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

26
27 Be It Enacted by the Legislature of the State of Florida:
28

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

31 212.099 Credit for contributions to eligible nonprofit
 32 scholarship-funding organizations.--

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

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

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

52 220.187 Credits for contributions to nonprofit
 53 scholarship-funding organizations.--

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

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

56 (b) "Direct certification list" means the certified list
 57 of children who qualify for the Food Stamp Program, the
 58 Temporary Assistance to Needy Families Program, or the Food
 59 Distribution Program on Indian Reservations provided to the
 60 Department of Education by the Department of Children and Family
 61 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,
 77 as 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
 82 eligible nonprofit scholarship-funding organization or a person

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83 with equivalent decisionmaking authority over an eligible
84 nonprofit 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.

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

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

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

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

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
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

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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
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.

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

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

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277 issued, the organization shall reimburse the department for the
278 cost of postage. Such notice is limited to once a year.

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

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

285 624.51055 Credit for contributions to eligible nonprofit
286 scholarship-funding organizations.--

287 (1) There is allowed a credit of 100 percent of an
288 eligible contribution made to an eligible nonprofit scholarship-
289 funding organization as provided in s. 220.187 against any tax
290 due for a taxable year under this chapter. However, such a
291 credit may not exceed 75 percent of the tax due under s.
292 624.509(1) after deducting from such tax due the taxes paid by
293 the insurer under ss. 175.101 and 185.08 and any assessments
294 pursuant to s. 440.51. An insurer claiming a credit against
295 premium tax liability under this section shall not be required
296 to pay any additional retaliatory tax levied pursuant to s.
297 624.509(1) as a result of claiming such credit. Section
298 624.509(1) does not limit such credit in any manner.

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

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

303 1002.20 K-12 student and parent rights.--Parents of public
304 school students must receive accurate and timely information

305 regarding their child's academic progress and must be informed
 306 of ways they can help their child to succeed in school. K-12
 307 students and their parents are afforded numerous statutory
 308 rights including, but not limited to, the following:

309 (6) EDUCATIONAL CHOICE.--

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

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

317 2. Under the McKay Scholarships for Students with
 318 Disabilities Program, the parent of a public school student with
 319 a disability who is dissatisfied with the student's progress may
 320 request and receive a McKay Scholarship for the student to
 321 attend a private school in accordance with the provisions of s.
 322 1002.39.

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

329 Section 5. Paragraph (e) of subsection (2) of section
 330 1002.23, Florida Statutes, is amended to read:

331 1002.23 Family and School Partnership for Student
 332 Achievement Act.--

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

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

343 Section 6. Paragraph (b) of subsection (3) of section
 344 1002.39, Florida Statutes, is amended to read:

345 1002.39 The John M. McKay Scholarships for Students with
 346 Disabilities Program.--There is established a program that is
 347 separate and distinct from the Opportunity Scholarship Program
 348 and is named the John M. McKay Scholarships for Students with
 349 Disabilities Program.

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

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

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

356 1002.421 Accountability of private schools participating
 357 in state school choice scholarship programs.--

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

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361 established pursuant to this chapter must comply with all
362 requirements of this section in addition to private school
363 requirements outlined in s. 1002.42, specific requirements
364 identified within respective scholarship program laws, and other
365 provisions of Florida law that apply to private schools.

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