

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

29 insurance premium tax returns; providing severability;
 30 providing an effective date.
 31

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

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

36 220.186 Credit for Florida alternative minimum tax.--

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

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

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 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
 117 under the National School Lunch Act.

118 (5) AUTHORIZATION TO GRANT SCHOLARSHIP FUNDING TAX
 119 CREDITS; 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 who 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
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
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
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) 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
 290 eligible contribution made to an eligible nonprofit scholarship-
 291 funding organization as provided in s. 220.187 against any tax
 292 due for a taxable year under s. 624.509(1). However, such a
 293 credit may not exceed 75 percent of the tax due under s.
 294 624.509(1) after deducting from such tax deductions for
 295 assessments made pursuant to s. 440.51; credits for taxes paid
 296 under ss. 175.101 and 185.08; credits for income taxes paid
 297 under chapter 220; credits for the emergency excise tax paid
 298 under chapter 221; and the credit allowed under s. 624.509(5),
 299 as such credit is limited by s. 624.509(6). An insurer claiming
 300 a credit against premium tax liability under this section shall
 301 not be required to pay any additional retaliatory tax levied
 302 pursuant to s. 624.5091 as a result of claiming such credit.
 303 Section 624.5091 does not limit 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
319 of a student in a failing public school may request and receive
320 an 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

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

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

347 Section 6. Paragraph (b) of subsection (3) of section
348 1002.39, Florida Statutes, is amended to read:

349 1002.39 The John M. McKay Scholarships for Students with
350 Disabilities Program.--There is established a program that is
351 separate and distinct from the Opportunity Scholarship Program
352 and is named the John M. McKay Scholarships for Students with
353 Disabilities Program.

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

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

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

360 1002.421 Accountability of private schools participating
361 in state school choice scholarship programs.--

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

370 Section 8. If an insurance company that filed corporate
371 income tax returns under chapter 220, Florida Statutes, on a
372 separate-company basis and made an eligible contribution under
373 s. 220.187, Florida Statutes, for its tax year that began during
374 the calendar year 2006, 2007, or 2008, but did not receive a
375 dollar-for-dollar benefit for making the contribution, taking
376 into account its net corporate income tax liability and
377 corresponding insurance premium tax liability, the insurance
378 company may apply to the Department of Revenue by July 31, 2009,
379 to apply the credits against its 2009 corporate income tax
380 liability and carry over unused credit amounts as allowed by s.
381 220.187, Florida Statutes. An insurer's scholarship credit
382 amounts from 2006, 2007, and 2008 that are applied in 2009 shall
383 be treated as corporate income taxes paid for the purposes of
384 computing the amount of insurance premium taxes owed by the
385 insurance company. Notwithstanding ss. 95.091 and 215.26,

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386 Florida Statutes, the insurer must file amended corporate income
387 tax returns as part of its application for its tax years that
388 began during the calendar years 2006, 2007, and 2008 in order to
389 remove all credits claimed under s. 220.187, Florida Statutes,
390 for those years and correct the amount of corporate income taxes
391 paid. The insurer must also file amended insurance premium tax
392 returns as part of its application. This section does not
393 increase the annual cap per fiscal year on total tax credits and
394 carryforwards of tax credits set forth in s. 220.187(5)(b),
395 Florida Statutes.

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

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