

By Senator Wilson

33-1348A-06

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 enable students in specified grades in public
 10 schools to receive certain assistance in
 11 attaining grade-level performance; defining
 12 terms; providing for allocating among the
 13 categories of recipients the total allowable
 14 amount of tax credits which may be granted
 15 during each state fiscal year; providing
 16 obligations of eligible nonprofit
 17 educational-improvement organizations; revising
 18 parental obligations; revising provisions
 19 relating to administration and to deposits of
 20 eligible contributions, to conform; providing
 21 an effective date.

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

24
 25 Section 1. Section 220.187, Florida Statutes, is
 26 amended to read:
 27 220.187 Credits for contributions to nonprofit
 28 scholarship-funding and nonprofit educational-improvement
 29 organizations.--

30 (1) PURPOSE.--The purpose of this section is to:
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1 (a) Encourage private, voluntary contributions to
2 nonprofit scholarship-funding organizations and eligible
3 nonprofit educational-improvement organizations.

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

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

8 (d) Enable students in grades 2, 5, 6, 8, and 9 in
9 public schools to receive tutoring and remediation to attain
10 grade-level performance.

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

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

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

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

27 ~~"Eligible nonpublic school" means a nonpublic school located~~
28 ~~in Florida that offers an education to students in any grades~~
29 ~~K-12 and that meets the requirements in subsection (6).~~

30 (d) "Eligible nonprofit scholarship-funding
31 organization" means a charitable organization that is exempt

1 from federal income tax pursuant to s. 501(c)(3) of the
2 Internal Revenue Code and that complies with ~~the provisions of~~
3 subsection (4).

4 (e) "Eligible nonpublic school" means a nonpublic
5 school that is located in this state, that offers an education
6 to students in any grades from kindergarten through grade 12,
7 and that meets the requirements set forth in subsection (7).

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

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

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

17 3. Is eligible to enter kindergarten or first grade;
18 ~~or~~

19 4. Is a student in grade 2, grade 5, grade 6, grade 8,
20 or grade 9 in an eligible public school.

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

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

1 The credit granted by this section shall be reduced by the
2 difference between the amount of federal corporate income tax
3 taking into account the credit granted by this section and the
4 amount of federal corporate income tax without application of
5 the credit granted by this section.

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

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

16 (4) OBLIGATIONS OF ELIGIBLE NONPROFIT
17 SCHOLARSHIP-FUNDING ORGANIZATIONS.--

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

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

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

27 (b) An eligible nonprofit scholarship-funding
28 organization shall give priority to qualified students who
29 received a scholarship from an eligible nonprofit
30 scholarship-funding organization during the previous school
31 year.

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

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

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

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

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

25 (f) An eligible nonprofit scholarship-funding
26 organization that receives eligible contributions must provide
27 to the Auditor General an annual financial and compliance
28 audit of its accounts and records conducted by an independent
29 certified public accountant and in accordance with rules
30 adopted by the Auditor General.
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1 (g) Payment of the scholarship by the eligible
2 nonprofit scholarship-funding organization shall be by
3 individual warrant or check made payable to the student's
4 parent. If the parent chooses for his or her child to attend
5 an eligible nonpublic school, the warrant or check must be
6 mailed by the eligible nonprofit scholarship-funding
7 organization to the nonpublic school of the parent's choice,
8 and the parent shall restrictively endorse the warrant or
9 check to the nonpublic school. An eligible nonprofit
10 scholarship-funding organization shall ensure that, upon
11 receipt of a scholarship warrant or check, the parent to whom
12 the warrant or check is made restrictively endorses the
13 warrant or check to the nonpublic school of the parent's
14 choice for deposit into the account of the nonpublic school.

15 (5) OBLIGATIONS OF ELIGIBLE NONPROFIT
16 EDUCATIONAL-IMPROVEMENT ORGANIZATIONS.--

17 (a) An eligible nonprofit educational-improvement
18 organization that receives an eligible contribution must spend
19 100 percent of the eligible contribution to establish
20 scholarships to qualified students as defined in subparagraph
21 (1)(g)4. in the same year the contribution was received. A
22 portion of contributions may not be used for administrative
23 expenses. All portions of interest accrued from contributions
24 must be used for the establishment of scholarships.

25 (b) An eligible nonprofit educational-improvement
26 organization shall ensure that payments are made to parents or
27 guardians of qualified students as defined in subparagraph
28 (1)(f)4. Payment of the scholarship by the eligible nonprofit
29 educational-improvement organization shall be by individual
30 warrant or check made payable to the student's parent or
31 guardian. The warrant or check must be mailed by the eligible

1 nonprofit educational-improvement organization to the eligible
2 public school that the qualified student is attending, and the
3 student's parent or guardian shall restrictively endorse the
4 warrant or check to the school. An eligible nonprofit
5 educational-improvement organization shall ensure that, upon
6 receipt of a scholarship warrant or check, the parent or
7 guardian to whom the warrant or check is made restrictively
8 endorses the warrant or check to the eligible public school
9 that the student is attending for deposit into the account of
10 the school. Recipient students must be funded until
11 grade-level performance is achieved before new qualified
12 students can be funded. Students in grade 2 shall receive
13 priority, followed by those in grade 9, grade 8, grade 6, and
14 grade 5.

15 (c) The amount of a scholarship for a qualified
16 student as defined in subparagraph (1)(g)4. for any single
17 school year by all eligible nonprofit educational-improvement
18 organizations from eligible contributions may not exceed
19 \$3,000.

20 (d) Payment by the eligible nonprofit
21 educational-improvement organization must not exceed the
22 amount needed to have the qualified student attain grade-level
23 performance.

24 (6)(5) PARENT OBLIGATIONS.--

25 (a) As a condition for scholarship payment pursuant to
26 paragraph (4)(g), if the parent chooses for his or her child
27 to attend an eligible nonpublic school, the parent must inform
28 the child's school district within 15 days after such
29 decision.

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1 (b) Payment received by a parent must not exceed the
2 amount needed to have the qualified student attain grade
3 level, if under \$3,000 in any school year.

4 (c) The parent must provide a monthly report of
5 payments made showing to whom payments were made. Any
6 unexpended funds must be returned to the nonprofit
7 educational-improvement organization.

8 ~~(7)(6)~~ ELIGIBLE NONPUBLIC SCHOOL OBLIGATIONS.--An
9 eligible nonpublic school must:

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

21 (b) Comply with the antidiscrimination provisions of
22 42 U.S.C. s. 2000d.

23 (c) Meet state and local health and safety laws and
24 codes.

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

27 ~~(8)(7)~~ ADMINISTRATION; RULES.--

28 (a) If the credit granted pursuant to this section is
29 not fully used in any one year because of insufficient tax
30 liability on the part of the corporation, the unused amount
31 may be carried forward for a period not to exceed 3 years;

1 | however, any taxpayer that seeks to carry forward an unused
2 | amount of tax credit must submit an application for allocation
3 | of tax credits or carryforward credits as required in
4 | paragraph (d) in the year that the taxpayer intends to use the
5 | carryforward. The total amount of tax credits and carryforward
6 | of tax credits granted each state fiscal year under this
7 | section is \$88 million. This carryforward applies to all
8 | approved contributions made after January 1, 2002. A taxpayer
9 | may not convey, assign, or transfer the credit authorized by
10 | this section to another entity unless all of the assets of the
11 | taxpayer are conveyed, assigned, or transferred in the same
12 | transaction.

13 | (b) An application for a tax credit pursuant to this
14 | section shall be submitted to the department on forms
15 | established by rule of the department.

16 | (c) The department and the Department of Education
17 | shall develop a cooperative agreement to assist in the
18 | administration of this section. The Department of Education
19 | shall be responsible for annually submitting, by March 15, to
20 | the department a list of eligible nonprofit
21 | scholarship-funding organizations and eligible nonprofit
22 | educational-improvement organizations that meet the
23 | requirements of paragraph (2)(d) or paragraph (2)(c),
24 | respectively, and meet the requirements for monitoring
25 | eligibility of nonprofit scholarship-funding organizations, or
26 | eligible nonprofit educational-improvement organizations, that
27 | meet the requirements of paragraph (2)(d) or paragraph (2)(c),
28 | respectively, eligibility of nonpublic schools that meet the
29 | requirements of paragraph (2)(c), and eligibility of
30 | expenditures under this section as provided in subsection (4).
31 |

1 (d) The department shall adopt rules necessary to
2 administer this section, including rules establishing
3 application forms and procedures and governing the allocation
4 of tax credits and carryforward credits under this section on
5 a first-come, first-served basis.

6 (e) The Department of Education shall adopt rules
7 necessary to determine eligibility of nonprofit
8 scholarship-funding organizations and nonprofit
9 educational-improvement organizations, as defined in paragraph
10 (2)(d) or paragraph (2)(c), respectively, and according to
11 subsections (4) and (5) the provisions of subsection (4) and
12 identify qualified students as defined in paragraph(2)(f)
13 ~~(2)(e)~~.

14 ~~(9)(8)~~ DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--All
15 eligible contributions received by an eligible nonprofit
16 scholarship-funding organization or an eligible nonprofit
17 educational-funding organization shall be deposited in a
18 manner consistent with s. 17.57(2).

19 Section 2. This act shall take effect July 1, 2006.

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22 SENATE SUMMARY

23 Relates to the tax on corporate income. Provides for tax
24 credits for contributions to eligible nonprofit
25 educational-improvement organizations, as well as for
26 contributions to eligible nonprofit scholarship-funding
27 organizations. Provides that an additional purpose of s.
28 220.187, F.S., is to enable public-school students in
29 grades 2, 5, 6, 8, and 9 to receive certain assistance in
30 attaining grade-level performance. Defines terms.
31 Provides for allocating among the categories of
recipients the total allowable amount of tax credits
which may be granted during each state fiscal year.
Provides obligations of eligible nonprofit
educational-improvement organizations. Revises parental
obligations. Revises provisions relating to
administration and to deposits of eligible contributions,
to conform.