



679444

CHAMBER ACTION

Senate

House

.
.
.
.
.
.

Floor: 1b/RE/2R
4/30/2008 10:08 PM

1 Senator Gaetz moved the following amendment to amendment
2 (510960):

3
4 Senate Amendment (with title amendment)

5 Between line(s) 5 and 6,
6 insert:

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

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

17 (1) FINDINGS AND PURPOSE.--



679444

18 (a) The Legislature finds that:

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

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

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

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

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

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

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

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

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



679444

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

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

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

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

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

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

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



679444

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

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

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

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

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

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

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

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

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

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



679444

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

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

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



679444

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

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

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

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

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

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



679444

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

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

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

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

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

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

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



679444

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

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

198 (l) Beginning in the 2009-2010 state fiscal year, determine
199 if at least 95 percent of a private school's eligible scholarship
200 students participate in the statewide assessments pursuant to s.
201 1008.22.

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

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

208 a.1- Three thousand nine hundred fifty dollars ~~Three~~
209 ~~thousand seven hundred fifty dollars~~ for a scholarship awarded to
210 a student enrolled in an eligible private school for the 2008-
211 2009 state fiscal year and each fiscal year thereafter.

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

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



679444

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

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

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

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

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



679444

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

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

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

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

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

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

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

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

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

279



679444

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

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

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 On line(s) 1305, after the first semicolon,
292 insert:
293 amending s. 220.187, F.S.; providing legislative findings;
294 revising program purposes; providing that specified
295 students who are currently or have been in foster care are
296 eligible for participation in the program; providing that
297 siblings of certain students are eligible for
298 participation in the program; providing income criteria
299 for continuation of scholarships for students in foster
300 care; revising provisions authorizing the total amount of
301 tax credits that may be granted and deleting the
302 reservation of a portion thereof; revising authorized uses
303 of scholarship funds and providing for premium payments to
304 certain students who participate in statewide assessments;
305 revising provisions relating to expenditure of
306 contributions received by a scholarship-funding
307 organization during a state fiscal year; authorizing
308 expenditure of contributions for specified administrative
309 expenses by certain scholarship-funding organizations;



679444

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