

1 limitations; providing for use of such
2 contributions for scholarships for students
3 attending certain failing schools to attend
4 nonpublic schools or public schools in adjacent
5 districts; providing requirements and
6 limitations with respect to scholarships;
7 providing for payment; establishing eligibility
8 for nonpublic school participation; providing
9 for administration by the Department of Revenue
10 and the Department of Education; providing for
11 rules; providing requirements for deposit of
12 eligible contributions; amending s. 213.053,
13 F.S.; conforming provisions to the creation of
14 the tax credit scholarship program for families
15 of students in failing schools; authorizing the
16 Department of Revenue to share certain tax
17 information with the Department of Education;
18 amending s. 220.02, F.S.; revising legislative
19 intent with respect to the order in which
20 corporate income tax credits are applied to
21 conform to the creation of the tax credit
22 scholarship program for families of students in
23 failing schools; amending s. 220.13, F.S.;
24 redefining the term "adjusted federal income"
25 to account for the creation of the tax credit
26 scholarship program for families of students in
27 failing schools; providing for the credit to be
28 an addition to taxable income; amending s.
29 220.701, F.S.; directing the Department of
30 Revenue to deposit moneys received through the
31 corporate income tax into the Corporate Income

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

21 WHEREAS, education is a fundamental value and a
22 paramount duty of the state, and

23 WHEREAS, the State Constitution requires the state to
24 provide for the free education of all children residing within
25 its borders, and

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

1 WHEREAS, the Florida Supreme Court invalidated the
2 Opportunity Scholarship Program because it allowed state funds
3 to be disbursed to private schools, and

4 WHEREAS, the Legislature created the Opportunity
5 Scholarship Program to ensure that all children have a chance
6 to gain the knowledge and skills they need to succeed, and

7 WHEREAS, the state is committed to improving the
8 quality of the education provided by the public school system,
9 and

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

13 WHEREAS, respecting the constitutional mandate cited by
14 the Florida Supreme Court, the Legislature intends for the
15 state to develop and implement a comprehensive strategic
16 program to facilitate the improvement of schools that are
17 failing to make adequate progress, and

18 WHEREAS, facilitating the improvement in the
19 performance of these schools is a multiyear endeavor, and
20 progress will occur over an extended period of time, and

21 WHEREAS, students assigned to schools that are failing
22 to make adequate progress should have the choice of attending
23 a higher-performing school while the state continues to
24 facilitate the improvement of these schools, and

25 WHEREAS, the Legislature intends to create a program to
26 provide an educational safety net to students assigned to
27 these schools, distinct from and without impeding the efforts
28 to help these schools improve, NOW, THEREFORE,

29
30 Be It Enacted by the Legislature of the State of Florida:
31

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

3 1008.3455 Improvement program for schools failing to
4 make adequate progress.--

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

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

22 (a) At a minimum, the program must include an
23 assessment of the extent to which new policies, or
24 enhancements to existing policies, in the following areas
25 would facilitate improvement at these schools:

- 26 1. Capital improvements to school facilities;
27 2. Salaries for teachers and staff;
28 3. Incentives for outstanding faculty and staff to
29 transfer to these schools;
30 4. Equipment and supplies;
31 5. Technology infrastructure, hardware, or software;

1 6. Incentives to encourage parental or other family
2 participation; and

3 7. Mentoring and other community participation.

4 (b) The program must include a suggested order of
5 priority and timeline for enacting, funding, and implementing
6 policies and practices over a 5-year period. The program
7 shall identify those elements of the program which can be
8 accomplished within existing statutory authority and those
9 elements that will require new statutory authority. The
10 program must include specific recommendations for action by
11 the Legislature.

12 (3)(a) To assist in development and implementation of
13 the program required by this section, the commissioner shall
14 create an advisory committee comprised of at least two
15 teachers, two staff persons, and two parents of students from
16 one or more schools that are failing to make adequate progress
17 based on the school performance grading categories, as well as
18 any other individuals the commissioner deems appropriate.

19 (b) In developing and implementing the program, the
20 commissioner shall consult with:

21 1. The Office of Program Policy Analysis and
22 Government Accountability; and

23 2. The district community assessment teams assigned
24 under s. 1008.345.

25 (4) The program shall be developed in coordination
26 with, and shall be consistent with, other strategic planning
27 initiatives of the Department of Education or the State Board
28 of Education.

29 (5) The commissioner shall report annually to the
30 Governor, the President of the Senate, and the Speaker of the
31 House of Representatives on implementation of the program.

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

3 220.187 Credits for contributions to nonprofit
4 scholarship-funding organizations; families that have limited
5 financial resources.--

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

7 (a) Encourage private, voluntary contributions to
8 nonprofit scholarship-funding organizations.

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

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

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

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

15 (b) "Eligible contribution" means a monetary
16 contribution from a taxpayer, subject to the restrictions
17 provided in this section, to an eligible nonprofit
18 scholarship-funding organization. The taxpayer making the
19 contribution may not designate a specific child as the
20 beneficiary of the contribution.

21 (c) "Eligible nonprofit scholarship-funding
22 organization" means a charitable organization that:

23 1. Is exempt from federal income tax pursuant to s.
24 501(c)(3) of the Internal Revenue Code;

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

28 3. Complies with the provisions of subsection (6).

29
30 An eligible nonprofit scholarship-funding organization that is
31 authorized to provide scholarships under s. 220.1875 may,

1 subject to approval by the Department of Education, be
2 authorized to provide scholarships under this section.

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

7 (e) "Owner or operator" includes:

8 1. An owner, president, officer, or director of an
9 eligible nonprofit scholarship-funding organization or a
10 person with equivalent decisionmaking authority over an
11 eligible nonprofit scholarship-funding organization.

12 2. An owner, operator, superintendent, or principal of
13 an eligible private school or a person with equivalent
14 decisionmaking authority over an eligible private school.

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

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

23 (b) Received a scholarship from an eligible nonprofit
24 scholarship-funding organization or from the State of Florida
25 during the previous school year; or

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

27
28 Contingent upon available funds, a student may continue in the
29 scholarship program as long as the student's family income
30 level does not exceed 200 percent of the federal poverty
31 level.

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

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

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

8 (c) Receiving an educational scholarship pursuant to
9 chapter 1002;

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

12 (e) Participating in a private tutoring program
13 pursuant to s. 1002.43;

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

19 (g) Enrolled in the Florida School for the Deaf and
20 the Blind.

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

23 (a) There is allowed a credit of 100 percent of an
24 eligible contribution against any tax due for a taxable year
25 under this chapter. However, such a credit may not exceed 75
26 percent of the tax due under this chapter for the taxable
27 year, after the application of any other allowable credits by
28 the taxpayer. The credit granted by this section shall be
29 reduced by the difference between the amount of federal
30 corporate income tax taking into account the credit granted by
31

1 | this section and the amount of federal corporate income tax
2 | without application of the credit granted by this section.

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

9 | (c) A taxpayer who files a Florida consolidated return
10 | as a member of an affiliated group pursuant to s. 220.131(1)
11 | may be allowed the credit on a consolidated return basis;
12 | however, the total credit taken by the affiliated group is
13 | subject to the limitation established under paragraph (a).

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

28 | (6) OBLIGATIONS OF ELIGIBLE NONPROFIT
29 | SCHOLARSHIP-FUNDING ORGANIZATIONS.--An eligible nonprofit
30 | scholarship-funding organization:
31 |

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

3 (b) Must comply with the following background check
4 requirements:

5 1. All owners and operators as defined in subparagraph
6 (2)(e)1. are, upon employment or engagement to provide
7 services, subject to level 2 background screening as provided
8 under chapter 435. The fingerprints for the background
9 screening must be electronically submitted to the Department
10 of Law Enforcement and can be taken by an authorized law
11 enforcement agency or by an employee of the eligible nonprofit
12 scholarship-funding organization or a private company who is
13 trained to take fingerprints. However, the complete set of
14 fingerprints of an owner or operator may not be taken by the
15 owner or operator. The results of the state and national
16 criminal history check shall be provided to the Department of
17 Education for screening under chapter 435. The cost of the
18 background screening may be borne by the eligible nonprofit
19 scholarship-funding organization or the owner or operator.

20 2. Every 5 years following employment or engagement to
21 provide services or association with an eligible nonprofit
22 scholarship-funding organization, each owner or operator must
23 meet level 2 screening standards as described in s. 435.04, at
24 which time the nonprofit scholarship-funding organization
25 shall request the Department of Law Enforcement to forward the
26 fingerprints to the Federal Bureau of Investigation for level
27 2 screening. If the fingerprints of an owner or operator are
28 not retained by the Department of Law Enforcement under
29 subparagraph 3., the owner or operator must electronically
30 file a complete set of fingerprints with the Department of Law
31 Enforcement. Upon submission of fingerprints for this purpose,

1 | the eligible nonprofit scholarship-funding organization shall
2 | request that the Department of Law Enforcement forward the
3 | fingerprints to the Federal Bureau of Investigation for level
4 | 2 screening, and the fingerprints shall be retained by the
5 | Department of Law Enforcement under subparagraph 3.

6 | 3. Beginning July 1, 2007, all fingerprints submitted
7 | to the Department of Law Enforcement as required by this
8 | paragraph must be retained by the Department of Law
9 | Enforcement in a manner approved by rule and entered in the
10 | statewide automated fingerprint identification system
11 | authorized by s. 943.05(2)(b). The fingerprints must
12 | thereafter be available for all purposes and uses authorized
13 | for arrest fingerprint cards entered in the statewide
14 | automated fingerprint identification system pursuant to s.
15 | 943.051.

16 | 4. Beginning July 1, 2007, the Department of Law
17 | Enforcement shall search all arrest fingerprint cards received
18 | under s. 943.051 against the fingerprints retained in the
19 | statewide automated fingerprint identification system under
20 | subparagraph 3. Any arrest record that is identified with an
21 | owner's or operator's fingerprints must be reported to the
22 | Department of Education. The Department of Education shall
23 | participate in this search process by paying an annual fee to
24 | the Department of Law Enforcement and by informing the
25 | Department of Law Enforcement of any change in the employment,
26 | engagement, or association status of the owners or operators
27 | whose fingerprints are retained under subparagraph 3. The
28 | Department of Law Enforcement shall adopt a rule setting the
29 | amount of the annual fee to be imposed upon the Department of
30 | Education for performing these services and establishing the
31 | procedures for the retention of owner and operator

1 fingerprints and the dissemination of search results. The fee
2 may be borne by the owner or operator of the nonprofit
3 scholarship-funding organization.

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

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

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

15 (d) Must provide scholarships, from eligible
16 contributions, to eligible students for:

17 1. Tuition or textbook expenses for, or transportation
18 to, an eligible private school. At least 75 percent of the
19 scholarship funding must be used to pay tuition expenses; or

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

23 (e) Must give priority to eligible students who
24 received a scholarship from an eligible nonprofit
25 scholarship-funding organization or from the State of Florida
26 during the previous school year or who received an opportunity
27 scholarship under former s. 1002.38 during the final quarter
28 of the 2006-2007 school year.

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

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

4 (h) Must allow an eligible student to attend any
5 eligible private school and must allow a parent to transfer a
6 scholarship during a school year to any other eligible private
7 school of the parent's choice.

8 (i) Must obligate, in the same fiscal year in which
9 the 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

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 (l) 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.

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.

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

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

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

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

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

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

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

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

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

1 determine legal sufficiency, the Department of Education may
2 require supporting information or documentation from the
3 complainant. A department inquiry is not subject to the
4 requirements of chapter 120.

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

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

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

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

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

16 | (k) Notify an eligible nonprofit scholarship-funding
17 | organization of any of the organization's identified students
18 | who are receiving educational scholarships pursuant to chapter
19 | 1002.

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

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

30 | (n)1. Conduct random site visits to private schools
31 | participating in the Corporate Tax Credit Scholarship Program.

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

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

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

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

1 revoke the private school's participation in the scholarship
2 program.

3 (b) The commissioner's determination is subject to the
4 following:

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

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

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

1 | this subparagraph may be waived upon stipulation by all
2 | parties.

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

6 | 1. An imminent threat to the health, safety, and
7 | welfare of the students; or

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

14 | a. A court of competent jurisdiction in compliance
15 | with an order of that court or the attorney of record in
16 | accordance with a lawfully issued subpoena, consistent with
17 | the Family Educational Rights and Privacy Act, 20 U.S.C. s.
18 | 1232g.

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

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

31 |

1 The commissioner's order suspending payment pursuant to this
2 paragraph may be appealed pursuant to the same procedures and
3 timelines as the notice of proposed action set forth in
4 paragraph (b).

5 (11) SCHOLARSHIP AMOUNT AND PAYMENT.--

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

10 1. Three thousand seven hundred fifty dollars for a
11 scholarship awarded to a student enrolled in an eligible
12 private school.

13 2. Five hundred dollars for a scholarship awarded to a
14 student enrolled in a Florida public school that is located
15 outside the district in which the student resides or in a lab
16 school as defined in s. 1002.32.

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

29 (c) An eligible nonprofit scholarship-funding
30 organization shall obtain verification from the private school
31

1 of a student's continued attendance at the school prior to
2 each scholarship payment.

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

6 (12) ADMINISTRATION; RULES.--

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

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

24 (c) The department and the Department of Education
25 shall develop a cooperative agreement to assist in the
26 administration of this section.

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

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

5 (13) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--

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

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

19 Section 3. Section 220.1875, Florida Statutes, is
20 created to read:

21 220.1875 Credits for contributions to nonprofit
22 scholarship-funding organizations; families of students
23 attending schools failing to make adequate progress.--

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

25 (a) Ensure that, while the state is implementing a
26 multiyear, comprehensive strategic program to facilitate the
27 improvement of schools that are failing to make adequate
28 progress based on school performance grading categories,
29 students attending failing schools are not denied the
30 opportunity to gain the knowledge and skills necessary for
31

1 postsecondary education, a career education, or the world of
2 work.

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

7 (c) Complement the constitutional requirement to
8 provide a uniform, efficient, safe, secure, and high-quality
9 system of free public schools by providing educational
10 opportunities to students attending failing public schools
11 without impeding the ability of those schools to improve.

12 (d) Encourage private, voluntary contributions to
13 nonprofit scholarship-funding organizations.

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

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

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

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

28 (d) "Eligible nonprofit scholarship-funding
29 organization" means a charitable organization as defined in s.
30 220.187(2)(c) which is exempt from federal income tax pursuant
31 to s. 501(c)(3) of the Internal Revenue Code and complies with

1 the provisions of subsection (5). An eligible nonprofit
2 scholarship-funding organization that is authorized to provide
3 scholarships under s. 220.187 may, subject to approval by the
4 Department of Education, be authorized to provide scholarships
5 under this section.

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

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

13 2. Has been in attendance elsewhere in the public
14 school system and has been assigned to such school for the
15 next school year; or

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

19
20 This section does not apply to a student who is enrolled in a
21 school operating for the purpose of providing educational
22 services to youth in commitment programs of the Department of
23 Juvenile Justice.

24 (3) SCHOOL DISTRICT OBLIGATIONS.--

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

29 1. Timely notify the parent of the student as soon as
30 such designation is made of all options available pursuant to
31 this section;

1 2. Offer that student's parent an opportunity to
2 enroll the student in another public school within the
3 district which has been designated by the state pursuant to s.
4 1008.34 as a school performing higher than the school in which
5 the student is currently enrolled or to which the student has
6 been assigned, but not less than performance grade category
7 "C"; and

8 3. Inform that student's parent of the child's
9 eligibility to receive a scholarship under this section to
10 enroll the student in and transport the student to attend a
11 public school outside the district which has been designated
12 by the state pursuant to s. 1008.34 as a school performing
13 higher than that in which the student is currently enrolled or
14 to which the student has been assigned, but not less than
15 performance grade category "C," or to attend an eligible
16 nonpublic school.

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

22 (c) For students in the school district who are
23 attending nonpublic schools under this section, the school
24 district shall provide locations and times to take all
25 statewide assessments required pursuant to s. 1008.22.

26 (d) Students with disabilities who are eligible to
27 receive services from the school district under federal or
28 state law, and who receive a scholarship under this section,
29 remain eligible to receive services from the school district
30 as provided by federal or state law.

31

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

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

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

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

25 (5) OBLIGATIONS OF ELIGIBLE NONPROFIT
26 SCHOLARSHIP-FUNDING ORGANIZATIONS.--

27 (a) An eligible nonprofit scholarship-funding
28 organization shall provide scholarships, from eligible
29 contributions, to qualified students for:

30 1. Tuition and fees for a qualified student enrolled
31 in an eligible nonpublic school.

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

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

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

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

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

16 b. A calculated amount equivalent to the base student
17 allocation in the Florida Education Finance Program multiplied
18 by the appropriate cost factor for the educational program
19 that will be provided for the student in the district school
20 to which he or she is assigned, multiplied by the district
21 cost differential. In addition, the calculated amount shall
22 include the per-student share of instructional materials
23 funds, technology funds, and other categorical funds.

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

27 (d) The amount of an eligible contribution which may
28 be accepted by an eligible nonprofit scholarship-funding
29 organization is limited to the amount needed to provide
30 scholarships for qualified students which the organization has
31

1 identified and for which vacancies in eligible nonpublic
2 schools have been identified.

3 (e) An eligible nonprofit scholarship-funding
4 organization that receives an eligible contribution must spend
5 100 percent of the eligible contribution to provide
6 scholarships in the same state fiscal year in which the
7 contribution was received. No portion of eligible
8 contributions may be used for administrative expenses. All
9 interest accrued from contributions must be used for
10 scholarships.

11 (f) An eligible nonprofit scholarship-funding
12 organization that receives eligible contributions must provide
13 to the Auditor General an annual financial and compliance
14 audit of its accounts and records conducted by an independent
15 certified public accountant and in accordance with rules
16 adopted by the Auditor General.

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

31

1 (6) PARENT OBLIGATIONS.--As a condition for
2 scholarship payment pursuant to paragraph (5)(g), if the
3 parent chooses for his or her child to attend an eligible
4 nonpublic school, the parent must:

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

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

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

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

21 (8) DURATION OF SCHOLARSHIP.--

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

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

31

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

6
7 At any time upon reasonable notice to the Department of
8 Education and the school district, the student's parent may
9 remove the student from the nonpublic school and place the
10 student in a public school, as provided in subparagraph
11 (3)(a)2.

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

22 (9) ELIGIBLE NONPUBLIC SCHOOL OBLIGATIONS.--An
23 eligible nonpublic school must:

24 (a) Demonstrate fiscal soundness by being in operation
25 for 1 school year or provide the Department of Education with
26 a statement by a certified public accountant confirming that
27 the nonpublic school desiring to participate is insured and
28 the owner or owners have sufficient capital or credit to
29 operate the school for the upcoming year serving the number of
30 students anticipated with expected revenues from tuition and
31 other sources which may be reasonably expected. In lieu of

1 such a statement, a surety bond or letter of credit for the
2 amount equal to the scholarship funds for any quarter may be
3 filed with the department.

4 (b) Notify the Department of Education, the school
5 district in whose service area the school is located, and all
6 eligible nonprofit scholarship funding organizations of its
7 intent to participate in the program under this section by May
8 1 of the school year preceding the school year in which it
9 intends to participate. The notice must specify the grade
10 levels and services that the private school has available for
11 qualified students under this section.

12 (c) Comply with the antidiscrimination provisions of
13 42 U.S.C. s. 2000d.

14 (d) Meet state and local health and safety laws and
15 codes.

16 (e) Comply with all state laws relating to general
17 regulation of nonpublic schools.

18 (f) Accept scholarship students on an entirely random
19 and religious-neutral basis without regard to the student's
20 past academic history; however, the nonpublic school may give
21 preference in accepting applications to siblings of students
22 who have already been accepted on a random and
23 religious-neutral basis.

24 (g) Be subject to the instruction, curriculum, and
25 attendance criteria adopted by an appropriate nonpublic school
26 accrediting body and be academically accountable to the parent
27 for meeting the educational needs of the student. The
28 nonpublic school must furnish a school profile that includes
29 student performance.

30 (h) Employ or contract with teachers who hold a
31 baccalaureate or higher degree, have at least 3 years of

1 teaching experience in public or private schools, or have
2 special skills, knowledge, or expertise that qualifies them to
3 provide instruction in subjects taught.

4 (i) Comply with all state statutes relating to private
5 schools.

6 (j) Accept as full tuition and fees the amount
7 provided by the state nonprofit scholarship-funding
8 organization for each student.

9 (k) Agree not to compel any student attending the
10 private school under this section to profess a specific
11 ideological belief, to pray, or to worship.

12 (l) Adhere to the tenets of its published disciplinary
13 procedures prior to the expulsion of any student attending the
14 private school under this section.

15 (10) ADMINISTRATION; RULES.--

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

30
31

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

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

16 (d) The department shall adopt rules pursuant to ss.
17 120.536(1) and 120.54 as necessary to administer this section,
18 including rules establishing application forms and procedures
19 and governing the allocation of tax credits and carryforward
20 credits under this section on a first-come, first-served
21 basis.

22 (e) The State Board of Education shall adopt rules
23 pursuant to ss. 120.536(1) and 120.54 as necessary to
24 determine the eligibility of nonprofit scholarship-funding
25 organizations as defined in paragraph (2)(d) and according to
26 the provisions of subsection (5) and identify qualified
27 students as defined in paragraph (2)(e).

28 (11) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--

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

1 (b) A nonprofit scholarship-funding organization that
2 is authorized to receive donations and distribute scholarships
3 under this section and s. 220.187 shall account for donations
4 and scholarships separately by each tax credit program. If,
5 in a single fiscal year, the amount of donations available for
6 distribution as scholarships in one program exceeds the demand
7 for scholarships under that program for that fiscal year, the
8 organization may, with approval from the Department of
9 Education, apply those surplus funds to meet demand in the
10 other program.

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

13 213.053 Confidentiality and information sharing.--

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

16 (z) Information relative to s. 220.1875 to the
17 Department of Education in the conduct of its official
18 business.

19
20 Disclosure of information under this subsection shall be
21 pursuant to a written agreement between the executive director
22 and the agency. Such agencies, governmental or
23 nongovernmental, shall be bound by the same requirements of
24 confidentiality as the Department of Revenue. Breach of
25 confidentiality is a misdemeanor of the first degree,
26 punishable as provided by s. 775.082 or s. 775.083.

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

29 220.02 Legislative intent.--

30 (8) It is the intent of the Legislature that credits
31 against either the corporate income tax or the franchise tax

1 | be applied in the following order: those enumerated in s.
2 | 631.828, those enumerated in s. 220.191, those enumerated in
3 | s. 220.181, those enumerated in s. 220.183, those enumerated
4 | in s. 220.182, those enumerated in s. 220.1895, those
5 | enumerated in s. 221.02, those enumerated in s. 220.184, those
6 | enumerated in s. 220.186, those enumerated in s. 220.1845,
7 | those enumerated in s. 220.19, those enumerated in s. 220.185,
8 | those enumerated in s. 220.187, those enumerated in s.
9 | 220.1875, those enumerated in s. 220.192, and those enumerated
10 | in s. 220.193.

11 | Section 6. Paragraph (a) of subsection (1) of section
12 | 220.13, Florida Statutes, is amended to read:

13 | 220.13 "Adjusted federal income" defined.--

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

19 | (a) Additions.--There shall be added to such taxable
20 | income:

21 | 1. The amount of any tax upon or measured by income,
22 | excluding taxes based on gross receipts or revenues, paid or
23 | accrued as a liability to the District of Columbia or any
24 | state of the United States which is deductible from gross
25 | income in the computation of taxable income for the taxable
26 | year.

27 | 2. The amount of interest which is excluded from
28 | taxable income under s. 103(a) of the Internal Revenue Code or
29 | any other federal law, less the associated expenses disallowed
30 | in the computation of taxable income under s. 265 of the
31 | Internal Revenue Code or any other law, excluding 60 percent

1 of any amounts included in alternative minimum taxable income,
2 as defined in s. 55(b)(2) of the Internal Revenue Code, if the
3 taxpayer pays tax under s. 220.11(3).

4 3. In the case of a regulated investment company or
5 real estate investment trust, an amount equal to the excess of
6 the net long-term capital gain for the taxable year over the
7 amount of the capital gain dividends attributable to the
8 taxable year.

9 4. That portion of the wages or salaries paid or
10 incurred for the taxable year which is equal to the amount of
11 the credit allowable for the taxable year under s. 220.181.
12 This subparagraph shall expire on the date specified in s.
13 290.016 for the expiration of the Florida Enterprise Zone Act.

14 5. That portion of the ad valorem school taxes paid or
15 incurred for the taxable year which is equal to the amount of
16 the credit allowable for the taxable year under s. 220.182.
17 This subparagraph shall expire on the date specified in s.
18 290.016 for the expiration of the Florida Enterprise Zone Act.

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

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

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

31

1 9. The amount taken as a credit for the taxable year
2 under s. 220.1895.

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

6 11. The amount taken as a credit for the taxable year
7 under s. 220.187.

8 12. The amount taken as a credit for the taxable year
9 under s. 220.1875.

10 ~~13.12.~~ The amount taken as a credit for the taxable
11 year under s. 220.192.

12 ~~14.13.~~ The amount taken as a credit for the taxable
13 year under s. 220.193.

14 Section 7. Section 220.701, Florida Statutes, is
15 amended to read:

16 220.701 Collection authority.--The department shall
17 collect the taxes imposed by this chapter and shall pay all
18 moneys received by it into the Corporate Income Tax Trust Fund
19 created under s. 220.7015. Unencumbered balances in this trust
20 fund shall be transferred monthly into the General Revenue
21 Fund of the state. However, such transfers shall be expended
22 exclusively on programs that are consistent with the uses
23 established for the Corporate Income Tax Trust Fund and that
24 are specifically identified in the General Appropriations Act.

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

27 1001.10 Commissioner of Education; general powers and
28 duties.--The Commissioner of Education is the chief
29 educational officer of the state and the sole custodian of the
30 K-20 data warehouse, and is responsible for giving full
31 assistance to the State Board of Education in enforcing

1 compliance with the mission and goals of the seamless K-20
2 education system. To facilitate innovative practices and to
3 allow local selection of educational methods, the State Board
4 of Education may authorize the commissioner to waive, upon the
5 request of a district school board, State Board of Education
6 rules that relate to district school instruction and school
7 operations, except those rules pertaining to civil rights, and
8 student health, safety, and welfare. The Commissioner of
9 Education is not authorized to grant waivers for any
10 provisions in rule pertaining to the allocation and
11 appropriation of state and local funds for public education;
12 the election, compensation, and organization of school board
13 members and superintendents; graduation and state
14 accountability standards; financial reporting requirements;
15 reporting of out-of-field teaching assignments under s.
16 1012.42; public meetings; public records; or due process
17 hearings governed by chapter 120. No later than January 1 of
18 each year, the commissioner shall report to the Legislature
19 and the State Board of Education all approved waiver requests
20 in the preceding year. Additionally, the commissioner has the
21 following general powers and duties:

22 (13) To prepare and publish annually reports giving
23 statistics and other useful information pertaining to the tax
24 credit programs under ss. 220.187 and 220.1875 Opportunity
25 Scholarship Program.

26
27 The commissioner's office shall operate all statewide
28 functions necessary to support the State Board of Education
29 and the K-20 education system, including strategic planning
30 and budget development, general administration, and assessment
31 and accountability.

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

3 1001.42 Powers and duties of district school
4 board.--The district school board, acting as a board, shall
5 exercise all powers and perform all duties listed below:

6 (18) CORPORATE INCOME TAX CREDIT SCHOLARSHIP PROGRAM;
7 FAMILIES OF STUDENTS ATTENDING FAILING SCHOOLS OPPORTUNITY
8 SCHOLARSHIPS.--Adopt policies allowing students attending
9 schools that have been designated with a grade of "F," failing
10 to make adequate progress, for 2 school years in a 4-year
11 period to attend a higher performing public school in the same
12 district ~~or an adjoining district~~ or be granted a ~~state~~
13 ~~opportunity~~ scholarship to transport the student to a public
14 school in an adjoining district or a scholarship to attend a
15 private school, in conformance with s. 220.1875 ~~s. 1002.38~~ and
16 State Board of Education rule.

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

19 1002.20 K-12 student and parent rights.--Parents of
20 public school students must receive accurate and timely
21 information regarding their child's academic progress and must
22 be informed of ways they can help their child to succeed in
23 school. K-12 students and their parents are afforded numerous
24 statutory rights including, but not limited to, the following:

25 (6) EDUCATIONAL CHOICE.--

26 (a) Public school choices.--Parents of public school
27 students may seek whatever public school choice options that
28 are applicable to their students and are available to students
29 in their school districts. These options may include
30 controlled open enrollment, lab schools, charter schools,
31 charter technical career centers, magnet schools, alternative

1 | schools, special programs, advanced placement, dual
2 | enrollment, International Baccalaureate, International General
3 | Certificate of Secondary Education (pre-AICE), Advanced
4 | International Certificate of Education, early admissions,
5 | credit by examination or demonstration of competency, the New
6 | World School of the Arts, the Florida School for the Deaf and
7 | the Blind, and the Florida Virtual School. These options may
8 | also include the public school choice options of the corporate
9 | income tax credit scholarship programs ~~Opportunity Scholarship~~
10 | ~~Program~~ and the McKay Scholarships for Students with
11 | Disabilities Program.

12 | (b) Private school choices.--Parents of public school
13 | students may seek private school choice options under certain
14 | programs.

15 | 1. Under the corporate income tax credit scholarship
16 | program for families of students attending schools failing to
17 | make adequate progress ~~Opportunity Scholarship Program~~, the
18 | parent of a student in a failing public school may seek a
19 | request and receive an opportunity scholarship from an
20 | eligible nonprofit scholarship-funding organization for the
21 | student to attend a private school in accordance with s.
22 | 220.1875 ~~the provisions of s. 1002.38.~~

23 | 2. Under the McKay Scholarships for Students with
24 | Disabilities Program, the parent of a public school student
25 | with a disability who is dissatisfied with the student's
26 | progress may request and receive a McKay Scholarship for the
27 | student to attend a private school in accordance with ~~the~~
28 | ~~provisions of s. 1002.39.~~

29 | 3. Under the corporate income tax credit scholarship
30 | program for families that have limited financial resources,
31 | the parent of a student who qualifies for free or

1 reduced-price school lunch may seek a scholarship from an
2 eligible nonprofit scholarship-funding organization for the
3 student to attend a private school in accordance with ~~the~~
4 ~~provisions of s. 220.187.~~

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

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

11 Section 11. Section 1002.38, Florida Statutes, is
12 repealed.

13 Section 12. Section 1002.39, Florida Statutes, is
14 amended to read:

15 1002.39 The John M. McKay Scholarships for Students
16 with Disabilities Program.--There is established a program
17 that is ~~separate and distinct from the Opportunity Scholarship~~
18 ~~Program and is~~ named the John M. McKay Scholarships for
19 Students with Disabilities Program.

20 (1) THE JOHN M. MCKAY SCHOLARSHIPS FOR STUDENTS WITH
21 DISABILITIES PROGRAM.--The John M. McKay Scholarships for
22 Students with Disabilities Program is established to provide
23 the option to attend a public school other than the one to
24 which assigned, or to provide a scholarship to a private
25 school of choice, for students with disabilities for whom an
26 individual education plan has been written in accordance with
27 rules of the State Board of Education. Students with
28 disabilities include K-12 students who are documented as
29 having a mental handicap, including trainable, profound, or
30 educable; a speech or language impairment; a hearing
31 impairment, including deafness; a visual impairment, including

1 | blindness; a dual sensory impairment; a physical impairment; a
2 | serious emotional disturbance, including an emotional
3 | handicap; a specific learning disability, including, but not
4 | limited to, dyslexia, dyscalculia, or developmental aphasia; a
5 | traumatic brain injury; or autism.

6 | (2) JOHN M. MCKAY SCHOLARSHIP ELIGIBILITY.--The parent
7 | of a public school student with a disability who is
8 | dissatisfied with the student's progress may request and
9 | receive from the state a John M. McKay Scholarship for the
10 | child to enroll in and attend a private school in accordance
11 | with this section if:

12 | (a) The student has spent the prior school year in
13 | attendance at a Florida public school or the Florida School
14 | for the Deaf and the Blind. Prior school year in attendance
15 | means that the student was:

16 | 1. Enrolled and reported by a school district for
17 | funding during the preceding October and February Florida
18 | Education Finance Program surveys in kindergarten through
19 | grade 12, which shall include time spent in a Department of
20 | Juvenile Justice commitment program if funded under the
21 | Florida Education Finance Program;

22 | 2. Enrolled and reported by the Florida School for the
23 | Deaf and the Blind during the preceding October and February
24 | student membership surveys in kindergarten through grade 12;
25 | or

26 | 3. Enrolled and reported by a school district for
27 | funding during the preceding October and February Florida
28 | Education Finance Program surveys, was at least 4 years old
29 | when so enrolled and reported, and was eligible for services
30 | under s. 1003.21(1)(e).

31 |

1 | However, a dependent child of a member of the United States
2 | Armed Forces who transfers to a school in this state from out
3 | of state or from a foreign country pursuant to a parent's
4 | permanent change of station orders is exempt from this
5 | paragraph but must meet all other eligibility requirements to
6 | participate in the program.

7 | (b) The parent has obtained acceptance for admission
8 | of the student to a private school that is eligible for the
9 | program under subsection (8) and has requested from the
10 | department a scholarship at least 60 days prior to the date of
11 | the first scholarship payment. The request must be through a
12 | communication directly to the department in a manner that
13 | creates a written or electronic record of the request and the
14 | date of receipt of the request. The Department of Education
15 | must notify the district of the parent's intent upon receipt
16 | of the parent's request.

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

20 | (a) Enrolled in a school operating for the purpose of
21 | providing educational services to youth in Department of
22 | Juvenile Justice commitment programs;

23 | (b) Receiving a corporate income tax credit
24 | scholarship under s. 220.187;

25 | (c) Receiving an educational scholarship pursuant to
26 | this chapter;

27 | (d) Participating in a home education program as
28 | defined in s. 1002.01(1);

29 | (e) Participating in a private tutoring program
30 | pursuant to s. 1002.43;

31 |

1 (f) Participating in a virtual school, correspondence
2 school, or distance learning program that receives state
3 funding pursuant to the student's participation unless the
4 participation is limited to no more than two courses per
5 school year;

6 (g) Enrolled in the Florida School for the Deaf and
7 the Blind; or

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

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

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

15 (b) Upon reasonable notice to the department and the
16 school district, the student's parent may remove the student
17 from the private school and place the student in a public
18 school in accordance with this section.

19 (c) Upon reasonable notice to the department, the
20 student's parent may move the student from one participating
21 private school to another participating private school.

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

23 (a)1. By April 1 of each year and within 10 days after
24 an individual education plan meeting, a school district shall
25 notify the parent of the student of all options available
26 pursuant to this section, inform the parent of the
27 availability of the department's telephone hotline and
28 Internet website for additional information on John M. McKay
29 Scholarships, and offer that student's parent an opportunity
30 to enroll the student in another public school within the
31 district.

1 2. The parent is not required to accept the offer of
2 enrolling in another public school in lieu of requesting a
3 John M. McKay Scholarship to a private school. However, if the
4 parent chooses the public school option, the student may
5 continue attending a public school chosen by the parent until
6 the student graduates from high school.

7 3. If the parent chooses a public school consistent
8 with the district school board's choice plan under s. 1002.31,
9 the school district shall provide transportation to the public
10 school selected by the parent. The parent is responsible to
11 provide transportation to a public school chosen that is not
12 consistent with the district school board's choice plan under
13 s. 1002.31.

14 (b)1. For a student with disabilities who does not
15 have a matrix of services under s. 1011.62(1)(e), the school
16 district must complete a matrix that assigns the student to
17 one of the levels of service as they existed prior to the
18 2000-2001 school year.

19 2.a. Within 10 school days after it receives
20 notification of a parent's request for a John M. McKay
21 Scholarship, a school district must notify the student's
22 parent if the matrix of services has not been completed and
23 inform the parent that the district is required to complete
24 the matrix within 30 days after receiving notice of the
25 parent's request for a John M. McKay Scholarship. This notice
26 should include the required completion date for the matrix.

27 b. The school district must complete the matrix of
28 services for any student who is participating in the John M.
29 McKay Scholarships for Students with Disabilities Program and
30 must notify the department of the student's matrix level
31 within 30 days after receiving notification of a request to

1 participate in the scholarship program. The school district
2 must provide the student's parent with the student's matrix
3 level within 10 school days after its completion.

4 c. The department shall notify the private school of
5 the amount of the scholarship within 10 days after receiving
6 the school district's notification of the student's matrix
7 level.

8 d. A school district may change a matrix of services
9 only if the change is to correct a technical, typographical,
10 or calculation error.

11 (c) A school district shall provide notification to
12 parents of the availability of a reevaluation at least every 3
13 years of each student who receives a John M. McKay
14 Scholarship.

15 (d) If the parent chooses the private school option
16 and the student is accepted by the private school pending the
17 availability of a space for the student, the parent of the
18 student must notify the department 60 days prior to the first
19 scholarship payment and before entering the private school in
20 order to be eligible for the scholarship when a space becomes
21 available for the student in the private school.

22 (e) The parent of a student may choose, as an
23 alternative, to enroll the student in and transport the
24 student to a public school in an adjacent school district
25 which has available space and has a program with the services
26 agreed to in the student's individual education plan already
27 in place, and that school district shall accept the student
28 and report the student for purposes of the district's funding
29 pursuant to the Florida Education Finance Program.

30 (f) For a student who participates in the John M.
31 McKay Scholarships for Students with Disabilities Program

1 | whose parent requests that the student take the statewide
2 | assessments under s. 1008.22, the district in which the
3 | student attends private school shall provide locations and
4 | times to take all statewide assessments.

5 | (6) DEPARTMENT OF EDUCATION OBLIGATIONS.--The
6 | department shall:

7 | (a) Establish a toll-free hotline that provides
8 | parents and private schools with information on participation
9 | in the John M. McKay Scholarships for Students with
10 | Disabilities Program.

11 | (b) Annually verify the eligibility of private schools
12 | that meet the requirements of subsection (8).

13 | (c) Establish a process by which individuals may
14 | notify the department of any violation by a parent, private
15 | school, or school district of state laws relating to program
16 | participation. The department shall conduct an inquiry of any
17 | written complaint of a violation of this section, or make a
18 | referral to the appropriate agency for an investigation, if
19 | the complaint is signed by the complainant and is legally
20 | sufficient. A complaint is legally sufficient if it contains
21 | ultimate facts that show that a violation of this section or
22 | any rule adopted by the State Board of Education has occurred.
23 | In order to determine legal sufficiency, the department may
24 | require supporting information or documentation from the
25 | complainant. A department inquiry is not subject to the
26 | requirements of chapter 120.

27 | (d) Require an annual, notarized, sworn compliance
28 | statement by participating private schools certifying
29 | compliance with state laws and shall retain such records.

30 |
31 |

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

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

16 2. Annually, by December 15, report to the Governor,
17 the President of the Senate, and the Speaker of the House of
18 Representatives the Department of Education's actions with
19 respect to implementing accountability in the scholarship
20 program under this section and s. 1002.421, any substantiated
21 allegations or violations of law or rule by an eligible
22 private school under this program concerning the enrollment
23 and attendance of students, the credentials of teachers,
24 background screening of teachers, and teachers' fingerprinting
25 results and the corrective action taken by the Department of
26 Education.

27 (7) COMMISSIONER OF EDUCATION AUTHORITY AND
28 OBLIGATIONS.--

29 (a) The Commissioner of Education shall deny, suspend,
30 or revoke a private school's participation in the scholarship
31 program if it is determined that the private school has failed

1 | to comply with the provisions of this section. However, in
2 | instances in which the noncompliance is correctable within a
3 | reasonable amount of time and in which the health, safety, or
4 | welfare of the students is not threatened, the commissioner
5 | may issue a notice of noncompliance which shall provide the
6 | private school with a timeframe within which to provide
7 | evidence of compliance prior to taking action to suspend or
8 | revoke the private school's participation in the scholarship
9 | program.

10 | (b) The commissioner's determination is subject to the
11 | following:

12 | 1. If the commissioner intends to deny, suspend, or
13 | revoke a private school's participation in the scholarship
14 | program, the department shall notify the private school of
15 | such proposed action in writing by certified mail and regular
16 | mail to the private school's address of record with the
17 | department. The notification shall include the reasons for the
18 | proposed action and notice of the timelines and procedures set
19 | forth in this paragraph.

20 | 2. The private school that is adversely affected by
21 | the proposed action shall have 15 days from receipt of the
22 | notice of proposed action to file with the department's agency
23 | clerk a request for a proceeding pursuant to ss. 120.569 and
24 | 120.57. If the private school is entitled to a hearing under
25 | s. 120.57(1), the department shall forward the request to the
26 | Division of Administrative Hearings.

27 | 3. Upon receipt of a request referred pursuant to this
28 | paragraph, the director of the Division of Administrative
29 | Hearings shall expedite the hearing and assign an
30 | administrative law judge who shall commence a hearing within
31 | 30 days after the receipt of the formal written request by the

1 | division and enter a recommended order within 30 days after
2 | the hearing or within 30 days after receipt of the hearing
3 | transcript, whichever is later. Each party shall be allowed 10
4 | days in which to submit written exceptions to the recommended
5 | order. A final order shall be entered by the agency within 30
6 | days after the entry of a recommended order. The provisions of
7 | this subparagraph may be waived upon stipulation by all
8 | parties.

9 | (c) The commissioner may immediately suspend payment
10 | of scholarship funds if it is determined that there is
11 | probable cause to believe that there is:

12 | 1. An imminent threat to the health, safety, or
13 | welfare of the students; or

14 | 2. Fraudulent activity on the part of the private
15 | school. Notwithstanding s. 1002.22(3), in incidents of alleged
16 | fraudulent activity pursuant to this section, the Department
17 | of Education's Office of Inspector General is authorized to
18 | release personally identifiable records or reports of students
19 | to the following persons or organizations:

20 | a. A court of competent jurisdiction in compliance
21 | with an order of that court or the attorney of record in
22 | accordance with a lawfully issued subpoena, consistent with
23 | the Family Educational Rights and Privacy Act, 20 U.S.C. s.
24 | 1232g.

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

30 | c. Any person, entity, or authority issuing a subpoena
31 | for law enforcement purposes when the court or other issuing

1 agency has ordered that the existence or the contents of the
2 subpoena or the information furnished in response to the
3 subpoena not be disclosed, consistent with the Family
4 Educational Rights and Privacy Act, 20 U.S.C. s. 1232g, and 34
5 C.F.R. s. 99.31.

6
7 The commissioner's order suspending payment pursuant to this
8 paragraph may be appealed pursuant to the same procedures and
9 timelines as the notice of proposed action set forth in
10 paragraph (b).

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

15 (a) Comply with all requirements for private schools
16 participating in state school choice scholarship programs
17 pursuant to s. 1002.421.

18 (b) Provide to the department all documentation
19 required for a student's participation, including the private
20 school's and student's fee schedules, at least 30 days before
21 the first quarterly scholarship payment is made for the
22 student.

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

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

27 2. Cooperating with the scholarship student whose
28 parent chooses to participate in the statewide assessments
29 pursuant to s. 1008.22.

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

1
2 The inability of a private school to meet the requirements of
3 this subsection shall constitute a basis for the ineligibility
4 of the private school to participate in the scholarship
5 program as determined by the department.

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

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

12 (b) The parent must have requested the scholarship at
13 least 60 days prior to the date of the first scholarship
14 payment.

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

19 (d) Each parent and each student has an obligation to
20 the private school to comply with the private school's
21 published policies.

22 (e) If the parent requests that the student
23 participating in the John M. McKay Scholarships for Students
24 with Disabilities Program take all statewide assessments
25 required pursuant to s. 1008.22, the parent is responsible for
26 transporting the student to the assessment site designated by
27 the school district.

28 (f) Upon receipt of a scholarship warrant, the parent
29 to whom the warrant is made must restrictively endorse the
30 warrant to the private school for deposit into the account of
31 the private school. The parent may not designate any entity or

1 individual associated with the participating private school as
2 the parent's attorney in fact to endorse a scholarship
3 warrant. A participant who fails to comply with this paragraph
4 forfeits the scholarship.

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

6 (a)1. The maximum scholarship granted for an eligible
7 student with disabilities shall be a calculated amount
8 equivalent to the base student allocation in the Florida
9 Education Finance Program multiplied by the appropriate cost
10 factor for the educational program that would have been
11 provided for the student in the district school to which he or
12 she was assigned, multiplied by the district cost
13 differential.

14 2. In addition, a share of the guaranteed allocation
15 for exceptional students shall be determined and added to the
16 calculated amount. The calculation shall be based on the
17 methodology and the data used to calculate the guaranteed
18 allocation for exceptional students for each district in
19 chapter 2000-166, Laws of Florida. Except as provided in
20 subparagraphs 3. and 4., the calculation shall be based on the
21 student's grade, matrix level of services, and the difference
22 between the 2000-2001 basic program and the appropriate level
23 of services cost factor, multiplied by the 2000-2001 base
24 student allocation and the 2000-2001 district cost
25 differential for the sending district. Also, the calculated
26 amount shall include the per-student share of supplemental
27 academic instruction funds, instructional materials funds,
28 technology funds, and other categorical funds as provided for
29 such purposes in the General Appropriations Act.

30 3. The calculated scholarship amount for a student who
31 is eligible under subparagraph (2)(a)2. shall be calculated as

1 provided in subparagraphs 1. and 2. However, the calculation
2 shall be based on the school district in which the parent
3 resides at the time of the scholarship request.

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

10 (b) The amount of the John M. McKay Scholarship shall
11 be the calculated amount or the amount of the private school's
12 tuition and fees, whichever is less. The amount of any
13 assessment fee required by the participating private school
14 may be paid from the total amount of the scholarship.

15 (c)1. The school district shall report all students
16 who are attending a private school under this program. The
17 students with disabilities attending private schools on John
18 M. McKay Scholarships shall be reported separately from other
19 students reported for purposes of the Florida Education
20 Finance Program.

21 2. For program participants who are eligible under
22 subparagraph (2)(a)2., the school district that is used as the
23 basis for the calculation of the scholarship amount as
24 provided in subparagraph (a)3. shall:

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

27 b. Be held harmless for such students from the
28 weighted enrollment ceiling for group 2 programs in s.
29 1011.62(1)(d)3.a. during the first school year in which the
30 students are reported.

31

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

24 (e) Upon notification by the department that it has
25 received the documentation required under paragraph (d), the
26 Chief Financial Officer shall make scholarship payments in
27 four equal amounts no later than September 1, November 1,
28 February 1, and April 1 of each academic year in which the
29 scholarship is in force. The initial payment shall be made
30 after department verification of admission acceptance, and
31 subsequent payments shall be made upon verification of

1 continued enrollment and attendance at the private school.
2 Payment must be by individual warrant made payable to the
3 student's parent and mailed by the department to the private
4 school of the parent's choice, and the parent shall
5 restrictively endorse the warrant to the private school for
6 deposit into the account of the private school.

7 (f) Subsequent to each scholarship payment, the
8 department shall request from the Department of Financial
9 Services a sample of endorsed warrants to review and confirm
10 compliance with endorsement requirements.

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

14 (12) SCOPE OF AUTHORITY.--The inclusion of eligible
15 private schools within options available to Florida public
16 school students does not expand the regulatory authority of
17 the state, its officers, or any school district to impose any
18 additional regulation of private schools beyond those
19 reasonably necessary to enforce requirements expressly set
20 forth in this section.

21 (13) RULES.--The State Board of Education shall adopt
22 rules pursuant to ss. 120.536(1) and 120.54 to administer this
23 section, including rules that school districts must use to
24 expedite the development of a matrix of services based on an
25 active individual education plan from another state or a
26 foreign country for a transferring student with a disability
27 who is a dependent child of a member of the United States
28 Armed Forces. The rules must identify the appropriate school
29 district personnel who must complete the matrix of services.
30 For purposes of these rules, a transferring student with a
31 disability is one who was previously enrolled as a student

1 with a disability in an out-of-state or an out-of-country
2 public or private school or agency program and who is
3 transferring from out of state or from a foreign country
4 pursuant to a parent's permanent change of station orders.

5 Section 13. This act shall take effect July 1, 2007.

6
7 *****

8 SENATE SUMMARY

9 Abolishes the Opportunity Scholarship Program. Provides
10 for creation of a program to enhance failing schools.
11 Provides for credits against the corporate tax for
12 contributions to nonprofit scholarship-funding
13 organizations. (See bill for details.)
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