

State of Arizona  
Senate  
Fiftieth Legislature  
Second Regular Session  
2012

# SENATE BILL 1257

AN ACT

AMENDING SECTIONS 43-222, 43-401 AND 43-1021, ARIZONA REVISED STATUTES;  
AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING  
SECTION 43-1089.03; AMENDING SECTION 43-1121, ARIZONA REVISED STATUTES;  
AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING  
SECTION 43-1186; RELATING TO INDIVIDUAL AND CORPORATE INCOME TAX CREDITS.

(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 AND 43-1186.

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.

43 (b) If the employee's annual compensation is fifteen thousand dollars  
44 or more, nineteen per cent, twenty-three per cent, twenty-five per cent,

1 thirty-one per cent or thirty-seven per cent, at the employee's election  
2 pursuant to subsection G of this section.

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

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

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

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

15 (c) Nineteen per cent, the withholding tax rate shall be increased to  
16 21.9 per cent.

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

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

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

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

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

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

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

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

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

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

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

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

44 D. Beginning from and after June 30, 2010, the amount deducted and  
45 retained under subsection A of this section shall be prescribed by tables

1 adopted by the department. On or before March 15, 2010, the department shall  
2 submit to the joint legislative budget committee a copy of the table.

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

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

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

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

4 1. State income taxes will not be withheld from compensation in  
5 December.

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

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

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

28 2. The employee is responsible and accountable for the accuracy and  
29 the amount of reduction in withholding tax and the payments to the charitable  
30 organization, school tuition organization, ~~or~~ public school **OR QUALIFIED**  
31 **CHARTER SCHOOL**.

32 3. The employer is responsible and accountable to the charitable  
33 organization, school tuition organization, ~~or~~ public school **OR QUALIFIED**  
34 **CHARTER SCHOOL**, to the employee and to the department for actually making the  
35 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~~ THAT is held for the production of income and ~~which~~ THAT  
32 is sold or otherwise disposed of during the taxable year, except depreciable  
33 property 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~~ THAT 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~~ THAT has already been taken as a net operating loss for  
3 Arizona purposes or ~~which~~ THAT is separately taken as a subtraction under the  
4 special net 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~~ THAT 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~~ THAT is sold or otherwise disposed of during the  
26 taxable year exceeds the adjusted basis of the property computed under  
27 section 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~~ THAT 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 OR A QUALIFIED CHARTER SCHOOL for which a credit is claimed under  
4 section 43-1089, ~~or~~ 43-1089.01 OR 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~~ THAT 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           33. The amount of discharge of indebtedness income that is deferred and  
2 excluded from the computation of federal adjusted gross income or federal  
3 taxable income in the current taxable year pursuant to section 108(i) of the  
4 internal revenue code as added by section 1231 of the American recovery and  
5 reinvestment act of 2009 (P.L. 111-5).

6           34. The amount of any previously deferred original issue discount that  
7 was deducted in computing federal adjusted gross income or federal taxable  
8 income in the current year pursuant to section 108(i) of the internal revenue  
9 code as added by section 1231 of the American recovery and reinvestment act  
10 of 2009 (P.L. 111-5), to the extent that the amount was previously subtracted  
11 from Arizona gross income pursuant to section 43-1022, paragraph 33.

12           35. For taxable years beginning from and after December 31, 2011  
13 through December 31, 2014, the amount of any deduction that is claimed in  
14 computing federal adjusted gross income for health insurance premiums or  
15 contributions to a health savings account for which a credit is claimed under  
16 section 43-1087.01.

17           Sec. 4. Title 43, chapter 10, article 5, Arizona Revised Statutes, is  
18 amended by adding section 43-1089.03, to read:

19           43-1089.03. Tax credit; qualified charter schools; definitions

20           A. A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR THE  
21 AMOUNT OF VOLUNTARY CASH CONTRIBUTIONS BY A TAXPAYER OR ON THE TAXPAYER'S  
22 BEHALF PURSUANT TO SECTION 43-401, SUBSECTION I DURING THE TAXABLE YEAR TO A  
23 QUALIFIED CHARTER SCHOOL IN THIS STATE FOR THE SUPPORT OF QUALIFIED EXPENSES,  
24 BUT NOT EXCEEDING:

25           1. FIVE HUNDRED DOLLARS FOR A SINGLE INDIVIDUAL OR A HEAD OF  
26 HOUSEHOLD.

27           2. ONE THOUSAND DOLLARS FOR A MARRIED COUPLE FILING A JOINT RETURN.

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

31           C. THE CREDIT ALLOWED BY THIS SECTION IS IN LIEU OF ANY DEDUCTION  
32 PURSUANT TO SECTION 170 OF THE INTERNAL REVENUE CODE AND TAKEN FOR STATE TAX  
33 PURPOSES.

34           D. 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           E. A QUALIFIED CHARTER SCHOOL THAT RECEIVES VOLUNTARY CASH  
40 CONTRIBUTIONS PURSUANT TO SUBSECTION A OF THIS SECTION SHALL REPORT TO THE  
41 DEPARTMENT, IN A FORM PRESCRIBED BY THE DEPARTMENT, BY FEBRUARY 28 OF EACH  
42 YEAR THE FOLLOWING INFORMATION:

43           1. THE TOTAL NUMBER OF VOLUNTARY CASH CONTRIBUTION PAYMENTS RECEIVED  
44 DURING THE PREVIOUS CALENDAR YEAR.

1           2. THE TOTAL DOLLAR AMOUNT OF CONTRIBUTIONS RECEIVED DURING THE  
2 PREVIOUS CALENDAR YEAR.

3           3. THE TOTAL DOLLAR AMOUNT OF CONTRIBUTIONS SPENT BY THE SCHOOL DURING  
4 THE PREVIOUS CALENDAR YEAR, CATEGORIZED BY SPECIFIC EXPENDITURES IN SUPPORT  
5 OF QUALIFIED EXPENSES.

6           F. IF A QUALIFIED CHARTER SCHOOL VOLUNTARILY SURRENDERS ITS CHARTER OR  
7 HAS ITS CHARTER REVOKED BY ITS SPONSOR, THE QUALIFIED CHARTER SCHOOL SHALL  
8 PAY TO THE DEPARTMENT FOR DEPOSIT IN THE STATE GENERAL FUND THE TOTAL AMOUNT  
9 OF ALL VOLUNTARY CASH CONTRIBUTIONS THAT THE QUALIFIED CHARTER SCHOOL  
10 RECEIVED UNDER THIS SECTION DURING THE PREVIOUS TEN YEARS.

11           G. IF EACH CHARTER SCHOOL THAT IS OPERATED UNDER A CHARTER HOLDER'S  
12 CHARTER CONTRACT IS A QUALIFIED CHARTER SCHOOL, THE CHARTER HOLDER MAY  
13 RECEIVE CASH CONTRIBUTIONS UNDER THIS SECTION ON BEHALF OF ITS QUALIFIED  
14 CHARTER SCHOOLS TO SUPPORT ANY QUALIFIED EXPENSES.

15           H. FOR THE PURPOSES OF THIS SECTION:

16           1. "QUALIFIED CHARTER SCHOOL" MEANS A CHARTER SCHOOL THAT EITHER:

17           (a) HAS BEEN ASSIGNED A LETTER GRADE OF A OR B PURSUANT TO SECTION  
18 15-241 AND THAT IS IN FINANCIAL AND ACADEMIC COMPLIANCE WITH ITS CHARTER  
19 CONTRACT.

20           (b) HAS BEEN DESIGNATED AS AN ALTERNATIVE SCHOOL AND THAT HAS ACHIEVED  
21 AN EXCELLENT OR ABOVE AVERAGE PERFORMANCE PROFILE AS ADOPTED BY THE STATE  
22 BOARD OF EDUCATION AND THAT IS IN FINANCIAL AND ACADEMIC COMPLIANCE WITH ITS  
23 CHARTER CONTRACT.

24           2. "QUALIFIED EXPENSES" MEANS AN EXPENSE THAT IS USED TO SUPPORT A  
25 QUALIFIED CHARTER SCHOOL'S CAPITAL FACILITIES, INCLUDING THE ACQUISITION,  
26 LEASE, IMPROVEMENT OR DEBT SERVICE OF THE CHARTER SCHOOL'S FACILITIES.

27           Sec. 5. Section 43-1121, Arizona Revised Statutes, is amended to read:  
28 43-1121. Additions to Arizona gross income: corporations

29           In computing Arizona taxable income for a corporation, the following  
30 amounts shall be added to Arizona gross income:

31           1. The amounts computed pursuant to section 43-1021, paragraphs 3  
32 through 9, 12, 26, 27, 33, 34 and 35.

33           2. The amount of dividend income received from corporations and  
34 allowed as a deduction pursuant to sections 243, 244 and 245 of the internal  
35 revenue code.

36           3. Taxes ~~which~~ THAT are based on income paid to states, local  
37 governments or foreign governments and which were deducted in computing  
38 federal taxable income.

39           4. Expenses and interest relating to tax-exempt income on indebtedness  
40 incurred or continued to purchase or carry obligations the interest on which  
41 is wholly exempt from the tax imposed by this title. Financial institutions,  
42 as defined in section 6-101, shall be governed by section 43-961,  
43 paragraph 2.

1           5. Commissions, rentals and other amounts paid or accrued to a  
2 domestic international sales corporation controlled by the payor corporation  
3 if the domestic international sales corporation is not required to report its  
4 taxable income to this state because its income is not derived from or  
5 attributable to sources within this state. If the domestic international  
6 sales corporation is subject to article 4 of this chapter, the department  
7 shall prescribe by rule the method of determining the portion of the  
8 commissions, rentals and other amounts which are paid or accrued to the  
9 controlled domestic international sales corporation and which shall be  
10 deducted by the payor. For the purposes of this paragraph, "control" means  
11 direct or indirect ownership or control of fifty per cent or more of the  
12 voting stock of the domestic international sales corporation by the payor  
13 corporation.

14           6. Federal income tax refunds received during the taxable year to the  
15 extent they were deducted in arriving at Arizona taxable income in a previous  
16 year.

17           7. The amount of net operating loss taken pursuant to section 172 of  
18 the internal revenue code.

19           8. The amount of exploration expenses determined pursuant to section  
20 617 of the internal revenue code to the extent that they exceed seventy-five  
21 thousand dollars and to the extent that the election is made to defer those  
22 expenses not in excess of seventy-five thousand dollars.

23           9. Amortization of costs incurred to install pollution control devices  
24 and deducted pursuant to the internal revenue code or the amount of deduction  
25 for depreciation taken pursuant to the internal revenue code on pollution  
26 control devices for which an election is made pursuant to section 43-1129.

27           10. The amount of depreciation or amortization of costs of child care  
28 facilities deducted pursuant to section 167 or 188 of the internal revenue  
29 code for which an election is made to amortize pursuant to section 43-1130.

30           11. Arizona state income tax refunds received, to the extent the amount  
31 of the refunds is not already included in Arizona gross income, if a tax  
32 benefit was derived by deduction of this amount in a prior year.

33           12. The amount paid as taxes on property in this state by a qualified  
34 defense contractor with respect to which a credit is claimed under section  
35 43-1166.

36           13. The loss of an insurance company that is exempt under section  
37 43-1201 to the extent that it is included in computing Arizona gross income  
38 on a consolidated return pursuant to section 43-947.

39           14. The amount by which the depreciation or amortization computed under  
40 the internal revenue code with respect to property for which a credit was  
41 taken under section 43-1169 exceeds the amount of depreciation or  
42 amortization computed pursuant to the internal revenue code on the Arizona  
43 adjusted basis of the property.

1           15. The amount by which the adjusted basis computed under the internal  
2 revenue code with respect to property for which a credit was claimed under  
3 section 43-1169 and which is sold or otherwise disposed of during the taxable  
4 year exceeds the adjusted basis of the property computed under section  
5 43-1169.

6           16. The amount by which the depreciation or amortization computed under  
7 the internal revenue code with respect to property for which a credit was  
8 taken under either section 43-1170 or 43-1170.01 exceeds the amount of  
9 depreciation or amortization computed pursuant to the internal revenue code  
10 on the Arizona adjusted basis of the property.

11           17. The amount by which the adjusted basis computed under the internal  
12 revenue code with respect to property for which a credit was claimed under  
13 either section 43-1170 or 43-1170.01 and which is sold or otherwise disposed  
14 of during the taxable year exceeds the adjusted basis of the property  
15 computed under section 43-1170 or 43-1170.01, as applicable.

16           18. The deduction referred to in section 1341(a)(4) of the internal  
17 revenue code for restoration of a substantial amount held under a claim of  
18 right.

19           19. The amount by which a capital loss carryover allowable pursuant to  
20 section 1341(b)(5) of the internal revenue code exceeds the capital loss  
21 carryover allowable pursuant to section 43-1130.01, subsection F.

22           20. Any amount deducted in computing Arizona taxable income as expenses  
23 for installing solar stub outs or electric vehicle recharge outlets in this  
24 state with respect to which a credit is claimed pursuant to section 43-1176.

25           21. Any wage expenses deducted pursuant to the internal revenue code  
26 for which a credit is claimed under section 43-1175 and representing net  
27 increases in qualified employment positions for employment of temporary  
28 assistance for needy families recipients.

29           22. Any amount of expenses that were deducted pursuant to the internal  
30 revenue code and for which a credit is claimed under section 43-1178.

31           23. Any amount deducted for conveying ownership or development rights  
32 of property to an agricultural preservation district under section 48-5702  
33 for which a credit is claimed under section 43-1180.

34           24. The amount of any deduction that is claimed in computing Arizona  
35 gross income and that represents a donation of a school site for which a  
36 credit is claimed under section 43-1181.

37           25. The amount of any deductions that are claimed in computing federal  
38 taxable income representing expenses for which a credit is claimed under  
39 either section 43-1163 or 43-1163.01 or both.

40           26. Any amount deducted in computing Arizona taxable income as expenses  
41 for installing water conservation system plumbing stub outs in this state  
42 with respect to which a credit is claimed pursuant to section 43-1182.

43           27. Any amount deducted pursuant to section 170 of the internal revenue  
44 code representing contributions to a school tuition organization OR A

1 QUALIFIED CHARTER SCHOOL for which a credit is claimed under section 43-1183,  
2 ~~or~~ 43-1184 OR 43-1186.

3 Sec. 6. Title 43, chapter 11, article 6, Arizona Revised Statutes, is  
4 amended by adding section 43-1186, to read:

5 43-1186. Tax credit; qualified charter schools; definitions

6 A. A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR THE  
7 AMOUNT OF VOLUNTARY CASH CONTRIBUTIONS MADE BY THE TAXPAYER DURING THE  
8 TAXABLE YEAR TO A QUALIFIED CHARTER SCHOOL IN THIS STATE FOR THE SUPPORT OF  
9 QUALIFIED EXPENSES, BUT NOT EXCEEDING ONE THOUSAND DOLLARS IN ANY TAXABLE  
10 YEAR.

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

19 D. CO-OWNERS OF A BUSINESS, INCLUDING CORPORATE PARTNERS IN A  
20 PARTNERSHIP, MAY EACH CLAIM ONLY THE PRO RATA SHARE OF THE CREDIT ALLOWED  
21 UNDER THIS SECTION BASED ON THE OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS  
22 ALLOWED ALL SUCH OWNERS MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN  
23 ALLOWED A SOLE OWNER.

24 E. A QUALIFIED CHARTER SCHOOL THAT RECEIVES VOLUNTARY CASH  
25 CONTRIBUTIONS PURSUANT TO SUBSECTION A OF THIS SECTION SHALL REPORT TO THE  
26 DEPARTMENT, IN A FORM PRESCRIBED BY THE DEPARTMENT, BY FEBRUARY 28 OF EACH  
27 YEAR THE FOLLOWING INFORMATION:

28 1. THE TOTAL NUMBER OF VOLUNTARY CASH CONTRIBUTION PAYMENTS RECEIVED  
29 DURING THE PREVIOUS CALENDAR YEAR.

30 2. THE TOTAL DOLLAR AMOUNT OF CONTRIBUTIONS RECEIVED DURING THE  
31 PREVIOUS CALENDAR YEAR.

32 3. THE TOTAL DOLLAR AMOUNT OF CONTRIBUTIONS SPENT BY THE SCHOOL DURING  
33 THE PREVIOUS CALENDAR YEAR, CATEGORIZED BY SPECIFIC EXPENDITURES IN SUPPORT  
34 OF QUALIFIED EXPENSES.

35 F. IF A QUALIFIED CHARTER SCHOOL VOLUNTARILY SURRENDERS ITS CHARTER OR  
36 HAS ITS CHARTER REVOKED BY ITS SPONSOR, THE QUALIFIED CHARTER SCHOOL SHALL  
37 PAY TO THE DEPARTMENT FOR DEPOSIT IN THE STATE GENERAL FUND THE TOTAL AMOUNT  
38 OF ALL VOLUNTARY CASH CONTRIBUTIONS THAT THE QUALIFIED CHARTER SCHOOL  
39 RECEIVED UNDER THIS SECTION DURING THE PREVIOUS TEN YEARS.

40 G. IF EACH CHARTER SCHOOL THAT IS OPERATED UNDER A CHARTER HOLDER'S  
41 CHARTER CONTRACT IS A QUALIFIED CHARTER SCHOOL, THE CHARTER HOLDER MAY  
42 RECEIVE CASH CONTRIBUTIONS UNDER THIS SECTION ON BEHALF OF ITS QUALIFIED  
43 CHARTER SCHOOLS TO SUPPORT ANY QUALIFIED EXPENSES.

44 H. FOR THE PURPOSES OF THIS SECTION:

45 1. "QUALIFIED CHARTER SCHOOL" MEANS A CHARTER SCHOOL THAT EITHER:

1 (a) HAS BEEN ASSIGNED A LETTER GRADE OF A OR B PURSUANT TO SECTION  
2 15-241 AND THAT IS IN FINANCIAL AND ACADEMIC COMPLIANCE WITH ITS CHARTER  
3 CONTRACT.

4 (b) HAS BEEN DESIGNATED AS AN ALTERNATIVE SCHOOL AND THAT HAS ACHIEVED  
5 AN EXCELLENT OR ABOVE AVERAGE PERFORMANCE PROFILE AS ADOPTED BY THE STATE  
6 BOARD OF EDUCATION AND THAT IS IN FINANCIAL AND ACADEMIC COMPLIANCE WITH ITS  
7 CHARTER CONTRACT.

8 2. "QUALIFIED EXPENSES" MEANS AN EXPENSE THAT IS USED TO SUPPORT A  
9 QUALIFIED CHARTER SCHOOL'S CAPITAL FACILITIES, INCLUDING THE ACQUISITION,  
10 LEASE, IMPROVEMENT OR DEBT SERVICE OF THE CHARTER SCHOOL'S FACILITIES.

11 Sec. 7. Purpose

12 Pursuant to section 43-223, Arizona Revised Statutes, the purpose of  
13 sections 43-1089.03 and 43-1186, Arizona Revised Statutes, as added by this  
14 act, is to encourage taxpayers to direct a portion of their taxes by  
15 contributing to charter schools in order to support the charter school's  
16 facilities expenses.