

By the Committee on Education

304-1218D-04

1 A bill to be entitled
2 An act relating to the Corporate Tax Credit
3 Scholarship Program; amending s. 220.187, F.S.;
4 providing definitions; prohibiting certain
5 students from participating in the scholarship
6 program; revising limitations on the allocation
7 of annual credits granted under the program;
8 providing limitations on eligible
9 contributions; requiring the Auditor General to
10 review certain audits, request certain
11 information, and report to the Legislative
12 Auditing Committee any findings of
13 noncompliance; authorizing the Legislative
14 Auditing Committee to conduct hearings and
15 compel the Department of Education to revoke
16 eligibility of certain nonprofit
17 scholarship-funding organizations; providing
18 for audit reports to be submitted to the
19 Department of Education; requiring audits be
20 conducted within 180 days after completion of
21 the nonprofit scholarship-funding
22 organization's fiscal year; requiring a
23 nonprofit scholarship-funding organization to
24 make scholarship payments at least on a
25 quarterly basis; prohibiting commingling of
26 certain scholarship funds; requiring a
27 nonprofit scholarship-funding organization to
28 maintain a separate account for scholarship
29 funds; requiring a nonprofit
30 scholarship-funding organization to verify
31 student attendance at a private school prior to

1 submission of scholarship funds; requiring a
2 nonprofit scholarship-funding organization to
3 verify income eligibility of qualified students
4 at least once a year in accordance with State
5 Board of Education rules; requiring a nonprofit
6 scholarship-funding organization to submit
7 certain reports to the Department of Education;
8 requiring certain individuals to undergo annual
9 level 2 background screening requirements
10 pursuant to s. 435.04, F.S.; providing a
11 mechanism for reporting background check
12 results; requiring costs of background checks
13 be borne by certain parties; prohibiting
14 employment, entry into a contract, or
15 volunteerism by an individual failing
16 background screening; revoking participation of
17 certain nonprofit scholarship-funding
18 organizations if personnel do not meet level 2
19 screening; authorizing a mechanism for
20 contesting background results; limiting avenues
21 of contesting disqualification; requiring a
22 nonprofit scholarship-funding organization
23 comply with antidiscrimination provisions of 42
24 U.S.C. s. 2000d; prohibiting an owner or a
25 nonprofit scholarship-funding organization from
26 owning, operating, or administering an eligible
27 private school under the scholarship program;
28 requiring a nonprofit scholarship-funding
29 organization to report any private school not
30 in compliance with scholarship program
31 requirements to the Department of Education;

1 prohibiting provision of scholarship funds to a
2 student to attend a private school not in
3 compliance; authorizing a parent to transfer
4 the scholarship; requiring award of
5 scholarships on a first-come, first-served
6 basis; prohibiting a nonprofit
7 scholarship-funding organization from targeting
8 certain students for scholarships; prohibiting
9 the award of scholarships to a child of an
10 owner of a nonprofit scholarship-funding
11 organization; prohibiting the transfer of an
12 eligible contribution between nonprofit
13 scholarship-funding organizations; prohibiting
14 a nonprofit scholarship-funding organization
15 from securing financing in anticipation of
16 eligible contributions; requiring a nonprofit
17 scholarship-organization to submit to the
18 Department of Education a written opinion from
19 an independent certified public accountant that
20 the organization maintains sufficient credit or
21 assets; prohibiting a nonprofit
22 scholarship-funding organization from
23 participating in the program if the
24 organization fails to meet statutory
25 obligations; requiring students to meet certain
26 attendance policies; requiring parents to meet
27 certain parental involvement requirements
28 unless excused; prohibiting a parent from
29 authorizing a power of attorney for endorsement
30 of scholarship warrant; requiring a parent to
31 ensure that a scholarship student participates

1 in testing requirements; prohibiting a student
2 or parent of a student from participating in
3 the scholarship program if the student or
4 parent fails to meet statutory obligations;
5 revising provisions with respect to private
6 schools; revising requirements that a
7 participating private school demonstrate fiscal
8 soundness; requiring a surety bond; providing
9 an exception; requiring a private school to
10 employ or contract with teachers who have
11 regular and direct contact with students at the
12 school's physical location; requiring the
13 private schools to employ or contract with
14 teachers who have at least a baccalaureate
15 degree, 3 years of teaching experience at a
16 public or private school, or other skills that
17 qualify the teacher to provide appropriate
18 instruction; requiring a private school to
19 report to the Department of Education the
20 qualifications of teachers; requiring a private
21 school to annually register with the Department
22 of Education and provide certain information
23 concerning the private school organization,
24 student list, and notice of intent to
25 participate in the scholarship program;
26 requiring certain individuals to undergo annual
27 level 2 background screening requirements
28 pursuant to s. 435.04, F.S.; providing a
29 mechanism for reporting background check
30 results; requiring costs of background checks
31 be borne by certain parties; prohibiting

1 employment, entry into a contract, or
2 volunteerism by an individual who fails
3 background screening; revoking participation of
4 certain private schools if personnel do not
5 meet level 2 screening; authorizing a mechanism
6 for contesting background results; limiting
7 avenues of contesting disqualification;
8 requiring a private school to administer or to
9 make provision for administering certain tests
10 to scholarship students; requiring reporting of
11 scores to the student's parent and to the
12 independent private research organization
13 selected by the Department of Education;
14 requiring a private school to file an
15 affidavit; requiring a private school to notify
16 the Department of Education in writing within 7
17 days if a student is ineligible to participate
18 in the scholarship program; prohibiting a
19 private school from participating in the
20 scholarship program if the private school fails
21 to meet its statutory obligations; requiring
22 the Department of Education to annually
23 determine the eligibility of nonprofit
24 scholarship-funding organizations within 90
25 days after application; requiring a written
26 notice with specific reasons for approval or
27 denial; requiring the Department of Education
28 to annually determine the eligibility of
29 private schools; requiring the Department of
30 Education to make accessible to the public a
31 list of eligible private schools; requiring the

1 Department of Education to annually verify the
2 eligibility of students; requiring the
3 Department of Education to maintain a student
4 database of program participants and to update
5 the database at least quarterly; requiring the
6 Department of Education to notify a nonprofit
7 scholarship-funding organization of any
8 ineligible student; requiring the Department of
9 Education to annually account for and verify
10 the eligibility of program expenditures;
11 requiring the Department of Education to select
12 an independent private research organization
13 for reporting of student scores; providing
14 limitations on reporting; requiring the
15 Department of Education to revoke the
16 eligibility of program participants for failure
17 to comply with statutory obligations; requiring
18 the Department of Education to annually report
19 on accountability activities; requiring the
20 State Board of Education to adopt rules
21 regarding identification of documentation to
22 establish eligibility of nonprofit
23 scholarship-funding organizations, requiring an
24 affidavit, identification of independent income
25 verification for determining the eligibility of
26 students, determination of sufficient capital
27 or credit that program participants must
28 maintain; authorizing the State Board of
29 Education to delegate its authority to the
30 Commissioner of Education with the exception of
31

1 rulemaking authority; providing an effective
2 date.

3
4 Be It Enacted by the Legislature of the State of Florida:

5
6 Section 1. Section 220.187, Florida Statutes, is
7 amended to read:

8 220.187 Credits for contributions to nonprofit
9 scholarship-funding organizations.--

10 (1) PURPOSE.--The purpose of this section is to:

11 (a) Encourage private, voluntary contributions to
12 nonprofit scholarship-funding organizations.

13 (b) Expand educational opportunities for children of
14 families that have limited financial resources.

15 (c) Enable children in this state to achieve a greater
16 level of excellence in their education.

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

18 ~~(a) "Department" means the Department of Revenue.~~

19 (a)~~(b)~~ "Eligible contribution" means a monetary
20 contribution from a taxpayer, subject to the restrictions
21 provided in this section, to an eligible nonprofit
22 scholarship-funding organization. The taxpayer making the
23 contribution may not designate a specific child as the
24 beneficiary of the contribution. The taxpayer may not
25 contribute more than \$5 million to any single eligible
26 nonprofit scholarship-funding organization.

27 (b)~~(c)~~ "Eligible private nonpublic school" means a
28 private nonpublic school, as defined in s. 1002.01(2), located
29 in Florida which ~~that~~ offers an education to students in any
30 grades K-12 and ~~that~~ meets the requirements in subsection (6)
31 ~~(5)~~.

1 ~~(c)~~(d) "Eligible nonprofit scholarship-funding
2 organization" means a charitable organization that is exempt
3 from federal income tax pursuant to s. 501(c)(3) of the
4 Internal Revenue Code, incorporated under laws of this state,
5 and that complies with the provisions of subsection (4).

6 (d) "Owner" means the owner, president, chairperson of
7 the board of directors, superintendent, principal, or person
8 with equivalent decisionmaking authority who owns, operates,
9 or administers an eligible nonprofit scholarship-funding
10 organization or eligible private school. In addition, the term
11 "owner" means an individual who has access to or processes
12 scholarship funds or eligible contributions at an eligible
13 nonprofit scholarship-funding organization or eligible private
14 school.

15 (e) "Qualified student" means a student who qualifies
16 for free or reduced-price school lunches under the National
17 School Lunch Act and who:

- 18 1. Was counted as a full-time equivalent student
19 during the previous state fiscal year for purposes of state
20 per-student funding;
- 21 2. Received a scholarship from an eligible nonprofit
22 scholarship-funding organization during the previous school
23 year; or
- 24 3. Is eligible to enter kindergarten or first grade.

25
26 A student is not eligible to receive a scholarship under this
27 section if the student is participating in the Opportunity
28 Scholarship Program under s. 1002.38, the John M. McKay
29 Scholarships for Students with Disabilities Program under s.
30 1002.39, or a home education program as defined in s.
31 1002.01(1). A student is not eligible to receive a scholarship

1 from more than one eligible nonprofit scholarship-funding
2 organization at the same time.

3 (3) AUTHORIZATION TO GRANT SCHOLARSHIP FUNDING TAX
4 CREDITS; LIMITATIONS ON INDIVIDUAL AND TOTAL CREDITS.--

5 (a) There is allowed a credit of 100 percent of an
6 eligible contribution against any tax due for a taxable year
7 under this chapter. However, such a credit may not exceed 75
8 percent of the tax due under this chapter for the taxable
9 year, after the application of any other allowable credits by
10 the taxpayer. ~~However, at least 5 percent of the total~~
11 ~~statewide amount authorized for the tax credit shall be~~
12 ~~reserved for taxpayers who meet the definition of a small~~
13 ~~business provided in s. 288.703(1) at the time of application.~~

14 The credit granted by this section shall be reduced by the
15 difference between the amount of federal corporate income tax
16 taking into account the credit granted by this section and the
17 amount of federal corporate income tax without application of
18 the credit granted by this section.

19 (b) The total amount of tax credits and carryforward
20 of tax credits that ~~which~~ may be granted each state fiscal
21 year under this section is \$88 million. One percent of the
22 total statewide amount authorized for the tax credit must be
23 reserved for taxpayers who are small businesses as defined in
24 s. 288.703(1) at the time of application.

25 (c) A taxpayer who files a Florida consolidated return
26 as a member of an affiliated group pursuant to s. 220.131(1)
27 may be allowed the credit on a consolidated return basis;
28 however, the total credit taken by the affiliated group is
29 subject to the limitation established under paragraph (a).

30 (d) A taxpayer may rescind its application for tax
31 credit under this section, and the amount approved in the

1 application for tax credit shall become available for purposes
2 of the cap for that state fiscal year under this section to an
3 eligible taxpayer as approved by the Department of Revenue, if
4 the taxpayer receives notice from the Department of Revenue
5 that the rescindment application has been accepted by the
6 Department of Revenue, the taxpayer has not previously
7 rescinded its application for tax credit under this section
8 more than once in the previous 3 tax years, and the taxpayer
9 has not made a contribution pursuant to its approved
10 application for tax credit under this section. Any amount
11 rescinded under this paragraph shall become available to an
12 eligible taxpayer on a first-come, first-served basis based on
13 tax credit applications received after the date the
14 rescindment is accepted by the Department of Revenue.

15 (4) OBLIGATIONS OF ELIGIBLE NONPROFIT
16 SCHOLARSHIP-FUNDING ORGANIZATIONS.--

17 (a) An eligible nonprofit scholarship-funding
18 organization shall provide scholarships, from eligible
19 contributions, to qualified students for:

20 1. Tuition or textbook expenses for, or transportation
21 to, an eligible private ~~nonpublic~~ school. At least 75 percent
22 of each ~~the~~ scholarship ~~funding~~ must be used to pay tuition
23 expenses; or

24 2. Transportation expenses to a Florida public school
25 that is located outside the district in which the student
26 resides.

27 (b) An eligible nonprofit scholarship-funding
28 organization shall give priority to qualified students who
29 received a scholarship from an eligible nonprofit
30 scholarship-funding organization during the previous school
31 year.

1 (c) The amount of a scholarship provided to any child
2 for any single school year by all eligible nonprofit
3 scholarship-funding organizations from eligible contributions
4 shall not exceed the following annual limits:

5 1. Three thousand five hundred dollars for a
6 scholarship awarded to a student enrolled in an eligible
7 private ~~nonpublic~~ school.

8 2. Five hundred dollars for a scholarship awarded to a
9 student enrolled in a Florida public school that is located
10 outside the district in which the student resides.

11 (d) The amount of an eligible contribution that ~~which~~
12 may be accepted by an eligible nonprofit scholarship-funding
13 organization is limited to the amount needed to provide
14 scholarships for qualified students that ~~which~~ the
15 organization has identified and for which vacancies in
16 eligible private ~~nonpublic~~ schools have been identified.

17 (e) An eligible nonprofit scholarship-funding
18 organization that receives an eligible contribution must spend
19 100 percent of the eligible contribution to provide
20 scholarships in the same state fiscal year in which the
21 contribution was received. No portion of eligible
22 contributions may be used for administrative expenses. All
23 interest accrued from contributions must be used for
24 scholarships.

25 (f) An eligible nonprofit scholarship-funding
26 organization that receives eligible contributions must provide
27 to the Auditor General and the Department of Education, within
28 180 days after completion of the organization's fiscal year,
29 an annual financial and compliance audit of its accounts and
30 records conducted by an independent certified public
31 accountant and in accordance with rules adopted by the Auditor

1 General. The Auditor General shall review all audit reports
2 submitted pursuant to this section. The Auditor General shall
3 request any significant items that were omitted in violation
4 of a rule adopted by the Auditor General. The items must be
5 provided within 45 days after the date of the request. If the
6 nonprofit scholarship-funding organization does not comply
7 with the Auditor General's request, the Auditor General shall
8 notify the Legislative Auditing Committee. The Legislative
9 Auditing Committee may schedule a hearing. If a hearing is
10 scheduled, the committee shall determine if the nonprofit
11 scholarship-funding organization should be subject to further
12 state action. If the committee determines that the nonprofit
13 scholarship-funding organization should be subject to further
14 state action, the committee shall notify the Department of
15 Education, which shall terminate the eligibility of the
16 nonprofit scholarship-funding organization to participate in
17 the program under this section.

18 (g) An eligible nonprofit scholarship-funding
19 organization shall make payment of the scholarship, at a
20 minimum, on a quarterly basis. Payment of the scholarship by
21 the eligible nonprofit scholarship-funding organization shall
22 be by individual warrant or check made payable to the
23 student's parent. If the parent chooses for his or her child
24 to attend an eligible private ~~nonpublic~~ school, the warrant or
25 check must be mailed by the eligible nonprofit
26 scholarship-funding organization to the private ~~nonpublic~~
27 school of the parent's choice, and the parent shall
28 restrictively endorse the warrant or check to the private
29 ~~nonpublic~~ school. An eligible nonprofit scholarship-funding
30 organization shall ensure that, upon receipt of a scholarship
31 warrant or check, the parent to whom the warrant or check is

1 made restrictively endorses the warrant or check to the
2 private ~~nonpublic~~ school of the parent's choice for deposit
3 into the account of the private ~~nonpublic~~ school.

4 (h) An eligible nonprofit scholarship-funding
5 organization may not commingle scholarship funds with any
6 other funds and must maintain a separate account for
7 scholarship funds.

8 (i) An eligible nonprofit scholarship-funding
9 organization shall obtain verification from a private school
10 of each student's continued attendance at the private school
11 prior to each scholarship payment.

12 (j) An eligible nonprofit scholarship-funding
13 organization must verify the income of all scholarship
14 applicants participating in the program at least once each
15 school year through independent income documentation as
16 provided in rules of the State Board of Education.

17 (k) An eligible nonprofit scholarship-funding
18 organization must prepare and submit quarterly reports to the
19 Department of Education pursuant to subsection (8). In
20 addition, an eligible nonprofit scholarship-funding
21 organization must immediately submit to the Department of
22 Education any information requested by the Department of
23 Education relating to the scholarship program.

24 (l) Prior to assuming a position of owner as defined
25 in paragraph (2)(d) and annually thereafter, an owner of an
26 eligible nonprofit scholarship-funding organization must
27 annually meet the requirements for level 2 background
28 screening as provided in s. 435.04.

29 1. The Department of Law Enforcement shall forward the
30 background check results to the Department of Education. The
31 Department of Education shall review the background check

1 results for compliance with this paragraph. The Department of
2 Education shall forward the background check results to the
3 eligible nonprofit scholarship-funding organization.

4 2. The cost of the background check must be borne by
5 the eligible nonprofit scholarship-funding organization or the
6 owner.

7 3. An owner who fails to meet level 2 background
8 screening requirements may not be employed, be a party or a
9 third-party beneficiary to a contract, or volunteer in any
10 capacity with an eligible nonprofit scholarship-funding
11 organization.

12 4. If an eligible nonprofit scholarship-funding
13 organization employs, enters or maintains a contract with, or
14 allows an owner who fails to meet the requirements for level 2
15 background screening to volunteer for the nonprofit
16 scholarship-funding organization, the nonprofit
17 scholarship-funding organization may not participate in the
18 scholarship program under this section.

19 5. An owner may contest the validity of his or her
20 disqualification under this paragraph pursuant to chapter 120;
21 however, the only basis for contesting the disqualification
22 shall be proof of mistaken identity. It is the responsibility
23 of the owner to contest the disqualification.

24 (m) An eligible nonprofit scholarship-funding
25 organization must comply with the antidiscrimination
26 provisions of 42 U.S.C. s. 2000d.

27 (n) An eligible nonprofit scholarship-funding
28 organization or an owner of an eligible nonprofit
29 scholarship-funding organization may not own, operate, or
30 administer an eligible private school participating in the
31 program.

1 (o) An eligible nonprofit scholarship-funding
2 organization must report to the Department of Education any
3 private school participating in the scholarship program under
4 this section which does not comply with the requirements of
5 the scholarship program. The eligible nonprofit
6 scholarship-funding organization may not provide additional
7 scholarship funds to a parent for a student to attend a
8 private school until the State Board of Education determines
9 that the school is in compliance with this section.

10 (p) An eligible nonprofit scholarship-funding
11 organization must allow a qualified student to attend any
12 eligible private school and must allow the parent to transfer
13 the scholarship during the school year to another eligible
14 private school of the parent's choice.

15 (q) An eligible nonprofit scholarship-funding
16 organization must provide a scholarship to a qualified student
17 on a first-come, first-served basis unless the student
18 qualifies for priority pursuant to paragraph (4)(b). An
19 eligible nonprofit scholarship-funding organization may not
20 target scholarships to a particular private school or provide
21 scholarships to a child of an owner.

22 (r) An eligible nonprofit scholarship-funding
23 organization may not transfer scholarship funds to another
24 eligible nonprofit scholarship-funding organization.

25 (s) An eligible nonprofit scholarship-funding
26 organization may not secure a promissory note, a line of
27 credit, or other financing to fund a scholarship in
28 anticipation of an eligible contribution. An eligible
29 scholarship-funding organization may only fund scholarships
30 through eligible contributions received under the scholarship
31 program.

1 (t) Prior to receiving funds under this section, an
2 eligible nonprofit scholarship-funding organization must
3 provide each state fiscal year to the Department of Education
4 a written opinion by an independent certified public
5 accountant confirming that the nonprofit scholarship-funding
6 organization has capital or credit in an amount equivalent to
7 the nonprofit scholarship-funding organization's costs in the
8 previous year for operating the program under this section.
9 For a nonprofit scholarship-funding organization participating
10 in the program under this section for the initial year, the
11 nonprofit scholarship-funding organization must have capital
12 or credit in an amount that is most similarly equivalent to a
13 current nonprofit scholarship-funding organization's operating
14 costs. For purposes of this section the term "most similarly
15 equivalent" means an amount that a nonprofit
16 scholarship-funding organization that is currently
17 participating in the program had in operating costs the
18 previous state fiscal year for an equivalent amount of
19 contributions.

20 (u) A nonprofit scholarship-funding organization that
21 fails to comply with this section may not participate in the
22 scholarship program.

23 (5) PARENT OBLIGATIONS.--

24 (a) As a condition for scholarship payment pursuant to
25 paragraph (4)(g), if the parent chooses for his or her child
26 to attend an eligible private ~~nonpublic~~ school, the parent
27 must inform the child's school district within 15 days after
28 such decision.

29 (b) Any student participating in the scholarship
30 program must remain in attendance throughout the school year,
31

1 unless excused by the school for illness or other good cause,
2 and must comply fully with the school's code of conduct.

3 (c) The parent of each student participating in the
4 scholarship program must comply fully with the eligible
5 private school's parental-involvement requirements unless
6 excused by the school for good cause.

7 (d) Upon receipt of scholarship funds from the
8 eligible nonprofit scholarship-funding organization, the
9 parent to whom the warrant is made must restrictively endorse
10 the warrant to the private school for deposit into the account
11 of the private school. The parent may not authorize the
12 eligible private school, its owners, or employees to act as an
13 attorney in fact for purposes of endorsing scholarship
14 warrants.

15 (e) The parent of each qualified student participating
16 in the scholarship program must ensure that the student
17 participates in the required testing pursuant to this section.

18 (f) A student or parent who fails to comply with this
19 subsection forfeits the scholarship.

20 (6) ELIGIBLE PRIVATE ~~NONPUBLIC~~ SCHOOL OBLIGATIONS.--An
21 eligible private ~~nonpublic~~ school must:

22 (a) Demonstrate fiscal soundness by filing with being
23 ~~in operation for one school year or provide~~ the Department of
24 Education with a surety bond for the amount equal to the
25 scholarship amount for each quarter of the school year. The
26 surety bond must be filed at the time of the private school's
27 initial registration to participate in the program under this
28 section with the Department of Education and at each annual
29 registration period thereafter for a total of 3 consecutive
30 years. This requirement does not apply to an eligible private
31 school that:

1 1. Has participated in the program for 3 consecutive
2 years or longer; and

3 2. Has had no action taken by the Department of
4 Education against the private school for any violation of this
5 section for 3 consecutive years or longer.

6
7 However, any private school that was subject to an action
8 taken by the Department of Education for any violation of this
9 section shall, at the time of the school's annual registration
10 following the date on which action was taken against the
11 private school for violations of this section and for 2
12 additional consecutive years thereafter, file a surety bond
13 with the Department of Education.~~statement by a certified~~
14 ~~public accountant confirming that the nonpublic school~~
15 ~~desiring to participate is insured and the owner or owners~~
16 ~~have sufficient capital or credit to operate the school for~~
17 ~~the upcoming year serving the number of students anticipated~~
18 ~~with expected revenues from tuition and other sources that may~~
19 ~~be reasonably expected. In lieu of such a statement, a surety~~
20 ~~bond or letter of credit for the amount equal to the~~
21 ~~scholarship funds for any quarter may be filed with the~~
22 ~~department.~~

23 (b) Comply with the antidiscrimination provisions of
24 42 U.S.C. s. 2000d.

25 (c) Meet state and local health and safety laws and
26 codes.

27 (d) Comply with all state laws relating to general
28 regulation of private nonpublic schools.

29 (e) Employ or contract with teachers who have regular
30 and direct contact with each student receiving a scholarship
31 under this section at the school's physical location. All

1 teachers must hold at least a baccalaureate degree; have at
2 least 3 years of teaching experience in public or private
3 schools; or have special skills, knowledge, or expertise that
4 qualifies them to provide instruction in subjects taught. As
5 part of the sworn-compliance form authorized under subsection
6 (7), an eligible private school must report to the Department
7 of Education the number of teachers employed or under contract
8 with the private school, along with the manner in which the
9 teacher meets the requirements of this paragraph.

10 (f) Annually register with the Department of
11 Education. Each private school must annually provide the
12 following information to the Department of Education:

13 1. The legal business and trade names, mailing
14 address, and business location of the private school;

15 2. The legal name, mailing address, and telephone
16 numbers of an owner of the private school;

17 3. A list of students at the private school receiving
18 a scholarship under this section; and

19 4. A notification of the private school's intent to
20 participate in the program under this section.

21 (g) Ensure that all personnel who are hired or under
22 contract to fill positions requiring direct contact with
23 students in the private school or to handle scholarship funds
24 and all owners of the private school have annually met the
25 requirements for level 2 background screening as provided in
26 s. 435.04 prior to hire, entry into a contract with, or
27 assumption of ownership or administration and annually
28 thereafter.

29 1. The Department of Law Enforcement shall forward the
30 background check results to the Department of Education and
31 the eligible private school.

1 2. The cost of the background check must be borne by
2 the private school or its employee, contractor, or owner.

3 3. All private school personnel, including, but not
4 limited to, contractors, owners, or volunteers who fail to
5 meet level 2 screening requirements may not be employed, under
6 contract with, or volunteer in any capacity with an eligible
7 private school.

8 4. If an eligible private school employs, enters a
9 contract with, or allows an individual to volunteer for the
10 private school who fails to meet the requirements for level 2
11 screening, the private school may not participate in the
12 scholarship program under this section.

13 5. An individual subject to the background screening
14 of this paragraph may contest the validity of his or her
15 disqualification pursuant to chapter 120; however, the only
16 basis for contesting the disqualification shall be proof of
17 mistaken identity. It is the responsibility of the
18 disqualified individual to contest the disqualification.

19 (h) Annually administer or make provisions for
20 scholarship students to take the Iowa Test of Basic Skills or
21 the Stanford-9 or subsequent versions of these tests. A
22 participating private school must report a student's scores to
23 the parent and to the independent private research
24 organization selected by the Department of Education pursuant
25 to subsection (7).

26 (i) Annually comply with the Department of Education's
27 affidavit requirements as provided in subsection (8).

28 (j) Notify in writing the Department of Education and
29 the nonprofit scholarship-funding organization within 7 days
30 if a student is ineligible to participate in the scholarship
31 program.

1
2 A private school that fails to comply with this section is
3 ineligible to participate in the scholarship program under
4 this section.

5 (7) STATE BOARD OF EDUCATION; RESPONSIBILITIES.--The
6 Department of Education must:

7 (a) Annually submit, by March 15, to the Department of
8 Revenue a list of eligible nonprofit scholarship-funding
9 organizations that meet the requirements of this section.

10 (b) Annually determine the eligibility of nonprofit
11 scholarship-funding organizations that meet the requirements
12 of this section. The Department of Education must determine
13 the eligibility of the nonprofit scholarship-funding
14 organization within 90 days after the nonprofit
15 scholarship-funding organization's application for approval to
16 participate in the program. The Department of Education must
17 provide written notice of approval or denial to participate in
18 the program to the nonprofit scholarship-funding organization.
19 The notice must contain the specific reasons for approval or
20 denial.

21 (c) Annually determine the eligibility of private
22 schools that meet the requirements of this section. The
23 Department of Education must maintain a list of eligible
24 private schools, and that list must be made accessible to the
25 public.

26 (d) Annually verify the eligibility of students that
27 meet the requirements of this section. The Department of
28 Education must maintain a database of students participating
29 in the program. The Department of Education must, at least
30 quarterly, update its database to ensure that a student
31 continues to meet the requirements of this section. The

1 Department of Education must immediately notify an eligible
2 nonprofit scholarship-funding organization of any student that
3 fails to meet the requirements of this section.

4 (e) Annually account for and verify the eligibility of
5 expenditures under this section.

6 (f) Annually submit, administer, and retain records of
7 affidavits from private schools certifying compliance with
8 this section.

9 (g) Select an independent private research
10 organization to which participating private schools must
11 report the scores of participating students on the Iowa Test
12 of Basic Skills, the Stanford-9, or subsequent versions of
13 these tests administered by the private school. The
14 independent private research organization must annually report
15 to the Department of Education on the year-to-year
16 improvements of the participating students. The independent
17 research organization must analyze and report student
18 performance data in a manner that protects the rights of
19 students and parents as mandated in 20 U.S.C. s. 1232g and
20 must not disaggregate data to a level that will disclose the
21 identity of students or of private schools. To the extent
22 possible, the independent private research organization must
23 accumulate historical performance data on students from the
24 Department of Education and private schools to describe
25 baseline performance and to conduct longitudinal studies.

26 (h) Revoke the eligibility of a nonprofit
27 scholarship-funding organization, private school, or student
28 to participate in the program for noncompliance with this
29 section.

30 (i) Annually report, by December 15, to the Governor,
31 the President of the Senate, and the Speaker of the House of

1 Representatives of the Department of Education's actions with
2 respect to implementing accountability in the scholarship
3 program under this section including, but not limited to, any
4 substantiated allegations or violations of law or rule by a
5 nonprofit scholarship-funding organization or private school
6 under this program and the corrective action taken by the
7 Department of Education.

8 (8)~~(7)~~ ADMINISTRATION; RULES.--

9 (a) If the credit granted pursuant to this section is
10 not fully used in any one year because of insufficient tax
11 liability on the part of the corporation, the unused amount
12 may be carried forward for a period not to exceed 3 years;
13 however, any taxpayer that seeks to carry forward an unused
14 amount of tax credit must submit an application for allocation
15 of tax credits or carryforward credits as required in
16 paragraph (d) in the year that the taxpayer intends to use the
17 carryforward. The total amount of tax credits and carryforward
18 of tax credits granted each state fiscal year under this
19 section is \$88 million. This carryforward applies to all
20 approved contributions made after January 1, 2002. A taxpayer
21 may not convey, assign, or transfer the credit authorized by
22 this section to another entity unless all of the assets of the
23 taxpayer are conveyed, assigned, or transferred in the same
24 transaction.

25 (b) An application for a tax credit pursuant to this
26 section shall be submitted to the Department of Revenue on
27 forms established by rule of the Department of Revenue.

28 (c) The Department of Revenue and the Department of
29 Education shall develop a cooperative agreement to assist in
30 the administration of this section. ~~The Department of~~
31 ~~Education shall be responsible for annually submitting, by~~

1 ~~March 15, to the department a list of eligible nonprofit~~
2 ~~scholarship-funding organizations that meet the requirements~~
3 ~~of paragraph (2)(d) and for monitoring eligibility of~~
4 ~~nonprofit scholarship-funding organizations that meet the~~
5 ~~requirements of paragraph (2)(d), eligibility of nonpublic~~
6 ~~schools that meet the requirements of paragraph (2)(c), and~~
7 ~~eligibility of expenditures under this section as provided in~~
8 ~~subsection (4).~~

9 (d) The Department of Revenue shall adopt rules
10 necessary to administer this section, including rules
11 establishing application forms and procedures and governing
12 the allocation of tax credits and carryforward credits under
13 this section on a first-come, first-served basis.

14 (e) The State Board of Education ~~Department of~~
15 ~~Education~~ shall adopt rules pursuant to ss. 120.536(1) and
16 120.54 to administer this section, including, but not limited
17 to, rules:~~necessary to~~

18 1. Determining ~~determine~~ eligibility of nonprofit
19 scholarship-funding organizations and private schools; ~~as~~
20 ~~defined in paragraph (2)(d) and according to the provisions of~~
21 ~~subsection (4) and~~

22 2. Identifying ~~identify~~ qualified students; ~~as defined~~
23 ~~in paragraph (2)(e).~~

24 3. Identifying the documentation required to establish
25 eligibility for nonprofit scholarship-funding organizations;

26 4. Requiring an affidavit, which comports with this
27 section's requirements for private schools that participate in
28 the scholarship program;

29 5. Identifying the independent income-verification
30 documentation required to establish student eligibility under
31 this section; and

1 6. Establishing equivalency for purposes of
2 determining fiscal soundness for a nonprofit
3 scholarship-funding organization in accordance with subsection
4 (4)(t).

5 (f) The State Board of Education may delegate its
6 authority under this section to the Commissioner of Education
7 with the exception of rulemaking authority.

8 (9)~~(8)~~ DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--All
9 eligible contributions received by an eligible nonprofit
10 scholarship-funding organization shall be deposited in a
11 manner consistent with s. 17.57(2).

12 Section 2. This act shall take effect upon becoming a
13 law.

14
15 *****

16 SENATE SUMMARY

17 Revises the provisions and requirements of the Corporate
18 Tax Credit Scholarship Program. Prohibits a student who
19 receives certain other scholarships from participating in
20 the program. Requires audits and other verification by
21 the nonprofit scholarship-funding organization. Requires
22 a background check of an owner of a scholarship-funding
23 organization. Provides requirements for private schools
24 that participate in the program. Requires registration
25 with the Department of Education and background checks of
26 personnel. Requires that a participating school comply
27 with requirements for student testing. Specifies duties
28 of the Department of Education with respect to
29 administering the program. Requires the Department of
30 Education to adopt rules. (See bill for details.)
31