

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 a definition;
6 providing that specified students who have been in
7 Department of Juvenile Justice education programs or who
8 are currently or have been in foster care are eligible for
9 participation in the scholarship program; providing income
10 criteria for continuation of scholarships for students in
11 foster care; providing for eligibility of siblings of
12 certain students; revising provisions relating to
13 authorized uses of scholarship funds and expenditure of
14 contributions received during the fiscal year; revising
15 scholarship amounts and payments; providing for
16 preservation of credits under certain circumstances;
17 amending s. 1002.39, F.S., relating to the John M. McKay
18 Scholarships for Students with Disabilities Program;
19 revising scholarship ineligibility and private school
20 eligibility provisions to exempt certain students from
21 regular class attendance requirements under certain
22 circumstances; revising Department of Education
23 obligations relating to cross-check of student enrollment;
24 providing private school requirements relating to
25 discovery of duplicative enrollment and penalties under
26 certain circumstances; requiring a private school to
27 maintain a physical location in this state where case
28 management services are provided to students subject to

29 | the regular class attendance exemption; requiring a
30 | private school to employ a case manager; specifying case
31 | manager qualifications and responsibilities; specifying
32 | the timeframe for parents to provide documentation for the
33 | regular class attendance exemption; providing an effective
34 | date.

35 |
36 | WHEREAS, the Corporate Income Tax Credit Scholarship
37 | Program has produced substantial cost savings by relieving the
38 | state of the expense of educating program participants in public
39 | schools at a cost in foregone tax revenue that is substantially
40 | less than the per-student cost of educating children in public
41 | schools, and

42 | WHEREAS, the Corporate Income Tax Credit Scholarship
43 | Program and the John M. McKay Scholarships for Students with
44 | Disabilities Program have relieved public school class size by
45 | creating new classroom spaces in the public schools at no cost
46 | to the taxpayers, and

47 | WHEREAS, empirical evidence is clear, overwhelming, and
48 | uncontroverted that expanding educational options produces
49 | improved educational outcomes, both for participating children
50 | and for public schools that are exposed to healthy competition
51 | as a result, and no study has ever documented any harm to public
52 | schools as a result of expanding educational options through
53 | programs like the Corporate Income Tax Credit Scholarship
54 | Program and the John M. McKay Scholarships for Students with
55 | Disabilities Program, NOW, THEREFORE,

56 |

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

58
 59 Section 1. Subsections (1) and (3), paragraphs (d) and (i)
 60 of subsection (6), and paragraphs (a) and (c) of subsection (11)
 61 of section 220.187, Florida Statutes, are amended, paragraph (f)
 62 is added to subsection (2), and subsection (14) is added to that
 63 section, to read:

64 220.187 Credits for contributions to nonprofit
 65 scholarship-funding organizations.--

66 (1) FINDINGS AND PURPOSE.--

67 (a) The Legislature finds that:

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

70 2. Expanding educational opportunities and improving the
 71 quality of educational services within the state are valid
 72 public purposes that the Legislature may promote using its
 73 sovereign power to determine subjects of taxation and exemptions
 74 from taxation.

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

80 4. The existence of programs that provide expanded
 81 educational opportunities in this state has not been shown to
 82 reduce funding to or otherwise harm public schools within the
 83 state, and, to the contrary, per-student funding in public

84 schools has risen each year since the first inception of those
 85 programs in 1999.

86 5. Expanded educational opportunities and the healthy
 87 competition they promote are critical to improving the quality
 88 of education in the state and to ensuring that all children
 89 receive the high-quality education to which they are entitled.

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

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

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

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

100 4. ~~(e)~~ Enable children in this state to achieve a greater
 101 level of excellence in their education.

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

105 (2) DEFINITIONS.--As used in this section, the term:

106 (f) "Parent" has the same meaning as in s. 1000.21.

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

112 (a) Was counted as a full-time equivalent student during
 113 the previous state fiscal year for purposes of state per-student
 114 funding;

115 (b) Was counted as a full-time equivalent student at any
 116 time during the previous state fiscal year in a Department of
 117 Juvenile Justice education program under s. 1003.52 for purposes
 118 of state per-student funding;

119 (c)~~(b)~~ Received a scholarship from an eligible nonprofit
 120 scholarship-funding organization or from the State of Florida
 121 during the previous school year; ~~or~~

122 (d)~~(e)~~ Is eligible to enter kindergarten or first grade;
 123 or

124 (e) Is currently placed, or during the previous state
 125 fiscal year was placed, in foster care as defined in s. 39.01.

126
 127 Contingent upon available funds, a student may continue in the
 128 scholarship program as long as the student's family income level
 129 does not exceed 200 percent of the federal poverty level. Family
 130 income for purposes of a student who is currently in foster care
 131 as defined in s. 39.01 shall consist only of the income that may
 132 be considered in determining whether he or she qualifies for
 133 free or reduced-price school lunches under the National School
 134 Lunch Act. A sibling of a student who is continuing in the
 135 program and resides in the same household as the student shall
 136 also be eligible as a first-time corporate income tax credit
 137 scholarship recipient as long as the student's and sibling's
 138 family income level does not exceed 200 percent of the federal
 139 poverty level.

140 (6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING
141 ORGANIZATIONS.--An eligible nonprofit scholarship-funding
142 organization:

143 (d) Must provide scholarships, from eligible
144 contributions, to eligible students for:

145 1. Tuition, ~~or~~ textbook expenses, or registration fees
146 for, or transportation to, an eligible private school. The
147 amount of the scholarship shall be the maximum allowed by law or
148 the amount of the private school's textbook expenses and
149 published tuition and registration fees, whichever is less ~~At~~
150 ~~least 75 percent of the scholarship funding must be used to pay~~
151 ~~tuition expenses; or~~

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

155 (i) Must expend for annual or partial-year scholarships an
156 amount equal to or greater than 75 percent of the eligible
157 contributions received during the fiscal year in which such
158 contributions are collected. No more than 25 percent of such
159 eligible contributions may be carried forward to the succeeding
160 fiscal year. Any amounts carried forward shall be expended for
161 ~~obligate, in the same fiscal year in which the contribution was~~
162 ~~received, 100 percent of the eligible contribution to provide~~
163 ~~annual or partial-year scholarships; however, up to 25 percent~~
164 ~~of the total contribution may be carried forward for expenditure~~
165 ~~in the following state fiscal year. A scholarship-funding~~
166 ~~organization must, before granting a scholarship for an academic~~
167 ~~year, document each scholarship student's eligibility for that~~

168 academic year. A scholarship-funding organization may not grant
169 multiyear scholarships in one approval process. No portion of
170 eligible contributions may be used for administrative expenses.
171 All interest accrued from contributions must be used for
172 scholarships.

173

174 Any and all information and documentation provided to the
175 Department of Education and the Auditor General relating to the
176 identity of a taxpayer that provides an eligible contribution
177 under this section shall remain confidential at all times in
178 accordance with s. 213.053.

179 (11) SCHOLARSHIP AMOUNT AND PAYMENT.--

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

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

187 2. Four thousand dollars for a scholarship awarded to a
188 student enrolled in grades 6 through 8 in an eligible private
189 school.

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

193 ~~4.2.~~ Five hundred dollars for a scholarship awarded to a
194 student enrolled in a Florida public school that is located

195 outside the district in which the student resides or in a lab
 196 school as defined in s. 1002.32.

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

201 (14) PRESERVATION OF CREDIT.--If any provision or portion
 202 of subsection (5) or the application thereof to any person or
 203 circumstance is held unconstitutional by any court or is
 204 otherwise invalid, the unconstitutionality or invalidity shall
 205 not affect any credit earned under subsection (5) by any
 206 taxpayer with respect to any contribution paid to an eligible
 207 nonprofit scholarship-funding organization before the date of a
 208 determination of unconstitutionality or invalidity. Such credit
 209 shall be allowed at such time and in such a manner as if a
 210 determination of unconstitutionality or invalidity had not been
 211 made, provided that nothing in this subsection by itself or in
 212 combination with any other provision of law shall result in the
 213 allowance of any credit to any taxpayer in excess of one dollar
 214 of credit for each dollar paid to an eligible nonprofit
 215 scholarship-funding organization.

216 Section 2. Paragraph (h) of subsection (3), paragraph (e)
 217 of subsection (6), and subsection (8) of section 1002.39,
 218 Florida Statutes, are amended, and paragraph (g) is added to
 219 subsection (9) of that section, to read:

220 1002.39 The John M. McKay Scholarships for Students with
 221 Disabilities Program.--There is established a program that is
 222 separate and distinct from the Opportunity Scholarship Program

223 and is named the John M. McKay Scholarships for Students with
224 Disabilities Program.

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

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

230 1. The student's primary care physician, a medical doctor
231 treating the student's disability, or a clinical psychologist
232 treating the student's disability provides a notarized, sworn
233 statement to the department certifying that the student's
234 welfare or the welfare of other students in the classroom will
235 be jeopardized if the student is required to regularly attend
236 class at the school's physical location.

237 2. The student's primary care physician, a medical doctor
238 treating the student's disability, or a clinical psychologist
239 treating the student's disability annually reviews the student's
240 case and recertifies to the department by May 1 that the
241 student's welfare or the welfare of the other students in the
242 classroom will be jeopardized if the student is required to
243 regularly attend class at the school's physical location.

244
245 A student who received a scholarship in the 2005-2006 or 2006-
246 2007 school year and who demonstrates that he or she met the
247 criteria of subparagraph 1. shall be eligible to receive a
248 scholarship beginning in the 2007-2008 school year.

249 (6) DEPARTMENT OF EDUCATION OBLIGATIONS.--The department
250 shall:

251 (e) Cross-check the list of participating scholarship
252 students with the public school enrollment lists ~~prior to each~~
253 ~~scholarship payment~~ to avoid duplication in accordance with the
254 following deadlines:

255 1. For the scholarship payment due no later than September
256 1 under paragraph (10) (e), the cross-check shall be completed by
257 the department within 21 days after the opening date adopted
258 under s. 1001.42(4) (f) for public schools in the school district
259 in which the scholarship student resides.

260 2. For all other scholarship payments under paragraph
261 (10) (e), the department shall complete the cross-check prior to
262 each payment.

263
264 The department shall provide written notice via certified mail
265 to a private school within 7 business days following the
266 department's discovery of duplication, and the private school
267 via certified mail shall return the warrant to the department or
268 provide the department with documentation evidencing the
269 scholarship recipient's attendance at the private school within
270 7 business days following receipt of written notice from the
271 department. If a private school fails to respond to the notice
272 of duplication in the manner required, the Commissioner of
273 Education shall suspend future scholarship payments to the
274 private school until the commissioner determines that the
275 private school is in compliance with this paragraph. An order by
276 the commissioner suspending payment under this paragraph may be
277 appealed pursuant to the same procedures and timelines as the
278 notice of proposed action set forth in paragraph (7) (b).

279 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.--To be
 280 eligible to participate in the John M. McKay Scholarships for
 281 Students with Disabilities Program:7

282 (a) A private school may be sectarian or nonsectarian and
 283 must:

284 1.~~(a)~~ Comply with all requirements for private schools
 285 participating in state school choice scholarship programs
 286 pursuant to s. 1002.421.

287 2.~~(b)~~ Provide to the department all documentation required
 288 for a student's participation, including the private school's
 289 and student's fee schedules, at least 30 days before the first
 290 quarterly scholarship payment is made for the student.

291 3.~~(c)~~ Be academically accountable to the parent for
 292 meeting the educational needs of the student by:

293 a.1~~.~~ Providing to the parent, at a minimum, an annual
 294 ~~annually providing to the parent a written report explanation~~ of
 295 the student's progress.

296 b.2~~.~~ Cooperating with the scholarship student whose parent
 297 chooses to participate in the statewide assessments pursuant to
 298 s. 1008.22.

299 4. ~~(d)~~ Maintain in this state a physical location where a
 300 scholarship student:

301 a. Regularly attends classes; or

302 b. Receives case management services if the student is
 303 enrolled in the program under subparagraph (3) (h) 1. or
 304 subparagraph (3) (h) 2.

305 (b) A private school that enrolls students under
 306 subparagraph (3) (h) 1. or subparagraph (3) (h) 2. must:

307 1. Employ or contract with a case manager who has special
 308 skills, knowledge, or expertise that qualifies him or her to
 309 provide assistance to the student with disabilities and the
 310 student's parent.

311 2. Require each employee or contractor who provides
 312 regular and direct instruction or services to a student at a
 313 site other than the private school's physical location to submit
 314 to the case manager documentation of the instruction, services,
 315 and progress of the student.

316 3. Ensure that the case manager is responsible for
 317 coordinating instruction and services, monitoring service
 318 delivery, and reviewing and maintaining the documentation
 319 provided by persons employed or under contract to provide
 320 services to a student at a site other than the eligible private
 321 school's physical location and for providing to the parent and
 322 the school a quarterly report on the student's progress.

323 4. Notify the department of the students who are enrolled
 324 pursuant to subparagraph (3)(h)1. or subparagraph (3)(h)2.

325
 326 The inability of a private school to meet the requirements of
 327 this subsection shall constitute a basis for the ineligibility
 328 of the private school to participate in the scholarship program
 329 as determined by the department.

330 (9) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
 331 PARTICIPATION.--A parent who applies for a John M. McKay
 332 Scholarship is exercising his or her parental option to place
 333 his or her child in a private school.

334 (g) The parent of a student with disabilities who
335 qualifies to receive case management services under sub-
336 subparagraph (8)(a)4.b. shall provide the documentation required
337 under subparagraph (3)(h)1. or subparagraph (3)(h)2. to the
338 department at least 60 days before the first scholarship
339 payment.

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