Senate Engrossed House Bill

FILED
KEN BENNETT
SECRETARY OF STATE

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CHAPTER 292

HOUSE BILL 2663

AN ACT

AMENDING SECTIONS 20-224.06, 20-224.07, 43-1183 AND 43-1184, ARIZONA REVISED STATUTES; AMENDING TITLE 43, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 15; RELATING TO SCHOOL TUITION ORGANIZATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

20-224.06. Premium tax credit for contributions to school tuition organization

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

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

C. The procedures, conditions, limitations, definitions and other requirements prescribed by section 43-1183 AND TITLE 43, CHAPTER 15 apply to:

1. Insurers that claim a credit under this section.

2. Claims for credit under this section.

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

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

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

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

E. A credit is not allowed if the insurer designates the contribution for the direct benefit of any specific student.

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

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

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

20-224.07. Premium tax credit for contributions to school tuition organization

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

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

C. The procedures, conditions, limitations, definitions and other requirements prescribed by section 43-1184 AND TITLE 43, CHAPTER 15 apply to:

1. Insurers that claim a credit under this section.

2. Claims for credit under this section.

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

4. Qualified schools that participate under this section.

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

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

E. A credit is not allowed if the insurer designates the contribution for the direct benefit of any specific student.

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

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

Sec. 3. Section 43-1183, Arizona Revised Statutes, is amended to read:

43-1183. <u>Credit for contributions to school tuition organization; definition</u>

A. Beginning from and after June 30, 2006, a credit is allowed against the taxes imposed by this title for the amount of voluntary cash contributions made by the taxpayer during the taxable year to a school tuition organization THAT IS CERTIFIED PURSUANT TO CHAPTER 15 OF THIS TITLE AT THE TIME OF DONATION.

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

C. The department of revenue:

1. Shall not allow tax credits under this section and section 20-224.06 that exceed in the aggregate a combined total of ten million dollars in any fiscal year. Beginning in fiscal year 2007-2008, the aggregate dollar amount of the tax credit cap from the previous fiscal year shall be annually increased by twenty per cent.

2. Shall preapprove tax credits under this section and section 20-224.06 subject to subsection D of this section.

3. Shall allow the tax credits under this section and section 20-224.06 on a first come, first served basis.

D. For the purposes of subsection C, paragraph 2 of this section, before making a contribution to a school tuition organization, the taxpayer under this title or title 20 must notify the school tuition organization of the total amount of contributions that the taxpayer intends to make to the school tuition organization. Before accepting the contribution, the school tuition organization shall request preapproval from the department of revenue for the taxpayer's intended contribution amount. The department of revenue shall preapprove or deny the requested amount within twenty days after receiving the request from the school tuition organization. If the department of revenue preapproves the request, the school tuition organization shall immediately notify the taxpayer, and the department of insurance in the case of a credit under section 20-224.06, that the requested amount was preapproved by the department of revenue. In order to receive a tax credit under this subsection, the taxpayer shall make the contribution to the school tuition organization within ten days after receiving notice from the school tuition organization that the requested amount was preapproved. If the school tuition organization does not receive the preapproved contribution from the taxpayer within the required ten days, the school tuition organization shall immediately notify the department of revenue, and the department of insurance in the case of a credit under section 20-224.06, and the department of revenue shall no longer include this preapproved contribution amount when calculating the limit prescribed in subsection C, paragraph 1 of this section.

~~E. A school tuition organization that receives contributions under this section or section 20-224.06 shall allow the department of revenue to verify that the educational scholarships and tuition grants that are issued pursuant to this section are awarded to students who attend a qualified school.~~

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

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

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

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

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

~~K. A school tuition organization that receives contributions under this section or section 20-224.06 shall use at least ninety per cent of those contributions to provide educational scholarships or tuition grants only to children whose family income does not exceed one hundred eighty-five per cent of the income limit required to qualify a child for reduced price lunches under the national school lunch and child nutrition acts (42 United States Code sections 1751 through 1785) and who either:~~

~~1. Attended a governmental primary or secondary school as a full-time student as defined in section 15-901 for at least the first one hundred days of the prior fiscal year and transferred from a governmental primary or secondary school to a qualified school.~~

~~2. Enroll in a qualified school in a kindergarten program.~~

~~3. Received an educational scholarship or tuition grant under paragraph 1 or 2 of this subsection if the children continue to attend a qualified school in a subsequent year.~~

~~L. In 2006, a school tuition organization shall not issue an educational scholarship or a tuition grant in an amount that exceeds four thousand two hundred dollars for students in a kindergarten program or grades one through eight or five thousand five hundred dollars for students in grades nine through twelve. In each year after 2006, the limitation amount for a scholarship or a grant under this subsection shall be increased by one hundred dollars.~~

~~M. A child is still eligible to receive an educational scholarship or tuition grant under subsection K of this section if the child meets the criteria to receive a reduced price lunch but does not actually claim that benefit.~~

~~N. The school tuition organization shall require that the children use the educational scholarships or tuition grants on a full-time basis. If a child leaves the qualified school before completing an entire school year, the qualified school shall refund a prorated amount of the educational scholarship or tuition grant to the school tuition organization that issued the educational scholarship or tuition grant to the child. Any refunds received by the school tuition organization under this subsection shall be allocated for educational scholarships or tuition grants to qualified children in the following year.~~

~~O. Children who receive educational scholarships or tuition grants under this section shall be allowed to attend any qualified school of their parents' choice.~~

~~P. A school tuition organization that receives a voluntary cash contribution pursuant to this section or section 20-224.06 shall report to~~

~~the department of revenue and the department of insurance, in a form prescribed by the department of revenue, by June 30 of each year the following information:~~

~~1. The name, address and contact name of the school tuition organization.~~

~~2. The total number of contributions received during the previous calendar year, identified for the purposes of this section or section 20-224.06.~~

~~3. The total dollar amount of contributions received during the previous calendar year, identified for the purposes of this section or section 20-224.06.~~

~~4. The total number of children awarded educational scholarships or tuition grants during the previous calendar year.~~

~~5. The total dollar amount of educational scholarships and tuition grants awarded during the previous calendar year.~~

~~6. For each school to which educational scholarships or tuition grants were awarded:~~

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

~~(b) The number of educational scholarships and tuition grants awarded during the previous calendar year.~~

~~(c) The total dollar amount of educational scholarships and tuition grants awarded during the previous calendar year.~~

~~7. Verification that an independent review of financial statements according to generally accepted accounting principles was completed by a certified public accountant for the previous calendar year.~~

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

~~R.~~ K. For the purposes of this section, ~~:~~

~~1.~~ "qualified school":

1. Means a nongovernmental primary school or secondary school:

(a) That is located in this state, that does not discriminate on the basis of race, color, handicap, familial status or national origin and that satisfies the requirements prescribed by law for private schools in this state on January 1, 2005.

(b) That annually administers and makes available to the public the aggregate test scores of its students on a nationally standardized norm-referenced achievement test, preferably the Arizona instrument to measure standards test administered pursuant to section 15-741.

(c) That requires all teaching staff and any personnel that have unsupervised contact with students to be fingerprinted.

2. DOES NOT INCLUDE A CHARTER SCHOOL OR PROGRAMS OPERATED BY CHARTER SCHOOLS.

~~2. "School tuition organization" means a charitable organization in this state that both:~~

~~(a) Is exempt from federal taxation under section 501(c)(3) of the internal revenue code and that allocates ninety per cent of its annual revenue for educational scholarships or tuition grants to children to allow them to attend any qualified school of their parents' choice.~~

~~(b) Provides educational scholarships or tuition grants to students without limiting availability to only students of one school.~~

Sec. 4. Section 43-1184, Arizona Revised Statutes, is amended to read:

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

A. Beginning from and after June 30, 2009, a credit is allowed against the taxes imposed by this title for the amount of voluntary cash contributions made by the taxpayer during the taxable year to a school tuition organization THAT IS CERTIFIED PURSUANT TO CHAPTER 15 OF THIS TITLE AT THE TIME OF DONATION.

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

C. The department of revenue:

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

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

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

D. For the purposes of subsection C, paragraph 2 of this section, before making a contribution to a school tuition organization, the taxpayer under this title or title 20 must notify the school tuition organization of the total amount of contributions that the taxpayer intends to make to the school tuition organization. Before accepting the contribution, the school tuition organization shall request preapproval from the department of revenue for the taxpayer's intended contribution amount. The department of revenue shall preapprove or deny the requested amount within twenty days after receiving the request from the school tuition organization. If the department of revenue preapproves the request, the school tuition organization shall immediately notify the taxpayer that the requested amount was preapproved by the department of revenue. In order to receive a tax credit under this subsection, the taxpayer shall make the contribution to the school tuition organization within ten days after receiving notice from the school tuition organization that the requested amount was preapproved. If the school tuition organization does not receive the preapproved contribution from the taxpayer within the required ten days, the school tuition organization shall immediately notify the department of revenue and the

department shall no longer include this preapproved contribution amount when calculating the limit prescribed in subsection C, paragraph 1 of this section.

~~E. A school tuition organization that receives contributions under this section or section 20-224.07 shall allow the department to verify that the educational scholarships and tuition grants that are issued pursuant to this section are awarded to qualified students who attend a qualified school.~~

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

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

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

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

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

~~K. A school tuition organization that receives contributions under this section or section 20-224.07 shall use at least ninety per cent of those contributions to provide educational scholarships or tuition grants to qualified students who either:~~

~~1. Received a grant or scholarship under title 15, chapter 8, article 1.2 or 8 in order to attend a qualified school during the 2008-2009 academic year. In fiscal year 2009-2010, the school tuition organization shall give priority to qualified students under this paragraph before providing educational scholarships or tuition grants under paragraph 2 of this subsection.~~

~~2. Attended a governmental primary or secondary school as a full-time student as defined in section 15-901 for at least the first one hundred days of the prior fiscal year and transferred from a governmental primary or secondary school to a qualified school.~~

~~3. Received an educational scholarship or tuition grant under paragraph 1 or 2 of this subsection if the qualified student continues to attend a qualified school in a subsequent year.~~

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

~~M. The school tuition organization shall require that the qualified student use the educational scholarship or tuition grant on a full-time basis. If a qualified student leaves the qualified school before completing an entire school year, the qualified school shall refund a prorated amount of the educational scholarship or tuition grant to the school tuition organization that issued the educational scholarship or tuition grant to the student. Any refunds received by the school tuition organization under this subsection shall be allocated for educational scholarships or tuition grants to qualified students in the following year.~~

~~N. Qualified students who receive educational scholarships or tuition grants under this section shall be allowed to attend any qualified school of their custodians' choice.~~

~~O. A school tuition organization that receives a voluntary cash contribution pursuant to this section or section 20-224.07 shall report to the department of revenue, in a form prescribed by the department of revenue, by June 30 of each year the following information:~~

~~1. The name, address and contact name of the school tuition organization.~~

~~2. The total number of contributions received during the previous calendar year, identified for the purposes of this section or section 20-224.07.~~

~~3. The total dollar amount of contributions received during the previous calendar year, identified for the purposes of this section or section 20-224.07.~~

~~4. The total number of qualified students awarded educational scholarships or tuition grants during the previous calendar year.~~

~~5. The total dollar amount of educational scholarships and tuition grants awarded during the previous calendar year.~~

~~6. The percentage of the total dollar amount of educational scholarships and tuition grants awarded to students during the previous calendar year for each paragraph under subsection K of this section.~~

~~7. For each qualified school to which educational scholarships or tuition grants were awarded:~~

~~(a) The name and address of the qualified school.~~

~~(b) The number of educational scholarships and tuition grants awarded during the previous calendar year.~~

~~(c) The total dollar amount of educational scholarships and tuition grants awarded during the previous calendar year.~~

~~8. Verification that an independent review of financial statements according to generally accepted accounting principles was completed by a certified public accountant for the previous calendar year.~~

~~P.~~ J. The department of revenue shall adopt rules necessary for the administration of this section.

~~Q.~~ K. For the purposes of this section, ~~:~~

~~1. "Custodian" means a resident of this state who is a parent or an authorized out-of-home care provider or, if none, the legal guardian of a qualifying student.~~

~~2.~~ "qualified school":

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

2. DOES NOT INCLUDE A CHARTER SCHOOL OR PROGRAMS OPERATED BY CHARTER SCHOOLS.

~~3. "Qualified student" means a student who has been either:~~

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

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

~~4. "School tuition organization" means a charitable organization in this state that both:~~

~~(a) Is exempt from federal taxation under section 501(c)(3) of the internal revenue code and that allocates ninety per cent of its annual revenue for educational scholarships or tuition grants to qualified students to allow them to attend any qualified school of their custodians' choice.~~

~~(b) Provides educational scholarships or tuition grants to students without limiting availability to only students of one school.~~

Sec. 5. Title 43, Arizona Revised Statutes, is amended by adding chapter 15, to read:

CHAPTER 15

SCHOOL TUITION ORGANIZATIONS FOR CORPORATE CONTRIBUTIONS

ARTICLE 1. GENERAL PROVISIONS

43-1501. Definitions

IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "ALLOCATE" INCLUDES RESERVING MONEY FOR AN AWARD OF A MULTIYEAR EDUCATIONAL SCHOLARSHIP OR TUITION GRANT FOR A SPECIFIC STUDENT.

2. "CUSTODIAN" MEANS A RESIDENT OF THIS STATE WHO IS A PARENT OR AN AUTHORIZED OUT-OF-HOME CARE PROVIDER OR, IF NONE, THE LEGAL GUARDIAN OF A QUALIFIED STUDENT, AS DEFINED IN SECTION 43-1505.

3. "FISCAL YEAR" MEANS THE FISCAL YEAR OF THE STATE AS PRESCRIBED IN SECTION 35-102.

4. "QUALIFIED SCHOOL" HAS THE SAME MEANING PRESCRIBED IN SECTION 43-1183 OR 43-1184, AS APPLICABLE.

43-1502. Certification as a school tuition organization

A. A NONPROFIT ORGANIZATION IN THIS STATE THAT IS EXEMPT OR HAS APPLIED FOR EXEMPTION FROM FEDERAL TAXATION UNDER SECTION 501(c)(3) OF THE INTERNAL REVENUE CODE MAY APPLY TO THE DEPARTMENT OF REVENUE FOR CERTIFICATION AS A SCHOOL TUITION ORGANIZATION, AND THE DEPARTMENT SHALL CERTIFY THE SCHOOL TUITION ORGANIZATION IF IT MEETS THE REQUIREMENTS PRESCRIBED BY THIS CHAPTER. AN ORGANIZATION MUST APPLY FOR CERTIFICATION ON A FORM PRESCRIBED AND FURNISHED ON REQUEST BY THE DEPARTMENT.

B. THE DEPARTMENT SHALL:

1. MAINTAIN A PUBLIC REGISTRY OF CURRENTLY CERTIFIED SCHOOL TUITION ORGANIZATIONS.

2. MAKE THE REGISTRY AVAILABLE TO THE PUBLIC ON REQUEST.

3. POST THE REGISTRY ON THE DEPARTMENT'S OFFICIAL WEBSITE.

C. THE DEPARTMENT SHALL SEND WRITTEN NOTICE BY CERTIFIED MAIL TO A SCHOOL TUITION ORGANIZATION IF THE DEPARTMENT DETERMINES THAT THE SCHOOL TUITION ORGANIZATION HAS ENGAGED IN ANY OF THE FOLLOWING ACTIVITIES:

1. FAILING OR REFUSING TO ALLOCATE AT LEAST NINETY PER CENT OF ANNUAL REVENUES FOR EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS.

2. FAILING OR REFUSING TO FILE THE ANNUAL REPORTS REQUIRED BY SECTION 43-1506.

3. LIMITING AVAILABILITY OF SCHOLARSHIPS TO STUDENTS OF ONLY ONE SCHOOL.

4. ENCOURAGING, FACILITATING OR KNOWINGLY PERMITTING TAXPAYERS TO ENGAGE IN ACTIONS PROHIBITED BY THIS ARTICLE.

D. A SCHOOL TUITION ORGANIZATION THAT RECEIVES NOTICE FROM THE DEPARTMENT PURSUANT TO SUBSECTION C OF THIS SECTION HAS NINETY DAYS TO CORRECT THE VIOLATION IDENTIFIED BY THE DEPARTMENT IN THE NOTICE. IF A SCHOOL TUITION ORGANIZATION FAILS OR REFUSES TO COMPLY AFTER NINETY DAYS, THE DEPARTMENT MAY REMOVE THE ORGANIZATION FROM THE LIST OF CERTIFIED SCHOOL TUITION ORGANIZATIONS AND SHALL MAKE AVAILABLE TO THE PUBLIC NOTICE OF REMOVAL AS SOON AS POSSIBLE. AN ORGANIZATION THAT IS REMOVED FROM THE LIST OF CERTIFIED SCHOOL TUITION ORGANIZATIONS MUST NOTIFY ANY TAXPAYER WHO ATTEMPTS TO MAKE A CONTRIBUTION THAT THE CONTRIBUTION IS NOT ELIGIBLE FOR THE TAX CREDIT AND OFFER TO REFUND ALL DONATIONS RECEIVED AFTER THE DATE OF THE NOTICE OF TERMINATION OF CERTIFICATION.

E. A SCHOOL TUITION ORGANIZATION MAY REQUEST AN ADMINISTRATIVE HEARING ON THE REVOCATION OF ITS CERTIFICATION AS PROVIDED BY TITLE 41, CHAPTER 6, ARTICLE 10. EXCEPT AS PROVIDED IN SECTION 41-1092.08, SUBSECTION H, A

DECISION OF THE DEPARTMENT IS SUBJECT TO JUDICIAL REVIEW PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6.

43-1503. Operational requirements for school tuition organizations

A. A CERTIFIED SCHOOL TUITION ORGANIZATION MUST BE ESTABLISHED TO RECEIVE CONTRIBUTIONS FROM TAXPAYERS FOR THE PURPOSES OF INCOME TAX CREDITS UNDER SECTIONS 43-1183 AND 43-1184 AND INSURANCE PREMIUM TAX CREDITS UNDER SECTIONS 20-224.06 AND 20-224.07 AND TO PAY EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS TO ALLOW STUDENTS TO ATTEND ANY QUALIFIED SCHOOL OF THEIR PARENTS' OR CUSTODIANS' CHOICE.

B. TO BE ELIGIBLE FOR CERTIFICATION AND RETAIN CERTIFICATION, THE SCHOOL TUITION ORGANIZATION:

1. MUST ALLOCATE AT LEAST NINETY PER CENT OF ITS ANNUAL REVENUE FOR EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS.

2. SHALL NOT LIMIT THE AVAILABILITY OF EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS TO ONLY STUDENTS OF ONE SCHOOL.

3. MUST ALLOW THE DEPARTMENT OF REVENUE TO VERIFY THAT THE EDUCATIONAL SCHOLARSHIPS AND TUITION GRANTS THAT ARE ISSUED ARE AWARDED TO STUDENTS WHO ATTEND A QUALIFIED SCHOOL.

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

A. A SCHOOL TUITION ORGANIZATION THAT RECEIVES CONTRIBUTIONS FROM A CORPORATION FOR THE PURPOSES OF SECTION 20-224.06 OR 43-1183 MUST USE AT LEAST NINETY PER CENT OF THOSE CONTRIBUTIONS TO PROVIDE EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS ONLY TO CHILDREN WHOSE FAMILY INCOME DOES NOT EXCEED ONE HUNDRED EIGHTY-FIVE PER CENT OF THE INCOME LIMIT REQUIRED TO QUALIFY A CHILD FOR REDUCED PRICE LUNCHES UNDER THE NATIONAL SCHOOL LUNCH AND CHILD NUTRITION ACTS (42 UNITED STATES CODE SECTIONS 1751 THROUGH 1785) AND WHO EITHER:

1. ATTENDED A GOVERNMENTAL PRIMARY OR SECONDARY SCHOOL AS A FULL-TIME STUDENT AS DEFINED IN SECTION 15-901 FOR AT LEAST THE FIRST ONE HUNDRED DAYS OF THE PRIOR FISCAL YEAR AND TRANSFERRED FROM A GOVERNMENTAL PRIMARY OR SECONDARY SCHOOL TO A QUALIFIED SCHOOL.

2. ENROLL IN A QUALIFIED SCHOOL IN A KINDERGARTEN PROGRAM.

3. RECEIVED AN EDUCATIONAL SCHOLARSHIP OR TUITION GRANT UNDER PARAGRAPH 1 OR 2 IF THE CHILDREN CONTINUE TO ATTEND A QUALIFIED SCHOOL IN A SUBSEQUENT YEAR.

B. A CHILD IS ELIGIBLE TO RECEIVE AN EDUCATIONAL SCHOLARSHIP OR TUITION GRANT UNDER SUBSECTION A OF THIS SECTION IF THE CHILD MEETS THE CRITERIA TO RECEIVE A REDUCED PRICE LUNCH BUT DOES NOT ACTUALLY CLAIM THAT BENEFIT.

C. IN 2006, A SCHOOL TUITION ORGANIZATION SHALL NOT ISSUE AN EDUCATIONAL SCHOLARSHIP OR A TUITION GRANT FOR THE PURPOSES OF SECTION 20-224.06 OR 43-1183 IN AN AMOUNT THAT EXCEEDS FOUR THOUSAND TWO HUNDRED DOLLARS FOR STUDENTS IN A KINDERGARTEN PROGRAM OR GRADES ONE THROUGH EIGHT OR

FIVE THOUSAND FIVE HUNDRED DOLLARS FOR STUDENTS IN GRADES NINE THROUGH TWELVE. IN EACH YEAR AFTER 2006, THE LIMITATION AMOUNT FOR A SCHOLARSHIP OR A GRANT UNDER THIS SUBSECTION SHALL BE INCREASED BY ONE HUNDRED DOLLARS.

D. 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 IN THE FOLLOWING YEAR.

E. 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. THE DEPARTMENT OF REVENUE, WITH THE COOPERATION OF THE DEPARTMENT OF INSURANCE, SHALL ADOPT RULES AND PUBLISH AND PRESCRIBE FORMS AND PROCEDURES NECESSARY FOR THE ADMINISTRATION OF THIS SECTION.

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

A. A SCHOOL TUITION ORGANIZATION THAT RECEIVES CONTRIBUTIONS FOR THE PURPOSES OF SECTION 28-224.07 OR 43-1184 MUST USE AT LEAST NINETY PER CENT OF THOSE CONTRIBUTIONS TO PROVIDE EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS TO QUALIFIED STUDENTS WHO EITHER:

1. RECEIVED A GRANT OR SCHOLARSHIP UNDER TITLE 15, CHAPTER 8, ARTICLE 1.2 OR 8 IN ORDER TO ATTEND A QUALIFIED SCHOOL DURING THE 2008-2009 ACADEMIC YEAR.

2. ATTENDED A GOVERNMENTAL PRIMARY OR SECONDARY SCHOOL AS A FULL-TIME STUDENT AS DEFINED IN SECTION 15-901 FOR AT LEAST THE FIRST ONE HUNDRED DAYS OF THE PRIOR FISCAL YEAR AND TRANSFERRED FROM A GOVERNMENTAL PRIMARY OR SECONDARY SCHOOL TO A QUALIFIED SCHOOL.

3. QUALIFIED FOR AN EDUCATIONAL SCHOLARSHIP OR TUITION GRANT UNDER PARAGRAPH 1 OR 2 IF THE QUALIFIED STUDENT CONTINUES TO ATTEND A QUALIFIED SCHOOL IN A SUBSEQUENT YEAR.

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 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 DEPARTMENT OF EDUCATION SHALL PROVIDE TO THE SCHOOL TUITION ORGANIZATION IN A TIMELY MANNER THE AMOUNT COMPUTED FOR THE STUDENT UNDER THIS SUBSECTION THAT REPRESENTS THE NINETY PER CENT LIMITATION PRESCRIBED IN THIS SUBSECTION.

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 IN THE FOLLOWING YEAR.

D. QUALIFIED STUDENTS WHO RECEIVE AN EDUCATIONAL SCHOLARSHIP OR TUITION GRANT UNDER THIS SECTION SHALL BE ALLOWED TO ATTEND ANY QUALIFIED SCHOOL OF THEIR CUSTODIANS' CHOICE.

E. FOR THE PURPOSES OF THIS SECTION, "QUALIFIED STUDENT" MEANS A STUDENT WHO HAS BEEN EITHER:

1. PLACED IN FOSTER CARE PURSUANT TO TITLE 8, CHAPTER 5 AT ANY TIME BEFORE THE STUDENT GRADUATES FROM HIGH SCHOOL OR OBTAINS A GENERAL EQUIVALENCY DIPLOMA.

2. IDENTIFIED AS HAVING A DISABILITY UNDER SECTION 504 OF THE REHABILITATION ACT (29 UNITED STATES CODE SECTION 794) OR IDENTIFIED BY A SCHOOL DISTRICT AS A CHILD WITH A DISABILITY AS DEFINED IN SECTION 15-761 OR A CHILD WITH A DISABILITY WHO IS ELIGIBLE TO RECEIVE SERVICES FROM A SCHOOL DISTRICT UNDER SECTION 15-763.

43-1506. Annual report

ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, EACH SCHOOL TUITION ORGANIZATION SHALL REPORT ELECTRONICALLY TO THE DEPARTMENT, IN A FORM PRESCRIBED BY THE DEPARTMENT, THE FOLLOWING INFORMATION, SEPARATELY COMPILED AND IDENTIFIED FOR THE PURPOSES OF SECTIONS 20-224.06, 20-224.07, 43-1183 AND 43-1184:

1. THE NAME, ADDRESS AND CONTACT PERSON OF THE SCHOOL TUITION ORGANIZATION.

2. THE TOTAL NUMBER OF CONTRIBUTIONS RECEIVED DURING THE PREVIOUS FISCAL YEAR.

3. THE TOTAL DOLLAR AMOUNT OF CONTRIBUTIONS RECEIVED DURING THE PREVIOUS FISCAL YEAR.

4. THE TOTAL NUMBER OF CHILDREN AWARDED EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS DURING THE PREVIOUS FISCAL YEAR.

5. THE TOTAL DOLLAR AMOUNT OF:

(a) EDUCATIONAL SCHOLARSHIPS AND TUITION GRANTS DISTRIBUTED DURING THE PREVIOUS FISCAL YEAR.

(b) MONEY BEING HELD FOR IDENTIFIED STUDENTS' SCHOLARSHIPS AND TUITION GRANTS IN FUTURE YEARS.

6. THE COST OF AUDITS PURSUANT TO SECTION 43-1507 PAID DURING THE FISCAL YEAR.

7. FOR EACH SCHOOL TO WHICH EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS WERE AWARDED:

(a) THE NAME AND ADDRESS OF THE SCHOOL.

(b) THE NUMBER OF EDUCATIONAL SCHOLARSHIPS AND TUITION GRANTS AWARDED DURING THE PREVIOUS FISCAL YEAR.

(c) THE TOTAL DOLLAR AMOUNT OF EDUCATIONAL SCHOLARSHIPS AND TUITION GRANTS AWARDED DURING THE PREVIOUS FISCAL YEAR.

8. THE NAMES, JOB TITLES AND ANNUAL SALARIES OF THE THREE EMPLOYEES WHO RECEIVE THE HIGHEST ANNUAL SALARIES FROM THE SCHOOL TUITION ORGANIZATION.

43-1507. Audits and financial reviews

A. ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, EACH SCHOOL TUITION ORGANIZATION THAT RECEIVED ONE MILLION DOLLARS OR MORE IN TOTAL DONATIONS IN THE PREVIOUS FISCAL YEAR SHALL PROVIDE FOR A FINANCIAL AUDIT OF THE ORGANIZATION. THE AUDIT MUST BE CONDUCTED IN ACCORDANCE WITH GENERALLY ACCEPTED AUDITING STANDARDS AND MUST EVALUATE THE ORGANIZATION'S COMPLIANCE WITH THE FISCAL REQUIREMENTS OF THIS ARTICLE. THE AUDIT MUST BE CONDUCTED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT LICENSED IN THIS STATE. THE CERTIFIED PUBLIC ACCOUNTANT AND THE FIRM THE CERTIFIED PUBLIC ACCOUNTANT IS AFFILIATED WITH SHALL BE INDEPENDENT WITH RESPECT TO THE ORGANIZATION, ITS OFFICERS AND DIRECTORS, SERVICES PERFORMED AND ALL OTHER INDEPENDENT RELATIONSHIPS PRESCRIBED BY GENERALLY ACCEPTED ACCOUNTING STANDARDS.

B. ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, EACH SCHOOL TUITION ORGANIZATION THAT RECEIVED LESS THAN ONE MILLION DOLLARS IN TOTAL DONATIONS IN THE PREVIOUS FISCAL YEAR SHALL PROVIDE FOR A FINANCIAL REVIEW OF THE ORGANIZATION. THE REVIEW MUST BE CONDUCTED IN ACCORDANCE WITH STANDARDS FOR ACCOUNTING AND REVIEW SERVICES AND MUST EVALUATE THE ORGANIZATION'S COMPLIANCE WITH THE FISCAL REQUIREMENTS OF THIS ARTICLE. THE REVIEW MUST BE CONDUCTED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT LICENSED IN THIS STATE. THE CERTIFIED PUBLIC ACCOUNTANT AND THE FIRM THE CERTIFIED PUBLIC ACCOUNTANT IS AFFILIATED WITH SHALL BE INDEPENDENT WITH RESPECT TO THE ORGANIZATION, ITS OFFICERS AND DIRECTORS, SERVICES PERFORMED AND ALL OTHER INDEPENDENT RELATIONSHIPS PRESCRIBED BY GENERALLY ACCEPTED ACCOUNTING STANDARDS.

C. WITHIN FIVE DAYS AFTER RECEIVING THE AUDIT OR FINANCIAL REVIEW, THE SCHOOL TUITION ORGANIZATION SHALL FILE A SIGNED COPY OF THE AUDIT OR FINANCIAL REVIEW WITH THE DEPARTMENT.

D. THE SCHOOL TUITION ORGANIZATION SHALL PAY THE FEES AND COSTS OF THE CERTIFIED PUBLIC ACCOUNTANT UNDER THIS SECTION FROM THE ORGANIZATION'S OPERATING MONIES. THE FEES AND COSTS SHALL BE EXCLUDED FROM THE CALCULATION OF TOTAL REVENUES SPENT ON SCHOLARSHIPS AND TUITION GRANTS.

Sec. 6. School tuition organizations; transition reports

Notwithstanding the provisions of this act providing for school tuition organization annual reports on or before September 30, on or before June 30, 2011, each school tuition organization shall submit to the department of revenue the report required by section 43-1183, subsection P or section

43-1184, subsection O, Arizona Revised Statutes, as in effect before the effective date of this act, as applicable, for the 2010 calendar year. Thereafter, the school tuition organization shall submit an annual fiscal year report as prescribed by section 43-1506, Arizona Revised Statutes, as added by this act.

Sec. 7. Effective date

This act is effective retroactively to from and after June 30, 2010.

APPROVED BY THE GOVERNOR MAY 10, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 10, 2010.