

PROPOSED
SENATE AMENDMENTS TO H.B. 2278
(Reference to House engrossed bill)

1 Strike everything after the enacting clause and insert:

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 43-1079.01, 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, 43-1081.01,
17 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 other
23 emolument to any employee whose compensation is for services performed
24 within this state shall deduct and retain from the compensation an amount
25 prescribed by tables adopted by the department.

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

- 3 1. The department on a form prescribed by the department.
4 2. The employer's employees in writing in a manner prescribed by the
5 department.

6 C. If the amount collected and payable by the employer to the
7 department in each of the preceding four calendar quarters did not exceed
8 an average of ~~one thousand five hundred dollars~~ \$1,500, the amount
9 collected shall be paid to the department on or before April 30, July 31,
10 October 31 and January 31 for the preceding calendar quarter. If the
11 amount exceeded ~~one thousand five hundred dollars~~ \$1,500 in each of the
12 preceding four calendar quarters, the employer shall pay to the department
13 the amount the employer deducts and retains pursuant to this section at the
14 same time ~~as~~ the employer is required to ~~make deposits of~~ DEPOSIT federal
15 tax pursuant to section 6302 of the internal revenue code. On or before
16 April 30, July 31, October 31 and January 31 each year, the employer shall
17 reconcile the amounts payable during the preceding calendar quarter in a
18 manner prescribed by the department, except that if the full amount
19 collected and payable is paid timely to the department under this
20 subsection, the employer may reconcile the amounts on or before May 10,
21 August 10, November 10 and February 10 each year. The department by rule
22 may allow and determine which employers qualify for annual payments of
23 withholding taxes, with an annual report by the employer pursuant to
24 section 43-412, subsection B, if the qualifying employer has established
25 sufficient payment history to indicate that the employer is current and in
26 good standing pursuant to standards established by rule. For any business
27 that has not had a withholding certificate for the four preceding
28 consecutive quarters, the quarterly average shall be computed in a manner
29 prescribed by the department.

30 D. If an employer fails to make a timely monthly payment because
31 ~~prior to~~ BEFORE that reporting period it reported on a quarterly basis
32 instead of on a monthly basis, the department shall notify the employer

1 that it is out of compliance with this section. Notwithstanding section
2 42-1125, the department shall not assess a penalty against an employer for
3 failing to make a timely monthly payment if the employer had filed and
4 remitted all taxes due on a quarterly basis and brings all filings and
5 payments into current compliance within thirty days after being notified by
6 the department.

7 E. Each employee shall elect the amount authorized by subsection A
8 of this section to be withheld ~~for application~~ TO APPLY toward the
9 employee's state income tax liability. The election provided under this
10 subsection shall be exercised by each employee, in writing on a form
11 prescribed by the department. The election shall be made within five days
12 ~~of~~ AFTER STARTING employment. Each employer shall notify the employees of
13 the election made available under this subsection and shall have election
14 forms available at all times. Each form shall be completed in triplicate,
15 with one copy each for the department, the employer and the employee. The
16 employer shall file a copy of each completed form with the department. Any
17 employee failing to complete an election form as prescribed ~~shall be~~ IS
18 deemed to have elected the withholding percentage prescribed by the
19 department.

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

23 1. State income taxes will not be withheld from compensation in
24 December.

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

28 G. At an employee's written request, the employer may agree to
29 reduce the amount withheld under this section by the amount of credit that
30 the employee represents to the employer that the employee will qualify for
31 and be entitled to under sections 43-1088, 43-1089, ~~AND~~ 43-1089.01 ~~and~~
32 ~~43-1089.03~~. The employee's request must include the name and address of

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

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

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

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

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

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

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

3 43-1089. Credit for contributions to school tuition
4 organization

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

11 1. ~~Five hundred dollars~~ \$1,243 in any taxable year for a single
12 individual or a head of household.

13 2. ~~One thousand dollars~~ \$2,483 in any taxable year for a married
14 couple filing a joint return.

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

18 C. ~~FOR TAXABLE YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2022~~
19 ~~THROUGH DECEMBER 31, 2023, THE DEPARTMENT SHALL INCREASE THE DOLLAR AMOUNT~~
20 ~~PRESCRIBED BY SUBSECTION A, PARAGRAPH 1 OF THIS SECTION BY \$250 AND THE~~
21 ~~DOLLAR AMOUNT PRESCRIBED BY SUBSECTION A, PARAGRAPH 2 OF THIS SECTION BY~~
22 ~~\$500.~~ For each taxable year beginning ~~on or after January 1~~ FROM AND AFTER
23 ~~DECEMBER 31, 2023,~~ the department shall adjust the dollar amounts
24 prescribed by subsection A, paragraphs 1 and 2 of this section according to
25 the average annual change in the metropolitan Phoenix consumer price index
26 published by the United States DEPARTMENT OF LABOR, bureau of labor
27 statistics, except that the dollar amounts shall not be revised downward
28 below the amounts allowed in the prior taxable year. The revised dollar
29 amounts shall be raised to the nearest whole dollar.

30 D. If the allowable tax credit exceeds the taxes otherwise due under
31 this title on the claimant's income, or if there are no taxes due under
32 this title, the taxpayer may carry the amount of the claim not used to

1 offset the taxes under this title forward for not more than five
2 consecutive taxable years' income tax liability.

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

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

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

20 Sec. 4. Repeal

21 Section 43-1089.03, Arizona Revised Statutes, is repealed.

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

24 43-1184. Credit for contributions to school tuition
25 organization; displaced students; students with
26 disabilities

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

1 B. The amount of the credit is the total amount of the taxpayer's
2 contributions for the taxable year under subsection A of this section and
3 is preapproved by the department of revenue pursuant to subsection D of
4 this section.

5 C. The department of revenue:

6 1. Shall not allow tax credits under this section and section
7 20-224.07 that exceed in the aggregate a combined total of ~~\$5,000,000~~
8 ~~\$8,000,000~~ in ~~any fiscal year through~~ BOTH fiscal year ~~2020-2021~~ 2021-2022
9 AND FISCAL YEAR 2022-2023. ~~Beginning in fiscal year 2021-2022, the~~
10 ~~aggregate dollar amount of the tax credits allowed is \$6,000,000 in any~~
11 ~~fiscal year.~~ BEGINNING IN FISCAL YEAR 2023-2024 AND EACH FISCAL YEAR
12 THEREAFTER, THE AGGREGATE DOLLAR AMOUNT OF THE TAX CREDIT CAP FROM THE
13 PREVIOUS FISCAL YEAR SHALL BE INCREASED BY TWO PERCENT.

14 2. Shall preapprove tax credits under this section and section
15 20-224.07 subject to subsection D of this section.

16 3. Shall allow the tax credits under this section and section
17 20-224.07 on a first-come, first-served basis.

18 D. For the purposes of subsection C, paragraph 2 of this section,
19 before making a contribution to a school tuition organization, the taxpayer
20 under this title or title 20 must notify the school tuition organization of
21 the total amount of contributions that the taxpayer intends to make to the
22 school tuition organization. Before accepting the contribution, the school
23 tuition organization shall request preapproval from the department of
24 revenue for the taxpayer's intended contribution amount. The department of
25 revenue shall preapprove or deny the requested amount within twenty days
26 after receiving the request from the school tuition organization. If the
27 department of revenue preapproves the request, the school tuition
28 organization shall immediately notify the taxpayer that the requested
29 amount was preapproved by the department of revenue. In order to receive a
30 tax credit under this subsection, the taxpayer shall make the contribution
31 to the school tuition organization within twenty days after receiving
32 notice from the school tuition organization that the requested amount was

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

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

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

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

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

23 I. 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 specific student.

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

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

30 43-1502. Certification; requirements; violations; hearing

31 A. A nonprofit organization in this state that is exempt or that has
32 applied for exemption from federal taxation under section 501(c)(3) of the

1 internal revenue code may apply to the department of revenue for
2 certification as a school tuition organization, and the department shall
3 certify the school tuition organization if it meets the requirements
4 prescribed by this chapter. An organization must apply for certification
5 on a form prescribed and furnished on request by the department.

6 B. The department shall:

7 1. Maintain a public registry of currently certified school tuition
8 organizations.

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

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

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

15 1. Failed or refused to allocate at least ninety percent of annual
16 revenues from contributions made for the purposes of sections 20-224.06,
17 20-224.07, 43-1183 and 43-1184 for educational scholarships or tuition
18 grants.

19 2. Failed or refused to file the annual reports required by section
20 43-1506.

21 3. Limited the availability of scholarships to students of only one
22 school.

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

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

27 ~~6.~~ 5. Failed or refused to meet any of the requirements in section
28 43-1503, subsection B.

29 ~~7.~~ 6. Failed or refused to comply with the audit or financial
30 review requirements of section 43-1507.

31 D. A school tuition organization that receives notice from the
32 department pursuant to subsection C of this section has ninety days to

1 correct the violation identified by the department in the notice. If a
2 school tuition organization fails or refuses to comply after ninety days,
3 the department may remove the organization from the list of certified
4 school tuition organizations and shall make available to the public notice
5 of removal as soon as possible. An organization that is removed from the
6 list of certified school tuition organizations must notify any taxpayer ~~who~~
7 **THAT** attempts to make a contribution that the contribution is not eligible
8 for the tax credit and offer to refund all donations received after the
9 date of the notice of termination of certification.

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

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

17 **43-1503. Operational requirements for school tuition**
18 **organizations**

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

25 B. To be eligible for certification and retain certification, the
26 school tuition organization:

27 1. Must allocate at least ninety percent of its annual revenue from
28 contributions made for the purposes of sections 20-224.06, 20-224.07,
29 43-1183 and 43-1184 for educational scholarships or tuition grants.

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

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

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

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

9 5. Must not award educational scholarships or tuition grants to
10 students who are simultaneously enrolled in a district school or charter
11 school and a qualified school.

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

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

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

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

26 43-1504. Special provisions; corporate donations for
27 low-income scholarships; rules

28 A. A school tuition organization that receives contributions from a
29 corporation for the purposes of section 20-224.06 or 43-1183 must use at
30 least ninety percent of those contributions to provide educational
31 scholarships or tuition grants only to children whose family income does
32 not exceed one hundred eighty-five percent of the income limit required to

1 qualify a child for reduced-price lunches under the national school lunch
2 and child nutrition acts (42 United States Code sections 1751 through 1793)
3 and to whom any of the following applies:

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

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

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

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

15 5. Moved to this state from out of state before enrolling in a
16 qualified school.

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

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

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

28 ~~C. In 2021, a school tuition organization shall not issue an~~
29 ~~educational scholarship or a tuition grant for the purposes of section~~
30 ~~20-224.06 or 43-1183 in an amount that exceeds \$5,600 for students who are~~
31 ~~in a kindergarten program, a preschool program that offers services to~~
32 ~~students with disabilities or grades one through eight or \$7,500 for~~

~~students who are in grades nine through twelve. In each year after 2021, the limit amount for a scholarship or a grant under this subsection shall be increased by \$200.~~

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

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

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

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

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

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

B. The amount of an educational scholarship or a tuition grant that is issued by a school tuition organization under this section shall not exceed the cost of tuition for the student to attend the qualified school or ninety ~~per cent~~ PERCENT of the amount of state aid that otherwise would be computed for the student as provided in title 15, chapter 9, article 5, whichever is less. On request from a school tuition organization, the

1 department of education shall provide to the school tuition organization in
2 a timely manner the amount computed for the student under this subsection
3 that represents the ninety ~~per cent limitation~~ PERCENT LIMIT prescribed in
4 this subsection.

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

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

16 E. For the purposes of this section: ~~;~~

17 1. "QUALIFIED EXAMINER" MEANS A LICENSED PHYSICIAN, PSYCHIATRIST OR
18 PSYCHOLOGIST.

19 2. "Qualified student" means a student, including a student who
20 previously qualified for an educational scholarship or tuition grant under
21 this section and continues to attend a qualified school, who has been
22 either:

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

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

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

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

6 43-1602. Certification; requirements; violations; hearing

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

14 B. The department shall:

15 1. Maintain a public registry of currently certified school tuition
16 organizations.

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

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

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

23 1. Failed or refused to allocate at least ninety percent of annual
24 revenues from contributions made for the purposes of ~~sections~~ SECTION
25 43-1089 ~~and 43-1089.03~~ for educational scholarships or tuition grants.

26 2. Failed or refused to file the annual reports required by section
27 43-1604.

28 3. Limited the availability of scholarships to students of only one
29 school.

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

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

4 6. Failed or refused to meet any of the requirements in section
5 43-1603, subsection B.

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

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

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

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

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

28 43-1603. Operational requirements for school tuition
29 organizations; notice; qualified schools

30 A. A certified school tuition organization must be established to
31 receive contributions from taxpayers for the purposes of income tax credits
32 under ~~sections~~ SECTION 43-1089 ~~and 43-1089.03~~ and to pay educational

1 scholarships or tuition grants to allow students to attend any qualified
2 school of their parents' 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~~ SECTION 43-1089 and
7 ~~43-1089.03~~ 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. 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. Shall not allow donors to designate student beneficiaries as a
14 condition of any contribution to the organization, or facilitate, encourage
15 or knowingly allow the exchange of beneficiary student designations in
16 violation of section 43-1089, subsection F, ~~section 43-1089.03, subsection~~
17 ~~F~~ and section 43-1089.04, subsection E.

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

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

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

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

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

4 Notice

5 A school tuition organization cannot award, restrict or reserve
6 scholarships solely on the basis of a donor's recommendation.

7 A taxpayer may not claim a tax credit if the taxpayer agrees to
8 swap donations with another taxpayer to benefit either taxpayer's own
9 dependent.

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

12 1. Shall not award, designate or reserve a scholarship solely on the
13 recommendation of any person contributing money to the organization, but
14 may consider the recommendation among other factors.

15 2. Shall consider the financial need of applicants.

16 ~~E. A taxpayer's contribution to a school tuition organization that~~
17 ~~exceeds the amount of the credit allowed by section 43-1089 but does not~~
18 ~~exceed the amount of the credit allowed by section 43-1089.03 is considered~~
19 ~~a contribution pursuant to section 43-1089.03. A school tuition~~
20 ~~organization must use at least ninety percent of contributions made~~
21 ~~pursuant to section 43-1089.03 for educational scholarships or tuition~~
22 ~~grants for students to whom any of the following applies:~~

23 ~~1. Attended a governmental primary or secondary school as a~~
24 ~~full-time student as defined in section 15-901 or attended a preschool~~
25 ~~program that offers services to students with disabilities at a~~
26 ~~governmental school for at least ninety days of the prior fiscal year and~~
27 ~~transferred from a governmental school to a qualified school.~~

28 ~~2. Enroll in a qualified school in a kindergarten program or a~~
29 ~~preschool program that offers services to students with disabilities.~~

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

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

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

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

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

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

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

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

24 43-1604. Annual report; posting

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

30 1. The name, address and contact person of the school tuition
31 organization.

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

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

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

7 5. The total dollar amount of:

8 (a) Educational scholarships and tuition grants distributed during
9 the previous fiscal year.

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

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

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

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

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

25 8. For each school to which educational scholarships or tuition
26 grants were awarded:

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

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

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

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

4 B. The department shall post on its website a report of the
5 information it receives pursuant to subsection A of this section on or
6 before March 31 of the calendar year following the year in which the
7 information is received."

8 Amend title to conform

DAVID LIVINGSTON

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