

HB 7145

2007

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

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

29 WHEREAS, empirical evidence is clear, overwhelming, and
 30 uncontroverted that expanding educational options produces
 31 improved educational outcomes, both for participating children
 32 and for public schools that are exposed to healthy competition
 33 as a result, and no study has ever documented any harm to public
 34 schools as a result of expanding educational options through
 35 programs like the Corporate Income Tax Credit Scholarship
 36 Program and the John M. McKay Scholarships for Students with
 37 Disabilities Program, NOW, THEREFORE,

38

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

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

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

47 (1) FINDINGS AND PURPOSE.--

48 (a) The Legislature finds that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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138 All interest accrued from contributions must be used for
139 scholarships.

140

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

146 (11) SCHOLARSHIP AMOUNT AND PAYMENT.--

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

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

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

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

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

164 (c) An eligible nonprofit scholarship-funding organization
165 shall obtain verification from the private school of a student's

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166 continued attendance at the school for ~~prior to~~ each period
 167 covered by a scholarship payment.

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

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

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

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

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

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

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

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

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

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

222

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

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