

House Engrossed  
**FILED**  
**KEN BENNETT**  
**SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Forty-ninth Legislature  
Second Special Session  
2009

CHAPTER 1

# **HOUSE BILL 2001**

AN ACT

AMENDING SECTION 20-224, ARIZONA REVISED STATUTES; AMENDING TITLE 20, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-224.06; AMENDING SECTIONS 43-222, 43-1121 AND 43-1183, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1184; RELATING TO TAX CREDITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 20-224, Arizona Revised Statutes, is amended to  
3 read:

4 20-224. Premium tax

5 A. On or before March 1 of each year each authorized domestic insurer,  
6 each other insurer and each formerly authorized insurer referred to in  
7 section 20-206, subsection B,— shall file with the director a report in a  
8 form prescribed by the director showing total direct premium income including  
9 policy membership and other fees and all other considerations for insurance  
10 from all classes of business whether designated as a premium or otherwise  
11 received by it during the preceding calendar year on account of policies and  
12 contracts covering property, subjects or risks located, resident or to be  
13 performed in this state, after deducting from such total direct premium  
14 income applicable cancellations, returned premiums, the amount of reduction  
15 in or refund of premiums allowed to industrial life policyholders for payment  
16 of premiums direct to an office of the insurer and all policy dividends,  
17 refunds, savings coupons and other similar returns paid or credited to  
18 policyholders within this state and not reapplied as premiums for new,  
19 additional or extended insurance. No deduction shall be made of the cash  
20 surrender values of policies or contracts. Considerations received on  
21 annuity contracts, as well as the unabsorbed portion of any premium deposit,  
22 shall not be included in total direct premium income, and neither shall be  
23 subject to tax. The report shall separately indicate the total direct  
24 premium income received from fire insurance premiums on property located in  
25 an incorporated city or town that procures the services of a private fire  
26 company.

27 B. Coincident with the filing of such tax report each insurer shall  
28 pay to the director for deposit, pursuant to sections 35-146 and 35-147, a  
29 tax of 2.0 per cent of such net premiums, except that the tax on fire  
30 insurance premiums on property located in an incorporated city or town which  
31 procures the services of a private fire company is .66 per cent, the tax on  
32 all other fire insurance premiums is 2.2 per cent and the tax on health care  
33 service and disability insurance premiums is as prescribed under sections  
34 20-837, 20-1010 and 20-1060. Any payments of tax pursuant to subsection E of  
35 this section shall be deducted from the tax payable pursuant to this  
36 subsection. Each insurer shall reflect the cost savings attributable to the  
37 lower tax in fire insurance premiums charged on property located in an  
38 incorporated city or town that procures the services of a private fire  
39 company.

40 C. Eighty-five per cent of the tax paid ~~hereunder~~ UNDER THIS SECTION  
41 by an insurer on account of premiums received for fire insurance shall be  
42 separately specified in the report and shall be apportioned in the manner  
43 provided by sections 9-951, 9-952 and 9-972, except that all of the tax so  
44 allocated to a fund of a municipality which has no volunteer fire fighters or  
45 pension obligations to volunteer fire fighters shall be appropriated to the

1 account of the municipality in the public safety personnel retirement system  
2 and all of the tax so allocated to a fund of a municipality which has both  
3 full-time paid fire fighters and volunteer fire fighters or pension  
4 obligations to full-time paid fire fighters or volunteer fire fighters shall  
5 be appropriated to the account of the municipality in the public safety  
6 personnel retirement system where it shall be reallocated by actuarial  
7 procedures proportionately to the municipality for the account of the  
8 full-time paid fire fighters and to the municipality for the account of the  
9 volunteer fire fighters. A full accounting of such reallocation shall be  
10 forwarded to the municipality and both local boards.

11 D. This section shall not apply to title insurance, and such insurers  
12 shall be taxed as provided in section 20-1566.

13 E. Any insurer which paid or is required to pay a tax of two thousand  
14 dollars or more on net premiums received during the preceding calendar year,  
15 pursuant to subsection B of this section and sections 20-224.01, 20-837,  
16 20-1010, 20-1060 and 20-1097.07, shall file on or before the fifteenth day of  
17 each month from March through August a report for that month, on a form  
18 prescribed by the director, accompanied by a payment in an amount equal to  
19 fifteen per cent of the amount paid or required to be paid during the  
20 preceding calendar year pursuant to subsection B of this section and sections  
21 20-224.01, 20-837, 20-1010, 20-1060 and 20-1097.07. The payments are due and  
22 payable on or before the fifteenth day of each month and shall be made to the  
23 director for deposit, pursuant to sections 35-146 and 35-147.

24 F. Except for the tax paid on fire insurance premiums pursuant to  
25 subsections B and C of this section, an insurer may claim a premium tax  
26 credit if the insurer qualifies for a credit pursuant to section 20-224.03,  
27 or 20-224.04 OR 20-224.06.

28 Sec. 2. Title 20, chapter 2, article 1, Arizona Revised Statutes, is  
29 amended by adding section 20-224.06, to read:

30 20-224.06. Premium tax credit for contributions to school  
31 tuition organization

32 A. A CREDIT IS ALLOWED AGAINST THE PREMIUM TAX LIABILITY INCURRED BY  
33 AN INSURER PURSUANT TO SECTION 20-224, 20-837, 20-1010, 20-1060 OR 20-1097.07  
34 FOR THE AMOUNT OF VOLUNTARY CASH CONTRIBUTIONS MADE BY THE INSURER DURING THE  
35 TAX YEAR TO A SCHOOL TUITION ORGANIZATION.

36 B. THE AMOUNT OF THE CREDIT IS THE TOTAL AMOUNT OF THE INSURER'S  
37 CONTRIBUTIONS FOR THE TAX YEAR UNDER SUBSECTION A OF THIS SECTION THAT IS  
38 PREAPPROVED BY THE DEPARTMENT OF REVENUE PURSUANT TO SECTION 43-1184,  
39 SUBSECTION D.

40 C. THE PROCEDURES, CONDITIONS, LIMITATIONS, DEFINITIONS AND OTHER  
41 REQUIREMENTS PRESCRIBED BY SECTION 43-1184 APPLY TO:

- 42 1. INSURERS THAT CLAIM A CREDIT UNDER THIS SECTION.
- 43 2. CLAIMS FOR CREDIT UNDER THIS SECTION.
- 44 3. SCHOOL TUITION ORGANIZATIONS THAT RECEIVE CONTRIBUTIONS FROM  
45 INSURERS FOR THE PURPOSES OF THIS SECTION.

1 4. QUALIFIED SCHOOLS THAT PARTICIPATE UNDER THIS SECTION.  
2 5. STUDENTS WHO RECEIVE SCHOLARSHIPS FROM MONIES CONTRIBUTED BY  
3 INSURERS FOR THE PURPOSES OF THIS SECTION.

4 D. IF THE ALLOWABLE AMOUNT OF A CREDIT UNDER THIS SECTION EXCEEDS THE  
5 INSURER'S STATE PREMIUM TAX LIABILITY, THE AMOUNT OF THE CLAIM NOT USED TO  
6 OFFSET THE PREMIUM TAX LIABILITY MAY BE CARRIED FORWARD AS A CREDIT AGAINST  
7 THE INSURER'S SUBSEQUENT YEARS' PREMIUM TAX LIABILITY FOR A PERIOD NOT TO  
8 EXCEED FIVE TAXABLE YEARS.

9 E. A CREDIT IS NOT ALLOWED IF THE INSURER DESIGNATES THE CONTRIBUTION  
10 FOR THE DIRECT BENEFIT OF ANY SPECIFIC STUDENT.

11 F. AN INSURER THAT CLAIMS A TAX CREDIT AGAINST STATE PREMIUM TAX  
12 LIABILITY IS NOT REQUIRED TO PAY ANY ADDITIONAL RETALIATORY TAX IMPOSED  
13 PURSUANT TO SECTION 20-230 AS A RESULT OF CLAIMING THAT TAX CREDIT.

14 G. THE DEPARTMENT OF INSURANCE, WITH THE COOPERATION OF THE DEPARTMENT  
15 OF REVENUE, SHALL ADOPT RULES NECESSARY FOR THE ADMINISTRATION OF THIS  
16 SECTION.

17 Sec. 3. Section 43-222, Arizona Revised Statutes, is amended to read:  
18 43-222. Income tax credit review schedule

19 Each year the joint legislative income tax credit review committee  
20 shall review the following income tax credits:

21 1. In 2007, sections 43-1077, 43-1078, 43-1079, 43-1080, 43-1165,  
22 43-1166, 43-1167 and 43-1169.

23 2. In 2008, sections 43-1074.01, 43-1081, 43-1168, 43-1170 and  
24 43-1178.

25 3. In 2009, sections 43-1076, 43-1081.01, 43-1084, 43-1162 and  
26 43-1170.01.

27 4. In 2010, sections 43-1075, 43-1075.01, 43-1079.01, 43-1087,  
28 43-1088, 43-1090.01, 43-1163, 43-1163.01, 43-1167.01, 43-1175 and 43-1182.

29 5. In 2011, sections 43-1074.02, 43-1083, 43-1085, 43-1164 and  
30 43-1183.

31 6. In 2012, sections 43-1073, 43-1086, 43-1089, 43-1089.01,  
32 43-1089.02, 43-1090, 43-1176 and 43-1181.

33 7. IN 2014, SECTION 43-1184.

34 Sec. 4. Section 43-1121, Arizona Revised Statutes, is amended to read:  
35 43-1121. Additions to Arizona gross income; corporations

36 In computing Arizona taxable income for a corporation, the following  
37 amounts shall be added to Arizona gross income:

38 1. The amounts computed pursuant to section 43-1021, paragraphs 3  
39 through 9, 12, 26 and 27.

40 2. The amount of dividend income received from corporations and  
41 allowed as a deduction pursuant to sections 243, 244 and 245 of the internal  
42 revenue code.

43 3. Taxes which are based on income paid to states, local governments  
44 or foreign governments and which were deducted in computing federal taxable  
45 income.

1           4. Expenses and interest relating to tax-exempt income on indebtedness  
2 incurred or continued to purchase or carry obligations the interest on which  
3 is wholly exempt from the tax imposed by this title. Financial institutions,  
4 as defined in section 6-101, shall be governed by section 43-961,  
5 paragraph 2.

6           5. Commissions, rentals and other amounts paid or accrued to a  
7 domestic international sales corporation controlled by the payor corporation  
8 if the domestic international sales corporation is not required to report its  
9 taxable income to this state because its income is not derived from or  
10 attributable to sources within this state. If the domestic international  
11 sales corporation is subject to article 4 of this chapter, the department  
12 shall prescribe by rule the method of determining the portion of the  
13 commissions, rentals and other amounts which are paid or accrued to the  
14 controlled domestic international sales corporation and which shall be  
15 deducted by the payor. "Control" for purposes of this paragraph means direct  
16 or indirect ownership or control of fifty per cent or more of the voting  
17 stock of the domestic international sales corporation by the payor  
18 corporation.

19           6. Federal income tax refunds received during the taxable year to the  
20 extent they were deducted in arriving at Arizona taxable income in a previous  
21 year.

22           7. The amount of net operating loss taken pursuant to section 172 of  
23 the internal revenue code.

24           8. The amount of exploration expenses determined pursuant to section  
25 617 of the internal revenue code to the extent that they exceed seventy-five  
26 thousand dollars and to the extent that the election is made to defer those  
27 expenses not in excess of seventy-five thousand dollars.

28           9. Amortization of costs incurred to install pollution control devices  
29 and deducted pursuant to the internal revenue code or the amount of deduction  
30 for depreciation taken pursuant to the internal revenue code on pollution  
31 control devices for which an election is made pursuant to section 43-1129.

32           10. The amount of depreciation or amortization of costs of child care  
33 facilities deducted pursuant to section 167 or 188 of the internal revenue  
34 code for which an election is made to amortize pursuant to section 43-1130.

35           11. Arizona state income tax refunds received, to the extent the amount  
36 of the refunds is not already included in Arizona gross income, if a tax  
37 benefit was derived by deduction of this amount in a prior year.

38           12. The amount paid as taxes on property in this state by a qualified  
39 defense contractor with respect to which a credit is claimed under section  
40 43-1166.

41           13. The loss of an insurance company that is exempt under section  
42 43-1201 to the extent that it is included in computing Arizona gross income  
43 on a consolidated return pursuant to section 43-947.

44           14. The amount by which the depreciation or amortization computed under  
45 the internal revenue code with respect to property for which a credit was

1 taken under section 43-1169 exceeds the amount of depreciation or  
2 amortization computed pursuant to the internal revenue code on the Arizona  
3 adjusted basis of the property.

4 15. The amount by which the adjusted basis computed under the internal  
5 revenue code with respect to property for which a credit was claimed under  
6 section 43-1169 and which is sold or otherwise disposed of during the taxable  
7 year exceeds the adjusted basis of the property computed under section  
8 43-1169.

9 16. The amount by which the depreciation or amortization computed under  
10 the internal revenue code with respect to property for which a credit was  
11 taken under either section 43-1170 or 43-1170.01 exceeds the amount of  
12 depreciation or amortization computed pursuant to the internal revenue code  
13 on the Arizona adjusted basis of the property.

14 17. The amount by which the adjusted basis computed under the internal  
15 revenue code with respect to property for which a credit was claimed under  
16 either section 43-1170 or 43-1170.01 and which is sold or otherwise disposed  
17 of during the taxable year exceeds the adjusted basis of the property  
18 computed under section 43-1170 or 43-1170.01, as applicable.

19 18. The deduction referred to in section 1341(a)(4) of the internal  
20 revenue code for restoration of a substantial amount held under a claim of  
21 right.

22 19. The amount by which a capital loss carryover allowable pursuant to  
23 section 1341(b)(5) of the internal revenue code exceeds the capital loss  
24 carryover allowable pursuant to section 43-1130.01, subsection F.

25 20. Any amount deducted in computing Arizona taxable income as expenses  
26 for installing solar stub outs or electric vehicle recharge outlets in this  
27 state with respect to which a credit is claimed pursuant to section 43-1176.

28 21. Any wage expenses deducted pursuant to the internal revenue code  
29 for which a credit is claimed under section 43-1175 and representing net  
30 increases in qualified employment positions for employment of temporary  
31 assistance for needy families recipients.

32 22. Any amount of expenses that were deducted pursuant to the internal  
33 revenue code and for which a credit is claimed under section 43-1178.

34 23. Any amount deducted for conveying ownership or development rights  
35 of property to an agricultural preservation district under section 48-5702  
36 for which a credit is claimed under section 43-1180.

37 24. The amount of any deduction that is claimed in computing Arizona  
38 gross income and that represents a donation of a school site for which a  
39 credit is claimed under section 43-1181.

40 25. The amount of any deductions that are claimed in computing federal  
41 taxable income representing expenses for which a credit is claimed under  
42 either section 43-1163 or 43-1163.01 or both.

43 26. Any amount deducted in computing Arizona taxable income as expenses  
44 for installing water conservation system plumbing stub outs in this state  
45 with respect to which a credit is claimed pursuant to section 43-1182.

1           27. Any amount deducted pursuant to section 170 of the internal revenue  
2 code representing contributions to a school tuition organization for which a  
3 credit is claimed under section 43-1183 OR 43-1184.

4           Sec. 5. Section 43-1183, Arizona Revised Statutes, is amended to read:

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

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

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

14           C. The department:

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

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

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

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

43           E. A school tuition organization that receives contributions under  
44 this section shall allow the department to verify that the educational

1 scholarships and tuition grants that are issued pursuant to this section are  
2 awarded to students who attend a qualified school.

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

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

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

16 I. A TAXPAYER SHALL NOT CLAIM A CREDIT UNDER THIS SECTION AND ALSO  
17 UNDER SECTION 43-1184 WITH RESPECT TO THE SAME CONTRIBUTION.

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

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

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

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

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

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

43 ~~L~~ M. A child is still eligible to receive an educational scholarship  
44 or tuition grant under subsection ~~J~~ K of this section if the child meets the

1 criteria to receive a reduced price lunch but does not actually claim that  
2 benefit.

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

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

15 ~~O~~ P. A school tuition organization that receives a voluntary cash  
16 contribution pursuant to subsection A of this section shall report to the  
17 department, in a form prescribed by the department, by June 30 of each year  
18 the following information:

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

21 2. The total number of contributions received during the previous  
22 calendar year.

23 3. The total dollar amount of contributions received during the  
24 previous calendar year.

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

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

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

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

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

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

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

39 ~~P~~ Q. The department shall adopt rules necessary for the  
40 administration of this section.

41 ~~Q~~ R. For the purposes of this section:

42 1. "Qualified school" means a nongovernmental primary school or  
43 secondary school:

44 (a) That is located in this state, that does not discriminate on the  
45 basis of race, color, handicap, familial status or national origin and that

1 satisfies the requirements prescribed by law for private schools in this  
2 state on January 1, 2005.

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

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

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

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

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

17 Sec. 6. Title 43, chapter 11, article 6, Arizona Revised Statutes, is  
18 amended by adding section 43-1184, to read:

19 43-1184. Credit for contributions to school tuition  
20 organization; displaced students; students with  
21 disabilities; definitions

22 A. BEGINNING FROM AND AFTER JUNE 30, 2009, A CREDIT IS ALLOWED AGAINST  
23 THE TAXES IMPOSED BY THIS TITLE FOR THE AMOUNT OF VOLUNTARY CASH  
24 CONTRIBUTIONS MADE BY THE TAXPAYER DURING THE TAXABLE YEAR TO A SCHOOL  
25 TUITION ORGANIZATION.

26 B. THE AMOUNT OF THE CREDIT IS THE TOTAL AMOUNT OF THE TAXPAYER'S  
27 CONTRIBUTIONS FOR THE TAXABLE YEAR UNDER SUBSECTION A OF THIS SECTION AND IS  
28 PREAPPROVED BY THE DEPARTMENT OF REVENUE PURSUANT TO SUBSECTION D OF THIS  
29 SECTION.

30 C. THE DEPARTMENT OF REVENUE:

31 1. SHALL NOT ALLOW TAX CREDITS UNDER THIS SECTION AND SECTION  
32 20-224.06 THAT EXCEED IN THE AGGREGATE A COMBINED TOTAL OF FIVE MILLION  
33 DOLLARS IN ANY FISCAL YEAR.

34 2. SHALL PREAPPROVE TAX CREDITS UNDER THIS SECTION AND SECTION  
35 20-224.06 SUBJECT TO SUBSECTION D OF THIS SECTION.

36 3. SHALL ALLOW THE TAX CREDITS UNDER THIS SECTION AND SECTION  
37 20-224.06 ON A FIRST COME, FIRST SERVED BASIS.

38 D. FOR THE PURPOSES OF SUBSECTION C, PARAGRAPH 2 OF THIS SECTION,  
39 BEFORE MAKING A CONTRIBUTION TO A SCHOOL TUITION ORGANIZATION, THE TAXPAYER  
40 UNDER THIS TITLE OR TITLE 20 MUST NOTIFY THE SCHOOL TUITION ORGANIZATION OF  
41 THE TOTAL AMOUNT OF CONTRIBUTIONS THAT THE TAXPAYER INTENDS TO MAKE TO THE  
42 SCHOOL TUITION ORGANIZATION. BEFORE ACCEPTING THE CONTRIBUTION, THE SCHOOL  
43 TUITION ORGANIZATION SHALL REQUEST PREAPPROVAL FROM THE DEPARTMENT OF REVENUE  
44 FOR THE TAXPAYER'S INTENDED CONTRIBUTION AMOUNT. THE DEPARTMENT OF REVENUE  
45 SHALL PREAPPROVE OR DENY THE REQUESTED AMOUNT WITHIN TWENTY DAYS AFTER

1 RECEIVING THE REQUEST FROM THE SCHOOL TUITION ORGANIZATION. IF THE  
2 DEPARTMENT OF REVENUE PREAPPROVES THE REQUEST, THE SCHOOL TUITION  
3 ORGANIZATION SHALL IMMEDIATELY NOTIFY THE TAXPAYER THAT THE REQUESTED AMOUNT  
4 WAS PREAPPROVED BY THE DEPARTMENT OF REVENUE. IN ORDER TO RECEIVE A TAX  
5 CREDIT UNDER THIS SUBSECTION, THE TAXPAYER SHALL MAKE THE CONTRIBUTION TO THE  
6 SCHOOL TUITION ORGANIZATION WITHIN TEN DAYS AFTER RECEIVING NOTICE FROM THE  
7 SCHOOL TUITION ORGANIZATION THAT THE REQUESTED AMOUNT WAS PREAPPROVED. IF  
8 THE SCHOOL TUITION ORGANIZATION DOES NOT RECEIVE THE PREAPPROVED CONTRIBUTION  
9 FROM THE TAXPAYER WITHIN THE REQUIRED TEN DAYS, THE SCHOOL TUITION  
10 ORGANIZATION SHALL IMMEDIATELY NOTIFY THE DEPARTMENT OF REVENUE AND THE  
11 DEPARTMENT SHALL NO LONGER INCLUDE THIS PREAPPROVED CONTRIBUTION AMOUNT WHEN  
12 CALCULATING THE LIMIT PRESCRIBED IN SUBSECTION C, PARAGRAPH 1 OF THIS  
13 SECTION.

14 E. A SCHOOL TUITION ORGANIZATION THAT RECEIVES CONTRIBUTIONS UNDER  
15 THIS SECTION OR SECTION 20-224.06 SHALL ALLOW THE DEPARTMENT TO VERIFY THAT  
16 THE EDUCATIONAL SCHOLARSHIPS AND TUITION GRANTS THAT ARE ISSUED PURSUANT TO  
17 THIS SECTION ARE AWARDED TO QUALIFIED STUDENTS WHO ATTEND A QUALIFIED SCHOOL.

18 F. IF THE ALLOWABLE TAX CREDIT EXCEEDS THE TAXES OTHERWISE DUE UNDER  
19 THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO TAXES DUE UNDER THIS  
20 TITLE, THE TAXPAYER MAY CARRY THE AMOUNT OF THE CLAIM NOT USED TO OFFSET THE  
21 TAXES UNDER THIS TITLE FORWARD FOR NOT MORE THAN FIVE CONSECUTIVE TAXABLE  
22 YEARS' INCOME TAX LIABILITY.

23 G. CO-OWNERS OF A BUSINESS, INCLUDING CORPORATE PARTNERS IN A  
24 PARTNERSHIP, MAY EACH CLAIM ONLY THE PRO RATA SHARE OF THE CREDIT ALLOWED  
25 UNDER THIS SECTION BASED ON THE OWNERSHIP INTEREST. THE TOTAL OF THE CREDITS  
26 ALLOWED ALL SUCH OWNERS MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN  
27 ALLOWED A SOLE OWNER.

28 H. THE CREDIT ALLOWED BY THIS SECTION IS IN LIEU OF ANY DEDUCTION  
29 PURSUANT TO SECTION 170 OF THE INTERNAL REVENUE CODE AND TAKEN FOR STATE TAX  
30 PURPOSES.

31 I. A TAXPAYER SHALL NOT CLAIM A CREDIT UNDER THIS SECTION AND ALSO  
32 UNDER SECTION 43-1183 WITH RESPECT TO THE SAME CONTRIBUTION.

33 J. THE TAX CREDIT IS NOT ALLOWED IF THE TAXPAYER DESIGNATES THE  
34 TAXPAYER'S CONTRIBUTION TO THE SCHOOL TUITION ORGANIZATION FOR THE DIRECT  
35 BENEFIT OF ANY SPECIFIC STUDENT.

36 K. A SCHOOL TUITION ORGANIZATION THAT RECEIVES CONTRIBUTIONS UNDER  
37 THIS SECTION OR SECTION 20-224.06 SHALL USE AT LEAST NINETY PER CENT OF THOSE  
38 CONTRIBUTIONS TO PROVIDE EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS TO  
39 QUALIFIED STUDENTS WHO EITHER:

40 1. RECEIVED A GRANT OR SCHOLARSHIP UNDER TITLE 15, CHAPTER 8, ARTICLE  
41 1.2 OR 8 IN ORDER TO ATTEND A QUALIFIED SCHOOL DURING THE 2008-2009 ACADEMIC  
42 YEAR. IN FISCAL YEAR 2009-2010, THE SCHOOL TUITION ORGANIZATION SHALL GIVE  
43 PRIORITY TO QUALIFIED STUDENTS UNDER THIS PARAGRAPH BEFORE PROVIDING  
44 EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS UNDER PARAGRAPH 2 OF THIS  
45 SUBSECTION.

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

5           3. RECEIVED AN EDUCATIONAL SCHOLARSHIP OR TUITION GRANT UNDER  
6 PARAGRAPH 1 OR 2 OF THIS SUBSECTION IF THE QUALIFIED STUDENT CONTINUES TO  
7 ATTEND A QUALIFIED SCHOOL IN A SUBSEQUENT YEAR.

8           L. THE AMOUNT OF AN EDUCATIONAL SCHOLARSHIP OR A TUITION GRANT THAT IS  
9 ISSUED BY A SCHOOL TUITION ORGANIZATION UNDER THIS SECTION SHALL NOT EXCEED  
10 THE COST OF TUITION FOR THE STUDENT TO ATTEND THE QUALIFIED SCHOOL OR NINETY  
11 PER CENT OF THE AMOUNT OF STATE AID THAT OTHERWISE WOULD BE COMPUTED FOR THE  
12 STUDENT AS PROVIDED IN TITLE 15, CHAPTER 9, ARTICLE 5, WHICHEVER IS LESS. ON  
13 REQUEST FROM A SCHOOL TUITION ORGANIZATION, THE DEPARTMENT OF EDUCATION SHALL  
14 PROVIDE TO THE SCHOOL TUITION ORGANIZATION IN A TIMELY MANNER THE AMOUNT  
15 COMPUTED FOR THE STUDENT UNDER THIS SUBSECTION THAT REPRESENTS THE NINETY PER  
16 CENT LIMITATION PRESCRIBED IN THIS SUBSECTION.

17           M. THE SCHOOL TUITION ORGANIZATION SHALL REQUIRE THAT THE QUALIFIED  
18 STUDENT USE THE EDUCATIONAL SCHOLARSHIP OR TUITION GRANT ON A FULL-TIME  
19 BASIS. IF A QUALIFIED STUDENT LEAVES THE QUALIFIED SCHOOL BEFORE COMPLETING  
20 AN ENTIRE SCHOOL YEAR, THE QUALIFIED SCHOOL SHALL REFUND A PRORATED AMOUNT OF  
21 THE EDUCATIONAL SCHOLARSHIP OR TUITION GRANT TO THE SCHOOL TUITION  
22 ORGANIZATION THAT ISSUED THE EDUCATIONAL SCHOLARSHIP OR TUITION GRANT TO THE  
23 STUDENT. ANY REFUNDS RECEIVED BY THE SCHOOL TUITION ORGANIZATION UNDER THIS  
24 SUBSECTION SHALL BE ALLOCATED FOR EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS  
25 TO QUALIFIED STUDENTS IN THE FOLLOWING YEAR.

26           N. QUALIFIED STUDENTS WHO RECEIVE EDUCATIONAL SCHOLARSHIPS OR TUITION  
27 GRANTS UNDER THIS SECTION SHALL BE ALLOWED TO ATTEND ANY QUALIFIED SCHOOL OF  
28 THEIR CUSTODIANS' CHOICE.

29           O. A SCHOOL TUITION ORGANIZATION THAT RECEIVES A VOLUNTARY CASH  
30 CONTRIBUTION PURSUANT TO THIS SECTION OR SECTION 20-224.06 SHALL REPORT TO  
31 THE DEPARTMENT OF REVENUE, IN A FORM PRESCRIBED BY THE DEPARTMENT OF REVENUE,  
32 BY JUNE 30 OF EACH YEAR THE FOLLOWING INFORMATION:

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

35           2. THE TOTAL NUMBER OF CONTRIBUTIONS RECEIVED DURING THE PREVIOUS  
36 CALENDAR YEAR, IDENTIFIED FOR THE PURPOSES OF THIS SECTION OR SECTION  
37 20-224.06.

38           3. THE TOTAL DOLLAR AMOUNT OF CONTRIBUTIONS RECEIVED DURING THE  
39 PREVIOUS CALENDAR YEAR, IDENTIFIED FOR THE PURPOSES OF THIS SECTION OR  
40 SECTION 20-224.06.

41           4. THE TOTAL NUMBER OF QUALIFIED STUDENTS AWARDED EDUCATIONAL  
42 SCHOLARSHIPS OR TUITION GRANTS DURING THE PREVIOUS CALENDAR YEAR.

43           5. THE TOTAL DOLLAR AMOUNT OF EDUCATIONAL SCHOLARSHIPS AND TUITION  
44 GRANTS AWARDED DURING THE PREVIOUS CALENDAR YEAR.

1           6. THE PERCENTAGE OF THE TOTAL DOLLAR AMOUNT OF EDUCATIONAL  
2 SCHOLARSHIPS AND TUITION GRANTS AWARDED TO STUDENTS DURING THE PREVIOUS  
3 CALENDAR YEAR FOR EACH PARAGRAPH UNDER SUBSECTION K OF THIS SECTION.

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

6           (a) THE NAME AND ADDRESS OF THE QUALIFIED SCHOOL.

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

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

11           8. VERIFICATION THAT AN INDEPENDENT REVIEW OF FINANCIAL STATEMENTS  
12 ACCORDING TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES WAS COMPLETED BY A  
13 CERTIFIED PUBLIC ACCOUNTANT FOR THE PREVIOUS CALENDAR YEAR.

14           P. THE DEPARTMENT OF REVENUE SHALL ADOPT RULES NECESSARY FOR THE  
15 ADMINISTRATION OF THIS SECTION.

16           Q. FOR THE PURPOSES OF THIS SECTION:

17           1. "CUSTODIAN" MEANS A RESIDENT OF THIS STATE WHO IS A PARENT OR AN  
18 AUTHORIZED OUT-OF-HOME CARE PROVIDER OR, IF NONE, THE LEGAL GUARDIAN OF A  
19 QUALIFYING STUDENT.

20           2. "QUALIFIED SCHOOL" MEANS A NONGOVERNMENTAL PRIMARY SCHOOL OR  
21 SECONDARY SCHOOL OR A PRESCHOOL FOR HANDICAPPED STUDENTS THAT IS LOCATED IN  
22 THIS STATE, THAT DOES NOT DISCRIMINATE ON THE BASIS OF RACE, COLOR, HANDICAP,  
23 FAMILIAL STATUS OR NATIONAL ORIGIN AND THAT SATISFIES THE REQUIREMENTS  
24 PRESCRIBED BY LAW FOR PRIVATE SCHOOLS IN THIS STATE ON JANUARY 1, 2009.

25           3. "QUALIFIED STUDENT" MEANS A STUDENT WHO HAS BEEN EITHER:

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

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

34           4. "SCHOOL TUITION ORGANIZATION" MEANS A CHARITABLE ORGANIZATION IN  
35 THIS STATE THAT BOTH:

36           (a) IS EXEMPT FROM FEDERAL TAXATION UNDER SECTION 501(c)(3) OF THE  
37 INTERNAL REVENUE CODE AND THAT ALLOCATES NINETY PER CENT OF ITS ANNUAL  
38 REVENUE FOR EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS TO QUALIFIED STUDENTS  
39 TO ALLOW THEM TO ATTEND ANY QUALIFIED SCHOOL OF THEIR CUSTODIANS' CHOICE.

40           (b) PROVIDES EDUCATIONAL SCHOLARSHIPS OR TUITION GRANTS TO STUDENTS  
41 WITHOUT LIMITING AVAILABILITY TO ONLY STUDENTS OF ONE SCHOOL.

1           Sec. 7. School tuition organizations; grants and scholarships  
2                     for displaced students and students with  
3                     disabilities; amount

4           Through June 30, 2010, and notwithstanding section 43-1183, subsections  
5 K through N, Arizona Revised Statutes, a school tuition organization that  
6 receives voluntary cash contributions pursuant to section 43-1183, subsection  
7 A, Arizona Revised Statutes, may also provide tuition grants or educational  
8 scholarships to any student who had applied for or received a grant or  
9 scholarship under title 15, chapter 8, article 1.2 or 8, Arizona Revised  
10 Statutes, in order to attend a qualified school during the 2008-2009 academic  
11 year. The amount of the tuition grant or educational scholarship allowed  
12 under this section may be equal to the amount of the grant or scholarship  
13 that the student had received during the 2008-2009 academic year under title  
14 15, chapter 8, article 1.2 or 8, Arizona Revised Statutes.

15           Sec. 8. Department of education; notice; website

16           Immediately after the effective date of this section, the department of  
17 education shall notify in writing the parent, authorized out-of-home care  
18 provider or, if none, the legal guardian of a qualifying student who had  
19 received a tuition grant or educational scholarship during the 2008-2009  
20 academic year under title 15, chapter 8, article 1.2 or 8, Arizona Revised  
21 Statutes, that a new corporate income tax credit is available to provide  
22 grants and scholarships to qualified students. The department of education  
23 shall also publish the notice required under this section on its website.

24           Sec. 9. Purpose

25           Pursuant to section 43-223, Arizona Revised Statutes, the legislature  
26 enacts section 43-1184, Arizona Revised Statutes, as added by this act, to  
27 encourage businesses to make charitable contributions to school tuition  
28 organizations that use those contributions to provide tuition scholarships to  
29 enable families to choose the best available education for their children  
30 with disabilities and for displaced children.

31           Sec. 10. Severability

32           If a provision of this act or its application to any person or  
33 circumstance is held invalid, the invalidity does not affect other provisions  
34 or applications of the act that can be given effect without the invalid  
35 provision or application, and to this end the provisions of this act are  
36 severable.

37           Sec. 11. Short title

38           This act may be cited as "Lexie's Law".

39           Sec. 12. Emergency

40           This act is an emergency measure that is necessary to preserve the  
41 public peace, health or safety and is operative immediately as provided by  
42 law.

**EMERGENCY NOT ENACTED**  
APPROVED BY THE GOVERNOR MAY 29, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 29, 2009.