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CS/CS/CS/HB 653, Engrossed 1

2008 Legislature

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 specified students who are currently or have been in
6 foster care are eligible for participation in the program;
7 providing that siblings of certain students are eligible
8 for participation in the program; providing income
9 criteria for continuation of scholarships for students in
10 foster care; revising provisions authorizing the total
11 amount of tax credits that may be granted and deleting the
12 reservation of a portion thereof; revising authorized uses
13 of scholarship funds; revising provisions relating to
14 expenditure of contributions received by a scholarship-
15 funding organization during a state fiscal year;
16 authorizing expenditure of contributions for specified
17 administrative expenses by certain scholarship-funding
18 organizations; providing for the annual return of
19 specified eligible contributions to the State Treasury;
20 correcting a cross-reference; revising scholarship
21 amounts; revising requirements relating to verification of
22 student attendance for purposes of scholarship payment;
23 providing for preservation of credits under certain
24 circumstances; requiring the Office of Program Policy
25 Analysis and Government Accountability to submit a report
26 on funding for the scholarship program to the Governor and
27 the Legislature; specifying report requirements;
28 authorizing the Office of Program Policy Analysis and

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29 Government Accountability to request the Revenue
 30 Estimating Conference and the Education Estimating
 31 Conference to evaluate its findings and recommendations;
 32 providing an effective date.

33
 34 Be It Enacted by the Legislature of the State of Florida:

35
 36 Section 1. Subsections (1) and (3), paragraph (b) of
 37 subsection (5), paragraphs (d) and (i) of subsection (6),
 38 paragraph (c) of subsection (8), and subsection (11) of section
 39 220.187, Florida Statutes, are amended, and subsection (14) is
 40 added to that section, to read:

41 220.187 Credits for contributions to nonprofit
 42 scholarship-funding organizations.--

43 (1) FINDINGS AND PURPOSE.--

44 (a) The Legislature finds that:

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

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

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

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57 4. Expanding educational opportunities and the healthy
 58 competition they promote are critical to improving the quality
 59 of education in the state and to ensuring that all children
 60 receive the high-quality education to which they are entitled.

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

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

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

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

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

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

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

81 (a) Was counted as a full-time equivalent student during
 82 the previous state fiscal year for purposes of state per-student
 83 funding;

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84 (b) Received a scholarship from an eligible nonprofit
 85 scholarship-funding organization or from the State of Florida
 86 during the previous school year; ~~or~~

87 (c) Is eligible to enter kindergarten or first grade; or

88 (d) Is currently placed, or during the previous state
 89 fiscal year was placed, in foster care as defined in s. 39.01.

90
 91 Contingent upon available funds, a student may continue in the
 92 scholarship program as long as the student's household ~~family~~
 93 income level does not exceed 200 percent of the federal poverty
 94 level. A sibling of a student who is continuing in the program
 95 and resides in the same household as the student shall also be
 96 eligible as a first-time corporate income tax credit scholarship
 97 recipient as long as the student's and sibling's household
 98 income level does not exceed 200 percent of the federal poverty
 99 level. Household income for purposes of a student who is
 100 currently in foster care as defined in s. 39.01 shall consist
 101 only of the income that may be considered in determining whether
 102 he or she qualifies for free or reduced-price school lunches
 103 under the National School Lunch Act.

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

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

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

111 ~~At least 1 percent of the total statewide amount authorized for~~

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112 ~~the tax credit shall be reserved for taxpayers who meet the~~
 113 ~~definition of a small business provided in s. 288.703(1) at the~~
 114 ~~time of application.~~

115 (6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING
 116 ORGANIZATIONS.--An eligible nonprofit scholarship-funding
 117 organization:

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

120 1. Tuition and fees ~~or textbook expenses for, or~~
 121 ~~transportation to,~~ an eligible private school. ~~At least 75~~
 122 ~~percent of the scholarship funding must be used to pay tuition~~
 123 ~~expenses; or~~

124 2. ~~Transportation expenses~~ to a Florida public school that
 125 is located outside the district in which the student resides or
 126 to a lab school as defined in s. 1002.32.

127 (i) 1. May use up to 3 percent of eligible contributions
 128 received during the state fiscal year in which such
 129 contributions are collected for administrative expenses if the
 130 organization has operated under this section for at least 3
 131 state fiscal years and did not have any negative financial
 132 findings in its most recent audit under paragraph (1). Such
 133 administrative expenses must be reasonable and necessary for the
 134 organization's management and distribution of eligible
 135 contributions under this section. No more than one-third of the
 136 funds authorized for administrative expenses under this
 137 subparagraph may be used for expenses related to the recruitment
 138 of contributions from corporate taxpayers.

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139 2. Must expend for annual or partial-year scholarships an
 140 amount equal to or greater than 75 percent of the net eligible
 141 contributions remaining after administrative expenses during the
 142 state fiscal year in which such contributions are collected. No
 143 more than 25 percent of such net eligible contributions may be
 144 carried forward to the following state fiscal year. Any amounts
 145 carried forward shall be expended for ~~Must obligate, in the same~~
 146 ~~fiscal year in which the contribution was received, 100 percent~~
 147 ~~of the eligible contribution to provide annual or partial-year~~
 148 ~~scholarships; however, up to 25 percent of the total~~
 149 ~~contribution may be carried forward for expenditure in the~~
 150 following state fiscal year. Net eligible contributions
 151 remaining on June 30 of each year that are in excess of the 25
 152 percent that may be carried forward shall be returned to the
 153 State Treasury for deposit in the General Revenue Fund.

154 ~~3. A scholarship funding organization~~ Must, before
 155 granting a scholarship for an academic year, document each
 156 scholarship student's eligibility for that academic year. A
 157 scholarship-funding organization may not grant multiyear
 158 scholarships in one approval process. ~~No portion of eligible~~
 159 ~~contributions may be used for administrative expenses. All~~
 160 ~~interest accrued from contributions must be used for~~
 161 ~~scholarships.~~

162
 163 Any and all information and documentation provided to the
 164 Department of Education and the Auditor General relating to the
 165 identity of a taxpayer that provides an eligible contribution

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166 | under this section shall remain confidential at all times in
 167 | accordance with s. 213.053.

168 | (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.--An
 169 | eligible private school may be sectarian or nonsectarian and
 170 | must:

171 | (c) Be academically accountable to the parent for meeting
 172 | the educational needs of the student by:

173 | 1. At a minimum, annually providing to the parent a
 174 | written explanation of the student's progress.

175 | 2. Annually administering or making provision for students
 176 | participating in the scholarship program to take one of the
 177 | nationally norm-referenced tests identified by the Department of
 178 | Education. Students with disabilities for whom standardized
 179 | testing is not appropriate are exempt from this requirement. A
 180 | participating private school must report a student's scores to
 181 | the parent and to the independent research organization selected
 182 | by the Department of Education as described in paragraph (9)(j).

183 | 3. Cooperating with the scholarship student whose parent
 184 | chooses to have the student participate in the statewide
 185 | assessments pursuant to s. 1008.22 ~~1008.32~~.

186 |
 187 | The inability of a private school to meet the requirements of
 188 | this subsection shall constitute a basis for the ineligibility
 189 | of the private school to participate in the scholarship program
 190 | as determined by the Department of Education.

191 | (11) SCHOLARSHIP AMOUNT AND PAYMENT.--

192 | (a) The amount of a scholarship provided to any student
 193 | for any single school year by an eligible nonprofit scholarship-

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194 funding organization from eligible contributions shall be for
 195 total costs authorized under paragraph (6) (d), not to exceed the
 196 following annual limits:

197 1. Three thousand nine hundred fifty dollars ~~Three~~
 198 ~~thousand seven hundred fifty dollars~~ for a scholarship awarded
 199 to a student enrolled in an eligible private school for the
 200 2008-2009 state fiscal year and each fiscal year thereafter.

201 2. Five hundred dollars for a scholarship awarded to a
 202 student enrolled in a Florida public school that is located
 203 outside the district in which the student resides or in a lab
 204 school as defined in s. 1002.32.

205 (b) Payment of the scholarship by the eligible nonprofit
 206 scholarship-funding organization shall be by individual warrant
 207 made payable to the student's parent. If the parent chooses that
 208 his or her child attend an eligible private school, the warrant
 209 must be delivered by the eligible nonprofit scholarship-funding
 210 organization to the private school of the parent's choice, and
 211 the parent shall restrictively endorse the warrant to the
 212 private school. An eligible nonprofit scholarship-funding
 213 organization shall ensure that the parent to whom the warrant is
 214 made restrictively endorsed the warrant to the private school
 215 for deposit into the account of the private school.

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

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220 (d) Payment of the scholarship shall be made by the
 221 eligible nonprofit scholarship-funding organization no less
 222 frequently than on a quarterly basis.

223 (14) PRESERVATION OF CREDIT.--If any provision or portion
 224 of subsection (5) or the application thereof to any person or
 225 circumstance is held unconstitutional by any court or is
 226 otherwise declared invalid, the unconstitutionality or
 227 invalidity shall not affect any credit earned under subsection
 228 (5) by any taxpayer with respect to any contribution paid to an
 229 eligible nonprofit scholarship-funding organization before the
 230 date of a determination of unconstitutionality or invalidity.
 231 Such credit shall be allowed at such time and in such a manner
 232 as if a determination of unconstitutionality or invalidity had
 233 not been made, provided that nothing in this subsection by
 234 itself or in combination with any other provision of law shall
 235 result in the allowance of any credit to any taxpayer in excess
 236 of one dollar of credit for each dollar paid to an eligible
 237 nonprofit scholarship-funding organization.

238 Section 2. Corporate Income Tax Credit Scholarship Program
 239 funding.--

240 (1) By December 1, 2008, the Office of Program Policy
 241 Analysis and Government Accountability shall submit a report to
 242 the Governor, the President of the Senate, and the Speaker of
 243 the House of Representatives which:

244 (a) Reviews the advisability and net state fiscal impact
 245 of:

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246 1. Increasing the maximum annual amount of credits for the
 247 corporate income tax permitted under s. 220.187, Florida
 248 Statutes, for the scholarship program.

249 2. Authorizing the use of credits for insurance premium
 250 taxes under chapter 624, Florida Statutes, as an additional
 251 source of funding for the scholarship program under s. 220.187,
 252 Florida Statutes.

253 (b) Provides recommendations, if warranted by the review
 254 under paragraph (a):

255 1. For methodologies to annually or otherwise increase the
 256 maximum annual amount of corporate income tax credits for
 257 scholarship funding.

258 2. To implement the use of insurance premium tax credits
 259 for scholarship funding.

260 (c) Identifies strategies to encourage private schools
 261 that accept scholarship students to participate in the statewide
 262 assessment program under s. 1008.22, Florida Statutes.

263
 264 Such recommendations may only include options that will annually
 265 produce a neutral or positive net fiscal impact on state revenue
 266 and expenditures.

267 (2) The Office of Program Policy Analysis and Government
 268 Accountability may request that the Revenue Estimating
 269 Conference and the Education Estimating Conference established
 270 under s. 216.134, Florida Statutes, evaluate its findings and
 271 recommendations under this section.

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