

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
Second Regular Session  
2008

# HOUSE BILL 2108

AN ACT

REPEALING SECTION 43-222, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING NEW SECTION 43-222; AMENDING SECTIONS 43-223 AND 43-1183, ARIZONA REVISED STATUTES; RELATING TO INCOME TAX CREDITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Repeal

3 Section 43-222, Arizona Revised Statutes, is repealed.

4 Sec. 2. Title 43, chapter 2, article 2, Arizona Revised Statutes, is  
5 amended by adding section 43-222, to read:

6 43-222. Income tax credit review schedule

7 THE JOINT LEGISLATIVE INCOME TAX CREDIT REVIEW COMMITTEE SHALL REVIEW  
8 THE FOLLOWING INCOME TAX CREDITS:

9 1. FOR YEARS ENDING IN 0 AND 5, SECTIONS 43-1075, 43-1075.01,  
10 43-1079.01, 43-1087, 43-1088, 43-1090.01, 43-1163, 43-1163.01, 43-1167.01,  
11 43-1175 AND 43-1182.

12 2. FOR YEARS ENDING IN 1 AND 6, SECTIONS 43-1074.02, 43-1083, 43-1085,  
13 43-1164 AND 43-1183.

14 3. FOR YEARS ENDING IN 2 AND 7, SECTIONS 43-1073, 43-1079, 43-1080,  
15 43-1086, 43-1089, 43-1089.01, 43-1089.02, 43-1090, 43-1167, 43-1169, 43-1176  
16 AND 43-1181.

17 4. FOR YEARS ENDING IN 3 AND 8, SECTIONS 43-1074.01, 43-1081, 43-1168,  
18 43-1170 AND 43-1178.

19 5. FOR YEARS ENDING IN 4 AND 9, SECTIONS 43-1076, 43-1081.01, 43-1084,  
20 43-1162 AND 43-1170.01.

21 Sec. 3. Section 43-223, Arizona Revised Statutes, is amended to read:

22 43-223. Requirements for new income tax credits established by  
23 the legislature

24 A. Any new individual or corporate income tax credit that is enacted  
25 by the legislature shall include in its enabling legislation:

26 1. A specific review year for the joint legislative income tax credit  
27 review committee to review the credit. The specific review year shall be the  
28 fifth full calendar year following the date the credit is enacted.

29 2. A purpose clause that explains the rationale and objective of the  
30 tax credit.

31 3. A SPECIFIC TERMINATION YEAR. THE SPECIFIC TERMINATION YEAR SHALL  
32 NOT BE LATER THAN THE EIGHTH FULL CALENDAR YEAR FOLLOWING THE DATE THE CREDIT  
33 IS ENACTED.

34 B. NOTHING IN THIS CHAPTER PROHIBITS THE LEGISLATURE FROM:

35 1. TERMINATING ANY CREDIT COVERED BY THIS TITLE AT A DATE EARLIER THAN  
36 THAT PRESCRIBED BY THIS TITLE.

37 2. CONSIDERING ANY OTHER LEGISLATION RELATIVE TO ANY SUCH CREDIT.

38 Sec. 4. Section 43-1183, Arizona Revised Statutes, is amended to read:

39 43-1183. Credit for contributions to school tuition  
40 organization; definitions

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

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 is  
3 preapproved by the department pursuant to subsection D of this section.

4           C. The department:

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

10          2. Shall preapprove tax credits subject to subsection D of this  
11 section.

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

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

33          E. A school tuition organization that receives contributions under  
34 this section shall allow the department to verify that the educational  
35 scholarships and tuition grants that are issued pursuant to this section are  
36 awarded to students who attend a qualified school.

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

42          G. Co-owners of a business, including corporate partners in a  
43 partnership, may each claim only the pro rata share of the credit allowed  
44 under this section based on the ownership interest. The total of the credits

1 allowed all such owners may not exceed the amount that would have been  
2 allowed a sole owner.

3 H. 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 tax  
5 purposes.

6 I. 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 specific student.

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

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

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

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

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

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

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

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

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

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

10 2. The total number of contributions received during the previous  
11 calendar year.

12 3. The total dollar amount of contributions received during the  
13 previous calendar year.

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

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

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

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

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

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

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

28 P. The department shall adopt rules necessary for the administration  
29 of this section.

30 Q. For the purposes of this section:

31 1. "Qualified school" means a nongovernmental primary school or  
32 secondary school:

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

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

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

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

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

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