

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

HOUSE BILL 2581

AN ACT

AMENDING SECTION 20-224.06, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 3, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 42-3357 AND 42-3358; AMENDING TITLE 42, CHAPTER 5, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 42-5207 AND 42-5208; AMENDING SECTIONS 43-1089, 43-1183, 43-1184, 43-1502, 43-1503, 43-1504, 43-1505, 43-1507, 43-1602, 43-1603 AND 43-1605, ARIZONA REVISED STATUTES; RELATING TO TAX CREDITS FOR CONTRIBUTIONS 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; low-income scholarships

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. Title 42, chapter 3, article 8, Arizona Revised Statutes, is
38 amended by adding sections 42-3357 and 42-3358, to read:

39 42-3357. Credit for contributions to school tuition
40 organization; low-income scholarships

41 A. A CREDIT IS ALLOWED AGAINST THE LUXURY TAX LIABILITY INCURRED
42 PURSUANT TO THIS CHAPTER AND PAYABLE BY A WHOLESALER PURSUANT TO SECTION
43 42-3353 OR 42-3354 OR BY A DOMESTIC FARM WINERY OR DOMESTIC MICROBREWERY
44 PURSUANT TO SECTION 42-3355 FOR CONTRIBUTIONS TO A SCHOOL TUITION

1 ORGANIZATION FOR THE PURPOSES OF SCHOLARSHIPS FOR LOW-INCOME STUDENTS AS
2 PROVIDED BY SECTIONS 43-1183 AND 43-1504.

3 B. THE AMOUNT OF THE CREDIT IS THE TOTAL AMOUNT OF THE TAXPAYER'S
4 VOLUNTARY CASH CONTRIBUTIONS.

5 C. THE PROCEDURES, CONDITIONS, LIMITATIONS, DEFINITIONS AND OTHER
6 REQUIREMENTS PRESCRIBED BY SECTION 43-1183 APPLY TO:

7 1. WHOLESALERS, DOMESTIC FARM WINERIES AND DOMESTIC MICROBREWRIES
8 THAT CLAIM A CREDIT UNDER THIS SECTION.

9 2. CLAIMS FOR CREDIT UNDER THIS SECTION.

10 3. SCHOOL TUITION ORGANIZATIONS THAT RECEIVE CONTRIBUTIONS FROM
11 WHOLESALERS, DOMESTIC FARM WINERIES AND DOMESTIC MICROBREWRIES FOR THE
12 PURPOSES OF THIS SECTION.

13 4. SCHOOLS THAT QUALIFY TO RECEIVE SCHOLARSHIP MONIES CONTRIBUTED BY
14 WHOLESALERS, DOMESTIC WINERIES AND DOMESTIC MICROBREWRIES FOR THE PURPOSES
15 OF THIS SECTION.

16 5. STUDENTS WHO RECEIVE SCHOLARSHIPS FROM MONIES CONTRIBUTED BY
17 WHOLESALERS, DOMESTIC WINERIES AND DOMESTIC MICROBREWRIES FOR THE PURPOSES
18 OF THIS SECTION.

19 D. IF THE ALLOWABLE AMOUNT OF A CREDIT UNDER THIS SECTION EXCEEDS THE
20 TAXPAYER'S LUXURY TAX LIABILITY UNDER THIS CHAPTER, THE AMOUNT OF THE CLAIM
21 NOT USED TO OFFSET THE LUXURY TAX LIABILITY MAY BE CARRIED FORWARD AS A
22 CREDIT AGAINST THE TAXPAYER'S SUBSEQUENT LUXURY TAX LIABILITY FOR NOT MORE
23 THAN FIVE CONSECUTIVE TAXABLE YEARS.

24 E. A TAXPAYER SHALL NOT CLAIM A CREDIT UNDER THIS SECTION OR SECTION
25 43-1183 WITH RESPECT TO THE SAME CONTRIBUTION.

26 42-3358. Credit for contributions to school tuition
27 organization; scholarships for displaced students
28 and students with disabilities

29 A. A CREDIT IS ALLOWED AGAINST THE LUXURY TAX LIABILITY INCURRED
30 PURSUANT TO THIS CHAPTER AND PAYABLE BY A WHOLESALER PURSUANT TO SECTION
31 42-3353 OR 42-3354 OR BY A DOMESTIC FARM WINERY OR DOMESTIC MICROBREWERY
32 PURSUANT TO SECTION 42-3355 FOR CONTRIBUTIONS TO A SCHOOL TUITION
33 ORGANIZATION FOR THE PURPOSES OF SCHOLARSHIPS FOR DISPLACED STUDENTS AND
34 STUDENTS WITH DISABILITIES AS PROVIDED BY SECTIONS 43-1184 AND 43-1505.

35 B. THE AMOUNT OF THE CREDIT IS THE TOTAL AMOUNT OF THE TAXPAYER'S
36 VOLUNTARY CASH CONTRIBUTIONS.

37 C. THE PROCEDURES, CONDITIONS, LIMITATIONS, DEFINITIONS AND OTHER
38 REQUIREMENTS PRESCRIBED BY SECTION 43-1184 APPLY TO:

39 1. WHOLESALERS, DOMESTIC FARM WINERIES AND DOMESTIC MICROBREWRIES
40 THAT CLAIM A CREDIT UNDER THIS SECTION.

41 2. CLAIMS FOR CREDIT UNDER THIS SECTION.

42 3. SCHOOL TUITION ORGANIZATIONS THAT RECEIVE CONTRIBUTIONS FROM
43 WHOLESALERS, DOMESTIC FARM WINERIES AND DOMESTIC MICROBREWRIES FOR THE
44 PURPOSES OF THIS SECTION.

1 4. SCHOOLS THAT QUALIFY TO RECEIVE SCHOLARSHIP MONIES CONTRIBUTED BY
2 WHOLESALERS, DOMESTIC WINERIES AND DOMESTIC MICROBREWERIES FOR THE PURPOSES
3 OF THIS SECTION.

4 5. STUDENTS WHO RECEIVE SCHOLARSHIPS FROM MONIES CONTRIBUTED BY
5 WHOLESALERS, DOMESTIC WINERIES AND DOMESTIC MICROBREWERIES FOR THE PURPOSES
6 OF THIS SECTION.

7 D. IF THE ALLOWABLE AMOUNT OF A CREDIT UNDER THIS SECTION EXCEEDS THE
8 TAXPAYER'S LUXURY TAX LIABILITY UNDER THIS CHAPTER, THE AMOUNT OF THE CLAIM
9 NOT USED TO OFFSET THE LUXURY TAX LIABILITY MAY BE CARRIED FORWARD AS A
10 CREDIT AGAINST THE TAXPAYER'S SUBSEQUENT LUXURY TAX LIABILITY FOR NOT MORE
11 THAN FIVE CONSECUTIVE TAXABLE YEARS.

12 E. A TAXPAYER SHALL NOT CLAIM A CREDIT UNDER THIS SECTION OR SECTION
13 43-1184 WITH RESPECT TO THE SAME CONTRIBUTION.

14 Sec. 3. Title 42, chapter 5, article 5, Arizona Revised Statutes, is
15 amended by adding sections 42-5207 and 42-5208, to read:

16 42-5207. Credit for contributions to school tuition
17 organization; low-income scholarships

18 A. A CREDIT IS ALLOWED AGAINST THE SEVERANCE TAX LIABILITY INCURRED
19 PURSUANT TO THIS CHAPTER BY A SEVERER PURSUANT TO SECTION 42-5202 FOR
20 CONTRIBUTIONS TO A SCHOOL TUITION ORGANIZATION FOR THE PURPOSES OF
21 SCHOLARSHIPS FOR LOW-INCOME STUDENTS AS PROVIDED BY SECTIONS 43-1183 AND
22 43-1504.

23 B. THE AMOUNT OF THE CREDIT IS THE TOTAL AMOUNT OF THE TAXPAYER'S
24 VOLUNTARY CASH CONTRIBUTIONS.

25 C. THE PROCEDURES, CONDITIONS, LIMITATIONS, DEFINITIONS AND OTHER
26 REQUIREMENTS PRESCRIBED BY SECTION 43-1183 APPLY TO:

27 1. SEVERERS THAT CLAIM A CREDIT UNDER THIS SECTION.

28 2. CLAIMS FOR CREDIT UNDER THIS SECTION.

29 3. SCHOOL TUITION ORGANIZATIONS THAT RECEIVE CONTRIBUTIONS FROM
30 SEVERERS FOR THE PURPOSES OF THIS SECTION.

31 4. SCHOOLS THAT QUALIFY TO RECEIVE SCHOLARSHIP MONIES CONTRIBUTED BY
32 SEVERERS FOR THE PURPOSES OF THIS SECTION.

33 5. STUDENTS WHO RECEIVE SCHOLARSHIPS FROM MONIES CONTRIBUTED BY
34 SEVERERS FOR THE PURPOSES OF THIS SECTION.

35 D. IF THE ALLOWABLE AMOUNT OF A CREDIT UNDER THIS SECTION EXCEEDS THE
36 TAXPAYER'S SEVERANCE TAX LIABILITY UNDER THIS CHAPTER, THE AMOUNT OF THE
37 CLAIM NOT USED TO OFFSET THE SEVERANCE TAX LIABILITY MAY BE CARRIED FORWARD
38 AS A CREDIT AGAINST THE TAXPAYER'S SUBSEQUENT SEVERANCE TAX LIABILITY FOR NOT
39 MORE THAN FIVE CONSECUTIVE TAXABLE YEARS.

40 E. A TAXPAYER SHALL NOT CLAIM A CREDIT UNDER THIS SECTION OR SECTION
41 43-1183 WITH RESPECT TO THE SAME CONTRIBUTION.

1 42-5208. Credit for contributions to school tuition
2 organization; scholarships for displaced students
3 and students with disabilities

4 A. A CREDIT IS ALLOWED AGAINST THE SEVERANCE TAX LIABILITY INCURRED
5 PURSUANT TO THIS CHAPTER BY A SEVERER PURSUANT TO SECTION 42-5202 FOR
6 CONTRIBUTIONS TO A SCHOOL TUITION ORGANIZATION FOR THE PURPOSES OF
7 SCHOLARSHIPS FOR DISPLACED STUDENTS AND STUDENTS WITH DISABILITIES AS
8 PROVIDED BY SECTIONS 43-1184 AND 43-1505.

9 B. THE AMOUNT OF THE CREDIT IS THE TOTAL AMOUNT OF THE TAXPAYER'S
10 VOLUNTARY CASH CONTRIBUTIONS.

11 C. THE PROCEDURES, CONDITIONS, LIMITATIONS, DEFINITIONS AND OTHER
12 REQUIREMENTS PRESCRIBED BY SECTION 43-1184 APPLY TO:

13 1. SEVERERS THAT CLAIM A CREDIT UNDER THIS SECTION.

14 2. CLAIMS FOR CREDIT UNDER THIS SECTION.

15 3. SCHOOL TUITION ORGANIZATIONS THAT RECEIVE CONTRIBUTIONS FROM
16 SEVERERS FOR THE PURPOSES OF THIS SECTION.

17 4. SCHOOLS THAT QUALIFY TO RECEIVE SCHOLARSHIP MONIES CONTRIBUTED BY
18 SEVERERS FOR THE PURPOSES OF THIS SECTION.

19 5. STUDENTS WHO RECEIVE SCHOLARSHIPS FROM MONIES CONTRIBUTED BY
20 SEVERERS FOR THE PURPOSES OF THIS SECTION.

21 D. IF THE ALLOWABLE AMOUNT OF A CREDIT UNDER THIS SECTION EXCEEDS THE
22 TAXPAYER'S SEVERANCE TAX LIABILITY UNDER THIS CHAPTER, THE AMOUNT OF THE
23 CLAIM NOT USED TO OFFSET THE SEVERANCE TAX LIABILITY MAY BE CARRIED FORWARD
24 AS A CREDIT AGAINST THE TAXPAYER'S SUBSEQUENT SEVERANCE TAX LIABILITY FOR NOT
25 MORE THAN FIVE CONSECUTIVE TAXABLE YEARS.

26 E. A TAXPAYER SHALL NOT CLAIM A CREDIT UNDER THIS SECTION OR SECTION
27 43-1184 WITH RESPECT TO THE SAME CONTRIBUTION.

28 Sec. 4. Section 43-1089, Arizona Revised Statutes, is amended to read:

29 43-1089. Credit for contributions to school tuition
30 organization; definitions

31 A. A credit is allowed against the taxes imposed by this title for the
32 amount of voluntary cash contributions by the taxpayer or on the taxpayer's
33 behalf pursuant to section 43-401, subsection I during the taxable year to a
34 school tuition organization that is certified pursuant to chapter 16 of this
35 title at the time of donation. Except as provided by subsection C of this
36 section, the amount of the credit shall not exceed:

37 1. ~~Five~~ SEVEN hundred FIFTY dollars in any taxable year for a single
38 individual or a head of household.

39 2. One thousand FIVE HUNDRED dollars in any taxable year for a married
40 couple filing a joint return.

41 B. A husband and wife who file separate returns for a taxable year in
42 which they could have filed a joint return may each claim only one-half of
43 the tax credit that would have been allowed for a joint return.

44 C. For each taxable year beginning on or after January 1, the
45 department shall adjust the dollar amounts prescribed by subsection A,

1 paragraphs 1 and 2 of this section according to the average annual change in
2 the metropolitan Phoenix consumer price index published by the United States
3 bureau of labor statistics, except that the dollar amounts shall not be
4 revised downward below the amounts allowed in the prior taxable year. The
5 revised dollar amounts shall be raised to the nearest whole dollar.

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

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

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

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

28 H. For the purposes of this section:

29 1. "Handicapped student" means a student who has any of the following
30 conditions:

- 31 (a) Hearing impairment.
- 32 (b) Visual impairment.
- 33 (c) Developmental delay.
- 34 (d) Preschool severe delay.
- 35 (e) Speech/language impairment.

36 2. "Qualified school":

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

42 (b) Does not include a charter school or programs operated by charter
43 schools.

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

5 ~~C. The department of revenue:~~

6 ~~1. Shall not allow tax credits under this section and section~~
7 ~~20-224.07 that exceed in the aggregate a combined total of five million~~
8 ~~dollars in any fiscal year.~~

9 ~~2. Shall preapprove tax credits under this section and section~~
10 ~~20-224.07 subject to subsection D of this section.~~

11 ~~3. Shall allow the tax credits under this section and section~~
12 ~~20-224.07 on a first come, first served basis.~~

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

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

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

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

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

6 ~~I~~. G. The tax credit is not allowed if the taxpayer designates the
7 taxpayer's contribution to the school tuition organization for the direct
8 benefit of any specific student.

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

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

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

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

19 Sec. 7. Section 43-1502, Arizona Revised Statutes, is amended to read:

20 43-1502. 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.

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

36 1. Failing or refusing to allocate at least ninety per cent of annual
37 revenues FROM CONTRIBUTIONS MADE FOR THE PURPOSES OF SECTIONS 20-224.06,
38 20-224.07, 42-3357, 42-3358, 42-5207, 42-5208, 43-1183 AND 43-1184 for
39 educational scholarships or tuition grants.

40 2. Failing or refusing to file the annual reports required by section
41 43-1506.

42 3. Limiting availability of scholarships to students of only one
43 school.

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

1 D. A school tuition organization that receives notice from the
2 department pursuant to subsection C of this section has ninety days to
3 correct the violation identified by the department in the notice. If a
4 school tuition organization fails or refuses to comply after ninety days, the
5 department may remove the organization from the list of certified school
6 tuition organizations and shall make available to the public notice of
7 removal as soon as possible. An organization that is removed from the list
8 of certified school tuition organizations must notify any taxpayer who
9 attempts to make a contribution that the contribution is not eligible for the
10 tax credit and offer to refund all donations received after the date of the
11 notice of termination of certification.

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

17 Sec. 8. Section 43-1503, Arizona Revised Statutes, is amended to read:
18 43-1503. Operational requirements for school tuition
19 organizations

20 A. A certified school tuition organization must be established to
21 receive contributions from taxpayers for the purposes of income tax credits
22 under sections 43-1183 and 43-1184, ~~and~~ insurance premium tax credits under
23 sections 20-224.06 and 20-224.07, LUXURY TAX CREDITS UNDER SECTIONS 42-3357
24 AND 42-3358 AND SEVERANCE TAX CREDITS UNDER SECTIONS 42-5207 AND 42-5208 and
25 to pay educational scholarships or tuition grants to allow students to attend
26 any qualified school of their parents' or custodians' choice.

27 B. To be eligible for certification and retain certification, the
28 school tuition organization:

29 1. Must allocate at least ninety per cent of its annual revenue FROM
30 CONTRIBUTIONS MADE FOR THE PURPOSES OF SECTIONS 20-224.06, 20-224.07,
31 42-3357, 42-3358, 42-5207, 42-5208, 43-1183 AND 43-1184 for educational
32 scholarships or tuition grants.

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

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

38 Sec. 9. Section 43-1504, Arizona Revised Statutes, is amended to read:
39 43-1504. Special provisions; corporate donations for low-income
40 scholarships; rules

41 A. A school tuition organization that receives contributions from a
42 corporation for the purposes of section 20-224.06, 42-3357, 42-5207 or
43 43-1183 must use at least ninety per cent of those contributions to provide
44 educational scholarships or tuition grants only to children whose family
45 income does not exceed one hundred eighty-five per cent of the income limit

1 required to qualify a child for reduced price lunches under the national
2 school lunch and child nutrition acts (42 United States Code sections 1751
3 through 1785) and who either:

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

8 2. Enroll in a qualified school in a kindergarten program.

9 3. Received an educational scholarship or tuition grant under
10 paragraph 1 or 2 ~~OR CHAPTER 16, ARTICLE 1 OF THIS TITLE~~ if the children
11 continue to attend a qualified school in a subsequent year.

12 B. A child is eligible to receive an educational scholarship or
13 tuition grant under subsection A of this section if the child meets the
14 criteria to receive a reduced price lunch but does not actually claim that
15 benefit.

16 C. In 2006, a school tuition organization shall not issue an
17 educational scholarship or a tuition grant for the purposes of section
18 20-224.06, ~~42-3357, 42-5207~~ or 43-1183 in an amount that exceeds four
19 thousand two hundred dollars for students in a kindergarten program or grades
20 one through eight or five thousand five hundred dollars for students in
21 grades nine through twelve. In each year after 2006, the limitation amount
22 for a scholarship or a grant under this subsection shall be increased by one
23 hundred dollars.

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

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

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

38 Sec. 10. Section 43-1505, Arizona Revised Statutes, is amended to
39 read:

40 ~~43-1505.~~ Special provisions; corporate donations for displaced
41 students and students with disabilities; definition

42 A. A school tuition organization that receives contributions for the
43 purposes of section ~~28-224.07~~ 20-224.07, 42-3358, 42-5208 or 43-1184 must use
44 at least ninety per cent of those contributions to provide educational
45 scholarships or tuition grants to qualified students who either:

1 1. Received a grant or scholarship under title 15, chapter 8, article
2 1.2 or 8 in order to attend a qualified school during the 2008-2009 academic
3 year.

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

8 3. Qualified for an educational scholarship or tuition grant under
9 paragraph 1 or 2 OF THIS SUBSECTION if the qualified student continues to
10 attend a qualified school in a subsequent year.

11 4. ENROLL IN A QUALIFIED SCHOOL IN A KINDERGARTEN PROGRAM OR A
12 PRESCHOOL PROGRAM FOR CHILDREN WITH DISABILITIES.

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

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

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

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

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

1 Sec. 11. Section 43-1507, Arizona Revised Statutes, is amended to
2 read:

3 43-1507. Audits and financial reviews

4 A. On or before September 30 of each year, each school tuition
5 organization that received one million dollars or more in total donations in
6 the previous fiscal year shall provide for a financial audit of the
7 organization. The audit must be conducted in accordance with generally
8 accepted auditing standards and must evaluate the organization's compliance
9 with ~~the fiscal requirements of this article~~ SECTION 43-1503, SUBSECTION B,
10 PARAGRAPH 1. The audit must be conducted by an independent certified public
11 accountant licensed in this state. The certified public accountant and the
12 firm the certified public accountant is affiliated with shall be independent
13 with respect to the organization, its officers and directors, services
14 performed and all other independent relationships prescribed by generally
15 accepted accounting standards.

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

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

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

35 Sec. 12. Section 43-1602, Arizona Revised Statutes, is amended to
36 read:

37 43-1602. Certification as a school tuition organization

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

1 B. The department shall:

2 1. Maintain a public registry of currently certified school tuition
3 organizations.

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

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

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

9 1. Failing or refusing to allocate at least ninety per cent of annual
10 revenues FROM CONTRIBUTIONS MADE FOR THE PURPOSES OF SECTION 43-1089 for
11 educational scholarships or tuition grants.

12 2. Failing or refusing to file the annual reports required by section
13 43-1604.

14 3. Limiting availability of scholarships to students of only one
15 school.

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

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

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

32 E. A school tuition organization may request an administrative hearing
33 on the revocation of its certification as provided by title 41, chapter 6,
34 article 10. Except as provided in section 41-1092.08, subsection H, a
35 decision of the department is subject to judicial review pursuant to title
36 12, chapter 7, article 6.

37 Sec. 13. Section 43-1603, Arizona Revised Statutes, is amended to
38 read:

39 43-1603. Operational requirements for school tuition
40 organizations; notice; qualified schools

41 A. A certified school tuition organization must be established to
42 receive contributions from taxpayers for the purposes of income tax credits
43 under section 43-1089 and to pay educational scholarships or tuition grants
44 to allow students to attend any qualified school of their parents' choice.

1 B. To be eligible for certification and retain certification, the
2 school tuition organization:

3 1. Must allocate at least ninety per cent of its annual revenue FROM
4 CONTRIBUTIONS MADE FOR THE PURPOSES OF SECTION 43-1089 for educational
5 scholarships or tuition grants.

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

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

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

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

18 Notice

19 A school tuition organization cannot award, restrict or
20 reserve scholarships solely on the basis of a donor's
21 recommendation.

22 A taxpayer may not claim a tax credit if the taxpayer
23 agrees to swap donations with another taxpayer to benefit either
24 taxpayer's own dependent.

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

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

30 2. Shall consider the financial need of applicants.

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

35 E. IF AN INDIVIDUAL EDUCATIONAL SCHOLARSHIP OR TUITION GRANT EXCEEDS
36 THE BASE TUITION FOR THAT STUDENT, THE AMOUNT IN EXCESS SHALL BE RETURNED TO
37 THE SCHOOL TUITION ORGANIZATION THAT MADE THE AWARD OR GRANT. THE SCHOOL
38 TUITION ORGANIZATION MAY ALLOCATE THE RETURNED FUNDS AS A MULTIYEAR AWARD FOR
39 THAT STUDENT AND REPORT THE AWARD PURSUANT TO SECTION 43-1604, PARAGRAPH 5,
40 SUBDIVISION (b) OR MAY ALLOCATE THE RETURNED FUNDS FOR EDUCATIONAL
41 SCHOLARSHIPS OR TUITION GRANTS FOR OTHER STUDENTS.

1 Sec. 14. Section 43-1605, Arizona Revised Statutes, is amended to
2 read:

3 43-1605. Audits and financial reviews

4 A. On or before September 30 of each year, each school tuition
5 organization that received one million dollars or more in total donations in
6 the previous fiscal year shall provide for a financial audit of the
7 organization. The audit must be conducted in accordance with generally
8 accepted auditing standards and must evaluate the organization's compliance
9 with ~~the fiscal requirements of this article~~ SECTION 43-1603, SUBSECTION B,
10 PARAGRAPH 1. The audit must be conducted by an independent certified public
11 accountant licensed in this state. The certified public accountant and the
12 firm the certified public accountant is affiliated with shall be independent
13 with respect to the organization, its officers and directors, services
14 performed and all other independent relationships prescribed by generally
15 accepted auditing standards.

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

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

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