

By the Committee on Appropriations; and Senators Lee and Fasano

309-2446-03

1                                   A bill to be entitled  
2           An act relating to scholarship funding tax  
3           credits; amending s. 220.187, F.S.; increasing  
4           the total amount of tax credit which may be  
5           granted each state fiscal year; allowing tax  
6           credits to be carried forward; providing for  
7           the scholarship amounts awarded to be annually  
8           adjusted based on the percentage change in the  
9           Consumer Price Index; creating s. 220.1875,  
10          F.S.; establishing a program for contributions  
11          to nonprofit scholarship-funding organizations  
12          to be used for dependent children of military  
13          personnel; providing for tax credits that may  
14          be granted each fiscal year for such  
15          contributions; providing requirements and  
16          limitations; providing an effective date.

17  
18 Be It Enacted by the Legislature of the State of Florida:

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20           Section 1. Paragraph (b) of subsection (3), paragraph  
21           (c) of subsection (4), and paragraph (a) of subsection (6) of  
22           section 220.187, Florida Statutes, are amended to read:

23           220.187 Credits for contributions to nonprofit  
24           scholarship-funding organizations.--

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

27           (b) The total amount of tax credit which may be  
28           granted each state fiscal year under this section is \$70 ~~\$50~~  
29           million.

30           (4) OBLIGATIONS OF ELIGIBLE NONPROFIT  
31           SCHOLARSHIP-FUNDING ORGANIZATIONS.--

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. Beginning in the 2003-2004 school year, \$3,500  
6 ~~Three thousand five hundred dollars~~ for a scholarship awarded  
7 to a student enrolled in an eligible nonpublic school. The  
8 amount of the scholarship shall be adjusted annually based on  
9 the percentage change in the Consumer Price Index for the  
10 prior year.

11 2. Beginning in the 2003-2004 school year, \$500 ~~Five~~  
12 ~~hundred dollars~~ for a scholarship awarded to a student  
13 enrolled in a Florida public school that is located outside  
14 the district in which the student resides. The amount of the  
15 scholarship shall be adjusted annually based on the percentage  
16 change in the Consumer Price Index for the prior year.

17 (6) ADMINISTRATION; RULES.--

18 (a) If the credit granted pursuant to this section is  
19 not fully used in any one year because of insufficient tax  
20 liability on the part of the corporation, the unused amount  
21 may ~~not~~ be carried forward for a period not to exceed 3 years.  
22 A taxpayer may not convey, assign, or transfer the credit  
23 authorized by this section to another entity unless all of the  
24 assets of the taxpayer are conveyed, assigned, or transferred  
25 in the same transaction. This carryforward applies to all  
26 approved contributions made after January 1, 2002.

27 Section 2. Section 220.1875, Florida Statutes, is  
28 created to read:

29 220.1875 Credits for contributions to nonprofit  
30 scholarship-funding organizations; scholarships for dependent  
31 children of active duty personnel in the United States

1 military and all reserve components, including National Guard  
2 personnel who have been deployed in support of active duty  
3 operations.--

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

5 (a) Encourage private, voluntary contributions to  
6 nonprofit scholarship-funding organizations.

7 (b) Expand educational opportunities for dependent  
8 children of active duty personnel in the United States  
9 military and all reserve components, including National Guard  
10 personnel who have been deployed in support of active duty  
11 operations, and whose families have limited financial  
12 resources.

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

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

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

17 (b) "Eligible contribution" means a monetary  
18 contribution from a taxpayer, subject to the restrictions  
19 provided in this section, to an eligible nonprofit  
20 scholarship-funding organization. The taxpayer making the  
21 contribution may not designate a specific child as the  
22 beneficiary of the contribution. The taxpayer may not  
23 contribute more than \$1 million to any single eligible  
24 nonprofit scholarship-funding organization.

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

29 (d) "Eligible nonprofit scholarship-funding  
30 organization" means a charitable organization that is exempt  
31 from federal income tax pursuant to s. 501(c)(3) of the

1 Internal Revenue Code and that complies with the provisions of  
2 subsection (4).

3 (e) "Qualified student" means a dependent child of any  
4 active duty personnel in the United States military and all  
5 reserve components, including National Guard personnel who  
6 have been deployed in support of active duty operations, who  
7 qualifies for free or reduced-price school lunches under the  
8 National School Lunch Act and who:

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

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

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

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

18 (a) There is allowed a credit of 100 percent of an  
19 eligible contribution against any tax due for a taxable year  
20 under this chapter. However, such a credit may not exceed 75  
21 percent of the tax due under this chapter for the taxable  
22 year, after the application of any other allowable credits by  
23 the taxpayer. However, at least 5 percent of the total  
24 statewide amount authorized for the tax credit shall be  
25 reserved for taxpayers who meet the definition of a small  
26 business provided in s. 288.703(1) at the time of application.  
27 The credit granted by this section shall be reduced by the  
28 difference between the amount of federal corporate income tax  
29 taking into account the credit granted by this section and the  
30 amount of federal corporate income tax without application of  
31 the credit granted by this section.

1           (b) The total amount of tax credit which may be  
2 granted each state fiscal year under this section is \$5  
3 million.

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

9           (4) OBLIGATIONS OF ELIGIBLE NONPROFIT  
10 SCHOLARSHIP-FUNDING ORGANIZATIONS.--

11           (a) An eligible nonprofit scholarship-funding  
12 organization shall provide scholarships, from eligible  
13 contributions, to qualified students for:

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

17           2. Transportation expenses to a Florida public school  
18 that is located outside the district in which the student  
19 resides.

20           (b) An eligible nonprofit scholarship-funding  
21 organization shall give priority to qualified students who  
22 received a scholarship from an eligible nonprofit  
23 scholarship-funding organization during the previous school  
24 year.

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

29           1. Beginning in the 2003-2004 school year, \$3,500 for  
30 a scholarship awarded to a student enrolled in an eligible  
31 nonpublic school. The amount of the scholarship shall be

1 adjusted annually based on the percentage change in the  
2 Consumer Price Index for the prior year.

3 2. Beginning in the 2003-2004 school year, \$500 for a  
4 scholarship awarded to a student enrolled in a Florida public  
5 school that is located outside the district in which the  
6 student resides. The amount of the scholarship shall adjusted  
7 annually based on the percentage change in the Consumer Price  
8 Index for the prior year.

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

15 (e) An eligible nonprofit scholarship-funding  
16 organization that receives an eligible contribution must spend  
17 100 percent of the eligible contribution to provide  
18 scholarships in the same state fiscal year in which the  
19 contribution was received. An eligible nonprofit  
20 scholarship-funding organization may use eligible contributions  
21 to provide scholarships to qualified students, pursuant to s.  
22 220.187, after it has served qualified dependent children of  
23 active duty personnel in the United States military and all  
24 reserve components, including National Guard personnel who  
25 have been deployed in support of active duty operations. No  
26 portion of eligible contributions may be used for  
27 administrative expenses. All interest accrued from  
28 contributions must be used for scholarships.

29 (f) An eligible nonprofit scholarship-funding  
30 organization that receives eligible contributions must provide  
31 to the Auditor General an annual financial and compliance

1 audit of its accounts and records conducted by an independent  
2 certified public accountant and in accordance with rules  
3 adopted by the Auditor General.

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

18 (5) ELIGIBLE NONPUBLIC SCHOOL OBLIGATIONS.--An  
19 eligible nonpublic school must:

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

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1           (b) Comply with the antidiscrimination provisions of  
2 42 U.S.C. s. 2000d.

3           (c) Meet state and local health and safety laws and  
4 codes.

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

7           (6) ADMINISTRATION; RULES.--

8           (a) If the credit granted pursuant to this section is  
9 not fully used in any one year because of insufficient tax  
10 liability on the part of the corporation, the unused amount  
11 may be carried forward for a period not to exceed 3 years. A  
12 taxpayer may not convey, assign, or transfer the credit  
13 authorized by this section to another entity unless all of the  
14 assets of the taxpayer are conveyed, assigned, or transferred  
15 in the same transaction.

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

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

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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 under this section on a first-come,  
5 first-served basis.

6           (e) The Department of Education shall adopt rules  
7 necessary to determine eligibility of nonprofit  
8 scholarship-funding organizations as defined in paragraph  
9 (2)(d) and according to the provisions of subsection (4) and  
10 identify qualified students as defined in paragraph (2)(e).

11           (7) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--All eligible  
12 contributions received by an eligible nonprofit  
13 scholarship-funding organization shall be deposited in a  
14 manner consistent with s. 18.10(2).

15           Section 3. This act shall take effect July 1, 2003.

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17                           STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
18                           COMMITTEE SUBSTITUTE FOR  
19                           Senate Bill SB 2062

20 Committee Substitute for SB 2062:

21 Sets the tax credits granted for contributions to the current  
22 scholarship-funding organizations at \$70 million per year.  
23 Tax credits may be carried forward for three years if the  
24 taxpayer has insufficient tax liabilities to use the tax  
25 credits.

26 Creates a new corporate income tax credit for contributions to  
27 scholarship-funding organizations. The tax credits granted  
28 under this program are limited to \$5 million per year. The  
29 beneficiaries under this program are dependent children of  
30 active duty military personnel and reserve components.  
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