

REFERENCE TITLE: STOs; credits; administration

State of Arizona
House of Representatives
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2011

HB 2581

Introduced by
Representatives Mesnard, Burges, Gowan, Gray R, Lesko, Montenegro, Seel,
Smith D, Stevens, Senators Klein, Murphy: Representatives Barton, Court,
Crandell, Forese, Goodale, Judd, Proud, Yee, Senators Allen, Antenori,
Barto, Gould, Melvin, Shooter, Smith

AN ACT

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

4 42-3357. Credit for contributions to school tuition
5 organization; low-income scholarships

6 A. A CREDIT IS ALLOWED AGAINST THE LUXURY TAX LIABILITY INCURRED
7 PURSUANT TO THIS CHAPTER AND PAYABLE BY A WHOLESALER PURSUANT TO SECTION
8 42-3353 OR 42-3354 OR BY A DOMESTIC FARM WINERY OR DOMESTIC MICROBREWERY
9 PURSUANT TO SECTION 43-3355 FOR CONTRIBUTIONS TO A SCHOOL TUITION
10 ORGANIZATION FOR THE PURPOSES OF SCHOLARSHIPS FOR LOW-INCOME STUDENTS AS
11 PROVIDED BY SECTIONS 43-1183 AND 43-1504.

12 B. THE AMOUNT OF THE CREDIT IS THE TOTAL AMOUNT OF THE TAXPAYER'S
13 VOLUNTARY CASH CONTRIBUTIONS THAT IS PREAPPROVED BY THE DEPARTMENT PURSUANT
14 TO SECTION 43-1183, SUBSECTION D FOR APPLICATION AGAINST THE LUXURY TAX
15 LIABILITY.

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

18 1. WHOLESALERS, DOMESTIC FARM WINERIES AND DOMESTIC MICROBREWERIES
19 THAT CLAIM A CREDIT UNDER THIS SECTION.

20 2. CLAIMS FOR CREDIT UNDER THIS SECTION.

21 3. SCHOOL TUITION ORGANIZATIONS THAT RECEIVE CONTRIBUTIONS FROM
22 WHOLESALERS, DOMESTIC FARM WINERIES AND DOMESTIC MICROBREWERIES FOR THE
23 PURPOSES OF THIS SECTION.

24 4. SCHOOLS THAT QUALIFY TO RECEIVE SCHOLARSHIP MONIES CONTRIBUTED BY
25 WHOLESALERS, DOMESTIC WINERIES AND DOMESTIC MICROBREWERIES FOR THE PURPOSES
26 OF THIS SECTION.

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

30 D. IF THE ALLOWABLE AMOUNT OF A CREDIT UNDER THIS SECTION EXCEEDS THE
31 TAXPAYER'S LUXURY TAX LIABILITY UNDER THIS CHAPTER, THE AMOUNT OF THE CLAIM
32 NOT USED TO OFFSET THE LUXURY TAX LIABILITY MAY BE CARRIED FORWARD AS A
33 CREDIT AGAINST THE TAXPAYER'S SUBSEQUENT LUXURY TAX LIABILITY.

34 42-3358. Credit for contributions to school tuition
35 organization; scholarships for displaced students
36 and students with disabilities

37 A. A CREDIT IS ALLOWED AGAINST THE LUXURY TAX LIABILITY INCURRED
38 PURSUANT TO THIS CHAPTER AND PAYABLE BY A WHOLESALER PURSUANT TO SECTION
39 42-3353 OR 42-3354 OR BY A DOMESTIC FARM WINERY OR DOMESTIC MICROBREWERY
40 PURSUANT TO SECTION 43-3355 FOR CONTRIBUTIONS TO A SCHOOL TUITION
41 ORGANIZATION FOR THE PURPOSES OF SCHOLARSHIPS FOR DISPLACED STUDENTS AND
42 STUDENTS WITH DISABILITIES AS PROVIDED BY SECTIONS 43-1184 AND 43-1505.

43 B. THE AMOUNT OF THE CREDIT IS THE TOTAL AMOUNT OF THE TAXPAYER'S
44 VOLUNTARY CASH CONTRIBUTIONS THAT IS PREAPPROVED BY THE DEPARTMENT PURSUANT

1 TO SECTION 43-1184, SUBSECTION D FOR APPLICATION AGAINST THE LUXURY TAX
2 LIABILITY.

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

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

7 2. CLAIMS FOR CREDIT UNDER THIS SECTION.

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

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

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

17 D. IF THE ALLOWABLE AMOUNT OF A CREDIT UNDER THIS SECTION EXCEEDS THE
18 TAXPAYER'S LUXURY TAX LIABILITY UNDER THIS CHAPTER, THE AMOUNT OF THE CLAIM
19 NOT USED TO OFFSET THE LUXURY TAX LIABILITY MAY BE CARRIED FORWARD AS A
20 CREDIT AGAINST THE TAXPAYER'S SUBSEQUENT LUXURY TAX LIABILITY.

21 Sec. 2. Title 42, chapter 5, article 5, Arizona Revised Statutes, is
22 amended by adding sections 42-5207 and 42-5208, to read:

23 42-5207. Credit for contributions to school tuition
24 organization; low-income scholarships

25 A. A CREDIT IS ALLOWED AGAINST THE SEVERANCE TAX LIABILITY INCURRED
26 PURSUANT TO THIS CHAPTER BY A SEVERER PURSUANT TO SECTION 42-5202 FOR
27 CONTRIBUTIONS TO A SCHOOL TUITION ORGANIZATION FOR THE PURPOSES OF
28 SCHOLARSHIPS FOR LOW-INCOME STUDENTS AS PROVIDED BY SECTIONS 43-1183 AND
29 43-1504.

30 B. THE AMOUNT OF THE CREDIT IS THE TOTAL AMOUNT OF THE TAXPAYER'S
31 VOLUNTARY CASH CONTRIBUTIONS THAT IS PREAPPROVED BY THE DEPARTMENT PURSUANT
32 TO SECTION 43-1183, SUBSECTION D FOR APPLICATION AGAINST THE SEVERANCE TAX
33 LIABILITY.

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

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

37 2. CLAIMS FOR CREDIT UNDER THIS SECTION.

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

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

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

44 D. IF THE ALLOWABLE AMOUNT OF A CREDIT UNDER THIS SECTION EXCEEDS THE
45 TAXPAYER'S SEVERANCE TAX LIABILITY UNDER THIS CHAPTER, THE AMOUNT OF THE

CLAIM NOT USED TO OFFSET THE SEVERANCE TAX LIABILITY MAY BE CARRIED FORWARD AS A CREDIT AGAINST THE TAXPAYER'S SUBSEQUENT SEVERANCE TAX LIABILITY.

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

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

B. THE AMOUNT OF THE CREDIT IS THE TOTAL AMOUNT OF THE TAXPAYER'S VOLUNTARY CASH CONTRIBUTIONS THAT IS PREAPPROVED BY THE DEPARTMENT PURSUANT TO SECTION 43-1184, SUBSECTION D FOR APPLICATION AGAINST THE SEVERANCE TAX LIABILITY.

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

1. SEVERERS THAT CLAIM A CREDIT UNDER THIS SECTION.
2. CLAIMS FOR CREDIT UNDER THIS SECTION.
3. SCHOOL TUITION ORGANIZATIONS THAT RECEIVE CONTRIBUTIONS FROM SEVERERS FOR THE PURPOSES OF THIS SECTION.
4. SCHOOLS THAT QUALIFY TO RECEIVE SCHOLARSHIP MONIES CONTRIBUTED BY SEVERERS FOR THE PURPOSES OF THIS SECTION.
5. STUDENTS WHO RECEIVE SCHOLARSHIPS FROM MONIES CONTRIBUTED BY SEVERERS FOR THE PURPOSES OF THIS SECTION.

D. IF THE ALLOWABLE AMOUNT OF A CREDIT UNDER THIS SECTION EXCEEDS THE TAXPAYER'S SEVERANCE TAX LIABILITY UNDER THIS CHAPTER, THE AMOUNT OF THE CLAIM NOT USED TO OFFSET THE SEVERANCE TAX LIABILITY MAY BE CARRIED FORWARD AS A CREDIT AGAINST THE TAXPAYER'S SUBSEQUENT SEVERANCE TAX LIABILITY.

Sec. 3. Section 43-1089, Arizona Revised Statutes, is amended to read:

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

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

1. ~~Five~~ SEVEN hundred FIFTY dollars in any taxable year for a single individual or a head of household.
2. One thousand FIVE HUNDRED dollars in any taxable year for a married couple filing a joint return.

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

1 C. For each taxable year beginning on or after January 1, the
2 department shall adjust the dollar amounts prescribed by subsection A,
3 paragraphs 1 and 2 of this section according to the average annual change in
4 the metropolitan Phoenix consumer price index published by the United States
5 bureau of labor statistics, except that the dollar amounts shall not be
6 revised downward below the amounts allowed in the prior taxable year. The
7 revised dollar amounts shall be raised to the nearest whole dollar.

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

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

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

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

30 H. For the purposes of this section:

31 1. "Handicapped student" means a student who has any of the following
32 conditions:

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

38 2. "Qualified school":

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

44 (b) Does not include a charter school or programs operated by charter
45 schools.

1 Sec. 4. Section 43-1183, Arizona Revised Statutes, is amended to read:
 2 43-1183. Credit for contributions to school tuition
 3 organization; definition

4 A. Beginning from and after June 30, 2006, a credit is allowed against
 5 the taxes imposed by this title for the amount of voluntary cash
 6 contributions made by the taxpayer during the taxable year to a school
 7 tuition organization that is certified pursuant to chapter 15 of this title
 8 at the time of donation.

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

13 C. The department of revenue:

14 1. Shall not allow tax credits under this section and ~~section~~ SECTIONS
 15 20-224.06, 42-3357 AND 42-5207 that exceed in the aggregate a combined total
 16 of ten million dollars in any fiscal year. Beginning in fiscal year
 17 2007-2008, the aggregate dollar amount of the tax credit cap from the
 18 previous fiscal year shall be annually increased by twenty per cent.

19 2. Shall preapprove tax credits under this section and ~~section~~
 20 SECTIONS 20-224.06, 42-3357 AND 42-5207 subject to subsection D of this
 21 section.

22 3. Shall allow the tax credits under this section and ~~section~~ SECTIONS
 23 20-224.06, 42-3357 AND 42-5207 on a first come, first served basis.

24 D. For the purposes of subsection C, paragraph 2 of this section,
 25 before making a contribution to a school tuition organization, the taxpayer
 26 ~~under this title or title 20~~ must notify the school tuition organization of
 27 the total amount of contributions that the taxpayer intends to make to the
 28 school tuition organization AND THE TAX AGAINST WHICH THE CREDIT WOULD APPLY.
 29 Before accepting the contribution, the school tuition organization shall
 30 request preapproval from the department of revenue for the taxpayer's
 31 intended contribution amount. The department of revenue shall preapprove or
 32 deny the requested amount within twenty days after receiving the request from
 33 the school tuition organization. If the department of revenue preapproves
 34 the request, the school tuition organization shall immediately notify the
 35 taxpayer, and the department of insurance in the case of a credit under
 36 section 20-224.06, that the requested amount was preapproved by the
 37 department of revenue AS A CREDIT AGAINST THE SPECIFICALLY IDENTIFIED TAX.
 38 In order to receive a tax credit under this subsection, the taxpayer shall
 39 make the contribution to the school tuition organization within ten days
 40 after receiving notice from the school tuition organization that the
 41 requested amount was preapproved. If the school tuition organization does
 42 not receive the preapproved contribution from the taxpayer within the
 43 required ten days, the school tuition organization shall immediately notify
 44 the department of revenue, and the department of insurance in the case of a
 45 credit under section 20-224.06, and the department of revenue shall no longer

1 include this preapproved contribution amount when calculating the limit
2 prescribed in subsection C, paragraph 1 of this section.

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

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

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

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

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

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

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

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

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

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

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

36 2. Does not include a charter school or programs operated by charter
37 schools.

38 Sec. 5. Section 43-1184, Arizona Revised Statutes, is amended to read:

39 43-1184. Credit for contributions to school tuition
40 organization; displaced students; students with
41 disabilities; definition

42 A. Beginning from and after June 30, 2009, a credit is allowed against
43 the taxes imposed by this title for the amount of voluntary cash
44 contributions made by the taxpayer during the taxable year to a school

1 tuition organization that is certified pursuant to chapter 15 of this title
2 at the time of donation.

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

7 C. The department of revenue:

8 1. Shall not allow tax credits under this section and ~~section~~ SECTIONS
9 20-224.07, 42-3358 AND 42-5208 that exceed in the aggregate a combined total
10 of five million dollars in any fiscal year.

11 2. Shall preapprove tax credits under this section and ~~section~~
12 SECTIONS 20-224.07, 42-3358 AND 42-5208 subject to subsection D of this
13 section.

14 3. Shall allow the tax credits under this section and ~~section~~ SECTIONS
15 20-224.07, 42-3358 AND 42-5208 on a first come, first served basis.

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

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

43 F. Co-owners of a business, including corporate partners in a
44 partnership, may each claim only the pro rata share of the credit allowed
45 under this section based on the ownership interest. The total of the credits

1 allowed all such owners may not exceed the amount that would have been
2 allowed a sole owner.

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

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

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

11 J. The department of revenue shall adopt rules necessary for the
12 administration of this section.

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

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

19 2. Does not include a charter school or programs operated by charter
20 schools.

21 Sec. 6. Section 43-1502, Arizona Revised Statutes, is amended to read:

22 43-1502. Certification as a school tuition organization

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

30 B. The department shall:

31 1. Maintain a public registry of currently certified school tuition
32 organizations.

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

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

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

38 1. Failing or refusing to allocate at least ninety per cent of annual
39 revenues FROM CONTRIBUTIONS MADE FOR THE PURPOSES OF SECTIONS 20-224.06,
40 20-224.07, 42-3357, 42-3358, 42-5207, 42-5208, 43-1183 AND 43-1184 for
41 educational scholarships or tuition grants.

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

44 3. Limiting availability of scholarships to students of only one
45 school.

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

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

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

Sec. 7. Section 43-1503, Arizona Revised Statutes, is amended to read:

43-1503. Operational requirements for school tuition organizations

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

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

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

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

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

Sec. 8. Section 43-1504, Arizona Revised Statutes, is amended to read:

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

A. A school tuition organization that receives contributions from a corporation for the purposes of section 20-224.06, 42-3357, 42-5207 or 43-1183 must use at least ninety per cent of those contributions to provide

1 educational scholarships or tuition grants only to children whose family
2 income does not exceed one hundred eighty-five per cent of the income limit
3 required to qualify a child for reduced price lunches under the national
4 school lunch and child nutrition acts (42 United States Code sections 1751
5 through 1785) and who either:

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

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

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

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

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

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

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

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

40 Sec. 9. Section 43-1505, Arizona Revised Statutes, is amended to read:
41 **43-1505. Special provisions; corporate donations for displaced**
42 **students and students with disabilities; definition**

43 A. A school tuition organization that receives contributions for the
44 purposes of section ~~28-224.07~~ **20-224.07, 42-3358, 42-5208** or 43-1184 must use

1 at least ninety per cent of those contributions to provide educational
2 scholarships or tuition grants to qualified students who either:

3 1. Received a grant or scholarship under title 15, chapter 8, article
4 1.2 or 8 in order to attend a qualified school during the 2008-2009 academic
5 year.

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

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

13 4. ENROLL IN A QUALIFIED SCHOOL IN A KINDERGARTEN PROGRAM OR A
14 PRESCHOOL PROGRAM FOR CHILDREN WITH DISABILITIES.

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

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

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

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

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

1 Sec. 10. 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. 11. 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. 12. 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 Sec. 13. Section 43-1605, Arizona Revised Statutes, is amended to
36 read:

37 43-1605. Audits and financial reviews

38 A. On or before September 30 of each year, each school tuition
39 organization that received one million dollars or more in total donations in
40 the previous fiscal year shall provide for a financial audit of the
41 organization. The audit must be conducted in accordance with generally
42 accepted auditing standards and must evaluate the organization's compliance
43 with ~~the fiscal requirements of this article~~ SECTION 43-1603, SUBSECTION B,
44 PARAGRAPH 1. The audit must be conducted by an independent certified public
45 accountant licensed in this state. The certified public accountant and the

1 firm the certified public accountant is affiliated with shall be independent
2 with respect to the organization, its officers and directors, services
3 performed and all other independent relationships prescribed by generally
4 accepted auditing standards.

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

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

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