

HB3479



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3479

Introduced 2/24/2011, by Rep. Karen A. Yarbrough - Darlene J. Senger

SYNOPSIS AS INTRODUCED:

35 ILCS 5/221 new

Amends the Illinois Income Tax Act. Creates a credit for contributions to qualified student assistance organizations. Provides that the credit may not exceed \$100,000 and may not exceed 90% of each dollar contributed. Provides that the credit is exempt from the Act's automatic sunset provision. Effective immediately.

LRB097 09409 HLH 49544 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Income Tax Act is amended by adding
5 Section 221 as follows:

6 (35 ILCS 5/221 new)

7 Sec. 221. Educational Improvement Tax Credit.

8 (a) The General Assembly finds and declares that the
9 Constitution of the State of Illinois provides that a
10 "fundamental goal of the People of the State is the educational
11 development of all persons to the limits of their capacities",
12 and that the educational development of every school student
13 serves the public purposes of the State. In order to enable
14 Illinois students to develop "to the limit of their
15 capacities", all students must have access to expanded
16 educational opportunities. This Section is in the public
17 interest, for the public benefit, and serves a secular purpose.

18 (b) An educational improvement tax credit program is hereby
19 established to enhance the educational opportunities available
20 to all students in this State.

21 For tax years beginning after December 31, 2011, a taxpayer
22 shall be allowed a credit, not in excess of \$100,000, against
23 the tax imposed by subsections (a) and (b) of Section 201 of

1 this Act for contributions to a qualified student assistance
2 organization in the taxable year in which the contribution is
3 made. The credit shall not exceed 90% of each dollar
4 contributed during the taxable year by the taxpayer. For
5 partners, shareholders of Subchapter S corporations, and
6 owners of limited liability companies, if the liability company
7 is treated as a partnership for purposes of federal and State
8 income taxation, there shall be allowed a credit under this
9 Section to be determined in accordance with the determination
10 of income and distributive share of income under Section 702
11 and 704 and Subchapter S of the Internal Revenue Code.

12 In no event may any credit be claimed for amounts deducted
13 pursuant to Section 170 of the Internal Revenue Code in
14 arriving at taxable income.

15 (c) For purposes of this Section:

16 "Contribution" means a donation of cash.

17 "Qualified student assistance organization" means a
18 nonprofit entity that:

19 (1) is exempt from federal taxation under Section
20 501(c)(3) of the Internal Revenue Code of 1986 and any
21 similar provision of a later compilation; and

22 (2) contributes at least 90% of its annual receipts, as
23 required by the by-laws of the organization and as
24 documented by the nonprofit organizations annual AG990-IL
25 Charitable Organization Annual Report, or, if the
26 organization is exempt from filing such a report, by a

1 report containing identical information to that contained
2 in the AG990-IL and certified by the President and
3 Treasurer of the organization, or alternatively, two
4 trustees of the organization, either to scholarships for
5 qualifying students at a school or to enhance educational
6 options for qualifying students by providing qualifying
7 students access to secular, neutral, non-ideological
8 programs, or activities outside the curriculum or academic
9 program of a school, as long as the program or activities
10 meet the requirements set forth in rules promulgated by the
11 Illinois State Board of Education. An entity that has been
12 in existence less than 2 years prior to the filing of an
13 application under subsection (f) of this Section shall meet
14 the requirements of this subsection if its charter, bylaws
15 or other governing instrument requires that it contribute
16 90% of its annual receipts for the purposes described in
17 this subsection.

18 "Qualifying student" means an individual who:

- 19 (1) is a resident of the State of Illinois;
20 (2) is under the age of 21 during the calendar year for
21 which a credit is sought;
22 (3) during the calendar year for which a credit is
23 sought is a full-time pupil enrolled in a kindergarten
24 through 12th grade education program at any school, as
25 defined in this subsection (c); and
26 (4) is a child of a parent or parents, or is under the

1 legal guardianship of an individual or individuals, with a
2 base income of not more than \$50,000 and resides in the
3 household with those parents or guardians, provided that if
4 there is more than one dependent member of the household
5 under the age of 21, counting the qualifying student, then
6 this annual income requirement shall be increased by
7 \$10,000 for each dependent member of the household under
8 the age of 21 in excess of the one qualifying student.

9 Qualified student assistant organizations shall be
10 responsible for determining whether a student is a
11 qualifying student, pursuant to rules adopted by the
12 Illinois State Board of Education.

13 "School" means any public or State-recognized non-public
14 elementary or secondary school in Illinois that is in
15 compliance with Title VI of the Civil Rights Act of 1964 and
16 attendance at which satisfies the requirements of Section 26-1
17 of the School Code.

18 (d) No tax credit established by this Section is allowed if
19 the taxpayer designates a contribution to a student assistance
20 organization for the direct benefit of any particular
21 qualifying student.

22 (e) Qualified student assistance organizations shall
23 provide scholarships or funding for enhanced educational
24 options without limiting availability to only students of one
25 school.

26 (f) A tax credit granted under this Section that is not

1 used in the taxable year in which the contribution was made
2 shall not be carried forward or carried back and is not
3 refundable or transferable.

4 (g) A taxpayer must apply annually to the Department and
5 receive approval for a tax credit under this Section prior to
6 making a contribution to a student assistance organization.
7 Applicants must be submitted to the Department no later than
8 March 31 each year for contributions to be made for tax years
9 ending on or after July 1 of that same year. On May 1 of each
10 year, the Department shall, on a random basis, select
11 applications until the total aggregate amount of all requested
12 tax credits equals the maximum provided for in subsection (h).
13 The Department shall adopt rules pursuant to the requirements
14 of the Illinois Administrative Procedure Act that set forth the
15 information the Department can require on the tax credit
16 application and the manner in which the tax credit lottery is
17 to be conducted.

18 (h) The total aggregate amount of all approved tax credits
19 shall not exceed \$30,000,000 in any State fiscal year.

20 (i) The Department shall adopt rules consistent with this
21 Section for the administration of the educational improvement
22 tax credit program.

23 (j) A scholarship received by a qualifying student shall
24 not be considered to be taxable income.

25 (k) This Section is exempt from the provisions of Section
26 250.

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.