

PROPOSED

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

1 the provisions of the United States internal revenue code computed without
2 deductions for any amount withheld.

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

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

6 2. The employer's employees in writing in a manner prescribed by the
7 department.

8 C. The percentage deducted and retained under subsection A of this
9 section:

10 1. Through April 30, 2009 shall be:

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

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

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

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

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

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

31 (c) Nineteen per cent, the withholding tax rate shall be increased to
32 21.9 per cent.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 E. If the amount collected and payable by the employer to the
2 department in each of the preceding four calendar quarters did not exceed an
3 average of one thousand five hundred dollars, the amount collected shall be
4 paid to the department on or before April 30, July 31, October 31 and January
5 31 for the preceding calendar quarter. If such amount exceeded one thousand
6 five hundred dollars in each of the preceding four calendar quarters, the
7 employer shall pay to the department the amount the employer deducts and
8 retains pursuant to this section at the same time as the employer is required
9 to make deposits of federal tax pursuant to section 6302 of the internal
10 revenue code. On or before April 30, July 31, October 31 and January 31 each
11 year the employer shall reconcile the amounts payable during the preceding
12 calendar quarter in a manner prescribed by the department, except that if the
13 full amount collected and payable is paid timely to the department under this
14 subsection, the employer may reconcile the amounts on or before May 10,
15 August 10, November 10 and February 10 each year. The department by rule may
16 allow and determine which employers qualify for annual payments of
17 withholding taxes, with an annual report by the employer pursuant to section
18 43-412, subsection B, if the qualifying employer has established sufficient
19 payment history to indicate that the employer is current and in good standing
20 pursuant to standards established by rule. For any business which has not
21 had a withholding certificate for the four preceding consecutive quarters,
22 the quarterly average shall be computed in a manner prescribed by the
23 department.

24 F. If an employer fails to make a timely monthly payment because prior
25 to that reporting period it reported on a quarterly basis instead of on a
26 monthly basis, the department shall notify the employer that it is out of
27 compliance with this section. Notwithstanding section 42-1125, the
28 department shall not assess a penalty against an employer for failing to make
29 a timely monthly payment if the employer had filed and remitted all taxes due
30 on a quarterly basis and brings all filings and payments into current
31 compliance within thirty days after being notified by the department.

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

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

16 1. State income taxes will not be withheld from compensation in
17 December.

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

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

1 1. Within fifteen days after the end of each calendar quarter, the
2 employer must pay the entire amount of the reduction in withholding tax for
3 that quarter to the designated charitable organization, school tuition
4 organization or public school. These payments are considered to be on the
5 employee's behalf, and not the employer's, for the purposes of qualifying for
6 the income tax credits under sections 43-1088, 43-1089, ~~and~~ 43-1089.01 **AND**
7 **43-1089.03.**

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

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

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

18 Sec. 3. Section 43-1021, Arizona Revised Statutes, is amended to read:
19 **43-1021. Additions to Arizona gross income**

20 In computing Arizona adjusted gross income, the following amounts shall
21 be added to Arizona gross income:

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

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

28 3. The amount of interest income received on obligations of any state,
29 territory or possession of the United States, or any political subdivision
30 thereof, located outside the state of Arizona, reduced, for tax years
31 beginning from and after December 31, 1996, by the amount of any interest on
32 indebtedness and other related expenses that were incurred or continued to

1 purchase or carry those obligations and that are not otherwise deducted or
2 subtracted in arriving at Arizona gross income.

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

9 5. The excess of a partner's share of partnership taxable income
10 required to be included under chapter 14, article 2 of this title over the
11 income required to be reported under section 702(a)(8) of the internal
12 revenue code.

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

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

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

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

30 10. Amounts withdrawn from the Arizona state retirement system, the
31 corrections officer retirement plan, the public safety personnel retirement
32 system, the elected officials' retirement plan or a county or city retirement

1 plan by an employee upon termination of employment before retirement to the
2 extent they were deducted in arriving at Arizona taxable income in any year.

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

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

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

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

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

20 16. The amount by which the depreciation or amortization computed under
21 the internal revenue code with respect to property for which a credit was
22 taken under section 43-1080 exceeds the amount of depreciation or
23 amortization computed pursuant to the internal revenue code on the Arizona
24 adjusted basis of the property.

25 17. The amount by which the adjusted basis computed under the internal
26 revenue code with respect to property for which a credit was claimed under
27 section 43-1080 and which is sold or otherwise disposed of during the taxable
28 year exceeds the adjusted basis of the property computed under section
29 43-1080.

30 18. The amount by which the depreciation or amortization computed under
31 the internal revenue code with respect to property for which a credit was
32 taken under either section 43-1081 or 43-1081.01 exceeds the amount of

1 depreciation or amortization computed pursuant to the internal revenue code
2 on the Arizona adjusted basis of the property.

3 19. The amount by which the adjusted basis computed under the internal
4 revenue code with respect to property for which a credit was claimed under
5 section 43-1074.02, 43-1081 or 43-1081.01 and which is sold or otherwise
6 disposed of during the taxable year exceeds the adjusted basis of the
7 property computed under section 43-1074.02, 43-1081 or 43-1081.01, as
8 applicable.

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

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

16 22. Any amount deducted pursuant to section 170 of the internal revenue
17 code representing contributions to a school tuition organization or a public
18 school for which a credit is claimed under section 43-1089, ~~or~~ 43-1089.01 OR
19 43-1089.03.

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

23 24. Any wage expenses deducted pursuant to the internal revenue code
24 for which a credit is claimed under section 43-1087 and representing net
25 increases in qualified employment positions for employment of temporary
26 assistance for needy families recipients.

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

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

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

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

7 29. The amount by which the depreciation or amortization computed under
8 the internal revenue code with respect to property for which a credit was
9 taken under section 43-1090.01 exceeds the amount of depreciation or
10 amortization computed pursuant to the internal revenue code on the Arizona
11 adjusted basis of the property.

12 30. The amount by which the adjusted basis computed under the internal
13 revenue code with respect to property for which a credit was claimed under
14 section 43-1090.01 and which is sold or otherwise disposed of during the
15 taxable year exceeds the adjusted basis of the property computed under
16 section 43-1090.01.

17 31. The amount of a nonqualified withdrawal, as defined in section
18 15-1871, from a college savings plan established pursuant to section 529 of
19 the internal revenue code that is made to a distributee to the extent the
20 amount is not included in computing federal adjusted gross income, except
21 that the amount added under this paragraph shall not exceed the difference
22 between the amount subtracted under section 43-1022 in prior taxable years
23 and the amount added under this section in any prior taxable years.

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

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

1 allowed in the prior taxable year. The revised dollar amounts shall be raised to
2 the nearest whole dollar.

3 D. If the allowable tax credit exceeds the taxes otherwise due under
4 this title on the claimant's income, or if there are no taxes due under this
5 title, the taxpayer may carry the amount of the claim not used to offset the
6 taxes under this title forward for not more than five consecutive taxable
7 years' income tax liability.

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

11 F. The tax credit is not allowed if the taxpayer designates the
12 taxpayer's contribution to the school tuition organization for the direct
13 benefit of any dependent of the taxpayer or if the taxpayer designates a
14 student beneficiary as a condition of the taxpayer's contribution to the
15 school tuition organization. The tax credit is not allowed if the taxpayer,
16 with the intent to benefit the taxpayer's dependent, agrees with one or more
17 other taxpayers to designate each taxpayer's contribution to the school
18 tuition organization for the direct benefit of the other taxpayer's
19 dependent.

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

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

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

28 ~~(a) Hearing impairment.~~

29 ~~(b) Visual impairment.~~

30 ~~(c) Developmental delay.~~

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

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

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

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

9 F. THE TAX CREDIT IS NOT ALLOWED IF THE TAXPAYER DESIGNATES THE
10 TAXPAYER'S CONTRIBUTION TO THE SCHOOL TUITION ORGANIZATION FOR THE DIRECT
11 BENEFIT OF ANY DEPENDENT OF THE TAXPAYER OR IF THE TAXPAYER DESIGNATES A
12 STUDENT BENEFICIARY AS A CONDITION OF THE TAXPAYER'S CONTRIBUTION TO THE
13 SCHOOL TUITION ORGANIZATION. THE TAX CREDIT IS NOT ALLOWED IF THE TAXPAYER,
14 WITH THE INTENT TO BENEFIT THE TAXPAYER'S DEPENDENT, AGREES WITH ONE OR MORE
15 OTHER TAXPAYERS TO DESIGNATE EACH TAXPAYER'S CONTRIBUTION TO THE SCHOOL
16 TUITION ORGANIZATION FOR THE DIRECT BENEFIT OF THE OTHER TAXPAYER'S
17 DEPENDENT.

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

23 H. A TAXPAYER MAY NOT CLAIM A CREDIT UNDER THIS SECTION AND ALSO UNDER
24 SECTION 43-1089 WITH RESPECT TO THE SAME CONTRIBUTION. IF A TAXPAYER'S
25 CONTRIBUTION TO A SCHOOL TUITION ORGANIZATION EXCEEDS THE AMOUNT OF THE
26 CREDIT ALLOWED UNDER SECTION 43-1089, A TAXPAYER MAY CLAIM A CREDIT UNDER
27 THIS SECTION AND ALSO UNDER SECTION 43-1089. IF A TAXPAYER'S CONTRIBUTION TO
28 A SCHOOL TUITION ORGANIZATION DOES NOT EXCEED THE AMOUNT OF THE CREDIT
29 ALLOWED BY SECTION 43-1089, THE CONTRIBUTION IS CONSIDERED TO HAVE BEEN MADE
30 PURSUANT TO SECTION 43-1089.

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

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

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

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

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

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

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

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

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

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

10 ~~(b) That annually administers and makes available to the public the~~
11 ~~aggregate test scores of its students on a nationally standardized~~
12 ~~norm-referenced achievement test, preferably the Arizona instrument to~~
13 ~~measure standards test administered pursuant to section 15-741.~~

14 ~~(c) That requires all teaching staff and any personnel that have~~
15 ~~unsupervised contact with students to be fingerprinted.~~

16 ~~2. Does not include a charter school or programs operated by charter~~
17 ~~schools.~~

18 Sec. 7. Section 43-1184, Arizona Revised Statutes, is amended to read:

19 43-1184. Credit for contributions to school tuition
20 organization; displaced students; students with
21 disabilities

22 A. Beginning from and after June 30, 2009, a credit is allowed against
23 the taxes imposed by this title for the amount of voluntary cash
24 contributions made by the taxpayer during the taxable year to a school
25 tuition organization that is certified pursuant to chapter 15 of this title
26 at the time of donation.

27 B. The amount of the credit is the total amount of the taxpayer's
28 contributions for the taxable year under subsection A of this section and is
29 preapproved by the department of revenue pursuant to subsection D of this
30 section.

1 C. The department of revenue:

2 1. Shall not allow tax credits under this section and section
3 20-224.07 that exceed in the aggregate a combined total of five million
4 dollars in any fiscal year.

5 2. Shall preapprove tax credits under this section and section
6 20-224.07 subject to subsection D of this section.

7 3. Shall allow the tax credits under this section and section
8 20-224.07 on a first come, first served basis.

9 D. For the purposes of subsection C, paragraph 2 of this section,
10 before making a contribution to a school tuition organization, the taxpayer
11 under this title or title 20 must notify the school tuition organization of
12 the total amount of contributions that the taxpayer intends to make to the
13 school tuition organization. Before accepting the contribution, the school
14 tuition organization shall request preapproval from the department of revenue
15 for the taxpayer's intended contribution amount. The department of revenue
16 shall preapprove or deny the requested amount within twenty days after
17 receiving the request from the school tuition organization. If the
18 department of revenue preapproves the request, the school tuition
19 organization shall immediately notify the taxpayer that the requested amount
20 was preapproved by the department of revenue. In order to receive a tax
21 credit under this subsection, the taxpayer shall make the contribution to the
22 school tuition organization within ~~ten~~ TWENTY days after receiving notice
23 from the school tuition organization that the requested amount was
24 preapproved. If the school tuition organization does not receive the
25 preapproved contribution from the taxpayer within the required ~~ten~~ TWENTY
26 days, the school tuition organization shall immediately notify the department
27 of revenue and the department shall no longer include this preapproved
28 contribution amount when calculating the limit prescribed in subsection C,
29 paragraph 1 of this section.

30 E. If the allowable tax credit exceeds the taxes otherwise due under
31 this title on the claimant's income, or if there are no taxes due under this
32 title, the taxpayer may carry the amount of the claim not used to offset the

1 taxes under this title forward for not more than five consecutive taxable
2 years' income tax liability.

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

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

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

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

16 J. The department of revenue shall adopt rules necessary for the
17 administration of this section.

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

19 ~~1. Means a nongovernmental primary school or secondary school or a~~
20 ~~preschool for handicapped students that is located in this state, that does~~
21 ~~not discriminate on the basis of race, color, handicap, familial status or~~
22 ~~national origin and that satisfies the requirements prescribed by law for~~
23 ~~private schools in this state on January 1, 2009.~~

24 ~~2. Does not include a charter school or programs operated by charter~~
25 ~~schools.~~

26 Sec. 8. Section 43-1501, Arizona Revised Statutes, is amended to read:
27 43-1501. Definitions

28 In this chapter, unless the context otherwise requires:

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

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

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

6 4. "Qualified school" ~~has the same meaning prescribed in section~~
7 ~~43-1183 or 43-1184, as applicable~~ MEANS A PRESCHOOL THAT OFFERS SERVICES TO
8 STUDENTS WITH DISABILITIES, NONGOVERNMENTAL PRIMARY SCHOOL OR SECONDARY
9 SCHOOL THAT IS LOCATED IN THIS STATE AND THAT DOES NOT DISCRIMINATE ON THE
10 BASIS OF RACE, COLOR, DISABILITY, FAMILIAL STATUS OR NATIONAL ORIGIN.
11 QUALIFIED SCHOOL DOES NOT INCLUDE A CHARTER SCHOOL OR PROGRAMS OPERATED BY A
12 CHARTER SCHOOL.

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

14 43-1502. Certification as a school tuition organization

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

22 B. The department shall:

23 1. Maintain a public registry of currently certified school tuition
24 organizations.

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

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

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

30 1. Failing or refusing to allocate at least ninety per cent of annual
31 revenues FROM CONTRIBUTIONS MADE FOR THE PURPOSES OF SECTIONS 20-224.06,

1 20-224.07, 43-1183 AND 43-1184 for educational scholarships or tuition
2 grants.

3 2. Failing or refusing to file the annual reports required by section
4 43-1506.

5 3. Limiting availability of scholarships to students of only one
6 school.

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

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

11 D. A school tuition organization that receives notice from the
12 department pursuant to subsection C of this section has ninety days to
13 correct the violation identified by the department in the notice. If a
14 school tuition organization fails or refuses to comply after ninety days, the
15 department may remove the organization from the list of certified school
16 tuition organizations and shall make available to the public notice of
17 removal as soon as possible. An organization that is removed from the list
18 of certified school tuition organizations must notify any taxpayer who
19 attempts to make a contribution that the contribution is not eligible for the
20 tax credit and offer to refund all donations received after the date of the
21 notice of termination of certification.

22 E. A school tuition organization may request an administrative hearing
23 on the revocation of its certification as provided by title 41, chapter 6,
24 article 10. Except as provided in section 41-1092.08, subsection H, a
25 decision of the department is subject to judicial review pursuant to title
26 12, chapter 7, article 6.

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

29 43-1503. Operational requirements for school tuition
30 organizations

31 A. A certified school tuition organization must be established to
32 receive contributions from taxpayers for the purposes of income tax credits

1 under sections 43-1183 and 43-1184 and insurance premium tax credits under
2 sections 20-224.06 and 20-224.07 and to pay educational scholarships or
3 tuition grants to allow students to attend any qualified school of their
4 parents' or custodians' choice.

5 B. To be eligible for certification and retain certification, the
6 school tuition organization:

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

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

12 3. Must allow the department of revenue to verify that the educational
13 scholarships and tuition grants that are issued are awarded to students who
14 attend a qualified school.

15 4. MUST NOT KNOWINGLY COLLUDE WITH ANY OTHER SCHOOL TUITION
16 ORGANIZATION TO CIRCUMVENT THE LIMITS OF SECTION 43-1504, SUBSECTION C.

17 Sec. 11. Section 43-1504, Arizona Revised Statutes, is amended to
18 read:

19 43-1504. Special provisions; corporate donations for low-income
20 scholarships; rules

21 A. A school tuition organization that receives contributions from a
22 corporation for the purposes of section 20-224.06 or 43-1183 must use at
23 least ninety per cent of those contributions to provide educational
24 scholarships or tuition grants only to children whose family income does not
25 exceed one hundred eighty-five per cent of the income limit required to
26 qualify a child for reduced price lunches under the national school lunch and
27 child nutrition acts (42 United States Code sections 1751 through 1785) and
28 ~~who either~~ TO WHOM ANY OF THE FOLLOWING APPLIES:

29 1. 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

1 SEMESTER and transferred from a governmental ~~primary or secondary~~ school to a
2 qualified school.

3 2. Enroll in a qualified school in a kindergarten program OR A
4 PRESCHOOL PROGRAM THAT OFFERS SERVICES TO STUDENTS WITH DISABILITIES.

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

7 ~~3.~~ 4. Received an educational scholarship or tuition grant under
8 paragraph 1, ~~or~~ 2 OR 3 OF THIS SUBSECTION OR CHAPTER 16, ARTICLE 1 OF THIS
9 TITLE if the children continue to attend a qualified school in a subsequent
10 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 2006, 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 four thousand two hundred
18 dollars for students in a kindergarten program or grades one through eight or
19 five thousand five hundred dollars for students in grades nine through
20 twelve. In each year after 2006, the limitation amount for a scholarship or
21 a grant under this subsection shall be increased by one hundred dollars.

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

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

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

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

6 43-1505. Special provisions; corporate donations for displaced
7 students and students with disabilities; definition

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

13 1. Received a grant or scholarship under title 15, chapter 8, article
14 1.2 or 8 in order to attend a qualified school during the 2008-2009 academic
15 year.

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

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

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

26 ~~3.~~ 5. Qualified for an educational scholarship or tuition grant under
27 paragraph 1, ~~or~~ 2, 3 OR 4 OF THIS SUBSECTION if the qualified student
28 continues to attend a qualified school in a subsequent year.

29 B. The amount of an educational scholarship or a tuition grant that is
30 issued by a school tuition organization under this section shall not exceed
31 the cost of tuition for the student to attend the qualified school or ninety
32 per cent of the amount of state aid that otherwise would be computed for the

1 student as provided in title 15, chapter 9, article 5, whichever is less. On
2 request from a school tuition organization, the department of education shall
3 provide to the school tuition organization in a timely manner the amount
4 computed for the student under this subsection that represents the ninety per
5 cent limitation prescribed in this subsection.

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

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

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

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

22 2. Identified as having a disability under section 504 of the
23 rehabilitation act (29 United States Code section 794) or identified **AT ANY**
24 **TIME** by a school district as a child with a disability as defined in section
25 15-761 or a child with a disability who is eligible to receive services from
26 a school district under section 15-763.

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

29 **43-1507. Audits and financial reviews**

30 A. On or before September 30 of each year, each school tuition
31 organization that received one million dollars or more in total donations in
32 the previous fiscal year shall provide for a financial audit of the

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

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

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

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

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

31 43-1601. Definitions

32 In this chapter, unless the context otherwise requires:

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

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

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

7 (a) HEARING IMPAIRMENT.

8 (b) VISUAL IMPAIRMENT.

9 (c) DEVELOPMENTAL DELAY.

10 (d) PRESCHOOL SEVERE DELAY.

11 (e) SPEECH/LANGUAGE IMPAIRMENT.

12 ~~3.~~ 4. "Qualified school" ~~has the same meaning prescribed in section~~
13 ~~43-1089~~ MEANS A PRESCHOOL THAT OFFERS SERVICES TO STUDENTS WITH DISABILITIES,
14 NONGOVERNMENTAL PRIMARY SCHOOL OR SECONDARY SCHOOL THAT IS LOCATED IN THIS
15 STATE AND THAT DOES NOT DISCRIMINATE ON THE BASIS OF RACE, COLOR, DISABILITY,
16 FAMILIAL STATUS OR NATIONAL ORIGIN. QUALIFIED SCHOOL DOES NOT INCLUDE A
17 CHARTER SCHOOL OR PROGRAMS OPERATED BY A CHARTER SCHOOL.

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

20 43-1602. Certification as a school tuition organization

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

28 B. The department shall:

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

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

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

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

4 1. Failing or refusing to allocate at least ninety per cent of annual
5 revenues FROM CONTRIBUTIONS MADE FOR THE PURPOSES OF SECTIONS 43-1089 AND
6 43-1089.03 for educational scholarships or tuition grants.

7 2. Failing or refusing to file the annual reports required by section
8 43-1604.

9 3. Limiting availability of scholarships to students of only one
10 school.

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

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

16 D. A school tuition organization that receives notice from the
17 department pursuant to subsection C of this section has ninety days to
18 correct the violation identified by the department in the notice. If a
19 school tuition organization fails or refuses to comply after ninety days, the
20 department may remove the organization from the list of certified school
21 tuition organizations and shall make available to the public notice of
22 removal as soon as possible. An organization that is removed from the list
23 of certified school tuition organizations must notify any taxpayer who
24 attempts to make a contribution that the contribution is not eligible for the
25 tax credit and offer to refund all donations received after the date of the
26 notice of termination of certification.

27 E. A school tuition organization may request an administrative hearing
28 on the revocation of its certification as provided by title 41, chapter 6,
29 article 10. Except as provided in section 41-1092.08, subsection H, a
30 decision of the department is subject to judicial review pursuant to title
31 12, chapter 7, article 6.

1 Sec. 16. Section 43-1603, Arizona Revised Statutes, is amended to
2 read:

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

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

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

12 1. Must allocate at least ninety per cent of its annual revenue FROM
13 CONTRIBUTIONS MADE FOR THE PURPOSES OF SECTIONS 43-1089 AND 43-1089.03 for
14 educational scholarships or tuition grants.

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

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

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

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

27 Notice

28 A school tuition organization cannot award, restrict or
29 reserve scholarships solely on the basis of a donor's
30 recommendation.

31 A taxpayer may not claim a tax credit if the taxpayer
32 agrees to swap donations with another taxpayer to benefit either

1 taxpayer's own dependent.

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

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

7 2. Shall consider the financial need of applicants.

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

12 E. A TAXPAYER'S CONTRIBUTION TO A SCHOOL TUITION ORGANIZATION THAT EXCEEDS
13 THE AMOUNT OF THE CREDIT ALLOWED BY SECTION 43-1089 BUT DOES NOT EXCEED THE AMOUNT
14 OF THE CREDIT ALLOWED BY SECTION 43-1089.03 IS CONSIDERED A CONTRIBUTION PURSUANT TO
15 SECTION 43-1089.03. A SCHOOL TUITION ORGANIZATION MUST USE AT LEAST NINETY PER CENT
16 OF CONTRIBUTIONS MADE PURSUANT TO SECTION 43-1089.03 FOR EDUCATIONAL SCHOLARSHIPS OR
17 TUITION GRANTS FOR STUDENTS TO WHOM ANY OF THE FOLLOWING APPLIES:

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

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

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

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

29 F. IN AWARDING EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS FROM
30 CONTRIBUTIONS MADE PURSUANT TO SECTION 43-1089.03, A SCHOOL TUITION
31 ORGANIZATION SHALL GIVE PRIORITY TO STUDENTS AND SIBLINGS OF STUDENTS ON A

1 WAITING LIST FOR SCHOLARSHIPS IF THE SCHOOL TUITION ORGANIZATION MAINTAINS A
2 WAITING LIST.

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

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

12 43-1604. Annual report

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

17 1. The name, address and contact person of the school tuition
18 organization.

19 2. The total number of contributions received during the previous
20 fiscal year.

21 3. The total dollar amount of contributions received during the
22 previous fiscal year.

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

25 5. The total dollar amount of:

26 (a) Educational scholarships and tuition grants distributed during the
27 previous fiscal year.

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

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

1 7. The total dollar amount of educational scholarships and tuition
2 grants awarded during the previous fiscal year to:

3 (a) Students whose family income meets the economic eligibility
4 requirements established under the national school lunch and child nutrition
5 acts (42 United States Code sections 1751 through 1785) for free or reduced
6 price lunches.

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

12 8. For each school to which educational scholarships or tuition grants
13 were awarded:

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

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

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

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

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

23 43-1605. Audits and financial reviews

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

1 with respect to the organization, its officers and directors, services
2 performed and all other independent relationships prescribed by generally
3 accepted auditing standards.

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

16 C. Within five days after receiving the audit or financial review the
17 school tuition organization shall file a signed copy of the audit or
18 financial review with the department.

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

23 Sec. 19. Effective date

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

25 Sec. 20. Purpose

26 Pursuant to section 43-223, Arizona Revised Statutes, the legislature enacts
27 section 43-1089.03, Arizona Revised Statutes, as added by this act, to encourage
28 individuals to make charitable contributions to school tuition organizations in
29 order to improve education by raising tuition scholarships for children in this
30 state.

1 Sec. 21. Retroactivity
2 Sections 43-222, 43-401, 43-1021, 43-1089.03, 43-1602, 43-1603, and
3 43-1604, Arizona Revised Statutes, as amended or added by this act apply
4 retroactively to taxable years beginning from and after December 31, 2011."
5 Amend title to conform

JACK HARPER

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