

State of Arizona  
Senate  
Fiftieth Legislature  
Second Regular Session  
2012

# SENATE BILL 1047

## AN ACT

AMENDING SECTIONS 43-222, 43-401, 43-1021 AND 43-1089, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1089.03; AMENDING SECTIONS 43-1183, 43-1184, 43-1501, 43-1502, 43-1503, 43-1504, 43-1505, 43-1507, 43-1601, 43-1602, 43-1603, 43-1604 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 43-222, Arizona Revised Statutes, is amended to  
3 read:

4 43-222. Income tax credit review schedule

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

7 1. For years ending in 0 and 5, sections 43-1075, 43-1075.01,  
8 43-1079.01, 43-1087, 43-1088, 43-1090.01, 43-1163, 43-1163.01, 43-1167.01,  
9 43-1175 and 43-1182.

10 2. For years ending in 1 and 6, sections 43-1074.02, 43-1083,  
11 43-1083.02, 43-1085.01, 43-1164.02, 43-1164.03 and 43-1183.

12 3. For years ending in 2 and 7, sections 43-1073, 43-1079, 43-1080,  
13 43-1085, 43-1086, 43-1089, 43-1089.01, 43-1089.02, 43-1089.03, 43-1090,  
14 43-1164, 43-1167, 43-1169, 43-1176 and 43-1181.

15 4. For years ending in 3 and 8, sections 43-1074.01, 43-1081, 43-1168,  
16 43-1170 and 43-1178.

17 5. For years ending in 4 and 9, sections 43-1076, 43-1081.01,  
18 43-1083.01, 43-1084, 43-1162, 43-1164.01, 43-1170.01 and 43-1184.

19 Sec. 2. Section 43-401, Arizona Revised Statutes, is amended to read:

20 43-401. Withholding tax; rates; election by employee

21 A. Except as provided by subsection B of this section, every employer  
22 at the time of the payment of wages, salary, bonus or other emolument to any  
23 employee whose compensation is for services performed within this state shall  
24 deduct and retain from the compensation an amount that is determined by the  
25 department pursuant to subsection D of this section or that is equal to a  
26 percentage, determined pursuant to subsection C of this section, of the total  
27 amount of the federal income tax deducted and withheld by an employer from  
28 the total value of such wages, bonus or other emolument of an employee under  
29 the provisions of the United States internal revenue code computed without  
30 deductions for any amount withheld.

31 B. An employer may voluntarily elect to not withhold tax during  
32 December by notifying:

33 1. The department on a form prescribed by the department.

34 2. The employer's employees in writing in a manner prescribed by the  
35 department.

36 C. The percentage deducted and retained under subsection A of this  
37 section:

38 1. Through April 30, 2009 shall be:

39 (a) If the employee's annual compensation is less than fifteen  
40 thousand dollars, ten per cent, nineteen per cent, twenty-three per cent,  
41 twenty-five per cent, thirty-one per cent or thirty-seven per cent, at the  
42 employee's election pursuant to subsection G of this section.

1 (b) If the employee's annual compensation is fifteen thousand dollars  
2 or more, nineteen per cent, twenty-three per cent, twenty-five per cent,  
3 thirty-one per cent or thirty-seven per cent, at the employee's election  
4 pursuant to subsection G of this section.

5 (c) Zero per cent at the election of an employee who had no state  
6 income tax liability in the prior taxable year and expects to have no state  
7 income tax liability for the current taxable year.

8 2. Beginning from and after April 30, 2009 through December 31, 2009,  
9 if an employee's rate of withholding under paragraph 1 of this subsection  
10 immediately before May 1, 2009 was:

11 (a) Zero per cent at the election of an employee who had no state  
12 income tax liability in the prior taxable year and expects to have no state  
13 income tax liability for the current taxable year, the withholding tax rate  
14 shall remain zero per cent.

15 (b) Ten per cent, the withholding tax rate shall be increased to 11.5  
16 per cent.

17 (c) Nineteen per cent, the withholding tax rate shall be increased to  
18 21.9 per cent.

19 (d) Twenty-three per cent, the withholding tax rate shall be increased  
20 to 26.5 per cent.

21 (e) Twenty-five per cent, the withholding tax rate shall be increased  
22 to 28.8 per cent.

23 (f) Thirty-one per cent, the withholding tax rate shall be increased  
24 to 35.7 per cent.

25 (g) Thirty-seven per cent, the withholding tax rate shall be increased  
26 to 42.6 per cent.

27 3. Beginning from and after December 31, 2009 through June 30, 2010,  
28 if an employee's rate of withholding under paragraph 2 of this subsection  
29 immediately before January 1, 2010 was:

30 (a) Zero per cent at the election of an employee who had no state  
31 income tax liability in the prior taxable year and expects to have no state  
32 income tax liability for the current taxable year, the withholding tax rate  
33 shall remain zero per cent.

34 (b) 11.5 per cent, the withholding tax rate shall be decreased to 10.7  
35 per cent.

36 (c) 21.9 per cent, the withholding tax rate shall be decreased to 20.3  
37 per cent.

38 (d) 26.5 per cent, the withholding tax rate shall be decreased to 24.5  
39 per cent.

40 (e) 28.8 per cent, the withholding tax rate shall be decreased to 26.7  
41 per cent.

42 (f) 35.7 per cent, the withholding tax rate shall be decreased to 33.1  
43 per cent.

44 (g) 42.6 per cent, the withholding tax rate shall be decreased to 39.5  
45 per cent.

1 D. Beginning from and after June 30, 2010, the amount deducted and  
2 retained under subsection A of this section shall be prescribed by tables  
3 adopted by the department. On or before March 15, 2010, the department shall  
4 submit to the joint legislative budget committee a copy of the table.

5 E. If the amount collected and payable by the employer to the  
6 department in each of the preceding four calendar quarters did not exceed an  
7 average of one thousand five hundred dollars, the amount collected shall be  
8 paid to the department on or before April 30, July 31, October 31 and January  
9 31 for the preceding calendar quarter. If such amount exceeded one thousand  
10 five hundred dollars in each of the preceding four calendar quarters, the  
11 employer shall pay to the department the amount the employer deducts and  
12 retains pursuant to this section at the same time as the employer is required  
13 to make deposits of federal tax pursuant to section 6302 of the internal  
14 revenue code. On or before April 30, July 31, October 31 and January 31 each  
15 year the employer shall reconcile the amounts payable during the preceding  
16 calendar quarter in a manner prescribed by the department, except that if the  
17 full amount collected and payable is paid timely to the department under this  
18 subsection, the employer may reconcile the amounts on or before May 10,  
19 August 10, November 10 and February 10 each year. The department by rule may  
20 allow and determine which employers qualify for annual payments of  
21 withholding taxes, with an annual report by the employer pursuant to section  
22 43-412, subsection B, if the qualifying employer has established sufficient  
23 payment history to indicate that the employer is current and in good standing  
24 pursuant to standards established by rule. For any business which has not  
25 had a withholding certificate for the four preceding consecutive quarters,  
26 the quarterly average shall be computed in a manner prescribed by the  
27 department.

28 F. If an employer fails to make a timely monthly payment because prior  
29 to that reporting period it reported on a quarterly basis instead of on a  
30 monthly basis, the department shall notify the employer that it is out of  
31 compliance with this section. Notwithstanding section 42-1125, the  
32 department shall not assess a penalty against an employer for failing to make  
33 a timely monthly payment if the employer had filed and remitted all taxes due  
34 on a quarterly basis and brings all filings and payments into current  
35 compliance within thirty days after being notified by the department.

36 G. Each employee shall elect the amount authorized by subsection C of  
37 this section to be withheld for application toward the employee's state  
38 income tax liability. The election provided under this subsection shall be  
39 exercised by each employee, in writing on a form prescribed by the  
40 department. The election shall be made within five days of employment. Each  
41 employer shall notify the employees of the election made available under this  
42 subsection and shall have election forms available at all times. Each form  
43 shall be completed in triplicate, with one copy each for the department, the  
44 employer and the employee. The employer shall file a copy of each completed  
45 form with the department. Any employee failing to complete an election form

1 as prescribed shall be deemed to have elected the smallest applicable  
2 withholding percentage.

3 H. Before July 1 of each year, each employer who chooses to not  
4 withhold tax pursuant to subsection B of this section shall notify each  
5 employee that:

6 1. State income taxes will not be withheld from compensation in  
7 December.

8 2. The employee may elect to change the rate of withholding tax  
9 prescribed by this section to compensate for the resulting change in annual  
10 withholdings from the employee's compensation.

11 I. At an employee's written request, the employer may agree to reduce  
12 the amount withheld under this section by the amount of credit that the  
13 employee represents to the employer that the employee will qualify for and be  
14 entitled to under sections 43-1088, 43-1089, ~~and~~ 43-1089.01 ~~AND~~ 43-1089.03.  
15 The employee's request must include the name and address of the qualifying  
16 charitable organization, qualified school tuition organization or public  
17 school. Within thirty days after agreeing to the employee's request, the  
18 employer shall reduce the withholding amount by the amount of the credit, but  
19 not below zero, prorated for the number of pay periods remaining in the  
20 employee's taxable year after the employee makes the request. If an employer  
21 agrees to reduce the withholding amount pursuant to this subsection, the  
22 following apply:

23 1. Within fifteen days after the end of each calendar quarter, the  
24 employer must pay the entire amount of the reduction in withholding tax for  
25 that quarter to the designated charitable organization, school tuition  
26 organization or public school. These payments are considered to be on the  
27 employee's behalf, and not the employer's, for the purposes of qualifying for  
28 the income tax credits under sections 43-1088, 43-1089, ~~and~~ 43-1089.01 ~~AND~~  
29 43-1089.03.

30 2. The employee is responsible and accountable for the accuracy and  
31 the amount of reduction in withholding tax and the payments to the charitable  
32 organization, school tuition organization or public school.

33 3. The employer is responsible and accountable to the charitable  
34 organization, school tuition organization or public school, to the employee  
35 and to the department for actually making the required payments.

36 4. Within thirty days after the end of each calendar year, or within  
37 fifteen days after the termination of employment, the employer must furnish  
38 to each electing employee and to the department a statement of the amount  
39 withheld and paid on behalf of the employee during that year.

40 Sec. 3. Section 43-1021, Arizona Revised Statutes, is amended to read:  
41 43-1021. Additions to Arizona gross income

42 In computing Arizona adjusted gross income, the following amounts shall  
43 be added to Arizona gross income:

1           1. A beneficiary's share of the fiduciary adjustment to the extent  
2 that the amount determined by section 43-1333 increases the beneficiary's  
3 Arizona gross income.

4           2. An amount equal to the "ordinary income portion" of a lump sum  
5 distribution that was excluded from federal adjusted gross income pursuant to  
6 section 402(d) of the internal revenue code.

7           3. The amount of interest income received on obligations of any state,  
8 territory or possession of the United States, or any political subdivision  
9 thereof, located outside the state of Arizona, reduced, for tax years  
10 beginning from and after December 31, 1996, by the amount of any interest on  
11 indebtedness and other related expenses that were incurred or continued to  
12 purchase or carry those obligations and that are not otherwise deducted or  
13 subtracted in arriving at Arizona gross income.

14           4. Annuity income received during the taxable year to the extent that  
15 the sum of the proceeds received from such annuity in all taxable years prior  
16 to and including the current taxable year exceeds the total consideration and  
17 premiums paid by the taxpayer. This paragraph applies only to those  
18 annuities with respect to which the first payment was received prior to  
19 December 31, 1978.

20           5. The excess of a partner's share of partnership taxable income  
21 required to be included under chapter 14, article 2 of this title over the  
22 income required to be reported under section 702(a)(8) of the internal  
23 revenue code.

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

27           7. The amount by which the adjusted basis of property described in  
28 this paragraph and computed pursuant to the internal revenue code exceeds the  
29 adjusted basis of such property computed pursuant to this title and the  
30 income tax act of 1954, as amended. This paragraph shall apply to all  
31 property which is held for the production of income and which is sold or  
32 otherwise disposed of during the taxable year, except depreciable property  
33 used in a trade or business.

34           8. The amount of depreciation or amortization of costs of any capital  
35 investment that is deducted pursuant to section 167 or 179 of the internal  
36 revenue code by a qualified defense contractor with respect to which an  
37 election is made to amortize pursuant to section 43-1024.

38           9. The amount of gain from the sale or other disposition of a capital  
39 investment which a qualified defense contractor has elected to amortize  
40 pursuant to section 43-1024.

41           10. Amounts withdrawn from the Arizona state retirement system, the  
42 corrections officer retirement plan, the public safety personnel retirement  
43 system, the elected officials' retirement plan or a county or city retirement  
44 plan by an employee upon termination of employment before retirement to the  
45 extent they were deducted in arriving at Arizona taxable income in any year.

1           11. That portion of the net operating loss included in federal adjusted  
2 gross income which has already been taken as a net operating loss for Arizona  
3 purposes or which is separately taken as a subtraction under the special net  
4 operating loss transition rule.

5           12. Any nonitemized amount deducted pursuant to section 170 of the  
6 internal revenue code representing contributions to an educational  
7 institution which denies admission, enrollment or board and room  
8 accommodations on the basis of race, color or ethnic background except those  
9 institutions primarily established for the education of American Indians.

10           13. The amount paid as taxes on property in this state with respect to  
11 which a credit is claimed under section 43-1078.

12           14. Amounts withdrawn from a medical savings account by the individual  
13 during the taxable year computed pursuant to section 220(f) of the internal  
14 revenue code and not included in federal adjusted gross income.

15           15. Any amount of agricultural water conservation expenses that were  
16 deducted pursuant to the internal revenue code for which a credit is claimed  
17 under section 43-1084.

18           16. The amount by which the depreciation or amortization computed under  
19 the internal revenue code with respect to property for which a credit was  
20 taken under section 43-1080 exceeds the amount of depreciation or  
21 amortization computed pursuant to the internal revenue code on the Arizona  
22 adjusted basis of the property.

23           17. The amount by which the adjusted basis computed under the internal  
24 revenue code with respect to property for which a credit was claimed under  
25 section 43-1080 and which is sold or otherwise disposed of during the taxable  
26 year exceeds the adjusted basis of the property computed under section  
27 43-1080.

28           18. The amount by which the depreciation or amortization computed under  
29 the internal revenue code with respect to property for which a credit was  
30 taken under either section 43-1081 or 43-1081.01 exceeds the amount of  
31 depreciation or amortization computed pursuant to the internal revenue code  
32 on the Arizona adjusted basis of the property.

33           19. The amount by which the adjusted basis computed under the internal  
34 revenue code with respect to property for which a credit was claimed under  
35 section 43-1074.02, 43-1081 or 43-1081.01 and which is sold or otherwise  
36 disposed of during the taxable year exceeds the adjusted basis of the  
37 property computed under section 43-1074.02, 43-1081 or 43-1081.01, as  
38 applicable.

39           20. The deduction referred to in section 1341(a)(4) of the internal  
40 revenue code for restoration of a substantial amount held under a claim of  
41 right.

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

1           22. Any amount deducted pursuant to section 170 of the internal revenue  
2 code representing contributions to a school tuition organization or a public  
3 school for which a credit is claimed under section 43-1089, ~~or~~ 43-1089.01 OR  
4 43-1089.03.

5           23. Any amount deducted in computing Arizona gross income as expenses  
6 for installing solar stub outs or electric vehicle recharge outlets in this  
7 state with respect to which a credit is claimed pursuant to section 43-1090.

8           24. Any wage expenses deducted pursuant to the internal revenue code  
9 for which a credit is claimed under section 43-1087 and representing net  
10 increases in qualified employment positions for employment of temporary  
11 assistance for needy families recipients.

12           25. Any amount deducted for conveying ownership or development rights  
13 of property to an agricultural preservation district under section 48-5702  
14 for which a credit is claimed under section 43-1081.02.

15           26. The amount of any depreciation allowance allowed pursuant to  
16 section 167(a) of the internal revenue code to the extent not previously  
17 added.

18           27. With respect to property for which an expense deduction was taken  
19 pursuant to section 179 of the internal revenue code, the amount in excess of  
20 twenty-five thousand dollars.

21           28. The amount of any deductions that are claimed in computing federal  
22 adjusted gross income representing expenses for which a credit is claimed  
23 under either section 43-1075 or 43-1075.01 or both.

24           29. The amount by which the depreciation or amortization computed under  
25 the internal revenue code with respect to property for which a credit was  
26 taken under section 43-1090.01 exceeds the amount of depreciation or  
27 amortization computed pursuant to the internal revenue code on the Arizona  
28 adjusted basis of the property.

29           30. The amount by which the adjusted basis computed under the internal  
30 revenue code with respect to property for which a credit was claimed under  
31 section 43-1090.01 and which is sold or otherwise disposed of during the  
32 taxable year exceeds the adjusted basis of the property computed under  
33 section 43-1090.01.

34           31. The amount of a nonqualified withdrawal, as defined in section  
35 15-1871, from a college savings plan established pursuant to section 529 of  
36 the internal revenue code that is made to a distributee to the extent the  
37 amount is not included in computing federal adjusted gross income, except  
38 that the amount added under this paragraph shall not exceed the difference  
39 between the amount subtracted under section 43-1022 in prior taxable years  
40 and the amount added under this section in any prior taxable years.

41           32. The amount of unemployment compensation that is excluded from  
42 federal adjusted gross income pursuant to section 85(c) of the internal  
43 revenue code as added by section 1007 of the American recovery and  
44 reinvestment act of 2009 (P.L. 111-5).



1 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 F. The tax credit is not allowed if the taxpayer designates the  
5 taxpayer's contribution to the school tuition organization for the direct  
6 benefit of any dependent of the taxpayer or if the taxpayer designates a  
7 student beneficiary as a condition of the taxpayer's contribution to the  
8 school tuition organization. The tax credit is not allowed if the taxpayer,  
9 with the intent to benefit the taxpayer's dependent, agrees with one or more  
10 other taxpayers to designate each taxpayer's contribution to the school  
11 tuition organization for the direct benefit of the other taxpayer's  
12 dependent.

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

18 ~~H. For the purposes of this section:~~

19 ~~1. "Handicapped student" means a student who has any of the following~~  
20 ~~conditions:~~

21 ~~(a) Hearing impairment.~~

22 ~~(b) Visual impairment.~~

23 ~~(c) Developmental delay.~~

24 ~~(d) Preschool severe delay.~~

25 ~~(e) Speech/language impairment.~~

26 ~~2. "Qualified school":~~

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

32 ~~(b) Does not include a charter school or programs operated by charter~~  
33 ~~schools.~~

34 Sec. 5. Title 43, chapter 10, article 5, Arizona Revised Statutes, is  
35 amended by adding section 43-1089.03, to read:

36 43-1089.03. Credit for contributions to certified school  
37 tuition organization

38 A. A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR THE  
39 AMOUNT OF VOLUNTARY CASH CONTRIBUTIONS BY THE TAXPAYER OR ON THE TAXPAYER'S  
40 BEHALF PURSUANT TO SECTION 43-401, SUBSECTION I DURING THE TAXABLE YEAR TO A  
41 SCHOOL TUITION ORGANIZATION THAT IS CERTIFIED PURSUANT TO CHAPTER 16 OF THIS  
42 TITLE AT THE TIME OF DONATION. EXCEPT AS PROVIDED BY SUBSECTION C OF THIS  
43 SECTION, THE AMOUNT OF THE CREDIT SHALL NOT EXCEED:

1           1. FIVE HUNDRED DOLLARS IN ANY TAXABLE YEAR FOR A SINGLE INDIVIDUAL OR  
2 A HEAD OF HOUSEHOLD.

3           2. ONE THOUSAND DOLLARS IN ANY TAXABLE YEAR FOR A MARRIED COUPLE  
4 FILING A JOINT RETURN.

5           B. A HUSBAND AND WIFE WHO FILE SEPARATE RETURNS FOR A TAXABLE YEAR IN  
6 WHICH THEY COULD HAVE FILED A JOINT RETURN MAY EACH CLAIM ONLY ONE-HALF OF  
7 THE TAX CREDIT THAT WOULD HAVE BEEN ALLOWED FOR A JOINT RETURN.

8           C. FOR EACH TAXABLE YEAR BEGINNING ON OR AFTER JANUARY 1, THE  
9 DEPARTMENT SHALL ADJUST THE DOLLAR AMOUNTS PRESCRIBED BY SUBSECTION A,  
10 PARAGRAPHS 1 AND 2 OF THIS SECTION ACCORDING TO THE AVERAGE ANNUAL CHANGE IN  
11 THE METROPOLITAN PHOENIX CONSUMER PRICE INDEX PUBLISHED BY THE UNITED STATES  
12 BUREAU OF LABOR STATISTICS, EXCEPT THAT THE DOLLAR AMOUNTS SHALL NOT BE  
13 REVISED DOWNWARD BELOW THE AMOUNTS ALLOWED IN THE PRIOR TAXABLE YEAR. THE  
14 REVISED DOLLAR AMOUNTS SHALL BE RAISED TO THE NEAREST WHOLE DOLLAR.

15           D. IF THE ALLOWABLE TAX CREDIT EXCEEDS THE TAXES OTHERWISE DUE UNDER  
16 THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS  
17 TITLE, THE TAXPAYER MAY CARRY THE AMOUNT OF THE CLAIM NOT USED TO OFFSET THE  
18 TAXES UNDER THIS TITLE FORWARD FOR NOT MORE THAN FIVE CONSECUTIVE TAXABLE  
19 YEARS' INCOME TAX LIABILITY.

20           E. THE CREDIT ALLOWED BY THIS SECTION IS IN LIEU OF ANY DEDUCTION  
21 PURSUANT TO SECTION 170 OF THE INTERNAL REVENUE CODE AND TAKEN FOR STATE TAX  
22 PURPOSES.

23           F. 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 DEPENDENT OF THE TAXPAYER OR IF THE TAXPAYER DESIGNATES A  
26 STUDENT BENEFICIARY AS A CONDITION OF THE TAXPAYER'S CONTRIBUTION TO THE  
27 SCHOOL TUITION ORGANIZATION. THE TAX CREDIT IS NOT ALLOWED IF THE TAXPAYER,  
28 WITH THE INTENT TO BENEFIT THE TAXPAYER'S DEPENDENT, AGREES WITH ONE OR MORE  
29 OTHER TAXPAYERS TO DESIGNATE EACH TAXPAYER'S CONTRIBUTION TO THE SCHOOL  
30 TUITION ORGANIZATION FOR THE DIRECT BENEFIT OF THE OTHER TAXPAYER'S  
31 DEPENDENT.

32           G. FOR THE PURPOSES OF THIS SECTION, A CONTRIBUTION, FOR WHICH A  
33 CREDIT IS CLAIMED, THAT IS MADE ON OR BEFORE THE FIFTEENTH DAY OF THE FOURTH  
34 MONTH FOLLOWING THE CLOSE OF THE TAXABLE YEAR MAY BE APPLIED TO EITHER THE  
35 CURRENT OR PRECEDING TAXABLE YEAR AND IS CONSIDERED TO HAVE BEEN MADE ON THE  
36 LAST DAY OF THAT TAXABLE YEAR.

37           H. A TAXPAYER MAY NOT CLAIM A CREDIT UNDER THIS SECTION AND ALSO UNDER  
38 SECTION 43-1089 WITH RESPECT TO THE SAME CONTRIBUTION. IF A TAXPAYER'S  
39 CONTRIBUTION TO A SCHOOL TUITION ORGANIZATION EXCEEDS THE AMOUNT OF THE  
40 CREDIT ALLOWED UNDER SECTION 43-1089, A TAXPAYER MAY CLAIM A CREDIT UNDER  
41 THIS SECTION AND ALSO UNDER SECTION 43-1089. IF A TAXPAYER'S CONTRIBUTION TO  
42 A SCHOOL TUITION ORGANIZATION DOES NOT EXCEED THE AMOUNT OF THE CREDIT  
43 ALLOWED BY SECTION 43-1089, THE CONTRIBUTION IS CONSIDERED TO HAVE BEEN MADE  
44 PURSUANT TO SECTION 43-1089.



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

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

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

16 I. 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 specific student.

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

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

23 ~~1. Means a nongovernmental primary school or secondary school:~~

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

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

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

34 ~~2. Does not include a charter school or programs operated by charter~~  
35 ~~schools.~~

36 Sec. 7. Section 43-1184, Arizona Revised Statutes, is amended to read:

37 43-1184. Credit for contributions to school tuition  
38 organization; displaced students; students with  
39 disabilities

40 A. Beginning from and after June 30, 2009, a credit is allowed against  
41 the taxes imposed by this title for the amount of voluntary cash  
42 contributions made by the taxpayer during the taxable year to a school  
43 tuition organization that is certified pursuant to chapter 15 of this title  
44 at the time of donation.

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 is  
3 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~~ TWENTY days after receiving notice  
27 from the school tuition organization that the requested amount was  
28 preapproved. If the school tuition organization does not receive the  
29 preapproved contribution from the taxpayer within the required ~~ten~~ TWENTY  
30 days, the school tuition organization shall immediately notify the department  
31 of revenue and the department shall no longer include this preapproved  
32 contribution amount when calculating the limit prescribed in subsection C,  
33 paragraph 1 of this section.

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

39           F. 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. 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. 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. 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. The department of revenue shall adopt rules necessary for the  
10 administration of this section.

11 ~~K. 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. 8. Section 43-1501, Arizona Revised Statutes, is amended to read:

20 43-1501. Definitions

21 In this chapter, unless the context otherwise requires:

22 1. "Allocate" includes reserving money for an award of a multiyear  
23 educational scholarship or tuition grant for a specific student.

24 2. "Custodian" means a resident of this state who is a parent or an  
25 authorized out-of-home care provider or, if none, the legal guardian of a  
26 qualified student, as defined in section 43-1505.

27 3. "Fiscal year" means the fiscal year of the state as prescribed in  
28 section 35-102.

29 4. "Qualified school" ~~has the same meaning prescribed in section~~  
30 ~~43-1183 or 43-1184, as applicable~~ MEANS A PRESCHOOL THAT OFFERS SERVICES TO  
31 STUDENTS WITH DISABILITIES, NONGOVERNMENTAL PRIMARY SCHOOL OR SECONDARY  
32 SCHOOL THAT IS LOCATED IN THIS STATE AND THAT DOES NOT DISCRIMINATE ON THE  
33 BASIS OF RACE, COLOR, DISABILITY, FAMILIAL STATUS OR NATIONAL ORIGIN AND THAT  
34 REQUIRES ALL TEACHING STAFF AND PERSONNEL THAT HAVE UNSUPERVISED CONTACT WITH  
35 STUDENTS TO BE FINGERPRINTED. QUALIFIED SCHOOL DOES NOT INCLUDE A CHARTER  
36 SCHOOL OR PROGRAMS OPERATED BY A CHARTER SCHOOL.

37 Sec. 9. Section 43-1502, Arizona Revised Statutes, is amended to read:

38 43-1502. Certification as a school tuition organization

39 A. A nonprofit organization in this state that is exempt or has  
40 applied for exemption from federal taxation under section 501(c)(3) of the  
41 internal revenue code may apply to the department of revenue for  
42 certification as a school tuition organization, and the department shall  
43 certify the school tuition organization if it meets the requirements  
44 prescribed by this chapter. An organization must apply for certification on  
45 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 SECTIONS 20-224.06,  
11 20-224.07, 43-1183 AND 43-1184 for educational scholarships or tuition  
12 grants.

13 2. Failing or refusing to file the annual reports required by section  
14 43-1506.

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

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

19 5. KNOWINGLY COLLUDING WITH ANY OTHER SCHOOL TUITION ORGANIZATION TO  
20 CIRCUMVENT THE LIMITS OF SECTION 43-1504, SUBSECTION C.

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. 10. Section 43-1503, Arizona Revised Statutes, is amended to  
38 read:

39 43-1503. Operational requirements for school tuition  
40 organizations

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 sections 43-1183 and 43-1184 and insurance premium tax credits under  
44 sections 20-224.06 and 20-224.07 and to pay educational scholarships or

1 tuition grants to allow students to attend any qualified school of their  
2 parents' or custodians' choice.

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

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

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

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

13 4. MUST NOT KNOWINGLY COLLUDE WITH ANY OTHER SCHOOL TUITION  
14 ORGANIZATION TO CIRCUMVENT THE LIMITS OF SECTION 43-1504, SUBSECTION C.

15 Sec. 11. Section 43-1504, Arizona Revised Statutes, is amended to  
16 read:

17 43-1504. Special provisions; corporate donations for low-income  
18 scholarships; rules

19 A. A school tuition organization that receives contributions from a  
20 corporation for the purposes of section 20-224.06 or 43-1183 must use at  
21 least ninety per cent of those contributions to provide educational  
22 scholarships or tuition grants only to children whose family income does not  
23 exceed one hundred eighty-five per cent of the income limit required to  
24 qualify a child for reduced price lunches under the national school lunch and  
25 child nutrition acts (42 United States Code sections 1751 through 1785) and  
26 ~~who either~~ TO WHOM ANY OF THE FOLLOWING APPLIES:

27 1. Attended a governmental primary or secondary school as a full-time  
28 student as defined in section 15-901 OR ATTENDED A PRESCHOOL PROGRAM THAT  
29 OFFERS SERVICES TO STUDENTS WITH DISABILITIES AT A GOVERNMENTAL SCHOOL for at  
30 least ~~the first one hundred~~ NINETY days of the prior fiscal year OR ONE FULL  
31 SEMESTER and transferred from a governmental ~~primary or secondary~~ school to a  
32 qualified school.

33 2. Enroll in a qualified school in a kindergarten program OR A  
34 PRESCHOOL PROGRAM THAT OFFERS SERVICES TO STUDENTS WITH DISABILITIES.

35 3. IS THE DEPENDENT OF A MEMBER OF THE ARMED FORCES OF THE UNITED  
36 STATES WHO IS STATIONED IN THIS STATE PURSUANT TO MILITARY ORDERS.

37 ~~3-~~ 4. Received an educational scholarship or tuition grant under  
38 paragraph 1, ~~or~~ 2 OR 3 OF THIS SUBSECTION OR CHAPTER 16, ARTICLE 1 OF THIS  
39 TITLE if the children continue to attend a qualified school in a subsequent  
40 year.

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

1 C. In 2006, a school tuition organization shall not issue an  
2 educational scholarship or a tuition grant for the purposes of section  
3 20-224.06 or 43-1183 in an amount that exceeds four thousand two hundred  
4 dollars for students in a kindergarten program or grades one through eight or  
5 five thousand five hundred dollars for students in grades nine through  
6 twelve. In each year after 2006, the limitation amount for a scholarship or  
7 a grant under this subsection shall be increased by one hundred dollars.

8 D. A school tuition organization shall require that student  
9 beneficiaries use the educational scholarships or tuition grants on a  
10 full-time basis. If a child leaves the school before completing an entire  
11 school year, the school shall refund a prorated amount of the educational  
12 scholarship or tuition grant to the school tuition organization that issued  
13 the scholarship or grant. The school tuition organization shall allocate any  
14 refunds it receives under this subsection for educational scholarships or  
15 tuition grants ~~in the following year.~~

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

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

22 Sec. 12. Section 43-1505, Arizona Revised Statutes, is amended to  
23 read:

24 43-1505. Special provisions; corporate donations for displaced  
25 students and students with disabilities; definition

26 A. A school tuition organization that receives contributions for the  
27 purposes of section ~~28-224.07~~ 20-224.07 or 43-1184 must use at least ninety  
28 per cent of those contributions to provide educational scholarships or  
29 tuition grants to qualified students ~~who either~~ TO WHOM ANY OF THE FOLLOWING  
30 APPLIES:

31 1. Received a grant or scholarship under title 15, chapter 8, article  
32 1.2 or 8 in order to attend a qualified school during the 2008-2009 academic  
33 year.

34 2. Attended a governmental primary or secondary school as a full-time  
35 student as defined in section 15-901 OR ATTENDED A PRESCHOOL PROGRAM THAT  
36 OFFERS SERVICES TO STUDENTS WITH DISABILITIES AT A GOVERNMENTAL SCHOOL for at  
37 least ~~the first one hundred~~ NINETY days of the prior fiscal year OR ONE FULL  
38 SEMESTER and transferred from a governmental ~~primary or secondary~~ school to a  
39 qualified school.

40 3. ENROLLED IN A QUALIFIED SCHOOL IN A KINDERGARTEN PROGRAM OR A  
41 PRESCHOOL PROGRAM THAT OFFERS SERVICES TO STUDENTS WITH DISABILITIES.

42 4. IS THE DEPENDENT OF A MEMBER OF THE ARMED FORCES OF THE UNITED  
43 STATES WHO IS STATIONED IN THIS STATE PURSUANT TO MILITARY ORDERS.

1           ~~3-~~ 5. Qualified for an educational scholarship or tuition grant under  
2 paragraph 1, ~~or~~ 2, 3 OR 4 OF THIS SUBSECTION if the qualified student  
3 continues to attend a qualified school in a subsequent year.

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

13           C. A school tuition organization shall require that student  
14 beneficiaries use the educational scholarships or tuition grants on a  
15 full-time basis. If a child leaves the school before completing an entire  
16 school year, the school shall refund a prorated amount of the educational  
17 scholarship or tuition grant to the school tuition organization that issued  
18 the scholarship or grant. The school tuition organization shall allocate any  
19 refunds it receives under this subsection for educational scholarships or  
20 tuition grants ~~in the following year~~.

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

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

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

29           2. Identified as having a disability under section 504 of the  
30 rehabilitation act (29 United States Code section 794) or identified AT ANY  
31 TIME by a school district as a child with a disability as defined in section  
32 15-761 or a child with a disability who is eligible to receive services from  
33 a school district under section 15-763.

34           Sec. 13. Section 43-1507, Arizona Revised Statutes, is amended to  
35 read:

36           43-1507. Audits and financial reviews

37           A. On or before September 30 of each year, each school tuition  
38 organization that received one million dollars or more in total donations in  
39 the previous fiscal year shall provide for a financial audit of the  
40 organization. The audit must be conducted in accordance with generally  
41 accepted auditing standards and must evaluate the organization's compliance  
42 with ~~the fiscal requirements of this article~~ SECTION 43-1503, SUBSECTION B,  
43 PARAGRAPH 1. The audit must be conducted by an independent certified public  
44 accountant licensed in this state. The certified public accountant and the  
45 firm the certified public accountant is affiliated with shall be independent

1 with respect to the organization, its officers and directors, services  
2 performed and all other independent relationships prescribed by generally  
3 accepted ~~accounting~~ AUDITING standards.

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

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

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

23 Sec. 14. Section 43-1601, Arizona Revised Statutes, is amended to  
24 read:

25 43-1601. Definitions

26 In this chapter, unless the context otherwise requires:

27 1. "Allocate" includes reserving money for an award of a multiyear  
28 educational scholarship or tuition grant for a specific student.

29 2. "Fiscal year" means the fiscal year of the state as prescribed in  
30 section 35-102.

31 3. "Qualified school" ~~has the same meaning prescribed in section~~  
32 ~~43-1089~~ MEANS A PRESCHOOL THAT OFFERS SERVICES TO STUDENTS WITH DISABILITIES,  
33 NONGOVERNMENTAL PRIMARY SCHOOL OR SECONDARY SCHOOL THAT IS LOCATED IN THIS  
34 STATE AND THAT DOES NOT DISCRIMINATE ON THE BASIS OF RACE, COLOR, DISABILITY,  
35 FAMILIAL STATUS OR NATIONAL ORIGIN AND THAT REQUIRES ALL TEACHING STAFF AND  
36 PERSONNEL THAT HAVE UNSUPERVISED CONTACT WITH STUDENTS TO BE FINGERPRINTED.  
37 QUALIFIED SCHOOL DOES NOT INCLUDE A CHARTER SCHOOL OR PROGRAMS OPERATED BY A  
38 CHARTER SCHOOL.

39 4. "STUDENTS WITH DISABILITIES" MEANS STUDENTS WHO HAVE ANY OF THE  
40 FOLLOWING CONDITIONS:

- 41 (a) HEARING IMPAIRMENT.
- 42 (b) VISUAL IMPAIRMENT.
- 43 (c) DEVELOPMENTAL DELAY.
- 44 (d) PRESCHOOL SEVERE DELAY.
- 45 (e) SPEECH/LANGUAGE IMPAIRMENT.

1           Sec. 15. Section 43-1602, Arizona Revised Statutes, is amended to  
2 read:

3           43-1602. Certification as a school tuition organization

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

11           B. The department shall:

12           1. Maintain a public registry of currently certified school tuition  
13 organizations.

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

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

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

19           1. Failing or refusing to allocate at least ninety per cent of annual  
20 revenues FROM CONTRIBUTIONS MADE FOR THE PURPOSES OF SECTIONS 43-1089 AND  
21 43-1089.03 for educational scholarships or tuition grants.

22           2. Failing or refusing to file the annual reports required by section  
23 43-1604.

24           3. Limiting availability of scholarships to students of only one  
25 school.

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

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

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

42           E. A school tuition organization may request an administrative hearing  
43 on the revocation of its certification as provided by title 41, chapter 6,  
44 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 Sec. 16. Section 43-1603, Arizona Revised Statutes, is amended to  
4 read:

5 43-1603. Operational requirements for school tuition  
6 organizations; notice; qualified schools

7 A. A certified school tuition organization must be established to  
8 receive contributions from taxpayers for the purposes of income tax credits  
9 under ~~section~~ SECTIONS 43-1089 AND 43-1089.03 and to pay educational  
10 scholarships or tuition grants to allow students to attend any qualified  
11 school of their parents' choice.

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

14 1. Must allocate at least ninety per cent of its annual revenue FROM  
15 CONTRIBUTIONS MADE FOR THE PURPOSES OF SECTIONS 43-1089 AND 43-1089.03 for  
16 educational scholarships or tuition grants.

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

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

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

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

29 Notice

30 A school tuition organization cannot award, restrict or  
31 reserve scholarships solely on the basis of a donor's  
32 recommendation.

33 A taxpayer may not claim a tax credit if the taxpayer  
34 agrees to swap donations with another taxpayer to benefit either  
35 taxpayer's own dependent.

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

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

41 2. Shall consider the financial need of applicants.

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

1 E. A TAXPAYER'S CONTRIBUTION TO A SCHOOL TUITION ORGANIZATION THAT  
2 EXCEEDS THE AMOUNT OF THE CREDIT ALLOWED BY SECTION 43-1089 BUT DOES NOT  
3 EXCEED THE AMOUNT OF THE CREDIT ALLOWED BY SECTION 43-1089.03 IS CONSIDERED A  
4 CONTRIBUTION PURSUANT TO SECTION 43-1089.03. A SCHOOL TUITION ORGANIZATION  
5 MUST USE AT LEAST NINETY PER CENT OF CONTRIBUTIONS MADE PURSUANT TO SECTION  
6 43-1089.03 FOR EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS FOR STUDENTS TO  
7 WHOM ANY OF THE FOLLOWING APPLIES:

8 1. ATTENDED A GOVERNMENTAL PRIMARY OR SECONDARY SCHOOL AS A FULL-TIME  
9 STUDENT AS DEFINED IN SECTION 15-901 OR ATTENDED A PRESCHOOL PROGRAM THAT  
10 OFFERS SERVICES TO STUDENTS WITH DISABILITIES AT A GOVERNMENTAL SCHOOL FOR AT  
11 LEAST NINETY DAYS OF THE PRIOR FISCAL YEAR AND TRANSFERRED FROM A  
12 GOVERNMENTAL SCHOOL TO A QUALIFIED SCHOOL.

13 2. ENROLLS IN A QUALIFIED SCHOOL IN A KINDERGARTEN PROGRAM OR A  
14 PRESCHOOL PROGRAM THAT OFFERS SERVICES TO STUDENTS WITH DISABILITIES.

15 3. IS THE DEPENDENT OF A MEMBER OF THE ARMED FORCES OF THE UNITED  
16 STATES WHO IS STATIONED IN THIS STATE PURSUANT TO MILITARY ORDERS.

17 4. RECEIVED AN EDUCATIONAL SCHOLARSHIP OR TUITION GRANT UNDER  
18 PARAGRAPH 1, 2 OR 3 OF THIS SUBSECTION OR UNDER CHAPTER 15 OF THIS TITLE IF  
19 THE STUDENT CONTINUES TO ATTEND A QUALIFIED SCHOOL IN A SUBSEQUENT YEAR.

20 F. IN AWARDING EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS FROM  
21 CONTRIBUTIONS MADE PURSUANT TO SECTION 43-1089.03, A SCHOOL TUITION  
22 ORGANIZATION SHALL GIVE PRIORITY TO STUDENTS AND SIBLINGS OF STUDENTS ON A  
23 WAITING LIST FOR SCHOLARSHIPS IF THE SCHOOL TUITION ORGANIZATION MAINTAINS A  
24 WAITING LIST.

25 G. IF AN INDIVIDUAL EDUCATIONAL SCHOLARSHIP OR TUITION GRANT EXCEEDS  
26 THE SCHOOL'S TOTAL COST OF EDUCATING THAT STUDENT, THE AMOUNT IN EXCESS SHALL  
27 BE RETURNED TO THE SCHOOL TUITION ORGANIZATION THAT MADE THE AWARD OR  
28 GRANT. THE SCHOOL TUITION ORGANIZATION MAY ALLOCATE THE RETURNED MONIES AS A  
29 MULTIYEAR AWARD FOR THAT STUDENT AND REPORT THE AWARD PURSUANT TO SECTION  
30 43-1604, PARAGRAPH 5, SUBDIVISION (b) OR MAY ALLOCATE THE RETURNED MONIES FOR  
31 EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS FOR OTHER STUDENTS.

32 Sec. 17. Section 43-1604, Arizona Revised Statutes, is amended to  
33 read:

34 43-1604. Annual report

35 On or before September 30 of each year, each school tuition  
36 organization shall report electronically to the department, in a form  
37 prescribed by the department, the following information, separately compiled  
38 and identified for the purposes of ~~section~~ SECTIONS 43-1089 AND 43-1089.03:

39 1. The name, address and contact person of the school tuition  
40 organization.

41 2. The total number of contributions received during the previous  
42 fiscal year.

43 3. The total dollar amount of contributions received during the  
44 previous fiscal year.

1           4. The total number of children awarded educational scholarships or  
2 tuition grants during the previous fiscal year.

3           5. The total dollar amount of:

4           (a) Educational scholarships and tuition grants distributed during the  
5 previous fiscal year.

6           (b) Money being held for identified students' scholarships and tuition  
7 grants in future years.

8           6. The cost of audits pursuant to section 43-1605 paid during the  
9 fiscal year.

10          7. The total dollar amount of educational scholarships and tuition  
11 grants awarded during the previous fiscal year to:

12          (a) Students whose family income meets the economic eligibility  
13 requirements established under the national school lunch and child nutrition  
14 acts (42 United States Code sections 1751 through 1785) for free or reduced  
15 price lunches.

16          (b) Students whose family income exceeds the threshold prescribed by  
17 subdivision (a) of this paragraph but does not exceed one hundred eighty-five  
18 per cent of the economic eligibility requirements established under the  
19 national school lunch and child nutrition acts (42 United States Code  
20 sections 1751 through 1785) for free or reduced price lunches.

21          8. For each school to which educational scholarships or tuition grants  
22 were awarded:

23          (a) The name and address of the school.

24          (b) The number of educational scholarships and tuition grants awarded  
25 during the previous fiscal year.

26          (c) The total dollar amount of educational scholarships and tuition  
27 grants awarded during the previous fiscal year.

28          9. The names, job titles and annual salaries of the three employees  
29 who receive the highest annual salaries from the school tuition organization.

30          Sec. 18. Section 43-1605, Arizona Revised Statutes, is amended to  
31 read:

32          43-1605. Audits and financial reviews

33          A. On or before September 30 of each year, each school tuition  
34 organization that received one million dollars or more in total donations in  
35 the previous fiscal year shall provide for a financial audit of the  
36 organization. The audit must be conducted in accordance with generally  
37 accepted auditing standards and must evaluate the organization's compliance  
38 with ~~the fiscal requirements of this article~~ SECTION 43-1603, SUBSECTION B,  
39 PARAGRAPH 1. The audit must be conducted by an independent certified public  
40 accountant licensed in this state. The certified public accountant and the  
41 firm the certified public accountant is affiliated with shall be independent  
42 with respect to the organization, its officers and directors, services  
43 performed and all other independent relationships prescribed by generally  
44 accepted auditing standards.

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

13           C. Within five days after receiving the audit or financial review the  
14 school tuition organization shall file a signed copy of the audit or  
15 financial review with the department.

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

20           Sec. 19. Effective date

21           This act is effective from and after June 30, 2012.

22           Sec. 20. Purpose

23           Pursuant to section 43-223, Arizona Revised Statutes, the legislature  
24 enacts section 43-1089.03, Arizona Revised Statutes, as added by this act, to  
25 encourage individuals to make charitable contributions to school tuition  
26 organizations in order to improve education by raising tuition scholarships  
27 for children in this state.

28           Sec. 21. Retroactivity

29           Sections 43-222, 43-401, 43-1021, 43-1089.03, 43-1602, 43-1603 and  
30 43-1604, Arizona Revised Statutes, as amended or added by this act, apply  
31 retroactively to taxable years beginning from and after December 31, 2011.