



846896

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/26/2009	.	
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The Committee on Education Pre-K - 12 (Storms) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (2) of section 220.186, Florida Statutes, is amended to read:

220.186 Credit for Florida alternative minimum tax.-

(2) The credit pursuant to this section shall be the amount of the excess, if any, of the tax paid based upon taxable income determined pursuant to s. 220.13(2)(k) over the amount of tax which would have been due based upon taxable income without



846896

12 application of s. 220.13(2)(k), before application of this
13 credit without application of any credit under s. 220.187.

14 Section 2. Subsections (2) and (3), paragraph (b) of
15 subsection (5), paragraphs (b) and (i) of subsection (6), and
16 paragraphs (a), (b), (l), and (n) of subsection (9) of section
17 220.187, Florida Statutes, are amended, paragraph (e) is added
18 to subsection (5) of that section, paragraph (o) is added to
19 subsection (9) of that section, subsections (10) through (14) of
20 that section are renumbered as subsections (11) through (15),
21 respectively, and a new subsection (10) is added to that
22 section, to read:

23 220.187 Credits for contributions to nonprofit scholarship-
24 funding organizations.-

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

26 (a) "Department" means the Department of Revenue.

27 (b) "Direct certification list" means the certified list of
28 children who qualify for the Food Stamp Program, the Temporary
29 Assistance to Needy Families Program, or the Food Distribution
30 Program on Indian Reservations provided to the Department of
31 Education by the Department of Children and Family Services.

32 (c)~~(b)~~ "Eligible contribution" means a monetary
33 contribution from a taxpayer, subject to the restrictions
34 provided in this section, to an eligible nonprofit scholarship-
35 funding organization. The taxpayer making the contribution may
36 not designate a specific child as the beneficiary of the
37 contribution.

38 (d)~~(e)~~ "Eligible nonprofit scholarship-funding
39 organization" means a charitable organization that:

40 1. Is exempt from federal income tax pursuant to s.



846896

41 501(c)(3) of the Internal Revenue Code;

42 2. Is a Florida entity formed under chapter 607, chapter
43 608, or chapter 617 and whose principal office is located in the
44 state; and

45 3. Complies with the provisions of subsection (6).

46 (e)~~(d)~~ "Eligible private school" means a private school, as
47 defined in s. 1002.01(2), located in Florida which offers an
48 education to students in any grades K-12 and that meets the
49 requirements in subsection (8).

50 (f)~~(e)~~ "Owner or operator" includes:

51 1. An owner, president, officer, or director of an eligible
52 nonprofit scholarship-funding organization or a person with
53 equivalent decisionmaking authority over an eligible nonprofit
54 scholarship-funding organization.

55 2. An owner, operator, superintendent, or principal of an
56 eligible private school or a person with equivalent
57 decisionmaking authority over an eligible private school.

58 (3) PROGRAM; SCHOLARSHIP ELIGIBILITY.—The Florida Corporate
59 ~~Income~~ Tax Credit Scholarship Program is established. A student
60 is eligible for a Florida corporate income tax credit
61 scholarship under this section or s. 624.51055 if the student
62 qualifies for free or reduced-price school lunches under the
63 National School Lunch Act or is on the direct certification list
64 and:

65 (a) Was counted as a full-time equivalent student during
66 the previous state fiscal year for purposes of state per-student
67 funding;

68 (b) Received a scholarship from an eligible nonprofit
69 scholarship-funding organization or from the State of Florida



846896

70 during the previous school year;

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

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

74
75 Contingent upon available funds, a student may continue in
76 the scholarship program as long as the student's household
77 income level does not exceed 200 percent of the federal poverty
78 level. A sibling of a student who is continuing in the program
79 and resides in the same household as the student shall also be
80 eligible as a first-time ~~corporate income~~ tax credit scholarship
81 recipient as long as the student's and sibling's household
82 income level does not exceed 200 percent of the federal poverty
83 level. Household income for purposes of a student who is
84 currently in foster care as defined in s. 39.01 shall consist
85 only of the income that may be considered in determining whether
86 he or she qualifies for free or reduced-price school lunches
87 under the National School Lunch Act.

88 (5) AUTHORIZATION TO GRANT SCHOLARSHIP FUNDING TAX CREDITS;
89 LIMITATIONS ON INDIVIDUAL AND TOTAL CREDITS.—

90 (b) For each state fiscal year, the total amount of tax
91 credits and carryforward of tax credits which may be granted
92 ~~each state fiscal year~~ under this section and s. 624.51055 is:

93 ~~1. Through June 30, 2008, \$88 million.~~

94 ~~2. Beginning July 1, 2008, and thereafter, \$118 million.~~

95 (e) A taxpayer who is eligible to receive the credit
96 provided for in s. 624.51055 is not eligible to receive the
97 credit provided by this section.

98 (6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING



846896

99 ORGANIZATIONS.—An eligible nonprofit scholarship-funding
100 organization:

101 (b) Must comply with the following background check
102 requirements:

103 1. All owners and operators as defined in subparagraph
104 (2) ~~(f)~~ (e) 1. are, upon employment or engagement to provide
105 services, subject to level 2 background screening as provided
106 under chapter 435. The fingerprints for the background screening
107 must be electronically submitted to the Department of Law
108 Enforcement and can be taken by an authorized law enforcement
109 agency or by an employee of the eligible nonprofit scholarship-
110 funding organization or a private company who is trained to take
111 fingerprints. However, the complete set of fingerprints of an
112 owner or operator may not be taken by the owner or operator. The
113 results of the state and national criminal history check shall
114 be provided to the Department of Education for screening under
115 chapter 435. The cost of the background screening may be borne
116 by the eligible nonprofit scholarship-funding organization or
117 the owner or operator.

118 2. Every 5 years following employment or engagement to
119 provide services or association with an eligible nonprofit
120 scholarship-funding organization, each owner or operator must
121 meet level 2 screening standards as described in s. 435.04, at
122 which time the nonprofit scholarship-funding organization shall
123 request the Department of Law Enforcement to forward the
124 fingerprints to the Federal Bureau of Investigation for level 2
125 screening. If the fingerprints of an owner or operator are not
126 retained by the Department of Law Enforcement under subparagraph
127 3., the owner or operator must electronically file a complete



846896

128 set of fingerprints with the Department of Law Enforcement. Upon
129 submission of fingerprints for this purpose, the eligible
130 nonprofit scholarship-funding organization shall request that
131 the Department of Law Enforcement forward the fingerprints to
132 the Federal Bureau of Investigation for level 2 screening, and
133 the fingerprints shall be retained by the Department of Law
134 Enforcement under subparagraph 3.

135 3. Beginning July 1, 2007, all fingerprints submitted to
136 the Department of Law Enforcement as required by this paragraph
137 must be retained by the Department of Law Enforcement in a
138 manner approved by rule and entered in the statewide automated
139 fingerprint identification system authorized by s. 943.05(2)(b).
140 The fingerprints must thereafter be available for all purposes
141 and uses authorized for arrest fingerprint cards entered in the
142 statewide automated fingerprint identification system pursuant
143 to s. 943.051.

144 4. Beginning July 1, 2007, the Department of Law
145 Enforcement shall search all arrest fingerprint cards received
146 under s. 943.051 against the fingerprints retained in the
147 statewide automated fingerprint identification system under
148 subparagraph 3. Any arrest record that is identified with an
149 owner's or operator's fingerprints must be reported to the
150 Department of Education. The Department of Education shall
151 participate in this search process by paying an annual fee to
152 the Department of Law Enforcement and by informing the
153 Department of Law Enforcement of any change in the employment,
154 engagement, or association status of the owners or operators
155 whose fingerprints are retained under subparagraph 3. The
156 Department of Law Enforcement shall adopt a rule setting the



846896

157 amount of the annual fee to be imposed upon the Department of
158 Education for performing these services and establishing the
159 procedures for the retention of owner and operator fingerprints
160 and the dissemination of search results. The fee may be borne by
161 the owner or operator of the nonprofit scholarship-funding
162 organization.

163 5. A nonprofit scholarship-funding organization whose owner
164 or operator fails the level 2 background screening shall not be
165 eligible to provide scholarships under this section.

166 6. A nonprofit scholarship-funding organization whose owner
167 or operator in the last 7 years has filed for personal
168 bankruptcy or corporate bankruptcy in a corporation of which he
169 or she owned more than 20 percent shall not be eligible to
170 provide scholarships under this section.

171 (i)1. May use up to 3 percent of eligible contributions
172 received during the state fiscal year in which such
173 contributions are collected for administrative expenses if the
174 organization has operated under this section for at least 3
175 state fiscal years and did not have any negative financial
176 findings in its most recent audit under paragraph (1). Such
177 administrative expenses must be reasonable and necessary for the
178 organization's management and distribution of eligible
179 contributions under this section. No more than one-third of the
180 funds authorized for administrative expenses under this
181 subparagraph may be used for expenses related to the recruitment
182 of contributions from ~~corporate~~ taxpayers.

183 2. Must expend for annual or partial-year scholarships an
184 amount equal to or greater than 75 percent of the net eligible
185 contributions remaining after administrative expenses during the



846896

186 state fiscal year in which such contributions are collected. No
187 more than 25 percent of such net eligible contributions may be
188 carried forward to the following state fiscal year. Any amounts
189 carried forward shall be expended for annual or partial-year
190 scholarships in the following state fiscal year. Net eligible
191 contributions remaining on June 30 of each year that are in
192 excess of the 25 percent that may be carried forward shall be
193 returned to the State Treasury for deposit in the General
194 Revenue Fund.

195 3. Must, before granting a scholarship for an academic
196 year, document each scholarship student's eligibility for that
197 academic year. A scholarship-funding organization may not grant
198 multiyear scholarships in one approval process.
199

200 Any and all information and documentation provided to the
201 Department of Education and the Auditor General relating to the
202 identity of a taxpayer that provides an eligible contribution
203 under this section shall remain confidential at all times in
204 accordance with s. 213.053.

205 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The Department of
206 Education shall:

207 (a) Annually submit to the department, by March 15, a list
208 of eligible nonprofit scholarship-funding organizations that
209 meet the requirements of paragraph (2) (d) ~~(e)~~.

210 (b) Annually verify the eligibility of nonprofit
211 scholarship-funding organizations that meet the requirements of
212 paragraph (2) (d) ~~(e)~~.

213 (1) Notify an eligible nonprofit scholarship-funding
214 organization of any of the organization's identified students



846896

215 who are receiving ~~corporate income~~ tax credit scholarships from
216 other eligible nonprofit scholarship-funding organizations.

217 (n)1. Conduct random site visits to private schools
218 participating in the Florida ~~Corporate~~ Tax Credit Scholarship
219 Program. The purpose of the site visits is solely to verify the
220 information reported by the schools concerning the enrollment
221 and attendance of students, the credentials of teachers,
222 background screening of teachers, and teachers' fingerprinting
223 results. The Department of Education may not make more than
224 seven random site visits each year and may not make more than
225 one random site visit each year to the same private school.

226 2. Annually, by December 15, report to the Governor, the
227 President of the Senate, and the Speaker of the House of
228 Representatives the Department of Education's actions with
229 respect to implementing accountability in the scholarship
230 program under this section and s. 1002.421, any substantiated
231 allegations or violations of law or rule by an eligible private
232 school under this program concerning the enrollment and
233 attendance of students, the credentials of teachers, background
234 screening of teachers, and teachers' fingerprinting results and
235 the corrective action taken by the Department of Education.

236 (o) Provide a process to match the direct certification
237 list with the scholarship application data submitted by any
238 nonprofit scholarship-funding organization eligible to receive
239 the 3-percent administrative allowance under paragraph (6) (i).

240 (10) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.—Upon
241 the request of any eligible nonprofit scholarship-funding
242 organization, a school district shall inform all households
243 within the district receiving free or reduced-priced meals under



846896

244 the National School Lunch Act of their eligibility to apply for
245 a tax credit scholarship. The form of such notice shall be
246 provided by the eligible nonprofit scholarship-funding
247 organization and the district shall include the provided form,
248 if requested by the organization, in any normal correspondence
249 with eligible households. If an eligible nonprofit scholarship-
250 funding organization requests a special communication to be
251 issued to households within the district receiving free or
252 reduced-price meals under the National School Lunch Act, the
253 organization shall reimburse the district for the cost of
254 postage. Such notice is limited to once a year.

255 Section 3. Section 624.51055, Florida Statutes, is created
256 to read:

257 624.51055 Credit for contributions to eligible nonprofit
258 scholarship-funding organizations.—

259 (1) There is allowed a credit of 100 percent of an eligible
260 contribution made to an eligible nonprofit scholarship-funding
261 organization as provided in s. 220.187 against any net tax due
262 for a taxable year under s. 624.509(1). However, such a credit
263 may not exceed 75 percent of the net tax due under s. 624.509(1)
264 after deducting from such tax due the taxes paid by the insurer
265 under ss. 175.101 and 185.08 and any assessments pursuant to s.
266 440.51. An insurer claiming a credit against premium tax
267 liability under this section shall not be required to pay any
268 additional retaliatory tax levied pursuant to s. 624.5091 as a
269 result of claiming such credit. Section 624.5091 does not limit
270 such credit in any manner.

271 (2) The provisions of s. 220.187 apply to the credit
272 authorized by this section.



846896

273 Section 4. Paragraph (b) of subsection (6) of section
274 1002.20, Florida Statutes, is amended to read:

275 1002.20 K-12 student and parent rights.—Parents of public
276 school students must receive accurate and timely information
277 regarding their child's academic progress and must be informed
278 of ways they can help their child to succeed in school. K-12
279 students and their parents are afforded numerous statutory
280 rights including, but not limited to, the following:

281 (6) EDUCATIONAL CHOICE.—

282 (b) *Private school choices*.—Parents of public school
283 students may seek private school choice options under certain
284 programs.

285 1. Under the Opportunity Scholarship Program, the parent of
286 a student in a failing public school may request and receive an
287 opportunity scholarship for the student to attend a private
288 school in accordance with the provisions of s. 1002.38.

289 2. Under the McKay Scholarships for Students with
290 Disabilities Program, the parent of a public school student with
291 a disability who is dissatisfied with the student's progress may
292 request and receive a McKay Scholarship for the student to
293 attend a private school in accordance with the provisions of s.
294 1002.39.

295 3. Under the Florida ~~corporate income~~ Tax Credit
296 Scholarship Program, the parent of a student who qualifies for
297 free or reduced-price school lunch may seek a scholarship from
298 an eligible nonprofit scholarship-funding organization in
299 accordance with the provisions of s. 220.187.

300 Section 5. Paragraph (e) of subsection (2) of section
301 1002.23, Florida Statutes, is amended to read:



846896

302 1002.23 Family and School Partnership for Student
303 Achievement Act.—

304 (2) To facilitate meaningful parent and family involvement,
305 the Department of Education shall develop guidelines for a
306 parent guide to successful student achievement which describes
307 what parents need to know about their child's educational
308 progress and how they can help their child to succeed in school.
309 The guidelines shall include, but need not be limited to:

310 (e) Educational choices, as provided for in s. 1002.20(6),
311 and Florida ~~corporate income~~ tax credit scholarships, as
312 provided for in s. 220.187;

313 Section 6. Paragraph (b) of subsection (3) of section
314 1002.39, Florida Statutes, is amended to read:

315 1002.39 The John M. McKay Scholarships for Students with
316 Disabilities Program.—There is established a program that is
317 separate and distinct from the Opportunity Scholarship Program
318 and is named the John M. McKay Scholarships for Students with
319 Disabilities Program.

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

322 (b) Receiving a Florida ~~corporate income~~ tax credit
323 scholarship under s. 220.187;

324 Section 7. Subsection (1) of section 1002.421, Florida
325 Statutes, is amended to read:

326 1002.421 Accountability of private schools participating in
327 state school choice scholarship programs.—

328 (1) A Florida private school participating in the Florida
329 ~~Corporate Income~~ Tax Credit Scholarship Program established
330 pursuant to s. 220.187 or an educational scholarship program



846896

331 established pursuant to this chapter must comply with all
332 requirements of this section in addition to private school
333 requirements outlined in s. 1002.42, specific requirements
334 identified within respective scholarship program laws, and other
335 provisions of Florida law that apply to private schools.

336 Section 8. If any provision of this act or the application
337 thereof to any person or circumstance is held invalid, the
338 invalidity shall not affect other provisions or applications of
339 the act which can be given effect without the invalid provision
340 or application, and to this end the provisions of this act are
341 declared severable.

342 Section 9. This act shall take effect July 1, 2009.

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344
345 ===== T I T L E A M E N D M E N T =====

346 And the title is amended as follows:

347 Delete everything before the enacting clause
348 and insert:

349 A bill to be entitled
350 An act relating to tax credits for contributions to
351 nonprofit scholarship-funding organizations; amending
352 s. 220.186, F.S.; providing that the credit authorized
353 under the Florida Tax Credit Scholarship Program does
354 not apply to the credit for the Florida alternative
355 minimum tax; amending s. 220.187, F.S.; defining the
356 term "direct certification list"; expanding the
357 Corporate Income Tax Credit Scholarship Program to
358 include insurance premium tax credits; revising
359 credits for contributions to nonprofit scholarship-



360 funding organizations; providing that a taxpayer
361 eligible to receive a credit against the insurance
362 premium tax is not eligible to receive a credit
363 against the corporate income tax; imposing an
364 additional requirement on the Department of Education;
365 specifying school district tax credit scholarship
366 notification requirements and limitations; conforming
367 cross-references; creating s. 624.51055, F.S.;
368 providing for credits against the insurance premium
369 tax for contributions to certain eligible nonprofit
370 scholarship-funding organizations; providing
371 application; amending ss. 1002.20, 1002.23, 1002.39,
372 and 1002.421, F.S.; providing conforming revisions;
373 providing severability; providing an effective date.