

By Senator Gardiner

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1 A bill to be entitled
2 An act relating to tax credits for contributions to
3 nonprofit scholarship-funding organizations; creating
4 s. 212.099, F.S.; providing for credits against the
5 sales and use tax for contributions to certain
6 eligible nonprofit scholarship-funding organizations;
7 providing application; amending s. 220.187, F.S.;
8 defining the term "direct certification list";
9 expanding the Corporate Income Tax Credit Scholarship
10 Program to include sales and use tax credits and
11 insurance premium tax credits; revising credits for
12 contributions to nonprofit scholarship-funding
13 organizations; specifying that a taxpayer's use of the
14 credit doesn't reduce alternative minimum tax credits;
15 providing that certain taxes are not state funds or
16 revenues of the state or held in trust for the state;
17 specifying Department of Education tax credit
18 scholarship notification requirements; specifying
19 notice requirements and limitations; imposing
20 additional requirement upon the Department of
21 Education; conforming cross-references; creating s.
22 624.51055, F.S.; providing for credits against the
23 insurance premium tax for contributions to certain
24 eligible nonprofit scholarship-funding organizations;
25 providing application; amending ss. 1002.20, 1002.23,
26 1002.39, and 1002.421, F.S.; providing conforming
27 revisions; providing an effective date.

28
29 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Section 212.099, Florida Statutes, is created to read:

212.099 Credit for contributions to eligible nonprofit scholarship-funding organizations.-

(1) Persons who are registered with the department under s. 212.18 to collect or remit sales or use tax and who must make estimated tax payments under s. 212.11(4) (a) and who make an eligible contribution to an eligible nonprofit scholarship-funding organization as provided in s. 220.187 are allowed a credit of 100 percent of the eligible contribution against any estimated state sales tax payment. However, such a credit may not exceed 75 percent of the tax due. This credit shall be taken on the return for the month following the month in which the eligible contribution is received by the nonprofit scholarship-funding organization.

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

Section 2. Subsections (2) and (3), paragraphs (b) and (i) of subsection (6), and paragraphs (a), (b), (l), and (n) of subsection (9) of section 220.187, Florida Statutes, are amended, paragraphs (e) and (f) are added to subsection (5) of that section, and paragraphs (o) and (p) are added to subsection (9) of that section, to read:

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

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

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

(b) "Direct certification list" means the certified list of

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59 children who qualify for the Food Stamp Program, the Temporary
60 Assistance to Needy Families Program, or the Food Distribution
61 Program on Indian Reservations provided to the Department of
62 Education by the Department of Children and Family Services.

63 (c)~~(b)~~ "Eligible contribution" means a monetary
64 contribution from a taxpayer, subject to the restrictions
65 provided in this section, to an eligible nonprofit scholarship-
66 funding organization. The taxpayer making the contribution may
67 not designate a specific child as the beneficiary of the
68 contribution.

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

- 71 1. Is exempt from federal income tax pursuant to s.
72 501(c)(3) of the Internal Revenue Code;
- 73 2. Is a Florida entity formed under chapter 607, chapter
74 608, or chapter 617 and whose principal office is located in the
75 state; and
- 76 3. Complies with the provisions of subsection (6).

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

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

- 82 1. An owner, president, officer, or director of an eligible
83 nonprofit scholarship-funding organization or a person with
84 equivalent decisionmaking authority over an eligible nonprofit
85 scholarship-funding organization.
- 86 2. An owner, operator, superintendent, or principal of an
87 eligible private school or a person with equivalent

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88 decisionmaking authority over an eligible private school.

89 (3) PROGRAM; SCHOLARSHIP ELIGIBILITY.—The Florida Corporate
90 ~~Income~~ Tax Credit Scholarship Program is established. A student
91 is eligible for a Florida corporate income tax credit
92 scholarship under this section, s. 212.099, or s. 624.51055 if
93 the student qualifies for free or reduced-price school lunches
94 under the National School Lunch Act or is on the direct
95 certification list and:

96 (a) Was counted as a full-time equivalent student during
97 the previous state fiscal year for purposes of state per-student
98 funding;

99 (b) Received a scholarship from an eligible nonprofit
100 scholarship-funding organization or from the State of Florida
101 during the previous school year;

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

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

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106 Contingent upon available funds, a student may continue in the
107 scholarship program as long as the student's household income
108 level does not exceed 200 percent of the federal poverty level.
109 A sibling of a student who is continuing in the program and
110 resides in the same household as the student shall also be
111 eligible as a first-time ~~corporate income~~ tax credit scholarship
112 recipient as long as the student's and sibling's household
113 income level does not exceed 200 percent of the federal poverty
114 level. Household income for purposes of a student who is
115 currently in foster care as defined in s. 39.01 shall consist
116 only of the income that may be considered in determining whether

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117 he or she qualifies for free or reduced-price school lunches
118 under the National School Lunch Act.

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

121 (e) A taxpayer's use of the credit granted pursuant to this
122 section does not reduce the amount of any credit available to
123 such taxpayer under s. 220.186.

124 (f) Notwithstanding the provisions of ss. 212.15 and 212.06
125 or any other provision of chapter 212, taxes remitted pursuant
126 to chapter 212 against which a credit is taken pursuant to this
127 section are not state funds or revenue of the state or otherwise
128 held in trust for the state.

129 (6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING
130 ORGANIZATIONS.—An eligible nonprofit scholarship-funding
131 organization:

132 (b) Must comply with the following background check
133 requirements:

134 1. All owners and operators as defined in subparagraph
135 (2) ~~(f)-(e)~~1. are, upon employment or engagement to provide
136 services, subject to level 2 background screening as provided
137 under chapter 435. The fingerprints for the background screening
138 must be electronically submitted to the Department of Law
139 Enforcement and can be taken by an authorized law enforcement
140 agency or by an employee of the eligible nonprofit scholarship-
141 funding organization or a private company who is trained to take
142 fingerprints. However, the complete set of fingerprints of an
143 owner or operator may not be taken by the owner or operator. The
144 results of the state and national criminal history check shall
145 be provided to the Department of Education for screening under

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146 chapter 435. The cost of the background screening may be borne
147 by the eligible nonprofit scholarship-funding organization or
148 the owner or operator.

149 2. Every 5 years following employment or engagement to
150 provide services or association with an eligible nonprofit
151 scholarship-funding organization, each owner or operator must
152 meet level 2 screening standards as described in s. 435.04, at
153 which time the nonprofit scholarship-funding organization shall
154 request the Department of Law Enforcement to forward the
155 fingerprints to the Federal Bureau of Investigation for level 2
156 screening. If the fingerprints of an owner or operator are not
157 retained by the Department of Law Enforcement under subparagraph
158 3., the owner or operator must electronically file a complete
159 set of fingerprints with the Department of Law Enforcement. Upon
160 submission of fingerprints for this purpose, the eligible
161 nonprofit scholarship-funding organization shall request that
162 the Department of Law Enforcement forward the fingerprints to
163 the Federal Bureau of Investigation for level 2 screening, and
164 the fingerprints shall be retained by the Department of Law
165 Enforcement under subparagraph 3.

166 3. Beginning July 1, 2007, all fingerprints submitted to
167 the Department of Law Enforcement as required by this paragraph
168 must be retained by the Department of Law Enforcement in a
169 manner approved by rule and entered in the statewide automated
170 fingerprint identification system authorized by s. 943.05(2)(b).
171 The fingerprints must thereafter be available for all purposes
172 and uses authorized for arrest fingerprint cards entered in the
173 statewide automated fingerprint identification system pursuant
174 to s. 943.051.

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175 4. Beginning July 1, 2007, the Department of Law
176 Enforcement shall search all arrest fingerprint cards received
177 under s. 943.051 against the fingerprints retained in the
178 statewide automated fingerprint identification system under
179 subparagraph 3. Any arrest record that is identified with an
180 owner's or operator's fingerprints must be reported to the
181 Department of Education. The Department of Education shall
182 participate in this search process by paying an annual fee to
183 the Department of Law Enforcement and by informing the
184 Department of Law Enforcement of any change in the employment,
185 engagement, or association status of the owners or operators
186 whose fingerprints are retained under subparagraph 3. The
187 Department of Law Enforcement shall adopt a rule setting the
188 amount of the annual fee to be imposed upon the Department of
189 Education for performing these services and establishing the
190 procedures for the retention of owner and operator fingerprints
191 and the dissemination of search results. The fee may be borne by
192 the owner or operator of the nonprofit scholarship-funding
193 organization.

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

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

202 (i)1. May use up to 3 percent of eligible contributions
203 received during the state fiscal year in which such

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204 contributions are collected for administrative expenses if the
205 organization has operated under this section for at least 3
206 state fiscal years and did not have any negative financial
207 findings in its most recent audit under paragraph (1). Such
208 administrative expenses must be reasonable and necessary for the
209 organization's management and distribution of eligible
210 contributions under this section. No more than one-third of the
211 funds authorized for administrative expenses under this
212 subparagraph may be used for expenses related to the recruitment
213 of contributions from ~~corporate~~ taxpayers.

214 2. Must expend for annual or partial-year scholarships an
215 amount equal to or greater than 75 percent of the net eligible
216 contributions remaining after administrative expenses during the
217 state fiscal year in which such contributions are collected. No
218 more than 25 percent of such net eligible contributions may be
219 carried forward to the following state fiscal year. Any amounts
220 carried forward shall be expended for annual or partial-year
221 scholarships in the following state fiscal year. Net eligible
222 contributions remaining on June 30 of each year that are in
223 excess of the 25 percent that may be carried forward shall be
224 returned to the State Treasury for deposit in the General
225 Revenue Fund.

226 3. Must, before granting a scholarship for an academic
227 year, document each scholarship student's eligibility for that
228 academic year. A scholarship-funding organization may not grant
229 multiyear scholarships in one approval process.

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231 Any and all information and documentation provided to the
232 Department of Education and the Auditor General relating to the

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233 identity of a taxpayer that provides an eligible contribution
 234 under this section shall remain confidential at all times in
 235 accordance with s. 213.053.

236 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The Department of
 237 Education shall:

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

241 (b) Annually verify the eligibility of nonprofit
 242 scholarship-funding organizations that meet the requirements of
 243 paragraph (2) (d) ~~(e)~~.

244 (1) Notify an eligible nonprofit scholarship-funding
 245 organization of any of the organization's identified students
 246 who are receiving ~~corporate-income~~ tax credit scholarships from
 247 other eligible nonprofit scholarship-funding organizations.

248 (n)1. Conduct random site visits to private schools
 249 participating in the Florida Corporate Tax Credit Scholarship
 250 Program. The purpose of the site visits is solely to verify the
 251 information reported by the schools concerning the enrollment
 252 and attendance of students, the credentials of teachers,
 253 background screening of teachers, and teachers' fingerprinting
 254 results. The Department of Education may not make more than
 255 seven random site visits each year and may not make more than
 256 one random site visit each year to the same private school.

257 2. Annually, by December 15, report to the Governor, the
 258 President of the Senate, and the Speaker of the House of
 259 Representatives the Department of Education's actions with
 260 respect to implementing accountability in the scholarship
 261 program under this section and s. 1002.421, any substantiated

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262 allegations or violations of law or rule by an eligible private
263 school under this program concerning the enrollment and
264 attendance of students, the credentials of teachers, background
265 screening of teachers, and teachers' fingerprinting results and
266 the corrective action taken by the Department of Education.

267 (o) Upon the request of any nonprofit scholarship-funding
268 organization eligible to receive the 3-percent administrative
269 allowance under paragraph (6) (i), the Department of Education
270 shall inform all households receiving free or reduced-priced
271 meals under the National School Lunch Act of their eligibility
272 to apply for a tax credit scholarship. The form of such notice
273 shall be provided by the eligible nonprofit scholarship-funding
274 organization and the department shall include the provided form,
275 if requested by the organization, in any normal correspondence
276 with eligible households. If an eligible nonprofit scholarship-
277 funding organization requests a special communication to be
278 issued, the organization shall reimburse the department for the
279 cost of postage. Such notice is limited to once a year.

280 (p) Provide the direct certification list to any nonprofit
281 scholarship-funding organization eligible to receive the 3-
282 percent administrative allowance under paragraph (6) (i) upon
283 request.

284 Section 3. Section 624.51055, Florida Statutes, is created
285 to read:

286 624.51055 Credit for contributions to eligible nonprofit
287 scholarship-funding organizations.—

288 (1) There is allowed a credit of 100 percent of an eligible
289 contribution made to an eligible nonprofit scholarship-funding
290 organization as provided in s. 220.187 against any tax due for a

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291 taxable year under this chapter. However, such a credit may not
292 exceed 75 percent of the tax due under s. 624.509(1) after
293 deducting from such tax due the taxes paid by the insurer under
294 ss. 175.101 and 185.08 and any assessments pursuant to s.
295 440.51. An insurer claiming a credit against premium tax
296 liability under this section shall not be required to pay any
297 additional retaliatory tax levied pursuant to s. 624.509(1) as a
298 result of claiming such credit. Section 624.509(1) does not
299 limit such credit in any manner.

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

302 Section 4. Paragraph (b) of subsection (6) of section
303 1002.20, Florida Statutes, is amended to read:

304 1002.20 K-12 student and parent rights.—Parents of public
305 school students must receive accurate and timely information
306 regarding their child's academic progress and must be informed
307 of ways they can help their child to succeed in school. K-12
308 students and their parents are afforded numerous statutory
309 rights including, but not limited to, the following:

310 (6) EDUCATIONAL CHOICE.—

311 (b) *Private school choices.*—Parents of public school
312 students may seek private school choice options under certain
313 programs.

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

318 2. Under the McKay Scholarships for Students with
319 Disabilities Program, the parent of a public school student with

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320 a disability who is dissatisfied with the student's progress may
321 request and receive a McKay Scholarship for the student to
322 attend a private school in accordance with the provisions of s.
323 1002.39.

324 3. Under the Florida ~~corporate income~~ Tax Credit
325 Scholarship Program provided for in s. 220.187, the parent of a
326 student who qualifies for free or reduced-price school lunch may
327 seek a scholarship from an eligible nonprofit scholarship-
328 funding organization in accordance with the provisions of s.
329 220.187.

330 Section 5. Subsection (2) of section 1002.23, Florida
331 Statutes, is amended to read:

332 1002.23 Family and School Partnership for Student
333 Achievement Act.—

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

340 (a) Parental information regarding:

341 1. Requirements for their child to be promoted to the next
342 grade, as provided for in s. 1008.25;

343 2. Progress of their child toward achieving state and
344 district expectations for academic proficiency;

345 3. Assessment results, including report cards and progress
346 reports;

347 4. Qualifications of their child's teachers; and

348 5. School entry requirements, including required

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349 immunizations and the recommended immunization schedule;

350 (b) Services available for parents and their children, such
351 as family literacy services; mentoring, tutorial, and other
352 academic reinforcement programs; college planning, academic
353 advisement, and student counseling services; and after-school
354 programs;

355 (c) Opportunities for parental participation, such as
356 parenting classes, adult education, school advisory councils,
357 and school volunteer programs;

358 (d) Opportunities for parents to learn about rigorous
359 academic programs that may be available for their child, such as
360 honors programs, dual enrollment, advanced placement,
361 International Baccalaureate, International General Certificate
362 of Secondary Education (pre-AICE), Advanced International
363 Certificate of Education, Florida Virtual High School courses,
364 and accelerated access to postsecondary education;

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

368 (f) Classroom and test accommodations available for
369 students with disabilities;

370 (g) School board rules, policies, and procedures for
371 student promotion and retention, academic standards, student
372 assessment, courses of study, instructional materials, and
373 contact information for school and district offices; and

374 (h) Resources for information on student health and other
375 available resources for parents.

376 Section 6. Subsection (3) of section 1002.39, Florida
377 Statutes, is amended to read:

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378 1002.39 The John M. McKay Scholarships for Students with
379 Disabilities Program.—There is established a program that is
380 separate and distinct from the Opportunity Scholarship Program
381 and is named the John M. McKay Scholarships for Students with
382 Disabilities Program.

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

385 (a) Enrolled in a school operating for the purpose of
386 providing educational services to youth in Department of
387 Juvenile Justice commitment programs;

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

390 (c) Receiving an educational scholarship pursuant to this
391 chapter;

392 (d) Participating in a home education program as defined in
393 s. 1002.01(1);

394 (e) Participating in a private tutoring program pursuant to
395 s. 1002.43;

396 (f) Participating in a virtual school, correspondence
397 school, or distance learning program that receives state funding
398 pursuant to the student's participation unless the participation
399 is limited to no more than two courses per school year;

400 (g) Enrolled in the Florida School for the Deaf and the
401 Blind; or

402 (h) Not having regular and direct contact with his or her
403 private school teachers at the school's physical location.

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

406 1002.421 Accountability of private schools participating in

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407 state school choice scholarship programs.-

408 (1) A Florida private school participating in the Florida
409 ~~Corporate Income~~ Tax Credit Scholarship Program established
410 pursuant to s. 220.187 or an educational scholarship program
411 established pursuant to this chapter must comply with all
412 requirements of this section in addition to private school
413 requirements outlined in s. 1002.42, specific requirements
414 identified within respective scholarship program laws, and other
415 provisions of Florida law that apply to private schools.

416 Section 8. This act shall take effect July 1, 2009.