

1 A bill to be entitled

2 An act relating to the Corporate Income Tax Credit
3 Scholarship Program; amending s. 220.187, F.S.; providing
4 legislative findings; revising program purposes; providing
5 that siblings of certain students are eligible for
6 participation in the program; revising provisions
7 authorizing the total amount of tax credits that may be
8 granted and deleting the reservation of a portion thereof;
9 revising authorized uses of scholarship funds; revising
10 provisions relating to expenditure of contributions
11 received by a scholarship-funding organization during a
12 state fiscal year; authorizing expenditure of
13 contributions for specified administrative expenses by
14 certain scholarship-funding organizations; providing for
15 the annual return of specified eligible contributions to
16 the State Treasury; correcting a cross-reference; revising
17 scholarship amounts and providing for adjustments in
18 future scholarship amounts; revising requirements relating
19 to verification of student attendance for purposes of
20 scholarship payment; providing for preservation of credits
21 under certain circumstances; requiring the Office of
22 Program Policy Analysis and Government Accountability to
23 submit a report on funding for the scholarship program;
24 specifying report requirements; providing an effective
25 date.

26
27 Be It Enacted by the Legislature of the State of Florida:
28

29 Section 1. Subsections (1) and (3), paragraph (b) of
 30 subsection (5), paragraphs (d) and (i) of subsection (6),
 31 paragraph (c) of subsection (8), and paragraphs (a) and (c) of
 32 subsection (11) of section 220.187, Florida Statutes, are
 33 amended, and subsection (14) is added to that section, to read:

34 220.187 Credits for contributions to nonprofit
 35 scholarship-funding organizations.--

36 (1) FINDINGS AND PURPOSE.--

37 (a) The Legislature finds that:

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

40 2. Expanding educational opportunities and improving the
 41 quality of educational services within the state are valid
 42 public purposes that the Legislature may promote using its
 43 sovereign power to determine subjects of taxation and exemptions
 44 from taxation.

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

50 4. Expanded educational opportunities and the healthy
 51 competition they promote are critical to improving the quality
 52 of education in the state and to ensuring that all children
 53 receive the high-quality education to which they are entitled.

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

55 1.-(a) Enable taxpayers to make ~~Encourage~~ private,
 56 voluntary contributions to nonprofit scholarship-funding

57 organizations in order to promote the general welfare.

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

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

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

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

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

74 (a) Was counted as a full-time equivalent student during
 75 the previous state fiscal year for purposes of state per-student
 76 funding;

77 (b) Received a scholarship from an eligible nonprofit
 78 scholarship-funding organization or from the State of Florida
 79 during the previous school year; or

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

81
 82 Contingent upon available funds, a student may continue in the
 83 scholarship program as long as the student's household ~~family~~
 84 income level does not exceed 200 percent of the federal poverty

85 level. A sibling of a student who is continuing in the program
 86 and resides in the same household as the student shall also be
 87 eligible as a first-time corporate income tax credit scholarship
 88 recipient as long as the student's and sibling's household
 89 income level does not exceed 200 percent of the federal poverty
 90 level.

91 (5) AUTHORIZATION TO GRANT SCHOLARSHIP FUNDING TAX
 92 CREDITS; LIMITATIONS ON INDIVIDUAL AND TOTAL CREDITS.--

93 (b) The total amount of tax credits and carryforward of
 94 tax credits which may be granted each state fiscal year under
 95 this section is:

- 96 1. Through June 30, 2008, \$88 million.
- 97 2. Beginning July 1, 2008, and thereafter, \$118 million.

98 ~~At least 1 percent of the total statewide amount authorized for~~
 99 ~~the tax credit shall be reserved for taxpayers who meet the~~
 100 ~~definition of a small business provided in s. 288.703(1) at the~~
 101 ~~time of application.~~

102 (6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING
 103 ORGANIZATIONS.--An eligible nonprofit scholarship-funding
 104 organization:

105 (d) Must provide scholarships, from eligible
 106 contributions, to eligible students for the cost of:

- 107 1. Tuition and fees ~~or textbook expenses for, or~~
 108 ~~transportation to,~~ an eligible private school. ~~At least 75~~
 109 ~~percent of the scholarship funding must be used to pay tuition~~
 110 ~~expenses; or~~
- 111 2. Transportation expenses to a Florida public school that
 112 is located outside the district in which the student resides or

113 to a lab school as defined in s. 1002.32.

114 (i)1. May use up to 3 percent of eligible contributions
 115 received during the state fiscal year in which such
 116 contributions are collected for administrative expenses if the
 117 organization has operated under this section for at least 3
 118 state fiscal years and did not have any negative financial
 119 findings in its most recent audit under paragraph (1). Such
 120 administrative expenses must be reasonable and necessary for the
 121 organization's management and distribution of eligible
 122 contributions under this section. No more than one-third of the
 123 funds authorized for administrative expenses under this
 124 subparagraph may be used for expenses related to the recruitment
 125 of contributions from corporate taxpayers.

126 2. Must expend for annual or partial-year scholarships an
 127 amount equal to or greater than 75 percent of the net eligible
 128 contributions remaining after administrative expenses during the
 129 state fiscal year in which such contributions are collected. No
 130 more than 25 percent of such net eligible contributions may be
 131 carried forward to the following state fiscal year. Any amounts
 132 carried forward shall be expended for ~~Must obligate, in the same~~
 133 ~~fiscal year in which the contribution was received, 100 percent~~
 134 ~~of the eligible contribution to provide annual or partial-year~~
 135 ~~scholarships; however, up to 25 percent of the total~~
 136 ~~contribution may be carried forward for expenditure in the~~
 137 following state fiscal year. Net eligible contributions
 138 remaining on June 30 of each year that are in excess of the 25
 139 percent that may be carried forward shall be returned to the
 140 State Treasury for deposit in the General Revenue Fund.

141 3. ~~A scholarship funding organization~~ Must, before
142 granting a scholarship for an academic year, document each
143 scholarship student's eligibility for that academic year. A
144 scholarship-funding organization may not grant multiyear
145 scholarships in one approval process. ~~No portion of eligible~~
146 ~~contributions may be used for administrative expenses. All~~
147 ~~interest accrued from contributions must be used for~~
148 ~~scholarships.~~

149
150 Any and all information and documentation provided to the
151 Department of Education and the Auditor General relating to the
152 identity of a taxpayer that provides an eligible contribution
153 under this section shall remain confidential at all times in
154 accordance with s. 213.053.

155 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.--An
156 eligible private school may be sectarian or nonsectarian and
157 must:

158 (c) Be academically accountable to the parent for meeting
159 the educational needs of the student by:

160 1. At a minimum, annually providing to the parent a
161 written explanation of the student's progress.

162 2. Annually administering or making provision for students
163 participating in the scholarship program to take one of the
164 nationally norm-referenced tests identified by the Department of
165 Education. Students with disabilities for whom standardized
166 testing is not appropriate are exempt from this requirement. A
167 participating private school must report a student's scores to
168 the parent and to the independent research organization selected

169 by the Department of Education as described in paragraph (9)(j).

170 3. Cooperating with the scholarship student whose parent
 171 chooses to have the student participate in the statewide
 172 assessments pursuant to s. 1008.22 ~~1008.32~~.

173
 174 The inability of a private school to meet the requirements of
 175 this subsection shall constitute a basis for the ineligibility
 176 of the private school to participate in the scholarship program
 177 as determined by the Department of Education.

178 (11) SCHOLARSHIP AMOUNT AND PAYMENT.--

179 (a) The amount of a scholarship provided to any student
 180 for any single school year by an eligible nonprofit scholarship-
 181 funding organization from eligible contributions shall be for
 182 total costs authorized under paragraph (6)(d), not to exceed the
 183 following annual limits:

184 1. ~~Three thousand seven hundred fifty dollars~~ For a
 185 scholarship awarded to a student enrolled in an eligible private
 186 school:

187 a. Three thousand nine hundred fifty dollars during the
 188 2008-2009 state fiscal year.

189 b. Sixty percent of the statewide average total funds per
 190 unweighted full-time equivalent funding amount as determined in
 191 the Florida Education Finance Program calculation that is
 192 incorporated by reference in the General Appropriations Act, or
 193 any subsequent special appropriations act, for the 2009-2010
 194 state fiscal year and each state fiscal year thereafter.

195 2. Five hundred dollars for a scholarship awarded to a
 196 student enrolled in a Florida public school that is located

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

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

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

218 Section 2. Corporate Income Tax Credit Scholarship Program
 219 funding.--

220 (1) By December 1, 2008, the Office of Program Policy
 221 Analysis and Government Accountability shall submit a report to
 222 the Governor, the President of the Senate, and the Speaker of
 223 the House of Representatives that:

224 (a) Reviews the advisability and net state fiscal impact

225 of:

226 1. Increasing the maximum annual amount of credits for the
 227 corporate income tax permitted under s. 220.187, Florida
 228 Statutes, for the scholarship program.

229 2. Authorizing the use of credits for insurance premium
 230 taxes under chapter 624, Florida Statutes, as an additional
 231 source of funding for the scholarship program under s. 220.187,
 232 Florida Statutes.

233 (b) Provides recommendations, if warranted by the review
 234 under paragraph (a):

235 1. For methodologies to annually or otherwise increase the
 236 maximum annual amount of corporate income tax credits for
 237 scholarship funding.

238 2. To implement the use of insurance premium tax credits
 239 for scholarship funding.

241 Such recommendations may only include options that will annually
 242 produce a neutral or positive net fiscal impact on state revenue
 243 and expenditures.

244 (2) The Office of Program Policy Analysis and Government
 245 Accountability may request that the Revenue Estimating
 246 Conference and the Education Estimating Conference established
 247 under s. 216.134, Florida Statutes, evaluate its findings and
 248 recommendations under this section.

249 Section 3. This act shall take effect June 30, 2008.