

REFERENCE TITLE: **STO operational requirements**

State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

SB 1318

Introduced by
Senators Farley, Dalessandro, Hobbs, Quezada: Contreras, Meza, Pancrazi;
Representatives Alston, Kopec

AN ACT

AMENDING SECTIONS 20-224.06, 20-224.07, 43-1089, 43-1089.03, 43-1089.04,
43-1183, 43-1184, 43-1502, 43-1503, 43-1507, 43-1602, 43-1603 AND 43-1605,
ARIZONA REVISED STATUTES; RELATING TO SCHOOL TUITION ORGANIZATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-224.06, Arizona Revised Statutes, is amended to
3 read:

4 20-224.06. Premium tax credit for contributions to school
5 tuition organization; low-income scholarships

6 A. A credit is allowed against the premium tax liability incurred by
7 an insurer pursuant to section 20-224, 20-837, 20-1010, 20-1060 or 20-1097.07
8 for the amount of voluntary cash contributions made by the insurer during the
9 tax year to a school tuition organization.

10 B. The amount of the credit is the total amount of the insurer's
11 contributions for the tax year under subsection A of this section that is
12 preapproved by the department of revenue pursuant to section 43-1183,
13 subsection D.

14 C. The procedures, conditions, limitations, definitions and other
15 requirements prescribed by section 43-1183 and title 43, chapter 15 apply to:

16 1. Insurers that claim a credit under this section.

17 2. Claims for credit under this section.

18 3. School tuition organizations that receive contributions from
19 insurers for the purposes of this section.

20 4. Schools that qualify to receive scholarship monies contributed by
21 insurers for the purposes of this section.

22 5. Students who receive scholarships from monies contributed by
23 insurers for the purposes of this section.

24 D. If the allowable amount of a credit under this section exceeds the
25 insurer's state premium tax liability, the amount of the claim not used to
26 offset the premium tax liability may be carried forward as a credit against
27 the insurer's subsequent years' premium tax liability for a period not to
28 exceed five taxable years.

29 E. A credit is not allowed if the insurer ~~designates~~ REQUESTS OR
30 RECOMMENDS the contribution for the direct benefit of any specific student.

31 F. An insurer that claims a tax credit against state premium tax
32 liability is not required to pay any additional retaliatory tax imposed
33 pursuant to section 20-230 as a result of claiming that tax credit.

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

37 Sec. 2. Section 20-224.07, Arizona Revised Statutes, is amended to
38 read:

39 20-224.07. Premium tax credit for contributions to school
40 tuition organization; displaced students and
41 students with disabilities

42 A. A credit is allowed against the premium tax liability incurred by
43 an insurer pursuant to section 20-224, 20-837, 20-1010, 20-1060 or 20-1097.07
44 for the amount of voluntary cash contributions made by the insurer during the
45 tax year to a school tuition organization.

1 B. The amount of the credit is the total amount of the insurer's
2 contributions for the tax year under subsection A of this section that is
3 preapproved by the department of revenue pursuant to section 43-1184,
4 subsection D.

5 C. The procedures, conditions, limitations, definitions and other
6 requirements prescribed by section 43-1184 and title 43, chapter 15 apply to:

7 1. Insurers that claim a credit under this section.

8 2. Claims for credit under this section.

9 3. School tuition organizations that receive contributions from
10 insurers for the purposes of this section.

11 4. Qualified schools that participate under this section.

12 5. Students who receive scholarships from monies contributed by
13 insurers for the purposes of this section.

14 D. If the allowable amount of a credit under this section exceeds the
15 insurer's state premium tax liability, the amount of the claim not used to
16 offset the premium tax liability may be carried forward as a credit against
17 the insurer's subsequent years' premium tax liability for a period not to
18 exceed five taxable years.

19 E. A credit is not allowed if the insurer ~~designates~~ REQUESTS OR
20 RECOMMENDS the contribution for the direct benefit of any specific student.

21 F. An insurer that claims a tax credit against state premium tax
22 liability is not required to pay any additional retaliatory tax imposed
23 pursuant to section 20-230 as a result of claiming that tax credit.

24 G. The department of insurance, with the cooperation of the department
25 of revenue, shall adopt rules necessary for the administration of this
26 section.

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

28 43-1089. Credit for contributions to school tuition
29 organization

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

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

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

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

43 C. For each taxable year beginning on or after January 1, the
44 department shall adjust the dollar amounts prescribed by subsection A,
45 paragraphs 1 and 2 of this section according to the average annual change in

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

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

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

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

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

27 Sec. 4. Section 43-1089.03, Arizona Revised Statutes, is amended to
 28 read:

29 43-1089.03. Credit for contributions to certified school
 30 tuition organization

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

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

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

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

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

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

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

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

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

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

28 H. A taxpayer may not claim a credit under this section and also under
29 section 43-1089 with respect to the same contribution. If a taxpayer's
30 contribution to a school tuition organization exceeds the amount of the
31 credit allowed under section 43-1089, a taxpayer may claim a credit under
32 this section and also under section 43-1089. If a taxpayer's contribution to
33 a school tuition organization does not exceed the amount of the credit
34 allowed by section 43-1089, the contribution is considered to have been made
35 pursuant to section 43-1089.

36 Sec. 5. Section 43-1089.04, Arizona Revised Statutes, is amended to
37 read:

38 43-1089.04. Pro rata credit for business contributions by S
39 corporation to school tuition organizations;
40 definition

41 A. A credit is allowed against the taxes imposed by this title for the
42 pro rata amount of contributions made by an S corporation pursuant to section
43 43-1183, subsection F or section 43-1184, subsection F, or both. To qualify
44 for the credit:

1 1. The aggregate contribution in the taxable year must be at least
2 five thousand dollars.

3 2. All other requirements of section 43-1183 or 43-1184 and the
4 applicable sections of chapter 15 of this title must be met.

5 B. Co-owners of the S corporation may each claim the pro rata share of
6 the credit allowed under sections 43-1183 and 43-1184 based on the taxpayer's
7 ownership interest. The total of the credits allowed all the owners of the
8 corporation may not exceed the amount that would have been allowed a sole
9 owner of the corporation.

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

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

18 E. The tax credit is not allowed if the S corporation or a shareholder
19 ~~designates~~ REQUESTS OR RECOMMENDS the contribution to the school tuition
20 organization for the ~~direct~~ benefit of any ~~dependent of a shareholder of the~~
21 ~~corporation claiming a credit under this section~~ STUDENT or if the
22 corporation or a shareholder ~~designates~~ REQUESTS OR RECOMMENDS a student
23 beneficiary as a condition of the contribution to the school tuition
24 organization. ~~The tax credit is not allowed if the corporation or a~~
25 ~~shareholder, with the intent to benefit a shareholder's dependent, agrees~~
26 ~~with one or more other taxpayers to designate reciprocal contributions to~~
27 ~~school tuition organizations for the direct benefit of the other taxpayer's~~
28 ~~dependent.~~

29 F. For the purposes of this section, "S corporation" or "corporation"
30 means an S corporation as defined in section 1361 of the internal revenue
31 code.

32 Sec. 6. Section 43-1183, Arizona Revised Statutes, is amended to read:
33 43-1183. Credit for contributions to school tuition
34 organization

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

40 B. The amount of the credit is the total amount of the taxpayer's
41 contributions for the taxable year under subsection A of this section and is
42 preapproved by the department of revenue pursuant to subsection D of this
43 section.

1 C. The department of revenue:
2 1. Shall not allow tax credits under this section and section
3 20-224.06 that exceed in the aggregate a combined total of ten million
4 dollars in any fiscal year. Beginning in fiscal year 2007-2008, the
5 aggregate dollar amount of the tax credit cap from the previous fiscal year
6 shall be annually increased by twenty percent.
7 2. Shall preapprove tax credits under this section and section
8 20-224.06 subject to subsection D of this section.
9 3. Shall allow the tax credits under this section and section
10 20-224.06 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, and the department of
22 insurance in the case of a credit under section 20-224.06, that the requested
23 amount was preapproved by the department of revenue. In order to receive a
24 tax credit under this subsection, the taxpayer shall make the contribution to
25 the school tuition organization within twenty days after receiving notice
26 from the school tuition organization that the requested amount was
27 preapproved. If the school tuition organization does not receive the
28 preapproved contribution from the taxpayer within the required twenty days,
29 the school tuition organization shall immediately notify the department of
30 revenue, and the department of insurance in the case of a credit under
31 section 20-224.06, and the department of revenue shall no longer include this
32 preapproved contribution amount when calculating the limit prescribed in
33 subsection C, paragraph 1 of this section.
34 E. If the allowable tax credit exceeds the taxes otherwise due under
35 this title on the claimant's income, or if there are no taxes due under this
36 title, the taxpayer may carry the amount of the claim not used to offset the
37 taxes under this title forward for not more than five consecutive taxable
38 years' income tax liability.
39 F. Co-owners of a business, including corporate partners in a
40 partnership and stockholders of an S corporation as defined in section 1361
41 of the internal revenue code, may each claim only the pro rata share of the
42 credit allowed under this section based on the ownership interest. The total
43 of the credits allowed all such owners may not exceed the amount that would
44 have been allowed a sole owner.

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

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

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

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

12 Sec. 7. Section 43-1184, Arizona Revised Statutes, is amended to read:
13 43-1184. Credit for contributions to school tuition
14 organization; displaced students; students with
15 disabilities

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

21 B. The amount of the credit is the total amount of the taxpayer's
22 contributions for the taxable year under subsection A of this section and is
23 preapproved by the department of revenue pursuant to subsection D of this
24 section.

25 C. The department of revenue:

26 1. Shall not allow tax credits under this section and section
27 20-224.07 that exceed in the aggregate a combined total of five million
28 dollars in any fiscal year.

29 2. Shall preapprove tax credits under this section and section
30 20-224.07 subject to subsection D of this section.

31 3. Shall allow the tax credits under this section and section
32 20-224.07 on a first come, first served basis.

33 D. For the purposes of subsection C, paragraph 2 of this section,
34 before making a contribution to a school tuition organization, the taxpayer
35 under this title or title 20 must notify the school tuition organization of
36 the total amount of contributions that the taxpayer intends to make to the
37 school tuition organization. Before accepting the contribution, the school
38 tuition organization shall request preapproval from the department of revenue
39 for the taxpayer's intended contribution amount. The department of revenue
40 shall preapprove or deny the requested amount within twenty days after
41 receiving the request from the school tuition organization. If the
42 department of revenue preapproves the request, the school tuition
43 organization shall immediately notify the taxpayer that the requested amount
44 was preapproved by the department of revenue. In order to receive a tax
45 credit under this subsection, the taxpayer shall make the contribution to the

1 school tuition organization within twenty days after receiving notice from
2 the school tuition organization that the requested amount was preapproved.
3 If the school tuition organization does not receive the preapproved
4 contribution from the taxpayer within the required twenty days, the school
5 tuition organization shall immediately notify the department of revenue and
6 the department shall no longer include this preapproved contribution amount
7 when calculating the limit prescribed in subsection C, paragraph 1 of this
8 section.

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

14 F. Co-owners of a business, including corporate partners in a
15 partnership and stockholders of an S corporation as defined in section 1361
16 of the internal revenue code, may each claim only the pro rata share of the
17 credit allowed under this section based on the ownership interest. The total
18 of the credits allowed all such owners may not exceed the amount that would
19 have been allowed a sole owner.

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

25 I. The tax credit is not allowed if the taxpayer ~~designates~~ REQUESTS
26 OR RECOMMENDS the taxpayer's contribution to the school tuition organization
27 for the direct benefit of any specific student.

28 J. The department of revenue shall adopt rules necessary for the
29 administration of this section.

30 Sec. 8. Section 43-1502, Arizona Revised Statutes, is amended to read:
31 43-1502. Certification as a school tuition organization

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

39 B. The department shall:

40 1. Maintain a public registry of currently certified school tuition
41 organizations.

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

43 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~~ FAILED or ~~refusing~~ REFUSED to allocate at least ~~ninety-per~~
5 ~~cent~~ NINETY-FIVE PERCENT of annual revenues from contributions made for the
6 purposes of sections 20-224.06, 20-224.07, 43-1183 and 43-1184 for
7 educational scholarships or tuition grants.

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

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

12 4. ~~Encouraging, facilitating~~ ENCOURAGED, FACILITATED or knowingly
13 ~~permitting~~ PERMITTED taxpayers to engage in actions prohibited by this
14 article.

15 5. Knowingly ~~colluding~~ COLLUDED with any other school tuition
16 organization to circumvent the limits of section 43-1504, subsection C.

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. 9. Section 43-1503, Arizona Revised Statutes, is amended to 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~~ NINETY-FIVE percent of its annual
45 revenue from contributions made for the purposes of sections 20-224.06,

1 20-224.07, 43-1183 and 43-1184 for educational scholarships or tuition
2 grants.

3 2. MUST ALLOCATE AT LEAST NINETY PERCENT OF ITS ANNUAL REVENUE FROM
4 CONTRIBUTIONS MADE FOR THE PURPOSES OF SECTIONS 20-224.06, 20-224.07, 43-1183
5 AND 43-1184 FOR EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS FOR STUDENTS WHOSE
6 FAMILY INCOME DOES NOT EXCEED ONE HUNDRED EIGHTY-FIVE PERCENT OF THE ECONOMIC
7 ELIGIBILITY REQUIREMENTS ESTABLISHED UNDER THE NATIONAL SCHOOL LUNCH AND
8 CHILD NUTRITION ACTS (42 UNITED STATES CODE SECTIONS 1751 THROUGH 1785) FOR
9 FREE OR REDUCED-PRICE LUNCHES. A CHILD IS ELIGIBLE TO RECEIVE AN EDUCATIONAL
10 SCHOLARSHIP OR TUITION GRANT UNDER THIS PARAGRAPH IF THE CHILD MEETS THE
11 CRITERIA TO RECEIVE A REDUCED-PRICE LUNCH BUT DOES NOT ACTUALLY CLAIM THAT
12 BENEFIT.

13 ~~2-~~ 3. Shall not limit the availability of educational scholarships or
14 tuition grants to only students of one school.

15 ~~3-~~ 4. Must allow the department of revenue to verify that the
16 educational scholarships and tuition grants that are issued are awarded to
17 students who attend a qualified school.

18 ~~4-~~ 5. Must not knowingly collude with any other school tuition
19 organization to circumvent the limits of section 43-1504, subsection C.

20 ~~5-~~ 6. Must not award educational scholarships or tuition grants to
21 students who are simultaneously enrolled in a district school or charter
22 school and a qualified school.

23 ~~6-~~ 7. Shall include on the organization's website, if one exists, the
24 percentage and total dollar amount of educational scholarships and tuition
25 grants awarded during the previous fiscal year to:

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

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

35 Sec. 10. Section 43-1507, Arizona Revised Statutes, is amended to
36 read:

37 43-1507. Audit; costs

38 A. On or before September 30 of each year, each school tuition
39 organization ~~that received one million dollars or more in total donations in~~
40 ~~the previous fiscal year~~ shall provide for a financial audit of the
41 organization. The audit must:

42 1. Be conducted in accordance with generally accepted auditing
43 standards. ~~and must~~

44 2. Evaluate the organization's compliance with section 43-1503,
45 subsection B, paragraph 1. ~~The audit must~~

1 3. Be conducted by an independent certified public accountant licensed
2 in this state. The certified public accountant and the firm the certified
3 public accountant is affiliated with shall be independent with respect to the
4 organization, its officers and directors, services performed and all other
5 independent relationships prescribed by generally accepted auditing
6 standards.

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

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

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

26 Sec. 11. Section 43-1602, Arizona Revised Statutes, is amended to
27 read:

28 43-1602. Certification as a school tuition organization

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

36 B. The department shall:

37 1. Maintain a public registry of currently certified school tuition
38 organizations.

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

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

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

44 1. ~~Failing~~ FAILED or ~~refusing~~ REFUSED to allocate at least ~~ninety per
45 cent~~ NINETY-FIVE PERCENT of annual revenues from contributions made for the

1 purposes of sections 43-1089 and 43-1089.03 for educational scholarships or
2 tuition grants.

3 2. ~~Failing~~ FAILED or ~~refusing~~ REFUSED to file the annual reports
4 required by section 43-1604.

5 3. ~~Limiting~~ LIMITED THE availability of scholarships to students of
6 only one school.

7 4. ~~Encouraging, facilitating~~ ENCOURAGED, FACILITATED or knowingly
8 ~~permitting~~ PERMITTED taxpayers to engage in actions prohibited by this
9 article.

10 5. ~~Awarding, restricting~~ AWARDED, RESTRICTED or ~~reserving~~ RESERVED
11 educational scholarships or tuition grants for use by a particular student
12 based solely on the recommendation of the donor.

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

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

29 Sec. 12. Section 43-1603, Arizona Revised Statutes, is amended to
30 read:

31 43-1603. Operational requirements for school tuition
32 organizations; notice; qualified schools

33 A. A certified school tuition organization must be established to
34 receive contributions from taxpayers for the purposes of income tax credits
35 under sections 43-1089 and 43-1089.03 and to pay educational scholarships or
36 tuition grants to allow students to attend any qualified school of their
37 parents' choice.

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

40 1. Must allocate at least ~~ninety~~ NINETY-FIVE percent of its annual
41 revenue from contributions made for the purposes of sections 43-1089 and
42 43-1089.03 for educational scholarships or tuition grants.

43 2. MUST ALLOCATE AT LEAST NINETY PERCENT OF ITS ANNUAL REVENUE FROM
44 CONTRIBUTIONS MADE FOR THE PURPOSES OF SECTIONS 43-1089 AND 43-1089.03 FOR
45 EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS TO STUDENTS WHOSE FAMILY INCOME

1 DOES NOT EXCEED ONE HUNDRED EIGHTY-FIVE PERCENT OF THE ECONOMIC ELIGIBILITY
2 REQUIREMENTS ESTABLISHED UNDER THE NATIONAL SCHOOL LUNCH AND CHILD NUTRITION
3 ACTS (42 UNITED STATES CODE SECTIONS 1751 THROUGH 1785) FOR FREE OR
4 REDUCED-PRICE LUNCHES. A CHILD IS ELIGIBLE TO RECEIVE AN EDUCATIONAL
5 SCHOLARSHIP OR TUITION GRANT UNDER THIS PARAGRAPH IF THE CHILD MEETS THE
6 CRITERIA TO RECEIVE A REDUCED-PRICE LUNCH BUT DOES NOT ACTUALLY CLAIM THAT
7 BENEFIT.

8 ~~2-~~ 3. Shall not limit the availability of educational scholarships or
9 tuition grants to only students of one school.

10 ~~3-~~ 4. ~~May allow donors to recommend student beneficiaries, but~~ Shall
11 not award, designate or reserve scholarships ~~solely~~ on the basis of donor
12 recommendations.

13 ~~4-~~ 5. Shall not allow donors to ~~designate~~ RECOMMEND student
14 beneficiaries as a condition of any contribution to the organization, ~~or~~
15 ~~facilitate, encourage or knowingly permit the exchange of beneficiary student~~
16 ~~designations in violation of section 43-1089, subsection F.~~

17 ~~5-~~ 6. Shall include on the organization's website, if one exists, the
18 percentage and total dollar amount of educational scholarships and tuition
19 grants awarded during the previous fiscal year to:

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

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

29 ~~6-~~ 7. Must not award educational scholarships or tuition grants to
30 students who are simultaneously enrolled in a district school or charter
31 school and a qualified school.

32 C. A school tuition organization shall include the following notice in
33 any printed materials soliciting donations, in applications for scholarships
34 and on its website, if one exists:

35 Notice

36 A school tuition organization cannot award, restrict or
37 reserve scholarships ~~solely~~ on the basis of a donor's
38 recommendation.

39 ~~A taxpayer may not claim a tax credit if the taxpayer~~
40 ~~agrees to swap donations with another taxpayer to benefit either~~
41 ~~taxpayer's own dependent.~~

42 A TAX CREDIT IS NOT ALLOWED IF A TAXPAYER REQUESTS OR
43 RECOMMENDS THE TAXPAYER'S CONTRIBUTION TO THE SCHOOL TUITION
44 ORGANIZATION FOR THE BENEFIT OF ANY STUDENT OR IF THE TAXPAYER

1 REQUESTS OR RECOMMENDS A STUDENT BENEFICIARY AS A CONDITION OF
2 THE TAXPAYER'S CONTRIBUTION TO THE SCHOOL TUITION ORGANIZATION.

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

5 1. Shall not award, designate or reserve a scholarship ~~solely~~ on the
6 REQUESTS OR recommendation of any person contributing money to the
7 organization, ~~but may consider the recommendation among other factors.~~

8 2. Shall consider the financial need of applicants.

9 E. A taxpayer's contribution to a school tuition organization that
10 exceeds the amount of the credit allowed by section 43-1089 but does not
11 exceed the amount of the credit allowed by section 43-1089.03 is considered a
12 contribution pursuant to section 43-1089.03. A school tuition organization
13 must use at least ninety percent of contributions made pursuant to section
14 43-1089.03 for educational scholarships or tuition grants for students to
15 whom any of the following applies:

16 1. Attended a governmental primary or secondary school as a full-time
17 student as defined in section 15-901 or attended a preschool program that
18 offers services to students with disabilities at a governmental school for at
19 least ninety days of the prior fiscal year and transferred from a
20 governmental school to a qualified school.

21 2. Enrolls in a qualified school in a kindergarten program or a
22 preschool program that offers services to students with disabilities.

23 3. Is the dependent of a member of the armed forces of the United
24 States who is stationed in this state pursuant to military orders.

25 4. Received an educational scholarship or tuition grant under
26 paragraph 1, 2 or 3 of this subsection or under chapter 15 of this title if
27 the student continues to attend a qualified school in a subsequent year.

28 F. In awarding educational scholarships or tuition grants from
29 contributions made pursuant to section 43-1089.03, a school tuition
30 organization shall give priority to students and siblings of students on a
31 waiting list for scholarships if the school tuition organization maintains a
32 waiting list.

33 G. If an individual educational scholarship or tuition grant exceeds
34 the school's tuition, the amount in excess shall be returned to the school
35 tuition organization that made the award or grant. The school tuition
36 organization may allocate the returned monies as a multiyear award for that
37 student and report the award pursuant to section 43-1604, paragraph 5,
38 subdivision (b) or may allocate the returned monies for educational
39 scholarships or tuition grants for other students.

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

42 43-1605. Audit; costs

43 A. On or before September 30 of each year, each school tuition
44 organization ~~that received one million dollars or more in total donations in~~

1 ~~the previous fiscal year~~ shall provide for a financial audit of the
2 organization. The audit must:

3 1. Be conducted in accordance with generally accepted auditing
4 standards. ~~and must~~

5 2. Evaluate the organization's compliance with section 43-1603,
6 subsection B, paragraph 1. ~~The audit must~~

7 3. Be conducted by an independent certified public accountant licensed
8 in this state. The certified public accountant and the firm the certified
9 public accountant is affiliated with shall be independent with respect to the
10 organization, its officers and directors, services performed and all other
11 independent relationships prescribed by generally accepted auditing
12 standards.

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

25 ~~C.~~ B. Within five days after receiving the audit, ~~or financial review~~
26 the school tuition organization shall file a signed copy of the audit ~~or~~
27 ~~financial review~~ with the department.

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