

# SB3744



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB3744

Introduced 2/11/2010, by Sen. Kimberly A. Lightford

#### SYNOPSIS AS INTRODUCED:

35 ILCS 5/219 new

Amends the Illinois Income Tax Act. Creates a credit for businesses that make contributions to (i) educational improvement organizations, (ii) qualified scholarship organizations, or (iii) qualified pre-kindergarten scholarship organizations. Sets forth the amount of the credit. Provides that educational improvement organizations, scholarship organizations, and qualified pre-kindergarten scholarship organizations must submit certain information to the Department of Commerce and Economic Opportunity. Provides that the credit is exempt from the Act's automatic sunset provision. Effective immediately.

LRB096 20510 HLH 36571 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 219 as follows:

6 (35 ILCS 5/219 new)

7 Sec. 219. Credit for contributions to educational  
8 improvement organizations and scholarship organizations.

9 (a) For taxable years beginning on or after January 1,  
10 2011, each business that, during the taxable year, makes a  
11 contribution to (i) an educational improvement organization or  
12 (ii) a qualified scholarship organization is entitled to a  
13 credit against the tax imposed under subsections (a) and (b) of  
14 Section 201 in an amount equal to 75% of the amount  
15 contributed. However, if the business provides a written  
16 commitment to the Department that it will provide an equal  
17 contribution in the next taxable year, and such a contribution  
18 is made, then the business is entitled to a credit in both  
19 taxable years in an amount equal to 90% of the amount  
20 contributed during the taxable year. The written commitment  
21 must be made in the form and manner prescribed by the  
22 Department. A credit awarded under this subsection (a) may not  
23 exceed \$300,000 per taxable year.

1       (b) In addition, each business that, during the taxable  
2 year, makes a contribution to a qualified pre-kindergarten  
3 scholarship organization is entitled to a credit against the  
4 tax imposed under subsections (a) and (b) of Section 201 in an  
5 amount equal to (i) 100% of the first \$10,000 contributed by  
6 the business during the taxable year, and (ii) 90% of any  
7 additional amounts contributed by the business during the  
8 taxable year. A credit awarded under this subsection (b) may  
9 not exceed \$150,000 per taxable year.

10       (c) For the purposes of this Section:

11               "Department" means the Department of Commerce and  
12 Economic Opportunity.

13               "Educational improvement organization" means a  
14 non-profit entity that (i) is exempt from taxation under  
15 Section 501(c)(3) of the Internal Revenue Code of 1986 and  
16 (ii) contributes at least 80% of its annual receipts as  
17 grants to a public school for innovative educational  
18 programs.

19               "Eligible pre-kindergarten student" means a student,  
20 including an eligible student with a disability, who is  
21 enrolled in a pre-kindergarten program and is a member of a  
22 household with a household income of no more than the  
23 maximum annual household income.

24               "Eligible student" means a school-age student,  
25 including an eligible student with a disability, who is a  
26 resident of the State of Illinois, who is enrolled in a

1 school and is a member of a household with a household  
2 income of no more than the maximum annual household income.

3 "Eligible student with a disability" means a  
4 pre-kindergarten student or a school-age student who meets  
5 all of the following: (i) is either enrolled in a special  
6 education school or otherwise meets the definition of  
7 "children with disabilities," as defined in Section  
8 14-1.02 of the School Code; (ii) needs special education  
9 and related services; (iii) is enrolled in a  
10 pre-kindergarten program or in a school; and (iv) is a  
11 member of a household with a household income of not more  
12 than the maximum annual household income.

13 "Household" means a household in which one or more  
14 eligible students resides with a spouse, parent,  
15 grandparent, sibling, or legal guardian.

16 "Household income" means all moneys or property  
17 received of whatever nature and from whatever source  
18 derived. The term does not include the following: (i)  
19 periodic payments for sickness and disability other than  
20 regular wages received during a period of sickness or  
21 disability; (ii) disability, retirement, or other payments  
22 arising under workers' compensation Acts, occupational  
23 disease Acts, and similar legislation by any unit of  
24 government; (iii) payments commonly recognized as old-age  
25 or retirement benefits paid to persons retired from service  
26 after reaching a specific age or after a stated period of

1 employment; (iv) payments commonly known as public  
2 assistance or unemployment compensation payments by a  
3 governmental agency; (v) payments to reimburse actual  
4 expenses; (vi) payments made by employers or labor unions  
5 for programs covering hospitalization, sickness,  
6 disability or death, supplemental unemployment benefits,  
7 strike benefits, social security and retirement; and (vii)  
8 compensation received by United States servicemen serving  
9 in a combat zone.

10 "Innovative educational program" means an advanced  
11 academic or similar program that is not part of the regular  
12 academic program of a public school, but that enhances the  
13 curriculum or academic program of the public school or  
14 provides pre-kindergarten programs to public school  
15 students.

16 "Maximum annual household income" means (i) 200% of the  
17 federal poverty level, as that level is calculated for a  
18 family of 4, or (ii) with respect to a household with an  
19 eligible student with a disability, the maximum household  
20 income calculated under item (i) multiplied by (A) 1.5 or  
21 (B) 3.0 if the household has at least one eligible student  
22 with a disability who is enrolled in a special education  
23 school.

24 "Pre-kindergarten program" means a program of  
25 instruction for 3-year-old or 4-year-old students that  
26 utilizes a curriculum aligned with the curriculum of the

1 school with which it is affiliated and which provides one  
2 of the following: (i) a minimum of 2 hours of instructional  
3 and developmental activities per day at least 60 days per  
4 school year or (ii) a minimum of 2 hours of instructional  
5 and developmental activities per day at least 20 days over  
6 the summer recess.

7 "Pre-kindergarten scholarship organization" means a  
8 nonprofit entity which: (i) either is exempt from taxation  
9 under Section 501(c)(3) of the Internal Revenue Code of  
10 1986 or is operated as a separate segregated fund by a  
11 qualified scholarship organization and (ii) contributes at  
12 least 80% of its annual cash receipts to a pre-kindergarten  
13 scholarship program by expending those funds for  
14 distribution during the then current fiscal year of the  
15 organization or during the next succeeding fiscal year of  
16 the organization.

17 "Pre-kindergarten scholarship program" means a program  
18 to provide tuition to eligible pre-kindergarten students  
19 to attend a pre-kindergarten program operated by or in  
20 conjunction with a school located in this State and that  
21 includes an application and review process for the purpose  
22 of making awards to eligible pre-kindergarten students and  
23 awards scholarships to eligible pre-kindergarten students  
24 without limiting availability to only students of one  
25 school.

26 "Qualified scholarship organization" means a

1 non-profit entity that (i) is exempt from taxation under  
2 Section 501(c)(3) of the Internal Revenue Code of 1986 and  
3 (ii) contributes at least 80% of its annual receipts to a  
4 scholarship program.

5 "Scholarship program" means a program to provide  
6 tuition to eligible students to attend a public or  
7 non-public pre-kindergarten, kindergarten, elementary, or  
8 secondary school in the State. A scholarship program must  
9 include an application and review process for the purpose  
10 of making awards to eligible students. The award of  
11 scholarships to eligible students shall be made without  
12 limiting availability to only students of one school.

13 "School" means a public or nonpublic pre-kindergarten,  
14 kindergarten, elementary school, or secondary school and  
15 attendance at which satisfies requirements of Section 26-1  
16 of the School Code and which meets the applicable  
17 requirements of Title VI of the Civil Rights Act of 1964.

18 "School age" means children from the earliest  
19 admission age to a school's pre-kindergarten or  
20 kindergarten program or, when no pre-kindergarten or  
21 kindergarten program is provided, the school's earliest  
22 admission age for beginners, until the end of the school  
23 year in which the student attains 21 years of age or  
24 graduation from high school, whichever occurs first.

25 "Special education school" means a school or program  
26 within a school that is designated specifically and

1 exclusively for students with disabilities as defined by  
2 Section 14-1.02 of the School Code and meets at least one  
3 of the following criteria: (i) the program is a non-public  
4 program approved under Section 14-7.02 of the School Code;  
5 (ii) is accredited by the State Board of Education; (iii)  
6 is a school for the blind or deaf receiving State funding;  
7 (iv) is operated by or under the authority of a bona fide  
8 religious institution or by the State of Illinois or any  
9 political subdivision thereof; or (v) is a facility created  
10 under a special education joint agreement under Section  
11 10-22.31 of the School Code.

12 (d) In order to qualify under this Section, a scholarship  
13 organization, a pre-kindergarten scholarship organization, or  
14 an educational improvement organization must submit  
15 information to the Department that enables the Department to  
16 confirm that the organization is exempt from taxation under  
17 section 501(c)(3) of the Internal Revenue Code of 1986. A  
18 scholarship organization or pre-kindergarten scholarship  
19 organization must certify to the Department that the  
20 organization is eligible to participate in the program  
21 established under this Section and must agree to annually  
22 report the following information to the Department by December  
23 1, 2011 and September 1 of each year thereafter:

24 (1) the number of scholarships awarded during the  
25 immediately preceding school year to eligible  
26 pre-kindergarten students;



1           (2) the total and average amounts of the scholarships  
2           awarded during the immediately preceding school year to  
3           eligible pre-kindergarten students;

4           (3) the number of scholarships awarded during the  
5           immediately preceding school year to eligible students in  
6           grades kindergarten through 8;

7           (4) the total and average amounts of the scholarships  
8           awarded during the immediately preceding school year to  
9           eligible students in grades kindergarten through 8;

10           (5) the number of scholarships awarded during the  
11           immediately preceding school year to eligible students in  
12           grades 9 through 12;

13           (6) the total and average amounts of the scholarships  
14           awarded during the immediately preceding school year to  
15           eligible students in grades 9 through 12; and

16           (7) if the scholarship organization or  
17           pre-kindergarten scholarship organization collects  
18           information on a county-by-county basis, the total number  
19           and the total amount of scholarships awarded during the  
20           immediately preceding school year to residents of each  
21           county in which the scholarship organization or  
22           pre-kindergarten scholarship organization awarded  
23           scholarships.

24           The information required under items (1) through (7) of  
25           this subsection shall be submitted on a form provided by the  
26           Department. No later than September 1, 2011 and May 1 of each

1 year thereafter, the Department shall annually distribute such  
2 sample forms, together with the forms on which the reports are  
3 required to be made, to each listed scholarship organization  
4 and pre-kindergarten scholarship organization. The Department  
5 may not require any other information to be provided by  
6 scholarship organizations or pre-kindergarten scholarship  
7 organizations, except as expressly authorized in this Section.

8 (e) An application submitted by an educational improvement  
9 organization must describe its proposed innovative educational  
10 program or programs in the form and manner prescribed by the  
11 Department. The Department shall consult with the State Board  
12 of Education as necessary. The Department shall review and  
13 approve or disapprove the application. In order to be eligible  
14 to participate in the program established under this Section,  
15 an educational improvement organization must agree to annually  
16 report the following information to the department by December  
17 1, 2011 and September 1 of each year thereafter:

18 (1) the name of the innovative educational program or  
19 programs and the total amount of the grant or grants made  
20 to those programs during the immediately preceding school  
21 year;

22 (2) a description of how each grant was utilized during  
23 the immediately preceding school year and a description of  
24 any demonstrated or expected innovative educational  
25 improvements;

26 (3) the names of the public schools and school

1 districts where innovative educational programs that  
2 received grants during the immediately preceding school  
3 year were implemented; and

4 (4) if the educational improvement organization  
5 collects information on a county-by-county basis, the  
6 total number and the total amount of grants made during the  
7 immediately preceding school year for programs at public  
8 schools in each county in which the educational improvement  
9 organization made grants.

10 The information required under items (1) through (4) of  
11 this subsection shall be submitted on a form provided by the  
12 Department. No later than September 1, 2011 and May 1 of each  
13 year thereafter, the Department shall annually distribute such  
14 sample forms, together with the forms on which the reports are  
15 required to be made, to each listed educational improvement  
16 organization. The Department may not require any other  
17 information to be provided by educational improvement  
18 organizations, except as expressly authorized in this Section.

19 (f) The Department shall notify the scholarship  
20 organization, pre-kindergarten scholarship organization, or  
21 educational improvement organization that the organization  
22 meets the requirements of this Section for that fiscal year no  
23 later than 60 days after the organization has submitted the  
24 information required under this Section. The Department shall  
25 annually publish in the Illinois Register a list of each  
26 scholarship organization, pre-kindergarten scholarship

1 organization, or educational improvement organization  
2 qualified. The list shall also be posted and updated as  
3 necessary on the publicly accessible internet website of the  
4 Department.

5 (g) A taxpayer shall apply to the Department for a tax  
6 credit under this Section. The taxpayer shall receive a tax  
7 credit under this Section if the scholarship organization,  
8 pre-kindergarten scholarship organization, or educational  
9 improvement organization that receives the contribution  
10 appears on the list established under subsection (f). Tax  
11 credits under this Section shall be awarded by the Department  
12 on a first-come, first-served basis within the limitation  
13 established under subsection (h) of this Section. A  
14 contribution by a business to a scholarship organization,  
15 pre-kindergarten scholarship organization or educational  
16 improvement organization shall be made no later than 60 days  
17 following the approval of the application.

18 (h) The total aggregate amount of all tax credits approved  
19 under this Section shall not exceed \$10,000,000 in a fiscal  
20 year. The total aggregate amount of all tax credits approved  
21 under this Section for contributions from business firms to  
22 scholarship organizations shall not exceed \$7,000,000. The  
23 total aggregate amount of all tax credits approved under this  
24 Section for contributions from business firms to educational  
25 improvement organizations shall not exceed \$2,000,000. The  
26 total aggregate amount of all tax credits approved under this

1 Section for contributions from business firms to  
2 pre-kindergarten scholarship programs shall not exceed  
3 \$1,000,000 in a fiscal year. No tax credit shall be approved  
4 under this Section for activities that are a part of the  
5 taxpayer's normal course of business.

6 (i) For partners, shareholders of Subchapter S  
7 corporations, and owners of limited liability companies, if the  
8 liability company is treated as a partnership for purposes of  
9 federal and State income taxation, there is allowed a credit  
10 under this Section to be determined in accordance with the  
11 determination of income and distributive share of income under  
12 Sections 702 and 704 and Subchapter S of the Internal Revenue  
13 Code.

14 (j) A credit awarded under this Section may not reduce the  
15 taxpayer's liability to less than zero.

16 (k) The Department shall provide a list of all scholarship  
17 organizations, pre-kindergarten scholarship organizations and  
18 educational improvement organizations receiving contributions  
19 from business firms granted a tax credit under this article to  
20 the General Assembly by June 30th of each year. The Department  
21 in consultation with the State Board of Education shall develop  
22 guidelines to determine the eligibility of an innovative  
23 educational program.

24 (f) This Section is exempt from the provisions of Section  
25 250.

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.