

1 AMENDMENT TO SENATE BILL 2212

2 AMENDMENT NO. _____. Amend Senate Bill 2212, on page 1,
3 line 6, after "1501", by inserting, "and by adding Section
4 213"; and

5 on page 53, immediately below line 19, by inserting the
6 following:

7 "(35 ILCS 5/213 new)

8 Sec. 213. Educational improvement tax credit.

9 (a) The General Assembly finds and declares that the
10 Constitution of the State of Illinois provides that a
11 "fundamental goal of the People of the State is the
12 educational development of all persons to the limits of their
13 capacities," and that the educational development of every
14 school student serves the public purposes of the State. In
15 order to enable Illinois students to develop "to the limits
16 of their capacities," all students must have access to
17 expanded educational opportunities. To implement this policy,
18 the General Assembly enacts this amendatory Act of the 92nd
19 General Assembly, the provisions of which are in the public
20 interest, for the public benefit, and serve a secular
21 purpose.

22 (b) An educational improvement tax credit program is

1 hereby established to enhance the educational opportunities
2 available to all students in this State.

3 (1) For tax years beginning after December 31,
4 2002, a taxpayer shall be allowed a credit against the
5 tax imposed by subsections (a) and (b) of Section 201 of
6 this Act, or any other Illinois tax that offsets taxes
7 due under subsections (a) and (b) of Section 201 of this
8 Act, for contributions to a qualified student assistance
9 organization in the taxable year in which the
10 contribution is made. The credit shall not exceed 75% of
11 each dollar contributed during the taxable year by the
12 taxpayer. For partners, shareholders of Subchapter S
13 corporations, and owners of limited liability companies,
14 if the liability company is treated as a partnership for
15 purposes of federal and State income taxation, there
16 shall be allowed a credit under this Section to be
17 determined in accordance with the determination of income
18 and distributive share of income under Sections 702 and
19 704 and Subchapter S of the Internal Revenue Code. In no
20 case shall the credit exceed \$100,000 annually per
21 taxpayer.

22 (2) In no event may any credit be claimed for
23 amounts deducted pursuant to Section 170 of the Internal
24 Revenue Code in arriving at taxable income.

25 (c) For purposes of this Section:

26 "Contribution" means a donation of cash.

27 "Qualified student assistance organization" means a
28 nonprofit entity that:

29 (1) Is exempt from federal taxation under Section
30 501(c)(3) of the Internal Revenue Code of 1986 and any
31 similar provision of a later compilation; and

32 (2) Contributes at least 80% of its annual
33 receipts, as required by the by-laws of the organization
34 and as documented by the nonprofit organization's annual

1 AG990-IL Charitable Organization Annual Report or, if the
2 organization is exempt from filing such report, by a
3 report containing identical information to that contained
4 in the AG990-IL and certified by the President and
5 Treasurer or, alternatively, 2 trustees of the
6 organization, either to scholarships for qualifying
7 students at a school or to enhance educational options
8 for qualifying students by providing qualifying students
9 access to secular, neutral, non-ideological programs or
10 activities outside the curriculum or academic program of
11 a school, as long as the program or activities meet the
12 requirements set forth in rules promulgated by the
13 Illinois State Board of Education. An entity that has
14 been in existence less than 2 years prior to the filing
15 of an application under subsection (f) of this Section
16 shall meet the requirements of this item (2) if its
17 charter, by-laws, or other governing instrument requires
18 that it contribute 80% of its annual receipts for the
19 purposes described in this item (2).

20 "Qualifying student" means an individuals who:

- 21 (1) Is a resident of the State of Illinois;
- 22 (2) Is under the age of 21 during the calendar year
23 for which a credit is sought;
- 24 (3) During the calendar year for which a credit is
25 sought is a full-time pupil enrolled in a kindergarten
26 through twelfth grade education program at any school, as
27 defined in this subsection (c); and
- 28 (4) Is a child of a parent or parents, or is under
29 legal guardianship of an individual or individuals, with
30 a base income of not more than \$50,000 and resides in a
31 household with such parents or guardians, provided that,
32 if there is more than one dependent member of the
33 household under the age of 21 counting the qualifying
34 student, then this annual income requirement shall be

1 increased by \$10,000 for each dependent member of the
2 household under the age of 21 in excess of the one
3 qualifying student. Qualified student assistance
4 organizations are responsible for determining whether a
5 student is a qualifying student, pursuant to rules
6 adopted by the Illinois State Board of Education.

7 "School" means any public or nonpublic elementary or
8 secondary school in Illinois that is in compliance with Title
9 VI of the Civil Rights Act of 1964 and attendance at which
10 satisfies the requirements of Section 26-1 of the School
11 Code.

12 (d) No tax credit established by this Section is allowed
13 if the taxpayer designates a contribution to a student
14 assistance organization for the direct benefit of any
15 particular qualifying student.

16 (d-5) Qualified student assistance organizations shall
17 provide scholarships or funding for enhanced educational
18 options without limiting availability to only students of one
19 school.

20 (e) A tax credit granted under this Section that is not
21 used in the taxable year in which the contribution was made
22 may not be carried forward or carried back and is not
23 refundable or transferable.

24 (f) A taxpayer must apply annually to the Department for
25 a tax credit under this Section prior to making a
26 contribution to a student assistance organization.
27 Applications must be submitted to the Department no later
28 than March 31 each year for contributions to be made for tax
29 years ending on or after July 1 of that same year. The
30 application for the tax credit shall state the amount of the
31 intended contribution and the amount of intended credit and
32 such other information as the Department may require by rule.
33 On May 1 of each year, the Department shall, on a random
34 basis, select applications until the total aggregate amount

1 of all requested tax credits equals the maximum provided for
2 in subsection (g) in a State fiscal year. The Department
3 shall adopt rules pursuant to the requirements of the
4 Illinois Administrative Procedure Act that set forth the
5 manner in which the tax credit lottery is to be conducted.

6 (g) The total aggregate amount of all approved tax
7 credits shall not exceed \$10,000,000 in State fiscal year
8 2004, \$20,000,000 in State fiscal year 2005, \$30,000,000 in
9 State fiscal year 2006, \$40,000,000 in State fiscal year
10 2007, or \$50,000,000 in State fiscal year 2008 or any State
11 fiscal year thereafter.

12 (h) The Department shall adopt rules consistent with
13 this Section for the administration of the educational
14 improvement tax credit program.

15 (i) A scholarship received by a qualifying student shall
16 not be considered to be taxable income.

17 (j) This Section is exempt from the provisions of
18 Section 250."