

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

HOUSE BILL 2663

AN ACT

AMENDING SECTIONS 20-224.06, 20-224.07, 43-1183 AND 43-1184, ARIZONA REVISED STATUTES; AMENDING TITLE 43, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 15; RELATING TO SCHOOL TUITION ORGANIZATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 20-224.06, Arizona Revised Statutes, is amended to
3 read:

4 20-224.06. Premium tax credit for contributions to school
5 tuition organization

6 A. A credit is allowed against the premium tax liability incurred by
7 an insurer pursuant to section 20-224, 20-837, 20-1010, 20-1060 or 20-1097.07
8 for the amount of voluntary cash contributions made by the insurer during the
9 tax year to a school tuition organization.

10 B. The amount of the credit is the total amount of the insurer's
11 contributions for the tax year under subsection A of this section that is
12 preapproved by the department of revenue pursuant to section 43-1183,
13 subsection D.

14 C. The procedures, conditions, limitations, definitions and other
15 requirements prescribed by section 43-1183 AND TITLE 43, CHAPTER 15 apply to:

16 1. Insurers that claim a credit under this section.

17 2. Claims for credit under this section.

18 3. School tuition organizations that receive contributions from
19 insurers for the purposes of this section.

20 4. Schools that qualify to receive scholarship monies contributed by
21 insurers for the purposes of this section.

22 5. Students who receive scholarships from monies contributed by
23 insurers for the purposes of this section.

24 D. If the allowable amount of a credit under this section exceeds the
25 insurer's state premium tax liability, the amount of the claim not used to
26 offset the premium tax liability may be carried forward as a credit against
27 the insurer's subsequent years' premium tax liability for a period not to
28 exceed five taxable years.

29 E. A credit is not allowed if the insurer designates the contribution
30 for the direct benefit of any specific student.

31 F. An insurer that claims a tax credit against state premium tax
32 liability is not required to pay any additional retaliatory tax imposed
33 pursuant to section 20-230 as a result of claiming that tax credit.

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

37 Sec. 2. Section 20-224.07, Arizona Revised Statutes, is amended to
38 read:

39 20-224.07. Premium tax credit for contributions to school
40 tuition organization

41 A. A credit is allowed against the premium tax liability incurred by
42 an insurer pursuant to section 20-224, 20-837, 20-1010, 20-1060 or 20-1097.07
43 for the amount of voluntary cash contributions made by the insurer during the
44 tax year to a school tuition organization.

B. The amount of the credit is the total amount of the insurer's contributions for the tax year under subsection A of this section that is preapproved by the department of revenue pursuant to section 43-1184, subsection D.

C. The procedures, conditions, limitations, definitions and other requirements prescribed by section 43-1184 AND TITLE 43, CHAPTER 15 apply to:

1. Insurers that claim a credit under this section.

2. Claims for credit under this section.

3. School tuition organizations that receive contributions from insurers for the purposes of this section.

4. Qualified schools that participate under this section.

5. Students who receive scholarships from monies contributed by insurers for the purposes of this section.

D. If the allowable amount of a credit under this section exceeds the insurer's state premium tax liability, the amount of the claim not used to offset the premium tax liability may be carried forward as a credit against the insurer's subsequent years' premium tax liability for a period not to exceed five taxable years.

E. A credit is not allowed if the insurer designates the contribution for the direct benefit of any specific student.

F. An insurer that claims a tax credit against state premium tax liability is not required to pay any additional retaliatory tax imposed pursuant to section 20-230 as a result of claiming that tax credit.

G. The department of insurance, with the cooperation of the department of revenue, shall adopt rules necessary for the administration of this section.

Sec. 3. Section 43-1183, Arizona Revised Statutes, is amended to read:

43-1183. Credit for contributions to school tuition organization; definition

A. Beginning from and after June 30, 2006, a credit is allowed against the taxes imposed by this title for the amount of voluntary cash contributions made by the taxpayer during the taxable year to a school tuition organization **THAT IS CERTIFIED PURSUANT TO CHAPTER 15 OF THIS TITLE AT THE TIME OF DONATION.**

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

C. The department of revenue:

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

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

3 3. Shall allow the tax credits under this section and section
4 20-224.06 on a first come, first served basis.

5 D. For the purposes of subsection C, paragraph 2 of this section,
6 before making a contribution to a school tuition organization, the taxpayer
7 under this title or title 20 must notify the school tuition organization of
8 the total amount of contributions that the taxpayer intends to make to the
9 school tuition organization. Before accepting the contribution, the school
10 tuition organization shall request preapproval from the department of revenue
11 for the taxpayer's intended contribution amount. The department of revenue
12 shall preapprove or deny the requested amount within twenty days after
13 receiving the request from the school tuition organization. If the
14 department of revenue preapproves the request, the school tuition
15 organization shall immediately notify the taxpayer, and the department of
16 insurance in the case of a credit under section 20-224.06, that the requested
17 amount was preapproved by the department of revenue. In order to receive a
18 tax credit under this subsection, the taxpayer shall make the contribution to
19 the school tuition organization within ten days after receiving notice from
20 the school tuition organization that the requested amount was preapproved.
21 If the school tuition organization does not receive the preapproved
22 contribution from the taxpayer within the required ten days, the school
23 tuition organization shall immediately notify the department of revenue, and
24 the department of insurance in the case of a credit under section 20-224.06,
25 and the department of revenue shall no longer include this preapproved
26 contribution amount when calculating the limit prescribed in subsection C,
27 paragraph 1 of this section.

28 ~~E. A school tuition organization that receives contributions under~~
29 ~~this section or section 20-224.06 shall allow the department of revenue to~~
30 ~~verify that the educational scholarships and tuition grants that are issued~~
31 ~~pursuant to this section are awarded to students who attend a qualified~~
32 ~~school.~~

33 ~~F.~~ E. If the allowable tax credit exceeds the taxes otherwise due
34 under this title on the claimant's income, or if there are no taxes due under
35 this title, the taxpayer may carry the amount of the claim not used to offset
36 the taxes under this title forward for not more than five consecutive taxable
37 years' income tax liability.

38 ~~G.~~ F. Co-owners of a business, including corporate partners in a
39 partnership, may each claim only the pro rata share of the credit allowed
40 under this section based on the ownership interest. The total of the credits
41 allowed all such owners may not exceed the amount that would have been
42 allowed a sole owner.

43 ~~H.~~ G. The credit allowed by this section is in lieu of any deduction
44 pursuant to section 170 of the internal revenue code and taken for state tax
45 purposes.

1 ~~I.~~ H. A taxpayer shall not claim a credit under this section and also
2 under section 43-1184 with respect to the same contribution.

3 ~~J.~~ I. The tax credit is not allowed if the taxpayer designates the
4 taxpayer's contribution to the school tuition organization for the direct
5 benefit of any specific student.

6 ~~K. A school tuition organization that receives contributions under
7 this section or section 20-224.06 shall use at least ninety per cent of those
8 contributions to provide educational scholarships or tuition grants only to
9 children whose family income does not exceed one hundred eighty five per cent
10 of the income limit required to qualify a child for reduced price lunches
11 under the national school lunch and child nutrition acts (42 United States
12 Code sections 1751 through 1785) and who either:~~

13 ~~1. Attended a governmental primary or secondary school as a full-time
14 student as defined in section 15-901 for at least the first one hundred days
15 of the prior fiscal year and transferred from a governmental primary or
16 secondary school to a qualified school.~~

17 ~~2. Enroll in a qualified school in a kindergarten program.~~

18 ~~3. Received an educational scholarship or tuition grant under
19 paragraph 1 or 2 of this subsection if the children continue to attend a
20 qualified school in a subsequent year.~~

21 ~~L. In 2006, a school tuition organization shall not issue an
22 educational scholarship or a tuition grant in an amount that exceeds four
23 thousand two hundred dollars for students in a kindergarten program or grades
24 one through eight or five thousand five hundred dollars for students in
25 grades nine through twelve. In each year after 2006, the limitation amount
26 for a scholarship or a grant under this subsection shall be increased by one
27 hundred dollars.~~

28 ~~M. A child is still eligible to receive an educational scholarship or
29 tuition grant under subsection K of this section if the child meets the
30 criteria to receive a reduced price lunch but does not actually claim that
31 benefit.~~

32 ~~N. The school tuition organization shall require that the children use
33 the educational scholarships or tuition grants on a full time basis. If a
34 child leaves the qualified school before completing an entire school year,
35 the qualified school shall refund a prorated amount of the educational
36 scholarship or tuition grant to the school tuition organization that issued
37 the educational scholarship or tuition grant to the child. Any refunds
38 received by the school tuition organization under this subsection shall be
39 allocated for educational scholarships or tuition grants to qualified
40 children in the following year.~~

41 ~~O. Children who receive educational scholarships or tuition grants
42 under this section shall be allowed to attend any qualified school of their
43 parents' choice.~~

44 ~~P. A school tuition organization that receives a voluntary cash
45 contribution pursuant to this section or section 20-224.06 shall report to~~

1 ~~the department of revenue and the department of insurance, in a form~~
2 ~~prescribed by the department of revenue, by June 30 of each year the~~
3 ~~following information:~~

4 ~~1. The name, address and contact name of the school tuition~~
5 ~~organization.~~

6 ~~2. The total number of contributions received during the previous~~
7 ~~calendar year, identified for the purposes of this section or section~~
8 ~~20-224.06.~~

9 ~~3. The total dollar amount of contributions received during the~~
10 ~~previous calendar year, identified for the purposes of this section or~~
11 ~~section 20-224.06.~~

12 ~~4. The total number of children awarded educational scholarships or~~
13 ~~tuition grants during the previous calendar year.~~

14 ~~5. The total dollar amount of educational scholarships and tuition~~
15 ~~grants awarded during the previous calendar year.~~

16 ~~6. For each school to which educational scholarships or tuition grants~~
17 ~~were awarded:~~

18 ~~(a) The name and address of the school.~~

19 ~~(b) The number of educational scholarships and tuition grants awarded~~
20 ~~during the previous calendar year.~~

21 ~~(c) The total dollar amount of educational scholarships and tuition~~
22 ~~grants awarded during the previous calendar year.~~

23 ~~7. Verification that an independent review of financial statements~~
24 ~~according to generally accepted accounting principles was completed by a~~
25 ~~certified public accountant for the previous calendar year.~~

26 ~~Q.~~ J. The department of revenue, with the cooperation of the
27 department of insurance, shall adopt rules and publish and prescribe forms
28 and procedures necessary for the administration of this section.

29 ~~R.~~ K. For the purposes of this section, ~~:-~~

30 ~~1.~~ "qualified school":

31 1. Means a nongovernmental primary school or secondary school:

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

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

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

42 2. DOES NOT INCLUDE A CHARTER SCHOOL OR PROGRAMS OPERATED BY CHARTER
43 SCHOOLS.

44 ~~2. "School tuition organization" means a charitable organization in~~
45 ~~this state that both:~~

~~(a) Is exempt from federal taxation under section 501(c)(3) of the internal revenue code and that allocates ninety per cent of its annual revenue for educational scholarships or tuition grants to children to allow them to attend any qualified school of their parents' choice.~~

~~(b) Provides educational scholarships or tuition grants to students without limiting availability to only students of one school.~~

Sec. 4. Section 43-1184, Arizona Revised Statutes, is amended to read:

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

A. Beginning from and after June 30, 2009, a credit is allowed against the taxes imposed by this title for the amount of voluntary cash contributions made by the taxpayer during the taxable year to a school tuition organization **THAT IS CERTIFIED PURSUANT TO CHAPTER 15 OF THIS TITLE AT THE TIME OF DONATION.**

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

C. The department of revenue:

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

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

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

D. For the purposes of subsection C, paragraph 2 of this section, before making a contribution to a school tuition organization, the taxpayer under this title or title 20 must notify the school tuition organization of the total amount of contributions that the taxpayer intends to make to the school tuition organization. Before accepting the contribution, the school tuition organization shall request preapproval from the department of revenue for the taxpayer's intended contribution amount. The department of revenue shall preapprove or deny the requested amount within twenty days after receiving the request from the school tuition organization. If the department of revenue preapproves the request, the school tuition organization shall immediately notify the taxpayer that the requested amount was preapproved by the department of revenue. In order to receive a tax credit under this subsection, the taxpayer shall make the contribution to the school tuition organization within ten days after receiving notice from the school tuition organization that the requested amount was preapproved. If the school tuition organization does not receive the preapproved contribution from the taxpayer within the required ten days, the school tuition organization shall immediately notify the department of revenue and the

1 department shall no longer include this preapproved contribution amount when
2 calculating the limit prescribed in subsection C, paragraph 1 of this
3 section.

4 ~~E. A school tuition organization that receives contributions under~~
5 ~~this section or section 20-224.07 shall allow the department to verify that~~
6 ~~the educational scholarships and tuition grants that are issued pursuant to~~
7 ~~this section are awarded to qualified students who attend a qualified school.~~

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

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

18 ~~H.~~ G. The credit allowed by this section is in lieu of any deduction
19 pursuant to section 170 of the internal revenue code and taken for state tax
20 purposes.

21 ~~I.~~ H. A taxpayer shall not claim a credit under this section and also
22 under section 43-1183 with respect to the same contribution.

23 ~~J.~~ I. The tax credit is not allowed if the taxpayer designates the
24 taxpayer's contribution to the school tuition organization for the direct
25 benefit of any specific student.

26 ~~K. A school tuition organization that receives contributions under~~
27 ~~this section or section 20-224.07 shall use at least ninety per cent of those~~
28 ~~contributions to provide educational scholarships or tuition grants to~~
29 ~~qualified students who either:~~

30 ~~1. Received a grant or scholarship under title 15, chapter 8, article~~
31 ~~1.2 or 8 in order to attend a qualified school during the 2008-2009 academic~~
32 ~~year. In fiscal year 2009-2010, the school tuition organization shall give~~
33 ~~priority to qualified students under this paragraph before providing~~
34 ~~educational scholarships or tuition grants under paragraph 2 of this~~
35 ~~subsection.~~

36 ~~2. Attended a governmental primary or secondary school as a full-time~~
37 ~~student as defined in section 15-901 for at least the first one hundred days~~
38 ~~of the prior fiscal year and transferred from a governmental primary or~~
39 ~~secondary school to a qualified school.~~

40 ~~3. Received an educational scholarship or tuition grant under~~
41 ~~paragraph 1 or 2 of this subsection if the qualified student continues to~~
42 ~~attend a qualified school in a subsequent year.~~

43 ~~L. The amount of an educational scholarship or a tuition grant that is~~
44 ~~issued by a school tuition organization under this section shall not exceed~~
45 ~~the cost of tuition for the student to attend the qualified school or ninety~~

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

7 ~~M. The school tuition organization shall require that the qualified~~
8 ~~student use the educational scholarship or tuition grant on a full time~~
9 ~~basis. If a qualified student leaves the qualified school before completing~~
10 ~~an entire school year, the qualified school shall refund a prorated amount of~~
11 ~~the educational scholarship or tuition grant to the school tuition~~
12 ~~organization that issued the educational scholarship or tuition grant to the~~
13 ~~student. Any refunds received by the school tuition organization under this~~
14 ~~subsection shall be allocated for educational scholarships or tuition grants~~
15 ~~to qualified students in the following year.~~

16 ~~N. Qualified students who receive educational scholarships or tuition~~
17 ~~grants under this section shall be allowed to attend any qualified school of~~
18 ~~their custodians' choice.~~

19 ~~O. A school tuition organization that receives a voluntary cash~~
20 ~~contribution pursuant to this section or section 20-224.07 shall report to~~
21 ~~the department of revenue, in a form prescribed by the department of revenue,~~
22 ~~by June 30 of each year the following information:~~

23 ~~1. The name, address and contact name of the school tuition~~
24 ~~organization.~~

25 ~~2. The total number of contributions received during the previous~~
26 ~~calendar year, identified for the purposes of this section or section~~
27 ~~20-224.07.~~

28 ~~3. The total dollar amount of contributions received during the~~
29 ~~previous calendar year, identified for the purposes of this section or~~
30 ~~section 20-224.07.~~

31 ~~4. The total number of qualified students awarded educational~~
32 ~~scholarships or tuition grants during the previous calendar year.~~

33 ~~5. The total dollar amount of educational scholarships and tuition~~
34 ~~grants awarded during the previous calendar year.~~

35 ~~6. The percentage of the total dollar amount of educational~~
36 ~~scholarships and tuition grants awarded to students during the previous~~
37 ~~calendar year for each paragraph under subsection K of this section.~~

38 ~~7. For each qualified school to which educational scholarships or~~
39 ~~tuition grants were awarded:~~

40 ~~(a) The name and address of the qualified school.~~

41 ~~(b) The number of educational scholarships and tuition grants awarded~~
42 ~~during the previous calendar year.~~

43 ~~(c) The total dollar amount of educational scholarships and tuition~~
44 ~~grants awarded during the previous calendar year.~~

~~8. Verification that an independent review of financial statements according to generally accepted accounting principles was completed by a certified public accountant for the previous calendar year.~~

~~P. J.~~ The department of revenue shall adopt rules necessary for the administration of this section.

~~Q. K.~~ For the purposes of this section, ~~+~~

~~1. "Custodian" means a resident of this state who is a parent or an authorized out of home care provider or, if none, the legal guardian of a qualifying student.~~

~~2. "qualified school":~~

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

~~2. DOES NOT INCLUDE A CHARTER SCHOOL OR PROGRAMS OPERATED BY CHARTER SCHOOLS.~~

~~3. "Qualified student" means a student who has been either:~~

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

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

~~4. "School tuition organization" means a charitable organization in this state that both:~~

~~(a) Is exempt from federal taxation under section 501(c)(3) of the internal revenue code and that allocates ninety per cent of its annual revenue for educational scholarships or tuition grants to qualified students to allow them to attend any qualified school of their custodians' choice.~~

~~(b) Provides educational scholarships or tuition grants to students without limiting availability to only students of one school.~~

Sec. 5. Title 43, Arizona Revised Statutes, is amended by adding chapter 15, to read:

CHAPTER 15

SCHOOL TUITION ORGANIZATIONS FOR CORPORATE CONTRIBUTIONS

ARTICLE 1. GENERAL PROVISIONS

43-1501. Definitions

IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "ALLOCATE" INCLUDES RESERVING MONEY FOR AN AWARD OF A MULTIYEAR 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.

8 43-1502. Certification as a school tuition organization

9 A. A NONPROFIT ORGANIZATION IN THIS STATE THAT IS EXEMPT OR HAS
10 APPLIED FOR EXEMPTION FROM FEDERAL TAXATION UNDER SECTION 501(c)(3) OF THE
11 INTERNAL REVENUE CODE MAY APPLY TO THE DEPARTMENT OF REVENUE FOR
12 CERTIFICATION AS A SCHOOL TUITION ORGANIZATION, AND THE DEPARTMENT SHALL
13 CERTIFY THE SCHOOL TUITION ORGANIZATION IF IT MEETS THE REQUIREMENTS
14 PRESCRIBED BY THIS CHAPTER. AN ORGANIZATION MUST APPLY FOR CERTIFICATION ON
15 A FORM PRESCRIBED AND FURNISHED ON REQUEST BY THE DEPARTMENT.

16 B. THE DEPARTMENT SHALL:

17 1. MAINTAIN A PUBLIC REGISTRY OF CURRENTLY CERTIFIED SCHOOL TUITION
18 ORGANIZATIONS.

19 2. MAKE THE REGISTRY AVAILABLE TO THE PUBLIC ON REQUEST.

20 3. POST THE REGISTRY ON THE DEPARTMENT'S OFFICIAL WEBSITE.

21 C. THE DEPARTMENT SHALL SEND WRITTEN NOTICE BY CERTIFIED MAIL TO A
22 SCHOOL TUITION ORGANIZATION IF THE DEPARTMENT DETERMINES THAT THE SCHOOL
23 TUITION ORGANIZATION HAS ENGAGED IN ANY OF THE FOLLOWING ACTIVITIES:

24 1. FAILING OR REFUSING TO ALLOCATE AT LEAST NINETY PER CENT OF ANNUAL
25 REVENUES FOR EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS.

26 2. FAILING OR REFUSING TO FILE THE ANNUAL REPORTS REQUIRED BY SECTION
27 43-1506.

28 3. LIMITING AVAILABILITY OF SCHOLARSHIPS TO STUDENTS OF ONLY ONE
29 SCHOOL.

30 4. ENCOURAGING, FACILITATING OR KNOWINGLY PERMITTING TAXPAYERS TO
31 ENGAGE IN ACTIONS PROHIBITED BY THIS ARTICLE.

32 D. A SCHOOL TUITION ORGANIZATION THAT RECEIVES NOTICE FROM THE
33 DEPARTMENT PURSUANT TO SUBSECTION C OF THIS SECTION HAS NINETY DAYS TO
34 CORRECT THE VIOLATION IDENTIFIED BY THE DEPARTMENT IN THE NOTICE. IF A
35 SCHOOL TUITION ORGANIZATION FAILS OR REFUSES TO COMPLY AFTER NINETY DAYS, THE
36 DEPARTMENT MAY REMOVE THE ORGANIZATION FROM THE LIST OF CERTIFIED SCHOOL
37 TUITION ORGANIZATIONS AND SHALL MAKE AVAILABLE TO THE PUBLIC NOTICE OF
38 REMOVAL AS SOON AS POSSIBLE. AN ORGANIZATION THAT IS REMOVED FROM THE LIST
39 OF CERTIFIED SCHOOL TUITION ORGANIZATIONS MUST NOTIFY ANY TAXPAYER WHO
40 ATTEMPTS TO MAKE A CONTRIBUTION THAT THE CONTRIBUTION IS NOT ELIGIBLE FOR THE
41 TAX CREDIT AND OFFER TO REFUND ALL DONATIONS RECEIVED AFTER THE DATE OF THE
42 NOTICE OF TERMINATION OF CERTIFICATION.

43 E. A SCHOOL TUITION ORGANIZATION MAY REQUEST AN ADMINISTRATIVE HEARING
44 ON THE REVOCATION OF ITS CERTIFICATION AS PROVIDED BY TITLE 41, CHAPTER 6,
45 ARTICLE 10. EXCEPT AS PROVIDED IN SECTION 41-1092.08, SUBSECTION H, A

1 DECISION OF THE DEPARTMENT IS SUBJECT TO JUDICIAL REVIEW PURSUANT TO TITLE
2 12, CHAPTER 7, ARTICLE 6.

3 43-1503. Operational requirements for school tuition
4 organizations

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 SECTIONS 43-1183 AND 43-1184 AND INSURANCE PREMIUM TAX CREDITS UNDER
8 SECTIONS 20-224.06 AND 20-224.07 AND TO PAY EDUCATIONAL SCHOLARSHIPS OR
9 TUITION GRANTS TO ALLOW STUDENTS TO ATTEND ANY QUALIFIED SCHOOL OF THEIR
10 PARENTS' OR CUSTODIANS' CHOICE.

11 B. TO BE ELIGIBLE FOR CERTIFICATION AND RETAIN CERTIFICATION, THE
12 SCHOOL TUITION ORGANIZATION:

13 1. MUST ALLOCATE AT LEAST NINETY PER CENT OF ITS ANNUAL REVENUE 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. MUST ALLOW THE DEPARTMENT OF REVENUE TO VERIFY THAT THE EDUCATIONAL
18 SCHOLARSHIPS AND TUITION GRANTS THAT ARE ISSUED ARE AWARDED TO STUDENTS WHO
19 ATTEND A QUALIFIED SCHOOL.

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

22 A. A SCHOOL TUITION ORGANIZATION THAT RECEIVES CONTRIBUTIONS FROM A
23 CORPORATION FOR THE PURPOSES OF SECTION 20-224.06 OR 43-1183 MUST USE AT
24 LEAST NINETY PER CENT OF THOSE CONTRIBUTIONS TO PROVIDE EDUCATIONAL
25 SCHOLARSHIPS OR TUITION GRANTS ONLY TO CHILDREN WHOSE FAMILY INCOME DOES NOT
26 EXCEED ONE HUNDRED EIGHTY-FIVE PER CENT OF THE INCOME LIMIT REQUIRED TO
27 QUALIFY A CHILD FOR REDUCED PRICE LUNCHEES UNDER THE NATIONAL SCHOOL LUNCH AND
28 CHILD NUTRITION ACTS (42 UNITED STATES CODE SECTIONS 1751 THROUGH 1785) AND
29 WHO EITHER:

30 1. ATTENDED A GOVERNMENTAL PRIMARY OR SECONDARY SCHOOL AS A FULL-TIME
31 STUDENT AS DEFINED IN SECTION 15-901 FOR AT LEAST THE FIRST ONE HUNDRED DAYS
32 OF THE PRIOR FISCAL YEAR AND TRANSFERRED FROM A GOVERNMENTAL PRIMARY OR
33 SECONDARY SCHOOL TO A QUALIFIED SCHOOL.

34 2. ENROLL IN A QUALIFIED SCHOOL IN A KINDERGARTEN PROGRAM.

35 3. RECEIVED AN EDUCATIONAL SCHOLARSHIP OR TUITION GRANT UNDER
36 PARAGRAPH 1 OR 2 IF THE CHILDREN CONTINUE TO ATTEND A QUALIFIED SCHOOL IN A
37 SUBSEQUENT YEAR.

38 B. A CHILD IS ELIGIBLE TO RECEIVE AN EDUCATIONAL SCHOLARSHIP OR
39 TUITION GRANT UNDER SUBSECTION A OF THIS SECTION IF THE CHILD MEETS THE
40 CRITERIA TO RECEIVE A REDUCED PRICE LUNCH BUT DOES NOT ACTUALLY CLAIM THAT
41 BENEFIT.

42 C. IN 2006, A SCHOOL TUITION ORGANIZATION SHALL NOT ISSUE AN
43 EDUCATIONAL SCHOLARSHIP OR A TUITION GRANT FOR THE PURPOSES OF SECTION
44 20-224.06 OR 43-1183 IN AN AMOUNT THAT EXCEEDS FOUR THOUSAND TWO HUNDRED
45 DOLLARS FOR STUDENTS IN A KINDERGARTEN PROGRAM OR GRADES ONE THROUGH EIGHT OR

1 FIVE THOUSAND FIVE HUNDRED DOLLARS FOR STUDENTS IN GRADES NINE THROUGH
2 TWELVE. IN EACH YEAR AFTER 2006, THE LIMITATION AMOUNT FOR A SCHOLARSHIP OR
3 A GRANT UNDER THIS SUBSECTION SHALL BE INCREASED BY ONE HUNDRED DOLLARS.

4 D. A SCHOOL TUITION ORGANIZATION SHALL REQUIRE THAT STUDENT
5 BENEFICIARIES USE THE EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS ON A
6 FULL-TIME BASIS. IF A CHILD LEAVES THE SCHOOL BEFORE COMPLETING AN ENTIRE
7 SCHOOL YEAR, THE SCHOOL SHALL REFUND A PRORATED AMOUNT OF THE EDUCATIONAL
8 SCHOLARSHIP OR TUITION GRANT TO THE SCHOOL TUITION ORGANIZATION THAT ISSUED
9 THE SCHOLARSHIP OR GRANT. THE SCHOOL TUITION ORGANIZATION SHALL ALLOCATE ANY
10 REFUNDS IT RECEIVES UNDER THIS SUBSECTION FOR EDUCATIONAL SCHOLARSHIPS OR
11 TUITION GRANTS IN THE FOLLOWING YEAR.

12 E. STUDENTS WHO RECEIVE AN EDUCATIONAL SCHOLARSHIP OR TUITION GRANT
13 UNDER THIS SECTION SHALL BE ALLOWED TO ATTEND ANY QUALIFIED SCHOOL OF THEIR
14 PARENTS' CHOICE.

15 F. THE DEPARTMENT OF REVENUE, WITH THE COOPERATION OF THE DEPARTMENT
16 OF INSURANCE, SHALL ADOPT RULES AND PUBLISH AND PRESCRIBE FORMS AND
17 PROCEDURES NECESSARY FOR THE ADMINISTRATION OF THIS SECTION.

18 43-1505. Special provisions; corporate donations for displaced
19 students and students with disabilities; definition

20 A. A SCHOOL TUITION ORGANIZATION THAT RECEIVES CONTRIBUTIONS FOR THE
21 PURPOSES OF SECTION 28-224.07 OR 43-1184 MUST USE AT LEAST NINETY PER CENT OF
22 THOSE CONTRIBUTIONS TO PROVIDE EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS TO
23 QUALIFIED STUDENTS WHO EITHER:

24 1. RECEIVED A GRANT OR SCHOLARSHIP UNDER TITLE 15, CHAPTER 8, ARTICLE
25 1.2 OR 8 IN ORDER TO ATTEND A QUALIFIED SCHOOL DURING THE 2008-2009 ACADEMIC
26 YEAR.

27 2. ATTENDED A GOVERNMENTAL PRIMARY OR SECONDARY SCHOOL AS A FULL-TIME
28 STUDENT AS DEFINED IN SECTION 15-901 FOR AT LEAST THE FIRST ONE HUNDRED DAYS
29 OF THE PRIOR FISCAL YEAR AND TRANSFERRED FROM A GOVERNMENTAL PRIMARY OR
30 SECONDARY SCHOOL TO A QUALIFIED SCHOOL.

31 3. QUALIFIED FOR AN EDUCATIONAL SCHOLARSHIP OR TUITION GRANT UNDER
32 PARAGRAPH 1 OR 2 IF THE QUALIFIED STUDENT CONTINUES TO ATTEND A QUALIFIED
33 SCHOOL IN A SUBSEQUENT YEAR.

34 B. THE AMOUNT OF AN EDUCATIONAL SCHOLARSHIP OR A TUITION GRANT THAT IS
35 ISSUED BY A SCHOOL TUITION ORGANIZATION UNDER THIS SECTION SHALL NOT EXCEED
36 THE COST OF TUITION FOR THE STUDENT TO ATTEND THE QUALIFIED SCHOOL OR NINETY
37 PER CENT OF THE AMOUNT OF STATE AID THAT OTHERWISE WOULD BE COMPUTED FOR THE
38 STUDENT AS PROVIDED IN TITLE 15, CHAPTER 9, ARTICLE 5, WHICHEVER IS LESS. ON
39 REQUEST FROM A SCHOOL TUITION ORGANIZATION, THE DEPARTMENT OF EDUCATION SHALL
40 PROVIDE TO THE SCHOOL TUITION ORGANIZATION IN A TIMELY MANNER THE AMOUNT
41 COMPUTED FOR THE STUDENT UNDER THIS SUBSECTION THAT REPRESENTS THE NINETY PER
42 CENT LIMITATION PRESCRIBED IN THIS SUBSECTION.

1 C. A SCHOOL TUITION ORGANIZATION SHALL REQUIRE THAT STUDENT
2 BENEFICIARIES USE THE EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS ON A
3 FULL-TIME BASIS. IF A CHILD LEAVES THE SCHOOL BEFORE COMPLETING AN ENTIRE
4 SCHOOL YEAR, THE SCHOOL SHALL REFUND A PRORATED AMOUNT OF THE EDUCATIONAL
5 SCHOLARSHIP OR TUITION GRANT TO THE SCHOOL TUITION ORGANIZATION THAT ISSUED
6 THE SCHOLARSHIP OR GRANT. THE SCHOOL TUITION ORGANIZATION SHALL ALLOCATE ANY
7 REFUNDS IT RECEIVES UNDER THIS SUBSECTION FOR EDUCATIONAL SCHOLARSHIPS OR
8 TUITION GRANTS IN THE FOLLOWING YEAR.

9 D. QUALIFIED STUDENTS WHO RECEIVE AN EDUCATIONAL SCHOLARSHIP OR
10 TUITION GRANT UNDER THIS SECTION SHALL BE ALLOWED TO ATTEND ANY QUALIFIED
11 SCHOOL OF THEIR CUSTODIANS' CHOICE.

12 E. FOR THE PURPOSES OF THIS SECTION, "QUALIFIED STUDENT" MEANS A
13 STUDENT WHO HAS BEEN EITHER:

14 1. PLACED IN FOSTER CARE PURSUANT TO TITLE 8, CHAPTER 5 AT ANY TIME
15 BEFORE THE STUDENT GRADUATES FROM HIGH SCHOOL OR OBTAINS A GENERAL
16 EQUIVALENCY DIPLOMA.

17 2. IDENTIFIED AS HAVING A DISABILITY UNDER SECTION 504 OF THE
18 REHABILITATION ACT (29 UNITED STATES CODE SECTION 794) OR IDENTIFIED BY A
19 SCHOOL DISTRICT AS A CHILD WITH A DISABILITY AS DEFINED IN SECTION 15-761 OR
20 A CHILD WITH A DISABILITY WHO IS ELIGIBLE TO RECEIVE SERVICES FROM A SCHOOL
21 DISTRICT UNDER SECTION 15-763.

22 43-1506. Annual report

23 ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, EACH SCHOOL TUITION
24 ORGANIZATION SHALL REPORT ELECTRONICALLY TO THE DEPARTMENT, IN A FORM
25 PRESCRIBED BY THE DEPARTMENT, THE FOLLOWING INFORMATION, SEPARATELY COMPILED
26 AND IDENTIFIED FOR THE PURPOSES OF SECTIONS 20-224.06, 20-224.07, 43-1183 AND
27 43-1184:

28 1. THE NAME, ADDRESS AND CONTACT PERSON OF THE SCHOOL TUITION
29 ORGANIZATION.

30 2. THE TOTAL NUMBER OF CONTRIBUTIONS RECEIVED DURING THE PREVIOUS
31 FISCAL YEAR.

32 3. THE TOTAL DOLLAR AMOUNT OF CONTRIBUTIONS RECEIVED DURING THE
33 PREVIOUS FISCAL YEAR.

34 4. THE TOTAL NUMBER OF CHILDREN AWARDED EDUCATIONAL SCHOLARSHIPS OR
35 TUITION GRANTS DURING THE PREVIOUS FISCAL YEAR.

36 5. THE TOTAL DOLLAR AMOUNT OF:

37 (a) EDUCATIONAL SCHOLARSHIPS AND TUITION GRANTS DISTRIBUTED DURING THE
38 PREVIOUS FISCAL YEAR.

39 (b) MONEY BEING HELD FOR IDENTIFIED STUDENTS' SCHOLARSHIPS AND TUITION
40 GRANTS IN FUTURE YEARS.

41 6. THE COST OF AUDITS PURSUANT TO SECTION 43-1507 PAID DURING THE
42 FISCAL YEAR.

1 7. FOR EACH SCHOOL TO WHICH EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS
2 WERE AWARDED:

3 (a) THE NAME AND ADDRESS OF THE SCHOOL.

4 (b) THE NUMBER OF EDUCATIONAL SCHOLARSHIPS AND TUITION GRANTS AWARDED
5 DURING THE PREVIOUS FISCAL YEAR.

6 (c) THE TOTAL DOLLAR AMOUNT OF EDUCATIONAL SCHOLARSHIPS AND TUITION
7 GRANTS AWARDED DURING THE PREVIOUS FISCAL YEAR.

8 8. THE NAMES, JOB TITLES AND ANNUAL SALARIES OF THE THREE EMPLOYEES
9 WHO RECEIVE THE HIGHEST ANNUAL SALARIES FROM THE SCHOOL TUITION ORGANIZATION.

10 43-1507. Audits and financial reviews

11 A. ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, EACH SCHOOL TUITION
12 ORGANIZATION THAT RECEIVED ONE MILLION DOLLARS OR MORE IN TOTAL DONATIONS IN
13 THE PREVIOUS FISCAL YEAR SHALL PROVIDE FOR A FINANCIAL AUDIT OF THE
14 ORGANIZATION. THE AUDIT MUST BE CONDUCTED IN ACCORDANCE WITH GENERALLY
15 ACCEPTED AUDITING STANDARDS AND MUST EVALUATE THE ORGANIZATION'S COMPLIANCE
16 WITH THE FISCAL REQUIREMENTS OF THIS ARTICLE. THE AUDIT MUST BE CONDUCTED BY
17 AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT LICENSED IN THIS STATE. THE
18 CERTIFIED PUBLIC ACCOUNTANT AND THE FIRM THE CERTIFIED PUBLIC ACCOUNTANT IS
19 AFFILIATED WITH SHALL BE INDEPENDENT WITH RESPECT TO THE ORGANIZATION, ITS
20 OFFICERS AND DIRECTORS, SERVICES PERFORMED AND ALL OTHER INDEPENDENT
21 RELATIONSHIPS PRESCRIBED BY GENERALLY ACCEPTED ACCOUNTING STANDARDS.

22 B. ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, EACH SCHOOL TUITION
23 ORGANIZATION THAT RECEIVED LESS THAN ONE MILLION DOLLARS IN TOTAL DONATIONS
24 IN THE PREVIOUS FISCAL YEAR SHALL PROVIDE FOR A FINANCIAL REVIEW OF THE
25 ORGANIZATION. THE REVIEW MUST BE CONDUCTED IN ACCORDANCE WITH STANDARDS FOR
26 ACCOUNTING AND REVIEW SERVICES AND MUST EVALUATE THE ORGANIZATION'S
27 COMPLIANCE WITH THE FISCAL REQUIREMENTS OF THIS ARTICLE. THE REVIEW MUST BE
28 CONDUCTED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT LICENSED IN THIS
29 STATE. THE CERTIFIED PUBLIC ACCOUNTANT AND THE FIRM THE CERTIFIED PUBLIC
30 ACCOUNTANT IS AFFILIATED WITH SHALL BE INDEPENDENT WITH RESPECT TO THE
31 ORGANIZATION, ITS OFFICERS AND DIRECTORS, SERVICES PERFORMED AND ALL OTHER
32 INDEPENDENT RELATIONSHIPS PRESCRIBED BY GENERALLY ACCEPTED ACCOUNTING
33 STANDARDS.

34 C. WITHIN FIVE DAYS AFTER RECEIVING THE AUDIT OR FINANCIAL REVIEW, THE
35 SCHOOL TUITION ORGANIZATION SHALL FILE A SIGNED COPY OF THE AUDIT OR
36 FINANCIAL REVIEW WITH THE DEPARTMENT.

37 D. THE SCHOOL TUITION ORGANIZATION SHALL PAY THE FEES AND COSTS OF THE
38 CERTIFIED PUBLIC ACCOUNTANT UNDER THIS SECTION FROM THE ORGANIZATION'S
39 OPERATING MONIES. THE FEES AND COSTS SHALL BE EXCLUDED FROM THE CALCULATION
40 OF TOTAL REVENUES SPENT ON SCHOLARSHIPS AND TUITION GRANTS.

41 Sec. 6. School tuition organizations; transition reports

42 Notwithstanding the provisions of this act providing for school tuition
43 organization annual reports on or before September 30, on or before June 30,
44 2011, each school tuition organization shall submit to the department of
45 revenue the report required by section 43-1183, subsection P or section

1 43-1184, subsection 0, Arizona Revised Statutes, as in effect before the
2 effective date of this act, as applicable, for the 2010 calendar year.
3 Thereafter, the school tuition organization shall submit an annual fiscal
4 year report as prescribed by section 43-1506, Arizona Revised Statutes, as
5 added by this act.

6 Sec. 7. Effective date

7 This act is effective retroactively to from and after June 30, 2010.