding taxes, with an annual report by the employer pursuant to section
32 43-412, subsection B, if the qualifying employer has established sufficient
33 payment history to indicate that the employer is current and in good standing
34 pursuant to standards established by rule. For any business which has not
35 had a withholding certificate for the four preceding consecutive quarters,
36 the quarterly average shall be computed in a manner prescribed by the
37 department.

38 F. If an employer fails to make a timely monthly payment because prior
39 to that reporting period it reported on a quarterly basis instead of on a
40 monthly basis, the department shall notify the employer that it is out of

1 compliance with this section. Notwithstanding section 42-1125, the
2 department shall not assess a penalty against an employer for failing to make
3 a timely monthly payment if the employer had filed and remitted all taxes due
4 on a quarterly basis and brings all filings and payments into current
5 compliance within thirty days after being notified by the department.

6 G. Each employee shall elect the amount authorized by subsection C of
7 this section to be withheld for application toward the employee's state
8 income tax liability. The election provided under this subsection shall be
9 exercised by each employee, in writing on a form prescribed by the
10 department. The election shall be made within five days of employment. Each
11 employer shall notify the employees of the election made available under this
12 subsection and shall have election forms available at all times. Each form
13 shall be completed in triplicate, with one copy each for the department, the
14 employer and the employee. The employer shall file a copy of each completed
15 form with the department. Any employee failing to complete an election form
16 as prescribed shall be deemed to have elected the smallest applicable
17 withholding percentage.

18 H. Before July 1 of each year, each employer who chooses to not
19 withhold tax pursuant to subsection B of this section shall notify each
20 employee that:

21 1. State income taxes will not be withheld from compensation in
22 December.

23 2. The employee may elect to change the rate of withholding tax
24 prescribed by this section to compensate for the resulting change in annual
25 withholdings from the employee's compensation.

26 I. At an employee's written request, the employer may agree to reduce
27 the amount withheld under this section by the amount of credit that the
28 employee represents to the employer that the employee will qualify for and be
29 entitled to under sections 43-1088, 43-1089, ~~and~~ 43-1089.01 AND 43-1089.03.
30 The employee's request must include the name and address of the qualifying
31 charitable organization, qualified school tuition organization or public
32 school. Within thirty days after agreeing to the employee's request, the
33 employer shall reduce the withholding amount by the amount of the credit, but
34 not below zero, prorated for the number of pay periods remaining in the
35 employee's taxable year after the employee makes the request. If an employer
36 agrees to reduce the withholding amount pursuant to this subsection, the
37 following apply:

38 1. Within fifteen days after the end of each calendar quarter, the
39 employer must pay the entire amount of the reduction in withholding tax for
40 that quarter to the designated charitable organization, school tuition

1 organization or public school. These payments are considered to be on the
2 employee's behalf, and not the employer's, for the purposes of qualifying for
3 the income tax credits under sections 43-1088, 43-1089, ~~and~~ 43-1089.01 AND
4 43-1089.03.

5 2. The employee is responsible and accountable for the accuracy and
6 the amount of reduction in withholding tax and the payments to the charitable
7 organization, school tuition organization or public school.

8 3. The employer is responsible and accountable to the charitable
9 organization, school tuition organization or public school, to the employee
10 and to the department for actually making the required payments.

11 4. Within thirty days after the end of each calendar year, or within
12 fifteen days after the termination of employment, the employer must furnish
13 to each electing employee and to the department a statement of the amount
14 withheld and paid on behalf of the employee during that year.

15 Sec. 3. Section 43-1021, Arizona Revised Statutes, is amended to read:
16 43-1021. Additions to Arizona gross income

17 In computing Arizona adjusted gross income, the following amounts shall
18 be added to Arizona gross income:

19 1. A beneficiary's share of the fiduciary adjustment to the extent
20 that the amount determined by section 43-1333 increases the beneficiary's
21 Arizona gross income.

22 2. An amount equal to the "ordinary income portion" of a lump sum
23 distribution that was excluded from federal adjusted gross income pursuant to
24 section 402(d) of the internal revenue code.

25 3. The amount of interest income received on obligations of any state,
26 territory or possession of the United States, or any political subdivision
27 thereof, located outside the state of Arizona, reduced, for tax years
28 beginning from and after December 31, 1996, by the amount of any interest on
29 indebtedness and other related expenses that were incurred or continued to
30 purchase or carry those obligations and that are not otherwise deducted or
31 subtracted in arriving at Arizona gross income.

32 4. Annuity income received during the taxable year to the extent that
33 the sum of the proceeds received from such annuity in all taxable years prior
34 to and including the current taxable year exceeds the total consideration and
35 premiums paid by the taxpayer. This paragraph applies only to those
36 annuities with respect to which the first payment was received prior to
37 December 31, 1978.

38 5. The excess of a partner's share of partnership taxable income
39 required to be included under chapter 14, article 2 of this title over the

1 income required to be reported under section 702(a)(8) of the internal
2 revenue code.

3 6. The excess of a partner's share of partnership losses determined
4 pursuant to section 702(a)(8) of the internal revenue code over the losses
5 allowable under chapter 14, article 2 of this title.

6 7. The amount by which the adjusted basis of property described in
7 this paragraph and computed pursuant to the internal revenue code exceeds the
8 adjusted basis of such property computed pursuant to this title and the
9 income tax act of 1954, as amended. This paragraph shall apply to all
10 property which is held for the production of income and which is sold or
11 otherwise disposed of during the taxable year, except depreciable property
12 used in a trade or business.

13 8. The amount of depreciation or amortization of costs of any capital
14 investment that is deducted pursuant to section 167 or 179 of the internal
15 revenue code by a qualified defense contractor with respect to which an
16 election is made to amortize pursuant to section 43-1024.

17 9. The amount of gain from the sale or other disposition of a capital
18 investment which a qualified defense contractor has elected to amortize
19 pursuant to section 43-1024.

20 10. Amounts withdrawn from the Arizona state retirement system, the
21 corrections officer retirement plan, the public safety personnel retirement
22 system, the elected officials' retirement plan or a county or city retirement
23 plan by an employee upon termination of employment before retirement to the
24 extent they were deducted in arriving at Arizona taxable income in any year.

25 11. That portion of the net operating loss included in federal adjusted
26 gross income which has already been taken as a net operating loss for Arizona
27 purposes or which is separately taken as a subtraction under the special net
28 operating loss transition rule.

29 12. Any nonitemized amount deducted pursuant to section 170 of the
30 internal revenue code representing contributions to an educational
31 institution which denies admission, enrollment or board and room
32 accommodations on the basis of race, color or ethnic background except those
33 institutions primarily established for the education of American Indians.

34 13. The amount paid as taxes on property in this state with respect to
35 which a credit is claimed under section 43-1078.

36 14. Amounts withdrawn from a medical savings account by the individual
37 during the taxable year computed pursuant to section 220(f) of the internal
38 revenue code and not included in federal adjusted gross income.

1 15. Any amount of agricultural water conservation expenses that were
2 deducted pursuant to the internal revenue code for which a credit is claimed
3 under section 43-1084.

4 16. The amount by which the depreciation or amortization computed under
5 the internal revenue code with respect to property for which a credit was
6 taken under section 43-1080 exceeds the amount of depreciation or
7 amortization computed pursuant to the internal revenue code on the Arizona
8 adjusted basis of the property.

9 17. The amount by which the adjusted basis computed under the internal
10 revenue code with respect to property for which a credit was claimed under
11 section 43-1080 and which is sold or otherwise disposed of during the taxable
12 year exceeds the adjusted basis of the property computed under section
13 43-1080.

14 18. The amount by which the depreciation or amortization computed under
15 the internal revenue code with respect to property for which a credit was
16 taken under either section 43-1081 or 43-1081.01 exceeds the amount of
17 depreciation or amortization computed pursuant to the internal revenue code
18 on the Arizona adjusted basis of the property.

19 19. The amount by which the adjusted basis computed under the internal
20 revenue code with respect to property for which a credit was claimed under
21 section 43-1074.02, 43-1081 or 43-1081.01 and which is sold or otherwise
22 disposed of during the taxable year exceeds the adjusted basis of the
23 property computed under section 43-1074.02, 43-1081 or 43-1081.01, as
24 applicable.

25 20. The deduction referred to in section 1341(a)(4) of the internal
26 revenue code for restoration of a substantial amount held under a claim of
27 right.

28 21. The amount by which a net operating loss carryover or capital loss
29 carryover allowable pursuant to section 1341(b)(5) of the internal revenue
30 code exceeds the net operating loss carryover or capital loss carryover
31 allowable pursuant to section 43-1029, subsection F.

32 22. Any amount deducted pursuant to section 170 of the internal revenue
33 code representing contributions to a school tuition organization or a public
34 school for which a credit is claimed under section 43-1089, ~~or~~ 43-1089.01 **OR**
35 **43-1089.03.**

36 23. Any amount deducted in computing Arizona gross income as expenses
37 for installing solar stub outs or electric vehicle recharge outlets in this
38 state with respect to which a credit is claimed pursuant to section 43-1090.

39 24. Any wage expenses deducted pursuant to the internal revenue code
40 for which a credit is claimed under section 43-1087 and representing net

1 increases in qualified employment positions for employment of temporary
2 assistance for needy families recipients.

3 25. Any amount deducted for conveying ownership or development rights
4 of property to an agricultural preservation district under section 48-5702
5 for which a credit is claimed under section 43-1081.02.

6 26. The amount of any depreciation allowance allowed pursuant to
7 section 167(a) of the internal revenue code to the extent not previously
8 added.

9 27. With respect to property for which an expense deduction was taken
10 pursuant to section 179 of the internal revenue code, the amount in excess of
11 twenty-five thousand dollars.

12 28. The amount of any deductions that are claimed in computing federal
13 adjusted gross income representing expenses for which a credit is claimed
14 under either section 43-1075 or 43-1075.01 or both.

15 29. The amount by which the depreciation or amortization computed under
16 the internal revenue code with respect to property for which a credit was
17 taken under section 43-1090.01 exceeds the amount of depreciation or
18 amortization computed pursuant to the internal revenue code on the Arizona
19 adjusted basis of the property.

20 30. The amount by which the adjusted basis computed under the internal
21 revenue code with respect to property for which a credit was claimed under
22 section 43-1090.01 and which is sold or otherwise disposed of during the
23 taxable year exceeds the adjusted basis of the property computed under
24 section 43-1090.01.

25 31. The amount of a nonqualified withdrawal, as defined in section
26 15-1871, from a college savings plan established pursuant to section 529 of
27 the internal revenue code that is made to a distributee to the extent the
28 amount is not included in computing federal adjusted gross income, except
29 that the amount added under this paragraph shall not exceed the difference
30 between the amount subtracted under section 43-1022 in prior taxable years
31 and the amount added under this section in any prior taxable years.

32 32. The amount of unemployment compensation that is excluded from
33 federal adjusted gross income pursuant to section 85(c) of the internal
34 revenue code as added by section 1007 of the American recovery and
35 reinvestment act of 2009 (P.L. 111-5).

36 33. The amount of discharge of indebtedness income that is deferred and
37 excluded from the computation of federal adjusted gross income or federal
38 taxable income in the current taxable year pursuant to section 108(i) of the
39 internal revenue code as added by section 1231 of the American recovery and
40 reinvestment act of 2009 (P.L. 111-5).

1 E. The credit allowed by this section is in lieu of any deduction
2 pursuant to section 170 of the internal revenue code and taken for state tax
3 purposes.

4 F. The tax credit is not allowed if the taxpayer designates the
5 taxpayer's contribution to the school tuition organization for the direct
6 benefit of any dependent of the taxpayer or if the taxpayer designates a
7 student beneficiary as a condition of the taxpayer's contribution to the
8 school tuition organization. The tax credit is not allowed if the taxpayer,
9 with the intent to benefit the taxpayer's dependent, agrees with one or more
10 other taxpayers to designate each taxpayer's contribution to the school
11 tuition organization for the direct benefit of the other taxpayer's
12 dependent.

13 G. For the purposes of this section, a contribution, for which a
14 credit is claimed, that is made on or before the fifteenth day of the fourth
15 month following the close of the taxable year may be applied to either the
16 current or preceding taxable year and is considered to have been made on the
17 last day of that taxable year.

18 ~~H. For the purposes of this section:~~

19 ~~1. "Handicapped student" means a student who has any of the following~~
20 ~~conditions:~~

21 ~~(a) Hearing impairment.~~

22 ~~(b) Visual impairment.~~

23 ~~(c) Developmental delay.~~

24 ~~(d) Preschool severe delay.~~

25 ~~(e) Speech/language impairment.~~

26 ~~2. "Qualified school":~~

27 ~~(a) Means a nongovernmental primary school or secondary school or a~~
28 ~~preschool for handicapped students that is located in this state, that does~~
29 ~~not discriminate on the basis of race, color, handicap, familial status or~~
30 ~~national origin and that satisfies the requirements prescribed by law for~~
31 ~~private schools in this state on January 1, 1997.~~

32 ~~(b) Does not include a charter school or programs operated by charter~~
33 ~~schools.~~

34 Sec. 5. Title 43, chapter 10, article 5, Arizona Revised Statutes, is
35 amended by adding section 43-1089.03, to read:

36 43-1089.03. Credit for contributions to certified school
37 tuition organization

38 A. A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR THE
39 AMOUNT OF VOLUNTARY CASH CONTRIBUTIONS BY THE TAXPAYER OR ON THE TAXPAYER'S
40 BEHALF PURSUANT TO SECTION 43-401, SUBSECTION I DURING THE TAXABLE YEAR TO A

1 SCHOOL TUITION ORGANIZATION THAT IS CERTIFIED PURSUANT TO CHAPTER 16 OF THIS
2 TITLE AT THE TIME OF DONATION. EXCEPT AS PROVIDED BY SUBSECTION C OF THIS
3 SECTION, THE AMOUNT OF THE CREDIT SHALL NOT EXCEED:

4 1. FIVE HUNDRED DOLLARS IN ANY TAXABLE YEAR FOR A SINGLE INDIVIDUAL OR
5 A HEAD OF HOUSEHOLD.

6 2. ONE THOUSAND DOLLARS IN ANY TAXABLE YEAR FOR A MARRIED COUPLE
7 FILING A JOINT RETURN.

8 B. A HUSBAND AND WIFE WHO FILE SEPARATE RETURNS FOR A TAXABLE YEAR IN
9 WHICH THEY COULD HAVE FILED A JOINT RETURN MAY EACH CLAIM ONLY ONE-HALF OF
10 THE TAX CREDIT THAT WOULD HAVE BEEN ALLOWED FOR A JOINT RETURN.

11 C. FOR EACH TAXABLE YEAR BEGINNING ON OR AFTER JANUARY 1, THE
12 DEPARTMENT SHALL ADJUST THE DOLLAR AMOUNTS PRESCRIBED BY SUBSECTION A,
13 PARAGRAPHS 1 AND 2 OF THIS SECTION ACCORDING TO THE AVERAGE ANNUAL CHANGE IN
14 THE METROPOLITAN PHOENIX CONSUMER PRICE INDEX PUBLISHED BY THE UNITED STATES
15 BUREAU OF LABOR STATISTICS, EXCEPT THAT THE DOLLAR AMOUNTS SHALL NOT BE
16 REVISED DOWNWARD BELOW THE AMOUNTS ALLOWED IN THE PRIOR TAXABLE YEAR. THE
17 REVISED DOLLAR AMOUNTS SHALL BE RAISED TO THE NEAREST WHOLE DOLLAR.

18 D. IF THE ALLOWABLE TAX CREDIT EXCEEDS THE TAXES OTHERWISE DUE UNDER
19 THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS
20 TITLE, THE TAXPAYER MAY CARRY THE AMOUNT OF THE CLAIM NOT USED TO OFFSET THE
21 TAXES UNDER THIS TITLE FORWARD FOR NOT MORE THAN FIVE CONSECUTIVE TAXABLE
22 YEARS' INCOME TAX LIABILITY.

23 E. THE CREDIT ALLOWED BY THIS SECTION IS IN LIEU OF ANY DEDUCTION
24 PURSUANT TO SECTION 170 OF THE INTERNAL REVENUE CODE AND TAKEN FOR STATE TAX
25 PURPOSES.

26 F. THE TAX CREDIT IS NOT ALLOWED IF THE TAXPAYER DESIGNATES THE
27 TAXPAYER'S CONTRIBUTION TO THE SCHOOL TUITION ORGANIZATION FOR THE DIRECT
28 BENEFIT OF ANY DEPENDENT OF THE TAXPAYER OR IF THE TAXPAYER DESIGNATES A
29 STUDENT BENEFICIARY AS A CONDITION OF THE TAXPAYER'S CONTRIBUTION TO THE
30 SCHOOL TUITION ORGANIZATION. THE TAX CREDIT IS NOT ALLOWED IF THE TAXPAYER,
31 WITH THE INTENT TO BENEFIT THE TAXPAYER'S DEPENDENT, AGREES WITH ONE OR MORE
32 OTHER TAXPAYERS TO DESIGNATE EACH TAXPAYER'S CONTRIBUTION TO THE SCHOOL
33 TUITION ORGANIZATION FOR THE DIRECT BENEFIT OF THE OTHER TAXPAYER'S
34 DEPENDENT.

35 G. FOR THE PURPOSES OF THIS SECTION, A CONTRIBUTION, FOR WHICH A
36 CREDIT IS CLAIMED, THAT IS MADE ON OR BEFORE THE FIFTEENTH DAY OF THE FOURTH
37 MONTH FOLLOWING THE CLOSE OF THE TAXABLE YEAR MAY BE APPLIED TO EITHER THE
38 CURRENT OR PRECEDING TAXABLE YEAR AND IS CONSIDERED TO HAVE BEEN MADE ON THE
39 LAST DAY OF THAT TAXABLE YEAR.

1 H. A TAXPAYER MAY NOT CLAIM A CREDIT UNDER THIS SECTION AND ALSO UNDER
2 SECTION 43-1089 WITH RESPECT TO THE SAME CONTRIBUTION. IF A TAXPAYER'S
3 CONTRIBUTION TO A SCHOOL TUITION ORGANIZATION EXCEEDS THE AMOUNT OF THE
4 CREDIT ALLOWED UNDER SECTION 43-1089, A TAXPAYER MAY CLAIM A CREDIT UNDER
5 THIS SECTION AND ALSO UNDER SECTION 43-1089. IF A TAXPAYER'S CONTRIBUTION TO
6 A SCHOOL TUITION ORGANIZATION DOES NOT EXCEED THE AMOUNT OF THE CREDIT
7 ALLOWED BY SECTION 43-1089, THE CONTRIBUTION IS CONSIDERED TO HAVE BEEN MADE
8 PURSUANT TO SECTION 43-1089.

9 Sec. 6. Section 43-1183, Arizona Revised Statutes, is amended to read:

10 43-1183. Credit for contributions to school tuition
11 organization

12 A. Beginning from and after June 30, 2006, a credit is allowed against
13 the taxes imposed by this title for the amount of voluntary cash
14 contributions made by the taxpayer during the taxable year to a school
15 tuition organization that is certified pursuant to chapter 15 of this title
16 at the time of donation.

17 B. The amount of the credit is the total amount of the taxpayer's
18 contributions for the taxable year under subsection A of this section and is
19 preapproved by the department of revenue pursuant to subsection D of this
20 section.

21 C. The department of revenue:

22 1. Shall not allow tax credits under this section and section
23 20-224.06 that exceed in the aggregate a combined total of ten million
24 dollars in any fiscal year. Beginning in fiscal year 2007-2008, the
25 aggregate dollar amount of the tax credit cap from the previous fiscal year
26 shall be annually increased by twenty per cent.

27 2. Shall preapprove tax credits under this section and section
28 20-224.06 subject to subsection D of this section.

29 3. Shall allow the tax credits under this section and section
30 20-224.06 on a first come, first served basis.

31 D. For the purposes of subsection C, paragraph 2 of this section,
32 before making a contribution to a school tuition organization, the taxpayer
33 under this title or title 20 must notify the school tuition organization of
34 the total amount of contributions that the taxpayer intends to make to the
35 school tuition organization. Before accepting the contribution, the school
36 tuition organization shall request preapproval from the department of revenue
37 for the taxpayer's intended contribution amount. The department of revenue
38 shall preapprove or deny the requested amount within twenty days after
39 receiving the request from the school tuition organization. If the
40 department of revenue preapproves the request, the school tuition

1 organization shall immediately notify the taxpayer, and the department of
2 insurance in the case of a credit under section 20-224.06, that the requested
3 amount was preapproved by the department of revenue. In order to receive a
4 tax credit under this subsection, the taxpayer shall make the contribution to
5 the school tuition organization within ~~ten~~ TWENTY days after receiving notice
6 from the school tuition organization that the requested amount was
7 preapproved. If the school tuition organization does not receive the
8 preapproved contribution from the taxpayer within the required ~~ten~~ TWENTY
9 days, the school tuition organization shall immediately notify the department
10 of revenue, and the department of insurance in the case of a credit under
11 section 20-224.06, and the department of revenue shall no longer include this
12 preapproved contribution amount when calculating the limit prescribed in
13 subsection C, paragraph 1 of this section.

14 E. If the allowable tax credit exceeds the taxes otherwise due under
15 this title on the claimant's income, or if there are no taxes due under this
16 title, the taxpayer may carry the amount of the claim not used to offset the
17 taxes under this title forward for not more than five consecutive taxable
18 years' income tax liability.

19 F. Co-owners of a business, including corporate partners in a
20 partnership, may each claim only the pro rata share of the credit allowed
21 under this section based on the ownership interest. The total of the credits
22 allowed all such owners may not exceed the amount that would have been
23 allowed a sole owner.

24 G. The credit allowed by this section is in lieu of any deduction
25 pursuant to section 170 of the internal revenue code and taken for state tax
26 purposes.

27 H. A taxpayer shall not claim a credit under this section and also
28 under section 43-1184 with respect to the same contribution.

29 I. The tax credit is not allowed if the taxpayer designates the
30 taxpayer's contribution to the school tuition organization for the direct
31 benefit of any specific student.

32 J. The department of revenue, with the cooperation of the department
33 of insurance, shall adopt rules and publish and prescribe forms and
34 procedures necessary for the administration of this section.

35 ~~K. For the purposes of this section, "qualified school":~~

36 ~~1. Means a nongovernmental primary school or secondary school:~~

37 ~~(a) That is located in this state, that does not discriminate on the~~
38 ~~basis of race, color, handicap, familial status or national origin and that~~
39 ~~satisfies the requirements prescribed by law for private schools in this~~
40 ~~state on January 1, 2005.~~

1 was preapproved by the department of revenue. In order to receive a tax
2 credit under this subsection, the taxpayer shall make the contribution to the
3 school tuition organization within ~~ten~~ TWENTY days after receiving notice
4 from the school tuition organization that the requested amount was
5 preapproved. If the school tuition organization does not receive the
6 preapproved contribution from the taxpayer within the required ~~ten~~ TWENTY
7 days, the school tuition organization shall immediately notify the department
8 of revenue and the department shall no longer include this preapproved
9 contribution amount when calculating the limit prescribed in subsection C,
10 paragraph 1 of this section.

11 E. If the allowable tax credit exceeds the taxes otherwise due under
12 this title on the claimant's income, or if there are no taxes due under this
13 title, the taxpayer may carry the amount of the claim not used to offset the
14 taxes under this title forward for not more than five consecutive taxable
15 years' income tax liability.

16 F. Co-owners of a business, including corporate partners in a
17 partnership, may each claim only the pro rata share of the credit allowed
18 under this section based on the ownership interest. The total of the credits
19 allowed all such owners may not exceed the amount that would have been
20 allowed a sole owner.

21 G. The credit allowed by this section is in lieu of any deduction
22 pursuant to section 170 of the internal revenue code and taken for state tax
23 purposes.

24 H. A taxpayer shall not claim a credit under this section and also
25 under section 43-1183 with respect to the same contribution.

26 I. The tax credit is not allowed if the taxpayer designates the
27 taxpayer's contribution to the school tuition organization for the direct
28 benefit of any specific student.

29 J. The department of revenue shall adopt rules necessary for the
30 administration of this section.

31 ~~K. For the purposes of this section, "qualified school":~~
32 ~~1. Means a nongovernmental primary school or secondary school or a~~
33 ~~preschool for handicapped students that is located in this state, that does~~
34 ~~not discriminate on the basis of race, color, handicap, familial status or~~
35 ~~national origin and that satisfies the requirements prescribed by law for~~
36 ~~private schools in this state on January 1, 2009.~~
37 ~~2. Does not include a charter school or programs operated by charter~~
38 ~~schools.~~

1 Sec. 8. Section 43-1501, Arizona Revised Statutes, is amended to read:

2 43-1501. Definitions

3 In this chapter, unless the context otherwise requires:

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

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

9 3. "Fiscal year" means the fiscal year of the state as prescribed in
10 section 35-102.

11 4. "Qualified school" ~~has the same meaning prescribed in section~~
12 ~~43-1183 or 43-1184, as applicable~~ MEANS A PRESCHOOL THAT OFFERS SERVICES TO
13 STUDENTS WITH DISABILITIES, NONGOVERNMENTAL PRIMARY SCHOOL OR SECONDARY
14 SCHOOL THAT IS LOCATED IN THIS STATE AND THAT DOES NOT DISCRIMINATE ON THE
15 BASIS OF RACE, COLOR, DISABILITY, FAMILIAL STATUS OR NATIONAL ORIGIN.
16 QUALIFIED SCHOOL DOES NOT INCLUDE A CHARTER SCHOOL OR PROGRAMS OPERATED BY A
17 CHARTER SCHOOL.

18 Sec. 9. Section 43-1502, Arizona Revised Statutes, is amended to read:

19 43-1502. Certification as a school tuition organization

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

27 B. The department shall:

28 1. Maintain a public registry of currently certified school tuition
29 organizations.

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

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

32 C. The department shall send written notice by certified mail to a
33 school tuition organization if the department determines that the school
34 tuition organization has engaged in any of the following activities:

35 1. Failing or refusing to allocate at least ninety per cent of annual
36 revenues ~~FROM CONTRIBUTIONS MADE FOR THE PURPOSES OF SECTIONS 20-224.06,~~
37 ~~20-224.07, 43-1183 AND 43-1184~~ for educational scholarships or tuition
38 grants.

39 2. Failing or refusing to file the annual reports required by section
40 43-1506.

1 3. Limiting availability of scholarships to students of only one
2 school.

3 4. Encouraging, facilitating or knowingly permitting taxpayers to
4 engage in actions prohibited by this article.

5 5. KNOWINGLY COLLUDING WITH ANY OTHER SCHOOL TUITION ORGANIZATION TO
6 CIRCUMVENT THE LIMITS OF SECTION 43-1504, SUBSECTION C.

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, the
11 department may remove the organization from the list of certified school
12 tuition organizations and shall make available to the public notice of
13 removal as soon as possible. An organization that is removed from the list
14 of certified school tuition organizations must notify any taxpayer who
15 attempts to make a contribution that the contribution is not eligible for the
16 tax credit and offer to refund all donations received after the date of the
17 notice of termination of certification.

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

23 Sec. 10. Section 43-1503, Arizona Revised Statutes, is amended to
24 read:

25 43-1503. Operational requirements for school tuition
26 organizations

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

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

35 1. Must allocate at least ninety per cent of its annual revenue FROM
36 CONTRIBUTIONS MADE FOR THE PURPOSES OF SECTIONS 20-224.06, 20-224.07, 43-1183
37 AND 43-1184 for educational scholarships or tuition grants.

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

1 twelve. In each year after 2006, the limitation amount for a scholarship or
2 a grant under this subsection shall be increased by one hundred dollars.

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

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

14 F. The department of revenue, with the cooperation of the department
15 of insurance, shall adopt rules and publish and prescribe forms and
16 procedures necessary for the administration of this section.

17 Sec. 12. Section 43-1505, Arizona Revised Statutes, is amended to
18 read:

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

21 A. A school tuition organization that receives contributions for the
22 purposes of section ~~28-224.07~~ 20-224.07 or 43-1184 must use at least ninety
23 per cent of those contributions to provide educational scholarships or
24 tuition grants to qualified students ~~who either~~ TO WHOM ANY OF THE FOLLOWING
25 APPLIES:

26 1. Received a grant or scholarship under title 15, chapter 8, article
27 1.2 or 8 in order to attend a qualified school during the 2008-2009 academic
28 year.

29 2. Attended a governmental primary or secondary school as a full-time
30 student as defined in section 15-901 OR ATTENDED A PRESCHOOL PROGRAM THAT
31 OFFERS SERVICES TO STUDENTS WITH DISABILITIES AT A GOVERNMENTAL SCHOOL for at
32 least ~~the first one hundred~~ NINETY days of the prior fiscal year OR ONE FULL
33 SEMESTER and transferred from a governmental ~~primary or secondary~~ school to a
34 qualified school.

35 3. ENROLLED IN A QUALIFIED SCHOOL IN A KINDERGARTEN PROGRAM OR A
36 PRESCHOOL PROGRAM THAT OFFERS SERVICES TO STUDENTS WITH DISABILITIES.

37 4. IS THE DEPENDENT OF A MEMBER OF THE ARMED FORCES OF THE UNITED
38 STATES WHO IS STATIONED IN THIS STATE PURSUANT TO MILITARY ORDERS.

1 ~~3-~~ 5. Qualified for an educational scholarship or tuition grant under
2 paragraph 1, ~~or~~ 2, 3 OR 4 OF THIS SUBSECTION if the qualified student
3 continues to attend a qualified school in a subsequent year.

4 B. The amount of an educational scholarship or a tuition grant that is
5 issued by a school tuition organization under this section shall not exceed
6 the cost of tuition for the student to attend the qualified school or ninety
7 per cent of the amount of state aid that otherwise would be computed for the
8 student as provided in title 15, chapter 9, article 5, whichever is less. On
9 request from a school tuition organization, the department of education shall
10 provide to the school tuition organization in a timely manner the amount
11 computed for the student under this subsection that represents the ninety per
12 cent limitation prescribed in this subsection.

13 C. A school tuition organization shall require that student
14 beneficiaries use the educational scholarships or tuition grants on a
15 full-time basis. If a child leaves the school before completing an entire
16 school year, the school shall refund a prorated amount of the educational
17 scholarship or tuition grant to the school tuition organization that issued
18 the scholarship or grant. The school tuition organization shall allocate any
19 refunds it receives under this subsection for educational scholarships or
20 tuition grants ~~in the following year~~.

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

24 E. For the purposes of this section, "qualified student" means a
25 student who has been either:

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

29 2. Identified as having a disability under section 504 of the
30 rehabilitation act (29 United States Code section 794) or identified AT ANY
31 TIME by a school district as a child with a disability as defined in section
32 15-761 or a child with a disability who is eligible to receive services from
33 a school district under section 15-763.

34 Sec. 13. Section 43-1507, Arizona Revised Statutes, is amended to
35 read:

36 43-1507. Audits and financial reviews

37 A. On or before September 30 of each year, each school tuition
38 organization that received one million dollars or more in total donations in
39 the previous fiscal year shall provide for a financial audit of the
40 organization. The audit must be conducted in accordance with generally

1 accepted auditing standards and must evaluate the organization's compliance
2 with ~~the fiscal requirements of this article~~ SECTION 43-1503, SUBSECTION B,
3 PARAGRAPH 1. The audit must be conducted by an independent certified public
4 accountant licensed in this state. The certified public accountant and the
5 firm the certified public accountant is affiliated with shall be independent
6 with respect to the organization, its officers and directors, services
7 performed and all other independent relationships prescribed by generally
8 accepted ~~accounting~~ AUDITING standards.

9 B. On or before September 30 of each year, each school tuition
10 organization that received less than one million dollars in total donations
11 in the previous fiscal year shall provide for a financial review of the
12 organization. The review must be conducted in accordance with standards for
13 accounting and review services and must evaluate the organization's
14 compliance with the fiscal requirements of this article. The review must be
15 conducted by an independent certified public accountant licensed in this
16 state. The certified public accountant and the firm the certified public
17 accountant is affiliated with shall be independent with respect to the
18 organization, its officers and directors, services performed and all other
19 independent relationships prescribed by generally accepted ~~accounting~~
20 AUDITING standards.

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

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

28 Sec. 14. Section 43-1601, Arizona Revised Statutes, is amended to
29 read:

30 43-1601. Definitions

31 In this chapter, unless the context otherwise requires:

32 1. "Allocate" includes reserving money for an award of a multiyear
33 educational scholarship or tuition grant for a specific student.

34 2. "Fiscal year" means the fiscal year of the state as prescribed in
35 section 35-102.

36 3. "Qualified school" ~~has the same meaning prescribed in section~~
37 ~~43-1089~~ MEANS A PRESCHOOL THAT OFFERS SERVICES TO STUDENTS WITH DISABILITIES,
38 NONGOVERNMENTAL PRIMARY SCHOOL OR SECONDARY SCHOOL THAT IS LOCATED IN THIS
39 STATE AND THAT DOES NOT DISCRIMINATE ON THE BASIS OF RACE, COLOR, DISABILITY,

1 FAMILIAL STATUS OR NATIONAL ORIGIN. QUALIFIED SCHOOL DOES NOT INCLUDE A
2 CHARTER SCHOOL OR PROGRAMS OPERATED BY A CHARTER SCHOOL.

3 4. "STUDENTS WITH DISABILITIES" MEANS STUDENTS WHO HAVE ANY OF THE
4 FOLLOWING CONDITIONS:

- 5 (a) HEARING IMPAIRMENT.
- 6 (b) VISUAL IMPAIRMENT.
- 7 (c) DEVELOPMENTAL DELAY.
- 8 (d) PRESCHOOL SEVERE DELAY.
- 9 (e) SPEECH/LANGUAGE IMPAIRMENT.

10 Sec. 15. Section 43-1602, Arizona Revised Statutes, is amended to
11 read:

12 43-1602. Certification as a school tuition organization

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

20 B. The department shall:

21 1. Maintain a public registry of currently certified school tuition
22 organizations.

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

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

25 C. The department shall send written notice by certified mail to a
26 school tuition organization if the department determines that the school
27 tuition organization has engaged in any of the following activities:

28 1. Failing or refusing to allocate at least ninety per cent of annual
29 revenues FROM CONTRIBUTIONS MADE FOR THE PURPOSES OF SECTIONS 43-1089 AND
30 43-1089.03 for educational scholarships or tuition grants.

31 2. Failing or refusing to file the annual reports required by section
32 43-1604.

33 3. Limiting availability of scholarships to students of only one
34 school.

35 4. Encouraging, facilitating or knowingly permitting taxpayers to
36 engage in actions prohibited by this article.

37 5. Awarding, restricting or reserving educational scholarships or
38 tuition grants for use by a particular student based solely on the
39 recommendation of the donor.

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, the
5 department may remove the organization from the list of certified school
6 tuition organizations and shall make available to the public notice of
7 removal as soon as possible. An organization that is removed from the list
8 of certified school tuition organizations must notify any taxpayer who
9 attempts to make a contribution that the contribution is not eligible for the
10 tax credit and offer to refund all donations received after the date of the
11 notice of termination of certification.

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

17 Sec. 16. 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 credits
23 under ~~section~~ 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 per cent 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 not limit the availability of educational scholarships or
32 tuition grants to only students of one school.

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

36 4. Shall not allow donors to designate student beneficiaries as a
37 condition of any contribution to the organization, or facilitate, encourage
38 or knowingly permit the exchange of beneficiary student designations in
39 violation of section 43-1089, subsection F.

1 C. A school tuition organization shall include the following notice in
2 any printed materials soliciting donations, in applications for scholarships
3 and on its website:

4 Notice

5 A school tuition organization cannot award, restrict or
6 reserve scholarships solely on the basis of a donor's
7 recommendation.

8 A taxpayer may not claim a tax credit if the taxpayer
9 agrees to swap donations with another taxpayer to benefit either
10 taxpayer's own dependent.

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

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

16 2. Shall consider the financial need of applicants.

17 ~~E. A qualified school shall not accept an educational scholarship or~~
18 ~~tuition grant from a school tuition organization in an amount that exceeds~~
19 ~~the school's total cost of educating the student in whose name the~~
20 ~~scholarship or grant is received.~~

21 E. A TAXPAYER'S CONTRIBUTION TO A SCHOOL TUITION ORGANIZATION THAT
22 EXCEEDS THE AMOUNT OF THE CREDIT ALLOWED BY SECTION 43-1089 BUT DOES NOT
23 EXCEED THE AMOUNT OF THE CREDIT ALLOWED BY SECTION 43-1089.03 IS CONSIDERED A
24 CONTRIBUTION PURSUANT TO SECTION 43-1089.03. A SCHOOL TUITION ORGANIZATION
25 MUST USE AT LEAST NINETY PER CENT OF CONTRIBUTIONS MADE PURSUANT TO SECTION
26 43-1089.03 FOR EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS FOR STUDENTS TO
27 WHOM ANY OF THE FOLLOWING APPLIES:

28 1. ATTENDED A GOVERNMENTAL PRIMARY OR SECONDARY SCHOOL AS A FULL-TIME
29 STUDENT AS DEFINED IN SECTION 15-901 OR ATTENDED A PRESCHOOL PROGRAM THAT
30 OFFERS SERVICES TO STUDENTS WITH DISABILITIES AT A GOVERNMENTAL SCHOOL FOR AT
31 LEAST NINETY DAYS OF THE PRIOR FISCAL YEAR AND TRANSFERRED FROM A
32 GOVERNMENTAL SCHOOL TO A QUALIFIED SCHOOL.

33 2. ENROLLS IN A QUALIFIED SCHOOL IN A KINDERGARTEN PROGRAM OR A
34 PRESCHOOL PROGRAM THAT OFFERS SERVICES TO STUDENTS WITH DISABILITIES.

35 3. IS THE DEPENDENT OF A MEMBER OF THE ARMED FORCES OF THE UNITED
36 STATES WHO IS STATIONED IN THIS STATE PURSUANT TO MILITARY ORDERS.

37 4. RECEIVED AN EDUCATIONAL SCHOLARSHIP OR TUITION GRANT UNDER
38 PARAGRAPH 1, 2 OR 3 OF THIS SUBSECTION OR UNDER CHAPTER 15 OF THIS TITLE IF
39 THE STUDENT CONTINUES TO ATTEND A QUALIFIED SCHOOL IN A SUBSEQUENT YEAR.

1 F. IN AWARDING EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS FROM
2 CONTRIBUTIONS MADE PURSUANT TO SECTION 43-1089.03, A SCHOOL TUITION
3 ORGANIZATION SHALL GIVE PRIORITY TO STUDENTS AND SIBLINGS OF STUDENTS ON A
4 WAITING LIST FOR SCHOLARSHIPS IF THE SCHOOL TUITION ORGANIZATION MAINTAINS A
5 WAITING LIST.

6 G. IF AN INDIVIDUAL EDUCATIONAL SCHOLARSHIP OR TUITION GRANT EXCEEDS
7 THE SCHOOL'S TOTAL COST OF EDUCATING THAT STUDENT, THE AMOUNT IN EXCESS SHALL
8 BE RETURNED TO THE SCHOOL TUITION ORGANIZATION THAT MADE THE AWARD OR
9 GRANT. THE SCHOOL TUITION ORGANIZATION MAY ALLOCATE THE RETURNED MONIES AS A
10 MULTIYEAR AWARD FOR THAT STUDENT AND REPORT THE AWARD PURSUANT TO SECTION
11 43-1604, PARAGRAPH 5, SUBDIVISION (b) OR MAY ALLOCATE THE RETURNED MONIES FOR
12 EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS FOR OTHER STUDENTS.

13 Sec. 17. Section 43-1604, Arizona Revised Statutes, is amended to
14 read:

15 43-1604. Annual report

16 On or before September 30 of each year, each school tuition
17 organization shall report electronically to the department, in a form
18 prescribed by the department, the following information, separately compiled
19 and identified for the purposes of ~~section~~ SECTIONS 43-1089 AND 43-1089.03:

20 1. The name, address and contact person of the school tuition
21 organization.

22 2. The total number of contributions received during the previous
23 fiscal year.

24 3. The total dollar amount of contributions received during the
25 previous fiscal year.

26 4. The total number of children awarded educational scholarships or
27 tuition grants during the previous fiscal year.

28 5. The total dollar amount of:

29 (a) Educational scholarships and tuition grants distributed during the
30 previous fiscal year.

31 (b) Money being held for identified students' scholarships and tuition
32 grants in future years.

33 6. The cost of audits pursuant to section 43-1605 paid during the
34 fiscal year.

35 7. The 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 nutrition
39 acts (42 United States Code sections 1751 through 1785) for free or reduced
40 price lunches.

1 (b) Students whose family income exceeds the threshold prescribed by
2 subdivision (a) of this paragraph but does not exceed one hundred eighty-five
3 per cent of the economic eligibility requirements established under the
4 national school lunch and child nutrition acts (42 United States Code
5 sections 1751 through 1785) for free or reduced price lunches.

6 8. For each school to which educational scholarships or tuition grants
7 were awarded:

8 (a) The name and address of the school.

9 (b) The number of educational scholarships and tuition grants awarded
10 during the previous fiscal year.

11 (c) The total dollar amount of educational scholarships and tuition
12 grants awarded during the previous fiscal year.

13 9. The names, job titles and annual salaries of the three employees
14 who receive the highest annual salaries from the school tuition organization.

15 Sec. 18. Section 43-1605, Arizona Revised Statutes, is amended to
16 read:

17 43-1605. Audits and financial reviews

18 A. On or before September 30 of each year, each school tuition
19 organization that received one million dollars or more in total donations in
20 the previous fiscal year shall provide for a financial audit of the
21 organization. The audit must be conducted in accordance with generally
22 accepted auditing standards and must evaluate the organization's compliance
23 with ~~the fiscal requirements of this article~~ SECTION 43-1603, SUBSECTION B,
24 PARAGRAPH 1. The audit must be conducted by an independent certified public
25 accountant licensed in this state. The certified public accountant and the
26 firm the certified public accountant is affiliated with shall be independent
27 with respect to the organization, its officers and directors, services
28 performed and all other independent relationships prescribed by generally
29 accepted auditing standards.

30 B. On or before September 30 of each year, each school tuition
31 organization that received less than one million dollars in total donations
32 in the previous fiscal year shall provide for a financial review of the
33 organization. The review must be conducted in accordance with standards for
34 accounting and review services and must evaluate the organization's
35 compliance with the fiscal requirements of this article. The review must be
36 conducted by an independent certified public accountant licensed in this
37 state. The certified public accountant and the firm the certified public
38 accountant is affiliated with shall be independent with respect to the
39 organization, its officers and directors, services performed and all other

1 independent relationships prescribed by generally accepted auditing
2 standards.

3 C. Within five days after receiving the audit or financial review the
4 school tuition organization shall file a signed copy of the audit or
5 financial review with the department.

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

10 Sec. 19. Effective date

11 This act is effective from and after June 30, 2012.

12 Sec. 20. Purpose

13 Pursuant to section 43-223, Arizona Revised Statutes, the legislature
14 enacts section 43-1089.03, Arizona Revised Statutes, as added by this act, to
15 encourage individuals to make charitable contributions to school tuition
16 organizations in order to improve education by raising tuition scholarships
17 for children in this state.

18 Sec. 21. Retroactivity

19 Sections 43-222, 43-401, 43-1021, 43-1089.03, 43-1602, 43-1603, and
20 43-1604, Arizona Revised Statutes, as amended or added by this act apply
21 retroactively to taxable years beginning from and after December 31, 2011."

22 Amend title to conform

and, as so amended, it do pass

JACK HARPER
Chairman

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2/6/12
H:lae