

Senate Engrossed House Bill

~~alternative mathematics graduation pathway~~
(now: school tuition organizations; revisions; credit)

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HOUSE BILL 2278

AN ACT

AMENDING SECTIONS 43-222, 43-401 AND 43-1089, ARIZONA REVISED STATUTES;
REPEALING SECTION 43-1089.03, ARIZONA REVISED STATUTES; AMENDING SECTIONS
43-1184, 43-1502, 43-1503, 43-1504, 43-1505, 43-1602, 43-1603 AND 43-1604,
ARIZONA REVISED STATUTES; RELATING TO TAXATION OF INCOME.

(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
6 review the following income tax credits:

7 1. For years ending in 0 and 5, sections 43-1079.01, 43-1088,
8 43-1089.04, 43-1167.01 and 43-1175.

9 2. For years ending in 1 and 6, sections 43-1072.02, 43-1074.02,
10 43-1075, 43-1076.01, 43-1077, 43-1078, 43-1083, 43-1083.02, 43-1162,
11 43-1164.03 and 43-1183.

12 3. For years ending in 2 and 7, sections 43-1073, 43-1085, 43-1086,
13 43-1089, 43-1089.01, 43-1089.02, ~~43-1089.03~~, 43-1164, 43-1169 and 43-1181.

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

16 5. For years ending in 4 and 9, sections 43-1073.01, 43-1076,
17 43-1081.01, 43-1083.03, 43-1084, 43-1164.04, 43-1164.05 and 43-1184.

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

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

21 A. Except as provided by subsections B and H of this section, every
22 employer at the time of ~~the payment of~~ PAYING wages, salary, bonus or
23 other emolument to any employee whose compensation is for services
24 performed within this state shall deduct and retain from the compensation
25 an amount prescribed by tables adopted by the department.

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

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

29 2. The employer's employees in writing in a manner prescribed by
30 the department.

31 C. If the amount collected and payable by the employer to the
32 department in each of the preceding four calendar quarters did not exceed
33 an average of ~~one thousand five hundred dollars~~ \$1,500, the amount
34 collected shall be paid to the department on or before April 30, July 31,
35 October 31 and January 31 for the preceding calendar quarter. If the
36 amount exceeded ~~one thousand five hundred dollars~~ \$1,500 in each of the
37 preceding four calendar quarters, the employer shall pay to the department
38 the amount the employer deducts and retains pursuant to this section at
39 the same time ~~as~~ the employer is required to ~~make deposits of~~ DEPOSIT
40 federal tax pursuant to section 6302 of the internal revenue code. On or
41 before April 30, July 31, October 31 and January 31 each year, the
42 employer shall reconcile the amounts payable during the preceding calendar
43 quarter in a manner prescribed by the department, except that if the full
44 amount collected and payable is paid timely to the department under this
45 subsection, the employer may reconcile the amounts on or before May 10,

1 August 10, November 10 and February 10 each year. The department by rule
2 may allow and determine which employers qualify for annual payments of
3 withholding taxes, with an annual report by the employer pursuant to
4 section 43-412, subsection B, if the qualifying employer has established
5 sufficient payment history to indicate that the employer is current and in
6 good standing pursuant to standards established by rule. For any business
7 that has not had a withholding certificate for the four preceding
8 consecutive quarters, the quarterly average shall be computed in a manner
9 prescribed by the department.

10 D. If an employer fails to make a timely monthly payment because
11 ~~prior to~~ BEFORE that reporting period it reported on a quarterly basis
12 instead of on a monthly basis, the department shall notify the employer
13 that it is out of compliance with this section. Notwithstanding section
14 42-1125, the department shall not assess a penalty against an employer for
15 failing to make a timely monthly payment if the employer had filed and
16 remitted all taxes due on a quarterly basis and brings all filings and
17 payments into current compliance within thirty days after being notified
18 by the department.

19 E. Each employee shall elect the amount authorized by subsection A
20 of this section to be withheld ~~for application~~ TO APPLY toward the
21 employee's state income tax liability. The election provided under this
22 subsection shall be exercised by each employee, in writing on a form
23 prescribed by the department. The election shall be made within five days
24 ~~of~~ AFTER STARTING employment. Each employer shall notify the employees of
25 the election made available under this subsection and shall have election
26 forms available at all times. Each form shall be completed in triplicate,
27 with one copy each for the department, the employer and the employee. The
28 employer shall file a copy of each completed form with the department.
29 Any employee failing to complete an election form as prescribed ~~shall be~~
30 IS deemed to have elected the withholding percentage prescribed by the
31 department.

32 F. Before July 1 of each year, each employer who chooses to not
33 withhold tax pursuant to subsection B of this section shall notify each
34 employee that:

35 1. State income taxes will not be withheld from compensation in
36 December.

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

40 G. At an employee's written request, the employer may agree to
41 reduce the amount withheld under this section by the amount of credit that
42 the employee represents to the employer that the employee will qualify for
43 and be entitled to under sections 43-1088, 43-1089, ~~AND~~ 43-1089.01 ~~and~~
44 ~~43-1089.03~~. The employee's request must include the name and address of
45 the qualifying charitable organization, qualified school tuition

1 organization or public school. Within thirty days after agreeing to the
2 employee's request, the employer shall reduce the withholding amount by
3 the amount of the credit, but not below zero, prorated for the number of
4 pay periods remaining in the employee's taxable year after the employee
5 makes the request. If an employer agrees to reduce the withholding amount
6 pursuant to this subsection, the following apply:

7 1. Within fifteen days after the end of each calendar quarter, the
8 employer must pay the entire amount of the reduction in withholding tax
9 for that quarter to the designated charitable organization, school tuition
10 organization or public school. These payments are considered to be on the
11 employee's behalf, and not the employer's, for the purposes of qualifying
12 for the income tax credits under sections 43-1088, 43-1089, ~~AND~~
13 43-1089.01 ~~and 43-1089.03~~.

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

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

20 4. Within thirty days after the end of each calendar year, or
21 within fifteen days after ~~the termination of~~ TERMINATING employment, the
22 employer must furnish to each electing employee a statement of the amount
23 withheld and paid on behalf of the employee during that year.

24 H. An employer shall not withhold tax on the wages of the
25 employer's nonresident employees who are in this state on a temporary
26 basis for the purpose of performing disaster recovery from a declared
27 disaster during a disaster period as defined in section 42-1130.

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

30 43-1089. Credit for contributions to school tuition
31 organization

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

39 1. ~~Five hundred dollars~~ \$500 in any taxable year ~~THROUGH~~
40 ~~DECEMBER 31, 2022~~ for a single individual or a head of household.

41 2. ~~One thousand dollars~~ \$1,000 in any taxable year ~~THROUGH~~
42 ~~DECEMBER 31, 2022~~ for a married couple filing a joint return.

1 3. \$1,493 IN ANY TAXABLE YEAR BEGINNING FROM AND AFTER DECEMBER 31,
2 2022 FOR A SINGLE INDIVIDUAL OR A HEAD OF HOUSEHOLD.

3 4. \$2,983 IN ANY TAXABLE YEAR BEGINNING FROM AND AFTER DECEMBER 31,
4 2022 FOR A MARRIED COUPLE FILING A JOINT RETURN.

5 B. A husband and wife who file separate returns for a taxable year
6 in which they could have filed a joint return may each claim only one-half
7 of 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 THROUGH DECEMBER 31, 2022 AND
11 SUBSECTION A, PARAGRAPHS 3 AND 4 OF THIS SECTION BEGINNING FROM AND AFTER
12 DECEMBER 31, 2023 according to the average annual change in the
13 metropolitan Phoenix consumer price index published by the United States
14 DEPARTMENT OF LABOR, bureau of labor statistics, except that the dollar
15 amounts shall not be revised downward below the amounts allowed in the
16 prior taxable year. The revised dollar amounts shall be raised to the
17 nearest whole dollar.

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

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

26 F. The tax credit is not allowed if the taxpayer designates the
27 taxpayer's contribution to the school tuition organization for the direct
28 benefit of any dependent of the taxpayer or if the taxpayer designates a
29 student beneficiary as a condition of the taxpayer's contribution to the
30 school tuition organization. The tax credit is not allowed if the
31 taxpayer, with the intent to benefit the taxpayer's dependent, agrees with
32 one or more other taxpayers to designate each taxpayer's contribution to
33 the school tuition organization for the direct benefit of the other
34 taxpayer's dependent.

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

40 Sec. 4. Delayed repeal

41 Section 43-1089.03, Arizona Revised Statutes, is repealed from and
42 after December 31, 2022.

1 Sec. 5. Section 43-1184, Arizona Revised Statutes, is amended to
2 read:

3 43-1184. Credit for contributions to school tuition
4 organization; displaced students; students with
5 disabilities

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

11 B. The amount of the credit is the total amount of the taxpayer's
12 contributions for the taxable year under subsection A of this section and
13 is preapproved by the department of revenue pursuant to subsection D of
14 this section.

15 C. The department of revenue:

16 1. Shall not allow tax credits under this section and section
17 20-224.07 that exceed in the aggregate a combined total of \$5,000,000 in
18 any fiscal year through fiscal year 2020-2021. ~~Beginning in~~ FOR fiscal
19 year 2021-2022, the aggregate dollar amount of the tax credits allowed is
20 \$6,000,000 ~~in any fiscal year~~. FOR FISCAL YEAR 2022-2023, THE AGGREGATE
21 DOLLAR AMOUNT OF THE TAX CREDITS ALLOWED IS \$8,000,000. BEGINNING IN
22 FISCAL YEAR 2023-2024 AND EACH FISCAL YEAR THEREAFTER, THE AGGREGATE
23 DOLLAR AMOUNT OF THE TAX CREDIT CAP FROM THE PREVIOUS FISCAL YEAR SHALL BE
24 INCREASED BY TWO PERCENT.

25 2. Shall preapprove tax credits under this section and section
26 20-224.07 subject to subsection D of this section.

27 3. Shall allow the tax credits under this section and section
28 20-224.07 on a first-come, first-served basis.

29 D. For the purposes of subsection C, paragraph 2 of this section,
30 before making a contribution to a school tuition organization, the
31 taxpayer under this title or title 20 must notify the school tuition
32 organization of the total amount of contributions that the taxpayer
33 intends to make to the school tuition organization. Before accepting the
34 contribution, the school tuition organization shall request preapproval
35 from the department of revenue for the taxpayer's intended contribution
36 amount. The department of revenue shall preapprove or deny the requested
37 amount within twenty days after receiving the request from the school
38 tuition organization. If the department of revenue preapproves the
39 request, the school tuition organization shall immediately notify the
40 taxpayer that the requested amount was preapproved by the department of
41 revenue. In order to receive a tax credit under this subsection, the
42 taxpayer shall make the contribution to the school tuition organization
43 within twenty days after receiving notice from the school tuition
44 organization that the requested amount was preapproved. If the school
45 tuition organization does not receive the preapproved contribution from

1 the taxpayer within the required twenty days, the school tuition
2 organization shall immediately notify the department of revenue and the
3 department shall no longer include this preapproved contribution amount
4 when calculating the limit prescribed in subsection C, paragraph 1 of this
5 section.

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

11 F. Co-owners of a business, including corporate partners in a
12 partnership and stockholders of an S corporation as defined in section
13 1361 of the internal revenue code, may each claim only the pro rata share
14 of the credit allowed under this section based on the ownership interest.
15 The total of the credits allowed all such owners may not exceed the amount
16 that would have been allowed a sole owner.

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

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

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

25 J. The department of revenue shall adopt rules necessary to
26 administer this section.

27 Sec. 6. Section 43-1502, Arizona Revised Statutes, is amended to
28 read:

29 43-1502. Certification; requirements; violations; hearing

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

37 B. The department shall:

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

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

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

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

5 1. Failed or refused to allocate at least ninety percent of annual
6 revenues from contributions made for the purposes of sections 20-224.06,
7 20-224.07, 43-1183 and 43-1184 for educational scholarships or tuition
8 grants.

9 2. Failed or refused to file the annual reports required by section
10 43-1506.

11 3. Limited the availability of scholarships to students of only one
12 school.

13 4. Encouraged, facilitated or knowingly ~~permitted~~ ALLOWED taxpayers
14 to engage in actions prohibited by this article.

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

17 ~~6.~~ 5. Failed or refused to meet any of the requirements in section
18 43-1503, subsection B.

19 ~~7.~~ 6. Failed or refused to comply with the audit or financial
20 review requirements of section 43-1507.

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

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

37 Sec. 7. Section 43-1503, Arizona Revised Statutes, is amended to
38 read:

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

41 A. A certified school tuition organization must be established to
42 receive contributions from taxpayers for the purposes of income tax
43 credits under sections 43-1183 and 43-1184 and insurance premium tax
44 credits under sections 20-224.06 and 20-224.07 and to pay educational

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

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

5 1. Must allocate at least ninety percent of its annual revenue from
6 contributions made for the purposes of sections 20-224.06, 20-224.07,
7 43-1183 and 43-1184 for educational scholarships or tuition grants.

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

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

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

15 4. MAY NOT REQUIRE A STUDENT OR THE STUDENT'S FAMILY TO PROVIDE A
16 GOOD OR SERVICE THAT BENEFITS THE SCHOOL TUITION ORGANIZATION IN EXCHANGE
17 FOR AWARDING THE STUDENT AN EDUCATIONAL SCHOLARSHIP OR TUITION GRANT.

18 5. Must not award educational scholarships or tuition grants to
19 students who are simultaneously enrolled in a district school or charter
20 school and a qualified school.

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

24 (a) Students whose family income meets the economic eligibility
25 requirements established under the national school lunch and child
26 nutrition acts (42 United States Code sections 1751 through ~~1785~~ 1793) for
27 free or reduced-price lunches.

28 (b) Students whose family income exceeds the threshold prescribed
29 by subdivision (a) of this paragraph but does not exceed one hundred
30 eighty-five percent of the economic eligibility requirements established
31 under the national school lunch and child nutrition acts (42 United States
32 Code sections 1751 through ~~1785~~ 1793) for free or reduced-price lunches.

33 Sec. 8. Section 43-1504, Arizona Revised Statutes, is amended to
34 read:

35 ~~43-1504.~~ Special provisions; corporate donations for
36 low-income scholarships; rules

37 A. A school tuition organization that receives contributions from a
38 corporation for the purposes of section 20-224.06 or 43-1183 must use at
39 least ninety percent of those contributions to provide educational
40 scholarships or tuition grants only to children whose family income does
41 not exceed one hundred eighty-five percent of the income limit required to
42 qualify a child for reduced-price lunches under the national school lunch
43 and child nutrition acts (42 United States Code sections 1751
44 through 1793) and to whom any of the following applies:

1 1. Attended a governmental primary or secondary school as a
2 full-time student as defined in section 15-901 or attended a preschool
3 program that offers services to students with disabilities at a
4 governmental school for at least ninety days of the prior fiscal year or
5 one full semester and transferred from a governmental school to a
6 qualified school.

7 2. Enroll in a qualified school in a kindergarten program or a
8 preschool program that offers services to students with disabilities.

9 3. Are the dependent of a member of the armed forces of the United
10 States who is stationed in this state pursuant to military orders.

11 4. Are homeschooled before enrolling in a qualified school.

12 5. Moved to this state from out of state before enrolling in a
13 qualified school.

14 6. Participated in an Arizona empowerment scholarship account and
15 did not renew the account or accept the scholarship in order to accept a
16 scholarship or tuition grant under this section.

17 7. Received an educational scholarship or tuition grant under
18 paragraph 1, 2, 3, 4, 5 or 6 of this subsection or chapter 16, article 1
19 of this title if the children continue to attend a qualified school in a
20 subsequent year.

21 B. A child is eligible to receive an educational scholarship or
22 tuition grant under subsection A of this section if the child meets the
23 criteria to receive a reduced-price lunch but does not actually claim that
24 benefit.

25 ~~C. In 2021, a school tuition organization shall not issue an~~
26 ~~educational scholarship or a tuition grant for the purposes of section~~
27 ~~20-224.06 or 43-1183 in an amount that exceeds \$5,600 for students who are~~
28 ~~in a kindergarten program, a preschool program that offers services to~~
29 ~~students with disabilities or grades one through eight or \$7,500 for~~
30 ~~students who are in grades nine through twelve. In each year after 2021,~~
31 ~~the limit amount for a scholarship or a grant under this subsection shall~~
32 ~~be increased by \$200.~~

33 C. A SCHOOL TUITION ORGANIZATION MAY NOT ISSUE AN EDUCATIONAL
34 SCHOLARSHIP OR TUITION GRANT THAT EXCEEDS THE AMOUNT OF THE SCHOOL'S
35 TUITION.

36 D. A school tuition organization shall require that student
37 beneficiaries use the educational scholarships or tuition grants on a
38 full-time basis. If a child leaves the school before completing an entire
39 school year, the school shall refund a prorated amount of the educational
40 scholarship or tuition grant to the school tuition organization that
41 issued the scholarship or grant. The school tuition organization shall
42 allocate any refunds it receives under this subsection for educational
43 scholarships or tuition grants.

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

4 F. The department of revenue, with the cooperation of the
5 department of insurance and financial institutions, shall adopt rules and
6 publish and prescribe forms and procedures necessary to administer this
7 section.

8 Sec. 9. Section 43-1505, Arizona Revised Statutes, is amended to
9 read:

10 43-1505. Special provisions: corporate donations for
11 displaced students and students with disabilities;
12 definition

13 A. A school tuition organization that receives contributions for
14 the purposes of section 20-224.07 or 43-1184 must use at least ninety ~~per~~
15 ~~cent~~ PERCENT of those contributions to provide educational scholarships or
16 tuition grants to qualified students.

17 B. The amount of an educational scholarship or a tuition grant that
18 is issued by a school tuition organization under this section shall not
19 exceed the cost of tuition for the student to attend the qualified school
20 or ninety ~~per cent~~ PERCENT of the amount of state aid that otherwise would
21 be computed for the student as provided in title 15, chapter 9, article 5,
22 whichever is less. On request from a school tuition organization, the
23 department of education shall provide to the school tuition organization
24 in a timely manner the amount computed for the student under this
25 subsection that represents the ninety ~~per cent limitation~~ PERCENT LIMIT
26 prescribed in this subsection.

27 C. A school tuition organization shall require that student
28 beneficiaries use the educational scholarships or tuition grants on a
29 full-time basis. If a child leaves the school before completing an entire
30 school year, the school shall refund a prorated amount of the educational
31 scholarship or tuition grant to the school tuition organization that
32 issued the scholarship or grant. The school tuition organization shall
33 allocate any refunds it receives under this subsection for educational
34 scholarships or tuition grants.

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

38 E. For the purposes of this section: ~~—~~

39 1. "QUALIFIED EXAMINER" MEANS A LICENSED PHYSICIAN, PSYCHIATRIST OR
40 PSYCHOLOGIST.

41 2. "Qualified student" means a student, including a student who
42 previously qualified for an educational scholarship or tuition grant under
43 this section and continues to attend a qualified school, who has been
44 either:

1 ~~1.~~ (a) Placed in foster care pursuant to title 8, chapter 4 at any
2 time before the student graduates from high school or obtains a general
3 equivalency diploma.

4 ~~2.~~ (b) Identified as having a disability under section 504 of the
5 rehabilitation act (29 United States Code section 794) or identified at
6 any time by a school district as a child with a disability as defined in
7 section 15-761 or a child with a disability who is eligible to receive
8 services from a school district under section 15-763.

9 (c) IDENTIFIED AS HAVING A DISABILITY BY A PUBLIC SCHOOL SYSTEM IN
10 ANOTHER STATE OR THROUGH AN INDEPENDENT EDUCATION EVALUATION BY A
11 QUALIFIED EXAMINER.

12 Sec. 10. Section 43-1602, Arizona Revised Statutes, is amended to
13 read:

14 43-1602. Certification; requirements; violations; hearing

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

22 B. The department shall:

23 1. Maintain a public registry of currently certified school tuition
24 organizations.

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

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

27 C. The department shall send notice by certified mail or by ~~e-mail~~
28 EMAIL to a school tuition organization if the department determines that
29 the school tuition organization has engaged in any of the following
30 activities:

31 1. Failed or refused to allocate at least ninety percent of annual
32 revenues from contributions made for the purposes of ~~sections~~ SECTION
33 43-1089 ~~and 43-1089.03~~ for educational scholarships or tuition grants.

34 2. Failed or refused to file the annual reports required by section
35 43-1604.

36 3. Limited the availability of scholarships to students of only one
37 school.

38 4. Encouraged, facilitated or knowingly ~~permitted~~ ALLOWED taxpayers
39 to engage in actions prohibited by this article.

40 5. Awarded, restricted or reserved educational scholarships or
41 tuition grants for use by a particular student based solely on the
42 recommendation of the donor.

43 6. Failed or refused to meet any of the requirements in section
44 43-1603, subsection B.

1 7. Failed or refused to include the notice required in section
2 43-1603, subsection C.

3 8. Failed or refused to comply with the audit or financial review
4 requirements of section 43-1605.

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

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

21 Sec. 11. Section 43-1603, Arizona Revised Statutes, is amended to
22 read:

23 43-1603. Operational requirements for school tuition
24 organizations; notice; qualified schools

25 A. A certified school tuition organization must be established to
26 receive contributions from taxpayers for the purposes of income tax
27 credits under ~~sections~~ SECTION 43-1089 ~~and 43-1089.03~~ and to pay
28 educational scholarships or tuition grants to allow students to attend any
29 qualified school of their parents' choice.

30 B. To be eligible for certification and retain certification, the
31 school tuition organization:

32 1. Must allocate at least ninety percent of its annual revenue from
33 contributions made for the purposes of ~~sections~~ SECTION 43-1089 ~~and~~
34 ~~43-1089.03~~ for educational scholarships or tuition grants.

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

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

40 4. Shall not allow donors to designate student beneficiaries as a
41 condition of any contribution to the organization, or facilitate,
42 encourage or knowingly allow the exchange of beneficiary student
43 designations in violation of section 43-1089, subsection F, ~~section~~
44 ~~43-1089.03, subsection F~~ and section 43-1089.04, subsection E.

1 ~~3. Are the dependent of a member of the armed forces of the United~~
2 ~~States who is stationed in this state pursuant to military orders.~~

3 ~~4. Are homeschooled before enrolling in a qualified school.~~

4 ~~5. Moved to this state from out of state before enrolling in a~~
5 ~~qualified school.~~

6 ~~6. Participated in an Arizona empowerment scholarship account and~~
7 ~~did not renew the account or accept the scholarship in order to accept a~~
8 ~~scholarship or tuition grant under this section.~~

9 ~~7. Received an educational scholarship or tuition grant under~~
10 ~~paragraph 1, 2, 3, 4, 5 or 6 of this subsection or under chapter 15 of~~
11 ~~this title if the student continues to attend a qualified school in a~~
12 ~~subsequent year.~~

13 ~~F. In awarding educational scholarships or tuition grants from~~
14 ~~contributions made pursuant to section 43-1089.03, a school tuition~~
15 ~~organization shall give priority to students and siblings of students on a~~
16 ~~waiting list for scholarships if the school tuition organization maintains~~
17 ~~a waiting list.~~

18 ~~G.~~ E. If an individual educational scholarship or tuition grant
19 exceeds the school's tuition, the amount in excess shall be returned to
20 the school tuition organization that made the award or grant. The school
21 tuition organization may allocate the returned monies as a multiyear award
22 for that student and report the award pursuant to section 43-1604,
23 subsection A, paragraph 5, subdivision (b) or may allocate the returned
24 monies for educational scholarships or tuition grants for other students.

25 Sec. 12. Section 43-1604, Arizona Revised Statutes, is amended to
26 read:

27 43-1604. Annual report; posting

28 A. On or before September 30 of each year, each school tuition
29 organization shall report electronically to the department, in a form
30 prescribed by the department, the following information, separately
31 compiled and identified for the purposes of ~~sections~~ SECTION 43-1089 ~~and~~
32 ~~43-1089.03~~:

33 1. The name, address and contact person of the school tuition
34 organization.

35 2. The total number of contributions received during the previous
36 fiscal year.

37 3. The total dollar amount of contributions received during the
38 previous fiscal year.

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

41 5. The total dollar amount of:

42 (a) Educational scholarships and tuition grants distributed during
43 the previous fiscal year.

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

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

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

5 (a) Students whose family income meets the economic eligibility
6 requirements established under the national school lunch and child
7 nutrition acts (42 United States Code sections 1751 through 1793) for free
8 or reduced-price lunches.

9 (b) Students whose family income exceeds the threshold prescribed
10 by subdivision (a) of this paragraph but does not exceed one hundred
11 eighty-five percent of the economic eligibility requirements established
12 under the national school lunch and child nutrition acts (42 United States
13 Code sections 1751 through 1793) for free or reduced-price lunches.

14 8. For each school to which educational scholarships or tuition
15 grants were awarded:

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

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

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

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

24 B. The department shall post on its website a report of the
25 information it receives pursuant to subsection A of this section on or
26 before March 31 of the calendar year following the year in which the
27 information is received.

28 Sec. 13. Applicability; use of revenues; reporting

29 A. The repeal of section 43-1089.03, Arizona Revised Statutes, by
30 this act, applies to taxable years beginning from and after December 31,
31 2022.

32 B. Any revenues from contributions made for the purposes of section
33 43-1089.03, Arizona Revised Statutes, as repealed by this act, that have
34 not been allocated before January 1, 2023 are subject to the provisions of
35 title 43, chapter 16, Arizona Revised Statutes, as if the contributions
36 were made pursuant to section 43-1089, Arizona Revised Statutes, as
37 amended by this act.

38 C. Each school tuition organization shall include in the annual
39 report prepared pursuant to section 43-1604, Arizona Revised Statutes, as
40 amended by this act, all of the information required by section 43-1604,
41 Arizona Revised Statutes, as amended by this act, for the revenues
42 relating to the contributions made for the purposes of section 43-1089.03,
43 Arizona Revised Statutes, as repealed by this act, that have not been
44 allocated before January 1, 2023.

1 Sec. 14. Saving clause

2 The repeal of the income tax credit under section 43-1089.03,
3 Arizona Revised Statutes, as repealed by this act, does not affect the
4 continuing validity of any amount of the credit carried forward from
5 previous taxable years for application against subsequent tax liabilities
6 as allowed by prior law.