

1 A bill to be entitled

2 An act relating to tax credits for contributions to
3 nonprofit scholarship-funding organizations; amending s.
4 220.186, F.S.; providing that the credit authorized under
5 the Florida Tax Credit Scholarship Program does not apply
6 to the credit for the Florida alternative minimum tax;
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 insurance premium
10 tax credits; revising credits for contributions to
11 nonprofit scholarship-funding organizations; providing
12 that a taxpayer eligible to receive a credit against the
13 insurance premium tax is not eligible to receive a credit
14 against the corporate income tax; imposing an additional
15 requirement on the Department of Education; specifying
16 school district tax credit scholarship notification
17 requirements and limitations; conforming cross-references;
18 creating s. 624.51055, F.S.; providing for credits against
19 the insurance premium tax for contributions to certain
20 eligible nonprofit scholarship-funding organizations;
21 providing application; amending ss. 1002.20, 1002.23,
22 1002.39, and 1002.421, F.S.; providing conforming
23 revisions; providing severability; providing an effective
24 date.

25
26 Be It Enacted by the Legislature of the State of Florida:
27

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

30 220.186 Credit for Florida alternative minimum tax.--

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

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

46 220.187 Credits for contributions to nonprofit
 47 scholarship-funding organizations.--

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

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

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

56 (c) ~~(b)~~ "Eligible contribution" means a monetary
 57 contribution from a taxpayer, subject to the restrictions
 58 provided in this section, to an eligible nonprofit scholarship-
 59 funding organization. The taxpayer making the contribution may
 60 not designate a specific child as the beneficiary of the
 61 contribution.

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

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

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

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

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

82 (3) PROGRAM; SCHOLARSHIP ELIGIBILITY.--The Florida
 83 ~~Corporate Income~~ Tax Credit Scholarship Program is established.

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84 A student is eligible for a Florida ~~corporate income~~ tax credit
85 scholarship under this section or s. 624.51055 if the student
86 qualifies for free or reduced-price school lunches under the
87 National School Lunch Act or is on the direct certification list
88 and:

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

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

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

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

98
99 Contingent upon available funds, a student may continue in the
100 scholarship program as long as the student's household income
101 level does not exceed 200 percent of the federal poverty level.
102 A sibling of a student who is continuing in the program and
103 resides in the same household as the student shall also be
104 eligible as a first-time ~~corporate income~~ tax credit scholarship
105 recipient as long as the student's and sibling's household
106 income level does not exceed 200 percent of the federal poverty
107 level. Household income for purposes of a student who is
108 currently in foster care as defined in s. 39.01 shall consist
109 only of the income that may be considered in determining whether
110 he or she qualifies for free or reduced-price school lunches
111 under the National School Lunch Act.

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

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

- 117 1. ~~Through June 30, 2008, \$88 million.~~
- 118 2. ~~Beginning July 1, 2008, and thereafter, \$118 million.~~

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

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

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

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

140 by the eligible nonprofit scholarship-funding organization or
141 the owner or operator.

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

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

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

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

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

195 (i)1. May use up to 3 percent of eligible contributions
196 received during the state fiscal year in which such
197 contributions are collected for administrative expenses if the
198 organization has operated under this section for at least 3
199 state fiscal years and did not have any negative financial
200 findings in its most recent audit under paragraph (1). Such
201 administrative expenses must be reasonable and necessary for the
202 organization's management and distribution of eligible
203 contributions under this section. No more than one-third of the
204 funds authorized for administrative expenses under this
205 subparagraph may be used for expenses related to the recruitment
206 of contributions from ~~corporate~~ taxpayers.

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

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

223
 224 Any and all information and documentation provided to the
 225 Department of Education and the Auditor General relating to the
 226 identity of a taxpayer that provides an eligible contribution
 227 under this section shall remain confidential at all times in
 228 accordance with s. 213.053.

229 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.--The Department
 230 of Education shall:

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

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

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

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

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

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

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

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

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

281 624.51055 Credit for contributions to eligible nonprofit
282 scholarship-funding organizations.--

283 (1) There is allowed a credit of 100 percent of an
284 eligible contribution made to an eligible nonprofit scholarship-
285 funding organization as provided in s. 220.187 against any net
286 tax due for a taxable year under s. 624.509(1). However, such a
287 credit may not exceed 75 percent of the net tax due under s.
288 624.509(1) after deducting from such tax due the taxes paid by
289 the insurer under ss. 175.101 and 185.08 and any assessments
290 pursuant to s. 440.51. An insurer claiming a credit against
291 premium tax liability under this section shall not be required
292 to pay any additional retaliatory tax levied pursuant to s.
293 624.5091 as a result of claiming such credit. Section 624.5091
294 does not limit such credit in any manner.

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

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

299 1002.20 K-12 student and parent rights.--Parents of public
300 school students must receive accurate and timely information
301 regarding their child's academic progress and must be informed
302 of ways they can help their child to succeed in school. K-12
303 students and their parents are afforded numerous statutory
304 rights including, but not limited to, the following:

305 (6) EDUCATIONAL CHOICE.--

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

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

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

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

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

326 1002.23 Family and School Partnership for Student
 327 Achievement Act.--

328 (2) To facilitate meaningful parent and family
 329 involvement, the Department of Education shall develop
 330 guidelines for a parent guide to successful student achievement
 331 which describes what parents need to know about their child's
 332 educational progress and how they can help their child to

333 succeed in school. The guidelines shall include, but need not be
 334 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;

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

351 1002.421 Accountability of private schools participating
 352 in 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.

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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 declared severable.

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