

1 A bill to be entitled

2 An act relating to scholarship programs; amending s.
3 220.187, F.S., relating to the Corporate Income Tax Credit
4 Scholarship Program; providing legislative findings;
5 revising program purposes; providing for eligibility of
6 siblings of certain students; revising provisions relating
7 to authorized uses of scholarship funds and expenditure of
8 contributions received during the fiscal year; revising
9 scholarship amounts and payments; providing for
10 preservation of credits under certain circumstances;
11 amending s. 1002.39, F.S., relating to the John M. McKay
12 Scholarships for Students with Disabilities Program;
13 revising scholarship ineligibility and private school
14 eligibility provisions to exempt certain students from
15 regular class attendance requirements under certain
16 circumstances; providing an effective date.

17
18 WHEREAS, the Corporate Income Tax Credit Scholarship Program
19 has produced substantial cost savings by relieving the state of
20 the expense of educating program participants in public schools
21 at a cost in foregone tax revenue that is substantially less than
22 the per-student cost of educating children in public schools, and

23 WHEREAS, the Corporate Income Tax Credit Scholarship Program
24 and the John M. McKay Scholarships for Students with Disabilities
25 Program have relieved public school class size by creating new
26 classroom spaces in the public schools at no cost to the
27 taxpayers, and

28 WHEREAS, empirical evidence is clear, overwhelming, and
29 uncontroverted that expanding educational options produces
30 improved educational outcomes, both for participating children

31 and for public schools that are exposed to healthy competition as
 32 a result, and no study has ever documented any harm to public
 33 schools as a result of expanding educational options through
 34 programs like the Corporate Income Tax Credit Scholarship Program
 35 and the John M. McKay Scholarships for Students with Disabilities
 36 Program, NOW, THEREFORE,

37

38 Be It Enacted by the Legislature of the State of Florida:

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40 Section 1. Subsections (1) and (3), paragraphs (d) and (i)
 41 of subsection (6), and paragraphs (a) and (c) of subsection (11)
 42 of section 220.187, Florida Statutes, are amended, and subsection
 43 (14) is added to that section, to read:

44 220.187 Credits for contributions to nonprofit scholarship-
 45 funding organizations.--

46 (1) FINDINGS AND PURPOSE.--

47 (a) The Legislature finds that:

48 1. It has the inherent power to determine subjects of
 49 taxation for general or particular public purposes.

50 2. Expanding educational opportunities and improving the
 51 quality of educational services within the state are valid public
 52 purposes that the Legislature may promote using its sovereign
 53 power to determine subjects of taxation and exemptions from
 54 taxation.

55 3. Ensuring that all parents, regardless of means, may
 56 exercise and enjoy their basic right to educate their children as
 57 they see fit is a valid public purpose that the Legislature may
 58 promote using its sovereign power to determine subjects of
 59 taxation and exemptions from taxation.

60 4. The existence of programs that provide expanded
 61 educational opportunities in this state has not been shown to
 62 reduce funding to or otherwise harm public schools within the
 63 state, and, to the contrary, per-student funding in public
 64 schools has risen each year since the first inception of those
 65 programs in 1999.

66 5. Expanded educational opportunities and the healthy
 67 competition they promote are critical to improving the quality of
 68 education in the state and to ensuring that all children receive
 69 the high-quality education to which they are entitled.

70 (b) The purpose of this section is to:

71 1.(a) Enable taxpayers to make ~~Encourage~~ private, voluntary
 72 contributions to nonprofit scholarship-funding organizations in
 73 order to promote the general welfare.

74 2. Provide taxpayers who wish to help parents with limited
 75 resources exercise their basic right to educate their children as
 76 they see fit with a means to do so.

77 3.(b) Promote the general welfare by expanding ~~Expand~~
 78 educational opportunities for children of families that have
 79 limited financial resources.

80 4.(e) Enable children in this state to achieve a greater
 81 level of excellence in their education.

82 5. Improve the quality of education in this state, both by
 83 expanding educational opportunities for children and by creating
 84 incentives for schools to achieve excellence.

85 (3) PROGRAM; SCHOLARSHIP ELIGIBILITY.--The Corporate Income
 86 Tax Credit Scholarship Program is established. A student is
 87 eligible for a corporate income tax credit scholarship if the
 88 student qualifies for free or reduced-price school lunches under
 89 the National School Lunch Act and:

90 (a) Was counted as a full-time equivalent student during
 91 the previous state fiscal year for purposes of state per-student
 92 funding;

93 (b) Received a scholarship from an eligible nonprofit
 94 scholarship-funding organization or from the State of Florida
 95 during the previous school year; or

96 (c) Is eligible to enter kindergarten or first grade.

97
 98 Contingent upon available funds, a student may continue in the
 99 scholarship program as long as the student's family income level
 100 does not exceed 200 percent of the federal poverty level. A
 101 sibling of a student who is continuing in the program and resides
 102 in the same household as the student shall also be eligible as a
 103 first-time corporate income tax credit scholarship recipient as
 104 long as the student's and sibling's family income level does not
 105 exceed 200 percent of the federal poverty level.

106 (6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING
 107 ORGANIZATIONS.--An eligible nonprofit scholarship-funding
 108 organization:

109 (d) Must provide scholarships, from eligible contributions,
 110 to eligible students for:

111 1. Tuition, ~~or~~ textbook expenses, or registration fees for,
 112 or transportation to, an eligible private school. The amount of
 113 the scholarship shall be the maximum allowed by law or the amount
 114 of the private school's textbook expenses and published tuition
 115 and registration fees, whichever is less; ~~At least 75 percent of~~
 116 the scholarship funding must be used to pay tuition expenses; or

117 2. Transportation expenses to a Florida public school that
 118 is located outside the district in which the student resides or
 119 to a lab school as defined in s. 1002.32.

120 (i) Must expend for annual or partial-year scholarships an
121 amount equal to or greater than 75 percent of the eligible
122 contributions received during the fiscal year such contributions
123 are collected. No more than 25 percent of such eligible
124 contributions may be carried forward to the succeeding fiscal
125 year. Any amounts carried forward shall be expended for ~~obligate,~~
126 ~~in the same fiscal year in which the contribution was received,~~
127 ~~100 percent of the eligible contribution to provide annual or~~
128 ~~partial-year scholarships; however, up to 25 percent of the total~~
129 ~~contribution may be carried forward for expenditure in the~~
130 following state fiscal year. A scholarship-funding organization
131 must, before granting a scholarship for an academic year,
132 document each scholarship student's eligibility for that academic
133 year. A scholarship-funding organization may not grant multiyear
134 scholarships in one approval process. No portion of eligible
135 contributions may be used for administrative expenses. All
136 interest accrued from contributions must be used for
137 scholarships.

138
139 Any and all information and documentation provided to the
140 Department of Education and the Auditor General relating to the
141 identity of a taxpayer that provides an eligible contribution
142 under this section shall remain confidential at all times in
143 accordance with s. 213.053.

144 (11) SCHOLARSHIP AMOUNT AND PAYMENT.--

145 (a) The amount of a scholarship provided to any student for
146 any single school year by an eligible nonprofit scholarship-
147 funding organization from eligible contributions shall not exceed
148 the following annual limits:

149 1. Three thousand seven hundred fifty dollars for a
150 scholarship awarded to a student enrolled in kindergarten through
151 grade 5 in an eligible private school.

152 2. Four thousand dollars for a scholarship awarded to a
153 student enrolled in grades 6 through 8 in an eligible private
154 school.

155 3. Four thousand two hundred fifty dollars for a
156 scholarship awarded to a student enrolled in grades 9 through 12
157 in an eligible private school.

158 ~~4.2.~~ Five hundred dollars for a scholarship awarded to a
159 student enrolled in a Florida public school that is located
160 outside the district in which the student resides or in a lab
161 school as defined in s. 1002.32.

162 (c) An eligible nonprofit scholarship-funding organization
163 shall obtain verification from the private school of a student's
164 continued attendance at the school for ~~prior to~~ each period
165 covered by a scholarship payment.

166 (14) PRESERVATION OF CREDIT.--If any provision or portion
167 of subsection (5) or the application thereof to any person or
168 circumstance is held unconstitutional by any court, or is
169 otherwise invalid, the unconstitutionality or invalidity shall
170 not affect any credit earned under subsection (5) by any taxpayer
171 with respect to any contribution paid to an eligible nonprofit
172 scholarship-funding organization before the date of a
173 determination of unconstitutionality or invalidity. Such credit
174 shall be allowed at such time and in such a manner as if a
175 determination of unconstitutionality or invalidity had not been
176 made, provided that nothing in this subsection by itself or in
177 combination with any other provision of law shall result in the
178 allowance of any credit to any taxpayer in excess of one dollar

179 of credit for each dollar paid to an eligible nonprofit
180 scholarship-funding organization.

181 Section 2. Paragraph (h) of subsection (3) and paragraph
182 (d) of subsection (8) of section 1002.39, Florida Statutes, are
183 amended to read:

184 1002.39 The John M. McKay Scholarships for Students with
185 Disabilities Program.--There is established a program that is
186 separate and distinct from the Opportunity Scholarship Program
187 and is named the John M. McKay Scholarships for Students with
188 Disabilities Program.

189 (3) JOHN M. MCKAY SCHOLARSHIP PROHIBITIONS.--A student is
190 not eligible for a John M. McKay Scholarship while he or she is:

191 (h) Not having regular and direct contact with his or her
192 private school teachers at the school's physical location unless
193 the following criteria are met:

194 1. The student's primary care physician, a medical doctor
195 treating the student's disability, or a clinical psychologist
196 treating the student's disability provides a notarized, sworn
197 statement to the department certifying that the student's welfare
198 or the welfare of other students in the classroom will be
199 jeopardized if the student is required to regularly attend class
200 at the school's physical location.

201 2. The student's primary care physician, a medical doctor
202 treating the student's disability, or a clinical psychologist
203 treating the student's disability annually reviews the student's
204 case and recertifies to the department by May 1 that the
205 student's welfare or the welfare of the other students in the
206 classroom will be jeopardized if the student is required to
207 regularly attend class at the school's physical location.

208

209 A student who received a scholarship in the 2005-2006 or 2006-
210 2007 school year and who demonstrates that he or she met the
211 criteria of subparagraph 1. shall be eligible to receive a
212 scholarship beginning in the 2007-2008 school year.

213 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.--To be
214 eligible to participate in the John M. McKay Scholarships for
215 Students with Disabilities Program, a private school may be
216 sectarian or nonsectarian and must:

217 (d) Maintain in this state a physical location where a
218 scholarship student regularly attends classes, except as provided
219 in subparagraphs (3)(h)1. and 2.

220

221 The inability of a private school to meet the requirements of
222 this subsection shall constitute a basis for the ineligibility of
223 the private school to participate in the scholarship program as
224 determined by the department.

225 Section 3. This act shall take effect July 1, 2007.