

REFERENCE TITLE: education savings trusts

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2183

Introduced by
Representative Biggs

AN ACT

AMENDING TITLE 15, CHAPTER 14, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 8;
AMENDING SECTION 43-1022, ARIZONA REVISED STATUTES; RELATING TO EDUCATION
SAVINGS TRUSTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 15, chapter 14, Arizona Revised Statutes, is amended
3 by adding article 8, to read:

4 ARTICLE 8. EDUCATION SAVINGS TRUSTS

5 15-1881. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "CUSTODIAN" MEANS A RESIDENT OF THIS STATE WHO IS A PARENT OR THE
8 LEGAL GUARDIAN OF A QUALIFYING PUPIL.

9 2. "INSTITUTION OF HIGHER EDUCATION" MEANS A PUBLIC OR PRIVATE
10 UNIVERSITY, COLLEGE, COMMUNITY COLLEGE OR JUNIOR COLLEGE, WHETHER SECULAR OR
11 SECTARIAN, THAT IS LOCATED IN THIS OR ANY OTHER STATE, THAT DOES NOT ADVOCATE
12 UNLAWFUL BEHAVIOR OR TEACH OR EXPOUND THE INFERIORITY OF ANY PERSON OR GROUP
13 ON THE BASIS OF RACE, ETHNICITY, COLOR, NATIONAL ORIGIN, RELIGION OR GENDER
14 AND THAT DOES NOT DISCRIMINATE IN ITS ADMISSIONS POLICY ON THE BASIS OF
15 NATIONAL ORIGIN, RACE, COLOR OR ANY OTHER CRITERIA OR CLASSIFICATION THAT IS
16 NOT VALID UNDER THE FEDERAL CONSTITUTION, EXCEPT THAT THE ESTABLISHMENT OF
17 SAME-SEX SCHOOLS OR CLASSROOMS BY A UNIVERSITY, COLLEGE, COMMUNITY COLLEGE OR
18 JUNIOR COLLEGE DOES NOT PRECLUDE THE INCLUSION OF THAT INSTITUTION AS AN
19 INSTITUTION OF HIGHER EDUCATION WITHIN THE MEANING OF THIS ARTICLE.

20 3. "QUALIFYING PUPIL" MEANS A STUDENT WHO ATTENDS A QUALIFYING SCHOOL
21 OR INSTITUTION OF HIGHER EDUCATION AND WHO IS THE BENEFICIARY OF A
22 DISTRIBUTION UNDER THIS ARTICLE.

23 4. "QUALIFYING SCHOOL" MEANS A PRIVATE SCHOOL, WHETHER SECULAR OR
24 SECTARIAN, THAT MAINTAINS ONE OR MORE GRADE LEVELS FROM KINDERGARTEN THROUGH
25 GRADE TWELVE AND THAT ELECTS AND IS ENTITLED TO PARTICIPATE IN AND REDEEM
26 SCHOLARSHIPS PURSUANT TO THIS ARTICLE.

27 15-1882. Education savings trust; authorized uses; transfers to
28 statewide educational choice administration fund

29 A. THE DEPARTMENT OF EDUCATION SHALL ESTABLISH AND MAINTAIN AN
30 EDUCATION SAVINGS TRUST IN THE NAME OF THE CUSTODIAN OF A QUALIFYING PUPIL TO
31 RECEIVE MONIES TO BE HELD IN TRUST AND CREDITED TO THAT TRUST FOR THE USE AND
32 BENEFIT OF THE QUALIFYING PUPIL. THE AMOUNTS HELD IN THAT TRUST MAY BE USED
33 FROM TIME TO TIME, AT THE DIRECTION OF THE QUALIFYING PUPIL'S CUSTODIAN, FOR
34 ANY OR ALL OF THE FOLLOWING PURPOSES:

35 1. FOR DISTRIBUTION BY THE DEPARTMENT OF EDUCATION TO A QUALIFYING
36 SCHOOL IN WHICH THE QUALIFYING PUPIL IS ENROLLED IN PAYMENT OR PARTIAL
37 PAYMENT OF THE AMOUNT OF THE CHARGES THAT ARE MADE BY THE QUALIFYING SCHOOL
38 FOR THE TUITION AND FEES OF OR THE COST OF PROVIDING EDUCATIONAL AND RELATED
39 SERVICES TO THE QUALIFYING PUPIL.

40 2. FOR DISTRIBUTION BY THE DEPARTMENT OF EDUCATION TO AN INSTITUTION
41 OF HIGHER EDUCATION IN PAYMENT OR PARTIAL PAYMENT OF THE TUITION AND FEES
42 CHARGED BY THE INSTITUTION FOR THE INSTRUCTION OF AND USE OF ITS FACILITIES
43 BY THE QUALIFYING PUPIL ON THE PUPIL'S ENROLLMENT AS A FULL-TIME OR PART-TIME
44 STUDENT IN THAT INSTITUTION FOLLOWING THE COMPLETION OF THE PUPIL'S HIGH

1 SCHOOL EDUCATION. THE INSTITUTION OF HIGHER EDUCATION SHALL SUBMIT TO THE
2 DEPARTMENT OF EDUCATION PROOF OF EACH OF THE FOLLOWING:

3 (a) THE PUPIL'S ENROLLMENT AS A FULL-TIME OR PART-TIME STUDENT IN THAT
4 INSTITUTION.

5 (b) THE AMOUNT OF THE TUITION AND FEES CHARGED BY THAT INSTITUTION TO
6 THE PUPIL FOR THAT ENROLLMENT.

7 B. THE STATEWIDE EDUCATIONAL CHOICE ADMINISTRATION FUND IS
8 ESTABLISHED. THE DEPARTMENT OF EDUCATION SHALL ADMINISTER THE FUND. MONIES
9 IN THE FUND ARE CONTINUOUSLY APPROPRIATED. ON THE FIRST TO OCCUR OF ANY OF
10 THE FOLLOWING EVENTS, ALL MONIES THEN REMAINING IN THE EDUCATION SAVINGS
11 TRUST MAINTAINED BY THE DEPARTMENT OF EDUCATION IN THE NAME OF THE CUSTODIAN
12 OF A QUALIFYING PUPIL SHALL BE TRANSFERRED AND PAID BY THE DEPARTMENT OF
13 EDUCATION TO THE STATE TREASURER FOR DEPOSIT IN THE STATEWIDE EDUCATIONAL
14 CHOICE ADMINISTRATION FUND:

15 1. THE PERSON FOR WHOSE BENEFIT THE EDUCATION SAVINGS TRUST HAS BEEN
16 MAINTAINED DIES OR FOR ANY OTHER REASON CEASES TO BE A RESIDENT OF THIS
17 STATE.

18 2. THE PERSON FOR WHOSE BENEFIT THE EDUCATION SAVINGS TRUST HAS BEEN
19 MAINTAINED REACHES TWENTY-THREE YEARS OF AGE.

20 C. ON THE FIRST TO OCCUR OF THE EVENTS DESCRIBED IN SUBSECTION B, ALL
21 INTEREST OF THE QUALIFYING PUPIL FOR WHOSE BENEFIT THAT TRUST WAS MAINTAINED,
22 AND ALL INTEREST OF THE CUSTODIAN OF THAT QUALIFYING PUPIL, IN AND TO THAT
23 TRUST AND THE MONIES THAT REMAIN IN THE TRUST AT THE TIME OF THE TRANSFER OF
24 THOSE MONIES FROM THAT TRUST TO THE STATE TREASURER ARE TERMINATED.

25 D. THE MONIES TRANSFERRED BY THE DEPARTMENT OF EDUCATION TO THE STATE
26 TREASURER FOR DEPOSIT IN THE STATEWIDE EDUCATIONAL CHOICE ADMINISTRATION FUND
27 SHALL BE CREDITED TO A SPECIAL ACCOUNT THAT THE STATE TREASURER SHALL
28 ESTABLISH AND MAINTAIN IN THAT FUND TO THE CREDIT OF THE DEPARTMENT OF
29 EDUCATION AND, SUBJECT TO APPROPRIATIONS MADE FROM THAT FUND, SHALL BE USED
30 FOR PAYMENT OF THE COSTS AND EXPENSES THAT ARE INCURRED BY THE DEPARTMENT OF
31 EDUCATION IN PERFORMING THE DUTIES AND RESPONSIBILITIES UNDER THIS ARTICLE.

32 15-1883. Education expenses; exemption from taxation

33 NOTWITHSTANDING ANY OTHER LAW, THE AMOUNT OF ANY DISTRIBUTION FROM AN
34 EDUCATION SAVINGS TRUST ESTABLISHED UNDER THIS ARTICLE IS EXEMPT FROM
35 TAXATION UNDER TITLE 43.

36 Sec. 2. Section 43-1022, Arizona Revised Statutes, is amended to read:

37 43-1022. Subtractions from Arizona gross income

38 In computing Arizona adjusted gross income, the following amounts shall
39 be subtracted from Arizona gross income:

40 1. The amount of exemptions allowed by section 43-1023.

41 2. Benefits, annuities and pensions in an amount totaling not more
42 than two thousand five hundred dollars received from one or more of the
43 following:

44 (a) The United States government service retirement and disability
45 fund, retired or retainer pay of the uniformed services of the United States,

1 the United States foreign service retirement and disability system and any
2 other retirement system or plan established by federal law.

3 (b) The Arizona state retirement system, the corrections officer
4 retirement plan, the public safety personnel retirement system, the elected
5 officials' retirement plan, an optional retirement program established by the
6 Arizona board of regents under section 15-1628, an optional retirement
7 program established by a community college district board under section
8 15-1451 or a retirement plan established for employees of a county, city or
9 town in this state.

10 3. A beneficiary's share of the fiduciary adjustment to the extent
11 that the amount determined by section 43-1333 decreases the beneficiary's
12 Arizona gross income.

13 4. The amount of any distributions from an individual retirement
14 account as provided for in section 408 of the internal revenue code or from a
15 qualified retirement plan of a self-employed individual as provided for in
16 section 401 of the internal revenue code to the extent that total adjustments
17 made pursuant to this paragraph in all tax years do not exceed the total of
18 all contributions made by the taxpayer to such plans prior to December 31,
19 1975, which were included in computing Arizona taxable income.

20 5. The amount of income on an installment receivable which is
21 recognized pursuant to the internal revenue code and which has already been
22 recognized on the death of the taxpayer for purposes of this title for tax
23 years ending before January 1, 1990.

24 6. Interest income received on obligations of the United States, less
25 any interest on indebtedness, or other related expenses, and deducted in
26 arriving at Arizona gross income, which were incurred or continued to
27 purchase or carry such obligations.

28 7. The amount of any income tax refunds which were received from
29 states other than Arizona and which were included as income in computing
30 federal adjusted gross income.

31 8. Annuity income included in federal adjusted gross income pursuant
32 to section 72 of the internal revenue code if the first payment with respect
33 to such annuity was received prior to December 31, 1978.

34 9. The excess of a partner's share of income required to be included
35 under section 702(a)(8) of the internal revenue code over the income required
36 to be included under chapter 14, article 2 of this title.

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

40 11. The amount by which the adjusted basis of property described in
41 this paragraph and computed pursuant to this title and the income tax act of
42 1954, as amended, exceeds the adjusted basis of such property computed
43 pursuant to the internal revenue code. This paragraph shall apply to all
44 property which is held for the production of income and which is sold or

1 otherwise disposed of during the taxable year other than depreciable property
2 used in a trade or business.

3 12. The amount allowed by section 43-1024 for amortization, by a
4 qualified defense contractor certified by the department of commerce under
5 section 41-1508, of a capital investment for private commercial activities.

6 13. The amount of gain included in federal adjusted gross income on the
7 sale or other disposition of a capital investment that a qualified defense
8 contractor has elected to amortize pursuant to section 43-1024.

9 14. The amount allowed by section 43-1025 for contributions during the
10 taxable year of agricultural crops to charitable organizations.

11 15. The portion of any wages or salaries paid or incurred by the
12 taxpayer for the taxable year that is equal to the amount of the federal work
13 opportunity credit, the empowerment zone employment credit, the credit for
14 employer paid social security taxes on employee cash tips and the Indian
15 employment credit that the taxpayer received under sections 45A, 45B, 51(a)
16 and 1396 of the internal revenue code.

17 16. The amount of prizes or winnings less than five thousand dollars in
18 a single taxable year from any of the state lotteries established and
19 operated pursuant to title 5, chapter 5, article 1, except that all such
20 winnings before March 22, 1983, including periodic distributions from such
21 winnings made after March 22, 1983, may be subtracted.

22 17. The amount of exploration expenses that is determined pursuant to
23 section 617 of the internal revenue code, that has been deferred in a taxable
24 year ending before January 1, 1990 and for which a subtraction has not
25 previously been made. The subtraction shall be made on a ratable basis as
26 the units of produced ores or minerals discovered or explored as a result of
27 this exploration are sold.

28 18. The amount included in federal adjusted gross income pursuant to
29 section 86 of the internal revenue code, relating to taxation of social
30 security and railroad retirement benefits.

31 19. To the extent not already excluded from Arizona gross income under
32 section 112 of the internal revenue code, compensation received for active
33 service as a member of the armed forces of the United States for any month
34 during any part of which the member served in a combat zone as determined
35 under section 112 of the internal revenue code or in an area given the same
36 treatment as a combat zone for purposes of section 112 of the internal
37 revenue code.

38 20. The amount of unreimbursed medical and hospital costs, adoption
39 counseling, legal and agency fees and other nonrecurring costs of adoption
40 not to exceed three thousand dollars. In the case of a husband and wife who
41 file separate returns, the subtraction may be taken by either taxpayer or may
42 be divided between them, but the total subtractions allowed both husband and
43 wife shall not exceed three thousand dollars. The subtraction under this
44 paragraph may be taken for the costs that are described in this paragraph and

1 that are incurred in prior years, but the subtraction may be taken only in
2 the year during which the final adoption order is granted.

3 21. The amount authorized by section 43-1027 for the taxable year
4 relating to qualified wood stoves, wood fireplaces or gas fired fireplaces.

5 22. With respect to a medical savings account established pursuant to
6 section 43-1028:

7 (a) An eligible individual may subtract:

8 (i) The amount of contributions made by the individual's employer
9 during the taxable year to the individual's medical savings account pursuant
10 to section 43-1028 to the extent that the employer contributions are included
11 in the individual's federal adjusted gross income.

12 (ii) The amount deposited by the individual in the account during the
13 taxable year to the extent that the individual's contributions are included
14 in the individual's federal adjusted gross income.

15 (b) The individual's employer may subtract the amount of contributions
16 made by the employer to a medical savings account established on the
17 individual's behalf to the extent that the contributions are not deductible
18 under the internal revenue code.

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

23 24. Any amount of qualified educational expenses that is distributed
24 from a qualified state tuition program determined pursuant to section 529 of
25 the internal revenue code and that is included in income in computing federal
26 adjusted gross income.

27 25. Any item of income resulting from an installment sale that has been
28 properly subjected to income tax in another state in a previous taxable year
29 and that is included in Arizona gross income in the current taxable year.

30 26. The amount authorized by section 43-1030 relating to holocaust
31 survivors.

32 27. The amount authorized by section 43-1031 for constructing an energy
33 efficient residence.

34 28. An amount equal to the depreciation allowable pursuant to section
35 167(a) of the internal revenue code for the taxable year computed as if the
36 election described in section 168(k)(2)(C)(iii) of the internal revenue code
37 had been made for each applicable class of property in the year the property
38 was placed in service.

39 29. With respect to property that is sold or otherwise disposed of
40 during the taxable year by a taxpayer that complied with section 43-1021,
41 paragraph 26 with respect to that property, the amount of depreciation that
42 has been allowed pursuant to section 167(a) of the internal revenue code to
43 the extent that the amount has not already reduced Arizona taxable income in
44 the current or prior taxable years.

1 30. With respect to property for which an adjustment was made under
2 section 43-1021, paragraph 27, an amount equal to one-fifth of the amount of
3 the adjustment pursuant to section 43-1021, paragraph 27 in the year in which
4 the amount was adjusted under section 43-1021, paragraph 27 and in each of
5 the following four years.

6 31. ANY AMOUNT THAT IS DISTRIBUTED FROM AN EDUCATION SAVINGS TRUST
7 PURSUANT TO SECTION 15-1882 AND THAT IS INCLUDED IN INCOME IN COMPUTING
8 FEDERAL ADJUSTED GROSS INCOME.