

House Engrossed Senate Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

CHAPTER 325

SENATE BILL 1404

AN ACT

AMENDING SECTION 43-1183, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 2006,
CHAPTER 14, SECTION 5; RELATING TO SCHOOL TUITION ORGANIZATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 43-1183, Arizona Revised Statutes, as added by Laws
3 2006, chapter 14, section 5, is amended to read:

4 43-1183. Credit for contributions to school tuition
5 organization; definitions

6 A. Beginning from and after June 30, 2006 through June 30, 2011, a
7 credit is allowed against the taxes imposed by this title for the amount of
8 voluntary cash contributions made by the taxpayer during the taxable year to
9 a school tuition organization.

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

13 C. The department:

14 1. Shall not allow tax credits under this section that exceed in the
15 aggregate, a combined total of ~~five~~ TEN million dollars in any fiscal year.
16 BEGINNING IN FISCAL YEAR 2007-2008, THE AGGREGATE AMOUNT OF THE TAX CREDIT
17 CAP FROM THE PREVIOUS FISCAL YEAR SHALL BE ANNUALLY INCREASED BY TWENTY PER
18 CENT.

19 2. Shall preapprove tax credits subject to subsection D of this
20 section.

21 3. Shall allow the tax credits on a first come, first served basis.

22 D. For the purposes of subsection C, paragraph 2 of this section,
23 before making a contribution to a school tuition organization, the taxpayer
24 shall notify the school tuition organization of the total amount of
25 contributions that the taxpayer intends to make to the school tuition
26 organization. Before accepting the contribution, the school tuition
27 organization shall request preapproval from the department for the taxpayer's
28 intended contribution amount. The department shall preapprove or deny the
29 requested amount within twenty days after receiving the request from the
30 school tuition organization. If the department preapproves the request, the
31 school tuition organization shall immediately notify the taxpayer that the
32 requested amount was preapproved by the department. In order to receive a
33 tax credit under this subsection, the taxpayer shall make the contribution to
34 the school tuition organization within ten days after receiving notice from
35 the school tuition organization that the requested amount was preapproved.
36 If the school tuition organization does not receive the preapproved
37 contribution from the taxpayer within the required ten days, the school
38 tuition organization shall immediately notify the department and the
39 department shall no longer include this preapproved contribution amount when
40 calculating the limit prescribed in subsection C, paragraph 1 of this
41 section.

42 E. A school tuition organization that receives contributions under
43 this section shall allow the department to verify that the educational
44 scholarships and tuition grants that are issued pursuant to this section are
45 awarded to students who attend a qualified school.

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

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

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

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

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

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

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

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

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

39 L. A child is still eligible to receive an educational scholarship or
40 tuition grant under subsection J of this section if the child meets the
41 criteria to receive a reduced price lunch but does not actually claim that
42 benefit.

43 M. The school tuition organization shall require that the children use
44 the educational scholarships or tuition grants on a full-time basis. If a
45 child leaves the qualified school before completing an entire school year,

1 the qualified school shall refund a prorated amount of the educational
2 scholarship or tuition grant to the school tuition organization that issued
3 the educational scholarship or tuition grant to the child. Any refunds
4 received by the school tuition organization under this subsection shall be
5 allocated for educational scholarships or tuition grants to qualified
6 children in the following year.

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

10 O. A school tuition organization that receives a voluntary cash
11 contribution pursuant to subsection A of this section shall report to the
12 department, in a form prescribed by the department, by June 30 of each year
13 the following information:

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

16 2. The total number of contributions received during the previous
17 calendar year.

18 3. The total dollar amount of contributions received during the
19 previous calendar year.

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

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

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

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

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

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

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

34 P. The department shall adopt rules necessary for the administration
35 of this section.

36 Q. For the purposes of this section:

37 1. "Qualified school" means a nongovernmental primary school or
38 secondary school:

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

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

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

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

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

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

**PRESENTED TO THE GOVERNOR ON JUNE 20, 2006. IN ACCORDANCE WITH
ARIZONA CONSTITUTION, ARTICLE 5, SECTION 7, ANY BILL NOT RETURNED
WITHIN FIVE DAYS AFTER PRESENTED TO THE GOVERNOR (SUNDAY EXCEPTED)
SUCH BILL SHALL BECOME A LAW IN LIKE MANNER AS IF HE [SIC] HAD
SIGNED IT.**

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 21, 2006.