

By the Committee on Education Pre-K - 12; and Senators Gardiner, Fasano, Oelrich, Altman, Bennett, Haridopolos, Wise, King, Storms, Dean, Siplin, Baker, and Lawson

581-03493A-09

20091310c1

1 A bill to be entitled

2 An act relating to tax credits for contributions to
3 nonprofit scholarship-funding organizations; amending
4 s. 220.186, F.S.; providing that the credit authorized
5 under the Florida Tax Credit Scholarship Program does
6 not apply to the credit for the Florida alternative
7 minimum tax; amending s. 220.187, F.S.; defining the
8 term "direct certification list"; expanding the
9 Corporate Income Tax Credit Scholarship Program to
10 include insurance premium tax credits; revising
11 credits for contributions to nonprofit scholarship-
12 funding organizations; providing that a taxpayer
13 eligible to receive a credit against the insurance
14 premium tax is not eligible to receive a credit
15 against the corporate income tax; imposing an
16 additional requirement on the school districts;
17 specifying school district tax credit scholarship
18 notification requirements and limitations; conforming
19 cross-references; creating s. 624.51055, F.S.;
20 providing for credits against the insurance premium
21 tax for contributions to certain eligible nonprofit
22 scholarship-funding organizations; providing
23 application; amending ss. 1002.20, 1002.23, 1002.39,
24 and 1002.421, F.S.; conforming provisions to changes
25 made by the act; providing for severability; providing
26 an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:
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581-03493A-09

20091310c1

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

32 220.186 Credit for Florida alternative minimum tax.—

33 (2) The credit pursuant to this section shall be the amount
34 of the excess, if any, of the tax paid based upon taxable income
35 determined pursuant to s. 220.13(2)(k) over the amount of tax
36 which would have been due based upon taxable income without
37 application of s. 220.13(2)(k), before application of this
38 credit without application of any credit under s. 220.187.

39 Section 2. Subsections (2) and (3), paragraph (b) of
40 subsection (5), paragraphs (b) and (i) of subsection (6), and
41 paragraphs (a), (b), (l), and (n) of subsection (9) of section
42 220.187, Florida Statutes, are amended, paragraph (e) is added
43 to subsection (5) of that section, paragraph (o) is added to
44 subsection (9) of that section, present subsections (10) through
45 (14) of that section are renumbered as subsections (11) through
46 (15), respectively, and a new subsection (10) is added to that
47 section, to read:

48 220.187 Credits for contributions to nonprofit scholarship-
49 funding organizations.—

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

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

52 (b) "Direct certification list" means the certified list of
53 children who qualify for the Food Stamp Program, the Temporary
54 Assistance for Needy Families Program, or the Food Distribution
55 Program on Indian Reservations provided to the Department of
56 Education by the Department of Children and Family Services.

57 (c) ~~(b)~~ "Eligible contribution" means a monetary
58 contribution from a taxpayer, subject to the restrictions

581-03493A-09

20091310c1

59 provided in this section, to an eligible nonprofit scholarship-
60 funding organization. The taxpayer making the contribution may
61 not designate a specific child as the beneficiary of the
62 contribution.

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

- 65 1. Is exempt from federal income tax pursuant to s.
66 501(c)(3) of the Internal Revenue Code;
- 67 2. Is a Florida entity formed under chapter 607, chapter
68 608, or chapter 617 and whose principal office is located in the
69 state; and
- 70 3. Complies with the provisions of subsection (6).

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

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

- 76 1. An owner, president, officer, or director of an eligible
77 nonprofit scholarship-funding organization or a person with
78 equivalent decisionmaking authority over an eligible nonprofit
79 scholarship-funding organization.
- 80 2. An owner, operator, superintendent, or principal of an
81 eligible private school or a person with equivalent
82 decisionmaking authority over an eligible private school.

83 (3) PROGRAM; SCHOLARSHIP ELIGIBILITY.—The Florida Corporate
84 ~~Income~~ Tax Credit Scholarship Program is established. A student
85 is eligible for a Florida corporate income tax credit
86 scholarship under this section or s. 624.51055 if the student
87 qualifies for free or reduced-price school lunches under the

581-03493A-09

20091310c1

88 National School Lunch Act or is on the direct certification list
89 and:

90 (a) Was counted as a full-time equivalent student during
91 the previous state fiscal year for purposes of state per-student
92 funding;

93 (b) Received a scholarship from an eligible nonprofit
94 scholarship-funding organization or from the State of Florida
95 during the previous school year;

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

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

99

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

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

115 (b) For each state fiscal year, the total amount of tax
116 credits and carryforward of tax credits which may be granted

581-03493A-09

20091310c1

117 ~~each state fiscal year~~ under this section and s. 624.51055 is:

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

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

120 (e) A taxpayer that is eligible to receive the credit
121 provided for in s. 624.51055 is not eligible to receive the
122 credit provided by this section.

123 (6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING
124 ORGANIZATIONS.—An eligible nonprofit scholarship-funding
125 organization:

126 (b) Must comply with the following background check
127 requirements:

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

143 2. Every 5 years following employment or engagement to
144 provide services or association with an eligible nonprofit
145 scholarship-funding organization, each owner or operator must

581-03493A-09

20091310c1

146 meet level 2 screening standards as described in s. 435.04, at
147 which time the nonprofit scholarship-funding organization shall
148 request the Department of Law Enforcement to forward the
149 fingerprints to the Federal Bureau of Investigation for level 2
150 screening. If the fingerprints of an owner or operator are not
151 retained by the Department of Law Enforcement under subparagraph
152 3., the owner or operator must electronically file a complete
153 set of fingerprints with the Department of Law Enforcement. Upon
154 submission of fingerprints for this purpose, the eligible
155 nonprofit scholarship-funding organization shall request that
156 the Department of Law Enforcement forward the fingerprints to
157 the Federal Bureau of Investigation for level 2 screening, and
158 the fingerprints shall be retained by the Department of Law
159 Enforcement under subparagraph 3.

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

169 4. Beginning July 1, 2007, the Department of Law
170 Enforcement shall search all arrest fingerprint cards received
171 under s. 943.051 against the fingerprints retained in the
172 statewide automated fingerprint identification system under
173 subparagraph 3. Any arrest record that is identified with an
174 owner's or operator's fingerprints must be reported to the

581-03493A-09

20091310c1

175 Department of Education. The Department of Education shall
176 participate in this search process by paying an annual fee to
177 the Department of Law Enforcement and by informing the
178 Department of Law Enforcement of any change in the employment,
179 engagement, or association status of the owners or operators
180 whose fingerprints are retained under subparagraph 3. The
181 Department of Law Enforcement shall adopt a rule setting the
182 amount of the annual fee to be imposed upon the Department of
183 Education for performing these services and establishing the
184 procedures for the retention of owner and operator fingerprints
185 and the dissemination of search results. The fee may be borne by
186 the owner or operator of the nonprofit scholarship-funding
187 organization.

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

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

196 (i)1. May use up to 3 percent of eligible contributions
197 received during the state fiscal year in which such
198 contributions are collected for administrative expenses if the
199 organization has operated under this section for at least 3
200 state fiscal years and did not have any negative financial
201 findings in its most recent audit under paragraph (1). Such
202 administrative expenses must be reasonable and necessary for the
203 organization's management and distribution of eligible

581-03493A-09

20091310c1

204 contributions under this section. No more than one-third of the
205 funds authorized for administrative expenses under this
206 subparagraph may be used for expenses related to the recruitment
207 of contributions from ~~corporate~~ taxpayers.

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

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

224
225 Any and all information and documentation provided to the
226 Department of Education and the Auditor General relating to the
227 identity of a taxpayer that provides an eligible contribution
228 under this section shall remain confidential at all times in
229 accordance with s. 213.053.

230 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The Department of
231 Education shall:

232 (a) Annually submit to the department, by March 15, a list

581-03493A-09

20091310c1

233 of eligible nonprofit scholarship-funding organizations that
234 meet the requirements of paragraph (2) (d) ~~(e)~~.

235 (b) Annually verify the eligibility of nonprofit
236 scholarship-funding organizations that meet the requirements of
237 paragraph (2) (d) ~~(e)~~.

238 (l) Notify an eligible nonprofit scholarship-funding
239 organization of any of the organization's identified students
240 who are receiving ~~corporate-income~~ tax credit scholarships from
241 other eligible nonprofit scholarship-funding organizations.

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

251 2. Annually, by December 15, report to the Governor, the
252 President of the Senate, and the Speaker of the House of
253 Representatives the Department of Education's actions with
254 respect to implementing accountability in the scholarship
255 program under this section and s. 1002.421, any substantiated
256 allegations or violations of law or rule by an eligible private
257 school under this program concerning the enrollment and
258 attendance of students, the credentials of teachers, background
259 screening of teachers, and teachers' fingerprinting results and
260 the corrective action taken by the Department of Education.

261 (o) Provide a process to match the direct certification

581-03493A-09

20091310c1

262 list with the scholarship application data submitted by any
263 nonprofit scholarship-funding organization eligible to receive
264 the 3 percent administrative allowance under paragraph (6) (i).

265 (10) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.—Upon
266 the request of any eligible nonprofit scholarship-funding
267 organization, a school district shall inform all households
268 within the district receiving free or reduced-priced meals under
269 the National School Lunch Act of their eligibility to apply for
270 a tax credit scholarship. The form of such notice shall be
271 provided by the eligible nonprofit scholarship-funding
272 organization and the district shall include the provided form,
273 if requested by the organization, in any normal correspondence
274 with eligible households. If an eligible nonprofit scholarship-
275 funding organization requests a special communication to be
276 issued to households within the district receiving free or
277 reduced-price meals under the National School Lunch Act, the
278 organization shall reimburse the district for the cost of
279 postage. Such notice is limited to once a year.

280 Section 3. Section 624.51055, Florida Statutes, is created
281 to read:

282 624.51055 Credit for contributions to eligible nonprofit
283 scholarship-funding organizations.—

284 (1) There is allowed a credit of 100 percent of an eligible
285 contribution made to an eligible nonprofit scholarship-funding
286 organization as provided in s. 220.187 against any net tax due
287 for a taxable year under s. 624.509(1). However, such a credit
288 may not exceed 75 percent of the net tax due under s. 624.509(1)
289 after deducting from such tax due the taxes paid by the insurer
290 under ss. 175.101 and 185.08 and any assessments pursuant to s.

581-03493A-09

20091310c1

291 440.51. An insurer claiming a credit against premium tax
292 liability under this section shall not be required to pay any
293 additional retaliatory tax levied pursuant to s. 624.5091 as a
294 result of claiming such credit. Section 624.5091 does not limit
295 such credit in any manner.

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

298 Section 4. Paragraph (b) of subsection (6) of section
299 1002.20, Florida Statutes, is amended to read:

300 1002.20 K-12 student and parent rights.—Parents of public
301 school students must receive accurate and timely information
302 regarding their child's academic progress and must be informed
303 of ways they can help their child to succeed in school. K-12
304 students and their parents are afforded numerous statutory
305 rights including, but not limited to, the following:

306 (6) EDUCATIONAL CHOICE.—

307 (b) *Private school choices.*—Parents of public school
308 students may seek private school choice options under certain
309 programs.

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

314 2. Under the McKay Scholarships for Students with
315 Disabilities Program, the parent of a public school student with
316 a disability who is dissatisfied with the student's progress may
317 request and receive a McKay Scholarship for the student to
318 attend a private school in accordance with the provisions of s.
319 1002.39.

581-03493A-09

20091310c1

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

325 Section 5. Paragraph (e) of subsection (2) of section
326 1002.23, Florida Statutes, is amended to read:

327 1002.23 Family and School Partnership for Student
328 Achievement Act.—

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

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

338 Section 6. Paragraph (b) of subsection (3) of section
339 1002.39, Florida Statutes, is amended to read:

340 1002.39 The John M. McKay Scholarships for Students with
341 Disabilities Program.—There is established a program that is
342 separate and distinct from the Opportunity Scholarship Program
343 and is named the John M. McKay Scholarships for Students with
344 Disabilities Program.

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

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

581-03493A-09

20091310c1

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

351 1002.421 Accountability of private schools participating in
352 state school choice scholarship programs.—

353 (1) A Florida private school participating in the Florida
354 ~~Corporate Income~~ Tax Credit Scholarship Program established
355 pursuant to s. 220.187 or an educational scholarship program
356 established pursuant to this chapter must comply with all
357 requirements of this section in addition to private school
358 requirements outlined in s. 1002.42, specific requirements
359 identified within respective scholarship program laws, and other
360 provisions of Florida law that apply to private schools.

361 Section 8. If any provision of this act or the application
362 thereof to any person or circumstance is held invalid, the
363 invalidity shall not affect other provisions or applications of
364 the act which can be given effect without the invalid provision
365 or application, and to this end the provisions of this act are
366 severable.

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