STORAGE NAME: h1127.edk
DATE: April 7, 2000

HOUSE OF REPRESENTATIVES
COMMITTEE ON
EDUCATION K-12
ANALYSIS

BILL #: HB 1127

RELATING TO: Corporate Income Tax

SPONSOR(S): Representatives Argenio, Feeney, Fasano, Byrd, Wise, and others

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) EDUCATION K-12
(2) GOVERNMENTAL RULES AND REGULATIONS
(3) FINANCE AND TAXATION
(4) GENERAL GOVERNMENT APPROPRIATIONS
(5)

I. SUMMARY:

HB 1127 creates a corporate income tax credit equal to 65 cents for every dollar donated to a public school or a non-profit organization that gives scholarships to children.

The corporation may receive a credit worth up to 80% of its tax burden: 75% for donations to non-profits and 5% for donations to public schools.

The bill allows no carryover of the credit to the next taxable year.

The bill requires non-profit scholarship organizations to allocate at least 90 percent of their annual revenue to provide scholarships for tuition, transportation, and textbook expenses to children enrolled in an eligible school, “giving priority to children who demonstrate need for the scholarships.”

The bill prohibits donors from naming a specific child as a beneficiary of the contribution.

The Department of Revenue (DOR) is responsible for administration of the tax credit and is given rulemaking authority necessary to accomplish that administration.

The DOR estimates that the revenue shortfall to the State based upon various assumptions could range from a high of $306.7 million annually to a low of $77.6 million annually. Every public school student that takes a scholarship (funded from donations provided pursuant to this bill) to attend a private school saves the state an amount equal to the cost of providing the public school education (approximately $3,400) less the amount of credit awarded to the corporation for the donation.

The bill provides an effective date of January 1, 2001.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1. Less Government Yes [x] No [] N/A []
2. Lower Taxes Yes [x] No [] N/A []
3. Individual Freedom Yes [x] No [] N/A []
4. Personal Responsibility Yes [x] No [] N/A []
5. Family Empowerment Yes [x] No [] N/A []

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Chapter 220, F.S., currently provides neither a tax credit for donations to non-profits providing scholarships for students nor a tax credit for donations to public schools by corporations.

Federal Tax Code
Internal Revenue Code Section 170 (b), Title 26 of the U.S.C., Subtitle A, Chapter 1, Subchapter B, Part VI, provides a tax credit for donations by corporations for up to 10% of a corporations taxable income at a rate of 35 cents for every dollar donated.

Arizona Income Tax Credit
Section 43-1087 and 43-1088, Arizona Revised Statutes, created the first state tax credit in the nation for donations to 501(c)(3)'s (non-profits as defined by the Internal Revenue Code) granting scholarships to students wishing to attend any Arizona primary or secondary school. The Arizona personal income tax credit is given to individuals, capped at $500, and can be carried forward for up to 5 years. The credit was set at a 1:1 ratio - for every dollar given there is a one dollar credit. The amount of the scholarships given is not capped nor are there any statutory requirements for how the scholarships are to be donated, such as means-testing. The scholarship allocation formulation is left strictly up to the non-profits. The only limitation is that the non-profits must use 90% of the money donated for scholarships.

Arizona currently has between 8,000 and 11,000 children receiving scholarships through the tax credit. During the three weeks between the effective date of the bill and the end of the tax year and despite the legal challenge, $1.8 million was donated through the tax credit. The initial re-contribution rate was 94%. Since October 1999, approximately $50 million dollars has been donated through the tax credit.

The Arizona tax credit was challenged and ruled constitutional by the Arizona Supreme Court. The ruling was appealed to the United States Supreme Court and the Court denied certiorari, letting the decision of the Arizona Supreme Court stand.

The Arizona individual income tax base is approximately $1.5 billion. Florida's corporate income tax base is approximately $1.6 billion.

According to the originator of the Arizona tax credit, the state of Arizona has roughly achieved revenue neutrality, with the cost to the state of the tax credit balanced by the savings to the state of students using the scholarships to transfer from public school to private school. In Arizona, it costs an average private school roughly half as much as it costs an average public school to educate a child.

Arizona School Choice Trust scholarship organization
Arizona School Choice Trust (ASCT) was created in 1993, 5 years prior to the passage of the Arizona tax credit. The ASCT is the only non-denominational statewide scholarship non-profit organization. In the 1998-1999 school year, the first year the tax credit took effect, the foundation gave out 198 scholarships. This year (1999-2000), the foundation has given out 375 scholarships. The foundation's goal for next year is 1,000 scholarships. The foundation has already had 12,000 applications for scholarships.

Each ASCT scholarship is calculated based upon a calculation based upon income and household size and is given in three amounts: 75% of tuition, 50% of tuition, and 25% of tuition.

ASCT does not invest money but passes on the money directly via the scholarships. However, the foundation is considering investments to build up an endowment for the scholarships. Currently, ASCT spends 100% of its money on the scholarships because it has created a separate 501(c)(3) that covers all administrative expenses.

Florida Non-profit Scholarship Organizations

Children First Central Florida foundation
The Children First Central Florida foundation, formerly the Children's Educational Opportunities Foundation of Central Florida, provides scholarships to students in central Florida.

In 1995, the foundation was created, and allocated 91.6% of all donations to scholarships. This year, that ratio has fallen significantly based on the lower number of scholarships given out and the falling donations rate.

Children First Central Florida currently gives scholarships to 75-80 children. The 3-year scholarships are approximately $1000, although many of the continuing recipients are receiving half scholarships. Once the original three year grant ended, the Foundation awarded these half grants to continue supporting the children's education. The scholarships are given out to students who qualify for federal free and reduced lunch programs.

Before a scholarship is given, Children First Central Florida receives between $2,000 and $3,000. Of that $3,000, $1,000 is invested in a money market account while the rest is put into CD's. The money is set aside so that the foundation can fund scholarships for more than one year. These multi-year scholarships usually last for 3 years.

Many foundations invest the money, creating an endowment, in order to create long term scholarships rather than serving as a pass-through agency.

Miami Inner City Angels
Miami Inner City Angels (MICA) started in the Fall of 1998 and is in its second year of the program. MICA has funded 43 - $1,000 scholarships and 1 - $2,000 scholarship. The

scholarships last for 3 years. CEO America matches MICA's scholarships dollar for dollar for tuition.

The money for the scholarships is raised from private individuals and corporations. MICA is just starting to apply for grants but has received none yet. The non-profit acts as a pass through agency with all revenue received immediately being utilized for scholarships or administrative expenses.

The scholarship requires that the recipient must live in Overtown, the family's income must meet the federal free and reduced lunch program standards, and the student must be currently enrolled in K-8.

The non-profit foundation spends approximately 80% of the donations received on scholarships. MICA has received approximately 24,000 applications.

Children's Scholarship Fund of Tampa Bay
Children's Scholarship Fund of Tampa Bay was founded in September of 1998. The foundation received 12,502 applications for scholarships and provided approximately 500 scholarships through a computerized lottery. The scholarships last for four years.

In order to receive a scholarship, recipients must meet the requirements of the federal free or reduced lunch programs and at application must be in K-8 and must live in Hillsborough or Pinellas counties.

The scholarships are set up up on a 25-50-75% of tuition scale with a maximum amount set at $1,500. The scholarships are paid to schools directly, and the foundation makes sure that the parents stay current on their balance and that the children are actually attending school.

The foundation began with a $1.5 million gift, which was matched by Children's Scholarship Fund. The $3 million goes 100% to children's scholarships. All administrative expenses are paid by the organization's founder.

There are 126 participating schools in Hillsborough and Pinellas County.

Corporate Income Tax Revenue
The Fiscal Year 2000-2001 estimated Corporate Income Tax is estimated to be $1.614 billion.

C. EFFECT OF PROPOSED CHANGES:

HB 1127 allows corporate income tax payers to take a credit equal to 65 cents for every dollar donated to a public school, or to a non-profit organization that gives scholarships to children. The corporation may receive a credit worth up to 80% of its tax burden: 75% for donations to non-profit scholarship organizations and 5% for donations to public schools. The bill does not allow any carryover of the credit to the next taxable year.

The bill requires non-profit scholarship organizations to allocate at least 90 percent of their annual revenue to provide scholarships for tuition, transportation, and textbook expenses to children enrolled in an eligible school and to give priority to children who demonstrate need for the scholarships.

The bill requires that the scholarships be given to students attending "eligible" schools that must provide a general education to primary or secondary students and be located in Florida.

The bill prohibits donors from naming a specific child as a beneficiary of the contribution.

The Department of Revenue is responsible for administration of the tax credit and is given rulemaking authority necessary to accomplish that administration.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Creates s. 220.187, F.S., relating to corporate income tax, to provide purpose and intent, to provide definitions, to provide credit against said tax for a portion of contributions to a non-profit scholarships, to provide limitations, and to provide for rules.

Section 2: Provides an effective date of January 1, 2001.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Department of Revenue (DOR) has drafted three different revenue estimates for the bill based upon varying assumptions, as follows:

	FY 2000-01 Annualized	FY 2000-01 Cash	FY 2001-02
High	-$306.7m	-$381.1m	-$322.0m
Middle	-$161.4m	-$201.7m	-$169.5m
Low	-$ 73.9m	-$ 93.4m	-$ 77.6m

The DOR estimates assume the following:
- High model uses the Colorado impact estimate of 19%.
- Middle model uses a 5% base for both the public and private contributions.
- Low model uses the national average for school contributions of 4.6%.

2. Expenditures:

Every public school student that takes a scholarship (funded from donations provided pursuant to this bill) to attend a private school saves the state an amount equal to the cost of providing the public school education (approximately $3,400) less the amount of credit awarded to the corporation for the donation.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Public schools may raise up to 5% of the $1.6 billion dollars (approximately $80 million) in Corporate Income Tax through contributions.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will provide an incentive for corporations to increase their corporate giving, especially in Florida, by providing a Florida tax advantage.

The offset between the reduction in the corporation's federal deduction for state taxes and the credit of 65% of each $1 donated will not provide a pure economic advantage for participating corporations. It will cost a corporation approximately $1.20 for every dollar of the credit (combining federal and state tax burdens).

Corporations may achieve economic advantage if the donations increase sales, improve the corporation's image, increase the quality of available workers in Florida's workforce, are a multi-state or multi-national company able to take advantage of other tax devices or economic strategies, or are able to utilize this credit with another credit or deduction.

The bill would increase the accessibility of private schools for those who are not able to afford going to private schools by the provision of scholarships. This will increase the number of potential students attending private schools and increase competition between private schools.

D. FISCAL COMMENTS:

There are no current credits like this in place in Florida. Upon adoption of the first of such credits in Arizona (although for their personal income tax model), the donation rate did not increase as dramatically as the high rate modeled above.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority of counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

The United States Supreme Court did not rule on the substantive issues when denying certiorari on the Arizona case. While historically, the courts have held tax credits to a much lower standard than state spending, Article I, Section 3 of the Florida Constitution has a provision stating that "no revenue of the state or any political subdivision or agency thereof shall ever be taken from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid or any sectarian institution." The tax credit created by this bill could be tested under that constitutional provision.

B. RULE-MAKING AUTHORITY:

The bill grants the Department of Revenue rulemaking authority to administer the tax credit.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON EDUCATION K-12:

Prepared by:	Staff Director:
Thomas N. Palermo	Patricia W. Levesque