

1 funds; requiring a nonprofit
2 scholarship-funding organization to verify
3 student attendance at a private school prior to
4 submission of scholarship funds; requiring a
5 nonprofit scholarship-funding organization to
6 verify income eligibility of qualified students
7 at least once a year in accordance with State
8 Board of Education rules; requiring a nonprofit
9 scholarship-funding organization to submit
10 certain reports to the Department of Education;
11 requiring certain individuals to undergo level
12 2 background screening requirements pursuant to
13 s. 435.04, F.S.; providing for the Department
14 of Law Enforcement to retain and search
15 fingerprint records; providing for an annual
16 fee as provided by rule of the Department of
17 Law Enforcement; requiring costs of background
18 checks be borne by certain parties; prohibiting
19 certain eligible nonprofit scholarship-funding
20 organizations the owners of which have filed
21 for bankruptcy from participating in the
22 program; requiring a nonprofit
23 scholarship-funding organization comply with
24 antidiscrimination provisions of 42 U.S.C. s.
25 2000d; prohibiting an owner or a nonprofit
26 scholarship-funding organization from owning,
27 operating, or administering an eligible private
28 school under the scholarship program; requiring
29 a nonprofit scholarship-funding organization to
30 report any private school not in compliance
31 with scholarship program requirements to the

1 Department of Education; prohibiting provision
2 of scholarship funds to a student to attend a
3 private school not in compliance; authorizing a
4 parent to transfer the scholarship; requiring
5 award of scholarships on a first-come,
6 first-served basis; prohibiting a nonprofit
7 scholarship-funding organization from targeting
8 certain students for scholarships; prohibiting
9 the award of scholarships to a child of an
10 owner of a nonprofit scholarship-funding
11 organization; prohibiting the transfer of an
12 eligible contribution between nonprofit
13 scholarship-funding organizations; prohibiting
14 a nonprofit scholarship-funding organization
15 from securing financing in anticipation of
16 eligible contributions; prohibiting a nonprofit
17 scholarship-funding organization from
18 participating in the program if the
19 organization fails to meet statutory
20 obligations; requiring students to meet certain
21 attendance policies; requiring parents to meet
22 certain parental involvement requirements
23 unless excused; prohibiting a parent from
24 authorizing a power of attorney for endorsement
25 of scholarship warrant; prohibiting a student
26 or parent of a student from participating in
27 the scholarship program if the student or
28 parent fails to meet statutory obligations;
29 providing an effective date.

30
31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Section 220.187, Florida Statutes, is
2 amended to read:

3 220.187 Credits for contributions to nonprofit
4 scholarship-funding organizations.--

5 (1) This section may be cited as the "Corporate
6 Scholarship Program."

7 ~~(2)(1)~~ PURPOSE.--The purpose of this section is to:

8 (a) Encourage private, voluntary contributions to
9 nonprofit scholarship-funding organizations.

10 (b) Expand educational opportunities for children of
11 families that have limited financial resources.

12 (c) Enable children in this state to achieve a greater
13 level of excellence in their education.

14 ~~(3)(2)~~ DEFINITIONS.--As used in this section, the
15 term:

16 ~~(a) "Department" means the Department of Revenue.~~

17 ~~(a)(b)~~ "Eligible contribution" means a monetary
18 contribution from a taxpayer, subject to the restrictions
19 provided in this section, to an eligible nonprofit
20 scholarship-funding organization. The taxpayer making the
21 contribution may not designate a specific child as the
22 beneficiary of the contribution. The taxpayer may not
23 contribute more than \$5 million to any single eligible
24 nonprofit scholarship-funding organization.

25 ~~(b)(c)~~ "Eligible private nonpublic school" means a
26 private nonpublic school, as defined in s. 1002.01(2), located
27 in Florida which ~~that~~ offers an education to students in any
28 grades K-12 and ~~that~~ meets the requirements in subsection ~~(7)~~
29 ~~(6)~~. An eligible private school:

30 1. Must maintain a physical location in this state
31 where each scholarship student regularly attends classes.

1 2. May not be a correspondence school or distance
2 learning school.

3 3. May not direct or provide scholarship funds to a
4 parent of a scholarship student who receives instruction under
5 the program at home.

6 4. May not be a home education program as defined in
7 s. 1002.01(1).

8 5. May not be a private tutoring program as described
9 in s. 1002.43.

10 ~~(c)(d)~~ "Eligible nonprofit scholarship-funding
11 organization" means a charitable organization that is exempt
12 from federal income tax pursuant to s. 501(c)(3) of the
13 Internal Revenue Code, is incorporated under laws of this
14 state, has its principal office located in the state, and that
15 complies with the provisions of subsection(5)(4).

16 (d) "Owner" means the owner, president, chairperson of
17 the board of directors, superintendent, principal, or person
18 with equivalent decisionmaking authority who owns, operates,
19 or administers an eligible nonprofit scholarship-funding
20 organization. In addition, the term "owner" means an
21 individual who has access to or processes scholarship funds or
22 eligible contributions at an eligible nonprofit
23 scholarship-funding organization.

24 (e) "Qualified student" means a student who qualifies
25 for free or reduced-price school lunches under the National
26 School Lunch Act and who:

27 1. Was counted as a full-time equivalent student
28 during the previous state fiscal year for purposes of state
29 per-student funding;

30
31

1 2. Received a scholarship from an eligible nonprofit
2 scholarship-funding organization during the previous school
3 year; or

4 3. Is eligible to enter kindergarten or first grade.
5

6 However, a student who was enrolled in a school operating for
7 the purpose of providing educational services to youth in a
8 commitment program of the Department of Juvenile Justice shall
9 not be counted as a full-time equivalent student for the
10 previous state fiscal year for purposes of state per-student
11 funding under this program. A student is not eligible to
12 receive a scholarship under this section if the student is
13 participating in the Opportunity Scholarship Program under s.
14 1002.38, the John M. McKay Scholarships for Students with
15 Disabilities Program under s. 1002.39, or a home education
16 program as defined in s. 1002.01(1) or is enrolled in a school
17 operating for the purpose of providing educational services to
18 youth in commitment programs of the Department of Juvenile
19 Justice. A student is not eligible to receive a scholarship
20 from more than one eligible nonprofit scholarship-funding
21 organization at the same time.

22 ~~(4)(3)~~ AUTHORIZATION TO GRANT SCHOLARSHIP FUNDING TAX
23 CREDITS; LIMITATIONS ON INDIVIDUAL AND TOTAL CREDITS.--

24 (a) There is allowed a credit of 100 percent of an
25 eligible contribution against any tax due for a taxable year
26 under this chapter. However, such a credit may not exceed 75
27 percent of the tax due under this chapter for the taxable
28 year, after the application of any other allowable credits by
29 the taxpayer. ~~However, at least 5 percent of the total~~
30 ~~statewide amount authorized for the tax credit shall be~~
31 ~~reserved for taxpayers who meet the definition of a small~~

1 ~~business provided in s. 288.703(1) at the time of application.~~

2 The credit granted by this section shall be reduced by the
3 difference between the amount of federal corporate income tax
4 taking into account the credit granted by this section and the
5 amount of federal corporate income tax without application of
6 the credit granted by this section.

7 (b) The total amount of tax credits and carryforward
8 of tax credits which may be granted each state fiscal year
9 under this section is \$88 million. Effective for tax years
10 beginning January 1, 2005, 1 percent of the total statewide
11 amount authorized for the tax credit must be reserved for
12 taxpayers that are small businesses as defined in s.
13 288.703(1) at the time of application.

14 (c) A taxpayer who files a Florida consolidated return
15 as a member of an affiliated group pursuant to s. 220.131(1)
16 may be allowed the credit on a consolidated return basis;
17 however, the total credit taken by the affiliated group is
18 subject to the limitation established under paragraph (a).

19 (d) Effective for the tax years beginning January 1,
20 2005, a taxpayer may rescind its application for tax credit
21 under this section, and the amount approved in the application
22 for tax credit shall become available for purposes of the cap
23 for that state fiscal year under this section to an eligible
24 taxpayer as approved by the Department of Revenue, if the
25 taxpayer receives notice from the Department of Revenue that
26 the rescindment application has been accepted by the
27 Department of Revenue, the taxpayer has not previously
28 rescinded its application for tax credit under this section
29 more than once in the previous 3 tax years, the taxpayer
30 rescinds prior to the end of the taxpayer's tax year, and the
31 taxpayer has not made a contribution pursuant to its approved

1 application for tax credit under this section. Any amount
2 rescinded under this paragraph shall become available to an
3 eligible taxpayer on a first-come, first-served basis based on
4 tax credit applications received after the date the
5 rescindment is accepted by the Department of Revenue.

6 ~~(5)~~(4) OBLIGATIONS OF ELIGIBLE NONPROFIT
7 SCHOLARSHIP-FUNDING ORGANIZATIONS.--

8 (a) An eligible nonprofit scholarship-funding
9 organization shall provide scholarships, from eligible
10 contributions, to qualified students for:

11 1. Tuition or textbook expenses for, or transportation
12 to, an eligible private ~~nonpublic~~ school. At least 75 percent
13 of each the scholarship ~~funding~~ must be used to pay tuition
14 expenses; or

15 2. Transportation expenses to a Florida public school
16 that is located outside the district in which the student
17 resides.

18 (b) An eligible nonprofit scholarship-funding
19 organization shall give priority to qualified students who
20 received a scholarship from an eligible nonprofit
21 scholarship-funding organization during the previous school
22 year.

23 (c) The amount of a scholarship provided to any child
24 for any single school year by one or more ~~all~~ eligible
25 nonprofit scholarship-funding organizations from eligible
26 contributions ~~may shall~~ not exceed the following annual
27 limits:

28 1. Three thousand five hundred dollars for a
29 scholarship awarded to a student enrolled in an eligible
30 private ~~nonpublic~~ school.

31

1 2. Five hundred dollars for a scholarship awarded to a
2 student enrolled in a Florida public school that is located
3 outside the district in which the student resides.

4 (d) The amount of an eligible contribution which may
5 be accepted by an eligible nonprofit scholarship-funding
6 organization is limited to the amount needed to provide
7 scholarships for qualified students ~~whom which~~ the
8 organization has identified and for ~~whom which~~ vacancies in
9 eligible ~~private nonpublic~~ schools have been identified.

10 (e) An eligible nonprofit scholarship-funding
11 organization that receives an eligible contribution must spend
12 100 percent of the eligible contribution to provide
13 scholarships in the same state fiscal year in which the
14 contribution was received. No portion of eligible
15 contributions may be used for administrative expenses. All
16 interest accrued from contributions must be used for
17 scholarships.

18 (f) An eligible nonprofit scholarship-funding
19 organization that receives eligible contributions must, within
20 180 days after the end of the organization's fiscal year,
21 provide to the Auditor General and the Department of Education
22 an annual financial and compliance audit of its accounts and
23 records conducted by an independent certified public
24 accountant and in accordance with rules adopted by the Auditor
25 General. The Auditor General shall review all audit reports
26 submitted pursuant to this section. The Auditor General shall
27 request any significant items that were omitted in violation
28 of a rule adopted by the Auditor General. The items must be
29 provided within 45 days after the date of the request. If the
30 eligible nonprofit scholarship-funding organization does not
31 comply with the Auditor General's request, the Auditor General

1 shall notify the Legislative Auditing Committee. The
2 Legislative Auditing Committee may schedule a hearing. If a
3 hearing is scheduled, the committee shall determine if the
4 eligible nonprofit scholarship-funding organization should be
5 subject to further state action. If the committee determines
6 that the eligible nonprofit scholarship-funding organization
7 should be subject to further state action, the committee shall
8 notify the Department of Education, which shall terminate the
9 eligibility of the eligible nonprofit scholarship-funding
10 organization to participate in the program under this section.

11 (g) An eligible nonprofit scholarship-funding
12 organization shall make payment of the scholarship, at a
13 minimum, on a quarterly basis. Payment of the scholarship by
14 the eligible nonprofit scholarship-funding organization shall
15 be by individual warrant or check made payable to the
16 student's parent. If the parent chooses for his or her child
17 to attend an eligible private ~~nonpublic~~ school, the warrant or
18 check must be mailed by the eligible nonprofit
19 scholarship-funding organization to the private ~~nonpublic~~
20 school of the parent's choice, and the parent shall
21 restrictively endorse the warrant or check to the private
22 ~~nonpublic~~ school. An eligible nonprofit scholarship-funding
23 organization shall ensure that, upon receipt of a scholarship
24 warrant or check, the parent to whom the warrant or check is
25 made restrictively endorses the warrant or check to the
26 private ~~nonpublic~~ school of the parent's choice for deposit
27 into the account of the private ~~nonpublic~~ school.

28 (h) An eligible nonprofit scholarship-funding
29 organization may not commingle scholarship funds with any
30 other funds and must maintain a separate account for
31 scholarship funds.

1 (i) An eligible nonprofit scholarship-funding
2 organization shall obtain verification from a private school
3 of each student's continued attendance at the private school
4 prior to each scholarship payment.

5 (j) An eligible nonprofit scholarship-funding
6 organization must verify the income of all scholarship
7 applicants participating in the program at least once each
8 school year through independent income documentation as
9 provided in rules of the State Board of Education.

10 (k) An eligible nonprofit scholarship-funding
11 organization must prepare and submit quarterly reports to the
12 Department of Education. In addition, an eligible nonprofit
13 scholarship-funding organization must timely submit to the
14 Department of Education any information requested by the
15 Department of Education relating to the scholarship program.

16 (l) All owners of an eligible nonprofit
17 scholarship-funding organization shall, upon employment or
18 engagement to provide services, undergo background screening
19 pursuant to s. 435.04 by filing with the Department of
20 Education a complete set of fingerprints taken by an
21 authorized law enforcement agency or an employee of the
22 eligible nonprofit scholarship-funding organization who is
23 trained to take fingerprints. These fingerprints shall be
24 submitted to the Department of Law Enforcement for state
25 processing, which shall in turn submit the fingerprints to the
26 Federal Bureau of Investigation for federal processing. The
27 Department of Education shall screen the background results
28 and report to the eligible nonprofit scholarship-funding
29 organization any owner who fails to meet level 2 screening
30 standards pursuant to s. 435.04 or any owner who has been
31 convicted of a crime involving moral turpitude. Owners found

1 through fingerprint processing to have been convicted of a
2 crime involving moral turpitude or failing to meet level 2
3 screening standards pursuant to s. 435.04 may not be employed
4 or engaged to provide services in any position with the
5 eligible nonprofit scholarship-funding organization. The cost
6 of the background screening may be borne by the eligible
7 nonprofit scholarship-funding organization or the owner.

8 1. Every 5 years following employment or engagement to
9 provide services with an eligible nonprofit
10 scholarship-funding organization, each owner must meet level 2
11 screening requirements as described in s. 435.04, at which
12 time the Department of Education shall request the Department
13 of Law Enforcement to forward the fingerprints to the Federal
14 Bureau of Investigation for level 2 screening. If the
15 fingerprints of an owner are not retained by the Department of
16 Law Enforcement under subparagraph 2., the owner must file a
17 complete set of fingerprints with the Department of Education.
18 Upon submission of fingerprints for this purpose, the
19 Department of Education shall request the Department of Law
20 Enforcement to forward the fingerprints to the Federal Bureau
21 of Investigation for level 2 screening, and the fingerprints
22 shall be retained by the Department of Law Enforcement under
23 subparagraph 2. The cost of the state and federal criminal
24 history check required by level 2 screening may be borne by
25 the eligible nonprofit scholarship-funding organization or the
26 owner. Under penalty of perjury, each owner must agree to
27 inform the eligible nonprofit scholarship-funding organization
28 immediately if convicted of any disqualifying offense while he
29 or she is employed or engaged to provide services with the
30 eligible nonprofit scholarship-funding organization.

1 2. All fingerprints submitted to the Department of Law
2 Enforcement as required by this paragraph shall be retained by
3 the Department of Law Enforcement in a manner provided by rule
4 and entered in the statewide automated fingerprint
5 identification system authorized by s. 943.05(2)(b). Such
6 fingerprints shall thereafter be available for all purposes
7 and uses authorized for arrest fingerprint cards entered in
8 the statewide automated fingerprint identification system
9 pursuant to s. 943.051.

10 3. The Department of Law Enforcement shall search all
11 arrest fingerprint cards received under s. 943.051 against the
12 fingerprints retained in the statewide automated fingerprint
13 identification system under subparagraph 2. Any arrest record
14 that is identified with an owner's fingerprints shall be
15 reported to the Department of Education. Each eligible
16 nonprofit scholarship-funding organization shall participate
17 in this search process by paying an annual fee to the
18 Department of Law Enforcement and by informing the Department
19 of Law Enforcement of any change in the employment or
20 engagement status or place of employment or engagement of its
21 owners whose fingerprints are retained under subparagraph 2.
22 The Department of Law Enforcement shall adopt a rule setting
23 the amount of the annual fee to be imposed upon each eligible
24 nonprofit scholarship-funding organization for performing
25 these searches and establishing the procedures for the
26 retention of owner fingerprints and the dissemination of
27 search results. The fee may be borne by the eligible nonprofit
28 scholarship-funding organization or by the owner.

29 4. If it is found that an owner of an eligible
30 nonprofit scholarship-funding organization does not meet level
31 2 requirements, the eligible nonprofit scholarship-funding

1 organization shall be immediately suspended from participating
2 in the program and shall remain suspended until final
3 resolution of any appeals. An eligible nonprofit
4 scholarship-funding organization the owner of which fails to
5 meet level 2 screening standards or has been convicted of a
6 crime involving moral turpitude may not participate in this
7 program.

8 (m) If the owner of an eligible nonprofit
9 scholarship-funding organization has in the immediately
10 preceding 7 years filed for personal bankruptcy or owned 20
11 percent or more of a corporation that filed for corporate
12 bankruptcy in the immediately preceding 7 years, the eligible
13 nonprofit scholarship-funding organization may not participate
14 in this program.

15 (n) An eligible nonprofit scholarship-funding
16 organization must comply with the antidiscrimination
17 provisions of 42 U.S.C. s. 2000d.

18 (o) An eligible nonprofit scholarship-funding
19 organization or an owner of an eligible nonprofit
20 scholarship-funding organization may not own, operate, or
21 administer an eligible private school participating in the
22 program.

23 (p) An eligible nonprofit scholarship-funding
24 organization must report to the Department of Education any
25 eligible private school participating in the scholarship
26 program under this section which does not comply with the
27 requirements of this program. The eligible nonprofit
28 scholarship-funding organization may not provide additional
29 scholarship funds for a qualified student to attend an
30 eligible private school until the State Board of Education
31 determines that the school is in compliance with this section.

1 (q) An eligible nonprofit scholarship-funding
2 organization must allow a qualified student to attend any
3 eligible private school and must allow the parent to transfer
4 the scholarship during the school year to another eligible
5 private school of the parent's choice.

6 (r) An eligible nonprofit scholarship-funding
7 organization must provide a scholarship to a qualified student
8 on a first-come, first-served basis unless the student
9 qualifies for priority pursuant to paragraph (b). An eligible
10 nonprofit scholarship-funding organization may not target
11 scholarships to a particular private school or provide
12 scholarships to a child of an owner.

13 (s) An eligible nonprofit scholarship-funding
14 organization may not transfer scholarship funds to another
15 eligible nonprofit scholarship-funding organization.

16 (t) An eligible nonprofit scholarship-funding
17 organization may not secure a promissory note, a line of
18 credit, or other financing to fund a scholarship in
19 anticipation of an eligible contribution. An eligible
20 scholarship-funding organization may only fund scholarships
21 through eligible contributions received under the scholarship
22 program.

23 (u) An eligible nonprofit scholarship-funding
24 organization that fails to comply with this section may not
25 participate in the scholarship program.

26 ~~(6)(5)~~ PARENT OBLIGATIONS.--

27 (a) As a condition for scholarship payment pursuant to
28 ~~paragraph (4)(g)~~, if the parent chooses for his or her child
29 to attend an eligible private ~~nonpublic~~ school, the parent
30 must inform the child's school district within 15 days after
31 ~~the such~~ decision has been made.

1 (b) Any student participating in the scholarship
2 program must remain in attendance throughout the school year,
3 unless excused by the school for illness or other good cause,
4 and must comply fully with the school's code of conduct.

5 (c) The parent of each student participating in the
6 scholarship program must comply fully with the eligible
7 private school's parental-involvement requirements unless
8 excused by the school for good cause.

9 (d) Upon receipt of scholarship funds from an eligible
10 nonprofit scholarship-funding organization, the parent to whom
11 the warrant is made must restrictively endorse the warrant to
12 the eligible private school for deposit into the account of
13 the private school. If a parent refuses to restrictively
14 endorse a warrant to which an eligible private school is
15 lawfully entitled, that student's scholarship shall be
16 forfeited. The parent may not authorize the eligible private
17 school, its owners, or employees to act as an attorney in fact
18 for purposes of endorsing scholarship warrants.

19 (e) A student or parent who fails to comply with this
20 subsection forfeits the scholarship.

21 ~~(7)(6)~~ ELIGIBLE PRIVATE ~~NONPUBLIC~~ SCHOOL

22 OBLIGATIONS.--An eligible private ~~nonpublic~~ school must:

23 (a) Demonstrate fiscal soundness by being in operation
24 for one school year or provide the Department of Education
25 with a statement by a certified public accountant confirming
26 that the private ~~nonpublic~~ school desiring to participate is
27 insured and the owner or owners have sufficient capital or
28 credit to operate the school for the upcoming year serving the
29 number of students anticipated with expected revenues from
30 tuition and other sources that may be reasonably expected. In
31 lieu of such a statement, a surety bond or letter of credit

1 for the amount equal to the scholarship funds for any quarter
2 may be filed with the department.

3 (b) Comply with the antidiscrimination provisions of
4 42 U.S.C. s. 2000d.

5 (c) Meet state and local health and safety laws and
6 codes.

7 (d) Comply with all state laws relating to general
8 regulation of private ~~nonpublic~~ schools.

9 ~~(8)(7)~~ ADMINISTRATION; RULES.--

10 (a) If the credit granted pursuant to this section is
11 not fully used in any one year because of insufficient tax
12 liability on the part of the corporation, the unused amount
13 may be carried forward for a period not to exceed 3 years;
14 however, any taxpayer that seeks to carry forward an unused
15 amount of tax credit must submit an application for allocation
16 of tax credits or carryforward credits as required in
17 paragraph (d) in the year that the taxpayer intends to use the
18 carryforward. The total amount of tax credits and carryforward
19 of tax credits granted each state fiscal year under this
20 section is \$88 million. This carryforward applies to all
21 approved contributions made after January 1, 2002. A taxpayer
22 may not convey, assign, or transfer the credit authorized by
23 this section to another entity unless all of the assets of the
24 taxpayer are conveyed, assigned, or transferred in the same
25 transaction.

26 (b) An application for a tax credit pursuant to this
27 section shall be submitted to the department on forms
28 established by rule of the department.

29 (c) The department and the Department of Education
30 shall develop a cooperative agreement to assist in the
31 administration of this section. The Department of Education

1 shall be responsible for annually submitting, by March 15, to
2 the department a list of eligible nonprofit
3 scholarship-funding organizations that meet the requirements
4 of paragraph~~(3)(c)(2)(d)~~ and for monitoring eligibility of
5 nonprofit scholarship-funding organizations that meet the
6 requirements of paragraph~~(3)(c)(2)(d)~~, eligibility of
7 private nonprofit schools that meet the requirements of
8 paragraph~~(3)(b)(2)(e)~~, and eligibility of expenditures under
9 this section as provided in subsection~~(5)(4)~~.

10 (d) The department shall adopt rules necessary to
11 administer this section, including rules establishing
12 application forms and procedures and governing the allocation
13 of tax credits and carryforward credits under this section on
14 a first-come, first-served basis.

15 (e) The Department of Education shall adopt rules
16 necessary to determine eligibility of nonprofit
17 scholarship-funding organizations as defined in paragraph
18 ~~(3)(c)(2)(d)~~ and according to the provisions of subsection
19 ~~(5)(4)~~ and identify qualified students as defined in
20 paragraph~~(3)(e)(2)(e)~~.

21 ~~(9)(8)~~ DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--All
22 eligible contributions received by an eligible nonprofit
23 scholarship-funding organization shall be deposited in a
24 manner consistent with s. 17.57(2).

25 Section 2. This act shall take effect upon becoming a
26 law.

27
28 *****

29 SENATE SUMMARY

30 Revises provisions relating to the Corporate Tax Credit
31 Scholarship Program. (See bill for details.)