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Senate Engrossed

State of Arizona  
Senate  
Forty-sixth Legislature  
First Regular Session  
2003

# SENATE BILL 1263

AN ACT

AMENDING SECTIONS 43-222 AND 43-1121, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1182; RELATING TO CORPORATE INCOME TAX CREDITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1

1 Be it enacted by the Legislature of the State of Arizona:

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

4 43-222. Income tax credit review schedule

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

7 1. In 2002, sections 43-1076, 43-1077, 43-1078, 43-1079, 43-1080,  
8 43-1165, 43-1166, 43-1167 and 43-1169.

9 2. In 2003, sections 43-1074.01, 43-1081, 43-1085, 43-1168, 43-1170,  
10 43-1173 and 43-1178.

11 3. In 2004, sections 43-1081.01, 43-1083, 43-1084 and 43-1170.01.

12 4. In 2005, sections 43-1087, 43-1088, 43-1090.01, 43-1175 and  
13 43-1177.

14 5. In 2006, sections 43-1073, 43-1089, 43-1089.01, 43-1089.02,  
15 43-1090, 43-1176 and 43-1181.

16 6. IN 2008, SECTION 43-1182.

17 Sec. 2. Section 43-1121, Arizona Revised Statutes, is amended to read:

18 43-1121. Additions to Arizona gross income; corporations

19 In computing Arizona taxable income for a corporation, the following  
20 amounts shall be added to Arizona gross income:

21 1. The amounts computed pursuant to section 43-1021, paragraphs 3  
22 through 9, 13 and 29.

23 2. The amount of dividend income received from corporations and  
24 allowed as a deduction pursuant to sections 243, 244 and 245 of the internal  
25 revenue code.

26 3. Taxes which are based on income paid to states, local governments  
27 or foreign governments and which were deducted in computing federal taxable  
28 income.

29 4. Expenses and interest relating to tax-exempt income on indebtedness  
30 incurred or continued to purchase or carry obligations the interest on which  
31 is wholly exempt from the tax imposed by this title. Financial institutions,  
32 as defined in section 6-101, shall be governed by section 43-961,  
33 paragraph 2.

34 5. Commissions, rentals and other amounts paid or accrued to a  
35 domestic international sales corporation controlled by the payor corporation  
36 if the domestic international sales corporation is not required to report its  
37 taxable income to this state because its income is not derived from or  
38 attributable to sources within this state. If the domestic international  
39 sales corporation is subject to article 4 of this chapter, the department  
40 shall prescribe by rule the method of determining the portion of the  
41 commissions, rentals and other amounts which are paid or accrued to the  
42 controlled domestic international sales corporation and which shall be  
43 deducted by the payor. "Control" for purposes of this paragraph means direct  
44 or indirect ownership or control of fifty per cent or more of the voting

- 1 stock of the domestic international sales corporation by the payor  
2 corporation.
- 3 6. Federal income tax refunds received during the taxable year to the  
4 extent they were deducted in arriving at Arizona taxable income in a previous  
5 year.
- 6 7. The amount of net operating loss taken pursuant to section 172 of  
7 the internal revenue code.
- 8 8. The amount of exploration expenses determined pursuant to section  
9 617 of the internal revenue code to the extent that they exceed seventy-five  
10 thousand dollars and to the extent that the election is made to defer those  
11 expenses not in excess of seventy-five thousand dollars.
- 12 9. Amortization of costs incurred to install pollution control devices  
13 and deducted pursuant to the internal revenue code or the amount of deduction  
14 for depreciation taken pursuant to the internal revenue code on pollution  
15 control devices for which an election is made pursuant to section 43-1129.
- 16 10. The amount of depreciation or amortization of costs of child care  
17 facilities deducted pursuant to section 167 or 188 of the internal revenue  
18 code for which an election is made to amortize pursuant to section 43-1130.
- 19 11. Arizona state income tax refunds received, to the extent the amount  
20 of the refunds is not already included in Arizona gross income, if a tax  
21 benefit was derived by deduction of this amount in a prior year.
- 22 12. The amount paid as taxes on property in this state by a qualified  
23 defense contractor with respect to which a credit is claimed under section  
24 43-1166.
- 25 13. The loss of an insurance company that is exempt under section  
26 43-1201 to the extent that it is included in computing Arizona gross income  
27 on a consolidated return pursuant to section 43-947.
- 28 14. The amount by which the depreciation or amortization computed under  
29 the internal revenue code with respect to property for which a credit was  
30 taken under section 43-1169 exceeds the amount of depreciation or  
31 amortization computed pursuant to the internal revenue code on the Arizona  
32 adjusted basis of the property.
- 33 15. The amount by which the adjusted basis computed under the internal  
34 revenue code with respect to property for which a credit was claimed under  
35 section 43-1169 and which is sold or otherwise disposed of during the taxable  
36 year exceeds the adjusted basis of the property computed under section  
37 43-1169.
- 38 16. The amount by which the depreciation or amortization computed under  
39 the internal revenue code with respect to property for which a credit was  
40 taken under either section 43-1170 or 43-1170.01 exceeds the amount of  
41 depreciation or amortization computed pursuant to the internal revenue code  
42 on the Arizona adjusted basis of the property.
- 43 17. The amount by which the adjusted basis computed under the internal  
44 revenue code with respect to property for which a credit was claimed under  
45 either section 43-1170 or 43-1170.01 and which is sold or otherwise disposed

1 of during the taxable year exceeds the adjusted basis of the property  
2 computed under section 43-1170 or 43-1170.01, as applicable.

3 18. The deduction referred to in section 1341(a)(4) of the internal  
4 revenue code for restoration of a substantial amount held under a claim of  
5 right.

6 19. The amount by which a capital loss carryover allowable pursuant to  
7 section 1341(b)(5) of the internal revenue code exceeds the capital loss  
8 carryover allowable pursuant to section 43-1130.01, subsection F.

9 20. Any amount deducted in computing Arizona taxable income as expenses  
10 for installing solar stub outs or electric vehicle recharge outlets in this  
11 state with respect to which a credit is claimed pursuant to section 43-1176.

12 21. Any wage expenses deducted pursuant to the internal revenue code  
13 for which a credit is claimed under section 43-1175 and representing net  
14 increases in qualified employment positions for employment of temporary  
15 assistance for needy families recipients.

16 22. Any amount of expenses that were deducted pursuant to the internal  
17 revenue code and for which a credit is claimed under section 43-1178.

18 23. Any amount deducted pursuant to section 170 of the internal revenue  
19 code representing the contribution of a motor vehicle for which a credit is  
20 claimed pursuant to section 43-1177.

21 24. Any amount deducted for conveying ownership or development rights  
22 of property to an agricultural preservation district under section 48-5702  
23 for which a credit is claimed under section 43-1180.

24 25. The amount of any deduction that is claimed in computing Arizona  
25 gross income and that represents a donation of a school site for which a  
26 credit is claimed under section 43-1181.

27 26. ANY AMOUNT DEDUCTED PURSUANT TO SECTION 170 OF THE INTERNAL REVENUE  
28 CODE REPRESENTING CONTRIBUTIONS TO A SCHOOL TUITION ORGANIZATION FOR WHICH A  
29 CREDIT IS CLAIMED UNDER SECTION 43-1182.

30 Sec. 3. Title 43, chapter 11, article 6, Arizona Revised Statutes, is  
31 amended by adding section 43-1182, to read:

32 43-1182. Credit for contributions to school tuition  
33 organization; definitions

34 A. FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2003 AND  
35 SUBJECT TO SUBSECTION N OF THIS SECTION, A CREDIT IS ALLOWED AGAINST THE  
36 TAXES IMPOSED BY THIS TITLE FOR THE AMOUNT OF VOLUNTARY CASH CONTRIBUTIONS  
37 MADE BY THE TAXPAYER FROM JANUARY 1 THROUGH JULY 15 OF THE TAXABLE YEAR TO A  
38 SCHOOL TUITION ORGANIZATION.

39 B. THE CREDIT ALLOWED BY THIS SECTION IS IN LIEU OF ANY DEDUCTION  
40 PURSUANT TO SECTION 170 OF THE INTERNAL REVENUE CODE AND TAKEN FOR STATE TAX  
41 PURPOSES.

42 C. A SCHOOL TUITION ORGANIZATION THAT RECEIVES CONTRIBUTIONS UNDER  
43 THIS SECTION SHALL USE THOSE CONTRIBUTIONS TO PROVIDE EDUCATIONAL  
44 SCHOLARSHIPS OR TUITION GRANTS ONLY TO CHILDREN WHO:

1           1. QUALIFY FOR FREE OR REDUCED PRICE LUNCHES UNDER THE NATIONAL SCHOOL  
2 LUNCH AND CHILD NUTRITION ACTS (42 UNITED STATES CODE SECTIONS 1751 THROUGH  
3 1785) TRANSFERRED, ATTENDED A GOVERNMENTAL PRIMARY OR SECONDARY SCHOOL AS A  
4 FULL-TIME STUDENT AS DEFINED IN SECTION 15-901 FOR AT LEAST THE FIRST ONE  
5 HUNDRED DAYS OF THE PRIOR FISCAL YEAR AND FROM A GOVERNMENTAL PRIMARY OR  
6 SECONDARY SCHOOL TO A QUALIFIED SCHOOL.

7           2. RECEIVED AN EDUCATIONAL SCHOLARSHIP OR TUITION GRANT UNDER  
8 PARAGRAPH 1 OF THIS SUBSECTION IF THE CHILDREN CONTINUE TO ATTEND A QUALIFIED  
9 SCHOOL IN A SUBSEQUENT YEAR.

10          D. A SCHOOL TUITION ORGANIZATION SHALL NOT USE CONTRIBUTIONS UNDER  
11 THIS SECTION TO PROVIDE EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS TO  
12 CHILDREN WHO ENROLL IN A PRESCHOOL OR KINDERGARTEN PROGRAM.

13          E. ON OR BEFORE AUGUST 1 OF EACH YEAR, A SCHOOL TUITION ORGANIZATION  
14 SHALL ISSUE EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS TO CHILDREN FOR THE  
15 FOLLOWING SCHOOL YEAR. THE SCHOOL TUITION ORGANIZATION SHALL REQUIRE THAT  
16 THE CHILDREN USE THE EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS ON A  
17 FULL-TIME BASIS BEGINNING ON THE FIRST DAY OF THE FOLLOWING SCHOOL YEAR. IF  
18 A CHILD LEAVES THE QUALIFIED SCHOOL BEFORE COMPLETING AN ENTIRE SCHOOL YEAR,  
19 THE QUALIFIED SCHOOL SHALL REFUND A PRORATED AMOUNT OF THE EDUCATIONAL  
20 SCHOLARSHIP OR TUITION GRANT TO THE STUDENT TUITION ORGANIZATION THAT ISSUED  
21 THE EDUCATIONAL SCHOLARSHIP OR TUITION GRANT TO THE CHILD. AFTER RECEIVING  
22 ANY PRORATED REFUND AMOUNT, THE STUDENT TUITION ORGANIZATION SHALL REFUND  
23 THIS AMOUNT TO THE TAXPAYER. A TAX CREDIT IS NOT ALLOWED FOR ANY AMOUNT THAT  
24 IS REFUNDED TO THE TAXPAYER. THE STUDENT TUITION ORGANIZATION SHALL NOTIFY  
25 THE DEPARTMENT IF A REFUND IS MADE TO A TAXPAYER UNDER THIS SECTION.

26          F. ON OR BEFORE AUGUST 30 OF EACH YEAR, A SCHOOL TUITION ORGANIZATION  
27 THAT RECEIVES CONTRIBUTIONS UNDER THIS SECTION SHALL DETERMINE THE TOTAL  
28 AMOUNT OF CONTRIBUTIONS RECEIVED UNDER THIS SECTION AND THE TOTAL AMOUNT OF  
29 SCHOLARSHIPS OR TUITION GRANTS THAT THE SCHOOL TUITION ORGANIZATION ISSUED.  
30 IF THE TOTAL AMOUNT OF CONTRIBUTIONS THAT ARE RECEIVED BY THE SCHOOL TUITION  
31 ORGANIZATION EXCEEDS THE TOTAL AMOUNT OF SCHOLARSHIPS OR TUITION GRANTS THAT  
32 THE SCHOOL TUITION ORGANIZATION ISSUES, THE SCHOOL TUITION ORGANIZATION SHALL  
33 REFUND THE EXCESS AMOUNT TO THE TAXPAYER. IF TWO OR MORE TAXPAYERS MAKE  
34 CONTRIBUTIONS AND ARE ELIGIBLE FOR A REFUND UNDER THIS SECTION, THE STUDENT  
35 TUITION ORGANIZATION SHALL PROPORTIONATELY REFUND THE EXCESS CONTRIBUTIONS TO  
36 EACH TAXPAYER. A TAX CREDIT IS NOT ALLOWED FOR ANY AMOUNT THAT IS REFUNDED  
37 TO THE TAXPAYER. THE STUDENT TUITION ORGANIZATION SHALL NOTIFY THE  
38 DEPARTMENT IF A REFUND IS MADE TO A TAXPAYER UNDER THIS SECTION.

39          G. A SCHOOL TUITION ORGANIZATION SHALL NOTIFY THE SUPERINTENDENT OF  
40 PUBLIC INSTRUCTION EACH TIME THE SCHOOL TUITION ORGANIZATION ISSUES A  
41 SCHOLARSHIP OR TUITION GRANT PURSUANT TO THIS SECTION. THE NOTIFICATION  
42 SHALL INCLUDE THE NAME OF THE CHILD WHO RECEIVES THE SCHOLARSHIP OR TUITION  
43 GRANT AND THE LAST SCHOOL DISTRICT IN WHICH THE CHILD WAS ENROLLED BEFORE THE  
44 ISSUANCE OF THE SCHOLARSHIP OR TUITION GRANT. THE SUPERINTENDENT OF PUBLIC  
45 INSTRUCTION SHALL IMMEDIATELY REDUCE THE STUDENT COUNT OF THE SCHOOL DISTRICT

1 IN WHICH THE CHILD WAS ENROLLED DURING THE PRIOR SCHOOL YEAR AND THE SCHOOL  
2 DISTRICT IS NOT ELIGIBLE TO RECEIVE THE PORTION OF THE STATE AID THAT THE  
3 SCHOOL DISTRICT WOULD OTHERWISE RECEIVE FOR THAT CHILD DURING THE CURRENT  
4 SCHOOL YEAR.

5 H. A SCHOOL TUITION ORGANIZATION SHALL PROVIDE DOCUMENTATION TO THE  
6 TAXPAYER THAT A SCHOLARSHIP OR TUITION GRANT WAS ISSUED TO AN ELIGIBLE CHILD.  
7 THE TAXPAYER SHALL SUBMIT A COPY OF THIS DOCUMENTATION TO THE DEPARTMENT WITH  
8 THE INCOME TAX RETURN FOR THE TAXABLE YEAR IN WHICH THE CREDIT IS CLAIMED.

9 I. A SCHOOL TUITION ORGANIZATION SHALL NOT ISSUE AN EDUCATIONAL  
10 SCHOLARSHIP OR TUITION GRANT IN AN AMOUNT THAT EXCEEDS SIXTY PER CENT OF THE  
11 PER PUPIL EXPENDITURE AMOUNT REPORTED BY THE SUPERINTENDENT OF PUBLIC  
12 INSTRUCTION PURSUANT TO SECTION 15-255.

13 J. CHILDREN WHO RECEIVE EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS  
14 UNDER THIS SECTION SHALL BE ALLOWED TO ATTEND ANY QUALIFIED SCHOOL OF THEIR  
15 PARENT'S CHOICE.

16 K. ON OR BEFORE MARCH 1 OF EACH YEAR, EVERY STUDENT TUITION  
17 ORGANIZATION THAT RECEIVES CONTRIBUTIONS UNDER THIS SECTION SHALL REPORT TO  
18 THE DEPARTMENT THE FOLLOWING:

19 1. THE TOTAL AMOUNT OF CONTRIBUTIONS RECEIVED UNDER THIS SECTION  
20 DURING THE PRIOR CALENDAR YEAR.

21 2. THE TOTAL AMOUNT OF SCHOLARSHIPS OR TUITION GRANTS ISSUED DURING  
22 THE PRIOR CALENDAR YEAR.

23 3. THE AVERAGE AMOUNT OF EACH SCHOLARSHIP OR TUITION GRANT ISSUED  
24 DURING THE PRIOR CALENDAR YEAR.

25 4. THE TOTAL NUMBER OF CHILDREN WHO RECEIVED TUITION GRANTS OR  
26 SCHOLARSHIPS DURING THE PRIOR CALENDAR YEAR AND THE NAME OF THE QUALIFIED  
27 SCHOOL THE CHILD ATTENDED.

28 L. ON OR BEFORE JULY 1 OF EACH YEAR, EVERY STUDENT TUITION  
29 ORGANIZATION SHALL PROVIDE TO THE DEPARTMENT VERIFICATION THAT AN INDEPENDENT  
30 AUDIT WAS COMPLETED FOR THE PRIOR CALENDAR YEAR.

31 M. ON OR BEFORE AUGUST 1 OF EACH YEAR, THE DEPARTMENT SHALL SUBMIT AN  
32 ANNUAL REPORT TO THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF  
33 THE HOUSE OF REPRESENTATIVES. THE REPORT SHALL INCLUDE:

34 1. A STATEWIDE SUMMARY OF THE INFORMATION THAT THE DEPARTMENT RECEIVES  
35 PURSUANT TO SUBSECTIONS K AND L OF THIS SECTION.

36 2. AN ANALYSIS OF THE FISCAL IMPACT AND NET SAVINGS OF THIS SECTION  
37 FOR THE PRIOR CALENDAR YEAR.

38 3. A LIST OF QUALIFIED SCHOOLS THAT RECEIVED EDUCATIONAL SCHOLARSHIP  
39 OR TUITION GRANT MONIES FOR CHILDREN WHO QUALIFIED UNDER THIS SECTION.

40 N. THE DEPARTMENT:

41 1. SHALL NOT ALLOW IN ANY CALENDAR YEAR TAX CREDITS UNDER THIS SECTION  
42 THAT EXCEED:

43 (a) TEN MILLION DOLLARS FOR 2004.

44 (b) TWENTY MILLION DOLLARS FOR 2005.

45 (c) THIRTY MILLION DOLLARS FOR 2006.

1 (d) FORTY MILLION DOLLARS FOR 2007.  
2 (e) FROM AND AFTER DECEMBER 31, 2007, FIFTY MILLION DOLLARS.  
3 2. SHALL REQUIRE CORPORATIONS TO RECEIVE PREAPPROVAL FROM THE  
4 DEPARTMENT BEFORE MAKING A CONTRIBUTION TO A SCHOOL TUITION ORGANIZATION.  
5 3. SHALL ALLOW THE TAX CREDITS ON A FIRST COME, FIRST SERVED BASIS.  
6 4. SHALL ADOPT RULES NECESSARY FOR THE ADMINISTRATION OF THIS SECTION.  
7 0. FOR THE PURPOSES OF THIS SECTION:  
8 1. "QUALIFIED SCHOOL" MEANS A NONGOVERNMENTAL PRIMARY SCHOOL OR  
9 SECONDARY SCHOOL THAT IS LOCATED IN THIS STATE, THAT DOES NOT DISCRIMINATE ON  
10 THE BASIS OF RACE, COLOR, HANDICAP, FAMILIAL STATUS OR NATIONAL ORIGIN AND  
11 THAT SATISFIES THE REQUIREMENTS PRESCRIBED BY LAW FOR PRIVATE SCHOOLS IN THIS  
12 STATE ON JANUARY 1, 2003.  
13 2. "SCHOOL TUITION ORGANIZATION" MEANS A CHARITABLE ORGANIZATION IN  
14 THIS STATE THAT IS EXEMPT FROM FEDERAL TAXATION UNDER SECTION 501(c)(3) OF  
15 THE INTERNAL REVENUE CODE AND THAT ALLOCATES ONE HUNDRED PER CENT OF ITS  
16 ANNUAL REVENUE FOR EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS TO CHILDREN TO  
17 ALLOW THEM TO ATTEND ANY QUALIFIED SCHOOL OF THEIR PARENTS' CHOICE.  
18 Sec. 4. Purpose  
19 Pursuant to section 43-223, Arizona Revised Statutes, the legislature  
20 enacts section 43-1182, Arizona Revised Statutes, as added by this act, to  
21 encourage businesses to direct a portion of their taxes by contributing to  
22 student tuition organizations in order to improve education by raising  
23 tuition scholarships for children of low income families.