

By Senator Wilson

33-985A-04

1 A bill to be entitled
 2 An act relating to the tax on corporate income;
 3 amending s. 220.187, F.S.; providing for tax
 4 credits for contributions to eligible nonprofit
 5 educational-improvement organizations, as well
 6 as for contributions to eligible nonprofit
 7 scholarship-funding organizations; providing
 8 that an additional purpose of the section is to
 9 train teachers in certain public elementary
 10 schools to provide intensive reading
 11 instruction; defining terms; providing for
 12 allocating among the categories of recipients
 13 the total allowable amount of tax credits which
 14 may be granted during each state fiscal year;
 15 providing obligations of eligible nonprofit
 16 educational-improvement organizations;
 17 providing obligations of participating public
 18 schools; providing an effective date.

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

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 22 Section 1. Section 220.187, Florida Statutes, is
 23 amended to read:

24 220.187 Credits for contributions to nonprofit
 25 scholarship-funding and nonprofit educational-improvement
 26 organizations.--

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

28 (a) Encourage private, voluntary contributions to
 29 nonprofit scholarship-funding organizations and eligible
 30 nonprofit educational-improvement organizations.

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

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

5 (d) Enable teachers in low-performing public
6 elementary schools to attend in-service classes for reading
7 instruction.

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

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

10 (b) "Eligible contribution" means a monetary
11 contribution from a taxpayer, subject to the restrictions
12 provided in this section, to an eligible nonprofit
13 scholarship-funding organization or eligible
14 educational-improvement organization. The taxpayer making the
15 contribution may not designate a specific child as the
16 beneficiary of the contribution. The taxpayer may not
17 contribute more than \$5 million to any single eligible
18 nonprofit scholarship-funding organization or eligible
19 educational-improvement organization.

20 (c) "Eligible nonprofit educational-improvement
21 organization" means a charitable organization that is exempt
22 from federal income tax pursuant to s. 501(c)(3) of the
23 Internal Revenue Code and that complies with subsection (5).

24 ~~"Eligible nonpublic school" means a nonpublic school located~~
25 ~~in Florida that offers an education to students in any grades~~
26 ~~K-12 and that meets the requirements in subsection (5).~~

27 (d) "Eligible nonprofit scholarship-funding
28 organization" means a charitable organization that is exempt
29 from federal income tax pursuant to s. 501(c)(3) of the
30 Internal Revenue Code and that complies with ~~the provisions of~~
31 subsection (4).

1 (e) "Eligible nonpublic school" means a nonpublic
2 school that is located in this state, that offers an education
3 to students in any grades from kindergarten through grade 12,
4 and that meets the requirements set forth in subsection (8).

5 (f) "Eligible public school" means a public school
6 that is located in this state and that is making less than
7 satisfactory progress or failing to make adequate progress as
8 defined in s. 1008.34(2) as indicated by the school's
9 receiving a performance grade of "D" or "F."

10 (g)~~(e)~~ "Qualified student" means a student who
11 qualifies for free or reduced-price school lunches under the
12 National 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;

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

19 3. Is eligible to enter kindergarten or first grade.

20 (h) "Teacher" means a certified educator under s.
21 1012.56 who provides instruction to students at an eligible
22 public school.

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

25 (a) There is allowed a credit of 100 percent of an
26 eligible contribution against any tax due for a taxable year
27 under this chapter. However, such a credit may not exceed 75
28 percent of the tax due under this chapter for the taxable
29 year, after the application of any other allowable credits by
30 the taxpayer. However, at least 5 percent of the total
31 statewide amount authorized for the tax credit shall be

1 reserved for taxpayers who meet the definition of a small
2 business provided in s. 288.703(1) at the time of application.
3 The credit granted by this section shall be reduced by the
4 difference between the amount of federal corporate income tax
5 taking into account the credit granted by this section and the
6 amount of federal corporate income tax without application of
7 the credit granted by this section.

8 (b) The total amount of tax credits and carryforward
9 of tax credits which may be granted each state fiscal year
10 under this section is \$60 million to nonprofit
11 scholarship-funding organizations and \$28 million to nonprofit
12 educational-improvement organizations~~\$88 million~~.

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

18 (4) OBLIGATIONS OF ELIGIBLE NONPROFIT
19 SCHOLARSHIP-FUNDING ORGANIZATIONS.--

20 (a) An eligible nonprofit scholarship-funding
21 organization shall provide scholarships, from eligible
22 contributions, to qualified students for:

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

26 2. Transportation expenses to a Florida public school
27 that is located outside the district in which the student
28 resides.

29 (b) An eligible nonprofit scholarship-funding
30 organization shall give priority to qualified students who
31 received a scholarship from an eligible nonprofit

1 scholarship-funding organization during the previous school
2 year.

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

7 1. Three thousand five hundred dollars for a
8 scholarship awarded to a student enrolled in an eligible
9 nonpublic school.

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

13 (d) The amount of an eligible contribution which may
14 be accepted by an eligible nonprofit scholarship-funding
15 organization is limited to the amount needed to provide
16 scholarships for qualified students which the organization has
17 identified and for which vacancies in eligible nonpublic
18 schools have been identified.

19 (e) An eligible nonprofit scholarship-funding
20 organization that receives an eligible contribution must spend
21 100 percent of the eligible contribution to provide
22 scholarships in the same state fiscal year in which the
23 contribution was received. No portion of eligible
24 contributions may be used for administrative expenses. All
25 interest accrued from contributions must be used for
26 scholarships.

27 (f) An eligible nonprofit scholarship-funding
28 organization that receives eligible contributions must provide
29 to the Auditor General an annual financial and compliance
30 audit of its accounts and records conducted by an independent
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1 certified public accountant and in accordance with rules
2 adopted by the Auditor General.

3 (g) Payment of the scholarship by the eligible
4 nonprofit scholarship-funding organization shall be by
5 individual warrant or check made payable to the student's
6 parent. If the parent chooses for his or her child to attend
7 an eligible nonpublic school, the warrant or check must be
8 mailed by the eligible nonprofit scholarship-funding
9 organization to the nonpublic school of the parent's choice,
10 and the parent shall restrictively endorse the warrant or
11 check to the nonpublic school. An eligible nonprofit
12 scholarship-funding organization shall ensure that, upon
13 receipt of a scholarship warrant or check, the parent to whom
14 the warrant or check is made restrictively endorses the
15 warrant or check to the nonpublic school of the parent's
16 choice for deposit into the account of the nonpublic school.

17 (5) OBLIGATIONS OF ELIGIBLE NONPROFIT
18 EDUCATIONAL-IMPROVEMENT ORGANIZATIONS.--

19 (a) An eligible nonprofit educational-improvement
20 organization that receives an eligible contribution must spend
21 100 percent of the eligible contribution to establish
22 intensive reading teachers for grade 1, grade 2, or grade 3 in
23 schools defined in paragraph (2)(f) in the same state fiscal
24 year in which the contribution was received. A portion of
25 contributions may not be used for administrative expenses. All
26 portions of interest accrued from contributions must be used
27 for the establishment of intensive reading teachers.

28 (b) An eligible nonprofit educational-improvement
29 organization shall ensure that payments are made to an
30 eligible public school in the amount of \$50,000 per grade
31 level in the first year and \$40,000 per grade level in each

1 year thereafter. Recipient schools must be funded before new
2 schools or grade levels may be added to the list of funded
3 schools and grade levels.

4 (c) Payment by the eligible nonprofit
5 educational-improvement organization to the eligible public
6 school must be made by individual warrant made payable to the
7 school and indicating the grade level to be funded.

8 (6) OBLIGATIONS OF ELIGIBLE PUBLIC SCHOOLS.--

9 (a) An eligible public school shall provide reading
10 instruction training to its teachers from eligible
11 contributions for the grade levels funded.

12 (b) The amount of a training award which is provided
13 to an eligible teacher for any single school year by an
14 eligible public school from eligible contributions may not
15 exceed \$50,000 per grade level in the first year of funding
16 and \$40,000 per grade level in each year thereafter.

17 (d) The amount of an eligible contribution which an
18 eligible public school may accept may not exceed the amount
19 needed to provide reading training for eligible teachers whom
20 the public school has identified.

21 (e) An eligible public school that receives an
22 eligible contribution must spend 100 percent of the eligible
23 contribution to provide reading training awards in the same
24 state fiscal year in which the contribution was received. A
25 portion of eligible contributions may not be used for
26 administrative expenses. All interest accrued from
27 contributions must be used for the reading training awards.

28 (f) An eligible public school that receives eligible
29 contributions must provide to the Auditor General an annual
30 financial and compliance audit of its accounts and records
31 which has been conducted by an independent certified public

1 accountant in accordance with rules adopted by the Auditor
2 General.

3 (g) An eligible public school must ensure that the
4 reading training funds awarded under this section are used
5 only for training and paying teachers to provide intensive
6 reading instruction for grade 1, grade 2, or grade 3.

7 (7)(5) PARENT OBLIGATIONS.--As a condition for
8 scholarship payment pursuant to paragraph (4)(g), if the
9 parent chooses for his or her child to attend an eligible
10 nonpublic school, the parent must inform the child's school
11 district within 15 days after such decision.

12 (8)(6) ELIGIBLE NONPUBLIC SCHOOL OBLIGATIONS.--An
13 eligible nonpublic school must:

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

25 (b) Comply with the antidiscrimination provisions of
26 42 U.S.C. s. 2000d.

27 (c) Meet state and local health and safety laws and
28 codes.

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

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1 (9) PUBLIC SCHOOL OBLIGATIONS.--A participating public
2 school must:

3 (a) Ensure that funds awarded under paragraph (5)(c)
4 are used only to provide intensive reading teachers for grade
5 1, grade 2, or grade 3.

6 (b) Deposit funds received from an eligible nonprofit
7 educational-improvement organization in a separate bank
8 account consistent with s. 17.57(2).

9 (10)~~(7)~~ ADMINISTRATION; RULES.--

10 (a) If the credit granted pursuant to this section is
11 not fully used in any one year because of insufficient tax
12 liability on the part of the corporation, the unused amount
13 may be carried forward for a period not to exceed 3 years;
14 however, any taxpayer that seeks to carry forward an unused
15 amount of tax credit must submit an application for allocation
16 of tax credits or carryforward credits as required in
17 paragraph (d) in the year that the taxpayer intends to use the
18 carryforward. The total amount of tax credits and carryforward
19 of tax credits granted each state fiscal year under this
20 section is \$88 million. This carryforward applies to all
21 approved contributions made after January 1, 2002. A taxpayer
22 may not convey, assign, or transfer the credit authorized by
23 this section to another entity unless all of the assets of the
24 taxpayer are conveyed, assigned, or transferred in the same
25 transaction.

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

29 (c) The department and the Department of Education
30 shall develop a cooperative agreement to assist in the
31 administration of this section. The Department of Education

1 shall be responsible for annually submitting, by March 15, to
2 the department a list of eligible nonprofit
3 scholarship-funding organizations, eligible nonprofit
4 educational-improvement organizations, and eligible public
5 schools that meet the requirements of ~~paragraphs~~ paragraph
6 (2)(d), (2)(c), and (2)(f), respectively, and for monitoring
7 eligibility of nonprofit scholarship-funding organizations,
8 eligible nonprofit educational-improvement organizations, and
9 eligible public schools that meet the requirements of
10 paragraph (2)(d), (2)(c), and (2)(f), respectively,
11 eligibility of nonpublic schools that meet the requirements of
12 paragraph (2)(c), eligibility of public schools that meet the
13 requirements of subsection (9), and eligibility of
14 expenditures under this section as provided in subsections
15 subsection (4), (5), and (6).

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

21 (e) The Department of Education shall adopt rules
22 necessary to determine eligibility of nonprofit
23 scholarship-funding organizations and nonprofit
24 educational-improvement organizations as defined in paragraphs
25 paragraph (2)(d) and (2)(c), respectively, and according to
26 subsections ~~the provisions of subsection (4) and (5), and~~
27 identify qualified students as defined in paragraph (2)(g),
28 and eligible teachers as defined in paragraph (2)(h) ~~(2)(e).~~

29 (11)(8) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--All
30 eligible contributions received by an eligible nonprofit
31 scholarship-funding organization, eligible nonprofit

1 educational-improvement organization, or eligible public
2 school shall be deposited in a manner consistent with s.
3 17.57(2).

4 Section 2. This act shall take effect July 1, 2004.

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7 SENATE SUMMARY

8 Provides for credits against the tax on corporate income
9 for contributions to eligible nonprofit
10 educational-improvement organizations, as well as for
11 contributions to eligible nonprofit scholarship-funding
12 organizations. Provides that an additional purpose of s.
13 220.187, F.S., is to train teachers in certain public
14 elementary schools to provide intensive reading
15 instruction. Defines terms. Provides for allocating among
16 the categories of recipients the total allowable amount
17 of tax credits which may be granted under s. 220.187,
18 F.S., during each state fiscal year. Provides obligations
19 of eligible nonprofit educational-improvement
20 organizations. Provides obligations of participating
21 public schools.
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