

State of Arizona
Senate
Fiftieth Legislature
Second Regular Session
2012

CHAPTER 4
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:

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

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

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

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

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

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

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

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

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

38 10. Amounts withdrawn from the Arizona state retirement system, the
39 corrections officer retirement plan, the public safety personnel retirement
40 system, the elected officials' retirement plan or a county or city retirement
41 plan by an employee upon termination of employment before retirement to the
42 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).

45 33. The amount of discharge of indebtedness income that is deferred and
46 excluded from the computation of federal adjusted gross income or federal

1 taxable income in the current taxable year pursuant to section 108(i) of the
2 internal revenue code as added by section 1231 of the American recovery and
3 reinvestment act of 2009 (P.L. 111-5).

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

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

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

16 43-1089. Credit for contributions to school tuition
17 organization

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

24 1. Five hundred dollars in any taxable year for a single individual or
25 a head of household.

26 2. One thousand dollars in any taxable year for a married couple
27 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. For each taxable year beginning on or after January 1, the
32 department shall adjust the dollar amounts prescribed by subsection A,
33 paragraphs 1 and 2 of this section according to the average annual change in
34 the metropolitan Phoenix consumer price index published by the United States
35 bureau of labor statistics, except that the dollar amounts shall not be
36 revised downward below the amounts allowed in the prior taxable year. The
37 revised dollar amounts shall be raised to the nearest whole dollar.

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

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

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

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

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

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

18 ~~(a) Hearing impairment.~~

19 ~~(b) Visual impairment.~~

20 ~~(c) Developmental delay.~~

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

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

23 ~~2. "Qualified school":~~

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

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

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

33 43-1089.03. Credit for contributions to certified school
34 tuition organization

35 A. A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR THE
36 AMOUNT OF VOLUNTARY CASH CONTRIBUTIONS BY THE TAXPAYER OR ON THE TAXPAYER'S
37 BEHALF PURSUANT TO SECTION 43-401, SUBSECTION I DURING THE TAXABLE YEAR TO A
38 SCHOOL TUITION ORGANIZATION THAT IS CERTIFIED PURSUANT TO CHAPTER 16 OF THIS
39 TITLE AT THE TIME OF DONATION. EXCEPT AS PROVIDED BY SUBSECTION C OF THIS
40 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.

45 B. The amount of the credit is the total amount of the taxpayer's
46 contributions for the taxable year under subsection A of this section and is

1 preapproved by the department of revenue pursuant to subsection D of this
2 section.

3 C. The department of revenue:

4 1. Shall not allow tax credits under this section and section
5 20-224.07 that exceed in the aggregate a combined total of five million
6 dollars in any fiscal year.

7 2. Shall preapprove tax credits under this section and section
8 20-224.07 subject to subsection D of this section.

9 3. Shall allow the tax credits under this section and section
10 20-224.07 on a first come, first served basis.

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

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

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

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

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

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

4 J. The department of revenue shall adopt rules necessary for the
5 administration of this section.

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

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

12 ~~2. Does not include a charter school or programs operated by charter~~
13 ~~schools.~~

14 Sec. 8. Section 43-1501, Arizona Revised Statutes, is amended to read:

15 43-1501. Definitions

16 In this chapter, unless the context otherwise requires:

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

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

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

24 4. "Qualified school" ~~has the same meaning prescribed in section~~
25 ~~43-1183 or 43-1184, as applicable~~ MEANS A PRESCHOOL THAT OFFERS SERVICES TO
26 STUDENTS WITH DISABILITIES, NONGOVERNMENTAL PRIMARY SCHOOL OR SECONDARY
27 SCHOOL THAT IS LOCATED IN THIS STATE AND THAT DOES NOT DISCRIMINATE ON THE
28 BASIS OF RACE, COLOR, DISABILITY, FAMILIAL STATUS OR NATIONAL ORIGIN AND THAT
29 REQUIRES ALL TEACHING STAFF AND PERSONNEL THAT HAVE UNSUPERVISED CONTACT WITH
30 STUDENTS TO BE FINGERPRINTED. QUALIFIED SCHOOL DOES NOT INCLUDE A CHARTER
31 SCHOOL OR PROGRAMS OPERATED BY A CHARTER SCHOOL.

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

33 43-1502. Certification as a school tuition organization

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

41 B. The department shall:

42 1. Maintain a public registry of currently certified school tuition
43 organizations.

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

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

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

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

8 2. Failing or refusing to file the annual reports required by section
9 43-1506.

10 3. Limiting availability of scholarships to students of only one
11 school.

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

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

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

27 E. A school tuition organization may request an administrative hearing
28 on the revocation of its certification as provided by title 41, chapter 6,
29 article 10. Except as provided in section 41-1092.08, subsection H, a
30 decision of the department is subject to judicial review pursuant to title
31 12, chapter 7, article 6.

32 Sec. 10. Section 43-1503, Arizona Revised Statutes, is amended to
33 read:

34 43-1503. Operational requirements for school tuition
35 organizations

36 A. A certified school tuition organization must be established to
37 receive contributions from taxpayers for the purposes of income tax credits
38 under sections 43-1183 and 43-1184 and insurance premium tax credits under
39 sections 20-224.06 and 20-224.07 and to pay educational scholarships or
40 tuition grants to allow students to attend any qualified school of their
41 parents' or custodians' choice.

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

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

1 full-time basis. If a child leaves the school before completing an entire
2 school year, the school shall refund a prorated amount of the educational
3 scholarship or tuition grant to the school tuition organization that issued
4 the scholarship or grant. The school tuition organization shall allocate any
5 refunds it receives under this subsection for educational scholarships or
6 tuition grants ~~in the following year.~~

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

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

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

15 43-1505. Special provisions; corporate donations for displaced
16 students and students with disabilities; definition

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

22 1. Received a grant or scholarship under title 15, chapter 8, article
23 1.2 or 8 in order to attend a qualified school during the 2008-2009 academic
24 year.

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

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

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

35 ~~3-~~ 5. Qualified for an educational scholarship or tuition grant under
36 paragraph 1, ~~or~~ 2, 3 OR 4 OF THIS SUBSECTION if the qualified student
37 continues to attend a qualified school in a subsequent year.

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

1 C. A school tuition organization shall require that student
2 beneficiaries use the educational scholarships or tuition grants on a
3 full-time basis. If a child leaves the school before completing an entire
4 school year, the school shall refund a prorated amount of the educational
5 scholarship or tuition grant to the school tuition organization that issued
6 the scholarship or grant. The school tuition organization shall allocate any
7 refunds it receives under this subsection for educational scholarships or
8 tuition grants ~~in the following year.~~

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

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

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

17 2. Identified as having a disability under section 504 of the
18 rehabilitation act (29 United States Code section 794) or identified **AT ANY**
19 **TIME** by a school district as a child with a disability as defined in section
20 15-761 or a child with a disability who is eligible to receive services from
21 a school district under section 15-763.

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

24 **43-1507. Audits and financial reviews**

25 A. On or before September 30 of each year, each school tuition
26 organization that received one million dollars or more in total donations in
27 the previous fiscal year shall provide for a financial audit of the
28 organization. The audit must be conducted in accordance with generally
29 accepted auditing standards and must evaluate the organization's compliance
30 with ~~the fiscal requirements of this article~~ **SECTION 43-1503, SUBSECTION B,**
31 **PARAGRAPH 1.** The audit must be conducted by an independent certified public
32 accountant licensed in this state. The certified public accountant and the
33 firm the certified public accountant is affiliated with shall be independent
34 with respect to the organization, its officers and directors, services
35 performed and all other independent relationships prescribed by generally
36 accepted ~~accounting~~ **AUDITING** standards.

37 B. On or before September 30 of each year, each school tuition
38 organization that received less than one million dollars in total donations
39 in the previous fiscal year shall provide for a financial review of the
40 organization. The review must be conducted in accordance with standards for
41 accounting and review services and must evaluate the organization's
42 compliance with the fiscal requirements of this article. The review must be
43 conducted by an independent certified public accountant licensed in this
44 state. The certified public accountant and the firm the certified public
45 accountant is affiliated with shall be independent with respect to the
46 organization, its officers and directors, services performed and all other

1 independent relationships prescribed by generally accepted ~~accounting~~
2 AUDITING standards.

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

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

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

12 43-1601. Definitions

13 In this chapter, unless the context otherwise requires:

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

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

18 3. "Qualified school" ~~has the same meaning prescribed in section~~
19 43-1089 MEANS A PRESCHOOL THAT OFFERS SERVICES TO STUDENTS WITH DISABILITIES,
20 NONGOVERNMENTAL PRIMARY SCHOOL OR SECONDARY SCHOOL THAT IS LOCATED IN THIS
21 STATE AND THAT DOES NOT DISCRIMINATE ON THE BASIS OF RACE, COLOR, DISABILITY,
22 FAMILIAL STATUS OR NATIONAL ORIGIN AND THAT REQUIRES ALL TEACHING STAFF AND
23 PERSONNEL THAT HAVE UNSUPERVISED CONTACT WITH STUDENTS TO BE FINGERPRINTED.
24 QUALIFIED SCHOOL DOES NOT INCLUDE A CHARTER SCHOOL OR PROGRAMS OPERATED BY A
25 CHARTER SCHOOL.

26 4. "STUDENTS WITH DISABILITIES" MEANS STUDENTS WHO HAVE ANY OF THE
27 FOLLOWING CONDITIONS:

28 (a) HEARING IMPAIRMENT.

29 (b) VISUAL IMPAIRMENT.

30 (c) DEVELOPMENTAL DELAY.

31 (d) PRESCHOOL SEVERE DELAY.

32 (e) SPEECH/LANGUAGE IMPAIRMENT.

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

35 43-1602. Certification as a school tuition organization

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

43 B. The department shall:

44 1. Maintain a public registry of currently certified school tuition
45 organizations.

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

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

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

5 1. Failing or refusing to allocate at least ninety per cent of annual
6 revenues FROM CONTRIBUTIONS MADE FOR THE PURPOSES OF SECTIONS 43-1089 AND
7 43-1089.03 for educational scholarships or tuition grants.

8 2. Failing or refusing to file the annual reports required by section
9 43-1604.

10 3. Limiting availability of scholarships to students of only one
11 school.

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

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

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

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

33 Sec. 16. Section 43-1603, Arizona Revised Statutes, is amended to
34 read:

35 43-1603. Operational requirements for school tuition
36 organizations; notice; qualified schools

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

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

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

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

4 F. IN AWARDING EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS FROM
5 CONTRIBUTIONS MADE PURSUANT TO SECTION 43-1089.03, A SCHOOL TUITION
6 ORGANIZATION SHALL GIVE PRIORITY TO STUDENTS AND SIBLINGS OF STUDENTS ON A
7 WAITING LIST FOR SCHOLARSHIPS IF THE SCHOOL TUITION ORGANIZATION MAINTAINS A
8 WAITING LIST.

9 G. IF AN INDIVIDUAL EDUCATIONAL SCHOLARSHIP OR TUITION GRANT EXCEEDS
10 THE SCHOOL'S TOTAL COST OF EDUCATING THAT STUDENT, THE AMOUNT IN EXCESS SHALL
11 BE RETURNED TO THE SCHOOL TUITION ORGANIZATION THAT MADE THE AWARD OR
12 GRANT. THE SCHOOL TUITION ORGANIZATION MAY ALLOCATE THE RETURNED MONIES AS A
13 MULTIYEAR AWARD FOR THAT STUDENT AND REPORT THE AWARD PURSUANT TO SECTION
14 43-1604, PARAGRAPH 5, SUBDIVISION (b) OR MAY ALLOCATE THE RETURNED MONIES FOR
15 EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS FOR OTHER STUDENTS.

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

18 43-1604. Annual report

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

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

25 2. The total number of contributions received during the previous
26 fiscal year.

27 3. The total dollar amount of contributions received during the
28 previous fiscal year.

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

31 5. The total dollar amount of:

32 (a) Educational scholarships and tuition grants distributed during the
33 previous fiscal year.

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

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

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

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

44 (b) Students whose family income exceeds the threshold prescribed by
45 subdivision (a) of this paragraph but does not exceed one hundred eighty-five
46 per cent of the economic eligibility requirements established under the

1 national school lunch and child nutrition acts (42 United States Code
2 sections 1751 through 1785) for free or reduced price lunches.

3 8. For each school to which educational scholarships or tuition grants
4 were awarded:

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

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

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

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

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

14 43-1605. Audits and financial reviews

15 A. On or before September 30 of each year, each school tuition
16 organization that received one million dollars or more in total donations in
17 the previous fiscal year shall provide for a financial audit of the
18 organization. The audit must be conducted in accordance with generally
19 accepted auditing standards and must evaluate the organization's compliance
20 with ~~the fiscal requirements of this article~~ SECTION 43-1603, SUBSECTION B,
21 PARAGRAPH 1. The audit must be conducted by an independent certified public
22 accountant licensed in this state. The certified public accountant and the
23 firm the certified public accountant is affiliated with shall be independent
24 with respect to the organization, its officers and directors, services
25 performed and all other independent relationships prescribed by generally
26 accepted auditing standards.

27 B. On or before September 30 of each year, each school tuition
28 organization that received less than one million dollars in total donations
29 in the previous fiscal year shall provide for a financial review of the
30 organization. The review must be conducted in accordance with standards for
31 accounting and review services and must evaluate the organization's
32 compliance with the fiscal requirements of this article. The review must be
33 conducted by an independent certified public accountant licensed in this
34 state. The certified public accountant and the firm the certified public
35 accountant is affiliated with shall be independent with respect to the
36 organization, its officers and directors, services performed and all other
37 independent relationships prescribed by generally accepted auditing
38 standards.

39 C. Within five days after receiving the audit or financial review the
40 school tuition organization shall file a signed copy of the audit or
41 financial review with the department.

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

46 Sec. 19. Effective date

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

2 Sec. 20. Purpose

3 Pursuant to section 43-223, Arizona Revised Statutes, the legislature
4 enacts section 43-1089.03, Arizona Revised Statutes, as added by this act, to
5 encourage individuals to make charitable contributions to school tuition
6 organizations in order to improve education by raising tuition scholarships
7 for children in this state.

8 Sec. 21. Retroactivity

9 Sections 43-222, 43-401, 43-1021, 43-1089.03, 43-1602, 43-1603 and
10 43-1604, Arizona Revised Statutes, as amended or added by this act, apply
11 retroactively to taxable years beginning from and after December 31, 2011.

APPROVED BY THE GOVERNOR FEBRUARY 29, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE FEBRUARY 29, 2012.