

REFERENCE TITLE: corporate income tax; credit; education

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

SB 1640

Introduced by
Senator Leach

AN ACT

AMENDING TITLE 43, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-205; AMENDING SECTION 43-222, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1162; RELATING TO CORPORATE INCOME TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 43, chapter 2, article 1, Arizona Revised
3 Statutes, is amended by adding section 43-205, to read:

4 43-205. High demand public school fund; application; report;
5 administrative costs; definition

6 A. THE HIGH DEMAND PUBLIC SCHOOL FUND IS ESTABLISHED CONSISTING OF
7 MONIES RECEIVED PURSUANT TO SECTION 43-1162 AND DEPOSITED IN THE FUND
8 UNDER THIS SECTION FOR THE PURPOSE OF PROVIDING GRANTS TO PUBLIC SCHOOLS
9 TO ACCOMMODATE STUDENTS WHO ARE ON THE PUBLIC SCHOOL'S WAITING LIST. THE
10 DEPARTMENT SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE CONTINUOUSLY
11 APPROPRIATED.

12 B. A PUBLIC SCHOOL THAT MEETS THE FOLLOWING REQUIREMENTS MAY APPLY
13 FOR AND RECEIVE A GRANT FROM THE FUND:

14 1. THE PUBLIC SCHOOL HAS A WAITING LIST THAT IS VERIFIED BY A THIRD
15 PARTY AND THAT IS EQUAL TO OR GREATER THAN TWENTY PERCENT OF THE PREVIOUS
16 YEAR'S STUDENT ENROLLMENT.

17 2. THE PUBLIC SCHOOL HAS BEEN ASSIGNED A LETTER GRADE OF A OR B
18 PURSUANT TO SECTION 15-241.

19 C. TO BE ELIGIBLE FOR A GRANT UNDER THIS SECTION, THE PUBLIC SCHOOL
20 MUST APPLY TO THE DEPARTMENT ON A FORM THAT IS PRESCRIBED BY THE
21 DEPARTMENT AND THAT INCLUDES:

22 1. THE PUBLIC SCHOOL'S NAME AND CONTACT INFORMATION.

23 2. THE PUBLIC SCHOOL'S STUDENT ENROLLMENT FOR THE MOST RECENT
24 SCHOOL YEAR.

25 3. THIRD-PARTY VERIFICATION THAT THE PUBLIC SCHOOL HAS A WAITING
26 LIST THAT IS EQUAL TO OR GREATER THAN TWENTY PERCENT OF THE PREVIOUS
27 YEAR'S STUDENT ENROLLMENT.

28 4. THE LETTER GRADE THE PUBLIC SCHOOL WAS ASSIGNED PURSUANT TO
29 SECTION 15-241.

30 5. THE LOCATION OF THE PUBLIC SCHOOL WHERE THE GRANT MONIES WILL BE
31 USED.

32 6. ANY ADDITIONAL INFORMATION THAT THE DEPARTMENT REQUIRES.

33 D. GRANT MONIES AWARDED UNDER THIS SECTION MAY NOT EXCEED AN AMOUNT
34 THAT IS GREATER THAN TEN PERCENT OF THE AGGREGATE AMOUNT PROVIDED FOR IN
35 SECTION 43-1162.

36 E. THE PUBLIC SCHOOL SHALL USE THE GRANT MONIES TO INCREASE STUDENT
37 ENROLLMENT AT THE PUBLIC SCHOOL FOR WHICH THERE IS A WAITING LIST OR AT A
38 DIFFERENT PUBLIC SCHOOL SITE THAT IS EITHER:

39 1. WITHIN TEN MILES OF THE PUBLIC SCHOOL FOR WHICH THERE IS A
40 WAITING LIST.

41 2. IF THE PUBLIC SCHOOL IS LOCATED IN A RURAL AREA, THAT IS WITHIN
42 TWENTY MILES OF THE PUBLIC SCHOOL FOR WHICH THERE IS A WAITING LIST.

43 F. THE DEPARTMENT SHALL:

44 1. EXCEPT AS PROVIDED IN PARAGRAPH 2 OF THIS SUBSECTION, GIVE
45 PREFERENCE TO A PUBLIC SCHOOL AT WHICH AT LEAST SIXTY PERCENT OF THE

1 STUDENTS MEET THE ECONOMIC ELIGIBILITY REQUIREMENTS ESTABLISHED UNDER THE
2 NATIONAL SCHOOL LUNCH AND CHILD NUTRITION ACTS (42 UNITED STATES CODE
3 SECTIONS 1751 THROUGH 1793) FOR FREE OR REDUCED-PRICE LUNCHES.

4 2. IF A PUBLIC SCHOOL MEETS THE REQUIREMENTS IN SUBSECTION B OF
5 THIS SECTION AND HAS BEEN DESIGNATED THE BENEFICIARY OF A CONTRIBUTION TO
6 THE FUND, AWARD A GRANT IN THE AMOUNT OF THE CONTRIBUTION, NOT TO EXCEED
7 THE LIMIT PROVIDED IN SUBSECTION D OF THIS SECTION, TO THE DESIGNATED
8 PUBLIC SCHOOL BENEFICIARY.

9 3. IF A PUBLIC SCHOOL DOES NOT MEET THE REQUIREMENTS IN SUBSECTION
10 B OF THIS SECTION AND HAS BEEN DESIGNATED THE BENEFICIARY OF A
11 CONTRIBUTION TO THE FUND, RETURN THE CONTRIBUTION TO THE TAXPAYER.

12 G. GRANT MONIES MAY BE USED FOR THE FOLLOWING PURPOSES:

13 1. FINANCING OR LEASING IN-PERSON SCHOOL FACILITIES.

14 2. RETROFITTING EXISTING BUILDINGS FOR USE AS A SCHOOL FACILITY.

15 3. OTHER SOFT CAPITAL EXPENSES RELATED TO INCREASING STUDENT
16 ENROLLMENT AT THE PUBLIC SCHOOL.

17 H. THE PUBLIC SCHOOL SHALL REPORT ANNUALLY TO THE DEPARTMENT A
18 SUMMARY OF HOW THE PUBLIC SCHOOL IS USING THE GRANT MONIES TO ACCOMMODATE
19 STUDENTS ON THE PUBLIC SCHOOL'S WAITING LIST.

20 I. IF THE PUBLIC SCHOOL DOES NOT USE THE FULL AMOUNT OF THE GRANT
21 MONIES WITHIN _____ OF RECEIVING THE GRANT MONIES, THE PUBLIC SCHOOL
22 SHALL RETURN THE UNSPENT GRANT MONIES TO THE DEPARTMENT IN AN AMOUNT EQUAL
23 TO THE PERCENTAGE OF ADDITIONAL SPACE NOT SERVING STUDENTS ON THE PUBLIC
24 SCHOOL'S WAITING LIST. THE REPAYMENT SCHEDULE AND INTEREST RATE SHALL BE
25 EQUAL TO THE MARKET RATES ON THE FIRST DAY OF EACH FISCAL YEAR FOR
26 THIRTY-YEAR LOANS. UNSPENT GRANT MONIES RETURNED TO THE DEPARTMENT
27 PURSUANT TO THIS SUBSECTION SHALL BE DEPOSITED, PURSUANT TO SECTIONS
28 35-146 AND 35-147, IN THE HIGH DEMAND PUBLIC SCHOOL FUND. THE DEPARTMENT
29 SHALL REALLOCATE THE RETURNED UNSPENT GRANT MONIES AS NEW GRANTS TO OTHER
30 PUBLIC SCHOOLS PURSUANT TO THIS SECTION.

31 J. THE DEPARTMENT SHALL USE THE MONIES IN THE FUND FOR THE
32 ADMINISTRATIVE COSTS OF THIS SECTION, EXCEPT THAT ADMINISTRATIVE COSTS MAY
33 NOT EXCEED THREE PERCENT OF THE MONIES IN THE FUND.

34 K. THE DEPARTMENT MAY PRESCRIBE FORMS AND ADOPT RULES NECESSARY TO
35 ADMINISTER THIS SECTION.

36 L. FOR THE PURPOSES OF THIS SECTION, "PUBLIC SCHOOL" MEANS A SCHOOL
37 THAT IS OPERATED BY A SCHOOL DISTRICT OR A CHARTER SCHOOL.

38 Sec. 2. Section 43-222, Arizona Revised Statutes, is amended to
39 read:

40 43-222. Income tax credit review schedule

41 The joint legislative income tax credit review committee shall
42 review the following income tax credits:

43 1. For years ending in 0 and 5, sections 43-1079.01, 43-1087,
44 43-1088, 43-1089.04, 43-1167.01 and 43-1175.

1 2. For years ending in 1 and 6, sections 43-1072.02, 43-1074.02,
2 43-1083, 43-1083.02, 43-1162, 43-1164.03 and 43-1183.

3 3. For years ending in 2 and 7, sections 43-1073, 43-1085, 43-1086,
4 43-1089, 43-1089.01, 43-1089.02, 43-1089.03, 43-1164 and 43-1169.

5 4. For years ending in 3 and 8, sections 43-1074.01, 43-1081,
6 43-1168, 43-1170 and 43-1178.

7 5. For years ending in 4 and 9, sections 43-1073.01, 43-1076,
8 43-1081.01, 43-1083.03, 43-1084, 43-1164.04, 43-1164.05, and 43-1184.

9 Sec. 3. Title 43, chapter 11, article 6, Arizona Revised Statutes,
10 is amended by adding section 43-1162, to read:

11 43-1162. Tax credit for contributions to high demand schools

12 A. A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR
13 THE AMOUNT OF VOLUNTARY CASH CONTRIBUTIONS MADE BY THE TAXPAYER DURING THE
14 TAXABLE YEAR TO THE HIGH DEMAND PUBLIC SCHOOL FUND ESTABLISHED BY SECTION
15 43-205.

16 B. THE AMOUNT OF THE CREDIT IS THE TOTAL AMOUNT OF THE TAXPAYER'S
17 CONTRIBUTION FOR THE TAXABLE YEAR UNDER SUBSECTION A OF THIS SECTION.

18 C. THE DEPARTMENT:

19 1. MAY NOT ALLOW CREDITS UNDER THIS SECTION THAT EXCEED THE
20 FOLLOWING AGGREGATE AMOUNTS:

21 (a) IN FISCAL YEAR 2020-2021, \$20,000,000.

22 (b) FROM AND AFTER FISCAL YEAR 2020-2021, IF THE AGGREGATE AMOUNT
23 IS MET IN A FISCAL YEAR, THE AGGREGATE AMOUNT SHALL INCREASE BY TEN
24 PERCENT FOR THE FOLLOWING FISCAL YEAR, EXCEPT THAT THE AGGREGATE AMOUNT
25 MAY NOT EXCEED \$100,000,000 IN ANY FISCAL YEAR.

26 2. SHALL ALLOW THE TAX CREDITS UNDER THIS SECTION ON A FIRST-COME,
27 FIRST-SERVED BASIS.

28 3. SHALL ALLOW THE TAXPAYER TO DESIGNATE A PUBLIC SCHOOL
29 BENEFICIARY OF THE TAXPAYER'S CONTRIBUTION. IF THE CONTRIBUTION IS
30 RETURNED PURSUANT TO SECTION 43-205, SUBSECTION F, PARAGRAPH 3, THE CREDIT
31 IS NOT ALLOWED. THE DEPARTMENT SHALL RECAPTURE ANY CREDIT AMOUNT CLAIMED
32 UNDER THIS SECTION BUT DISALLOWED.

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

38 E. CO-OWNERS OF A BUSINESS, INCLUDING CORPORATE PARTNERS IN A
39 PARTNERSHIP, MAY EACH CLAIM ONLY THE PRO RATA SHARE OF THE CREDIT ALLOWED
40 UNDER THIS SECTION BASED ON THE OWNERSHIP INTEREST. THE TOTAL OF THE
41 CREDITS ALLOWED ALL OF THE OWNERS OF THE BUSINESS MAY NOT EXCEED THE
42 AMOUNT THAT WOULD HAVE BEEN ALLOWED FOR A SOLE OWNER OF THE BUSINESS.

1 Sec. 4. Purpose

2 Pursuant to section 43-223, Arizona Revised Statutes, the
3 legislature enacts section 43-1162, Arizona Revised Statutes, as added by
4 this act, to accommodate students who are on the waiting lists of high
5 demand public schools.

6 Sec. 5. Retroactivity

7 This act applies retroactively to taxable years beginning from and
8 after December 31, 2020.