

By Senators Dyer, Wasserman Schultz, Miller, Mitchell and Holzendorf

14-482-02

1                                   A bill to be entitled  
2           An act relating to taxation; amending s.  
3           220.187, F.S.; postponing the applicability of  
4           that section, which provides credits for  
5           contributions to certain scholarship-funding  
6           organizations; providing an effective date.

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8 Be It Enacted by the Legislature of the State of Florida:

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10           Section 1. Section 220.187, Florida Statutes, as  
11 created by section 5 of chapter 2001-225, Laws of Florida, is  
12 amended to read:

13           220.187 Credits for contributions to nonprofit  
14 scholarship-funding organizations.--

15           (1) PURPOSE.--The purpose of this section is to:

16           (a) Encourage private, voluntary contributions to  
17 nonprofit scholarship-funding organizations.

18           (b) Expand educational opportunities for children of  
19 families that have limited financial resources.

20           (c) Enable children in this state to achieve a greater  
21 level of excellence in their education.

22           (2) DEFINITIONS.--As used in this section, the term:

23           (a) "Department" means the Department of Revenue.

24           (b) "Eligible contribution" means a monetary  
25 contribution from a taxpayer, subject to the restrictions  
26 provided in this section, to an eligible nonprofit  
27 scholarship-funding organization. The taxpayer making the  
28 contribution may not designate a specific child as the  
29 beneficiary of the contribution. The taxpayer may not  
30 contribute more than \$5 million to any single eligible  
31 nonprofit scholarship-funding organization.

1 (c) "Eligible nonpublic school" means a nonpublic  
2 school located in Florida that offers an education to students  
3 in any grades K-12 and that meets the requirements in  
4 subsection (5).

5 (d) "Eligible nonprofit scholarship-funding  
6 organization" means a charitable organization that is exempt  
7 from federal income tax pursuant to s. 501(c)(3) of the  
8 Internal Revenue Code and that complies with the provisions of  
9 subsection (4).

10 (e) "Qualified student" means a student who qualifies  
11 for free or reduced-price school lunches under the National  
12 School Lunch Act and who:

13 1. Was counted as a full-time-equivalent student  
14 during the previous state fiscal year for purposes of state  
15 per-student funding; or

16 2. Received a scholarship from an eligible nonprofit  
17 scholarship-funding organization during the previous school  
18 year.

19 (3) AUTHORIZATION TO GRANT SCHOLARSHIP FUNDING TAX  
20 CREDITS; LIMITATIONS ON INDIVIDUAL AND TOTAL CREDITS.--

21 (a) There is allowed a credit of 100 percent of an  
22 eligible contribution against any tax due for a taxable year  
23 under this chapter. However, such a credit may not exceed 75  
24 percent of the tax due under this chapter for the taxable  
25 year, after the application of any other allowable credits by  
26 the taxpayer. However, at least 5 percent of the total  
27 statewide amount authorized for the tax credit shall be  
28 reserved for taxpayers who meet the definition of a small  
29 business provided in s. 288.703(1) at the time of application.  
30 The credit granted by this section shall be reduced by the  
31 difference between the amount of federal corporate income tax

1 taking into account the credit granted by this section and the  
2 amount of federal corporate income tax without application of  
3 the credit granted by this section.

4 (b) The total amount of tax credit which may be  
5 granted each state fiscal year under this section is \$50  
6 million.

7 (c) A taxpayer who files a Florida consolidated return  
8 as a member of an affiliated group pursuant to s. 220.131(1)  
9 may be allowed the credit on a consolidated return basis;  
10 however, the total credit taken by the affiliated group is  
11 subject to the limitation established under paragraph (a).

12 (4) OBLIGATIONS OF ELIGIBLE NONPROFIT  
13 SCHOLARSHIP-FUNDING ORGANIZATIONS.--

14 (a) An eligible nonprofit scholarship-funding  
15 organization shall provide scholarships, from eligible  
16 contributions, to qualified students for:

17 1. Tuition or textbook expenses for, or transportation  
18 to, an eligible nonpublic school. At least 75 percent of the  
19 scholarship funding must be used to pay tuition expenses; or

20 2. Transportation expenses to a Florida public school  
21 that is located outside the district in which the student  
22 resides.

23 (b) An eligible nonprofit scholarship-funding  
24 organization shall give priority to qualified students who  
25 received a scholarship from an eligible nonprofit  
26 scholarship-funding organization during the previous school  
27 year.

28 (c) The amount of a scholarship provided to any child  
29 for any single school year by all eligible nonprofit  
30 scholarship-funding organizations from eligible contributions  
31 shall not exceed the following annual limits:

1           1. Three thousand five hundred dollars for a  
2 scholarship awarded to a student enrolled in an eligible  
3 nonpublic school.

4           2. Five hundred dollars for a scholarship awarded to a  
5 student enrolled in a Florida public school that is located  
6 outside the district in which the student resides.

7           (d) The amount of an eligible contribution which may  
8 be accepted by an eligible nonprofit scholarship-funding  
9 organization is limited to the amount needed to provide  
10 scholarships for qualified students which the organization has  
11 identified and for which vacancies in eligible nonpublic  
12 schools have been identified.

13           (e) An eligible nonprofit scholarship-funding  
14 organization that receives an eligible contribution must spend  
15 100 percent of the eligible contribution to provide  
16 scholarships in the same state fiscal year in which the  
17 contribution was received. No portion of eligible  
18 contributions may be used for administrative expenses. All  
19 interest accrued from contributions must be used for  
20 scholarships.

21           (f) An eligible nonprofit scholarship-funding  
22 organization that receives eligible contributions must provide  
23 to the Auditor General an annual financial and compliance  
24 audit of its accounts and records conducted by an independent  
25 certified public accountant and in accordance with rules  
26 adopted by the Auditor General.

27           (g) Payment of the scholarship by the eligible  
28 nonprofit scholarship-funding organization shall be by  
29 individual warrant or check made payable to the student's  
30 parent. If the parent chooses for his or her child to attend  
31 an eligible nonpublic school, the warrant or check must be

1 mailed by the eligible nonprofit scholarship-funding  
2 organization to the nonpublic school of the parent's choice,  
3 and the parent shall restrictively endorse the warrant or  
4 check to the nonpublic school. An eligible nonprofit  
5 scholarship-funding organization shall ensure that, upon  
6 receipt of a scholarship warrant or check, the parent to whom  
7 the warrant or check is made restrictively endorses the  
8 warrant or check to the nonpublic school of the parent's  
9 choice for deposit into the account of the nonpublic school.

10 (5) ELIGIBLE NONPUBLIC SCHOOL OBLIGATIONS.--An  
11 eligible nonpublic school must:

12 (a) Demonstrate fiscal soundness by being in operation  
13 for one school year or provide the Department of Education  
14 with a statement by a certified public accountant confirming  
15 that the nonpublic school desiring to participate is insured  
16 and the owner or owners have sufficient capital or credit to  
17 operate the school for the upcoming year serving the number of  
18 students anticipated with expected revenues from tuition and  
19 other sources that may be reasonably expected. In lieu of such  
20 a statement, a surety bond or letter of credit for the amount  
21 equal to the scholarship funds for any quarter may be filed  
22 with the department.

23 (b) Comply with the antidiscrimination provisions of  
24 42 U.S.C. s. 2000d.

25 (c) Meet state and local health and safety laws and  
26 codes.

27 (d) Comply with all state laws relating to general  
28 regulation of nonpublic schools.

29 (6) ADMINISTRATION; RULES.--

30 (a) If the credit granted pursuant to this section is  
31 not fully used in any one year, the unused amount may not be

1 carried forward. A taxpayer may not convey, assign, or  
2 transfer the credit authorized by this section to another  
3 entity unless all of the assets of the taxpayer are conveyed,  
4 assigned, or transferred in the same transaction.

5 (b) An application for a tax credit pursuant to this  
6 section shall be submitted to the department on forms  
7 established by rule of the department.

8 (c) The department and the Department of Education  
9 shall develop a cooperative agreement to assist in the  
10 administration of this section. The Department of Education  
11 shall be responsible for annually submitting, by March 15, to  
12 the department a list of eligible nonprofit  
13 scholarship-funding organizations that meet the requirements  
14 of paragraph (2)(d) and for monitoring eligibility of  
15 nonprofit scholarship-funding organizations that meet the  
16 requirements of paragraph (2)(d), eligibility of nonpublic  
17 schools that meet the requirements of paragraph (2)(c), and  
18 eligibility of expenditures under this section as provided in  
19 subsection (4).

20 (d) The department shall adopt rules necessary to  
21 administer this section, including rules establishing  
22 application forms and procedures and governing the allocation  
23 of tax credits under this section on a first-come,  
24 first-served basis.

25 (e) The Department of Education shall adopt rules  
26 necessary to determine eligibility of nonprofit  
27 scholarship-funding organizations as defined in paragraph  
28 (2)(d) and according to the provisions of subsection (4) and  
29 identify qualified students as defined in paragraph (2)(e).

30 (7) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--All eligible  
31 contributions received by an eligible nonprofit

1 scholarship-funding organization shall be deposited in a  
2 manner consistent with s. 18.10(2).

3 (8) APPLICABILITY.--This section applies only to tax  
4 years beginning on or after January 1, 2004.

5 Section 2. This act shall take effect upon becoming a  
6 law.

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9 SENATE SUMMARY

10 Postpones for 2 years the applicability of section  
11 220.187, Florida Statutes, which provides credits for  
12 contributions to nonprofit scholarship-funding  
13 organizations.  
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