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CHAMBER ACTION

Senate

House

Floor: 1/AD/2R
4/29/2008 11:48 AM

Floor: AA
5/2/2008 3:25 PM

1 Senator Gaetz moved the following **amendment**:

2
3 **Senate Amendment (with title amendment)**

4 Delete everything after the enacting clause
5 and insert:

6 Section 1. Subsections (1) and (3), paragraph (b) of
7 subsection (5), paragraphs (d), (i), and (m) of subsection (6),
8 paragraph (e) of subsection (7), paragraph (c) of subsection (8),
9 and subsection (11) of section 220.187, Florida Statutes, are
10 amended, paragraphs (k) through (n) of subsection (9) are
11 redesignated as paragraphs (m) through (p), respectively, new
12 paragraphs (k) and (l) are added to that subsection, and a new
13 subsection (14) is added to that section, to read:

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

16 (1) FINDINGS AND PURPOSE.--

17 (a) The Legislature finds that:



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18 1. It has the inherent power to determine subjects of
19 taxation for general or particular public purposes.

20 2. Expanding educational opportunities and improving the
21 quality of educational services within the state are valid public
22 purposes that the Legislature may promote using its sovereign
23 power to determine subjects of taxation and exemptions from
24 taxation.

25 3. Ensuring that all parents, regardless of means, may
26 exercise and enjoy their basic right to educate their children as
27 they see fit is a valid public purpose that the Legislature may
28 promote using its sovereign power to determine subjects of
29 taxation and exemptions from taxation.

30 4. Expanding educational opportunities and the healthy
31 competition they promote are critical to improving the quality of
32 education in the state and to ensuring that all children receive
33 the high-quality education to which they are entitled.

34 (b) The purpose of this section is to:

35 1.(a) Enable taxpayers to make ~~Encourage~~ private, voluntary
36 contributions to nonprofit scholarship-funding organizations in
37 order to promote the general welfare.

38 2. Provide taxpayers who wish to help parents with limited
39 resources exercise their basic right to educate their children as
40 they see fit with a means to do so.

41 3.(b) Promote the general welfare by expanding ~~Expand~~
42 educational opportunities for children of families that have
43 limited financial resources.

44 4.(e) Enable children in this state to achieve a greater
45 level of excellence in their education.



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46 5. Improve the quality of education in this state, both by
47 expanding educational opportunities for children and by creating
48 incentives for schools to achieve excellence.

49 (3) PROGRAM; SCHOLARSHIP ELIGIBILITY.--The Corporate Income
50 Tax Credit Scholarship Program is established. A student is
51 eligible for a corporate income tax credit scholarship if the
52 student qualifies for free or reduced-price school lunches under
53 the National School Lunch Act and:

54 (a) Was counted as a full-time equivalent student during
55 the previous state fiscal year for purposes of state per-student
56 funding;

57 (b) Received a scholarship from an eligible nonprofit
58 scholarship-funding organization or from the State of Florida
59 during the previous school year; ~~or~~

60 (c) Is eligible to enter kindergarten or first grade; or

61 (d) Is currently placed, or during the previous state
62 fiscal year was placed, in foster care as defined in s. 39.01.

63
64 Contingent upon available funds, a student may continue in the
65 scholarship program as long as the student's household ~~family~~
66 income level does not exceed 200 percent of the federal poverty
67 level. A sibling of a student who is continuing in the program
68 and resides in the same household as the student shall also be
69 eligible as a first-time corporate income tax credit scholarship
70 recipient as long as the student's and sibling's household income
71 level does not exceed 200 percent of the federal poverty level.
72 Household income for purposes of a student who is currently in
73 foster care as defined in s. 39.01 shall consist only of the
74 income that may be considered in determining whether he or she



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75 qualifies for free or reduced-price school lunches under the
76 National School Lunch Act.

77 (5) AUTHORIZATION TO GRANT SCHOLARSHIP FUNDING TAX CREDITS;
78 LIMITATIONS ON INDIVIDUAL AND TOTAL CREDITS.--

79 (b) The total amount of tax credits and carryforward of tax
80 credits which may be granted each state fiscal year under this
81 section is:

82 1. Through June 30, 2008, \$88 million.

83 2. Beginning July 1, 2008, and thereafter, \$118 million. At
84 ~~least 1 percent of the total statewide amount authorized for the~~
85 ~~tax credit shall be reserved for taxpayers who meet the~~
86 ~~definition of a small business provided in s. 288.703(1) at the~~
87 ~~time of application.~~

88 (6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING
89 ORGANIZATIONS.--An eligible nonprofit scholarship-funding
90 organization:

91 (d)1. Must provide scholarships, from eligible
92 contributions, to eligible students for the cost of:

93 ~~a.1. Tuition and fees or textbook expenses for, or~~
94 ~~transportation to, an eligible private school. At least 75~~
95 ~~percent of the scholarship funding must be used to pay tuition~~
96 ~~expenses; or~~

97 ~~b.2. Transportation expenses to a Florida public school~~
98 ~~that is located outside the district in which the student resides~~
99 ~~or to a lab school as defined in s. 1002.32.~~

100 2. Beginning in the 2009-2010 state fiscal year, must
101 provide a premium payment to a scholarship student who
102 participates in the statewide assessments pursuant to s. 1008.22
103 and who attends an eligible private school that has at least 95-
104 percent participation of eligible scholarship students in the



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105 statewide assessments. This premium payment shall be applied to
106 transportation costs related to participation in the statewide
107 assessments, statewide assessment preparation costs, and other
108 school fees incurred by a student which are not otherwise covered
109 under this paragraph.

110 (i) 1. May use up to 3 percent of eligible contributions
111 received during the state fiscal year in which such contributions
112 are collected for administrative expenses if the organization has
113 operated under this section for at least 3 state fiscal years and
114 did not have any negative financial findings in its most recent
115 audit under paragraph (1). Such administrative expenses must be
116 reasonable and necessary for the organization's management and
117 distribution of eligible contributions under this section. No
118 more than one-third of the funds authorized for administrative
119 expenses under this subparagraph may be used for expenses related
120 to the recruitment of contributions from corporate taxpayers.

121 2. Must expend for annual or partial-year scholarships an
122 amount equal to or greater than 75 percent of the net eligible
123 contributions remaining after administrative expenses during the
124 state fiscal year in which such contributions are collected. No
125 more than 25 percent of such net eligible contributions may be
126 carried forward to the following state fiscal year. Any amounts
127 carried forward shall be expended for ~~Must obligate, in the same~~
128 ~~fiscal year in which the contribution was received, 100 percent~~
129 ~~of the eligible contribution to provide~~ annual or partial-year
130 ~~scholarships; however, up to 25 percent of the total contribution~~
131 ~~may be carried forward for expenditure~~ in the following state
132 fiscal year. Net eligible contributions remaining on June 30 of
133 each year which are in excess of the 25 percent that may be



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134 carried forward shall be returned to the State Treasury for
135 deposit in the General Revenue Fund.

136 3. A scholarship-funding organization Must, before granting
137 a scholarship for an academic year, document each scholarship
138 student's eligibility for that academic year. A scholarship-
139 funding organization may not grant multiyear scholarships in one
140 approval process. ~~No portion of eligible contributions may be~~
141 ~~used for administrative expenses. All interest accrued from~~
142 ~~contributions must be used for scholarships.~~

143 (m) Must prepare and submit quarterly reports to the
144 Department of Education pursuant to paragraph (9) (o) ~~(m)~~. In
145 addition, an eligible nonprofit scholarship-funding organization
146 must submit in a timely manner any information requested by the
147 Department of Education relating to the scholarship program.

148
149 Any and all information and documentation provided to the
150 Department of Education and the Auditor General relating to the
151 identity of a taxpayer that provides an eligible contribution
152 under this section shall remain confidential at all times in
153 accordance with s. 213.053.

154 (7) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
155 PARTICIPATION.--

156 (e) The parent shall ensure that the student participating
157 in the scholarship program takes the norm-referenced assessment
158 offered by the private school. The parent may also choose to have
159 the student participate in the statewide assessments pursuant to
160 s. 1008.22. Except as provided in subsection (6), if the parent
161 requests that the student participating in the scholarship
162 program take statewide assessments pursuant to s. 1008.22, the



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163 parent is responsible for transporting the student to the
164 assessment site designated by the school district.

165 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.--An
166 eligible private school may be sectarian or nonsectarian and
167 must:

168 (c) Be academically accountable to the parent for meeting
169 the educational needs of the student by:

170 1. At a minimum, annually providing to the parent a written
171 explanation of the student's progress.

172 2. Annually administering or making provision for students
173 participating in the scholarship program to take one of the
174 nationally norm-referenced tests identified by the Department of
175 Education. Students with disabilities for whom standardized
176 testing is not appropriate are exempt from this requirement. A
177 participating private school must report a student's scores to
178 the parent and to the independent research organization selected
179 by the Department of Education as described in paragraph (9) (j).

180 3. Cooperating with the scholarship student whose parent
181 chooses to have the student participate in the statewide
182 assessments pursuant to s. 1008.22 s. 1008.32. Beginning in the
183 2009-2010 state fiscal year, in order to encourage participation,
184 a scholarship student who participates in the statewide
185 assessments is eligible for a premium payment pursuant to
186 subparagraphs (6) (d)2. and (11) (a)2.

187
188 The inability of a private school to meet the requirements of
189 this subsection shall constitute a basis for the ineligibility of
190 the private school to participate in the scholarship program as
191 determined by the Department of Education.



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192 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.--The Department of
193 Education shall:

194 (k) Provide participating schools with all preparation and
195 instructional materials to prepare students for the statewide
196 assessments pursuant to s. 1008.22.

197 (l) Beginning in the 2009-2010 state fiscal year, determine
198 if at least 95 percent of a private school's eligible scholarship
199 students participate in the statewide assessments pursuant to s.
200 1008.22.

201 (11) SCHOLARSHIP AND PREMIUM AMOUNT AND PAYMENT.--

202 (a)1. The amount of a scholarship provided to any student
203 for any single school year by an eligible nonprofit scholarship-
204 funding organization from eligible contributions shall be for
205 total costs authorized under subparagraph (6) (d)1., not to exceed
206 the following annual limits:

207 a.1- Three thousand nine hundred fifty dollars ~~Three~~
208 ~~thousand seven hundred fifty dollars~~ for a scholarship awarded to
209 a student enrolled in an eligible private school for the 2008-
210 2009 state fiscal year and each fiscal year thereafter.

211 b.2- Five hundred dollars for a scholarship awarded to a
212 student enrolled in a Florida public school that is located
213 outside the district in which the student resides or in a lab
214 school as defined in s. 1002.32.

215 2. Beginning in the 2009-2010 state fiscal year, the amount
216 of an annual premium payment by an eligible nonprofit
217 scholarship-funding organization from eligible contributions
218 shall be \$200 for costs authorized under subparagraph (6) (d)2.
219 provided to a student who takes the statewide assessments
220 pursuant to s. 1008.22 if at least 95 percent of the private



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221 school's eligible scholarship students participate in the
222 statewide assessments.

223 (b) Payment of the scholarship and premium by the eligible
224 nonprofit scholarship-funding organization shall be by individual
225 warrant made payable to the student's parent. If the parent
226 chooses that his or her child attend an eligible private school,
227 the warrant must be delivered by the eligible nonprofit
228 scholarship-funding organization to the private school of the
229 parent's choice, and the parent shall restrictively endorse the
230 warrant to the private school. An eligible nonprofit scholarship-
231 funding organization shall ensure that the parent to whom the
232 warrant is made restrictively endorsed the warrant to the private
233 school for deposit into the account of the private school.

234 (c) An eligible nonprofit scholarship-funding organization
235 shall obtain verification from the private school of a student's
236 continued attendance at the school for ~~prior to~~ each period
237 covered by a scholarship payment.

238 (d) Payment of the scholarship shall be made by the
239 eligible nonprofit scholarship-funding organization no less
240 frequently than on a quarterly basis.

241 (14) PRESERVATION OF CREDIT.--If any provision or portion
242 of subsection (5) or the application thereof to any person or
243 circumstance is held unconstitutional by any court or is
244 otherwise declared invalid, the unconstitutionality or invalidity
245 shall not affect any credit earned under subsection (5) by any
246 taxpayer with respect to any contribution paid to an eligible
247 nonprofit scholarship-funding organization before the date of a
248 determination of unconstitutionality or invalidity. Such credit
249 shall be allowed at such time and in such a manner as if a
250 determination of unconstitutionality or invalidity had not been



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251 made, provided that nothing in this subsection by itself or in
252 combination with any other provision of law shall result in the
253 allowance of any credit to any taxpayer in excess of one dollar
254 of credit for each dollar paid to an eligible nonprofit
255 scholarship-funding organization.

256 Section 2. Corporate Income Tax Credit Scholarship Program
257 funding.--

258 (1) By December 1, 2008, the Office of Program Policy
259 Analysis and Government Accountability shall submit a report to
260 the Governor, the President of the Senate, and the Speaker of the
261 House of Representatives which:

262 (a) Reviews the advisability and net state fiscal impact
263 of:

264 1. Increasing the maximum annual amount of credits for the
265 corporate income tax permitted under s. 220.187, Florida
266 Statutes, for the scholarship program.

267 2. Authorizing the use of credits for insurance premium
268 taxes under chapter 624, Florida Statutes, as an additional
269 source of funding for the scholarship program under s. 220.187,
270 Florida Statutes.

271 (b) Provides recommendations, if warranted by the review
272 under paragraph (a):

273 1. For methodologies to annually or otherwise increase the
274 maximum annual amount of corporate income tax credits for
275 scholarship funding.

276 2. To implement the use of insurance premium tax credits
277 for scholarship funding.

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279 Such recommendations may only include options that will annually
280 produce a neutral or positive net fiscal impact on state revenue
281 and expenditures.

282 (2) The Office of Program Policy Analysis and Government
283 Accountability may request that the Revenue Estimating Conference
284 and the Education Estimating Conference established under s.
285 216.134, Florida Statutes, evaluate its findings and
286 recommendations under this section.

287 Section 3. This act shall take effect June 30, 2008.

288
289 ===== T I T L E A M E N D M E N T =====

290 And the title is amended as follows:

291 Delete everything before the enacting clause
292 and insert:

293 A bill to be entitled
294 An act relating to the Corporate Income Tax Credit
295 Scholarship Program; amending s. 220.187, F.S.; providing
296 legislative findings; revising program purposes; providing
297 that specified students who are currently or have been in
298 foster care are eligible for participation in the program;
299 providing that siblings of certain students are eligible
300 for participation in the program; providing income
301 criteria for continuation of scholarships for students in
302 foster care; revising provisions authorizing the total
303 amount of tax credits that may be granted and deleting the
304 reservation of a portion thereof; revising authorized uses
305 of scholarship funds and providing for premium payments to
306 certain students who participate in statewide assessments;
307 revising provisions relating to expenditure of
308 contributions received by a scholarship-funding



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309 organization during a state fiscal year; authorizing
310 expenditure of contributions for specified administrative
311 expenses by certain scholarship-funding organizations;
312 providing for the annual return of specified eligible
313 contributions to the State Treasury; removing parent
314 responsibility for providing transportation to certain
315 assessment sites; providing obligations of the Department
316 of Education relating to scholarship student participation
317 in statewide assessments; revising scholarship amounts and
318 providing amount of premium payments; revising
319 requirements relating to verification of student
320 attendance for purposes of scholarship payment; providing
321 for preservation of credits under certain circumstances;
322 requiring the Office of Program Policy Analysis and
323 Government Accountability to submit a report on funding
324 for the scholarship program to the Governor and the
325 Legislature; specifying report requirements; authorizing
326 the Office of Program Policy Analysis and Government
327 Accountability to request the Revenue Estimating
328 Conference and the Education Estimating Conference to
329 evaluate its findings and recommendations; providing an
330 effective date.