

REFERENCE TITLE: college savings plan; treasurer

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2710

Introduced by
Representatives Allen J, Nelson, Rosati, Smith, Yarbrough: Anderson,
Biggs, Boone, Farnsworth, Gray C, McClure, Quelland, Reagan, Stump, Tully

AN ACT

AMENDING SECTIONS 15-1871, 15-1872, 15-1873, 15-1874, 15-1875, 15-1878,
15-1879 AND 43-1042, ARIZONA REVISED STATUTES; RELATING TO THE FAMILY COLLEGE
SAVINGS PROGRAM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 15-1871, Arizona Revised Statutes, is amended to
3 read:

4 15-1871. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Account" means an individual trust account in the fund established
7 as prescribed in this article.

8 2. "Account owner" means the person who enters into a tuition savings
9 agreement pursuant to this article, who is an account owner within the
10 meaning of section 529 of the internal revenue code and who is designated at
11 the time an account is opened as having the right to withdraw monies from the
12 account before the account is disbursed to or for the benefit of the
13 designated beneficiary.

14 ~~3. "Commission" means the commission for postsecondary education~~
15 ~~established by section 15-1851.~~

16 ~~4.~~ 3. "Committee" means the family college savings program oversight
17 committee.

18 ~~5.~~ 4. "Designated beneficiary" means a person who qualifies as a
19 designated beneficiary under section 529 of the internal revenue code and,
20 except as provided in section 15-1875, subsections R and S, with respect to
21 an account, who is designated at the time the account is opened as the person
22 whose higher education expenses are expected to be paid from the account or,
23 if this designated beneficiary is replaced in accordance with section
24 15-1875, subsections E, F and G, the replacement beneficiary.

25 ~~6.~~ 5. "Eligible educational institution" means an institution of
26 higher education that qualifies under section 529 of the internal revenue
27 code as an eligible educational institution.

28 ~~7.~~ 6. "Financial institution" means any bank, commercial bank,
29 national bank, savings bank, savings and loan association, credit union,
30 insurance company, brokerage firm or other similar entity that is authorized
31 to do business in this state.

32 ~~8.~~ 7. "Fund" means the family college savings program trust fund that
33 constitutes a public instrumentality of this state **AND THAT IS** established by
34 section 15-1873.

35 ~~9.~~ 8. "Member of the family" means any of the following:

36 (a) A son or daughter of a person or a descendant of the son or
37 daughter of the person.

38 (b) A stepson or stepdaughter of a person.

39 (c) A brother, sister, stepbrother or stepsister of a person. For the
40 purposes of this subdivision, "brother" and "sister" includes a brother or
41 sister by the half-blood.

42 (d) The father or mother of a person or the ancestor of the father or
43 mother of a person.

44 (e) A stepfather or stepmother of a person.

1 (f) A son or daughter of a person's brother or sister. For the
2 purposes of this subdivision, "brother" and "sister" includes a brother or
3 sister by the half-blood.

4 (g) A brother or sister of the person's father or mother. For the
5 purposes of this subdivision, "brother" and "sister" includes a brother or
6 sister by the half-blood.

7 (h) A son-in-law, daughter-in-law, father-in-law, mother-in-law,
8 brother-in-law or sister-in-law of a person.

9 (i) The spouse of a person or the spouse of any individual described
10 in this paragraph.

11 (j) A first cousin of a person.

12 (k) Any individual who meets the criteria for family membership
13 described in this paragraph as a result of legal adoption.

14 ~~10-~~ 9. "Nonqualified withdrawal" means a withdrawal from an account
15 other than one of the following:

16 (a) A qualified withdrawal.

17 (b) A withdrawal made as the result of the death or disability of the
18 designated beneficiary of an account.

19 (c) A withdrawal that is made on the account of a scholarship, or the
20 allowance or payment described in section 135(d)(1)(B) or (C) of the internal
21 revenue code, and that is received by the designated beneficiary, but only to
22 the extent of the amount of this scholarship, allowance or payment.

23 (d) A rollover or change of designated beneficiary.

24 ~~11-~~ 10. "Person" means an individual, an individual's legal
25 representative or any other legal entity authorized to establish a savings
26 account under section 529 of the internal revenue code and the corresponding
27 regulations.

28 ~~12-~~ 11. "Program" means the family college savings program **THAT IS**
29 established under this article **AND** that constitutes a qualified tuition
30 program as defined in section 529 of the internal revenue code.

31 ~~13-~~ 12. "Qualified higher education expenses" means tuition, fees,
32 books, supplies, room and board and equipment required for enrollment or
33 attendance of a designated beneficiary at an eligible educational institution
34 and expenses for special needs services in the case of a special needs
35 beneficiary that are incurred in connection with enrollment or attendance, if
36 these expenses meet the definition of qualified higher education expenses in
37 section 529 of the internal revenue code.

38 ~~14-~~ 13. "Qualified withdrawal" means a withdrawal from an account to
39 pay the qualified higher education expenses of the designated beneficiary of
40 the account, but only if the withdrawal is made in accordance with this
41 article.

42 ~~15-~~ 14. "Section 529 of the internal revenue code" means section 529
43 of the internal revenue code of 1986, as amended, and the final regulations
44 issued pursuant to that section.

1 ~~16-~~ 15. "Trust interest" means an account owner's interest in the fund
2 created by a tuition savings agreement for the benefit of a designated
3 beneficiary.

4 ~~17-~~ 16. "Tuition savings agreement" means an agreement between the
5 ~~commission~~ STATE TREASURER, as trustee of the fund, and an account owner that
6 creates an interest in the fund and that provides for participation in the
7 program.

8 Sec. 2. Section 15-1872, Arizona Revised Statutes, is amended to read:

9 ~~15-1872.~~ Family college savings program oversight committee;
10 membership; powers and duties

11 A. The family college savings program oversight committee is
12 established in the ~~commission for postsecondary education~~ OFFICE OF THE STATE
13 TREASURER. The committee consists of the following members:

14 1. The state treasurer or the state treasurer's designee.

15 2. The chairperson of the state board for private postsecondary
16 education or the chairperson's designee.

17 3. Three members of the general public, each of whom possesses
18 knowledge, skill and experience in accounting, risk management or investment
19 management or as an actuary. The governor shall appoint these members to
20 serve staggered four year terms pursuant to section 38-211. The initial
21 members appointed pursuant to this paragraph shall assign themselves by lot
22 to serve two, three and four year terms. The chairperson shall notify the
23 governor's office on appointments of these terms. All subsequent members
24 appointed pursuant to this paragraph serve four year terms.

25 4. A certified financial planner who is appointed by the governor.

26 5. A certified public accountant who is appointed by the governor.

27 6. An attorney with a state bar of Arizona certification in estates
28 and trusts who is appointed by the governor.

29 7. An individual with investment, asset management and financial
30 related expertise who is appointed by the governor.

31 8. An individual employed by a community college or university with
32 investment, asset management and financial related expertise who is appointed
33 by the governor.

34 B. The ~~commission~~ STATE TREASURER shall select a chairperson and a
35 vice-chairperson from among the committee's membership. A majority of the
36 membership constitutes a quorum for the transaction of business. The
37 committee shall meet at least once each calendar quarter. The chairperson
38 may call additional meetings.

39 C. The member of the family college savings program oversight
40 committee appointed pursuant to subsection A, paragraph 6 of this section is
41 eligible to receive compensation as determined pursuant to section 38-611 for
42 each day of attendance at committee meetings, except that the compensation of
43 the member shall not exceed five hundred dollars in any year. The ~~commission~~
44 STATE TREASURER shall pay compensation pursuant to this subsection from
45 monies of the ~~commission~~ STATE TREASURER.

1 D. The committee shall recommend financial institutions for approval
2 by the ~~commission~~ STATE TREASURER to act as the depositories and managers of
3 family college savings accounts pursuant to section 15-1874.

4 E. The committee may submit proposed rules to the ~~commission~~ STATE
5 TREASURER to assist in the implementation and administration of this article.

6 F. Members of the committee are immune from personal liability with
7 respect to all actions that are taken in good faith and within the scope of
8 the committee's authority.

9 Sec. 3. Section 15-1873, Arizona Revised Statutes, is amended to read:
10 15-1873. State treasurer; powers and duties; family college
11 savings program trust fund

12 A. The ~~commission~~ STATE TREASURER shall:

13 1. Develop and implement the program in a manner consistent with this
14 article through the adoption of rules, guidelines and procedures.

15 2. Retain professional services, if necessary, including
16 accountants, auditors, consultants and other experts.

17 3. Seek rulings and other guidance from the United States department
18 of the treasury and the internal revenue service relating to the program.

19 4. Make changes to the program required for the participants in the
20 program to obtain the federal income tax benefits or treatment provided by
21 section 529 of the internal revenue code.

22 5. ~~Interpret,~~ In rules, policies, guidelines and procedures, ~~the~~
23 ~~provisions of~~ INTERPRET this article broadly in light of its purpose and
24 objectives.

25 6. Charge, impose and collect administrative fees and service charges
26 in connection with any agreement, contract or transaction relating to the
27 program.

28 7. Negotiate and select the financial institution or institutions to
29 act as the depository and manager of the program in accordance with this
30 article. **THE MAXIMUM AMOUNT OF FEES AND EXPENSES THAT MAY BE CHARGED UNDER
31 THE PROGRAM, INCLUDING FEES IMPOSED BY THE STATE TREASURER, SHALL NOT EXCEED
32 1.5 PER CENT OF THE AMOUNT DEPOSITED.**

33 8. As an agency of this state, act as trustee of the fund.

34 9. Maintain the program on behalf of this state as required by section
35 529 of the internal revenue code.

36 10. Enter into tuition savings agreements with account owners pursuant
37 to this article.

38 B. The family college savings program trust fund is established
39 consisting of the assets of the family college savings program. The
40 ~~commission~~ STATE TREASURER shall administer the fund and shall act as the
41 sole trustee of the fund. Monies in the fund are continuously appropriated.
42 The fund is designated a public instrumentality of this state that is created
43 for an essential public purpose. Trust interests in the fund shall be
44 designated by the ~~commission~~ STATE TREASURER for each account owner. The
45 fund shall be separated into a trust account and an operating account. The

1 trust account shall include amounts received by the family college savings
2 program from account owners pursuant to tuition savings agreements and
3 interest and investment income earned by the fund. The ~~commission~~ STATE
4 TREASURER shall make transfers from the trust account to the operating
5 account as necessary for the immediate payment of obligations under tuition
6 savings agreements, operating expenses and administrative costs of the family
7 college savings program. The ~~commission~~ STATE TREASURER shall deposit and
8 invest monies or other amounts in the fund with financial institutions in
9 accordance with section 15-1874.

10 Sec. 4. Section 15-1874, Arizona Revised Statutes, is amended to read:
11 15-1874. Use of contractor as account depository and manager

12 A. The ~~commission~~ STATE TREASURER shall implement the operation of the
13 program through the use of one or more financial institutions to act as the
14 depositories of the fund and managers of the program. Under the program,
15 persons may submit applications for enrollment in the program and establish
16 accounts in the fund at the financial institution. Monies paid by account
17 owners to the fund for deposit in accounts maintained by the fund at a
18 financial institution shall be paid to the financial institution as an agent
19 of the fund and the tuition savings agreements shall provide that all monies
20 paid by account owners to fund accounts held at financial institutions are
21 being paid to the fund.

22 B. The committee shall solicit proposals from financial institutions
23 to act as the depositories of fund monies and managers of the
24 program. Financial institutions that submit proposals must describe the
25 financial instruments that will be held in accounts. The ~~commission~~ STATE
26 TREASURER shall select proposals from financial institutions to act as
27 depositories and managers and ~~that~~ the solicitation and selection process is
28 exempt from the procurement code requirements of title 41, chapter 23.

29 C. On the recommendation of the committee, the ~~commission~~ STATE
30 TREASURER shall select the financial institution or institutions to implement
31 ~~the operation of~~ the program from among bidding financial institutions that
32 demonstrate the most advantageous combination, both to potential program
33 participants and this state, of the following factors:

- 34 1. Financial stability and integrity.
- 35 2. The safety of the investment instruments being offered, taking into
36 account any insurance provided with respect to these instruments.
- 37 3. The ability of the investment instruments to track estimated costs
38 of higher education as calculated by the ~~commission~~ STATE TREASURER and
39 provided by the financial institution to the account holder.
- 40 4. The ability of the financial institutions, directly or through a
41 subcontract, to satisfy record keeping and reporting requirements.
- 42 5. The financial institution's plan for promoting the program and the
43 investment it is willing to make to promote the program.
- 44 6. The fees, if any, proposed to be charged to persons for maintaining
45 accounts.

1 7. The minimum initial deposit and minimum contributions that the
2 financial institution will require for the investment of fund monies and the
3 willingness of the financial institution to accept contributions through
4 payroll deduction plans and other deposit plans.

5 8. Any other benefits to this state or its residents included in the
6 proposal, including an account opening fee payable to the ~~commission~~ STATE
7 TREASURER by the account owner and an additional fee from the financial
8 institution for statewide program marketing by the ~~commission~~ STATE
9 TREASURER.

10 D. The ~~commission~~ STATE TREASURER shall enter into a contract with a
11 financial institution, or except as provided in subsection E of this section,
12 contracts with financial institutions, to serve as program managers and
13 depositories. Program management contracts shall provide the terms and
14 conditions by which financial institutions shall sell interests in the fund
15 to account owners, invest monies in the fund and manage the program.

16 E. The ~~commission~~ STATE TREASURER may select more than one financial
17 institution and investment for the program if both of the following
18 conditions exist:

19 1. The United States internal revenue service has provided guidance
20 that giving a contributor a choice of two investment instruments under a
21 state plan will not cause the plan to fail to qualify for favorable tax
22 treatment under section 529 of the internal revenue code.

23 2. The ~~commission~~ STATE TREASURER concludes that the choice of
24 instrument vehicles is in the best interest of college savers and will not
25 interfere with the promotion of the program.

26 F. A program manager shall:

27 1. Take all action required to keep the program in compliance with the
28 requirements of this article and all action not contrary to this article or
29 its contract to manage the program so that it is treated as a qualified
30 tuition plan under section 529 of the internal revenue code.

31 2. Keep adequate records of each of the fund's accounts, keep each
32 account segregated from each other account and provide the ~~commission~~ STATE
33 TREASURER with the information necessary to prepare statements required by
34 section 15-1875, subsections O, P and Q or file these statements on behalf of
35 the ~~commission~~ STATE TREASURER.

36 3. Compile and total information contained in statements required to
37 be prepared under section 15-1875, subsections O, P and Q and provide these
38 compilations to the ~~commission~~ STATE TREASURER.

39 4. If there is more than one program manager, provide the ~~commission~~
40 STATE TREASURER with this information to assist the ~~commission~~ STATE
41 TREASURER to determine compliance with section 15-1875, subsection N.

42 5. Provide representatives of the ~~commission~~ STATE TREASURER,
43 including other contractors or other state agencies, access to the books and
44 records of the program manager to the extent needed to determine compliance
45 with the contract.

1 6. Hold all accounts in the name of and for the benefit of the fund
2 and this state.

3 G. Any contract executed between the ~~commission~~ STATE TREASURER and a
4 financial institution pursuant to this section shall be for a term of at
5 least three years and not more than seven years.

6 H. The ~~commission~~ STATE TREASURER may terminate a contract with a
7 financial institution at any time for good cause on the recommendation of the
8 committee. If a contract is terminated pursuant to this subsection, the
9 ~~commission~~ STATE TREASURER shall take custody of accounts held at that
10 financial institution and shall seek to promptly transfer the accounts to
11 another financial institution that is selected as a program manager and into
12 investment instruments as similar to the original investments as possible.

13 I. If the ~~commission~~ STATE TREASURER determines not to renew the
14 appointment of a financial institution as a program manager, the ~~commission~~
15 STATE TREASURER may take action consistent with the interests of the program
16 and the accounts and in accordance with its duties as the trustee of the
17 fund, including termination of all services or continuation of certain
18 management and administrative services of that financial institution for
19 accounts of the program managed by that financial institution during its term
20 as a program manager, if any continuation of services is only permitted under
21 the following conditions:

22 1. The ~~commission~~ STATE TREASURER and the financial institution ~~enters~~
23 ENTER into a written agreement specifying the rights of the program and the
24 ~~commission~~ STATE TREASURER and the responsibilities of the financial
25 institution, including the standards that continue to be applicable to the
26 accounts as accounts of the program.

27 2. Any services provided by the financial institution to accounts
28 continue to be subject to the control of the ~~commission~~ STATE TREASURER as
29 the trustee of the fund with responsibility of all accounts of the program.

30 Sec. 5. Section 15-1875, Arizona Revised Statutes, is amended to read:
31 15-1875. Program requirements

32 A. The program shall be operated through the use of accounts in the
33 fund established by account owners. Payments to the fund for participation in
34 the program shall be made by account owners pursuant to tuition savings
35 agreements. An account may be opened by any person who desires to invest in
36 the fund and to save to pay qualified higher education expenses by satisfying
37 each of the following requirements:

38 1. Completing an application in the form prescribed by the ~~commission~~
39 STATE TREASURER. The application shall include the following information:

40 (a) The name, address and social security number or employer
41 identification number of the contributor.

42 (b) The name, address and social security number of the account owner
43 if the account owner is not the contributor.

44 (c) The name, address and social security number of the designated
45 beneficiary.

1 (d) The certification relating to no excess contributions required by
2 subsection N.

3 (e) Any other information that the ~~commission~~ STATE TREASURER may
4 require.

5 2. Paying the one-time application fee established by the ~~commission~~
6 STATE TREASURER.

7 3. Making the minimum contribution required by the ~~commission~~ STATE
8 TREASURER or by opening an account.

9 4. Designating the type of account to be opened if more than one type
10 of account is offered.

11 B. Any person may make contributions to an account after the account
12 is opened.

13 C. Contributions to accounts may be made only in cash.

14 D. Account owners may withdraw all or part of the balance from an
15 account on sixty days' notice, or a shorter period as may be authorized by
16 the ~~commission~~ STATE TREASURER, under rules prescribed by the ~~commission~~
17 STATE TREASURER. These rules shall include provisions that will generally
18 enable the ~~commission~~ STATE TREASURER or program manager to determine if a
19 withdrawal is a nonqualified withdrawal or a qualified withdrawal. The rules
20 may, but need not, require one or more of the following:

21 1. Account owners seeking to make a qualified withdrawal or other
22 withdrawal that is not a nonqualified withdrawal shall provide
23 certifications, copies of bills for qualified higher education expenses or
24 other supporting material.

25 2. Qualified withdrawals from an account shall be made only by a check
26 payable as designated by the account owner.

27 3. Withdrawals not meeting certain requirements shall be treated as
28 nonqualified withdrawals by the program manager, and if these withdrawals are
29 not nonqualified withdrawals, the account owner must seek refunds of
30 penalties, if any, directly from the ~~commission~~ STATE TREASURER.

31 E. An account owner may change the designated beneficiary of an
32 account to an individual who is a member of the family of the former
33 designated beneficiary in accordance with procedures established by the
34 ~~commission~~ STATE TREASURER.

35 F. On the direction of an account owner, all or a portion of an
36 account may be transferred to another account of which the designated
37 beneficiary is a member of the family of the designated beneficiary of the
38 transferee account.

39 G. Changes in designated beneficiaries and rollovers under this
40 section are not permitted if the changes or rollovers would violate either of
41 the following:

42 1. Subsection N, relating to excess contributions.
43 2. Subsection K, relating to investment choice.

44 H. In the case of any nonqualified withdrawal from an account, a
45 penalty may be imposed if the penalty is required for purposes of qualifying

1 the program as a qualified tuition program under section 529 of the internal
2 revenue code. The ~~commission~~ STATE TREASURER may adopt rules to establish
3 the parameters for the assessment of penalties. Any penalties assessed shall
4 be paid to the ~~commission~~ STATE TREASURER for use in operating and marketing
5 the program and for student financial aid.

6 I. Each account shall be maintained separately from each other account
7 under the program.

8 J. Separate records and accounting shall be maintained for each
9 account for each designated beneficiary.

10 K. No contributor to, account owner of or designated beneficiary of
11 any account may direct the investment, within the meaning of section 529 of
12 the internal revenue code, of any contributions to an account or the earnings
13 from the account.

14 L. If the ~~commission~~ STATE TREASURER terminates the authority of a
15 financial institution to hold accounts and accounts must be moved from that
16 financial institution to another financial institution, the ~~commission~~ STATE
17 TREASURER shall select the financial institution and type of investment to
18 which the balance of the account is moved unless the internal revenue service
19 provides guidance stating that allowing the account owner to select among
20 several financial institutions that are then contractors would not cause a
21 plan to cease to be a qualified tuition plan.

22 M. Neither an account owner nor a designated beneficiary may use an
23 interest in an account as security for a loan. Any pledge of an interest in
24 an account is of no force and effect.

25 N. On the recommendation of the committee, the ~~commission~~ STATE
26 TREASURER shall adopt rules to prevent contributions on behalf of a
27 designated beneficiary in excess of those necessary to pay the qualified
28 higher education expenses of the designated beneficiaries. The rules shall
29 address the following:

30 1. Procedures for aggregating the total balances of multiple accounts
31 established for a designated beneficiary.

32 2. The establishment of a maximum total balance for the purpose of
33 prohibiting contributions to accounts established for a designated
34 beneficiary if the contributions would cause the maximum total balance to be
35 exceeded.

36 3. The ~~commission~~ STATE TREASURER shall review the quarterly reports
37 received from participating financial institutions and certify that the
38 balance in all qualified tuition programs, as defined in section 529 of the
39 internal revenue code, of which that person is the designated beneficiary
40 does not exceed the lesser of:

41 (a) A maximum college savings amount established by the ~~commission~~
42 STATE TREASURER from time to time.

43 (b) The cost in current dollars of qualified higher education expenses
44 that the contributor reasonably anticipates the designated beneficiary will
45 incur.

1 4. Requirements that any excess contributions with respect to a
2 designated beneficiary be promptly withdrawn in a nonqualified withdrawal or
3 rolled over to another account in accordance with this section.

4 O. If there is any distribution from an account to any person or for
5 the benefit of any person during a calendar year, the distribution shall be
6 reported to the internal revenue service and the account owner or the
7 designated beneficiary to the extent required by federal law.

8 P. The financial institution shall provide statements to each account
9 owner at least once each year within thirty-one days after the twelve month
10 period to which they relate. The statement shall identify the contributions
11 made during a preceding twelve month period, the total contributions made
12 through the end of the period, the value of the account as of the end of this
13 period, distributions made during this period and any other matters that the
14 ~~commission~~ STATE TREASURER requires be reported to the account owner.

15 Q. Statements and information returns relating to accounts shall be
16 prepared and filed to the extent required by federal or state tax law.

17 R. A state or local government or organizations described in section
18 501(c)(3) of the internal revenue code may open and become the account owner
19 of an account to fund scholarships for persons whose identity will be
20 determined after an account is opened.

21 S. In the case of any account described in subsection R, the
22 requirement that a designated beneficiary be designated when an account is
23 opened does not apply and each person who receives an interest in the account
24 as a scholarship shall be treated as a designated beneficiary with respect to
25 the interest.

26 T. Any social security numbers, addresses or telephone numbers of
27 individual account holders and designated beneficiaries that come into the
28 possession of the ~~commission~~ STATE TREASURER are confidential, are not public
29 records and shall not be released by the ~~commission~~ STATE TREASURER.

30 U. An account owner may transfer ownership rights to another eligible
31 account owner.

32 V. An account owner may designate successor account owners.

33 Sec. 6. Section 15-1878, Arizona Revised Statutes, is amended to read:

34 15-1878. Limitations of article

35 A. Nothing in this article shall be construed to:

36 1. Give any designated beneficiary any rights or legal interest with
37 respect to an account unless the designated beneficiary is the account owner.

38 2. Guarantee that a designated beneficiary will be admitted to an
39 eligible educational institution or be allowed to continue enrollment at or
40 graduate from an eligible educational institution located in this state after
41 admission.

42 3. Establish state residency for a person merely because the person is
43 a designated beneficiary.

1 4. Guarantee that amounts saved pursuant to the program will be
2 sufficient to cover the qualified higher education expenses of a designated
3 beneficiary.

4 B. Nothing in this article establishes any obligation of this state or
5 any agency or instrumentality of this state to guarantee for the benefit of
6 any account owner, contributor to an account or designated beneficiary any of
7 the following:

- 8 1. The return of any amounts contributed to an account.
- 9 2. The rate of interest or other return on any account.
- 10 3. The payment of interest or other return on any account.
- 11 4. Tuition rates or the cost of related higher education expenditures.

12 C. Under rules adopted by the ~~commission~~ STATE TREASURER, every
13 contract, application, deposit slip or other similar document that may be
14 used in connection with a contribution to an account shall clearly indicate
15 that the account is not insured by this state and neither the principal
16 deposited nor the investment return is guaranteed by this state.

17 Sec. 7. Section 15-1879, Arizona Revised Statutes, is amended to read:
18 15-1879. Annual report

19 The ~~commission~~ STATE TREASURER shall submit an annual report to the
20 speaker of the house of representatives, the president of the senate and the
21 governor by February 1 that summarizes the ~~commission's~~ STATE TREASURER'S
22 findings and recommendations concerning the program established by this
23 article.

24 Sec. 8. Section 43-1042, Arizona Revised Statutes, is amended to read:
25 43-1042. Itemized deductions

26 A. Except as provided by subsections B, D and E of this section, at
27 the election of the taxpayer, and in lieu of the standard deduction allowed
28 by section 43-1041, in computing taxable income the taxpayer may take the
29 amount of itemized deductions allowable for the taxable year pursuant to
30 subtitle A, chapter 1, subchapter B, parts VI and VII, but subject to the
31 limitations prescribed by sections 67, 68 and 274, of the internal revenue
32 code.

33 B. In lieu of the amount of the federal itemized deduction for
34 expenses paid for medical care allowed under section 213 of the internal
35 revenue code, the taxpayer may deduct the full amount of such expenses.

36 C. Notwithstanding subsection B of this section, expenses for medical
37 care that are paid or reimbursed from the taxpayer's medical savings account
38 pursuant to section 43-1028 shall not be deducted pursuant to this section.

39 D. A qualified defense contractor that is identified and certified by
40 the department of commerce pursuant to section 41-1508 shall not claim both a
41 deduction as provided by this section and a credit under section 43-1078 with
42 respect to the same property taxes paid.

43 E. A taxpayer shall not claim both a deduction provided by this
44 section and a credit allowed by this title with respect to the same
45 charitable contributions.

1 F. The taxpayer may add any interest expense paid by the taxpayer for
2 the taxable year that is equal to the amount of federal credit for interest
3 on certain home mortgages allowed by section 25 of the internal revenue code.

4 G. A TAXPAYER MAY DEDUCT THE AMOUNT OF CONTRIBUTIONS MADE TO A
5 QUALIFIED ARIZONA STATE TUITION PROGRAM DETERMINED PURSUANT TO SECTION 529 OF
6 THE INTERNAL REVENUE CODE AND TITLE 15, CHAPTER 14, ARTICLE 7.

7 Sec. 9. Retroactivity

8 Section 43-1042, Arizona Revised Statutes, as amended by this act,
9 applies retroactively to taxable years beginning from and after December 31,
10 2005.

11 Sec. 10. Succession

12 A. As provided by this act, the state treasurer succeeds to the
13 authority, powers, duties and responsibilities of the commission on
14 postsecondary education with respect to the family college savings program
15 established by title 15, chapter 14, article 7, Arizona Revised Statutes.

16 B. This act does not alter the effect of any actions that were taken
17 or impair the valid obligations of the commission on postsecondary education
18 with respect to the family college savings program established by title 15,
19 chapter 14, article 7, Arizona Revised Statutes, in existence before the
20 effective date of this act.

21 C. Administrative rules and orders that were adopted by the commission
22 on postsecondary education with respect to the family college savings program
23 established by title 15, chapter 14, article 7, Arizona Revised Statutes,
24 continue in effect until superseded by administrative action by the state
25 treasurer.

26 D. All administrative matters, contracts and judicial and
27 quasi-judicial actions, whether completed, pending or in process, of the
28 commission on postsecondary education with respect to the family college
29 savings program established by title 15, chapter 14, article 7, Arizona
30 Revised Statutes, on the effective date of this act are transferred to and
31 retain the same status with the state treasurer.

32 E. All certificates, licenses, registrations, permits and other
33 indicia of qualification and authority that were issued by the commission on
34 postsecondary education with respect to the family college savings program
35 established by title 15, chapter 14, article 7, Arizona Revised Statutes,
36 retain their validity for the duration of their terms of validity as provided
37 by law.

38 F. All records, data and investigative findings and all appropriated
39 monies that remain unexpended and unencumbered on the effective date of this
40 act of the commission on postsecondary education with respect to the family
41 college savings program established by title 15, chapter 14, article 7,
42 Arizona Revised Statutes, are transferred to the state treasurer.