

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

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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; 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; authorizing certain insurers that
26 made past contributions to the Tax Credit Scholarship
27 Program to claim the credits against future corporate
28 income tax liability; requiring the insurer to apply
29 to the Department of Revenue for the tax credits;

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30 providing for severability; providing an effective
31 date.

32
33 Be It Enacted by the Legislature of the State of Florida:

34
35 Section 1. Subsection (2) of section 220.186, Florida
36 Statutes, is amended to read:

37 220.186 Credit for Florida alternative minimum tax.—

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

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

53 220.187 Credits for contributions to nonprofit scholarship-
54 funding organizations.—

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

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

57 (b) "Direct certification list" means the certified list of
58 children who qualify for the Food Stamp Program, the Temporary

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

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

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

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

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

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

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

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

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

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

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

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

104

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

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117 under the National School Lunch Act.

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

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

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

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

125 (e) A taxpayer that is eligible to receive the credit
126 provided for in s. 624.51055 is not eligible to receive the
127 credit provided by this section.

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

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

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

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146 by the eligible nonprofit scholarship-funding organization or
147 the owner or operator.

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

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

174 4. Beginning July 1, 2007, the Department of Law

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

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

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

201 (i)1. May use up to 3 percent of eligible contributions
202 received during the state fiscal year in which such
203 contributions are collected for administrative expenses if the

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

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

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

229

230 Any and all information and documentation provided to the
231 Department of Education and the Auditor General relating to the
232 identity of a taxpayer that provides an eligible contribution

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233 under this section shall remain confidential at all times in
234 accordance with s. 213.053.

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

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

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

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

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

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

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262 school under this program concerning the enrollment and
263 attendance of students, the credentials of teachers, background
264 screening of teachers, and teachers' fingerprinting results and
265 the corrective action taken by the Department of Education.

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

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

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

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

289 (1) There is allowed a credit of 100 percent of an eligible
290 contribution made to an eligible nonprofit scholarship-funding

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291 organization as provided in s. 220.187 against any tax due for a
292 taxable year under s. 624.509(1). However, such a credit may not
293 exceed 75 percent of the tax due under s. 624.509(1) after
294 deducting from such tax any deductions for assessments made
295 pursuant to s. 440.51, credits for taxes paid under ss. 175.101
296 and 185.08, credits for income taxes paid under chapter 220, the
297 emergency excise tax paid under chapter 221, and the credit
298 allowed under s. 624.509(5), as these credits are limited by s.
299 624.509(6). An insurer claiming a credit against premium tax
300 liability under this section shall not be required to pay any
301 additional retaliatory tax levied pursuant to s. 624.5091 as a
302 result of claiming such credit. Section 624.5091 does not limit
303 such credit in any manner.

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

306 Section 4. Paragraph (b) of subsection (6) of section
307 1002.20, Florida Statutes, is amended to read:

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

314 (6) EDUCATIONAL CHOICE.—

315 (b) *Private school choices.*—Parents of public school
316 students may seek private school choice options under certain
317 programs.

318 1. Under the Opportunity Scholarship Program, the parent of
319 a student in a failing public school may request and receive an

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320 opportunity scholarship for the student to attend a private
321 school in accordance with the provisions of s. 1002.38.

322 2. Under the McKay Scholarships for Students with
323 Disabilities Program, the parent of a public school student with
324 a disability who is dissatisfied with the student's progress may
325 request and receive a McKay Scholarship for the student to
326 attend a private school in accordance with the provisions of s.
327 1002.39.

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

333 Section 5. Paragraph (e) of subsection (2) of section
334 1002.23, Florida Statutes, is amended to read:

335 1002.23 Family and School Partnership for Student
336 Achievement Act.—

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

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

346 Section 6. Paragraph (b) of subsection (3) of section
347 1002.39, Florida Statutes, is amended to read:

348 1002.39 The John M. McKay Scholarships for Students with

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349 Disabilities Program.—There is established a program that is
350 separate and distinct from the Opportunity Scholarship Program
351 and is named the John M. McKay Scholarships for Students with
352 Disabilities Program.

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

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

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

359 1002.421 Accountability of private schools participating in
360 state school choice scholarship programs.—

361 (1) A Florida private school participating in the Florida
362 ~~Corporate Income~~ Tax Credit Scholarship Program established
363 pursuant to s. 220.187 or an educational scholarship program
364 established pursuant to this chapter must comply with all
365 requirements of this section in addition to private school
366 requirements outlined in s. 1002.42, specific requirements
367 identified within respective scholarship program laws, and other
368 provisions of Florida law that apply to private schools.

369 Section 8. If an insurance company that filed corporate
370 income tax returns under chapter 220, Florida Statutes, on a
371 separate-company basis and made an eligible contribution under
372 s. 220.187, Florida Statutes, for its tax year that began during
373 calendar year 2006, 2007, or 2008, but did not receive a dollar-
374 for-dollar benefit for making the contribution, taking into
375 account its net corporate income tax liability and corresponding
376 insurance premium tax liability, the insurance company may apply
377 to the Department of Revenue by July 31, 2009, to apply the

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378 credits against its 2009 corporate income tax liability, and
379 carry over unused credit amounts as allowed by s. 220.187,
380 Florida Statutes. An insurer's scholarship credit amounts from
381 2006, 2007, and 2008 which are moved to 2009 shall be treated as
382 corporate income taxes paid for purposes of computing the amount
383 of insurance premium taxes owed by the insurance company.
384 Notwithstanding ss. 95.091 and 215.26, Florida Statutes, the
385 insurer must file amended corporate income tax returns as part
386 of its application for its tax years that began during calendar
387 years 2006, 2007, and 2008 in order to remove all credits
388 claimed under s. 220.187, Florida Statutes, for those years and
389 correct the amount of corporate income tax paid. The insurer
390 must also file amended insurance premium tax returns as part of
391 its application. This section does not increase the annual cap
392 per fiscal year on total tax credits and carryforwards of tax
393 credits set forth in s. 220.187(5)(b), Florida Statutes.

394 Section 9. If any provision of this act or the application
395 thereof to any person or circumstance is held invalid, the
396 invalidity shall not affect other provisions or applications of
397 the act which can be given effect without the invalid provision
398 or application, and to this end the provisions of this act are
399 severable.

400 Section 10. This act shall take effect July 1, 2009.