

By the Committee on Education

304-2311-04

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 private schools and other entities from
6 participating in the scholarship program;
7 prohibiting certain students from participating
8 in the scholarship program; revising
9 limitations on the allocation of annual credits
10 granted under the program; providing
11 limitations on eligible contributions;
12 requiring the Auditor General to review certain
13 audits, request certain information, and report
14 to the Legislative Auditing Committee any
15 findings of noncompliance; authorizing the
16 Legislative Auditing Committee to conduct
17 hearings and compel the Department of Education
18 to revoke eligibility of certain nonprofit
19 scholarship-funding organizations; providing
20 for audit reports to be submitted to the
21 Department of Education; requiring audits be
22 conducted within 180 days after completion of
23 the nonprofit scholarship-funding
24 organization's fiscal year; requiring a
25 nonprofit scholarship-funding organization to
26 make scholarship payments at least on a
27 quarterly basis; prohibiting commingling of
28 certain scholarship funds; requiring a
29 nonprofit scholarship-funding organization to
30 maintain a separate account for scholarship
31 funds; requiring a nonprofit

1 scholarship-funding organization to verify
2 student attendance at a private school prior to
3 submission of scholarship funds; requiring a
4 nonprofit scholarship-funding organization to
5 verify income eligibility of qualified students
6 at least once a year in accordance with State
7 Board of Education rules; requiring a nonprofit
8 scholarship-funding organization to submit
9 certain reports to the Department of Education;
10 requiring certain individuals to undergo level
11 2 background screening requirements pursuant to
12 s. 435.04, F.S.; providing for the Department
13 of Law Enforcement to retain and search
14 fingerprint records; providing for an annual
15 fee as provided by rule of the Department of
16 Law Enforcement; requiring costs of background
17 checks be borne by certain parties; requiring a
18 nonprofit scholarship-funding organization
19 comply with antidiscrimination provisions of 42
20 U.S.C. s. 2000d; prohibiting an owner or a
21 nonprofit scholarship-funding organization from
22 owning, operating, or administering an eligible
23 private school under the scholarship program;
24 requiring a nonprofit scholarship-funding
25 organization to report any private school not
26 in compliance with scholarship program
27 requirements to the Department of Education;
28 prohibiting provision of scholarship funds to a
29 student to attend a private school not in
30 compliance; authorizing a parent to transfer
31 the scholarship; requiring award of

1 scholarships on a first-come, first-served
2 basis; prohibiting a nonprofit
3 scholarship-funding organization from targeting
4 certain students for scholarships; prohibiting
5 the award of scholarships to a child of an
6 owner of a nonprofit scholarship-funding
7 organization; prohibiting the transfer of an
8 eligible contribution between nonprofit
9 scholarship-funding organizations; prohibiting
10 a nonprofit scholarship-funding organization
11 from securing financing in anticipation of
12 eligible contributions; prohibiting a nonprofit
13 scholarship-funding organization from
14 participating in the program if the
15 organization fails to meet statutory
16 obligations; requiring students to meet certain
17 attendance policies; requiring parents to meet
18 certain parental involvement requirements
19 unless excused; prohibiting a parent from
20 authorizing a power of attorney for endorsement
21 of scholarship warrant; requiring a parent to
22 ensure that a scholarship student participates
23 in testing requirements; prohibiting a student
24 or parent of a student from participating in
25 the scholarship program if the student or
26 parent fails to meet statutory obligations;
27 revising provisions with respect to private
28 schools; revising requirements that a
29 participating private school demonstrate fiscal
30 soundness; requiring a surety bond; providing
31 an exception; requiring a private school to

1 employ or contract with teachers who have
2 regular and direct contact with students at the
3 school's physical location; requiring the
4 private schools to employ or contract with
5 teachers who have at least a baccalaureate
6 degree, 3 years of teaching experience at a
7 public or private school, or other skills that
8 qualify the teacher to provide appropriate
9 instruction; requiring a private school to
10 report to the Department of Education the
11 qualifications of teachers; requiring a private
12 school to annually register with the Department
13 of Education and provide certain information
14 concerning the private school organization,
15 student list, and notice of intent to
16 participate in the scholarship program;
17 requiring certain individuals to undergo level
18 2 background screening requirements pursuant to
19 s. 435.04, F.S.; providing for the Department
20 of Law Enforcement to retain and search
21 fingerprint records; providing for an annual
22 fee as provided by rule of the Department of
23 Law Enforcement; requiring costs of background
24 checks be borne by certain parties; requiring a
25 private school to administer or to make
26 provision for administering certain tests to
27 scholarship students; requiring reporting of
28 scores to the student's parent and to the
29 independent private research organization
30 selected by the Department of Education;
31 requiring a private school to file an

1 affidavit; requiring a private school to notify
2 the Department of Education in writing within 7
3 days if a student is ineligible to participate
4 in the scholarship program; requiring a private
5 school to report to the Department of Education
6 and distribute to scholarship applicants
7 information concerning accreditation and years
8 in existence; requiring the Department of
9 Education to make certain information
10 concerning private school accreditation
11 available to the public; prohibiting a private
12 school from participating in the scholarship
13 program if the private school fails to meet its
14 statutory obligations; requiring the Department
15 of Education to determine the eligibility of
16 certain nonprofit scholarship-funding
17 organizations within 90 days after application;
18 requiring a written notice with specific
19 reasons for approval or denial; requiring the
20 Department of Education to annually determine
21 the eligibility of nonprofit
22 scholarship-funding organizations and private
23 schools; requiring the Department of Education
24 to make accessible to the public a list of
25 eligible private schools; requiring the
26 Department of Education to annually verify the
27 eligibility of students; requiring the
28 Department of Education to maintain a student
29 database of program participants and to update
30 the database at least quarterly; requiring the
31 Department of Education to notify a nonprofit

1 scholarship-funding organization of any
2 ineligible student; requiring the Department of
3 Education to annually account for and verify
4 the eligibility of program expenditures;
5 requiring the Department of Education to review
6 audits; requiring the Department of Education
7 to select an independent private research
8 organization for reporting of student scores;
9 providing limitations on reporting; requiring
10 the Department of Education to revoke the
11 eligibility of program participants for failure
12 to comply with statutory obligations; requiring
13 the Department of Education to annually report
14 on accountability activities; requiring the
15 State Board of Education to adopt rules
16 regarding identification of documentation to
17 establish eligibility of nonprofit
18 scholarship-funding organizations, requiring an
19 affidavit, and identification of independent
20 income verification for determining the
21 eligibility of students; authorizing the State
22 Board of Education to delegate its authority to
23 the Commissioner of Education with the
24 exception of rulemaking authority; providing an
25 effective date.

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

28
29 Section 1. Section 220.187, Florida Statutes, is
30 amended to read:

31

1 220.187 Credits for contributions to nonprofit
2 scholarship-funding organizations.--

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

4 (a) Encourage private, voluntary contributions to
5 nonprofit scholarship-funding organizations.

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

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

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

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

12 (a)(b) "Eligible contribution" means a monetary
13 contribution from a taxpayer, subject to the restrictions
14 provided in this section, to an eligible nonprofit
15 scholarship-funding organization. The taxpayer making the
16 contribution may not designate a specific child as the
17 beneficiary of the contribution. The taxpayer may not
18 contribute more than \$5 million to any single eligible
19 nonprofit scholarship-funding organization.

20 (b)(c) "Eligible private nonpublic school" means a
21 private nonpublic school, as defined in s. 1002.01(2), located
22 in Florida which ~~that~~ offers an education to students in any
23 grades K-12 and ~~that~~ meets the requirements in subsection (6)
24 ~~(5)~~. An eligible private school:

25 1. Must maintain a physical location in this state
26 where each scholarship student regularly attends classes.

27 2. May not be a correspondence school or distance
28 learning school.

29 3. May not direct or provide scholarship funds to a
30 parent of a scholarship student who receives instruction under
31 the program at home.

1 4. May not be a home education program as defined in
2 s. 1002.01(1).

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

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

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

20 1. Was counted as a full-time equivalent student
21 during the previous state fiscal year for purposes of state
22 per-student funding;

23 2. Received a scholarship from an eligible nonprofit
24 scholarship-funding organization during the previous school
25 year; or

26 3. Is eligible to enter kindergarten or first grade.

27
28 A student is not eligible to receive a scholarship under this
29 section if the student is participating in the Opportunity
30 Scholarship Program under s. 1002.38, the John M. McKay
31 Scholarships for Students with Disabilities Program under s.

1 1002.39, or a home education program as defined in s.
2 1002.01(1). A student is not eligible to receive a scholarship
3 from more than one eligible nonprofit scholarship-funding
4 organization at the same time.

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

7 (a) There is allowed a credit of 100 percent of an
8 eligible contribution against any tax due for a taxable year
9 under this chapter. However, such a credit may not exceed 75
10 percent of the tax due under this chapter for the taxable
11 year, after the application of any other allowable credits by
12 the taxpayer. ~~However, at least 5 percent of the total~~
13 ~~statewide amount authorized for the tax credit shall be~~
14 ~~reserved for taxpayers who meet the definition of a small~~
15 ~~business provided in s. 288.703(1) at the time of application.~~
16 The credit granted by this section shall be reduced by the
17 difference between the amount of federal corporate income tax
18 taking into account the credit granted by this section and the
19 amount of federal corporate income tax without application of
20 the credit granted by this section.

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

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

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

17 (4) OBLIGATIONS OF ELIGIBLE NONPROFIT
18 SCHOLARSHIP-FUNDING ORGANIZATIONS.--

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

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

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

29 (b) An eligible nonprofit scholarship-funding
30 organization shall give priority to qualified students who
31 received a scholarship from an eligible nonprofit

1 scholarship-funding organization during the previous school
2 year.

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

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

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

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

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

27 (f) An eligible nonprofit scholarship-funding
28 organization that receives eligible contributions must provide
29 to the Auditor General and the Department of Education, within
30 180 days after completion of the organization's fiscal year,
31 an annual financial and compliance audit of its accounts and

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

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

1 organization shall ensure that, upon receipt of a scholarship
2 warrant or check, the parent to whom the warrant or check is
3 made restrictively endorses the warrant or check to the
4 private ~~nonpublic~~ school of the parent's choice for deposit
5 into the account of the private ~~nonpublic~~ school.

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

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

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

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

26 (l) All owners of a nonprofit scholarship-funding
27 organization shall, upon employment, entry into the contract,
28 or engagement to provide services, undergo background
29 screening pursuant to s. 435.04 by filing with the Department
30 of Education a complete set of fingerprints taken by an
31 authorized law enforcement agency or an employee of the

1 scholarship-funding organization who is trained to take
2 fingerprints. These fingerprints shall be submitted to the
3 Department of Law Enforcement for state processing, which
4 shall in turn submit the fingerprints to the Federal Bureau of
5 Investigation for federal processing. The Department of
6 Education shall screen the background results and report to
7 the scholarship-funding organization any owner who fails to
8 meet level 2 screening standards pursuant to s. 435.04 or any
9 owner who has been convicted of a crime involving moral
10 turpitude. Owners found through fingerprint processing to have
11 been convicted of a crime involving moral turpitude or failing
12 to meet level 2 screening standards pursuant to s. 435.04 may
13 not be employed, contracted with, or engaged to provide
14 services in any position with the scholarship-funding
15 organization. The cost of the background screening may be
16 borne by the scholarship-funding organization or the owner.
17 1. Every 5 years following employment, entry into a
18 contract, or engagement to provide services with a
19 scholarship-funding organization, each owner must meet level 2
20 screening requirements as described in s. 435.04, at which
21 time the Department of Education shall request the Department
22 of Law Enforcement to forward the fingerprints to the Federal
23 Bureau of Investigation for level 2 screening. If the
24 fingerprints of an owner are not retained by the Department of
25 Law Enforcement under subparagraph 2., the owner must file a
26 complete set of fingerprints with the Department of Education.
27 Upon submission of fingerprints for this purpose, the
28 Department of Education shall request the Department of Law
29 Enforcement to forward the fingerprints to the Federal Bureau
30 of Investigation for level 2 screening, and the fingerprints
31 shall be retained by the Department of Law Enforcement under

1 subparagraph 2. The cost of the state and federal criminal
2 history check required by level 2 screening may be borne by
3 the scholarship-funding organization or the owner. Under
4 penalty of perjury, each owner must agree to inform the
5 scholarship-funding organization immediately if convicted of
6 any disqualifying offense while he or she is employed, under
7 contract, or engaged to provide services with the
8 scholarship-funding organization. If it is found that an owner
9 does not meet the level 2 requirements, the owner shall be
10 immediately suspended from working in that capacity and shall
11 remain suspended until final resolution of any appeals.

12 2. Beginning July 1, 2004, all fingerprints submitted
13 to the Department of Law Enforcement as required by paragraph
14 (1), shall be retained by the Department of Law Enforcement in
15 a manner provided by rule and entered in the statewide
16 automated fingerprint identification system authorized by s.
17 943.05(2)(b). Such fingerprints shall thereafter be available
18 for all purposes and uses authorized for arrest fingerprint
19 cards entered in the statewide automated fingerprint
20 identification system pursuant to s. 943.051.

21 3. Beginning December 15, 2004, the Department of Law
22 Enforcement shall search all arrest fingerprint cards received
23 under s. 943.051 against the fingerprints retained in the
24 statewide automated fingerprint identification system under
25 subparagraph 2. Any arrest record that is identified with an
26 owner's fingerprints shall be reported to the Department of
27 Education. Each scholarship-funding organization shall
28 participate in this search process by paying an annual fee to
29 the Department of Law Enforcement and by informing the
30 Department of Law Enforcement of any change in the employment,
31 contractual status, or engagement status or place of

1 employment, contracting, or engagement of its owners whose
2 fingerprints are retained under subparagraph 2. The Department
3 of Law Enforcement shall adopt a rule setting the amount of
4 the annual fee to be imposed upon each scholarship-funding
5 organization for performing these searches and establishing
6 the procedures for the retention of owner fingerprints and the
7 dissemination of search results. The fee may be borne by the
8 scholarship-funding organization or by the owner.

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

12 (n) An eligible nonprofit scholarship-funding
13 organization or an owner of an eligible nonprofit
14 scholarship-funding organization may not own, operate, or
15 administer an eligible private school participating in the
16 program.

17 (o) An eligible nonprofit scholarship-funding
18 organization must report to the Department of Education any
19 private school participating in the scholarship program under
20 this section which does not comply with the requirements of
21 the scholarship program. The eligible nonprofit
22 scholarship-funding organization may not provide additional
23 scholarship funds to a parent for a student to attend a
24 private school until the State Board of Education determines
25 that the school is in compliance with this section.

26 (p) An eligible nonprofit scholarship-funding
27 organization must allow a qualified student to attend any
28 eligible private school and must allow the parent to transfer
29 the scholarship during the school year to another eligible
30 private school of the parent's choice.

31

1 (q) An eligible nonprofit scholarship-funding
2 organization must provide a scholarship to a qualified student
3 on a first-come, first-served basis unless the student
4 qualifies for priority pursuant to paragraph (4)(b). An
5 eligible nonprofit scholarship-funding organization may not
6 target scholarships to a particular private school or provide
7 scholarships to a child of an owner.

8 (r) An eligible nonprofit scholarship-funding
9 organization may not transfer scholarship funds to another
10 eligible nonprofit scholarship-funding organization.

11 (s) An eligible nonprofit scholarship-funding
12 organization may not secure a promissory note, a line of
13 credit, or other financing to fund a scholarship in
14 anticipation of an eligible contribution. An eligible
15 scholarship-funding organization may only fund scholarships
16 through eligible contributions received under the scholarship
17 program.

18 (t) A nonprofit scholarship-funding organization that
19 fails to comply with this section may not participate in the
20 scholarship program.

21 (5) PARENT OBLIGATIONS.--

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

27 (b) Any student participating in the scholarship
28 program must remain in attendance throughout the school year,
29 unless excused by the school for illness or other good cause,
30 and must comply fully with the school's code of conduct.

31

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

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

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

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

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

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

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

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

4
5 However, any private school that was subject to an action
6 taken by the Department of Education for any violation of this
7 section shall, following the date on which action was taken
8 against the private school for a violation of this section,
9 but prior to receiving the next quarterly payment, and for 2
10 additional consecutive years thereafter, file a surety bond
11 with the Department of Education.~~statement by a certified~~
12 ~~public accountant confirming that the nonpublic school~~
13 ~~desiring to participate is insured and the owner or owners~~
14 ~~have sufficient capital or credit to operate the school for~~
15 ~~the upcoming year serving the number of students anticipated~~
16 ~~with expected revenues from tuition and other sources that may~~
17 ~~be reasonably expected. In lieu of such a statement, a surety~~
18 ~~bond or letter of credit for the amount equal to the~~
19 ~~scholarship funds for any quarter may be filed with the~~
20 ~~department.~~

21 (b) Comply with the antidiscrimination provisions of
22 42 U.S.C. s. 2000d.

23 (c) Meet state and local health and safety laws and
24 codes.

25 (d) Comply with all state laws relating to general
26 regulation of private ~~nonpublic~~ schools.

27 (e) Employ or contract with teachers who have regular
28 and direct contact with each student receiving a scholarship
29 under this section at the school's physical location. All
30 teachers must hold at least a baccalaureate degree or have at
31 least 3 years' teaching experience in public or private

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

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

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

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

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

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

19 (g) Ensure that all personnel who are hired,
20 contracted, or engaged to provide services to fill positions
21 requiring direct contact with students in the private school,
22 and all owners of a private school shall, upon employment,
23 entry into the contract, engagement to provide services, or
24 assumption of a position of ownership, a position of
25 decisionmaking authority, or a position having access to
26 scholarship funds, undergo background screening pursuant to s.
27 435.04 by filing with the Department of Education a complete
28 set of fingerprints taken by an authorized law enforcement
29 agency or an employee of the private school who is trained to
30 take fingerprints. These fingerprints shall be submitted to
31 the Department of Law Enforcement for state processing, which

1 shall in turn submit the fingerprints to the Federal Bureau of
2 Investigation for federal processing. The Department of
3 Education shall screen the background results and report to
4 the private school any person described in this paragraph who
5 fails to meet level 2 screening standards pursuant to s.
6 435.04 or any person described in this paragraph who has been
7 convicted of a crime involving moral turpitude. Employees,
8 contractors, personnel engaged to provide services, or owners
9 found through fingerprint processing to have been convicted of
10 a crime involving moral turpitude or failing to meet level 2
11 screening standards pursuant to s. 435.04 may not be employed,
12 contracted with, or engaged to provide services in any
13 position in the private school requiring direct contact with
14 students, and may not assume a position of ownership, a
15 position of decisionmaking authority, or a position having
16 access to scholarship funds. The cost of the background
17 screening may be borne by the private school, the employee,
18 the contractor, the person engaged to provide services, or the
19 owner.

20 1. Every 5 years each person described in this
21 paragraph must meet level 2 screening requirements as
22 described in s. 435.04, at which time the Department of
23 Education shall request the Department of Law Enforcement to
24 forward the fingerprints to the Federal Bureau of
25 Investigation for level 2 screening. If the fingerprints of a
26 person described in this paragraph are not retained by the
27 Department of Law Enforcement under subparagraph 2., the
28 person must file a complete set of fingerprints with the
29 Department of Education. Upon submission of fingerprints for
30 this purpose, the Department of Education shall request the
31 Department of Law Enforcement to forward the fingerprints to

1 the Federal Bureau of Investigation for level 2 screening, and
2 the fingerprints shall be retained by the Department of Law
3 Enforcement under subparagraph 2. The cost of the state and
4 federal criminal history check required by level 2 screening
5 may be borne by the private school, the employee, the
6 contractor, the person engaged to provide services, or the
7 owner. Under penalty of perjury, each person described in this
8 paragraph must agree to inform the private school immediately
9 if convicted of any disqualifying offense while in a capacity
10 with the private school as described in this paragraph. If it
11 is found that a person described in this paragraph does not
12 meet the level 2 requirements, the person shall be immediately
13 suspended from working in that capacity and shall remain
14 suspended until final resolution of any appeals.

15 2. Beginning July 1, 2004, all fingerprints submitted
16 to the Department of Law Enforcement as required by this
17 paragraph shall be retained by the Department of Law
18 Enforcement in a manner provided by rule and entered in the
19 statewide automated fingerprint identification system
20 authorized by s. 943.05(2)(b). Such fingerprints shall
21 thereafter be available for all purposes and uses authorized
22 for arrest fingerprint cards entered in the statewide
23 automated fingerprint identification system pursuant to s.
24 943.051.

25 3. Beginning December 15, 2004, the Department of Law
26 Enforcement shall search all arrest fingerprint cards received
27 under s. 943.051 against the fingerprints retained in the
28 statewide automated fingerprint identification system under
29 subparagraph 2. Any arrest record that is identified with the
30 fingerprints of a person described in this paragraph shall be
31 reported to the Department of Education. Each eligible private

1 school shall participate in this search process by paying an
2 annual fee to the Department of Law Enforcement and by
3 informing the Department of Law Enforcement of any change in
4 the status or place of employment, contracting, or engagement
5 of services of its personnel as described in this paragraph
6 whose fingerprints are retained under subparagraph 2. The
7 Department of Law Enforcement shall adopt a rule setting the
8 amount of the annual fee to be imposed upon each private
9 school for performing these searches and establishing the
10 procedures for the retention of private school personnel
11 fingerprints and the dissemination of search results. The fee
12 may be borne by the private school, the employee, the
13 contracted person, the person engaged to provide services, or
14 the owner.

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

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

24 (j) Notify in writing the Department of Education and
25 the nonprofit scholarship-funding organization within 7 days
26 if a student is ineligible to participate in the scholarship
27 program.

28 (k) Publish and report annually to the Department of
29 Education and distribute to the scholarship applicants if the
30 school has been in existence for 3 years or less.

31

1 (1) Publish and report annually to the Department of
2 Education and distribute to the scholarship applicants if the
3 private school is or is not accredited by a regional
4 accrediting association that is validated by a third-party
5 accreditor at the national level, the name of the accrediting
6 association that accredits the private school, and if the
7 private school is in the process of receiving candidate
8 status. The Department of Education shall make the annual list
9 of accredited and nonaccredited private schools available to
10 the public and shall make that list available by county.

11
12 A private school that fails to comply with this section is
13 ineligible to participate in the scholarship program under
14 this section.

15 (7) DEPARTMENT OF EDUCATION; RESPONSIBILITIES.--The
16 Department of Education must:

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

20 (b) Annually determine the eligibility of nonprofit
21 scholarship-funding organizations that meet the requirements
22 of this section. The Department of Education must determine
23 the eligibility of the nonprofit scholarship-funding
24 organization within 90 days after the nonprofit
25 scholarship-funding organization's application for approval to
26 participate in the program. The Department of Education must
27 provide written notice of approval or denial to participate in
28 the program to the nonprofit scholarship-funding organization.
29 The notice must contain the specific reasons for approval or
30 denial.

31

1 (c) Annually determine the eligibility of private
2 schools that meet the requirements of this section. The
3 Department of Education must maintain a list of eligible
4 private schools, and that list must be made accessible to the
5 public.

6 (d) Annually verify the eligibility of students that
7 meet the requirements of this section. The Department of
8 Education must maintain a database of students participating
9 in the program. The Department of Education must, at least
10 quarterly, update its database to ensure that a student
11 continues to meet the requirements of this section. The
12 Department of Education must immediately notify an eligible
13 nonprofit scholarship-funding organization of any student that
14 fails to meet the requirements of this section.

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

17 (f) Annually review all audit reports of nonprofit
18 scholarship-funding organizations for compliance with this
19 section.

20 (g) Annually submit, administer, and retain records of
21 affidavits from private schools certifying compliance with
22 this section.

23 (h) Select an independent private research
24 organization to which participating private schools must
25 report the scores of participating students on the Iowa Test
26 of Basic Skills, the Stanford-9, or the Florida Comprehensive
27 Assessment Test, or subsequent versions of these tests
28 administered by the private school. The independent private
29 research organization must annually report to the Department
30 of Education on the year-to-year improvements of the
31 participating students. The independent research organization

1 must analyze and report student performance data in a manner
2 that protects the rights of students and parents as mandated
3 in 20 U.S.C. s. 1232g and must not disaggregate data to a
4 level that will disclose the identity of students or of
5 private schools. To the extent possible, the independent
6 private research organization must accumulate historical
7 performance data on students from the Department of Education
8 and private schools to describe baseline performance and to
9 conduct longitudinal studies.

10 (i) Revoke the eligibility of a nonprofit
11 scholarship-funding organization, private school, or student
12 to participate in the program for noncompliance with this
13 section.

14 (j) Annually report, by December 15, to the Governor,
15 the President of the Senate, and the Speaker of the House of
16 Representatives of the Department of Education's actions with
17 respect to implementing accountability in the scholarship
18 program under this section including, but not limited to, any
19 substantiated allegations or violations of law or rule by a
20 nonprofit scholarship-funding organization or private school
21 under this program and the corrective action taken by the
22 Department of Education.

23 (8)(7) ADMINISTRATION; RULES.--

24 (a) If the credit granted pursuant to this section is
25 not fully used in any one year because of insufficient tax
26 liability on the part of the corporation, the unused amount
27 may be carried forward for a period not to exceed 3 years;
28 however, any taxpayer that seeks to carry forward an unused
29 amount of tax credit must submit an application for allocation
30 of tax credits or carryforward credits as required in
31 paragraph (d) in the year that the taxpayer intends to use the

1 carryforward. The total amount of tax credits and carryforward
2 of tax credits granted each state fiscal year under this
3 section is \$88 million. This carryforward applies to all
4 approved contributions made after January 1, 2002. A taxpayer
5 may not convey, assign, or transfer the credit authorized by
6 this section to another entity unless all of the assets of the
7 taxpayer are conveyed, assigned, or transferred in the same
8 transaction.

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

12 (c) The Department of Revenue and the Department of
13 Education shall develop a cooperative agreement to assist in
14 the administration of this section. ~~The Department of
15 Education shall be responsible for annually submitting, by
16 March 15, to the department a list of eligible nonprofit
17 scholarship-funding organizations that meet the requirements
18 of paragraph (2)(d) and for monitoring eligibility of
19 nonprofit scholarship-funding organizations that meet the
20 requirements of paragraph (2)(d), eligibility of nonpublic
21 schools that meet the requirements of paragraph (2)(c), and
22 eligibility of expenditures under this section as provided in
23 subsection (4).~~

24 (d) The Department of Revenue shall adopt rules
25 necessary to administer this section, including rules
26 establishing application forms and procedures and governing
27 the allocation of tax credits and carryforward credits under
28 this section on a first-come, first-served basis.

29 (e) The State Board of Education ~~Department of~~
30 ~~Education~~ shall adopt rules pursuant to ss. 120.536(1) and
31

1 120.54 to administer this section, including, but not limited
2 to, rules:~~necessary to~~

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

7 2. Identifying ~~identify~~ qualified students; ~~as defined~~
8 ~~in paragraph (2)(e).~~

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

11 4. Requiring an affidavit, which comports with this
12 section's requirements for private schools that participate in
13 the scholarship program; and

14 5. Identifying the independent income-verification
15 documentation required to establish student eligibility under
16 this section.

17 (f) The State Board of Education may delegate its
18 authority under this section to the Commissioner of Education
19 with the exception of rulemaking authority.

20 (9)(8) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--All
21 eligible contributions received by an eligible nonprofit
22 scholarship-funding organization shall be deposited in a
23 manner consistent with s. 17.57(2).

24 Section 2. This act shall take effect upon becoming a
25 law.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 2978

4 This committee substitute provides that a private school:

5 Must maintain a physical location in this state where
6 each scholarship student regularly attends classes;

7 May not be a correspondence school or distance learning
8 school;

9 May not direct or provide scholarship funds to a parent
10 of a scholarship student who receives instruction
11 under the program at home; and

12 May not be a home education program as defined in s.
13 1002.01(1), F.S.

14 The committee substitute:

15 Requires all owners of a nonprofit scholarship-funding
16 organization, all owners of a private school, and
17 all private school personnel having direct contact
18 with students to undergo background screening
19 pursuant to s. 435.04, F.S.;

20 Prohibits any owner or personnel that fails to meet the
21 background standards from being employed, contracted
22 with, or engaged to provide services with a
23 nonprofit scholarship-funding organization or
24 private school respectively;

25 Provides that the owner, the nonprofit
26 scholarship-funding organization, the private
27 school, or the private school personnel must pay for
28 the background screening; and

29 Requires the Department of Law Enforcement to retain
30 fingerprint records and match the records with any
31 arrest records received. The Department of Law
Enforcement shall adopt rules setting the annual fee
for the retention and search.

The committee substitute eliminates the requirement that a
nonprofit scholarship-funding organization provide a statement
from an independent certified public accountant regarding the
sufficiency of its capital or credit to operate the program as
a condition of participation in the program.

The committee substitute requires a private school to annually
administer or make provisions for scholarship students to take
the Iowa Test of Basic Skills, the Stanford-9, or the Florida
Comprehensive Assessment Test, or subsequent versions of these
tests.

The committee substitute requires a private school to report
to the Department of Education and to scholarship applicants
whether the private school has been in existence less than 3
years. In addition, a private school must report to the

1 Department of Education and to scholarship applicants whether
2 the private school is accredited, the name of the accrediting
3 association, and whether the private school is in candidate
4 status. The Department of Education shall make the list of
5 accredited and nonaccredited private schools available to the
6 public by county.
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The committee substitute requires the Department of Education
to annually review the audits of all nonprofit
scholarship-funding organizations.