

Bill No. CS for SB 2380

Barcode 422168

CHAMBER ACTION

Senate

House

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The Committee on Finance and Tax (Storms) recommended the following amendment:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

Section 1. Section 1008.3455, Florida Statutes, is created to read:

1008.3455 Improvement program for schools failing to make adequate progress.--

(1) It is the intent of the Legislature that the state develop and implement a comprehensive strategic program to facilitate the improvement of schools that are failing to make adequate progress based on the school performance grading categories established by law. The Legislature finds that achieving meaningful and lasting progress in these schools will take a number of years. Thus, it is the further intent of the Legislature that the program developed under this section include a multiyear design and implementation schedule, with measurable goals and objectives for these schools.

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1       (2) In coordination with the responsibilities  
 2 prescribed in s. 1008.345, the Commissioner of Education shall  
 3 develop and submit to the President of the Senate and the  
 4 Speaker of the House of Representatives, no later than  
 5 February 1, 2008, a multifaceted program of policies and  
 6 practices targeted specifically toward schools in the "F"  
 7 grade category under s. 1008.34.

8           (a) At a minimum, the program must include an  
 9 assessment of the extent to which new policies, or  
 10 enhancements to existing policies, in the following areas  
 11 would facilitate improvement at these schools:

- 12           1. Capital improvements to school facilities;
- 13           2. Salaries for teachers and staff;
- 14           3. Incentives for outstanding faculty and staff to  
 15 transfer to these schools;
- 16           4. Equipment and supplies;
- 17           5. Technology infrastructure, hardware, or software;
- 18           6. Incentives to encourage parental or other family  
 19 participation; and
- 20           7. Mentoring and other community participation.

21           (b) The program must include a suggested order of  
 22 priority and timeline for enacting, funding, and implementing  
 23 policies and practices over a 5-year period. The program  
 24 shall identify those elements of the program which can be  
 25 accomplished within existing statutory authority and those  
 26 elements that will require new statutory authority. The  
 27 program must include specific recommendations for action by  
 28 the Legislature.

29           (3)(a) To assist in development and implementation of  
 30 the program required by this section, the commissioner shall  
 31 create an advisory committee comprised of at least two

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1 teachers, two staff persons, and two parents of students from  
2 one or more schools that are failing to make adequate progress  
3 based on the school performance grading categories, as well as  
4 any other individuals the commissioner deems appropriate.

5 (b) In developing and implementing the program, the  
6 commissioner shall consult with:

7 1. The Office of Program Policy Analysis and  
8 Government Accountability; and

9 2. The district community assessment teams assigned  
10 under s. 1008.345.

11 (4) The program shall be developed in coordination  
12 with, and shall be consistent with, other strategic planning  
13 initiatives of the Department of Education or the State Board  
14 of Education.

15 (5) The commissioner shall report annually to the  
16 Governor, the President of the Senate, and the Speaker of the  
17 House of Representatives on implementation of the program.

18 Section 2. Section 220.187, Florida Statutes, is  
19 amended to read:

20 220.187 Credits for contributions to nonprofit  
21 scholarship-funding organizations; families that have limited  
22 financial resources.--

23 (1) FINDINGS AND PURPOSE.--

24 (a) The Legislature finds that:

25 1. It has the inherent power to determine subjects of  
26 taxation for general or particular public purposes.

27 2. Expanding educational opportunities and improving  
28 the quality of educational services within the state are valid  
29 public purposes that the Legislature may promote using its  
30 sovereign power to determine subjects of taxation and  
31 exemptions from taxation.

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1           3. Ensuring that all parents, regardless of means, may  
 2 exercise and enjoy their basic right to educate their children  
 3 as they see fit is a valid public purpose that the Legislature  
 4 may promote using its sovereign power to determine subjects of  
 5 taxation and exemptions from taxation.

6           4. The existence of programs that provide expanded  
 7 educational opportunities in this state has not been shown to  
 8 reduce funding to or otherwise harm public schools within the  
 9 state, and, to the contrary, per-student funding in public  
 10 schools has risen each year since the first inception of those  
 11 programs in 1999.

12           5. Expanded educational opportunities and the healthy  
 13 competition they promote are critical to improving the quality  
 14 of education in the state and to ensuring that all children  
 15 receive the high-quality education to which they are entitled.

16           (b) The purpose of this section is to:

17           1.(a) Enable taxpayers to make ~~Encourage~~ private,  
 18 voluntary contributions to nonprofit scholarship-funding  
 19 organizations in order to promote the general welfare.

20           2.(b) Promote the general welfare by expanding ~~Expand~~  
 21 educational opportunities for children of families that have  
 22 limited financial resources.

23           3.(c) Enable children in this state to achieve a  
 24 greater level of excellence in their education.

25           4. Provide taxpayers who wish to help parents having  
 26 limited resources exercise their basic right to educate their  
 27 children as they see fit with a means to do so.

28           5. Improve the quality of education in this state,  
 29 both by expanding educational opportunities for children and  
 30 by creating incentives for schools to achieve excellence.

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

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

2 (b) "Eligible contribution" means a monetary  
3 contribution from a taxpayer, subject to the restrictions  
4 provided in this section, to an eligible nonprofit  
5 scholarship-funding organization. The taxpayer making the  
6 contribution may not designate a specific child as the  
7 beneficiary of the contribution.

8 (c) "Eligible nonprofit scholarship-funding  
9 organization" means a charitable organization that:

10 1. Is exempt from federal income tax pursuant to s.  
11 501(c)(3) of the Internal Revenue Code;

12 2. Is a Florida entity formed under chapter 607,  
13 chapter 608, or chapter 617 and whose principal office is  
14 located in the state; and

15 3. Complies with the provisions of subsection (6).  
16

17 An eligible nonprofit scholarship-funding organization that is  
18 authorized to provide scholarships under s. 220.1875 may,  
19 subject to approval by the Department of Education, be  
20 authorized to provide scholarships under this section.

21 (d) "Eligible private school" means a private school,  
22 as defined in s. 1002.01(2), located in Florida which offers  
23 an education to students in any grades K-12 and that meets the  
24 requirements in subsection (8).

25 (e) "Owner or operator" includes:

26 1. An owner, president, officer, or director of an  
27 eligible nonprofit scholarship-funding organization or a  
28 person with equivalent decisionmaking authority over an  
29 eligible nonprofit scholarship-funding organization.

30 2. An owner, operator, superintendent, or principal of  
31 an eligible private school or a person with equivalent

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1 decisionmaking authority over an eligible private school.

2 (3) PROGRAM; SCHOLARSHIP ELIGIBILITY.--The Corporate  
3 Income Tax Credit Scholarship Program is established. A  
4 student is eligible for a corporate income tax credit  
5 scholarship if the student qualifies for free or reduced-price  
6 school lunches under the National School Lunch Act and:

7 (a) Was counted as a full-time equivalent student  
8 during the previous state fiscal year for purposes of state  
9 per-student funding;

10 (b) Received a scholarship from an eligible nonprofit  
11 scholarship-funding organization or from the State of Florida  
12 during the previous school year; or

13 (c) Is eligible to enter kindergarten or first grade.

14  
15 Contingent upon available funds, a student may continue in the  
16 scholarship program as long as the student's family income  
17 level does not exceed 200 percent of the federal poverty  
18 level. A sibling of a student who is continuing in the program  
19 and resides in the same household as the student shall also be  
20 eligible as a first-time corporate income tax credit  
21 scholarship recipient as long as the student's and sibling's  
22 family income level does not exceed 200 percent of the federal  
23 poverty level.

24 (4) SCHOLARSHIP PROHIBITIONS.--A student is not  
25 eligible for a scholarship while he or she is:

26 (a) Enrolled in a school operating for the purpose of  
27 providing educational services to youth in Department of  
28 Juvenile Justice commitment programs;

29 (b) Receiving a scholarship from another eligible  
30 nonprofit scholarship-funding organization under this section;

31 (c) Receiving an educational scholarship pursuant to

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1 chapter 1002;

2 (d) Participating in a home education program as  
3 defined in s. 1002.01(1);

4 (e) Participating in a private tutoring program  
5 pursuant to s. 1002.43;

6 (f) Participating in a virtual school, correspondence  
7 school, or distance learning program that receives state  
8 funding pursuant to the student's participation unless the  
9 participation is limited to no more than two courses per  
10 school year; or

11 (g) Enrolled in the Florida School for the Deaf and  
12 the Blind.

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

15 (a) There is allowed a credit of 100 percent of an  
16 eligible contribution against any tax due for a taxable year  
17 under this chapter. However, such a credit may not exceed 75  
18 percent of the tax due under this chapter for the taxable  
19 year, after the application of any other allowable credits by  
20 the taxpayer. The credit granted by this section shall be  
21 reduced by the difference between the amount of federal  
22 corporate income tax taking into account the credit granted by  
23 this section and the amount of federal corporate income tax  
24 without application of the credit granted by this section.

25 (b) The total amount of tax credits and carryforward  
26 of tax credits which may be granted each state fiscal year  
27 under this section is \$88 million. At least 1 percent of the  
28 total statewide amount authorized for the tax credit shall be  
29 reserved for taxpayers who meet the definition of a small  
30 business provided in s. 288.703(1) at the time of application.

31 (c) A taxpayer who files a Florida consolidated return

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1 as a member of an affiliated group pursuant to s. 220.131(1)  
 2 may be allowed the credit on a consolidated return basis;  
 3 however, the total credit taken by the affiliated group is  
 4 subject to the limitation established under paragraph (a).

5 (d) Effective for tax years beginning January 1, 2006,  
 6 a taxpayer may rescind all or part of its allocated tax credit  
 7 under this section. The amount rescinded shall become  
 8 available for purposes of the cap for that state fiscal year  
 9 under this section to an eligible taxpayer as approved by the  
 10 department if the taxpayer receives notice from the department  
 11 that the rescindment has been accepted by the department and  
 12 the taxpayer has not previously rescinded any or all of its  
 13 tax credit allocation under this section more than once in the  
 14 previous 3 tax years. Any amount rescinded under this  
 15 paragraph shall become available to an eligible taxpayer on a  
 16 first-come, first-served basis based on tax credit  
 17 applications received after the date the rescindment is  
 18 accepted by the department.

19 (6) OBLIGATIONS OF ELIGIBLE NONPROFIT  
 20 SCHOLARSHIP-FUNDING ORGANIZATIONS.--An eligible nonprofit  
 21 scholarship-funding organization:

22 (a) Must comply with the antidiscrimination provisions  
 23 of 42 U.S.C. s. 2000d.

24 (b) Must comply with the following background check  
 25 requirements:

26 1. All owners and operators as defined in subparagraph  
 27 (2)(e)1. are, upon employment or engagement to provide  
 28 services, subject to level 2 background screening as provided  
 29 under chapter 435. The fingerprints for the background  
 30 screening must be electronically submitted to the Department  
 31 of Law Enforcement and can be taken by an authorized law



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1 enforcement agency or by an employee of the eligible nonprofit  
2 scholarship-funding organization or a private company who is  
3 trained to take fingerprints. However, the complete set of  
4 fingerprints of an owner or operator may not be taken by the  
5 owner or operator. The results of the state and national  
6 criminal history check shall be provided to the Department of  
7 Education for screening under chapter 435. The cost of the  
8 background screening may be borne by the eligible nonprofit  
9 scholarship-funding organization or the owner or operator.

10           2. Every 5 years following employment or engagement to  
11 provide services or association with an eligible nonprofit  
12 scholarship-funding organization, each owner or operator must  
13 meet level 2 screening standards as described in s. 435.04, at  
14 which time the nonprofit scholarship-funding organization  
15 shall request the Department of Law Enforcement to forward the  
16 fingerprints to the Federal Bureau of Investigation for level  
17 2 screening. If the fingerprints of an owner or operator are  
18 not retained by the Department of Law Enforcement under  
19 subparagraph 3., the owner or operator must electronically  
20 file a complete set of fingerprints with the Department of Law  
21 Enforcement. Upon submission of fingerprints for this purpose,  
22 the eligible nonprofit scholarship-funding organization shall  
23 request that the Department of Law Enforcement forward the  
24 fingerprints to the Federal Bureau of Investigation for level  
25 2 screening, and the fingerprints shall be retained by the  
26 Department of Law Enforcement under subparagraph 3.

27           3. Beginning July 1, 2007, all fingerprints submitted  
28 to the Department of Law Enforcement as required by this  
29 paragraph must be retained by the Department of Law  
30 Enforcement in a manner approved by rule and entered in the  
31 statewide automated fingerprint identification system

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1 authorized by s. 943.05(2)(b). The fingerprints must  
 2 thereafter be available for all purposes and uses authorized  
 3 for arrest fingerprint cards entered in the statewide  
 4 automated fingerprint identification system pursuant to s.  
 5 943.051.

6           4. Beginning July 1, 2007, the Department of Law  
 7 Enforcement shall search all arrest fingerprint cards received  
 8 under s. 943.051 against the fingerprints retained in the  
 9 statewide automated fingerprint identification system under  
 10 subparagraph 3. Any arrest record that is identified with an  
 11 owner's or operator's fingerprints must be reported to the  
 12 Department of Education. The Department of Education shall  
 13 participate in this search process by paying an annual fee to  
 14 the Department of Law Enforcement and by informing the  
 15 Department of Law Enforcement of any change in the employment,  
 16 engagement, or association status of the owners or operators  
 17 whose fingerprints are retained under subparagraph 3. The  
 18 Department of Law Enforcement shall adopt a rule setting the  
 19 amount of the annual fee to be imposed upon the Department of  
 20 Education for performing these services and establishing the  
 21 procedures for the retention of owner and operator  
 22 fingerprints and the dissemination of search results. The fee  
 23 may be borne by the owner or operator of the nonprofit  
 24 scholarship-funding organization.

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

28           6. A nonprofit scholarship-funding organization whose  
 29 owner or operator in the last 7 years has filed for personal  
 30 bankruptcy or corporate bankruptcy in a corporation of which  
 31 he or she owned more than 20 percent shall not be eligible to

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1 provide scholarships under this section.

2 (c) Must not have an owner or operator who owns or  
3 operates an eligible private school that is participating in  
4 the scholarship program.

5 (d) Must provide scholarships, from eligible  
6 contributions, to eligible students for:

7 1. Tuition, ~~or~~ textbook expenses, or registration fees  
8 for, or transportation to, an eligible private school. The  
9 amount of the scholarship shall be the maximum allowed by law  
10 or the amount of the private school's textbook expenses and  
11 published tuition and registration fees, whichever is less; At  
12 ~~least 75 percent of the scholarship funding must be used to~~  
13 ~~pay tuition expenses; or~~

14 2. Transportation expenses to a Florida public school  
15 that is located outside the district in which the student  
16 resides or to a lab school as defined in s. 1002.32.

17 (e) Must give priority to eligible students who  
18 received a scholarship from an eligible nonprofit  
19 scholarship-funding organization or from the State of Florida  
20 during the previous school year or who received an opportunity  
21 scholarship under former s. 1002.38 during the final quarter  
22 of the 2006-2007 school year.

23 (f) Must provide a scholarship to an eligible student  
24 on a first-come, first-served basis unless the student  
25 qualifies for priority pursuant to paragraph (e).

26 (g) May not restrict or reserve scholarships for use  
27 at a particular private school or provide scholarships to a  
28 child of an owner or operator.

29 (h) Must allow an eligible student to attend any  
30 eligible private school and must allow a parent to transfer a  
31 scholarship during a school year to any other eligible private

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1 school of the parent's choice.

2 (i) Must expend for annual or partial-year  
3 scholarships an amount equal to or greater than 75 percent of  
4 the eligible contributions received during the fiscal year  
5 such contributions are collected. No more than 25 percent of  
6 such eligible contributions may be carried forward to the  
7 succeeding fiscal year. Any amounts carried forward shall be  
8 expended for ~~obligate, in the same fiscal year in which the~~  
9 ~~contribution was received, 100 percent of the eligible~~  
10 ~~contribution to provide annual or partial-year scholarships+~~  
11 ~~however, up to 25 percent of the total contribution may be~~  
12 ~~carried forward for expenditure~~ in the following ~~state~~ fiscal  
13 year. A scholarship-funding organization must, before granting  
14 a scholarship for an academic year, document each scholarship  
15 student's eligibility for that academic year. A  
16 scholarship-funding organization may not grant multiyear  
17 scholarships in one approval process. No portion of eligible  
18 contributions may be used for administrative expenses. All  
19 interest accrued from contributions must be used for  
20 scholarships.

21 (j) Must maintain separate accounts for scholarship  
22 funds and operating funds.

23 (k) With the prior approval of the Department of  
24 Education, may transfer funds to another eligible nonprofit  
25 scholarship-funding organization if additional funds are  
26 required to meet scholarship demand at the receiving nonprofit  
27 scholarship-funding organization. A transfer shall be limited  
28 to the greater of \$500,000 or 20 percent of the total  
29 contributions received by the nonprofit scholarship-funding  
30 organization making the transfer. All transferred funds must  
31 be deposited by the receiving nonprofit scholarship-funding

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1 organization into its scholarship accounts. All transferred  
 2 amounts received by any nonprofit scholarship-funding  
 3 organization must be separately disclosed in the annual  
 4 financial and compliance audit required in this section.

5       (1) Must provide to the Auditor General and the  
 6 Department of Education an annual financial and compliance  
 7 audit of its accounts and records conducted by an independent  
 8 certified public accountant and in accordance with rules  
 9 adopted by the Auditor General. The audit must be conducted in  
 10 compliance with generally accepted auditing standards and must  
 11 include a report on financial statements presented in  
 12 accordance with generally accepted accounting principles set  
 13 forth by the American Institute of Certified Public  
 14 Accountants for not-for-profit organizations and a  
 15 determination of compliance with the statutory eligibility and  
 16 expenditure requirements set forth in this section. Audits  
 17 must be provided to the Auditor General and the Department of  
 18 Education within 180 days after completion of the eligible  
 19 nonprofit scholarship-funding organization's fiscal year.

20       (m) Must prepare and submit quarterly reports to the  
 21 Department of Education pursuant to paragraph (9)(m). In  
 22 addition, an eligible nonprofit scholarship-funding  
 23 organization must submit in a timely manner any information  
 24 requested by the Department of Education relating to the  
 25 scholarship program.

26  
 27 Any and all information and documentation provided to the  
 28 Department of Education and the Auditor General relating to  
 29 the identity of a taxpayer that provides an eligible  
 30 contribution under this section shall remain confidential at  
 31 all times in accordance with s. 213.053.

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1 (7) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM  
2 PARTICIPATION.--

3 (a) The parent must select an eligible private school  
4 and apply for the admission of his or her child.

5 (b) The parent must inform the child's school district  
6 when the parent withdraws his or her child to attend an  
7 eligible private school.

8 (c) Any student participating in the scholarship  
9 program must remain in attendance throughout the school year  
10 unless excused by the school for illness or other good cause.

11 (d) Each parent and each student has an obligation to  
12 the private school to comply with the private school's  
13 published policies.

14 (e) The parent shall ensure that the student  
15 participating in the scholarship program takes the  
16 norm-referenced assessment offered by the private school. The  
17 parent may also choose to have the student participate in the  
18 statewide assessments pursuant to s. 1008.22. If the parent  
19 requests that the student participating in the scholarship  
20 program take statewide assessments pursuant to s. 1008.22, the  
21 parent is responsible for transporting the student to the  
22 assessment site designated by the school district.

23 (f) Upon receipt of a scholarship warrant from the  
24 eligible nonprofit scholarship-funding organization, the  
25 parent to whom the warrant is made must restrictively endorse  
26 the warrant to the private school for deposit into the account  
27 of the private school. The parent may not designate any entity  
28 or individual associated with the participating private school  
29 as the parent's attorney in fact to endorse a scholarship  
30 warrant. A participant who fails to comply with this paragraph  
31 forfeits the scholarship.

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1 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.--An  
2 eligible private school may be sectarian or nonsectarian and  
3 must:

4 (a) Comply with all requirements for private schools  
5 participating in state school choice scholarship programs  
6 pursuant to s. 1002.421.

7 (b) Provide to the eligible nonprofit  
8 scholarship-funding organization, upon request, all  
9 documentation required for the student's participation,  
10 including the private school's and student's fee schedules.

11 (c) Be academically accountable to the parent for  
12 meeting the educational needs of the student by:

13 1. At a minimum, annually providing to the parent a  
14 written explanation of the student's progress.

15 2. Annually administering or making provision for  
16 students participating in the scholarship program to take one  
17 of the nationally norm-referenced tests identified by the  
18 Department of Education. Students with disabilities for whom  
19 standardized testing is not appropriate are exempt from this  
20 requirement. A participating private school must report a  
21 student's scores to the parent and to the independent research  
22 organization selected by the Department of Education as  
23 described in paragraph (9)(j).

24 3. Cooperating with the scholarship student whose  
25 parent chooses to participate in the statewide assessments  
26 pursuant to s. 1008.32.

27 (d) 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.

30  
31 The inability of a private school to meet the requirements of

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1 this subsection shall constitute a basis for the ineligibility  
2 of the private school to participate in the scholarship  
3 program as determined by the Department of Education.

4 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.--The  
5 Department of Education shall:

6 (a) Annually submit to the department, by March 15, a  
7 list of eligible nonprofit scholarship-funding organizations  
8 that meet the requirements of paragraph (2)(c).

9 (b) Annually verify the eligibility of nonprofit  
10 scholarship-funding organizations that meet the requirements  
11 of paragraph (2)(c).

12 (c) Annually verify the eligibility of private schools  
13 that meet the requirements of subsection (8).

14 (d) Annually verify the eligibility of expenditures as  
15 provided in paragraph (6)(d) using the audit required by  
16 paragraph (6)(1).

17 (e) Establish a toll-free hotline that provides  
18 parents and private schools with information on participation  
19 in the scholarship program.

20 (f) Establish a process by which individuals may  
21 notify the Department of Education of any violation by a  
22 parent, private school, or school district of state laws  
23 relating to program participation. The Department of Education  
24 shall conduct an inquiry of any written complaint of a  
25 violation of this section, or make a referral to the  
26 appropriate agency for an investigation, if the complaint is  
27 signed by the complainant and is legally sufficient. A  
28 complaint is legally sufficient if it contains ultimate facts  
29 that show that a violation of this section or any rule adopted  
30 by the State Board of Education has occurred. In order to  
31 determine legal sufficiency, the Department of Education may



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1 require supporting information or documentation from the  
2 complainant. A department inquiry is not subject to the  
3 requirements of chapter 120.

4 (g) Require an annual, notarized, sworn compliance  
5 statement by participating private schools certifying  
6 compliance with state laws and shall retain such records.

7 (h) Cross-check the list of participating scholarship  
8 students with the public school enrollment lists to avoid  
9 duplication.

10 (i) In accordance with State Board of Education rule,  
11 identify and select the nationally norm-referenced tests that  
12 are comparable to the norm-referenced provisions of the  
13 Florida Comprehensive Assessment Test (FCAT) provided that the  
14 FCAT may be one of the tests selected. However, the Department  
15 of Education may approve the use of an additional assessment  
16 by the school if the assessment meets industry standards of  
17 quality and comparability.

18 (j) Select an independent research organization, which  
19 may be a public or private entity or university, to which  
20 participating private schools must report the scores of  
21 participating students on the nationally norm-referenced tests  
22 administered by the private school. The independent research  
23 organization must annually report to the Department of  
24 Education on the year-to-year improvements of participating  
25 students. The independent research organization must analyze  
26 and report student performance data in a manner that protects  
27 the rights of students and parents as mandated in 20 U.S.C. s.  
28 1232g, the Family Educational Rights and Privacy Act, and must  
29 not disaggregate data to a level that will disclose the  
30 academic level of individual students or of individual  
31 schools. To the extent possible, the independent research

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1 organization must accumulate historical performance data on  
2 students from the Department of Education and private schools  
3 to describe baseline performance and to conduct longitudinal  
4 studies. To minimize costs and reduce time required for  
5 third-party analysis and evaluation, the Department of  
6 Education shall conduct analyses of matched students from  
7 public school assessment data and calculate control group  
8 learning gains using an agreed-upon methodology outlined in  
9 the contract with the third-party evaluator. The sharing of  
10 student data must be in accordance with requirements of 20  
11 U.S.C. s. 1232g, the Family Educational Rights and Privacy  
12 Act, and shall be for the sole purpose of conducting the  
13 evaluation. All parties must preserve the confidentiality of  
14 such information as required by law.

15 (k) Notify an eligible nonprofit scholarship-funding  
16 organization of any of the organization's identified students  
17 who are receiving educational scholarships pursuant to chapter  
18 1002.

19 (l) Notify an eligible nonprofit scholarship-funding  
20 organization of any of the organization's identified students  
21 who are receiving corporate income tax credit scholarships  
22 from other eligible nonprofit scholarship-funding  
23 organizations.

24 (m) Require quarterly reports by an eligible nonprofit  
25 scholarship-funding organization regarding the number of  
26 students participating in the scholarship program, the private  
27 schools at which the students are enrolled, and other  
28 information deemed necessary by the Department of Education.

29 (n)1. Conduct random site visits to private schools  
30 participating in the Corporate Tax Credit Scholarship Program.  
31 The purpose of the site visits is solely to verify the

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1 information reported by the schools concerning the enrollment  
 2 and attendance of students, the credentials of teachers,  
 3 background screening of teachers, and teachers' fingerprinting  
 4 results. The Department of Education may not make more than  
 5 seven random site visits each year and may not make more than  
 6 one random site visit each year to the same private school.

7         2. Annually, by December 15, report to the Governor,  
 8 the President of the Senate, and the Speaker of the House of  
 9 Representatives the Department of Education's actions with  
 10 respect to implementing accountability in the scholarship  
 11 program under this section and s. 1002.421, any substantiated  
 12 allegations or violations of law or rule by an eligible  
 13 private school under this program concerning the enrollment  
 14 and attendance of students, the credentials of teachers,  
 15 background screening of teachers, and teachers' fingerprinting  
 16 results and the corrective action taken by the Department of  
 17 Education.

18           (10) COMMISSIONER OF EDUCATION AUTHORITY AND  
 19 OBLIGATIONS.--

20           (a) The Commissioner of Education shall deny, suspend,  
 21 or revoke a private school's participation in the scholarship  
 22 program if it is determined that the private school has failed  
 23 to comply with the provisions of this section. However, in  
 24 instances in which the noncompliance is correctable within a  
 25 reasonable amount of time and in which the health, safety, or  
 26 welfare of the students is not threatened, the commissioner  
 27 may issue a notice of noncompliance that shall provide the  
 28 private school with a timeframe within which to provide  
 29 evidence of compliance prior to taking action to suspend or  
 30 revoke the private school's participation in the scholarship  
 31 program.

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1 (b) The commissioner's determination is subject to the  
2 following:

3 1. If the commissioner intends to deny, suspend, or  
4 revoke a private school's participation in the scholarship  
5 program, the Department of Education shall notify the private  
6 school of such proposed action in writing by certified mail  
7 and regular mail to the private school's address of record  
8 with the Department of Education. The notification shall  
9 include the reasons for the proposed action and notice of the  
10 timelines and procedures set forth in this paragraph.

11 2. The private school that is adversely affected by  
12 the proposed action shall have 15 days from receipt of the  
13 notice of proposed action to file with the Department of  
14 Education's agency clerk a request for a proceeding pursuant  
15 to ss. 120.569 and 120.57. If the private school is entitled  
16 to a hearing under s. 120.57(1), the Department of Education  
17 shall forward the request to the Division of Administrative  
18 Hearings.

19 3. Upon receipt of a request referred pursuant to this  
20 paragraph, the director of the Division of Administrative  
21 Hearings shall expedite the hearing and assign an  
22 administrative law judge who shall commence a hearing within  
23 30 days after the receipt of the formal written request by the  
24 division and enter a recommended order within 30 days after  
25 the hearing or within 30 days after receipt of the hearing  
26 transcript, whichever is later. Each party shall be allowed 10  
27 days in which to submit written exceptions to the recommended  
28 order. A final order shall be entered by the agency within 30  
29 days after the entry of a recommended order. The provisions of  
30 this subparagraph may be waived upon stipulation by all  
31 parties.

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1 (c) The commissioner may immediately suspend payment  
2 of scholarship funds if it is determined that there is  
3 probable cause to believe that there is:

4 1. An imminent threat to the health, safety, and  
5 welfare of the students; or

6 2. Fraudulent activity on the part of the private  
7 school. Notwithstanding s. 1002.22(3), in incidents of alleged  
8 fraudulent activity pursuant to this section, the Department  
9 of Education's Office of Inspector General is authorized to  
10 release personally identifiable records or reports of students  
11 to the following persons or organizations:

12 a. A court of competent jurisdiction in compliance  
13 with an order of that court or the attorney of record in  
14 accordance with a lawfully issued subpoena, consistent with  
15 the Family Educational Rights and Privacy Act, 20 U.S.C. s.  
16 1232g.

17 b. A person or entity authorized by a court of  
18 competent jurisdiction in compliance with an order of that  
19 court or the attorney of record pursuant to a lawfully issued  
20 subpoena, consistent with the Family Educational Rights and  
21 Privacy Act, 20 U.S.C. s. 1232g.

22 c. Any person, entity, or authority issuing a subpoena  
23 for law enforcement purposes when the court or other issuing  
24 agency has ordered that the existence or the contents of the  
25 subpoena or the information furnished in response to the  
26 subpoena not be disclosed, consistent with the Family  
27 Educational Rights and Privacy Act, 20 U.S.C. s. 1232g, and 34  
28 C.F.R. s. 99.31.

29  
30 The commissioner's order suspending payment pursuant to this  
31 paragraph may be appealed pursuant to the same procedures and

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1 | timelines as the notice of proposed action set forth in  
2 | paragraph (b).

3 |       (11) SCHOLARSHIP AMOUNT AND PAYMENT.--

4 |       (a) The amount of a scholarship provided to any  
5 | student for any single school year by an eligible nonprofit  
6 | scholarship-funding organization from eligible contributions  
7 | shall not exceed the following annual limits:

8 |           1. Three thousand seven hundred fifty dollars for a  
9 | scholarship awarded to a student enrolled in kindergarten  
10 | through grade 5 in an eligible private school.

11 |           2. Four thousand dollars for a scholarship awarded to  
12 | a student enrolled in grades 6 through 8 in an eligible  
13 | private school.

14 |           3. Four thousand two hundred fifty dollars for a  
15 | scholarship awarded to a student enrolled in grades 9 through  
16 | 12 in an eligible private school.

17 |           ~~4.2.~~ Five hundred dollars for a scholarship awarded to  
18 | a student enrolled in a Florida public school that is located  
19 | outside the district in which the student resides or in a lab  
20 | school as defined in s. 1002.32.

21 |       (b) Payment of the scholarship by the eligible  
22 | nonprofit scholarship-funding organization shall be by  
23 | individual warrant made payable to the student's parent. If  
24 | the parent chooses that his or her child attend an eligible  
25 | private school, the warrant must be delivered by the eligible  
26 | nonprofit scholarship-funding organization to the private  
27 | school of the parent's choice, and the parent shall  
28 | restrictively endorse the warrant to the private school. An  
29 | eligible nonprofit scholarship-funding organization shall  
30 | ensure that the parent to whom the warrant is made  
31 | restrictively endorsed the warrant to the private school for

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1 deposit into the account of the private school.

2 (c) An eligible nonprofit scholarship-funding  
3 organization shall obtain verification from the private school  
4 of a student's continued attendance at the school for ~~prior to~~  
5 each period covered by a scholarship payment.

6 (d) Payment of the scholarship shall be made by the  
7 eligible nonprofit scholarship-funding organization no less  
8 frequently than on a quarterly basis.

9 (12) ADMINISTRATION; RULES.--

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

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

27 (c) The department and the Department of Education  
28 shall develop a cooperative agreement to assist in the  
29 administration of this section.

30 (d) The department shall adopt rules necessary to  
31 administer this section, including rules establishing

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1 application forms and procedures and governing the allocation  
 2 of tax credits and carryforward credits under this section on  
 3 a first-come, first-served basis.

4 (e) The State Board of Education shall adopt rules  
 5 pursuant to ss. 120.536(1) and 120.54 to administer this  
 6 section as it relates to the roles of the Department of  
 7 Education and the Commissioner of Education.

8 (13) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--

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

12 (b) A nonprofit scholarship-funding organization that  
 13 is authorized to receive donations and distribute scholarships  
 14 under this section and s. 220.1875 shall account for donations  
 15 and scholarships separately by each tax credit program. If, in  
 16 a single fiscal year, the amount of donations available for  
 17 distribution as scholarships in one program exceeds the demand  
 18 for scholarships under that program for that fiscal year, the  
 19 organization may, with approval from the Department of  
 20 Education, apply those surplus funds to meet demand in the  
 21 other program.

22 (14) PRESERVATION OF CREDIT.--If any provision or  
 23 portion of subsection (5) or the application thereof to any  
 24 person or circumstance is held unconstitutional by any court,  
 25 or is otherwise invalid, the unconstitutionality or invalidity  
 26 shall not affect any credit earned under subsection (5) by any  
 27 taxpayer with respect to any contribution paid to an eligible  
 28 nonprofit scholarship-funding organization before the date of  
 29 a determination of unconstitutionality or invalidity. Such  
 30 credit shall be allowed at such time and in such a manner as  
 31 if a determination of unconstitutionality or invalidity had



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1 not been made if nothing in this subsection by itself or in  
 2 combination with any other provision of law results in the  
 3 allowance of any credit to any taxpayer in excess of one  
 4 dollar of credit for each collar paid to an eligible nonprofit  
 5 scholarship-funding organization.

6 Section 3. Section 220.1875, Florida Statutes, is  
 7 created to read:

8 220.1875 Credits for contributions to nonprofit  
 9 scholarship-funding organizations; families of students  
 10 attending schools failing to make adequate progress.--

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

12 (a) Ensure that, while the state is implementing a  
 13 multiyear, comprehensive strategic program to facilitate the  
 14 improvement of schools that are failing to make adequate  
 15 progress based on school performance grading categories,  
 16 students attending failing schools are not denied the  
 17 opportunity to gain the knowledge and skills necessary for  
 18 postsecondary education, a career education, or the world of  
 19 work.

20 (b) Enable the state to fulfill the responsibility, as  
 21 articulated by voters in 1998 through an amendment to s. 1,  
 22 Art. IX of the State Constitution, to make education a  
 23 paramount duty of the state.

24 (c) Complement the constitutional requirement to  
 25 provide a uniform, efficient, safe, secure, and high-quality  
 26 system of free public schools by providing educational  
 27 opportunities to students attending failing public schools  
 28 without impeding the ability of those schools to improve.

29 (d) Encourage private, voluntary contributions to  
 30 nonprofit scholarship-funding organizations.

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

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

2       (b) "Eligible contribution" means a monetary  
3 contribution from a taxpayer, subject to the restrictions  
4 provided in this section, to an eligible nonprofit  
5 scholarship-funding organization. The taxpayer making the  
6 contribution may not designate a specific child as the  
7 beneficiary of the contribution. The taxpayer may not  
8 contribute more than \$5 million to any single eligible  
9 nonprofit scholarship-funding organization.

10       (c) "Eligible nonpublic school" means a nonpublic  
11 school located in Florida which offers an education to  
12 students in any grades K-12 and meets the requirements in  
13 subsection (9).

14       (d) "Eligible nonprofit scholarship-funding  
15 organization" means a charitable organization as defined in s.  
16 220.187(2)(c) which is exempt from federal income tax pursuant  
17 to s. 501(c)(3) of the Internal Revenue Code and complies with  
18 the provisions of subsection (5). An eligible nonprofit  
19 scholarship-funding organization that is authorized to provide  
20 scholarships under s. 220.187 may, subject to approval by the  
21 Department of Education, be authorized to provide scholarships  
22 under this section.

23       (e) "Qualified student" means a student who:

24       1. Has spent the prior school year in attendance at a  
25 public school that has been designated under s. 1008.34 as  
26 performance grade category "F," failing to make adequate  
27 progress, and that has had 2 school years in a 4-year period  
28 of such low performance, and the student's attendance occurred  
29 during a school year in which such designation was in effect;

30       2. Has been in attendance elsewhere in the public  
31 school system and has been assigned to such school for the

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1 next school year; or

2       3. Is entering kindergarten or first grade and has  
3 been notified that the student has been assigned to such  
4 school for the next school year.

5       (f) "Nonqualified student" means a student who is not  
6 eligible for a scholarship while he or she is:

7           1. Enrolled in a school operating for the purpose of  
8 providing educational services to youth in Department of  
9 Juvenile Justice commitment programs;

10           2. Receiving a scholarship from another eligible  
11 nonprofit scholarship-funding organization;

12           3. Receiving an educational scholarship pursuant to  
13 chapter 1002;

14           4. Participating in a home education program as  
15 defined in s. 1002.01(1);

16           5. Participating in a private tutoring program  
17 pursuant to s. 1002.43;

18           6. Participating in a virtual school, correspondence  
19 school, or distance learning program that receives state  
20 funding pursuant to the student's participation unless the  
21 participation is limited to no more than two courses per  
22 school year; or

23           7. Enrolled in the Florida School for the Deaf and the  
24 Blind.

25       (g) "Owner or operator" includes:

26           1. An owner, president, officer, or director of an  
27 eligible nonprofit scholarship-funding organization or a  
28 person who has equivalent decisionmaking authority over an  
29 eligible nonprofit scholarship-funding organization.

30           2. An owner, operator, superintendent, or principal of  
31 an eligible private school or a person who has equivalent

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1 decisionmaking authority over an eligible private school.

2 (3) SCHOOL DISTRICT OBLIGATIONS.--

3 (a) A school district shall, for each student enrolled  
4 in or assigned to a school which has been designated as  
5 performance grade category "F" for 2 school years in a 4-year  
6 period:

7 1. Timely notify the parent of the student as soon as  
8 such designation is made of all options available pursuant to  
9 this section;

10 2. Offer that student's parent an opportunity to  
11 enroll the student in another public school within the  
12 district which has been designated by the state pursuant to s.  
13 1008.34 as a school performing higher than the school in which  
14 the student is currently enrolled or to which the student has  
15 been assigned, but not less than performance grade category  
16 "C"; and

17 3. Inform that student's parent of the child's  
18 eligibility to receive a scholarship under this section to  
19 enroll the student in and transport the student to attend a  
20 public school outside the district which has been designated  
21 by the state pursuant to s. 1008.34 as a school performing  
22 higher than that in which the student is currently enrolled or  
23 to which the student has been assigned, but not less than  
24 performance grade category "C," or to attend an eligible  
25 nonpublic school.

26 (b) A higher-performing public school that has  
27 available space in an adjacent school district shall accept  
28 students qualified under this section and report the students  
29 for purposes of the district's funding pursuant to the Florida  
30 Education Finance Program.

31 (c) For students in the school district who are

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1 attending nonpublic schools under this section, the school  
2 district shall provide locations and times to take all  
3 statewide assessments required pursuant to s. 1008.22.

4 (d) Students with disabilities who are eligible to  
5 receive services from the school district under federal or  
6 state law, and who receive a scholarship under this section,  
7 remain eligible to receive services from the school district  
8 as provided by federal or state law.

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

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

25 (b) The total amount of tax credits and carryforward  
26 of tax credits which may be granted each state fiscal year  
27 under this section is \$5 million.

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

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1 subject to the limitation established under paragraph (a).

2 (5) OBLIGATIONS OF ELIGIBLE NONPROFIT

3 SCHOLARSHIP-FUNDING ORGANIZATIONS.--

4 (a) An eligible nonprofit scholarship-funding  
5 organization shall provide scholarships, from eligible  
6 contributions, to qualified students for:

7 1. Tuition and fees for a qualified student enrolled  
8 in an eligible nonpublic school.

9 2. Transportation expenses to a Florida public school  
10 that is located outside the district in which the qualified  
11 student resides.

12 (b) For continuity of educational choice, an eligible  
13 nonprofit scholarship-funding organization shall give priority  
14 to qualified students who received a scholarship to attend an  
15 eligible nonpublic school during the previous school year.

16 (c) The amount of a scholarship provided to any  
17 qualified student for any single school year by all eligible  
18 nonprofit scholarship-funding organizations from eligible  
19 contributions may not exceed the following annual limits:

20 1. For qualified students who choose to attend an  
21 eligible nonpublic school, the lesser of:

22 a. The student's tuition and fees to attend an  
23 eligible nonpublic school; or

24 b. A calculated amount equivalent to the base student  
25 allocation in the Florida Education Finance Program multiplied  
26 by the appropriate cost factor for the educational program  
27 that will be provided for the student in the district school  
28 to which he or she is assigned, multiplied by the district  
29 cost differential. In addition, the calculated amount shall  
30 include the per-student share of instructional materials  
31 funds, technology funds, and other categorical funds.

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1           2. For qualified students who choose to attend a  
2 higher-performing public school that is located outside the  
3 district in which the student resides, \$500.

4           (d) The amount of an eligible contribution which may  
5 be accepted by an eligible nonprofit scholarship-funding  
6 organization is limited to the amount needed to provide  
7 scholarships for qualified students which the organization has  
8 identified and for which vacancies in eligible nonpublic  
9 schools have been identified.

10           (e) An eligible nonprofit scholarship-funding  
11 organization that receives an eligible contribution must spend  
12 100 percent of the eligible contribution to provide  
13 scholarships in the same state fiscal year in which the  
14 contribution was received. No portion of eligible  
15 contributions may be used for administrative expenses. All  
16 interest accrued from contributions must be used for  
17 scholarships.

18           (f) A nonprofit scholarship-funding organization must:

19           1. Provide a scholarship to an eligible student on  
20 first-come, first-served basis unless the student qualified  
21 for priority pursuant to paragraph (b);

22           2. Allow an eligible student to attend any eligible  
23 private school; and

24           3. Allow a parent to transfer a scholarship during a  
25 school year to any other eligible private school of the  
26 parent's choice.

27           (g) Payment of the scholarship by the eligible  
28 nonprofit scholarship-funding organization shall be by  
29 individual warrant or check made payable to the student's  
30 parent. If the parent chooses for his or her child to attend  
31 an eligible nonpublic school, the warrant or check must be

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1 mailed by the eligible nonprofit scholarship-funding  
 2 organization to the nonpublic school of the parent's choice,  
 3 and the parent shall restrictively endorse the warrant or  
 4 check to the nonpublic school. An eligible nonprofit  
 5 scholarship-funding organization shall ensure that, upon  
 6 receipt of a scholarship warrant or check, the parent to whom  
 7 the warrant or check is made restrictively endorses the  
 8 warrant or check to the nonpublic school of the parent's  
 9 choice for deposit into the account of the nonpublic school.

10 (h) An eligible nonprofit scholarship-funding  
 11 organization must comply with the following background check  
 12 requirements:

13 1. All owners and operators of an eligible nonprofit  
 14 scholarship-funding organization are, upon employment or  
 15 engagement to provide services, subject to level 2 background  
 16 screening as provided under chapter 435. The fingerprints for  
 17 the background screening must be electronically submitted to  
 18 the Department of Law Enforcement and may be taken by an  
 19 authorized law enforcement agency or by an employee of the  
 20 eligible nonprofit scholarship-funding organization or a  
 21 private company who is trained to take fingerprints. However,  
 22 the complete set of fingerprints of an owner or operator may  
 23 not be taken by the owner or operator. The results of the  
 24 state and national criminal history check shall be provided to  
 25 the Department of Education for screening under chapter 435.  
 26 The cost of the background screening may be borne by the  
 27 eligible nonprofit scholarship-funding organization or the  
 28 owner or operator.

29 2. Every 5 years following employment or engagement to  
 30 provide services to or association with an eligible nonprofit  
 31 scholarship-funding organization, each owner or operator must



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1 meet level 2 screening standards as described in s. 435.04, at  
2 which time the nonprofit scholarship-funding organization  
3 shall request the Department of Law Enforcement to forward the  
4 fingerprints to the Federal Bureau of Investigation for level  
5 2 screening. If the fingerprints of an owner or operator are  
6 not retained by the Department of Law Enforcement under  
7 subparagraph 3., the owner or operator must electronically  
8 file a complete set of fingerprints with the Department of Law  
9 Enforcement. Upon submission of fingerprints for this purpose,  
10 the eligible nonprofit scholarship-funding organization shall  
11 request that the Department of Law Enforcement forward the  
12 fingerprints to the Federal Bureau of Investigation for level  
13 2 screening, and the fingerprints shall be retained by the  
14 Department of Law Enforcement under subparagraph 3.

15 3. Beginning July 1, 2008, all fingerprints submitted  
16 to the Department of Law Enforcement as required by this  
17 paragraph must be retained by the Department of Law  
18 Enforcement in a manner approved by rule and entered in the  
19 statewide automated fingerprint identification system  
20 authorized by s. 943.05(2)(b). The fingerprints must  
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  
24 s.943.051.

25 4. Beginning July 1, 2008, 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 3. Any arrest record that is identified with an  
30 owner's or operator's fingerprints must be reported to the  
31 Department of Education. The Department of Education shall

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1 participate in this search process by paying an annual fee to  
 2 the Department of Law Enforcement and by informing the  
 3 Department of Law Enforcement of any change in the employment,  
 4 engagement, or association status of the owners or operators  
 5 whose fingerprints are retained under subparagraph 3. The  
 6 Department of Law Enforcement shall adopt a rule setting the  
 7 amount of the annual fee to be imposed upon the Department of  
 8 Education for performing these services and establishing the  
 9 procedures for the retention of owner and operator  
 10 fingerprints and the dissemination of search results. The fee  
 11 may be borne by the owner or operator of the nonprofit  
 12 scholarship-funding organization.

13 5. A nonprofit scholarship-funding organization whose  
 14 owner or operator fails the level 2 background screening is  
 15 not eligible to provide scholarships under this section.

16 6. A nonprofit scholarship-funding organization whose  
 17 owner or operator in the last 7 years has filed for personal  
 18 bankruptcy or corporate bankruptcy in a corporation of which  
 19 he or she owned more than 20 percent is not eligible to  
 20 provide scholarships under this section.

21 (i) An eligible nonprofit scholarship-funding  
 22 organization must not have an owner or operator who owns or  
 23 operates an eligible private school that is participating in  
 24 the scholarship program.

25 (j) An eligible nonprofit scholarship-funding  
 26 organization may not restrict or reserve scholarships for use  
 27 at a particular private school or provide scholarships to a  
 28 child of an owner or operator.

29 (k) An eligible nonprofit scholarship-funding  
 30 organization must:

31 1. Comply with the antidiscrimination provisions of 42

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1 U.S.C. s. 2000d.

2 2. Maintain separate accounts for scholarship funds  
3 and operating funds.

4 3. Provide to the Auditor General and the Department  
5 of Education an annual financial and compliance audit of its  
6 accounts and records conducted by an independent certified  
7 public accountant and in accordance with rules adopted by the  
8 Auditor General. The audit must be conducted in compliance  
9 with generally accepted auditing standards and must include a  
10 report of financial statements presented in accordance with  
11 generally accepted accounting principles set forth by the  
12 American Institute of Certified Public Accountants for  
13 not-for-profit organizations and a determination of compliance  
14 with the statutory eligibility and expenditure requirements  
15 set forth in this section. Audits must be provided to the  
16 Auditor General and the Department of Education within 180  
17 days after completion of the eligible nonprofit  
18 scholarship-funding organization's fiscal year.

19 4. Prepare and submit quarterly reports to the  
20 Department of Education pursuant to this section. In addition,  
21 an eligible nonprofit scholarship-funding organization must  
22 submit in a timely manner any information requested by the  
23 Department of Education relating to the scholarship program.

24  
25 Any and all information and documentation provided to the  
26 Department of Education and the Auditor General relating to  
27 the identity of a taxpayer that provides an eligible  
28 contribution under this section shall remain confidential at  
29 all times in accordance with s. 213.053.

30 (6) PARENT OBLIGATIONS.--As a condition for  
31 scholarship payment pursuant to paragraph (5)(g), if the

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1 parent chooses for his or her child to attend an eligible  
2 nonpublic school, the parent must:

3 (a) Obtain acceptance for admission of the student to  
4 an eligible nonpublic school and inform the child's school  
5 district within 15 days after receiving acceptance;

6 (b) Comply fully with the nonpublic school's  
7 parental-involvement requirements, unless excused by the  
8 school for illness or other good cause; and

9 (c) Ensure that the student receiving a scholarship  
10 under this section takes all statewide assessments required  
11 pursuant to s. 1008.22.

12 (d) Upon receipt of a scholarship warrant from the  
13 eligible nonprofit scholarship-funding organization,  
14 restrictively endorse the warrant to the private school for  
15 deposit into the account of the private school. The parent may  
16 not designate any entity or individual associated with the  
17 participating private school as the parent's attorney in fact  
18 to endorse a scholarship warrant. A participant who fails to  
19 comply with this paragraph forfeits the scholarship.

20 (7) STUDENT OBLIGATIONS.--As a condition for  
21 scholarship payment pursuant to paragraph (5)(g), if the  
22 parent chooses for his or her child to attend an eligible  
23 nonpublic school, the student must remain in attendance  
24 throughout the school year, unless excused by the school for  
25 illness or other good cause, and must comply fully with the  
26 school's code of conduct.

27 (8) DURATION OF SCHOLARSHIP.--

28 (a) For purposes of continuity of educational choice,  
29 a scholarship granted under this section shall remain in force  
30 until the student returns to the public school to which the  
31 student was originally assigned, or:

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1           1. If the student is in grades kindergarten through  
 2 five, until the student matriculates to the sixth grade and  
 3 the public middle school to which the student is assigned is  
 4 an accredited school that has a performance grade category  
 5 designation of "C" or better;

6           2. If the student is in grades six through eight,  
 7 until the student matriculates to high school and the public  
 8 high school to which the student is assigned is an accredited  
 9 school that has a performance grade category designation of  
 10 "C" or better.

11  
 12 At any time upon reasonable notice to the Department of  
 13 Education and the school district, the student's parent may  
 14 remove the student from the nonpublic school and place the  
 15 student in a public school, as provided in subparagraph  
 16 (3)(a)2.

17           (b) A school from which a student transfers using a  
 18 scholarship under this section may continue to report the  
 19 student for the purpose of the district's funding pursuant to  
 20 the Florida Education Finance Program for the remainder of the  
 21 period during which the student would have attended that  
 22 school. The district shall provide the funding associated  
 23 with that student directly to the respective public school.  
 24 The school may not report the student under this paragraph  
 25 beyond the period after which the student would have  
 26 matriculated to another school.

27           (9) ELIGIBLE NONPUBLIC SCHOOL OBLIGATIONS.--An  
 28 eligible nonpublic school must:

29           (a) Notify the Department of Education, the school  
 30 district in whose service area the school is located, and all  
 31 eligible nonprofit scholarship funding organizations of its

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1 intent to participate in the program under this section by May  
2 1 of the school year preceding the school year in which it  
3 intends to participate. The notice must specify the grade  
4 levels and services that the private school has available for  
5 qualified students under this section.

6 (b) Accept scholarship students on an entirely random  
7 and religious-neutral basis without regard to the student's  
8 past academic history; however, the nonpublic school may give  
9 preference in accepting applications to siblings of students  
10 who have already been accepted on a random and  
11 religious-neutral basis.

12 (c) Be subject to the instruction, curriculum, and  
13 attendance criteria adopted by an appropriate nonpublic school  
14 accrediting body. The nonpublic school must furnish a school  
15 profile that includes student performance.

16 (d) Accept as full tuition and fees the amount  
17 provided by the state nonprofit scholarship-funding  
18 organization for each student.

19 (e) Agree not to compel any student attending the  
20 private school under this section to profess a specific  
21 ideological belief, to pray, or to worship.

22 (f) Adhere to the tenets of its published disciplinary  
23 procedures prior to the expulsion of any student attending the  
24 private school under this section.

25 (g) Comply with all requirements for private schools  
26 participating in state school choice scholarship programs  
27 pursuant to s. 1002.421.

28 (h) Provide to the eligible nonprofit  
29 scholarship-funding organization, upon request, all  
30 documentation required for the student's participation,  
31 including the private school's and student's fee schedules.

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1       (i) Be academically accountable to the parent for  
 2 meeting the educational needs of the student by, at a minimum,  
 3 annually providing to the parent a written explanation of the  
 4 student's progress. A participating private school must report  
 5 a student's scores to the parent and to the independent  
 6 research organization selected by the Department of Education  
 7 as described in s. 220.187(9)(j).

8       (j) Employ or contract with teachers who have regular  
 9 and direct contact with each student receiving a scholarship  
 10 under this section at the school's physical location.

11  
 12 The inability of a private school to meet the requirements of  
 13 this subsection constitutes a basis for the ineligibility of  
 14 the private school to participate in the scholarship program  
 15 as determined by the Department of Education.

16       (10) ADMINISTRATION; RULES.--

17       (a) If the credit granted pursuant to this section is  
 18 not fully used in any one year because of insufficient tax  
 19 liability on the part of the corporation, the unused amount  
 20 may be carried forward for a period not to exceed 3 years;  
 21 however, any taxpayer that seeks to carry forward an unused  
 22 amount of tax credit must submit an application for allocation  
 23 of tax credits or carryforward credits as required in  
 24 paragraph (d) in the year that the taxpayer intends to use the  
 25 carryforward. The total amount of tax credits and carryforward  
 26 of tax credits granted each state fiscal year under this  
 27 section is \$5 million. A taxpayer may not convey, assign, or  
 28 transfer the credit authorized by this section to another  
 29 entity unless all of the assets of the taxpayer are conveyed,  
 30 assigned, or transferred in the same transaction.

31       (b) An application for a tax credit pursuant to this

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1 section shall be submitted to the department on forms  
2 established by rule of the department.

3 (c) The department and the Department of Education  
4 shall develop a cooperative agreement to assist in the  
5 administration of this section.

6 (d) The Department of Education shall be responsible  
7 for annually submitting, by March 15, to the department a list  
8 of eligible nonprofit scholarship-funding organizations that  
9 meet the requirements of paragraph (2)(d) and for monitoring  
10 eligibility of nonprofit scholarship-funding organizations  
11 that meet the requirements of paragraph (2)(d), eligibility of  
12 nonpublic schools that meet the requirements of paragraph  
13 (2)(c), and eligibility of expenditures under this section as  
14 provided in subsection (5). The Department of Education shall:

15 1. Annually verify the eligibility of nonprofit  
16 scholarship-funding organizations that meet the requirements  
17 of paragraph (2)(d).

18 2. Annually verify the eligibility of private schools  
19 that meet the requirements of subsection (9).

20 3. Annually verify the eligibility of expenditures as  
21 provided in paragraph (5)(a) using the audit required by  
22 paragraph (5)(k).

23 4. Establish a process by which individuals may notify  
24 the Department of Education of any violation by a parent,  
25 private school, or school district of state laws relating to  
26 program participation. The Department of Education shall  
27 conduct an inquiry of any written complaint of a violation of  
28 this section, or make a referral to the appropriate agency for  
29 an investigation, if the complaint is signed by the  
30 complainant and is legally sufficient. A complaint is legally  
31 sufficient if it contains ultimate facts that show that a



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1 violation of this section or any rule adopted by the State  
 2 Board of Education has occurred. In order to determine legal  
 3 sufficiency, the Department of Education may require  
 4 supporting information or documentation from the complainant.  
 5 A department inquiry is not subject to the requirements of  
 6 chapter 120.

7 5. Require an annual, notarized, sworn compliance  
 8 statement by participating private schools certifying  
 9 compliance with state laws and shall retain such records.

10 6. Cross-check the list of participating scholarship  
 11 students with the public school enrollment lists to avoid  
 12 duplication.

13 7. Provide participating private schools with  
 14 information related to the independent research organization  
 15 selected pursuant to s. 220.187(9)(j) to which participating  
 16 private schools must report the scores of participating  
 17 students on the statewide assessments required under this  
 18 section. The independent research organization selected  
 19 pursuant to s. 220.187(9)(j) must annually report to the  
 20 Department of Education on the year-to-year improvements of  
 21 participating students under this section. The independent  
 22 research organization must analyze and report student  
 23 performance data in a manner that protects the rights of  
 24 students and parents as mandated in 20 U.S.C. s. 1232g, the  
 25 Family Educational Rights and Privacy Act, and must not  
 26 disaggregate data to a level that will disclose the academic  
 27 level of individual students or of individual schools. To the  
 28 extent possible, the independent research organization must  
 29 accumulate historical performance data on students from the  
 30 Department of Education and private schools to describe  
 31 baseline performance and to conduct longitudinal studies. To

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1 minimize costs and reduce time required for third-party  
2 analysis and evaluation, the Department of Education shall  
3 conduct analyses of matched students from public school  
4 assessment data and calculate control group learning gains  
5 using an agreed-upon methodology outlined in the contract with  
6 the third-party evaluator. The sharing of student data must be  
7 in accordance with requirements of 20 U.S.C. s. 1232g, the  
8 Family Educational Rights and Privacy Act, and shall be for  
9 the sole purpose of conducting the evaluation. All parties  
10 must preserve the confidentiality of such information as  
11 required by law.

12 8. Notify an eligible nonprofit scholarship-funding  
13 organization of any of the organization's identified students  
14 who are receiving educational scholarships pursuant to chapter  
15 1002.

16 9. Notify an eligible nonprofit scholarship-funding  
17 organization of any of the organization's identified students  
18 who are receiving corporate income tax credit scholarships  
19 from other eligible nonprofit scholarship-funding  
20 organizations.

21 10. Require quarterly reports by an eligible nonprofit  
22 scholarship-funding organization regarding the number of  
23 students participating in the scholarship program, the private  
24 schools at which the students are enrolled, and other  
25 information deemed necessary by the Department of Education.

26 11.a. Conduct random site visits to private schools  
27 participating in this program. The purpose of the site visits  
28 is solely to verify the information reported by the schools  
29 concerning the enrollment and attendance of students, the  
30 credentials of teachers, background screening of teachers, and  
31 teachers' fingerprinting results. The Department of Education

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1 may not make more than seven random site visits each year and  
2 may not make more than one random site visit each year to the  
3 same private school.

4 b. Annually, by December 15, report to the Governor,  
5 the President of the Senate, and the Speaker of the House of  
6 Representatives the Department of Education's actions with  
7 respect to implementing accountability in the scholarship  
8 program under this section and s. 1002.421, any substantiated  
9 allegations or violations of law or rule by an eligible  
10 private school under this program concerning the enrollment  
11 and attendance of students, the credentials of teachers,  
12 background screening of teachers, and teachers' fingerprinting  
13 results and the corrective action taken by the Department of  
14 Education.

15 (e)1. The Commissioner of Education shall deny,  
16 suspend, or revoke a private school's participation in the  
17 scholarship program if it is determined that the private  
18 school has failed to comply with the provisions of this  
19 section. However, in instances in which the noncompliance is  
20 correctable within a reasonable amount of time and in which  
21 the health, safety, or welfare of the students is not  
22 threatened, the commissioner may issue a notice of  
23 noncompliance that shall provide the private school with a  
24 timeframe within which to provide evidence of compliance prior  
25 to taking action to suspend or revoke the private school's  
26 participation in the scholarship program.

27 2. The commissioner's determination is subject to the  
28 following:

29 a. If the commissioner intends to deny, suspend, or  
30 revoke a private school's participation in the scholarship  
31 program, the Department of Education shall notify the private

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1 school of such proposed action in writing by certified mail  
2 and regular mail to the private school's address of record  
3 with the Department of Education. The notification shall  
4 include the reasons for the proposed action and notice of the  
5 timelines and procedures set forth in this paragraph.

6 b. The private school that is adversely affected by  
7 the proposed action shall have 15 days from receipt of the  
8 notice of proposed action to file with the Department of  
9 Education's agency clerk a request for a proceeding pursuant  
10 to ss. 120.569 and 120.57. If the private school is entitled  
11 to a hearing under s. 120.57(1), the Department of Education  
12 shall forward the request to the Division of Administrative  
13 Hearings.

14 c. Upon receipt of a request referred pursuant to this  
15 paragraph, the director of the Division of Administrative  
16 Hearings shall expedite the hearing and assign an  
17 administrative law judge who shall commence a hearing within  
18 30 days after the receipt of the formal written request by the  
19 division and enter a recommended order within 30 days after  
20 the hearing or within 30 days after receipt of the hearing  
21 transcript, whichever is later. Each party shall be allowed 10  
22 days in which to submit written exceptions to the recommended  
23 order. A final order shall be entered by the agency within 30  
24 days after the entry of a recommended order. The provisions of  
25 this sub-subparagraph may be waived upon stipulation by all  
26 parties.

27 3. The commissioner may immediately suspend payment of  
28 scholarship funds if it is determined that there is probable  
29 cause to believe that there is:

30 a. An imminent threat to the health, safety, and  
31 welfare of the students; or

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1           b. Fraudulent activity on the part of the private  
 2 school. Notwithstanding s. 1002.22(3), in incidents of alleged  
 3 fraudulent activity pursuant to this section, the Department  
 4 of Education's Office of Inspector General is authorized to  
 5 release personally identifiable records or reports of students  
 6 to the following persons or organizations:

7           (I) A court of competent jurisdiction in compliance  
 8 with an order of that court or the attorney of record in  
 9 accordance with a lawfully issued subpoena, consistent with  
 10 the Family Educational Rights and Privacy Act, 20 U.S.C. s.  
 11 1232g.

12           (II) A person or entity authorized by a court of  
 13 competent jurisdiction in compliance with an order of that  
 14 court or the attorney of record pursuant to a lawfully issued  
 15 subpoena, consistent with the Family Educational Rights and  
 16 Privacy Act, 20 U.S.C. s. 1232g.

17           (III) Any person, entity, or authority issuing a  
 18 subpoena for law enforcement purposes when the court or other  
 19 issuing agency has ordered that the existence or the contents  
 20 of the subpoena or the information furnished in response to  
 21 the subpoena not be disclosed, consistent with the Family  
 22 Educational Rights and Privacy Act, 20 U.S.C. s. 1232g, and 34  
 23 C.F.R. s. 99.31.

24  
 25 The commissioner's order suspending payment pursuant to this  
 26 paragraph may be appealed pursuant to the same procedures and  
 27 timelines as the notice of proposed action set forth in  
 28 subparagraph (2).

29           (f) The department shall adopt rules pursuant to ss.  
 30 120.536(1) and 120.54 as necessary to administer this section,  
 31 including rules establishing application forms and procedures

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1 and governing the allocation of tax credits and carryforward  
2 credits under this section on a first-come, first-served  
3 basis.

4 (g) The State Board of Education shall adopt rules  
5 pursuant to ss. 120.536(1) and 120.54 as necessary to  
6 determine the eligibility of nonprofit scholarship-funding  
7 organizations as defined in paragraph (2)(d) and according to  
8 the provisions of subsection (5) and identify qualified  
9 students as defined in paragraph (2)(e).

10 (11) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--

11 (a) All eligible contributions received by an eligible  
12 nonprofit scholarship-funding organization shall be deposited  
13 in a manner consistent with s. 17.57(2).

14 (b) A nonprofit scholarship-funding organization that  
15 is authorized to receive donations and distribute scholarships  
16 under this section and s. 220.187 shall account for donations  
17 and scholarships separately by each tax credit program. If,  
18 in a single fiscal year, the amount of donations available for  
19 distribution as scholarships in one program exceeds the demand  
20 for scholarships under that program for that fiscal year, the  
21 organization may, with approval from the Department of  
22 Education, apply those surplus funds to meet demand in the  
23 other program.

24 Section 4. Paragraph (z) is added to subsection (8) of  
25 section 213.053, Florida Statutes, to read:

26 213.053 Confidentiality and information sharing.--

27 (8) Notwithstanding any other provision of this  
28 section, the department may provide:

29 (z) Information relative to s. 220.1875 to the  
30 Department of Education in the conduct of its official  
31 business.

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Disclosure of information under this subsection shall be pursuant to a written agreement between the executive director and the agency. Such agencies, governmental or nongovernmental, shall be bound by the same requirements of confidentiality as the Department of Revenue. Breach of confidentiality is a misdemeanor of the first degree, punishable as provided by s. 775.082 or s. 775.083.

Section 5. Subsection (8) of section 220.02, Florida Statutes, is amended to read:

220.02 Legislative intent.--

(8) It is the intent of the Legislature that credits against either the corporate income tax or the franchise tax be applied in the following order: those enumerated in s. 631.828, those enumerated in s. 220.191, those enumerated in s. 220.181, those enumerated in s. 220.183, those enumerated in s. 220.182, those enumerated in s. 220.1895, those enumerated in s. 221.02, those enumerated in s. 220.184, those enumerated in s. 220.186, those enumerated in s. 220.1845, those enumerated in s. 220.19, those enumerated in s. 220.185, those enumerated in s. 220.187, those enumerated in s. 220.1875, those enumerated in s. 220.192, and those enumerated in s. 220.193.

Section 6. Paragraph (a) of subsection (1) of section 220.13, Florida Statutes, is amended to read:

220.13 "Adjusted federal income" defined.--

(1) The term "adjusted federal income" means an amount equal to the taxpayer's taxable income as defined in subsection (2), or such taxable income of more than one taxpayer as provided in s. 220.131, for the taxable year, adjusted as follows:

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1 (a) Additions.--There shall be added to such taxable  
2 income:

3 1. The amount of any tax upon or measured by income,  
4 excluding taxes based on gross receipts or revenues, paid or  
5 accrued as a liability to the District of Columbia or any  
6 state of the United States which is deductible from gross  
7 income in the computation of taxable income for the taxable  
8 year.

9 2. The amount of interest which is excluded from  
10 taxable income under s. 103(a) of the Internal Revenue Code or  
11 any other federal law, less the associated expenses disallowed  
12 in the computation of taxable income under s. 265 of the  
13 Internal Revenue Code or any other law, excluding 60 percent  
14 of any amounts included in alternative minimum taxable income,  
15 as defined in s. 55(b)(2) of the Internal Revenue Code, if the  
16 taxpayer pays tax under s. 220.11(3).

17 3. In the case of a regulated investment company or  
18 real estate investment trust, an amount equal to the excess of  
19 the net long-term capital gain for the taxable year over the  
20 amount of the capital gain dividends attributable to the  
21 taxable year.

22 4. That portion of the wages or salaries paid or  
23 incurred for the taxable year which is equal to the amount of  
24 the credit allowable for the taxable year under s. 220.181.  
25 This subparagraph shall expire on the date specified in s.  
26 290.016 for the expiration of the Florida Enterprise Zone Act.

27 5. That portion of the ad valorem school taxes paid or  
28 incurred for the taxable year which is equal to the amount of  
29 the credit allowable for the taxable year under s. 220.182.  
30 This subparagraph shall expire on the date specified in s.  
31 290.016 for the expiration of the Florida Enterprise Zone Act.



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1           6. The amount of emergency excise tax paid or accrued  
2 as a liability to this state under chapter 221 which tax is  
3 deductible from gross income in the computation of taxable  
4 income for the taxable year.

5           7. That portion of assessments to fund a guaranty  
6 association incurred for the taxable year which is equal to  
7 the amount of the credit allowable for the taxable year.

8           8. In the case of a nonprofit corporation which holds  
9 a pari-mutuel permit and which is exempt from federal income  
10 tax as a farmers' cooperative, an amount equal to the excess  
11 of the gross income attributable to the pari-mutuel operations  
12 over the attributable expenses for the taxable year.

13           9. The amount taken as a credit for the taxable year  
14 under s. 220.1895.

15           10. Up to nine percent of the eligible basis of any  
16 designated project which is equal to the credit allowable for  
17 the taxable year under s. 220.185.

18           11. The amount taken as a credit for the taxable year  
19 under s. 220.187.

20           12. The amount taken as a credit for the taxable year  
21 under s. 220.1875.

22           ~~13.12.~~ The amount taken as a credit for the taxable  
23 year under s. 220.192.

24           ~~14.13.~~ The amount taken as a credit for the taxable  
25 year under s. 220.193.

26           Section 7. Section 220.701, Florida Statutes, is  
27 amended to read:

28           220.701 Collection authority.--The department shall  
29 collect the taxes imposed by this chapter and shall pay all  
30 moneys received by it into the Corporate Income Tax Trust Fund  
31 created under s. 220.7015. Unencumbered balances in this trust

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1 fund shall be transferred monthly into the General Revenue  
 2 Fund of the state. However, such transfers shall be expended  
 3 exclusively on programs that are consistent with the uses  
 4 established for the Corporate Income Tax Trust Fund and that  
 5 are specifically identified in the General Appropriations Act.

6 Section 8. Subsection (13) of section 1001.10, Florida  
 7 Statutes, is amended to read:

8 1001.10 Commissioner of Education; general powers and  
 9 duties.--The Commissioner of Education is the chief  
 10 educational officer of the state and the sole custodian of the  
 11 K-20 data warehouse, and is responsible for giving full  
 12 assistance to the State Board of Education in enforcing  
 13 compliance with the mission and goals of the seamless K-20  
 14 education system. To facilitate innovative practices and to  
 15 allow local selection of educational methods, the State Board  
 16 of Education may authorize the commissioner to waive, upon the  
 17 request of a district school board, State Board of Education  
 18 rules that relate to district school instruction and school  
 19 operations, except those rules pertaining to civil rights, and  
 20 student health, safety, and welfare. The Commissioner of  
 21 Education is not authorized to grant waivers for any  
 22 provisions in rule pertaining to the allocation and  
 23 appropriation of state and local funds for public education;  
 24 the election, compensation, and organization of school board  
 25 members and superintendents; graduation and state  
 26 accountability standards; financial reporting requirements;  
 27 reporting of out-of-field teaching assignments under s.  
 28 1012.42; public meetings; public records; or due process  
 29 hearings governed by chapter 120. No later than January 1 of  
 30 each year, the commissioner shall report to the Legislature  
 31 and the State Board of Education all approved waiver requests

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1 in the preceding year. Additionally, the commissioner has the  
2 following general powers and duties:

3 (13) To prepare and publish annually reports giving  
4 statistics and other useful information pertaining to the tax  
5 credit programs under ss. 220.187 and 220.1875 ~~Opportunity~~  
6 ~~Scholarship Program.~~

7  
8 The commissioner's office shall operate all statewide  
9 functions necessary to support the State Board of Education  
10 and the K-20 education system, including strategic planning  
11 and budget development, general administration, and assessment  
12 and accountability.

13 Section 9. Subsection (18) of section 1001.42, Florida  
14 Statutes, is amended to read:

15 1001.42 Powers and duties of district school  
16 board.--The district school board, acting as a board, shall  
17 exercise all powers and perform all duties listed below:

18 (18) CORPORATE INCOME TAX CREDIT SCHOLARSHIP PROGRAM;  
19 FAMILIES OF STUDENTS ATTENDING FAILING SCHOOLS ~~OPPORTUNITY~~  
20 ~~SCHOLARSHIPS~~.--Adopt policies allowing students attending  
21 schools that have been designated with a grade of "F," failing  
22 to make adequate progress, for 2 school years in a 4-year  
23 period to attend a higher performing public school in the same  
24 district ~~or an adjoining district~~ or be granted a ~~state~~  
25 ~~opportunity~~ scholarship to transport the student to a public  
26 school in an adjoining district or a scholarship to attend a  
27 private school, in conformance with s. 220.1875 ~~s. 1002.38~~ and  
28 State Board of Education rule.

29 Section 10. Subsection (6) of section 1002.20, Florida  
30 Statutes, is amended to read:

31 1002.20 K-12 student and parent rights.--Parents of

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1 public school students must receive accurate and timely  
 2 information regarding their child's academic progress and must  
 3 be informed of ways they can help their child to succeed in  
 4 school. K-12 students and their parents are afforded numerous  
 5 statutory rights including, but not limited to, the following:

6 (6) EDUCATIONAL CHOICE.--

7 (a) Public school choices.--Parents of public school  
 8 students may seek whatever public school choice options that  
 9 are applicable to their students and are available to students  
 10 in their school districts. These options may include  
 11 controlled open enrollment, lab schools, charter schools,  
 12 charter technical career centers, magnet schools, alternative  
 13 schools, special programs, advanced placement, dual  
 14 enrollment, International Baccalaureate, International General  
 15 Certificate of Secondary Education (pre-AICE), Advanced  
 16 International Certificate of Education, early admissions,  
 17 credit by examination or demonstration of competency, the New  
 18 World School of the Arts, the Florida School for the Deaf and  
 19 the Blind, and the Florida Virtual School. These options may  
 20 also include the public school choice options of the corporate  
 21 income tax credit scholarship programs ~~Opportunity Scholarship~~  
 22 ~~Program~~ and the McKay Scholarships for Students with  
 23 Disabilities Program.

24 (b) Private school choices.--Parents of public school  
 25 students may seek private school choice options under certain  
 26 programs.

27 1. Under the corporate income tax credit scholarship  
 28 program for families of students attending schools failing to  
 29 make adequate progress ~~Opportunity Scholarship Program~~, the  
 30 parent of a student in a failing public school may seek a  
 31 ~~request and receive an opportunity~~ scholarship from an

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1 eligible nonprofit scholarship-funding organization for the  
2 student to attend a private school in accordance with s.  
3 220.1875 ~~the provisions of s. 1002.38.~~

4           2. Under the McKay Scholarships for Students with  
5 Disabilities Program, the parent of a public school student  
6 with a disability who is dissatisfied with the student's  
7 progress may request and receive a McKay Scholarship for the  
8 student to attend a private school in accordance with ~~the~~  
9 ~~provisions of s. 1002.39.~~

10           3. Under the corporate income tax credit scholarship  
11 program for families that have limited financial resources,  
12 the parent of a student who qualifies for free or  
13 reduced-price school lunch may seek a scholarship from an  
14 eligible nonprofit scholarship-funding organization for the  
15 student to attend a private school in accordance with ~~the~~  
16 ~~provisions of s. 220.187.~~

17           (c) Home education.--The parent of a student may  
18 choose to place the student in a home education program in  
19 accordance with ~~the provisions of s. 1002.41.~~

20           (d) Private tutoring.--The parent of a student may  
21 choose to place the student in a private tutoring program in  
22 accordance with ~~the provisions of s. 1002.43(1).~~

23           Section 11. Section 1002.38, Florida Statutes, is  
24 repealed.

25           Section 12. Section 1002.39, Florida Statutes, is  
26 amended to read:

27           1002.39 The John M. McKay Scholarships for Students  
28 with Disabilities Program.--There is established a program  
29 that is ~~separate and distinct from the Opportunity Scholarship~~  
30 ~~Program and is~~ named the John M. McKay Scholarships for  
31 Students with Disabilities Program.

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1           (1) THE JOHN M. MCKAY SCHOLARSHIPS FOR STUDENTS WITH  
2 DISABILITIES PROGRAM.--The John M. McKay Scholarships for  
3 Students with Disabilities Program is established to provide  
4 the option to attend a public school other than the one to  
5 which assigned, or to provide a scholarship to a private  
6 school of choice, for students with disabilities for whom an  
7 individual education plan has been written in accordance with  
8 rules of the State Board of Education. Students with  
9 disabilities include K-12 students who are documented as  
10 having a mental handicap, including trainable, profound, or  
11 educable; a speech or language impairment; a hearing  
12 impairment, including deafness; a visual impairment, including  
13 blindness; a dual sensory impairment; a physical impairment; a  
14 serious emotional disturbance, including an emotional  
15 handicap; a specific learning disability, including, but not  
16 limited to, dyslexia, dyscalculia, or developmental aphasia; a  
17 traumatic brain injury; or autism.

18           (2) JOHN M. MCKAY SCHOLARSHIP ELIGIBILITY.--The parent  
19 of a public school student with a disability who is  
20 dissatisfied with the student's progress may request and  
21 receive from the state a John M. McKay Scholarship for the  
22 child to enroll in and attend a private school in accordance  
23 with this section if:

24           (a) The student has spent the prior school year in  
25 attendance at a Florida public school or the Florida School  
26 for the Deaf and the Blind. Prior school year in attendance  
27 means that the student was:

28           1. Enrolled and reported by a school district for  
29 funding during the preceding October and February Florida  
30 Education Finance Program surveys in kindergarten through  
31 grade 12, which shall include time spent in a Department of

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1 Juvenile Justice commitment program if funded under the  
2 Florida Education Finance Program;

3           2. Enrolled and reported by the Florida School for the  
4 Deaf and the Blind during the preceding October and February  
5 student membership surveys in kindergarten through grade 12;  
6 or

7           3. Enrolled and reported by a school district for  
8 funding during the preceding October and February Florida  
9 Education Finance Program surveys, was at least 4 years old  
10 when so enrolled and reported, and was eligible for services  
11 under s. 1003.21(1)(e).

12

13 However, a dependent child of a member of the United States  
14 Armed Forces who transfers to a school in this state from out  
15 of state or from a foreign country pursuant to a parent's  
16 permanent change of station orders is exempt from this  
17 paragraph but must meet all other eligibility requirements to  
18 participate in the program.

19           (b) The parent has obtained acceptance for admission  
20 of the student to a private school that is eligible for the  
21 program under subsection (8) and has requested from the  
22 department a scholarship at least 60 days prior to the date of  
23 the first scholarship payment. The request must be through a  
24 communication directly to the department in a manner that  
25 creates a written or electronic record of the request and the  
26 date of receipt of the request. The Department of Education  
27 must notify the district of the parent's intent upon receipt  
28 of the parent's request.

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

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1 (a) Enrolled in a school operating for the purpose of  
2 providing educational services to youth in Department of  
3 Juvenile Justice commitment programs;

4 (b) Receiving a corporate income tax credit  
5 scholarship under s. 220.187;

6 (c) Receiving an educational scholarship pursuant to  
7 this chapter;

8 (d) Participating in a home education program as  
9 defined in s. 1002.01(1);

10 (e) Participating in a private tutoring program  
11 pursuant to s. 1002.43;

12 (f) Participating in a virtual school, correspondence  
13 school, or distance learning program that receives state  
14 funding pursuant to the student's participation unless the  
15 participation is limited to no more than two courses per  
16 school year;

17 (g) Enrolled in the Florida School for the Deaf and  
18 the Blind; or

19 (h) Not having regular and direct contact with his or  
20 her private school teachers at the school's physical location.

21 (4) TERM OF JOHN M. MCKAY SCHOLARSHIP.--

22 (a) For purposes of continuity of educational choice,  
23 a John M. McKay Scholarship shall remain in force until the  
24 student returns to a public school, graduates from high  
25 school, or reaches the age of 22, whichever occurs first.

26 (b) Upon reasonable notice to the department and the  
27 school district, the student's parent may remove the student  
28 from the private school and place the student in a public  
29 school in accordance with this section.

30 (c) Upon reasonable notice to the department, the  
31 student's parent may move the student from one participating



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1 private school to another participating private school.

2 (5) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.--

3 (a)1. By April 1 of each year and within 10 days after  
4 an individual education plan meeting, a school district shall  
5 notify the parent of the student of all options available  
6 pursuant to this section, inform the parent of the  
7 availability of the department's telephone hotline and  
8 Internet website for additional information on John M. McKay  
9 Scholarships, and offer that student's parent an opportunity  
10 to enroll the student in another public school within the  
11 district.

12 2. The parent is not required to accept the offer of  
13 enrolling in another public school in lieu of requesting a  
14 John M. McKay Scholarship to a private school. However, if the  
15 parent chooses the public school option, the student may  
16 continue attending a public school chosen by the parent until  
17 the student graduates from high school.

18 3. If the parent chooses a public school consistent  
19 with the district school board's choice plan under s. 1002.31,  
20 the school district shall provide transportation to the public  
21 school selected by the parent. The parent is responsible to  
22 provide transportation to a public school chosen that is not  
23 consistent with the district school board's choice plan under  
24 s. 1002.31.

25 (b)1. For a student with disabilities who does not  
26 have a matrix of services under s. 1011.62(1)(e), the school  
27 district must complete a matrix that assigns the student to  
28 one of the levels of service as they existed prior to the  
29 2000-2001 school year.

30 2.a. Within 10 school days after it receives  
31 notification of a parent's request for a John M. McKay

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1 Scholarship, a school district must notify the student's  
 2 parent if the matrix of services has not been completed and  
 3 inform the parent that the district is required to complete  
 4 the matrix within 30 days after receiving notice of the  
 5 parent's request for a John M. McKay Scholarship. This notice  
 6 should include the required completion date for the matrix.

7         b. The school district must complete the matrix of  
 8 services for any student who is participating in the John M.  
 9 McKay Scholarships for Students with Disabilities Program and  
 10 must notify the department of the student's matrix level  
 11 within 30 days after receiving notification of a request to  
 12 participate in the scholarship program. The school district  
 13 must provide the student's parent with the student's matrix  
 14 level within 10 school days after its completion.

15         c. The department shall notify the private school of  
 16 the amount of the scholarship within 10 days after receiving  
 17 the school district's notification of the student's matrix  
 18 level.

19         d. A school district may change a matrix of services  
 20 only if the change is to correct a technical, typographical,  
 21 or calculation error.

22         (c) A school district shall provide notification to  
 23 parents of the availability of a reevaluation at least every 3  
 24 years of each student who receives a John M. McKay  
 25 Scholarship.

26         (d) If the parent chooses the private school option  
 27 and the student is accepted by the private school pending the  
 28 availability of a space for the student, the parent of the  
 29 student must notify the department 60 days prior to the first  
 30 scholarship payment and before entering the private school in  
 31 order to be eligible for the scholarship when a space becomes

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1 available for the student in the private school.

2 (e) The parent of a student may choose, as an  
3 alternative, to enroll the student in and transport the  
4 student to a public school in an adjacent school district  
5 which has available space and has a program with the services  
6 agreed to in the student's individual education plan already  
7 in place, and that school district shall accept the student  
8 and report the student for purposes of the district's funding  
9 pursuant to the Florida Education Finance Program.

10 (f) For a student who participates in the John M.  
11 McKay Scholarships for Students with Disabilities Program  
12 whose parent requests that the student take the statewide  
13 assessments under s. 1008.22, the district in which the  
14 student attends private school shall provide locations and  
15 times to take all statewide assessments.

16 (6) DEPARTMENT OF EDUCATION OBLIGATIONS.--The  
17 department shall:

18 (a) Establish a toll-free hotline that provides  
19 parents and private schools with information on participation  
20 in the John M. McKay Scholarships for Students with  
21 Disabilities Program.

22 (b) Annually verify the eligibility of private schools  
23 that meet the requirements of subsection (8).

24 (c) Establish a process by which individuals may  
25 notify the department of any violation by a parent, private  
26 school, or school district of state laws relating to program  
27 participation. The department shall conduct an inquiry of any  
28 written complaint of a violation of this section, or make a  
29 referral to the appropriate agency for an investigation, if  
30 the complaint is signed by the complainant and is legally  
31 sufficient. A complaint is legally sufficient if it contains

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1 ultimate facts that show that a violation of this section or  
 2 any rule adopted by the State Board of Education has occurred.  
 3 In order to determine legal sufficiency, the department may  
 4 require supporting information or documentation from the  
 5 complainant. A department inquiry is not subject to the  
 6 requirements of chapter 120.

7 (d) Require an annual, notarized, sworn compliance  
 8 statement by participating private schools certifying  
 9 compliance with state laws and shall retain such records.

10 (e) Cross-check the list of participating scholarship  
 11 students with the public school enrollment lists prior to each  
 12 scholarship payment to avoid duplication.

13 (f)1. Conduct random site visits to private schools  
 14 participating in the John M. McKay Scholarships for Students  
 15 with Disabilities Program. The purpose of the site visits is  
 16 solely to verify the information reported by the schools  
 17 concerning the enrollment and attendance of students, the  
 18 credentials of teachers, background screening of teachers, and  
 19 teachers' fingerprinting results, which information is  
 20 required by rules of the State Board of Education, subsection  
 21 (8), and s. 1002.421. The Department of Education may not make  
 22 more than three random site visits each year and may not make  
 23 more than one random site visit each year to the same private  
 24 school.

25 2. Annually, by December 15, report to the Governor,  
 26 the President of the Senate, and the Speaker of the House of  
 27 Representatives the Department of Education's actions with  
 28 respect to implementing accountability in the scholarship  
 29 program under this section and s. 1002.421, any substantiated  
 30 allegations or violations of law or rule by an eligible  
 31 private school under this program concerning the enrollment

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1 and attendance of students, the credentials of teachers,  
2 background screening of teachers, and teachers' fingerprinting  
3 results and the corrective action taken by the Department of  
4 Education.

5 (7) COMMISSIONER OF EDUCATION AUTHORITY AND  
6 OBLIGATIONS.--

7 (a) The Commissioner of Education shall deny, suspend,  
8 or revoke a private school's participation in the scholarship  
9 program if it is determined that the private school has failed  
10 to comply with the provisions of this section. However, in  
11 instances in which the noncompliance is correctable within a  
12 reasonable amount of time and in which the health, safety, or  
13 welfare of the students is not threatened, the commissioner  
14 may issue a notice of noncompliance which shall provide the  
15 private school with a timeframe within which to provide  
16 evidence of compliance prior to taking action to suspend or  
17 revoke the private school's participation in the scholarship  
18 program.

19 (b) The commissioner's determination is subject to the  
20 following:

21 1. If the commissioner intends to deny, suspend, or  
22 revoke a private school's participation in the scholarship  
23 program, the department shall notify the private school of  
24 such proposed action in writing by certified mail and regular  
25 mail to the private school's address of record with the  
26 department. The notification shall include the reasons for the  
27 proposed action and notice of the timelines and procedures set  
28 forth in this paragraph.

29 2. The private school that is adversely affected by  
30 the proposed action shall have 15 days from receipt of the  
31 notice of proposed action to file with the department's agency

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1 clerk a request for a proceeding pursuant to ss. 120.569 and  
2 120.57. If the private school is entitled to a hearing under  
3 s. 120.57(1), the department shall forward the request to the  
4 Division of Administrative Hearings.

5           3. Upon receipt of a request referred pursuant to this  
6 paragraph, the director of the Division of Administrative  
7 Hearings shall expedite the hearing and assign an  
8 administrative law judge who shall commence a hearing within  
9 30 days after the receipt of the formal written request by the  
10 division and enter a recommended order within 30 days after  
11 the hearing or within 30 days after receipt of the hearing  
12 transcript, whichever is later. Each party shall be allowed 10  
13 days in which to submit written exceptions to the recommended  
14 order. A final order shall be entered by the agency within 30  
15 days after the entry of a recommended order. The provisions of  
16 this subparagraph may be waived upon stipulation by all  
17 parties.

18           (c) The commissioner may immediately suspend payment  
19 of scholarship funds if it is determined that there is  
20 probable cause to believe that there is:

21           1. An imminent threat to the health, safety, or  
22 welfare of the students; or

23           2. Fraudulent activity on the part of the private  
24 school. Notwithstanding s. 1002.22(3), in incidents of alleged  
25 fraudulent activity pursuant to this section, the Department  
26 of Education's Office of Inspector General is authorized to  
27 release personally identifiable records or reports of students  
28 to the following persons or organizations:

29           a. A court of competent jurisdiction in compliance  
30 with an order of that court or the attorney of record in  
31 accordance with a lawfully issued subpoena, consistent with

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1 the Family Educational Rights and Privacy Act, 20 U.S.C. s.  
2 1232g.

3 b. A person or entity authorized by a court of  
4 competent jurisdiction in compliance with an order of that  
5 court or the attorney of record pursuant to a lawfully issued  
6 subpoena, consistent with the Family Educational Rights and  
7 Privacy Act, 20 U.S.C. s. 1232g.

8 c. Any person, entity, or authority issuing a subpoena  
9 for law enforcement purposes when the court or other issuing  
10 agency has ordered that the existence or the contents of the  
11 subpoena or the information furnished in response to the  
12 subpoena not be disclosed, consistent with the Family  
13 Educational Rights and Privacy Act, 20 U.S.C. s. 1232g, and 34  
14 C.F.R. s. 99.31.

15  
16 The commissioner's order suspending payment pursuant to this  
17 paragraph may be appealed pursuant to the same procedures and  
18 timelines as the notice of proposed action set forth in  
19 paragraph (b).

20 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.--To be  
21 eligible to participate in the John M. McKay Scholarships for  
22 Students with Disabilities Program, a private school may be  
23 sectarian or nonsectarian and must:

24 (a) Comply with all requirements for private schools  
25 participating in state school choice scholarship programs  
26 pursuant to s. 1002.421.

27 (b) Provide to the department all documentation  
28 required for a student's participation, including the private  
29 school's and student's fee schedules, at least 30 days before  
30 the first quarterly scholarship payment is made for the  
31 student.

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1 (c) Be academically accountable to the parent for  
2 meeting the educational needs of the student by:

3 1. At a minimum, annually providing to the parent a  
4 written explanation of the student's progress.

5 2. Cooperating with the scholarship student whose  
6 parent chooses to participate in the statewide assessments  
7 pursuant to s. 1008.22.

8 (d) Maintain in this state a physical location where a  
9 scholarship student regularly attends classes.

10

11 The inability of a private school to meet the requirements of  
12 this subsection shall constitute a basis for the ineligibility  
13 of the private school to participate in the scholarship  
14 program as determined by the department.

15 (9) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM  
16 PARTICIPATION.--A parent who applies for a John M. McKay  
17 Scholarship is exercising his or her parental option to place  
18 his or her child in a private school.

19 (a) The parent must select the private school and  
20 apply for the admission of his or her child.

21 (b) The parent must have requested the scholarship at  
22 least 60 days prior to the date of the first scholarship  
23 payment.

24 (c) Any student participating in the John M. McKay  
25 Scholarships for Students with Disabilities Program must  
26 remain in attendance throughout the school year unless excused  
27 by the school for illness or other good cause.

28 (d) Each parent and each student has an obligation to  
29 the private school to comply with the private school's  
30 published policies.

31 (e) If the parent requests that the student



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1 participating in the John M. McKay Scholarships for Students  
 2 with Disabilities Program take all statewide assessments  
 3 required pursuant to s. 1008.22, the parent is responsible for  
 4 transporting the student to the assessment site designated by  
 5 the school district.

6 (f) Upon receipt of a scholarship warrant, the parent  
 7 to whom the warrant is made must restrictively endorse the  
 8 warrant to the private school for deposit into the account of  
 9 the private school. The parent may not designate any entity or  
 10 individual associated with the participating private school as  
 11 the parent's attorney in fact to endorse a scholarship  
 12 warrant. A participant who fails to comply with this paragraph  
 13 forfeits the scholarship.

14 (10) JOHN M. MCKAY SCHOLARSHIP FUNDING AND PAYMENT.--

15 (a)1. The maximum scholarship granted for an eligible  
 16 student with disabilities shall be a calculated amount  
 17 equivalent to the base student allocation in the Florida  
 18 Education Finance Program multiplied by the appropriate cost  
 19 factor for the educational program that would have been  
 20 provided for the student in the district school to which he or  
 21 she was assigned, multiplied by the district cost  
 22 differential.

23 2. In addition, a share of the guaranteed allocation  
 24 for exceptional students shall be determined and added to the  
 25 calculated amount. The calculation shall be based on the  
 26 methodology and the data used to calculate the guaranteed  
 27 allocation for exceptional students for each district in  
 28 chapter 2000-166, Laws of Florida. Except as provided in  
 29 subparagraphs 3. and 4., the calculation shall be based on the  
 30 student's grade, matrix level of services, and the difference  
 31 between the 2000-2001 basic program and the appropriate level

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1 of services cost factor, multiplied by the 2000-2001 base  
2 student allocation and the 2000-2001 district cost  
3 differential for the sending district. Also, the calculated  
4 amount shall include the per-student share of supplemental  
5 academic instruction funds, instructional materials funds,  
6 technology funds, and other categorical funds as provided for  
7 such purposes in the General Appropriations Act.

8           3. The calculated scholarship amount for a student who  
9 is eligible under subparagraph (2)(a)2. shall be calculated as  
10 provided in subparagraphs 1. and 2. However, the calculation  
11 shall be based on the school district in which the parent  
12 resides at the time of the scholarship request.

13           4. Until the school district completes the matrix  
14 required by paragraph (5)(b), the calculation shall be based  
15 on the matrix that assigns the student to support level I of  
16 service as it existed prior to the 2000-2001 school year. When  
17 the school district completes the matrix, the amount of the  
18 payment shall be adjusted as needed.

19           (b) The amount of the John M. McKay Scholarship shall  
20 be the calculated amount or the amount of the private school's  
21 tuition and fees, whichever is less. The amount of any  
22 assessment fee required by the participating private school  
23 may be paid from the total amount of the scholarship.

24           (c)1. The school district shall report all students  
25 who are attending a private school under this program. The  
26 students with disabilities attending private schools on John  
27 M. McKay Scholarships shall be reported separately from other  
28 students reported for purposes of the Florida Education  
29 Finance Program.

30           2. For program participants who are eligible under  
31 subparagraph (2)(a)2., the school district that is used as the

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1 basis for the calculation of the scholarship amount as  
2 provided in subparagraph (a)3. shall:

3 a. Report to the department all such students who are  
4 attending a private school under this program.

5 b. Be held harmless for such students from the  
6 weighted enrollment ceiling for group 2 programs in s.  
7 1011.62(1)(d)3.a. during the first school year in which the  
8 students are reported.

9 (d) Following notification on July 1, September 1,  
10 December 1, or February 1 of the number of program  
11 participants, the department shall transfer, from General  
12 Revenue funds only, the amount calculated under paragraph (b)  
13 from the school district's total funding entitlement under the  
14 Florida Education Finance Program and from authorized  
15 categorical accounts to a separate account for the scholarship  
16 program for quarterly disbursement to the parents of  
17 participating students. Funds may not be transferred from any  
18 funding provided to the Florida School for the Deaf and the  
19 Blind for program participants who are eligible under  
20 subparagraph (2)(a)2. For a student exiting a Department of  
21 Juvenile Justice commitment program who chooses to participate  
22 in the scholarship program, the amount of the John M. McKay  
23 Scholarship calculated pursuant to paragraph (b) shall be  
24 transferred from the school district in which the student last  
25 attended a public school prior to commitment to the Department  
26 of Juvenile Justice. When a student enters the scholarship  
27 program, the department must receive all documentation  
28 required for the student's participation, including the  
29 private school's and student's fee schedules, at least 30 days  
30 before the first quarterly scholarship payment is made for the  
31 student.

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1           (e) Upon notification by the department that it has  
2 received the documentation required under paragraph (d), the  
3 Chief Financial Officer shall make scholarship payments in  
4 four equal amounts no later than September 1, November 1,  
5 February 1, and April 1 of each academic year in which the  
6 scholarship is in force. The initial payment shall be made  
7 after department verification of admission acceptance, and  
8 subsequent payments shall be made upon verification of  
9 continued enrollment and attendance at the private school.  
10 Payment must be by individual warrant made payable to the  
11 student's parent and mailed by the department to the private  
12 school of the parent's choice, and the parent shall  
13 restrictively endorse the warrant to the private school for  
14 deposit into the account of the private school.

15           (f) Subsequent to each scholarship payment, the  
16 department shall request from the Department of Financial  
17 Services a sample of endorsed warrants to review and confirm  
18 compliance with endorsement requirements.

19           (11) LIABILITY.--No liability shall arise on the part  
20 of the state based on the award or use of a John M. McKay  
21 Scholarship.

22           (12) SCOPE OF AUTHORITY.--The inclusion of eligible  
23 private schools within options available to Florida public  
24 school students does not expand the regulatory authority of  
25 the state, its officers, or any school district to impose any  
26 additional regulation of private schools beyond those  
27 reasonably necessary to enforce requirements expressly set  
28 forth in this section.

29           (13) RULES.--The State Board of Education shall adopt  
30 rules pursuant to ss. 120.536(1) and 120.54 to administer this  
31 section, including rules that school districts must use to

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1 expedite the development of a matrix of services based on an  
 2 active individual education plan from another state or a  
 3 foreign country for a transferring student with a disability  
 4 who is a dependent child of a member of the United States  
 5 Armed Forces. The rules must identify the appropriate school  
 6 district personnel who must complete the matrix of services.  
 7 For purposes of these rules, a transferring student with a  
 8 disability is one who was previously enrolled as a student  
 9 with a disability in an out-of-state or an out-of-country  
 10 public or private school or agency program and who is  
 11 transferring from out of state or from a foreign country  
 12 pursuant to a parent's permanent change of station orders.

13 Section 13. Subsection (1) of section 1002.421,  
 14 Florida Statutes, is amended to read:

15 1002.421 Accountability of private schools  
 16 participating in state school choice scholarship programs.--

17 (1) A Florida private school participating in the  
 18 Corporate Income Tax Credit Scholarship Program established  
 19 pursuant to s. 220.187, corporate tax credit scholarship  
 20 program established pursuant to s. 220.1875, or an educational  
 21 scholarship program established pursuant to this chapter must  
 22 comply with all requirements of this section in addition to  
 23 private school requirements outlined in s. 1002.42, specific  
 24 requirements identified within respective scholarship program  
 25 laws, and other provisions of Florida law that apply to  
 26 private schools.

27 Section 14. This act shall take effect July 1, 2007.

30 ===== T I T L E A M E N D M E N T =====

31 And the title is amended as follows:

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1 Delete everything before the enacting clause

2

3 and insert:

4 A bill to be entitled

5 An act relating to education; creating s.

6 1008.3455, F.S.; expressing the intent of the

7 Legislature to create a program to enhance

8 failing schools; requiring the Commissioner of

9 Education to develop and submit such a program

10 to the Legislature; prescribing elements of the

11 program; requiring the creation of an advisory

12 committee; requiring consultation with

13 specified entities; requiring an annual report;

14 amending s. 220.187, F.S.; providing

15 legislative findings; revising program

16 purposes; providing for eligibility of siblings

17 of certain students; revising provisions

18 relating to authorized uses of scholarship

19 funds and expenditure of contributions received

20 during the fiscal year; revising scholarship

21 amounts and payments; clarifying that the tax

22 credit program applies to students in families

23 having limited financial resources; providing

24 scholarship eligibility to students receiving

25 opportunity scholarships during the 2006-2007

26 school year for a limited amount of time;

27 providing that a scholarship funding

28 organization may be approved to provide

29 scholarships under two tax credit programs;

30 requiring separate accounting; authorizing

31 scholarship funding organizations to transfer

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1 surplus funds between two programs under  
2 specified circumstances; providing for the  
3 preservation of credits under certain  
4 circumstances; creating s. 220.1875, F.S.;  
5 providing a purpose; defining terms;  
6 prescribing obligations of school districts to  
7 inform parents about failing schools; requiring  
8 nonprofit scholarship-funding organizations to  
9 meet certain requirements; authorizing students  
10 at such schools to attend a high-performing  
11 school in the same district; providing a credit  
12 against the corporate income tax for  
13 contributions to nonprofit scholarship-funding  
14 organizations; providing limitations; providing  
15 for use of such contributions for scholarships  
16 for students attending certain failing schools  
17 to attend nonpublic schools or public schools  
18 in adjacent districts; providing requirements  
19 and limitations with respect to scholarships;  
20 providing for payment; establishing eligibility  
21 for nonpublic school participation and grounds  
22 for ineligibility to participate in the  
23 program; providing for administration by the  
24 Department of Revenue and the Department of  
25 Education; providing for rules; providing  
26 obligations of the Department of Education,  
27 including requirements for the verification of  
28 eligibility of program participants,  
29 establishment of a process for notification of  
30 violations, subsequent inquiry or  
31 investigation, certification of compliance by

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1 private schools, making site visits, and  
2 providing information relating to the research  
3 organization's analysis of student performance  
4 data; providing authority and obligations of  
5 the Commissioner of Education, including the  
6 denial, suspension, or revocation of a private  
7 school's participation in the scholarship  
8 program and procedures and timelines;  
9 authorizing the Department of Education's  
10 Office of the Inspector General to release  
11 student records under certain circumstances;  
12 providing requirements for deposit of eligible  
13 contributions; amending s. 213.053, F.S.;  
14 conforming provisions to the creation of the  
15 tax credit scholarship program for families of  
16 students in failing schools; authorizing the  
17 Department of Revenue to share certain tax  
18 information with the Department of Education;  
19 amending s. 220.02, F.S.; revising legislative  
20 intent with respect to the order in which  
21 corporate income tax credits are applied to  
22 conform to the creation of the tax credit  
23 scholarship program for families of students in  
24 failing schools; amending s. 220.13, F.S.;  
25 redefining the term "adjusted federal income"  
26 to account for the creation of the tax credit  
27 scholarship program for families of students in  
28 failing schools; providing for the credit to be  
29 an addition to taxable income; amending s.  
30 220.701, F.S.; directing the Department of  
31 Revenue to deposit moneys received through the



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1 corporate income tax into the Corporate Income  
2 Tax Trust Fund rather than the General Revenue  
3 Fund; providing for unencumbered trust fund  
4 balances to be transferred into the General  
5 Revenue Fund; prescribing how transferred funds  
6 may be expended; amending s. 1001.10, F.S.;  
7 conforming provisions to the repeal of the  
8 Opportunity Scholarship Program; authorizing  
9 the Commissioner of Education to prepare and  
10 publish reports related to specified tax credit  
11 programs; amending ss. 1001.42 and 1002.20,  
12 F.S.; conforming provisions to the repeal of  
13 the Opportunity Scholarship Program and the  
14 creation of the tax credit program for families  
15 of students attending schools failing to make  
16 adequate progress; repealing s. 1002.38, F.S.,  
17 which authorizes the Opportunity Scholarship  
18 Program; amending s. 1002.39, F.S., to conform  
19 to the repeal of the Opportunity Scholarship  
20 Program; amending s .1002.421, F.S.; providing  
21 additional requirements for schools  
22 participating in the program under s. 220.1875,  
23 F.S.; providing an effective date.

24  
25 WHEREAS, the Corporate Income Tax Credit Scholarship  
26 Program has produced substantial cost savings by relieving the  
27 state of the expense of educating program participants in  
28 public schools at a cost in foregone tax revenue that is  
29 substantially less than the per-student cost of educating  
30 children in public schools, and

31 WHEREAS, the Corporate Income Tax Credit Scholarship

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1 Program and the John M. McKay Scholarships for Students with  
 2 Disabilities Program have relieved public school class size by  
 3 creating new classroom spaces in the public schools at no cost  
 4 to the taxpayers, and

5 WHEREAS, empirical evidence is clear, overwhelming, and  
 6 uncontroverted that expanding educational options produces  
 7 improved educational outcomes, both for participating children  
 8 and for public schools that are exposed to healthy competition  
 9 as a result, and no study has ever documented any harm to  
 10 public schools as a result of expanding educational options  
 11 through programs like the Corporate Income Tax Credit  
 12 Scholarship Program and the John M. McKay Scholarships for  
 13 Students with Disabilities Program, and

14 WHEREAS, education is a fundamental value and a  
 15 paramount duty of the state, and

16 WHEREAS, the State Constitution requires the state to  
 17 provide for the free education of all children residing within  
 18 its borders, and

19 WHEREAS, the Florida Supreme Court held in Bush v.  
 20 Holmes, 2006 WL 20584 (Fla.), 31 Fla. L. Weekly S1, that the  
 21 state must provide a system of uniform, efficient, safe,  
 22 secure, and high-quality public schools to fulfill this  
 23 constitutional requirement, and

24 WHEREAS, the Florida Supreme Court invalidated the  
 25 Opportunity Scholarship Program because it allowed state funds  
 26 to be disbursed to private schools, and

27 WHEREAS, the Legislature created the Opportunity  
 28 Scholarship Program to ensure that all children have a chance  
 29 to gain the knowledge and skills they need to succeed, and

30 WHEREAS, the state is committed to improving the  
 31 quality of the education provided by the public school system,

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1 and

2 WHEREAS, there are some public schools that continue to  
3 fail to make adequate progress based on the school performance  
4 grading categories established by law, and

5 WHEREAS, respecting the constitutional mandate cited by  
6 the Florida Supreme Court, the Legislature intends for the  
7 state to develop and implement a comprehensive strategic  
8 program to facilitate the improvement of schools that are  
9 failing to make adequate progress, and

10 WHEREAS, facilitating the improvement in the  
11 performance of these schools is a multiyear endeavor, and  
12 progress will occur over an extended period of time, and

13 WHEREAS, students assigned to schools that are failing  
14 to make adequate progress should have the choice of attending  
15 a higher-performing school while the state continues to  
16 facilitate the improvement of these schools, and

17 WHEREAS, the Legislature intends to create a program to  
18 provide an educational safety net to students assigned to  
19 these schools, distinct from and without impeding the efforts  
20 to help these schools improve, NOW, THEREFORE,

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