

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 465 Corporate Income Tax Credit Scholarship Program
SPONSOR(S): Legg
TIED BILLS: **IDEN./SIM. BILLS:** SB 1212

DIRECTOR	REFERENCE	ACTION	ANALYST	STAFF
	1) <u>Committee on Education Innovation & Career Preparation</u>	<u>7 Y, 1 N</u>	<u>White</u>	<u>White</u>
	2) <u>Schools & Learning Council</u>	<u></u>	<u></u>	<u></u>
	3) <u>Policy & Budget Council</u>	<u></u>	<u></u>	<u></u>
	4) <u></u>	<u></u>	<u></u>	<u></u>
	5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

Currently, a student is eligible for a Corporate Income Tax Credit scholarship to attend a private school or public school of choice if he or she qualifies for free or reduced-price school lunches under the National School Lunch Act, and:

- o Was counted as a full-time student during the previous state fiscal year for purposes of state per-student funding;
- o Received a scholarship from an eligible scholarship funding organization or the State of Florida during the previous school year; or
- o Is eligible to enter kindergarten or first grade.

House Bill 465 expands eligibility for scholarships to students who have been placed in foster care. This provision will enable a foster child, who has lived in multiple environments during the previous fiscal year, to receive a scholarship, even though he or she was not counted as a full-time student during that year. Further, the bill requires foster care students to qualify for free or reduced-price school lunches and limits the number of eligible foster care students to the first 500 students qualifying each year.

The bill may increase state revenues and may result in a decrease in statewide school district full-time student revenue. Please see the FISCAL ANALYSIS section of this analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Empower families – The bill enhances school choice options by expanding eligibility for Corporate Income Tax Credit Scholarships to students in foster care.

Safeguard individual liberty – The bill enhances school choice options by expanding eligibility for Corporate Income Tax Credit Scholarships to students in foster care.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Corporate Income Tax Credit Scholarship Program: In 2001, the Legislature passed the Corporate Income Tax Credit Scholarship Program¹ (CITC program) with an implementation date of January 1, 2002. The program's purpose is to expand educational opportunities for families that have limited financial resources and enable Florida's children to achieve a greater level of excellence in their education. The CITC program provides an income tax credit for corporations that make eligible contributions to nonprofit scholarship-funding organizations (SFOs). The annual aggregate tax credit limit statewide is \$88 million. SFOs award scholarships to eligible students.

A student is eligible for a scholarship if he or she qualifies for free or reduced-price school lunches under the National School Lunch Act,² and:

- Was counted as a full-time student during the previous state fiscal year for purposes of state per-student funding;
- Received a scholarship from an eligible SFO or the State of Florida during the previous school year; or
- Is eligible to enter kindergarten or first grade.

Contingent upon available funds, a scholarship student will not lose his or her scholarship due to a change in the economic status of the student's parents unless the parents' economic status exceeds 200% of the Federal poverty guidelines.

The amount of the scholarship provided to any child for any single school year by all eligible SFOs shall not exceed the following limits:

- \$3,750 for a scholarship awarded to a student for enrollment in an eligible private school.
- \$500 for a scholarship awarded to a student for enrollment in a Florida public school that is located outside the district in which the student resides.

¹ Section 220.187, F.S.

² Eligibility for free or reduced-price school lunches under the National School Lunch Act is dependent upon the household size and income of a student's family. If the family's income is: (a) equal to or less than 130% of the federal poverty guidelines for the relevant household size, the student is entitled to free lunches; or (b) more than 130%, but equal to or less than 185%, of the federal poverty guidelines for the relevant household size, the student is entitled to reduced-price lunches. See Federal Register, Wednesday, March 15, 2006, Child Nutrition Programs—Income Eligibility Guidelines, U.S.

Department of Agriculture, 42 USC 1758(b)(1).

According to the November 2006 quarterly report by the Florida Department of Education (DOE), there are 879 participating schools and 14,502 scholarship recipients.³

Children in Foster Care: Chapter 39, F.S., governs the state's child welfare program, which is administered by the Department of Children and Families (DCF) and which provides services to care for and protect abused, neglected, and abandoned children. The program serves children and families in their homes and children who have been removed from their families and placed in foster care. Under s. 39.01(30), F.S., "foster care" is defined as the care provided to a child in a foster family or boarding home, group home, agency boarding home, child care institution, or any combination thereof. The following sets forth the number of children in Florida who were placed in foster care during the past two fiscal years:

- 21,150 children in Fiscal Year 2004 through 2005.
- 21,291 children in Fiscal Year 2005 through 2006.

Statute currently provides that it is a goal for foster care children to receive a free and appropriate education, to have minimal disruption of their education, and to be retained in their home school, if appropriate.⁴ The DCF, or a community-based care lead agency acting on its behalf, is required to enroll foster care and other dependent children in school.⁵ Chapter 39, F.S., does not specify the types of schools in which a foster care or other dependent child may be placed; however, the Florida School Code provides that it is the right of a student's guardian or a person exercising supervisory authority over a student in place of a student's parent,⁶ e.g., the DCF or a foster care provider, to place a student in private tutoring, a public or private school, or home education program.⁷

Foster care children may be eligible to receive free or reduced-price school lunches under the National School Lunch Act depending upon their personal income. The income eligibility requirements provide that a foster child, who is living with a household but who remains the legal responsibility of the welfare agency or court, is considered a household of one. The foster child's personal income that must be considered consists of: (a) funds provided by the welfare agency for the personal use of the child, such as for clothing, school fees, and allowances; and (b) other funds received by the child, such as employment income and money provided by the child's family for personal use.⁸

Effect of Proposed Changes

House Bill 465 amends the CITC program to expand eligibility for scholarships to students who have been placed in foster care. Under the bill, foster care students must qualify, like other eligible students, for free or reduced-price school lunches under the National School Lunch Act and the number of eligible foster care students is limited to the first 500 students qualifying each year. According to the DOE bill analysis, the bill, "... appears to account for the fact that students in foster care may live in several different environments during the course of a school year and could have difficulty meeting the public school attendance requirement ..." applicable to other types of eligible students.⁹

³ http://www.floridaschoolchoice.org/Information/CTC/quarterly_reports.asp

⁴ Section 39.4085(17), F.S.

⁵ Section 39.0016, F.S.

⁶ Section 1000.21(5), F.S., defines the term "parent" for purposes of the Florida K-20 Education Code as, "... either or both parents of a student, any guardian of a student, any person in a parental relationship to a student, or any person exercising supervisory authority over a student in place of the parent."

⁷ Section 1002.20(6), F.S.

⁸ *Eligibility Guidance for School Meals Manual*, U.S. Department of Agriculture, August 2001, p. 29, available at: http://www.fns.usda.gov/cnd/Guidance/eligibility_guidance.pdf.

⁹ Florida Department of Education Bill Analysis for House Bill 465 at p. 1.

C. SECTION DIRECTORY:

Section 1.: Amends s. 220.187(3), F.S.; expands the types of students eligible for a CITC scholarship to include children in foster care; limits the number of eligible foster care students to the first 500 qualifying each year.

Section 2.: Provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

According to *The Florida Corporate Income Tax Credit Scholarship Program: Updated Fiscal Analysis* by the Collins Center for Public Policy, the state has accrued nearly \$140 million in public school revenues since 2002 by saving the difference between the value of the \$3500 (now \$3,750) scholarship and the value of K-12 per pupil state and local revenue.¹⁰ The report calculates net statewide accrued revenues resulting from the CITC program with the following formula: K-12 per student revenue – scholarship value = accrued revenue x the number of participating students.

Given that this bill expands student eligibility by potentially 500 more CITC scholarships, state revenue may increase by up to \$1.55 million based on the following calculation: \$6,841(K-12 per student revenue) - \$3,750 (scholarship value) = \$3,091 X 500 students.

2. Expenditures:

The bill does not appear to have a fiscal impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill's expansion of student eligibility for CITC scholarships to children in foster care could result in decreasing public school enrollment in Florida by up to 500 students. According to the Third Calculation for the Florida Education Finance Program for 2006-2007, the statewide per student funding amount is \$6,841. Thus, revenues to school districts statewide could decrease by up to \$3.42 million.

2. Expenditures:

The bill's expansion of student eligibility for CITC scholarships to children in foster care could result in decreasing public school enrollment in Florida by up to 500 students. Accordingly, school districts should incur a decrease in expenditures due to the enrollment decrease.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Private schools that choose to participate in the CITC program may see an increase in enrollment due to the bill's expansion of student eligibility to children in foster care.

¹⁰ The Collins Center for Public Policy, Inc. *The Florida Corporate Income Tax Credit Scholarship Program: Updated Fiscal Analysis*, Feb. 2007.

D. FISCAL COMMENTS:

According to *The Florida Corporate Income Tax Credit Scholarship Program: Updated Fiscal Analysis* released by the Collins Center for Public Policy in February 2007:

The Corporate Income Tax Credit Scholarship Program did not have a negative impact upon K-12 General Fund Revenues for public education. In fact, K-12 General Fund revenues increased over \$2 billion during a three-year period while the state accrued \$139.8 million in actual revenues by saving the difference between the value of the \$3,500 scholarship and the value of K-12 per pupil revenue. These savings would allow the state to increase the per pupil spending by an average of \$17.92 per year for the 2.6 million children in the public schools during this period.¹¹

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

The bill does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill does not appear to create, modify, or eliminate rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Note: The following comments relate to the bill as filed and have been addressed in the strike everything amendment adopted on March 6, 2007, for this bill.

The bill refers to students who have been placed in "foster care," but does not cross-reference the definition of "foster care" set forth in s. 39.01, F.S. To avoid ambiguity, it may be desirable to amend the bill to contain this cross-reference.

Currently s. 220.187(3), F.S., provides that a CITC scholarship student may continue in the scholarship program as long as his or her family income level does not exceed 200 percent of the federal poverty level. The bill does not define the term "family." Accordingly, it may be desirable to amend the bill to clarify whether only a foster child's personal income will be considered, as is the case with eligibility for free or reduced-price school lunches, or if the foster family's income will be considered.

The bill provides that eligibility for foster children is limited to the first 500 students qualifying each year. The bill does not specify whether this limit applies statewide or to each of the three regional SFOs currently in existence. It may be desirable to clarify whether application of the 500 limitation is per region or statewide.

¹¹ Id. at 2.

D. STATEMENT OF THE SPONSOR

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 6, 2007, the Committee on Education Innovation and Career Preparation adopted a strike everything amendment and reported the bill favorably with a recommended council substitute.

The strike everything amendment:

- Adds “whereas” clauses that state generally that the CITC program has: produced substantial cost savings to the state; relieved public school class size; and improved the educational outcomes of both participating students and public schools.
- Adds legislative findings. These include providing that the Legislature has the inherent power to determine subjects of taxation for general or particular public purposes and thus, it may promote the following valid public purposes: expanding educational opportunities; improving the quality of educational services within the state; and ensuring that parents may exercise and enjoy their basic right to educate children as they see fit.
- Adds a definition for the term “parent.”
- Adds CITC scholarship eligibility for youth who were counted as full-time equivalent students at any time during the previous year in a Department of Juvenile Justice educational program.
- Adds a cross-reference to s. 39.01, F.S., for purposes of defining the term “foster care.”
- Removes the bill’s limitation of 500 for the number of students in foster care who may be eligible for a CITC scholarship.
- Provides that family income for purposes of determining if a foster care scholarship recipient may continue in the CITC scholarship program shall consist of the income that may be considered when determining whether the foster child is eligible for free or reduced-price school lunches under the National School Lunch Act.