



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

1           220.701, F.S.; directing the Department of  
2           Revenue to deposit moneys received through the  
3           corporate income tax into the Corporate Income  
4           Tax Trust Fund rather than the General Revenue  
5           Fund; providing for unencumbered trust fund  
6           balances to be transferred into the General  
7           Revenue Fund; prescribing how transferred funds  
8           may be expended; amending s. 1001.10, F.S.;  
9           conforming provisions to the repeal of the  
10          Opportunity Scholarship Program; authorizing  
11          the Commissioner of Education to prepare and  
12          publish reports related to specified tax credit  
13          programs; amending ss. 1001.42 and 1002.20,  
14          F.S.; conforming provisions to the repeal of  
15          the Opportunity Scholarship Program and the  
16          creation of the tax credit program for families  
17          of students attending schools failing to make  
18          adequate progress; repealing s. 1002.38, F.S.,  
19          which authorizes the Opportunity Scholarship  
20          Program; amending s. 1002.39, F.S., to conform  
21          to the repeal of the Opportunity Scholarship  
22          Program; providing an effective date.

23  
24           WHEREAS, education is a fundamental value and a  
25          paramount duty of the state, and

26           WHEREAS, the State Constitution requires the state to  
27          provide for the free education of all children residing within  
28          its borders, and

29           WHEREAS, the Florida Supreme Court held in *Bush v.*  
30          *Holmes*, 2006 WL 20584 (Fla.), 31 Fla. L. Weekly S1, that the  
31          state must provide a system of uniform, efficient, safe,

1 secure, and high-quality public schools to fulfill this  
2 constitutional requirement, and

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

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

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

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

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

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

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

27 WHEREAS, the Legislature intends to create a program to  
28 provide an educational safety net to students assigned to  
29 these schools, distinct from and without impeding the efforts  
30 to help these schools improve, NOW, THEREFORE,  
31

1 Be It Enacted by the Legislature of the State of Florida:

2

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

5 1008.3455 Improvement program for schools failing to  
6 make adequate progress.--

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

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

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

- 28 1. Capital improvements to school facilities;  
29 2. Salaries for teachers and staff;  
30 3. Incentives for outstanding faculty and staff to  
31 transfer to these schools;

1           4. Equipment and supplies;  
2           5. Technology infrastructure, hardware, or software;  
3           6. Incentives to encourage parental or other family  
4 participation; and  
5           7. Mentoring and other community participation.  
6           (b) The program must include a suggested order of  
7 priority and timeline for enacting, funding, and implementing  
8 policies and practices over a 5-year period. The program  
9 shall identify those elements of the program which can be  
10 accomplished within existing statutory authority and those  
11 elements that will require new statutory authority. The  
12 program must include specific recommendations for action by  
13 the Legislature.  
14           (3)(a) To assist in development and implementation of  
15 the program required by this section, the commissioner shall  
16 create an advisory committee comprised of at least two  
17 teachers, two staff persons, and two parents of students from  
18 one or more schools that are failing to make adequate progress  
19 based on the school performance grading categories, as well as  
20 any other individuals the commissioner deems appropriate.  
21           (b) In developing and implementing the program, the  
22 commissioner shall consult with:  
23           1. The Office of Program Policy Analysis and  
24 Government Accountability; and  
25           2. The district community assessment teams assigned  
26 under s. 1008.345.  
27           (4) The program shall be developed in coordination  
28 with, and shall be consistent with, other strategic planning  
29 initiatives of the Department of Education or the State Board  
30 of Education.  
31

1           (5) The commissioner shall report annually to the  
2 Governor, the President of the Senate, and the Speaker of the  
3 House of Representatives on implementation of the program.

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

6           220.187 Credits for contributions to nonprofit  
7 scholarship-funding organizations; families that have limited  
8 financial resources.--

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

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

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

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

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

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

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

24           (c) "Eligible nonprofit scholarship-funding  
25 organization" means a charitable organization that:

26           1. Is exempt from federal income tax pursuant to s.  
27 501(c)(3) of the Internal Revenue Code;

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

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

1  
2 An eligible nonprofit scholarship-funding organization that is  
3 authorized to provide scholarships under s. 220.1875 may,  
4 subject to approval by the Department of Education, be  
5 authorized to provide scholarships under this section.

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

10 (e) "Owner or operator" includes:

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

15 2. An owner, operator, superintendent, or principal of  
16 an eligible private school or a person with equivalent  
17 decisionmaking authority over an eligible private school.

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

23 (a) Was counted as a full-time equivalent student  
24 during the previous state fiscal year for purposes of state  
25 per-student funding;

26 (b) Received a scholarship from an eligible nonprofit  
27 scholarship-funding organization or from the State of Florida  
28 during the previous school year; or

29 (c) Is eligible to enter kindergarten or first grade.  
30  
31



1 Contingent upon available funds, a student may continue in the  
2 scholarship program as long as the student's family income  
3 level does not exceed 200 percent of the federal poverty  
4 level.

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

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

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

12 (c) Receiving an educational scholarship pursuant to  
13 chapter 1002;

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

16 (e) Participating in a private tutoring program  
17 pursuant to s. 1002.43;

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

23 (g) Enrolled in the Florida School for the Deaf and  
24 the Blind.

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

27 (a) There is allowed a credit of 100 percent of an  
28 eligible contribution against any tax due for a taxable year  
29 under this chapter. However, such a credit may not exceed 75  
30 percent of the tax due under this chapter for the taxable  
31 year, after the application of any other allowable credits by

1 | the taxpayer. The credit granted by this section shall be  
2 | reduced by the difference between the amount of federal  
3 | corporate income tax taking into account the credit granted by  
4 | this section and the amount of federal corporate income tax  
5 | without application of the credit granted by this section.

6 |       (b) The total amount of tax credits and carryforward  
7 | of tax credits which may be granted each state fiscal year  
8 | under this section is \$88 million. At least 1 percent of the  
9 | total 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 |       (c) A taxpayer who files a Florida consolidated return  
13 | as a member of an affiliated group pursuant to s. 220.131(1)  
14 | may be allowed the credit on a consolidated return basis;  
15 | however, the total credit taken by the affiliated group is  
16 | subject to the limitation established under paragraph (a).

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

31 |

1           (6) OBLIGATIONS OF ELIGIBLE NONPROFIT  
2 SCHOLARSHIP-FUNDING ORGANIZATIONS.--An eligible nonprofit  
3 scholarship-funding organization:  
4           (a) Must comply with the antidiscrimination provisions  
5 of 42 U.S.C. s. 2000d.  
6           (b) Must comply with the following background check  
7 requirements:  
8           1. All owners and operators as defined in subparagraph  
9 (2)(e)1. are, upon employment or engagement to provide  
10 services, subject to level 2 background screening as provided  
11 under chapter 435. The fingerprints for the background  
12 screening must be electronically submitted to the Department  
13 of Law Enforcement and can be taken by an authorized law  
14 enforcement agency or by an employee of the eligible nonprofit  
15 scholarship-funding organization or a private company who is  
16 trained to take fingerprints. However, the complete set of  
17 fingerprints of an owner or operator may not be taken by the  
18 owner or operator. The results of the state and national  
19 criminal history check shall be provided to the Department of  
20 Education for screening under chapter 435. The cost of the  
21 background screening may be borne by the eligible nonprofit  
22 scholarship-funding organization or the owner or operator.  
23           2. Every 5 years following employment or engagement to  
24 provide services or association with an eligible nonprofit  
25 scholarship-funding organization, each owner or operator must  
26 meet level 2 screening standards as described in s. 435.04, at  
27 which time the nonprofit scholarship-funding organization  
28 shall request the Department of Law Enforcement to forward the  
29 fingerprints to the Federal Bureau of Investigation for level  
30 2 screening. If the fingerprints of an owner or operator are  
31 not retained by the Department of Law Enforcement under

1 | subparagraph 3., the owner or operator must electronically  
2 | file a complete set of fingerprints with the Department of Law  
3 | Enforcement. Upon submission of fingerprints for this purpose,  
4 | the eligible nonprofit scholarship-funding organization shall  
5 | request that the Department of Law Enforcement forward the  
6 | fingerprints to the Federal Bureau of Investigation for level  
7 | 2 screening, and the fingerprints shall be retained by the  
8 | Department of Law Enforcement under subparagraph 3.

9 |         3. Beginning July 1, 2007, all fingerprints submitted  
10 | to the Department of Law Enforcement as required by this  
11 | paragraph must be retained by the Department of Law  
12 | Enforcement in a manner approved by rule and entered in the  
13 | statewide automated fingerprint identification system  
14 | authorized by s. 943.05(2)(b). The fingerprints must  
15 | thereafter be available for all purposes and uses authorized  
16 | for arrest fingerprint cards entered in the statewide  
17 | automated fingerprint identification system pursuant to s.  
18 | 943.051.

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

1 amount of the annual fee to be imposed upon the Department of  
2 Education for performing these services and establishing the  
3 procedures for the retention of owner and operator  
4 fingerprints and the dissemination of search results. The fee  
5 may be borne by the owner or operator of the nonprofit  
6 scholarship-funding organization.

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

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

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

18           (d) Must provide scholarships, from eligible  
19 contributions, to eligible students for:

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

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

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

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

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

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

11 (i) Must obligate, in the same fiscal year in which  
12 the contribution was received, 100 percent of the eligible  
13 contribution to provide annual or partial-year scholarships;  
14 however, up to 25 percent of the total contribution may be  
15 carried forward for expenditure in the following state fiscal  
16 year. A scholarship-funding organization must, before granting  
17 a scholarship for an academic year, document each scholarship  
18 student's eligibility for that academic year. A  
19 scholarship-funding organization may not grant multiyear  
20 scholarships in one approval process. No portion of eligible  
21 contributions may be used for administrative expenses. All  
22 interest accrued from contributions must be used for  
23 scholarships.

24 (j) Must maintain separate accounts for scholarship  
25 funds and operating funds.

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

1 contributions received by the nonprofit scholarship-funding  
2 organization making the transfer. All transferred funds must  
3 be deposited by the receiving nonprofit scholarship-funding  
4 organization into its scholarship accounts. All transferred  
5 amounts received by any nonprofit scholarship-funding  
6 organization must be separately disclosed in the annual  
7 financial and compliance audit required in this section.

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

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

29  
30 Any and all information and documentation provided to the  
31 Department of Education and the Auditor General relating to

1 | the identity of a taxpayer that provides an eligible  
2 | contribution under this section shall remain confidential at  
3 | all times in accordance with s. 213.053.

4 |           (7) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM  
5 | PARTICIPATION.--

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

8 |           (b) The parent must inform the child's school district  
9 | when the parent withdraws his or her child to attend an  
10 | eligible private school.

11 |           (c) Any student participating in the scholarship  
12 | program must remain in attendance throughout the school year  
13 | unless excused by the school for illness or other good cause.

14 |           (d) Each parent and each student has an obligation to  
15 | the private school to comply with the private school's  
16 | published policies.

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

26 |           (f) Upon receipt of a scholarship warrant from the  
27 | eligible nonprofit scholarship-funding organization, the  
28 | parent to whom the warrant is made must restrictively endorse  
29 | the warrant to the private school for deposit into the account  
30 | of the private school. The parent may not designate any entity  
31 | or individual associated with the participating private school



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

4 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.--An  
5 eligible private school may be sectarian or nonsectarian and  
6 must:

7 (a) Comply with all requirements for private schools  
8 participating in state school choice scholarship programs  
9 pursuant to s. 1002.421.

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

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

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

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

27 3. Cooperating with the scholarship student whose  
28 parent chooses to participate in the statewide assessments  
29 pursuant to s. 1008.32.

30  
31

1           (d) Employ or contract with teachers who have regular  
2 and direct contact with each student receiving a scholarship  
3 under this section at the school's physical location.  
4

5 The inability of a private school to meet the requirements of  
6 this subsection shall constitute a basis for the ineligibility  
7 of the private school to participate in the scholarship  
8 program as determined by the Department of Education.

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

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

14           (b) Annually verify the eligibility of nonprofit  
15 scholarship-funding organizations that meet the requirements  
16 of paragraph (2)(c).

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

19           (d) Annually verify the eligibility of expenditures as  
20 provided in paragraph (6)(d) using the audit required by  
21 paragraph (6)(1).

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

25           (f) Establish a process by which individuals may  
26 notify the Department of Education of any violation by a  
27 parent, private school, or school district of state laws  
28 relating to program participation. The Department of Education  
29 shall conduct an inquiry of any written complaint of a  
30 violation of this section, or make a referral to the  
31 appropriate agency for an investigation, if the complaint is

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

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

12 (h) Cross-check the list of participating scholarship  
13 students with the public school enrollment lists to avoid  
14 duplication.

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

23 (j) Select an independent research organization, which  
24 may be a public or private entity or university, to which  
25 participating private schools must report the scores of  
26 participating students on the nationally norm-referenced tests  
27 administered by the private school. The independent research  
28 organization must annually report to the Department of  
29 Education on the year-to-year improvements of participating  
30 students. The independent research organization must analyze  
31 and report student performance data in a manner that protects

1 | the rights of students and parents as mandated in 20 U.S.C. s.  
2 | 1232g, the Family Educational Rights and Privacy Act, and must  
3 | not disaggregate data to a level that will disclose the  
4 | academic level of individual students or of individual  
5 | schools. To the extent possible, the independent research  
6 | organization must accumulate historical performance data on  
7 | students from the Department of Education and private schools  
8 | to describe baseline performance and to conduct longitudinal  
9 | studies. To minimize costs and reduce time required for  
10 | third-party analysis and evaluation, the Department of  
11 | Education shall conduct analyses of matched students from  
12 | public school assessment data and calculate control group  
13 | learning gains using an agreed-upon methodology outlined in  
14 | the contract with the third-party evaluator. The sharing of  
15 | student data must be in accordance with requirements of 20  
16 | U.S.C. s. 1232g, the Family Educational Rights and Privacy  
17 | Act, and shall be for the sole purpose of conducting the  
18 | evaluation. All parties must preserve the confidentiality of  
19 | such information as required by law.

20 |       (k) Notify an eligible nonprofit scholarship-funding  
21 | organization of any of the organization's identified students  
22 | who are receiving educational scholarships pursuant to chapter  
23 | 1002.

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

29 |       (m) Require quarterly reports by an eligible nonprofit  
30 | scholarship-funding organization regarding the number of  
31 | students participating in the scholarship program, the private

1 | schools at which the students are enrolled, and other  
2 | information deemed necessary by the Department of Education.

3 |         (n)1. Conduct random site visits to private schools  
4 | participating in the Corporate Tax Credit Scholarship Program.  
5 | The purpose of the site visits is solely to verify the  
6 | information reported by the schools concerning the enrollment  
7 | and attendance of students, the credentials of teachers,  
8 | background screening of teachers, and teachers' fingerprinting  
9 | results. The Department of Education may not make more than  
10 | seven random site visits each year and may not make more than  
11 | one random site visit each year to the same private school.

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

23 |         (10) COMMISSIONER OF EDUCATION AUTHORITY AND  
24 | OBLIGATIONS.--

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

1 may issue a notice of noncompliance that shall provide the  
2 private school with a timeframe within which to provide  
3 evidence of compliance prior to taking action to suspend or  
4 revoke the private school's participation in the scholarship  
5 program.

6 (b) The commissioner's determination is subject to the  
7 following:

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

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

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

1 days in which to submit written exceptions to the recommended  
2 order. A final order shall be entered by the agency within 30  
3 days after the entry of a recommended order. The provisions of  
4 this subparagraph may be waived upon stipulation by all  
5 parties.

6 (c) The commissioner may immediately suspend payment  
7 of scholarship funds if it is determined that there is  
8 probable cause to believe that there is:

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

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

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

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

27 c. Any person, entity, or authority issuing a subpoena  
28 for law enforcement purposes when the court or other issuing  
29 agency has ordered that the existence or the contents of the  
30 subpoena or the information furnished in response to the  
31 subpoena not be disclosed, consistent with the Family

1 Educational Rights and Privacy Act, 20 U.S.C. s. 1232g, and 34  
2 C.F.R. s. 99.31.

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

8 (11) SCHOLARSHIP AMOUNT AND PAYMENT.--

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

13 1. Three thousand seven hundred fifty dollars for a  
14 scholarship awarded to a student enrolled in an eligible  
15 private school.

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

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



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

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

8           (12) ADMINISTRATION; RULES.--

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

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

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

29           (d) The department shall adopt rules necessary to  
30 administer this section, including rules establishing  
31 application forms and procedures and governing the allocation

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

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

7 (13) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--

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

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

21 Section 3. Section 220.1875, Florida Statutes, is  
22 created to read:

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

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

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

1 opportunity to gain the knowledge and skills necessary for  
2 postsecondary education, a career education, or the world of  
3 work.

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

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

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

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

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

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

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

29 (d) "Eligible nonprofit scholarship-funding  
30 organization" means a charitable organization as defined in s.  
31 220.187(2)(c) which is exempt from federal income tax pursuant

1 to s. 501(c)(3) of the Internal Revenue Code and complies with  
2 the provisions of subsection (5). An eligible nonprofit  
3 scholarship-funding organization that is authorized to provide  
4 scholarships under s. 220.187 may, subject to approval by the  
5 Department of Education, be authorized to provide scholarships  
6 under this section.

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

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

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

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

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

22 1. Enrolled in a school operating for the purpose of  
23 providing educational services to youth in Department of  
24 Juvenile Justice commitment programs;

25 2. Receiving a scholarship from another eligible  
26 nonprofit scholarship-funding organization;

27 3. Receiving an educational scholarship pursuant to  
28 chapter 1002;

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

31

1           5. Participating in a private tutoring program  
2 pursuant to s. 1002.43;

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

8           7. Enrolled in the Florida School for the Deaf and the  
9 Blind.

10           (3) SCHOOL DISTRICT OBLIGATIONS.--

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

15           1. Timely notify the parent of the student as soon as  
16 such designation is made of all options available pursuant to  
17 this section;

18           2. Offer that student's parent an opportunity to  
19 enroll the student in another public school within the  
20 district which has been designated by the state pursuant to s.  
21 1008.34 as a school performing higher than the school in which  
22 the student is currently enrolled or to which the student has  
23 been assigned, but not less than performance grade category  
24 "C"; and

25           3. Inform that student's parent of the child's  
26 eligibility to receive a scholarship under this section to  
27 enroll the student in and transport the student to attend a  
28 public school outside the district which has been designated  
29 by the state pursuant to s. 1008.34 as a school performing  
30 higher than that in which the student is currently enrolled or  
31 to which the student has been assigned, but not less than

1 performance grade category "C," or to attend an eligible  
2 nonpublic school.

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

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

12 (d) Students with disabilities who are eligible to  
13 receive services from the school district under federal or  
14 state law, and who receive a scholarship under this section,  
15 remain eligible to receive services from the school district  
16 as provided by federal or state law.

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

19 (a) There is allowed a credit of 100 percent of an  
20 eligible contribution against any tax due for a taxable year  
21 under this chapter. However, such a credit may not exceed 75  
22 percent of the tax due under this chapter for the taxable  
23 year, after the application of any other allowable credits by  
24 the taxpayer. However, at least 5 percent of the total  
25 statewide amount authorized for the tax credit shall be  
26 reserved for taxpayers who meet the definition of a small  
27 business provided in s. 288.703(1) at the time of application.  
28 The credit granted by this section shall be reduced by the  
29 difference between the amount of federal corporate income tax,  
30 taking into account the credit granted by this section, and  
31

1 the amount of federal corporate income tax without application  
2 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 \$5 million.

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

11 (5) OBLIGATIONS OF ELIGIBLE NONPROFIT  
12 SCHOLARSHIP-FUNDING ORGANIZATIONS.--

13 (a) An eligible nonprofit scholarship-funding  
14 organization shall provide scholarships, from eligible  
15 contributions, to qualified students for:

16 1. Tuition and fees for a qualified student enrolled  
17 in an eligible nonpublic school.

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

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

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

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

31

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

3           b. A calculated amount equivalent to the base student  
4 allocation in the Florida Education Finance Program multiplied  
5 by the appropriate cost factor for the educational program  
6 that will be provided for the student in the district school  
7 to which he or she is assigned, multiplied by the district  
8 cost differential. In addition, the calculated amount shall  
9 include the per-student share of instructional materials  
10 funds, technology funds, and other categorical funds.

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

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

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

28           (f) An eligible nonprofit scholarship-funding  
29 organization that receives eligible contributions must provide  
30 to the Auditor General an annual financial and compliance  
31 audit of its accounts and records conducted by an independent



1 certified public accountant and in accordance with rules  
2 adopted by the Auditor General.

3 (g) Payment of the scholarship by the eligible  
4 nonprofit scholarship-funding organization shall be by  
5 individual warrant or check made payable to the student's  
6 parent. If the parent chooses for his or her child to attend  
7 an eligible nonpublic school, the warrant or check must be  
8 mailed by the eligible nonprofit scholarship-funding  
9 organization to the nonpublic school of the parent's choice,  
10 and the parent shall restrictively endorse the warrant or  
11 check to the nonpublic school. An eligible nonprofit  
12 scholarship-funding organization shall ensure that, upon  
13 receipt of a scholarship warrant or check, the parent to whom  
14 the warrant or check is made restrictively endorses the  
15 warrant or check to the nonpublic school of the parent's  
16 choice for deposit into the account of the nonpublic school.

17 (h) An eligible nonprofit scholarship-funding  
18 organization must comply with the following background check  
19 requirements:

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

1 the Department of Education for screening under chapter 435.  
2 The cost of the background screening may be borne by the  
3 eligible nonprofit scholarship-funding organization or the  
4 owner or operator.

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

22 3. Beginning July 1, 2008, all fingerprints submitted  
23 to the Department of Law Enforcement as required by this  
24 paragraph must be retained by the Department of Law  
25 Enforcement in a manner approved by rule and entered in the  
26 statewide automated fingerprint identification system  
27 authorized by s. 943.05(2)(b). The fingerprints must  
28 thereafter be available for all purposes and uses authorized  
29 for arrest fingerprint cards entered in the statewide  
30 automated fingerprint identification system pursuant to  
31 s.943.051.

1           4. Beginning July 1, 2008, the Department of Law  
2 Enforcement shall search all arrest fingerprint cards received  
3 under s. 943.051 against the fingerprints retained in the  
4 statewide automated fingerprint identification system under  
5 subparagraph 3. Any arrest record that is identified with an  
6 owner's or operator's fingerprints must be reported to the  
7 Department of Education. The Department of Education shall  
8 participate in this search process by paying an annual fee to  
9 the Department of Law Enforcement and by informing the  
10 Department of Law Enforcement of any change in the employment,  
11 engagement, or association status of the owners or operators  
12 whose fingerprints are retained under subparagraph 3. The  
13 Department of Law Enforcement shall adopt a rule setting the  
14 amount of the annual fee to be imposed upon the Department of  
15 Education for performing these services and establishing the  
16 procedures for the retention of owner and operator  
17 fingerprints and the dissemination of search results. The fee  
18 may be borne by the owner or operator of the nonprofit  
19 scholarship-funding organization.

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

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

28           (i) An eligible nonprofit scholarship-funding  
29 organization must not have an owner or operator who owns or  
30 operates an eligible private school that is participating in  
31 the scholarship program.

1           (j) An eligible nonprofit scholarship-funding  
2 organization may not restrict or reserve scholarships for use  
3 at a particular private school or provide scholarships to a  
4 child of an owner or operator.

5           (k) An eligible nonprofit scholarship-funding  
6 organization must:

7           1. Comply with the antidiscrimination provisions of 42  
8 U.S.C. s. 2000d.

9           2. Maintain separate accounts for scholarship funds  
10 and operating funds.

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

26           4. Prepare and submit quarterly reports to the  
27 Department of Education pursuant to this section. In addition,  
28 an eligible nonprofit scholarship-funding organization must  
29 submit in a timely manner any information requested by the  
30 Department of Education relating to the scholarship program.

31

1 Any and all information and documentation provided to the  
2 Department of Education and the Auditor General relating to  
3 the identity of a taxpayer that provides an eligible  
4 contribution under this section shall remain confidential at  
5 all times in accordance with s. 213.053.

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

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

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

16 (c) Ensure that the student receiving a scholarship  
17 under this section takes all statewide assessments required  
18 pursuant to s. 1008.22.

19 (d) Upon receipt of a scholarship warrant from the  
20 eligible nonprofit scholarship-funding organization,  
21 restrictively endorse the warrant to the private school for  
22 deposit into the account of the private school. The parent may  
23 not designate any entity or individual associated with the  
24 participating private school as the parent's attorney in fact  
25 to endorse a scholarship warrant. A participant who fails to  
26 comply with this paragraph forfeits the scholarship.

27 (7) STUDENT OBLIGATIONS.--As a condition for  
28 scholarship payment pursuant to paragraph (5)(g), if the  
29 parent chooses for his or her child to attend an eligible  
30 nonpublic school, the student must remain in attendance  
31 throughout the school year, unless excused by the school for

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

3 (8) DURATION OF SCHOLARSHIP.--

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

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

13 2. If the student is in grades six through eight,  
14 until the student matriculates to high school and the public  
15 high school to which the student is assigned is an accredited  
16 school that has a performance grade category designation of  
17 "C" or better.

18  
19 At any time upon reasonable notice to the Department of  
20 Education and the school district, the student's parent may  
21 remove the student from the nonpublic school and place the  
22 student in a public school, as provided in subparagraph  
23 (3)(a)2.

24 (b) A school from which a student transfers using a  
25 scholarship under this section may continue to report the  
26 student for the purpose of the district's funding pursuant to  
27 the Florida Education Finance Program for the remainder of the  
28 period during which the student would have attended that  
29 school. The district shall provide the funding associated  
30 with that student directly to the respective public school.  
31 The school may not report the student under this paragraph

1 beyond the period after which the student would have  
2 matriculated to another school.

3 (9) ELIGIBLE NONPUBLIC SCHOOL OBLIGATIONS.--An  
4 eligible nonpublic school must:

5 (a) Demonstrate fiscal soundness by being in operation  
6 for 1 school year or provide the Department of Education with  
7 a statement by a certified public accountant confirming that  
8 the nonpublic school desiring to participate is insured and  
9 the owner or owners have sufficient capital or credit to  
10 operate the school for the upcoming year serving the number of  
11 students anticipated with expected revenues from tuition and  
12 other sources which may be reasonably expected. In lieu of  
13 such a statement, a surety bond or letter of credit for the  
14 amount equal to the scholarship funds for any quarter may be  
15 filed with the department.

16 (b) Notify the Department of Education, the school  
17 district in whose service area the school is located, and all  
18 eligible nonprofit scholarship funding organizations of its  
19 intent to participate in the program under this section by May  
20 1 of the school year preceding the school year in which it  
21 intends to participate. The notice must specify the grade  
22 levels and services that the private school has available for  
23 qualified students under this section.

24 (c) Comply with the antidiscrimination provisions of  
25 42 U.S.C. s. 2000d.

26 (d) Meet state and local health and safety laws and  
27 codes.

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

30 (f) Accept scholarship students on an entirely random  
31 and religious-neutral basis without regard to the student's

1 past academic history; however, the nonpublic school may give  
2 preference in accepting applications to siblings of students  
3 who have already been accepted on a random and  
4 religious-neutral basis.

5 (g) Be subject to the instruction, curriculum, and  
6 attendance criteria adopted by an appropriate nonpublic school  
7 accrediting body and be academically accountable to the parent  
8 for meeting the educational needs of the student. The  
9 nonpublic school must furnish a school profile that includes  
10 student performance.

11 (h) Employ or contract with teachers who hold a  
12 baccalaureate or higher degree, have at least 3 years of  
13 teaching experience in public or private schools, or have  
14 special skills, knowledge, or expertise that qualifies them to  
15 provide instruction in subjects taught.

16 (i) Comply with all state statutes relating to private  
17 schools.

18 (j) Accept as full tuition and fees the amount  
19 provided by the state nonprofit scholarship-funding  
20 organization for each student.

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

24 (l) Adhere to the tenets of its published disciplinary  
25 procedures prior to the expulsion of any student attending the  
26 private school under this section.

27  
28 The inability of a private school to meet the requirements of  
29 this subsection constitutes a basis for the ineligibility of  
30 the private school to participate in the scholarship program  
31 as determined by the Department of Education.



1           (10) ADMINISTRATION; RULES.--  
2           (a) If the credit granted pursuant to this section is  
3 not fully used in any one year because of insufficient tax  
4 liability on the part of the corporation, the unused amount  
5 may be carried forward for a period not to exceed 3 years;  
6 however, any taxpayer that seeks to carry forward an unused  
7 amount of tax credit must submit an application for allocation  
8 of tax credits or carryforward credits as required in  
9 paragraph (d) in the year that the taxpayer intends to use the  
10 carryforward. The total amount of tax credits and carryforward  
11 of tax credits granted each state fiscal year under this  
12 section is \$5 million. A taxpayer may not convey, assign, or  
13 transfer the credit authorized by this section to another  
14 entity unless all of the assets of the taxpayer are conveyed,  
15 assigned, or transferred in the same transaction.  
16           (b) An application for a tax credit pursuant to this  
17 section shall be submitted to the department on forms  
18 established by rule of the department.  
19           (c) The department and the Department of Education  
20 shall develop a cooperative agreement to assist in the  
21 administration of this section. The Department of Education  
22 shall be responsible for annually submitting, by March 15, to  
23 the department a list of eligible nonprofit  
24 scholarship-funding organizations that meet the requirements  
25 of paragraph (2)(d) and for monitoring eligibility of  
26 nonprofit scholarship-funding organizations that meet the  
27 requirements of paragraph (2)(d), eligibility of nonpublic  
28 schools that meet the requirements of paragraph (2)(c), and  
29 eligibility of expenditures under this section as provided in  
30 subsection (5).  
31

1           (d) The department shall adopt rules pursuant to ss.  
2 120.536(1) and 120.54 as necessary to administer this section,  
3 including rules establishing application forms and procedures  
4 and governing the allocation of tax credits and carryforward  
5 credits under this section on a first-come, first-served  
6 basis.

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

13           (11) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--

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

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

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

29           213.053 Confidentiality and information sharing.--

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

1           (z) Information relative to s. 220.1875 to the  
2 Department of Education in the conduct of its official  
3 business.

4  
5 Disclosure of information under this subsection shall be  
6 pursuant to a written agreement between the executive director  
7 and the agency. Such agencies, governmental or  
8 nongovernmental, shall be bound by the same requirements of  
9 confidentiality as the Department of Revenue. Breach of  
10 confidentiality is a misdemeanor of the first degree,  
11 punishable as provided by s. 775.082 or s. 775.083.

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

14           220.02 Legislative intent.--

15           (8) It is the intent of the Legislature that credits  
16 against either the corporate income tax or the franchise tax  
17 be applied in the following order: those enumerated in s.  
18 631.828, those enumerated in s. 220.191, those enumerated in  
19 s. 220.181, those enumerated in s. 220.183, those enumerated  
20 in s. 220.182, those enumerated in s. 220.1895, those  
21 enumerated in s. 221.02, those enumerated in s. 220.184, those  
22 enumerated in s. 220.186, those enumerated in s. 220.1845,  
23 those enumerated in s. 220.19, those enumerated in s. 220.185,  
24 those enumerated in s. 220.187, those enumerated in s.  
25 220.1875, those enumerated in s. 220.192, and those enumerated  
26 in s. 220.193.

27           Section 6. Paragraph (a) of subsection (1) of section  
28 220.13, Florida Statutes, is amended to read:

29           220.13 "Adjusted federal income" defined.--

30           (1) The term "adjusted federal income" means an amount  
31 equal to the taxpayer's taxable income as defined in

1 subsection (2), or such taxable income of more than one  
2 taxpayer as provided in s. 220.131, for the taxable year,  
3 adjusted as follows:

4 (a) Additions.--There shall be added to such taxable  
5 income:

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

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

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

25 4. That portion of the wages or salaries paid or  
26 incurred for the taxable year which is equal to the amount of  
27 the credit allowable for the taxable year under s. 220.181.  
28 This subparagraph shall expire on the date specified in s.  
29 290.016 for the expiration of the Florida Enterprise Zone Act.

30 5. That portion of the ad valorem school taxes paid or  
31 incurred for the taxable year which is equal to the amount of

1 the credit allowable for the taxable year under s. 220.182.  
2 This subparagraph shall expire on the date specified in s.  
3 290.016 for the expiration of the Florida Enterprise Zone Act.

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

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

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

16 9. The amount taken as a credit for the taxable year  
17 under s. 220.1895.

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

21 11. The amount taken as a credit for the taxable year  
22 under s. 220.187.

23 12. The amount taken as a credit for the taxable year  
24 under s. 220.1875.

25 ~~13.12.~~ The amount taken as a credit for the taxable  
26 year under s. 220.192.

27 ~~14.13.~~ The amount taken as a credit for the taxable  
28 year under s. 220.193.

29 Section 7. Section 220.701, Florida Statutes, is  
30 amended to read:

31

1           220.701 Collection authority.--The department shall  
2 collect the taxes imposed by this chapter and shall pay all  
3 moneys received by it into the Corporate Income Tax Trust Fund  
4 created under s. 220.7015. Unencumbered balances in this trust  
5 fund shall be transferred monthly into the General Revenue  
6 Fund of the state. However, such transfers shall be expended  
7 exclusively on programs that are consistent with the uses  
8 established for the Corporate Income Tax Trust Fund and that  
9 are specifically identified in the General Appropriations Act.

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

12           1001.10 Commissioner of Education; general powers and  
13 duties.--The Commissioner of Education is the chief  
14 educational officer of the state and the sole custodian of the  
15 K-20 data warehouse, and is responsible for giving full  
16 assistance to the State Board of Education in enforcing  
17 compliance with the mission and goals of the seamless K-20  
18 education system. To facilitate innovative practices and to  
19 allow local selection of educational methods, the State Board  
20 of Education may authorize the commissioner to waive, upon the  
21 request of a district school board, State Board of Education  
22 rules that relate to district school instruction and school  
23 operations, except those rules pertaining to civil rights, and  
24 student health, safety, and welfare. The Commissioner of  
25 Education is not authorized to grant waivers for any  
26 provisions in rule pertaining to the allocation and  
27 appropriation of state and local funds for public education;  
28 the election, compensation, and organization of school board  
29 members and superintendents; graduation and state  
30 accountability standards; financial reporting requirements;  
31 reporting of out-of-field teaching assignments under s.

1 1012.42; public meetings; public records; or due process  
2 hearings governed by chapter 120. No later than January 1 of  
3 each year, the commissioner shall report to the Legislature  
4 and the State Board of Education all approved waiver requests  
5 in the preceding year. Additionally, the commissioner has the  
6 following general powers and duties:

7 (13) To prepare and publish annually reports giving  
8 statistics and other useful information pertaining to the tax  
9 credit programs under ss. 220.187 and 220.1875 Opportunity  
10 Scholarship Program.

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

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

19 1001.42 Powers and duties of district school  
20 board.--The district school board, acting as a board, shall  
21 exercise all powers and perform all duties listed below:

22 (18) CORPORATE INCOME TAX CREDIT SCHOLARSHIP PROGRAM;  
23 FAMILIES OF STUDENTS ATTENDING FAILING SCHOOLS OPPORTUNITY  
24 SCHOLARSHIPS.--Adopt policies allowing students attending  
25 schools that have been designated with a grade of "F," failing  
26 to make adequate progress, for 2 school years in a 4-year  
27 period to attend a higher performing public school in the same  
28 district ~~or an adjoining district~~ or be granted a ~~state~~  
29 ~~opportunity~~ scholarship to transport the student to a public  
30 school in an adjoining district or a scholarship to attend a  
31

1 private school, in conformance with s. 220.1875 ~~s. 1002.38~~ and  
2 State Board of Education rule.

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

5 1002.20 K-12 student and parent rights.--Parents of  
6 public school students must receive accurate and timely  
7 information regarding their child's academic progress and must  
8 be informed of ways they can help their child to succeed in  
9 school. K-12 students and their parents are afforded numerous  
10 statutory rights including, but not limited to, the following:

11 (6) EDUCATIONAL CHOICE.--

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

29 (b) Private school choices.--Parents of public school  
30 students may seek private school choice options under certain  
31 programs.



1           1. Under the corporate income tax credit scholarship  
2 program for families of students attending schools failing to  
3 make adequate progress ~~Opportunity Scholarship Program~~, the  
4 parent of a student in a failing public school may seek a  
5 ~~request and receive an opportunity~~ scholarship from an  
6 eligible nonprofit scholarship-funding organization for the  
7 student to attend a private school in accordance with s.  
8 220.1875 ~~the provisions of s. 1002.38.~~

9           2. Under the McKay Scholarships for Students with  
10 Disabilities Program, the parent of a public school student  
11 with a disability who is dissatisfied with the student's  
12 progress may request and receive a McKay Scholarship for the  
13 student to attend a private school in accordance with ~~the~~  
14 ~~provisions of s. 1002.39.~~

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

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

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

28           Section 11. Section 1002.38, Florida Statutes, is  
29 repealed.

30           Section 12. Section 1002.39, Florida Statutes, is  
31 amended to read:

1           1002.39 The John M. McKay Scholarships for Students  
2 with Disabilities Program.--There is established a program  
3 that is ~~separate and distinct from the Opportunity Scholarship~~  
4 ~~Program and is~~ named the John M. McKay Scholarships for  
5 Students with Disabilities Program.

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

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

29           (a) The student has spent the prior school year in  
30 attendance at a Florida public school or the Florida School  
31

1 for the Deaf and the Blind. Prior school year in attendance  
2 means that the student was:

3 1. Enrolled and reported by a school district for  
4 funding during the preceding October and February Florida  
5 Education Finance Program surveys in kindergarten through  
6 grade 12, which shall include time spent in a Department of  
7 Juvenile Justice commitment program if funded under the  
8 Florida Education Finance Program;

9 2. Enrolled and reported by the Florida School for the  
10 Deaf and the Blind during the preceding October and February  
11 student membership surveys in kindergarten through grade 12;  
12 or

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

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

25 (b) The parent has obtained acceptance for admission  
26 of the student to a private school that is eligible for the  
27 program under subsection (8) and has requested from the  
28 department a scholarship at least 60 days prior to the date of  
29 the first scholarship payment. The request must be through a  
30 communication directly to the department in a manner that  
31 creates a written or electronic record of the request and the

1 date of receipt of the request. The Department of Education  
2 must notify the district of the parent's intent upon receipt  
3 of the parent's request.

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

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

10 (b) Receiving a corporate income tax credit  
11 scholarship under s. 220.187;

12 (c) Receiving an educational scholarship pursuant to  
13 this chapter;

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

16 (e) Participating in a private tutoring program  
17 pursuant to s. 1002.43;

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

23 (g) Enrolled in the Florida School for the Deaf and  
24 the Blind; or

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

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

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

1 (b) Upon reasonable notice to the department and the  
2 school district, the student's parent may remove the student  
3 from the private school and place the student in a public  
4 school in accordance with this section.

5 (c) Upon reasonable notice to the department, the  
6 student's parent may move the student from one participating  
7 private school to another participating private school.

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

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

18 2. The parent is not required to accept the offer of  
19 enrolling in another public school in lieu of requesting a  
20 John M. McKay Scholarship to a private school. However, if the  
21 parent chooses the public school option, the student may  
22 continue attending a public school chosen by the parent until  
23 the student graduates from high school.

24 3. If the parent chooses a public school consistent  
25 with the district school board's choice plan under s. 1002.31,  
26 the school district shall provide transportation to the public  
27 school selected by the parent. The parent is responsible to  
28 provide transportation to a public school chosen that is not  
29 consistent with the district school board's choice plan under  
30 s. 1002.31.

31

1 (b)1. For a student with disabilities who does not  
2 have a matrix of services under s. 1011.62(1)(e), the school  
3 district must complete a matrix that assigns the student to  
4 one of the levels of service as they existed prior to the  
5 2000-2001 school year.

6 2.a. Within 10 school days after it receives  
7 notification of a parent's request for a John M. McKay  
8 Scholarship, a school district must notify the student's  
9 parent if the matrix of services has not been completed and  
10 inform the parent that the district is required to complete  
11 the matrix within 30 days after receiving notice of the  
12 parent's request for a John M. McKay Scholarship. This notice  
13 should include the required completion date for the matrix.

14 b. The school district must complete the matrix of  
15 services for any student who is participating in the John M.  
16 McKay Scholarships for Students with Disabilities Program and  
17 must notify the department of the student's matrix level  
18 within 30 days after receiving notification of a request to  
19 participate in the scholarship program. The school district  
20 must provide the student's parent with the student's matrix  
21 level within 10 school days after its completion.

22 c. The department shall notify the private school of  
23 the amount of the scholarship within 10 days after receiving  
24 the school district's notification of the student's matrix  
25 level.

26 d. A school district may change a matrix of services  
27 only if the change is to correct a technical, typographical,  
28 or calculation error.

29 (c) A school district shall provide notification to  
30 parents of the availability of a reevaluation at least every 3  
31

1 | years of each student who receives a John M. McKay  
2 | Scholarship.

3 |         (d) If the parent chooses the private school option  
4 | and the student is accepted by the private school pending the  
5 | availability of a space for the student, the parent of the  
6 | student must notify the department 60 days prior to the first  
7 | scholarship payment and before entering the private school in  
8 | order to be eligible for the scholarship when a space becomes  
9 | available for the student in the private school.

10 |         (e) The parent of a student may choose, as an  
11 | alternative, to enroll the student in and transport the  
12 | student to a public school in an adjacent school district  
13 | which has available space and has a program with the services  
14 | agreed to in the student's individual education plan already  
15 | in place, and that school district shall accept the student  
16 | and report the student for purposes of the district's funding  
17 | pursuant to the Florida Education Finance Program.

18 |         (f) For a student who participates in the John M.  
19 | McKay Scholarships for Students with Disabilities Program  
20 | whose parent requests that the student take the statewide  
21 | assessments under s. 1008.22, the district in which the  
22 | student attends private school shall provide locations and  
23 | times to take all statewide assessments.

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

26 |         (a) Establish a toll-free hotline that provides  
27 | parents and private schools with information on participation  
28 | in the John M. McKay Scholarships for Students with  
29 | Disabilities Program.

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

1           (c) Establish a process by which individuals may  
2 notify the department of any violation by a parent, private  
3 school, or school district of state laws relating to program  
4 participation. The department shall conduct an inquiry of any  
5 written complaint of a violation of this section, or make a  
6 referral to the appropriate agency for an investigation, if  
7 the complaint is signed by the complainant and is legally  
8 sufficient. A complaint is legally sufficient if it contains  
9 ultimate facts that show that a violation of this section or  
10 any rule adopted by the State Board of Education has occurred.  
11 In order to determine legal sufficiency, the department may  
12 require supporting information or documentation from the  
13 complainant. A department inquiry is not subject to the  
14 requirements of chapter 120.

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

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

21           (f)1. Conduct random site visits to private schools  
22 participating in the John M. McKay Scholarships for Students  
23 with Disabilities Program. The purpose of the site visits is  
24 solely to verify the information reported by the schools  
25 concerning the enrollment and attendance of students, the  
26 credentials of teachers, background screening of teachers, and  
27 teachers' fingerprinting results, which information is  
28 required by rules of the State Board of Education, subsection  
29 (8), and s. 1002.421. The Department of Education may not make  
30 more than three random site visits each year and may not make  
31



1 more than one random site visit each year to the same private  
2 school.

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

14           (7) COMMISSIONER OF EDUCATION AUTHORITY AND  
15 OBLIGATIONS.--

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

28           (b) The commissioner's determination is subject to the  
29 following:

30           1. If the commissioner intends to deny, suspend, or  
31 revoke a private school's participation in the scholarship

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

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

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

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

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

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

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

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

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

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

29           (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.--To be  
30 eligible to participate in the John M. McKay Scholarships for  
31

1 Students with Disabilities Program, a private school may be  
2 sectarian or nonsectarian and must:

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

6 (b) Provide to the department all documentation  
7 required for a student's participation, including the private  
8 school's and student's fee schedules, at least 30 days before  
9 the first quarterly scholarship payment is made for the  
10 student.

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. Cooperating with the scholarship student whose  
16 parent chooses to participate in the statewide assessments  
17 pursuant to s. 1008.22.

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

20  
21 The inability of a private school to meet the requirements of  
22 this subsection shall constitute a basis for the ineligibility  
23 of the private school to participate in the scholarship  
24 program as determined by the department.

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

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

31

1 (b) The parent must have requested the scholarship at  
2 least 60 days prior to the date of the first scholarship  
3 payment.

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

8 (d) Each parent and each student has an obligation to  
9 the private school to comply with the private school's  
10 published policies.

11 (e) If the parent requests that the student  
12 participating in the John M. McKay Scholarships for Students  
13 with Disabilities Program take all statewide assessments  
14 required pursuant to s. 1008.22, the parent is responsible for  
15 transporting the student to the assessment site designated by  
16 the school district.

17 (f) Upon receipt of a scholarship warrant, the parent  
18 to whom the warrant is made must restrictively endorse the  
19 warrant to the private school for deposit into the account of  
20 the private school. The parent may not designate any entity or  
21 individual associated with the participating private school as  
22 the parent's attorney in fact to endorse a scholarship  
23 warrant. A participant who fails to comply with this paragraph  
24 forfeits the scholarship.

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

26 (a)1. The maximum scholarship granted for an eligible  
27 student with disabilities shall be a calculated amount  
28 equivalent to the base student allocation in the Florida  
29 Education Finance Program multiplied by the appropriate cost  
30 factor for the educational program that would have been  
31 provided for the student in the district school to which he or

1 she was assigned, multiplied by the district cost  
2 differential.

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

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

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

30         (b) The amount of the John M. McKay Scholarship shall  
31 be the calculated amount or the amount of the private school's

1 | tuition and fees, whichever is less. The amount of any  
2 | assessment fee required by the participating private school  
3 | may be paid from the total amount of the scholarship.

4 |       (c)1. The school district shall report all students  
5 | who are attending a private school under this program. The  
6 | students with disabilities attending private schools on John  
7 | M. McKay Scholarships shall be reported separately from other  
8 | students reported for purposes of the Florida Education  
9 | Finance Program.

10 |       2. For program participants who are eligible under  
11 | subparagraph (2)(a)2., the school district that is used as the  
12 | basis for the calculation of the scholarship amount as  
13 | provided in subparagraph (a)3. shall:

14 |       a. Report to the department all such students who are  
15 | attending a private school under this program.

16 |       b. Be held harmless for such students from the  
17 | weighted enrollment ceiling for group 2 programs in s.  
18 | 1011.62(1)(d)3.a. during the first school year in which the  
19 | students are reported.

20 |       (d) Following notification on July 1, September 1,  
21 | December 1, or February 1 of the number of program  
22 | participants, the department shall transfer, from General  
23 | Revenue funds only, the amount calculated under paragraph (b)  
24 | from the school district's total funding entitlement under the  
25 | Florida Education Finance Program and from authorized  
26 | categorical accounts to a separate account for the scholarship  
27 | program for quarterly disbursement to the parents of  
28 | participating students. Funds may not be transferred from any  
29 | funding provided to the Florida School for the Deaf and the  
30 | Blind for program participants who are eligible under  
31 | subparagraph (2)(a)2. For a student exiting a Department of

1 Juvenile Justice commitment program who chooses to participate  
2 in the scholarship program, the amount of the John M. McKay  
3 Scholarship calculated pursuant to paragraph (b) shall be  
4 transferred from the school district in which the student last  
5 attended a public school prior to commitment to the Department  
6 of Juvenile Justice. When a student enters the scholarship  
7 program, the department must receive all documentation  
8 required for the student's participation, including the  
9 private school's and student's fee schedules, at least 30 days  
10 before the first quarterly scholarship payment is made for the  
11 student.

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

26 (f) Subsequent to each scholarship payment, the  
27 department shall request from the Department of Financial  
28 Services a sample of endorsed warrants to review and confirm  
29 compliance with endorsement requirements.  
30  
31



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

4           (12) SCOPE OF AUTHORITY.--The inclusion of eligible  
5 private schools within options available to Florida public  
6 school students does not expand the regulatory authority of  
7 the state, its officers, or any school district to impose any  
8 additional regulation of private schools beyond those  
9 reasonably necessary to enforce requirements expressly set  
10 forth in this section.

11           (13) RULES.--The State Board of Education shall adopt  
12 rules pursuant to ss. 120.536(1) and 120.54 to administer this  
13 section, including rules that school districts must use to  
14 expedite the development of a matrix of services based on an  
15 active individual education plan from another state or a  
16 foreign country for a transferring student with a disability  
17 who is a dependent child of a member of the United States  
18 Armed Forces. The rules must identify the appropriate school  
19 district personnel who must complete the matrix of services.  
20 For purposes of these rules, a transferring student with a  
21 disability is one who was previously enrolled as a student  
22 with a disability in an out-of-state or an out-of-country  
23 public or private school or agency program and who is  
24 transferring from out of state or from a foreign country  
25 pursuant to a parent's permanent change of station orders.

26           Section 13. This act shall take effect July 1, 2007.  
27  
28  
29  
30  
31

1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                                   COMMITTEE SUBSTITUTE FOR  
3                                   Senate Bill 2380

4 The committee substitute provides that a student is not  
5 eligible to receive a scholarship under the new tax credit  
6 scholarship program in s. 220.1875, F.S., if he or she:

6 -Receives a scholarship from another eligible nonprofit  
7 scholarship funding organization (SFO) or other educational  
8 scholarship under ch. 1002, F.S.;

8 -Participates in a home education program;

9 -Participates in a private tutoring program;

10 -Participates in a virtual school, correspondence school, or  
11 distance learning program that receives state funding for the  
12 student unless the participation is limited to no more than  
13 two courses per school year; or

12 -Is currently enrolled in the Florida School for the Deaf and  
13 the Blind.

14 The committee substitute:

15 -Requires state and national criminal history records checks  
16 under s. 435.04, F.S., for owners and operators of SFOs;

16 -Requires a new background screening every five years;

17 -Requires the Florida Department of Law Enforcement (FDLE) to  
18 retain fingerprints and annually check the prints of certain  
19 SFO personnel against the statewide automated fingerprint  
20 identification system;

20 -Requires SFOs to file their audits with the Auditor General  
21 and the Department of Education (DOE) within 180 days after  
22 completion of the SFO's fiscal year;

22 -Requires SFOs to maintain separate accounts for scholarship  
23 funds and operating funds and to comply with federal  
24 antidiscrimination requirements;

24 -Prohibits SFOs from providing scholarships when the owner or  
25 operator fails to meet the background screening requirements  
26 or has filed for personal or corporate bankruptcy for a  
27 corporation in which the owner or operator held more than a 20  
28 percent ownership interest;

27 -Prohibits SFOs from restricting or reserving scholarships for  
28 use at a particular private school or for a child of an owner  
29 or operator;

29 -Prohibits SFOs from having an owner or operator who operates  
30 an eligible private school that is participating in the  
31 scholarship program; and

31 -Requires SFOs to prepare and submit quarterly reports to the  
DOE.