

By the Committees on Finance and Tax; Education Pre-K - 12;
and Senator Webster

593-2622-07

1 A bill to be entitled

2 An act relating to education; creating s.

3 1008.3455, F.S.; expressing the intent of the

4 Legislature to create a program to enhance

5 failing schools; requiring the Commissioner of

6 Education to develop and submit such a program

7 to the Legislature; prescribing elements of the

8 program; requiring the creation of an advisory

9 committee; requiring consultation with

10 specified entities; requiring an annual report;

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

12 legislative findings; revising program

13 purposes; providing for eligibility of siblings

14 of certain students; revising provisions

15 relating to authorized uses of scholarship

16 funds and expenditure of contributions received

17 during the fiscal year; revising scholarship

18 amounts and payments; clarifying that the tax

19 credit program applies to students in families

20 having limited financial resources; providing

21 scholarship eligibility to students receiving

22 opportunity scholarships during the 2006-2007

23 school year for a limited amount of time;

24 providing that a scholarship funding

25 organization may be approved to provide

26 scholarships under two tax credit programs;

27 requiring separate accounting; authorizing

28 scholarship funding organizations to transfer

29 surplus funds between two programs under

30 specified circumstances; providing for the

31 preservation of credits under certain

1 circumstances; creating s. 220.1875, F.S.;

2 providing a purpose; defining terms;

3 prescribing obligations of school districts to

4 inform parents about failing schools; requiring

5 nonprofit scholarship-funding organizations to

6 meet certain requirements; authorizing students

7 at such schools to attend a high-performing

8 school in the same district; providing a credit

9 against the corporate income tax for

10 contributions to nonprofit scholarship-funding

11 organizations; providing limitations; providing

12 for use of such contributions for scholarships

13 for students attending certain failing schools

14 to attend nonpublic schools or public schools

15 in adjacent districts; providing requirements

16 and limitations with respect to scholarships;

17 providing for payment; establishing eligibility

18 for nonpublic school participation and grounds

19 for ineligibility to participate in the

20 program; providing for administration by the

21 Department of Revenue and the Department of

22 Education; providing for rules; providing

23 obligations of the Department of Education,

24 including requirements for the verification of

25 eligibility of program participants,

26 establishment of a process for notification of

27 violations, subsequent inquiry or

28 investigation, certification of compliance by

29 private schools, making site visits, and

30 providing information relating to the research

31 organization's analysis of student performance

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

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

21
22 WHEREAS, the Corporate Income Tax Credit Scholarship
23 Program has produced substantial cost savings by relieving the
24 state of the expense of educating program participants in
25 public schools at a cost in foregone tax revenue that is
26 substantially less than the per-student cost of educating
27 children in public schools, and

28 WHEREAS, the Corporate Income Tax Credit Scholarship
29 Program and the John M. McKay Scholarships for Students with
30 Disabilities Program have relieved public school class size by
31

1 creating new classroom spaces in the public schools at no cost
2 to the taxpayers, and

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

12 WHEREAS, education is a fundamental value and a
13 paramount duty of the state, and

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

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

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

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

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

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

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

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

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

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

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Section 1008.3455, Florida Statutes, is
24 created to read:

25 1008.3455 Improvement program for schools failing to
26 make adequate progress.--

27 (1) It is the intent of the Legislature that the state
28 develop and implement a comprehensive strategic program to
29 facilitate the improvement of schools that are failing to make
30 adequate progress based on the school performance grading
31 categories established by law. The Legislature finds that

1 achieving meaningful and lasting progress in these schools
2 will take a number of years. Thus, it is the further intent of
3 the Legislature that the program developed under this section
4 include a multiyear design and implementation schedule, with
5 measurable goals and objectives for these schools.

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

13 (a) At a minimum, the program must include an
14 assessment of the extent to which new policies, or
15 enhancements to existing policies, in the following areas
16 would facilitate improvement at these schools:

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

26 (b) The program must include a suggested order of
27 priority and timeline for enacting, funding, and implementing
28 policies and practices over a 5-year period. The program
29 shall identify those elements of the program which can be
30 accomplished within existing statutory authority and those
31 elements that will require new statutory authority. The

1 program must include specific recommendations for action by
2 the Legislature.

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

10 (b) In developing and implementing the program, the
11 commissioner shall consult with:

12 1. The Office of Program Policy Analysis and
13 Government Accountability; and

14 2. The district community assessment teams assigned
15 under s. 1008.345.

16 (4) The program shall be developed in coordination
17 with, and shall be consistent with, other strategic planning
18 initiatives of the Department of Education or the State Board
19 of Education.

20 (5) The commissioner shall report annually to the
21 Governor, the President of the Senate, and the Speaker of the
22 House of Representatives on implementation of the program.

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

25 220.187 Credits for contributions to nonprofit
26 scholarship-funding organizations; families that have limited
27 financial resources.--

28 (1) FINDINGS AND PURPOSE.--

29 (a) The Legislature finds that:

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

1 2. Expanding educational opportunities and improving
2 the quality of educational services within the state are valid
3 public purposes that the Legislature may promote using its
4 sovereign power to determine subjects of taxation and
5 exemptions from taxation.

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

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

17 5. Expanded educational opportunities and the healthy
18 competition they promote are critical to improving the quality
19 of education in the state and to ensuring that all children
20 receive the high-quality education to which they are entitled.

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

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

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

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

30
31

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

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

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

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

9 (b) "Eligible contribution" means a monetary
10 contribution from a taxpayer, subject to the restrictions
11 provided in this section, to an eligible nonprofit
12 scholarship-funding organization. The taxpayer making the
13 contribution may not designate a specific child as the
14 beneficiary of the contribution.

15 (c) "Eligible nonprofit scholarship-funding
16 organization" means a charitable organization that:

17 1. Is exempt from federal income tax pursuant to s.
18 501(c)(3) of the Internal Revenue Code;

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

22 3. Complies with the provisions of subsection (6).
23

24 An eligible nonprofit scholarship-funding organization that is
25 authorized to provide scholarships under s. 220.1875 may,
26 subject to approval by the Department of Education, be
27 authorized to provide scholarships under this section.

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

1 (e) "Owner or operator" includes:

2 1. An owner, president, officer, or director of an
3 eligible nonprofit scholarship-funding organization or a
4 person with equivalent decisionmaking authority over an
5 eligible nonprofit scholarship-funding organization.

6 2. An owner, operator, superintendent, or principal of
7 an eligible private school or a person with equivalent
8 decisionmaking authority over an eligible private school.

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

14 (a) Was counted as a full-time equivalent student
15 during the previous state fiscal year for purposes of state
16 per-student funding;

17 (b) Received a scholarship from an eligible nonprofit
18 scholarship-funding organization or from the State of Florida
19 during the previous school year; or

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

21

22 Contingent upon available funds, a student may continue in the
23 scholarship program as long as the student's family income
24 level does not exceed 200 percent of the federal poverty
25 level. A sibling of a student who is continuing in the program
26 and resides in the same household as the student shall also be
27 eligible as a first-time corporate income tax credit
28 scholarship recipient as long as the student's and sibling's
29 family income level does not exceed 200 percent of the federal
30 poverty level.

31

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 1. Tuition, ~~or~~ textbook expenses, or registration fees
18 for, or transportation to, an eligible private school. The
19 amount of the scholarship shall be the maximum allowed by law
20 or the amount of the private school's textbook expenses and
21 published tuition and registration fees, whichever is less; At
22 ~~least 75 percent of the scholarship funding must be used to~~
23 ~~pay tuition expenses; or~~

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

27 (e) Must give priority to eligible students who
28 received a scholarship from an eligible nonprofit
29 scholarship-funding organization or from the State of Florida
30 during the previous school year or who received an opportunity
31

1 scholarship under former s. 1002.38 during the final quarter
2 of the 2006-2007 school year.

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

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

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

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

1 (j) Must maintain separate accounts for scholarship
2 funds and operating funds.

3 (k) With the prior approval of the Department of
4 Education, may transfer funds to another eligible nonprofit
5 scholarship-funding organization if additional funds are
6 required to meet scholarship demand at the receiving nonprofit
7 scholarship-funding organization. A transfer shall be limited
8 to the greater of \$500,000 or 20 percent of the total
9 contributions received by the nonprofit scholarship-funding
10 organization making the transfer. All transferred funds must
11 be deposited by the receiving nonprofit scholarship-funding
12 organization into its scholarship accounts. All transferred
13 amounts received by any nonprofit scholarship-funding
14 organization must be separately disclosed in the annual
15 financial and compliance audit required in this section.

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

31

1 (m) Must prepare and submit quarterly reports to the
2 Department of Education pursuant to paragraph (9)(m). In
3 addition, an eligible nonprofit scholarship-funding
4 organization must submit in a timely manner any information
5 requested by the Department of Education relating to the
6 scholarship program.

7
8 Any and all information and documentation provided to the
9 Department of Education and the Auditor General relating to
10 the identity of a taxpayer that provides an eligible
11 contribution under this section shall remain confidential at
12 all times in accordance with s. 213.053.

13 (7) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
14 PARTICIPATION.--

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

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

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

23 (d) Each parent and each student has an obligation to
24 the private school to comply with the private school's
25 published policies.

26 (e) The parent shall ensure that the student
27 participating in the scholarship program takes the
28 norm-referenced assessment offered by the private school. The
29 parent may also choose to have the student participate in the
30 statewide assessments pursuant to s. 1008.22. If the parent
31 requests that the student participating in the scholarship

1 | program take statewide assessments pursuant to s. 1008.22, the
2 | parent is responsible for transporting the student to the
3 | assessment site designated by the school district.

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

13 | (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.--An
14 | eligible private school may be sectarian or nonsectarian and
15 | must:

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

19 | (b) Provide to the eligible nonprofit
20 | scholarship-funding organization, upon request, all
21 | documentation required for the student's participation,
22 | including the private school's and student's fee schedules.

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

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

27 | 2. Annually administering or making provision for
28 | students participating in the scholarship program to take one
29 | of the nationally norm-referenced tests identified by the
30 | Department of Education. Students with disabilities for whom
31 | standardized testing is not appropriate are exempt from this

1 requirement. A participating private school must report a
2 student's scores to the parent and to the independent research
3 organization selected by the Department of Education as
4 described in paragraph (9)(j).

5 3. Cooperating with the scholarship student whose
6 parent chooses to participate in the statewide assessments
7 pursuant to s. 1008.32.

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

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

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

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

21 (b) Annually verify the eligibility of nonprofit
22 scholarship-funding organizations that meet the requirements
23 of paragraph (2)(c).

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

26 (d) Annually verify the eligibility of expenditures as
27 provided in paragraph (6)(d) using the audit required by
28 paragraph (6)(1).

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

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

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

19 (h) Cross-check the list of participating scholarship
20 students with the public school enrollment lists to avoid
21 duplication.

22 (i) In accordance with State Board of Education rule,
23 identify and select the nationally norm-referenced tests that
24 are comparable to the norm-referenced provisions of the
25 Florida Comprehensive Assessment Test (FCAT) provided that the
26 FCAT may be one of the tests selected. However, the Department
27 of Education may approve the use of an additional assessment
28 by the school if the assessment meets industry standards of
29 quality and comparability.

30 (j) Select an independent research organization, which
31 may be a public or private entity or university, to which

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

27 (k) Notify an eligible nonprofit scholarship-funding
28 organization of any of the organization's identified students
29 who are receiving educational scholarships pursuant to chapter
30 1002.

31

1 (1) Notify an eligible nonprofit scholarship-funding
2 organization of any of the organization's identified students
3 who are receiving corporate income tax credit scholarships
4 from other eligible nonprofit scholarship-funding
5 organizations.

6 (m) Require quarterly reports by an eligible nonprofit
7 scholarship-funding organization regarding the number of
8 students participating in the scholarship program, the private
9 schools at which the students are enrolled, and other
10 information deemed necessary by the Department of Education.

11 (n)1. Conduct random site visits to private schools
12 participating in the Corporate Tax Credit Scholarship Program.
13 The purpose of the site visits is solely to verify the
14 information reported by the schools concerning the enrollment
15 and attendance of students, the credentials of teachers,
16 background screening of teachers, and teachers' fingerprinting
17 results. The Department of Education may not make more than
18 seven random site visits each year and may not make more than
19 one random site visit each year to the same private school.

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

31

1 (10) COMMISSIONER OF EDUCATION AUTHORITY AND
2 OBLIGATIONS.--

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

15 (b) The commissioner's determination is subject to the
16 following:

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

25 2. The private school that is adversely affected by
26 the proposed action shall have 15 days from receipt of the
27 notice of proposed action to file with the Department of
28 Education's agency clerk a request for a proceeding pursuant
29 to ss. 120.569 and 120.57. If the private school is entitled
30 to a hearing under s. 120.57(1), the Department of Education
31

1 shall forward the request to the Division of Administrative
2 Hearings.

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

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

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

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

27 a. A court of competent jurisdiction in compliance
28 with an order of that court or the attorney of record in
29 accordance with a lawfully issued subpoena, consistent with
30 the Family Educational Rights and Privacy Act, 20 U.S.C. s.
31 1232g.

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

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

13
14 The commissioner's order suspending payment pursuant to this
15 paragraph may be appealed pursuant to the same procedures and
16 timelines as the notice of proposed action set forth in
17 paragraph (b).

18 (11) SCHOLARSHIP AMOUNT AND PAYMENT.--

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

23 1. Three thousand seven hundred fifty dollars for a
24 scholarship awarded to a student enrolled in kindergarten
25 through grade 5 in an eligible private school.

26 2. Four thousand dollars for a scholarship awarded to
27 a student enrolled in grades 6 through 8 in an eligible
28 private school.

29 3. Four thousand two hundred fifty dollars for a
30 scholarship awarded to a student enrolled in grades 9 through
31 12 in an eligible private school.

1 ~~4.2-~~ Five hundred dollars for a scholarship awarded to
2 a student enrolled in a Florida public school that is located
3 outside the district in which the student resides or in a lab
4 school as defined in s. 1002.32.

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

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

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

24 (12) ADMINISTRATION; RULES.--

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

1 paragraph (d) in the year that the taxpayer intends to use the
2 carryforward. This carryforward applies to all approved
3 contributions made after January 1, 2002. A taxpayer may not
4 convey, assign, or transfer the credit authorized by this
5 section to another entity unless all of the assets of the
6 taxpayer are conveyed, assigned, or transferred in the same
7 transaction.

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

11 (c) The department and the Department of Education
12 shall develop a cooperative agreement to assist in the
13 administration of this section.

14 (d) The department shall adopt rules necessary to
15 administer this section, including rules establishing
16 application forms and procedures and governing the allocation
17 of tax credits and carryforward credits under this section on
18 a first-come, first-served basis.

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

23 (13) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--

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

27 (b) A nonprofit scholarship-funding organization that
28 is authorized to receive donations and distribute scholarships
29 under this section and s. 220.1875 shall account for donations
30 and scholarships separately by each tax credit program. If, in
31 a single fiscal year, the amount of donations available for

1 distribution as scholarships in one program exceeds the demand
2 for scholarships under that program for that fiscal year, the
3 organization may, with approval from the Department of
4 Education, apply those surplus funds to meet demand in the
5 other program.

6 (14) PRESERVATION OF CREDIT.--If any provision or
7 portion of subsection (5) or the application thereof to any
8 person or circumstance is held unconstitutional by any court,
9 or is otherwise invalid, the unconstitutionality or invalidity
10 shall not affect any credit earned under subsection (5) by any
11 taxpayer with respect to any contribution paid to an eligible
12 nonprofit scholarship-funding organization before the date of
13 a determination of unconstitutionality or invalidity. Such
14 credit shall be allowed at such time and in such a manner as
15 if a determination of unconstitutionality or invalidity had
16 not been made if nothing in this subsection by itself or in
17 combination with any other provision of law results in the
18 allowance of any credit to any taxpayer in excess of one
19 dollar of credit for each dollar paid to an eligible nonprofit
20 scholarship-funding organization.

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 (g) "Owner or operator" includes:

11 1. An owner, president, officer, or director of an
12 eligible nonprofit scholarship-funding organization or a
13 person who has 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 who has equivalent
17 decisionmaking authority over an eligible private school.

18 (3) SCHOOL DISTRICT OBLIGATIONS.--

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

23 1. Timely notify the parent of the student as soon as
24 such designation is made of all options available pursuant to
25 this section;

26 2. Offer that student's parent an opportunity to
27 enroll the student in another public school within the
28 district which has been designated by the state pursuant to s.
29 1008.34 as a school performing higher than the school in which
30 the student is currently enrolled or to which the student has

31

1 been assigned, but not less than performance grade category
2 "C"; and

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

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

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

21 (d) Students with disabilities who are eligible to
22 receive services from the school district under federal or
23 state law, and who receive a scholarship under this section,
24 remain eligible to receive services from the school district
25 as provided by federal or state law.

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

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

1 year, after the application of any other allowable credits by
2 the taxpayer. However, at least 5 percent of the total
3 statewide amount authorized for the tax credit shall be
4 reserved for taxpayers who meet the definition of a small
5 business provided in s. 288.703(1) at the time of application.
6 The credit granted by this section shall be reduced by the
7 difference between the amount of federal corporate income tax,
8 taking into account the credit granted by this section, and
9 the amount of federal corporate income tax without application
10 of the credit granted by this section.

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

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

19 (5) OBLIGATIONS OF ELIGIBLE NONPROFIT
20 SCHOLARSHIP-FUNDING ORGANIZATIONS.--

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

24 1. Tuition and fees for a qualified student enrolled
25 in an eligible nonpublic school.

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

29 (b) For continuity of educational choice, an eligible
30 nonprofit scholarship-funding organization shall give priority
31

1 to qualified students who received a scholarship to attend an
2 eligible nonpublic school during the previous school year.

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

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

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

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

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

22 (d) The amount of an eligible contribution which may
23 be accepted by an eligible nonprofit scholarship-funding
24 organization is limited to the amount needed to provide
25 scholarships for qualified students which the organization has
26 identified and for which vacancies in eligible nonpublic
27 schools have been identified.

28 (e) An eligible nonprofit scholarship-funding
29 organization that receives an eligible contribution must spend
30 100 percent of the eligible contribution to provide
31 scholarships in the same state fiscal year in which the

1 contribution was received. No portion of eligible
2 contributions may be used for administrative expenses. All
3 interest accrued from contributions must be used for
4 scholarships.

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

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

9 2. Allow an eligible student to attend any eligible
10 private school; and

11 3. Allow a parent to transfer a scholarship during a
12 school year to any other eligible private school of the
13 parent's choice.

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

28 (h) An eligible nonprofit scholarship-funding
29 organization must comply with the following background check
30 requirements:

31

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

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

1 2 screening, and the fingerprints shall be retained by the
2 Department of Law Enforcement under subparagraph 3.

3 3. Beginning July 1, 2008, all fingerprints submitted
4 to the Department of Law Enforcement as required by this
5 paragraph must be retained by the Department of Law
6 Enforcement in a manner approved by rule and entered in the
7 statewide automated fingerprint identification system
8 authorized by s. 943.05(2)(b). The fingerprints must
9 thereafter be available for all purposes and uses authorized
10 for arrest fingerprint cards entered in the statewide
11 automated fingerprint identification system pursuant to
12 s.943.051.

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

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

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

9 (i) An eligible nonprofit scholarship-funding
10 organization must not have an owner or operator who owns or
11 operates an eligible private school that is participating in
12 the scholarship program.

13 (j) An eligible nonprofit scholarship-funding
14 organization may not restrict or reserve scholarships for use
15 at a particular private school or provide scholarships to a
16 child of an owner or operator.

17 (k) An eligible nonprofit scholarship-funding
18 organization must:

19 1. Comply with the antidiscrimination provisions of 42
20 U.S.C. s. 2000d.

21 2. Maintain separate accounts for scholarship funds
22 and operating funds.

23 3. Provide to the Auditor General and the Department
24 of Education an annual financial and compliance audit of its
25 accounts and records conducted by an independent certified
26 public accountant and in accordance with rules adopted by the
27 Auditor General. The audit must be conducted in compliance
28 with generally accepted auditing standards and must include a
29 report of financial statements presented in accordance with
30 generally accepted accounting principles set forth by the
31 American Institute of Certified Public Accountants for

1 not-for-profit organizations and a determination of compliance
2 with the statutory eligibility and expenditure requirements
3 set forth in this section. Audits must be provided to the
4 Auditor General and the Department of Education within 180
5 days after completion of the eligible nonprofit
6 scholarship-funding organization's fiscal year.

7 4. Prepare and submit quarterly reports to the
8 Department of Education pursuant to this section. In addition,
9 an eligible nonprofit scholarship-funding organization must
10 submit in a timely manner any information requested by the
11 Department of Education relating to the scholarship program.

12
13 Any and all information and documentation provided to the
14 Department of Education and the Auditor General relating to
15 the identity of a taxpayer that provides an eligible
16 contribution under this section shall remain confidential at
17 all times in accordance with s. 213.053.

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

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

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

28 (c) Ensure that the student receiving a scholarship
29 under this section takes all statewide assessments required
30 pursuant to s. 1008.22.

31

1 (d) Upon receipt of a scholarship warrant from the
2 eligible nonprofit scholarship-funding organization,
3 restrictively endorse the warrant to the private school for
4 deposit into the account of the private school. The parent may
5 not designate any entity or individual associated with the
6 participating private school as the parent's attorney in fact
7 to endorse a scholarship warrant. A participant who fails to
8 comply with this paragraph forfeits the scholarship.

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

16 (8) DURATION OF SCHOLARSHIP.--

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

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

26 2. If the student is in grades six through eight,
27 until the student matriculates to high school and the public
28 high school to which the student is assigned is an accredited
29 school that has a performance grade category designation of
30 "C" or better.

31

1 At any time upon reasonable notice to the Department of
2 Education and the school district, the student's parent may
3 remove the student from the nonpublic school and place the
4 student in a public school, as provided in subparagraph
5 (3)(a)2.

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

16 (9) ELIGIBLE NONPUBLIC SCHOOL OBLIGATIONS.--An
17 eligible nonpublic school must:

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

26 (b) Accept scholarship students on an entirely random
27 and religious-neutral basis without regard to the student's
28 past academic history; however, the nonpublic school may give
29 preference in accepting applications to siblings of students
30 who have already been accepted on a random and
31 religious-neutral basis.

1 (c) Be subject to the instruction, curriculum, and
2 attendance criteria adopted by an appropriate nonpublic school
3 accrediting body. The nonpublic school must furnish a school
4 profile that includes student performance.

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

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

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

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

17 (h) Provide to the eligible nonprofit
18 scholarship-funding organization, upon request, all
19 documentation required for the student's participation,
20 including the private school's and student's fee schedules.

21 (i) Be academically accountable to the parent for
22 meeting the educational needs of the student by, at a minimum,
23 annually providing to the parent a written explanation of the
24 student's progress. A participating private school must report
25 a student's scores to the parent and to the independent
26 research organization selected by the Department of Education
27 as described in s. 220.187(9)(j).

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

31

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

5 (10) ADMINISTRATION; RULES.--

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

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

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

26 (d) The Department of Education shall be responsible
27 for annually submitting, by March 15, to the department a list
28 of eligible nonprofit scholarship-funding organizations that
29 meet the requirements of paragraph (2)(d) and for monitoring
30 eligibility of nonprofit scholarship-funding organizations
31 that meet the requirements of paragraph (2)(d), eligibility of

1 nonpublic schools that meet the requirements of paragraph
2 (2)(c), and eligibility of expenditures under this section as
3 provided in subsection (5). The Department of Education shall:
4 1. Annually verify the eligibility of nonprofit
5 scholarship-funding organizations that meet the requirements
6 of paragraph (2)(d).
7 2. Annually verify the eligibility of private schools
8 that meet the requirements of subsection (9).
9 3. Annually verify the eligibility of expenditures as
10 provided in paragraph (5)(a) using the audit required by
11 paragraph (5)(k).
12 4. Establish a process by which individuals may notify
13 the Department of Education of any violation by a parent,
14 private school, or school district of state laws relating to
15 program participation. The Department of Education shall
16 conduct an inquiry of any written complaint of a violation of
17 this section, or make a referral to the appropriate agency for
18 an investigation, if the complaint is signed by the
19 complainant and is legally sufficient. A complaint is legally
20 sufficient if it contains ultimate facts that show that a
21 violation of this section or any rule adopted by the State
22 Board of Education has occurred. In order to determine legal
23 sufficiency, the Department of Education may require
24 supporting information or documentation from the complainant.
25 A department inquiry is not subject to the requirements of
26 chapter 120.
27 5. Require an annual, notarized, sworn compliance
28 statement by participating private schools certifying
29 compliance with state laws and shall retain such records.
30
31

1 6. Cross-check the list of participating scholarship
2 students with the public school enrollment lists to avoid
3 duplication.

4 7. Provide participating private schools with
5 information related to the independent research organization
6 selected pursuant to s. 220.187(9)(j) to which participating
7 private schools must report the scores of participating
8 students on the statewide assessments required under this
9 section. The independent research organization selected
10 pursuant to s. 220.187(9)(j) must annually report to the
11 Department of Education on the year-to-year improvements of
12 participating students under this section. The independent
13 research organization must analyze and report student
14 performance data in a manner that protects the rights of
15 students and parents as mandated in 20 U.S.C. s. 1232g, the
16 Family Educational Rights and Privacy Act, and must not
17 disaggregate data to a level that will disclose the academic
18 level of individual students or of individual schools. To the
19 extent possible, the independent research organization must
20 accumulate historical performance data on students from the
21 Department of Education and private schools to describe
22 baseline performance and to conduct longitudinal studies. To
23 minimize costs and reduce time required for third-party
24 analysis and evaluation, the Department of Education shall
25 conduct analyses of matched students from public school
26 assessment data and calculate control group learning gains
27 using an agreed-upon methodology outlined in the contract with
28 the third-party evaluator. The sharing of student data must be
29 in accordance with requirements of 20 U.S.C. s. 1232g, the
30 Family Educational Rights and Privacy Act, and shall be for
31 the sole purpose of conducting the evaluation. All parties

1 must preserve the confidentiality of such information as
2 required by law.

3 8. Notify an eligible nonprofit scholarship-funding
4 organization of any of the organization's identified students
5 who are receiving educational scholarships pursuant to chapter
6 1002.

7 9. Notify an eligible nonprofit scholarship-funding
8 organization of any of the organization's identified students
9 who are receiving corporate income tax credit scholarships
10 from other eligible nonprofit scholarship-funding
11 organizations.

12 10. Require quarterly reports by an eligible nonprofit
13 scholarship-funding organization regarding the number of
14 students participating in the scholarship program, the private
15 schools at which the students are enrolled, and other
16 information deemed necessary by the Department of Education.

17 11.a. Conduct random site visits to private schools
18 participating in this program. The purpose of the site visits
19 is solely to verify the information reported by the schools
20 concerning the enrollment and attendance of students, the
21 credentials of teachers, background screening of teachers, and
22 teachers' fingerprinting results. The Department of Education
23 may not make more than seven random site visits each year and
24 may not make more than one random site visit each year to the
25 same private school.

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

1 private school under this program concerning the enrollment
2 and attendance of students, the credentials of teachers,
3 background screening of teachers, and teachers' fingerprinting
4 results and the corrective action taken by the Department of
5 Education.

6 (e)1. The Commissioner of Education shall deny,
7 suspend, or revoke a private school's participation in the
8 scholarship program if it is determined that the private
9 school has failed to comply with the provisions of this
10 section. However, in instances in which the noncompliance is
11 correctable within a reasonable amount of time and in which
12 the health, safety, or welfare of the students is not
13 threatened, the commissioner may issue a notice of
14 noncompliance that shall provide the private school with a
15 timeframe within which to provide evidence of compliance prior
16 to taking action to suspend or revoke the private school's
17 participation in the scholarship program.

18 2. The commissioner's determination is subject to the
19 following:

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

28 b. The private school that is adversely affected by
29 the proposed action shall have 15 days from receipt of the
30 notice of proposed action to file with the Department of
31 Education's agency clerk a request for a proceeding pursuant

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

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

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

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

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

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

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

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

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

15
16 The commissioner's order suspending payment pursuant to this
17 paragraph may be appealed pursuant to the same procedures and
18 timelines as the notice of proposed action set forth in
19 subparagraph (2).

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

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

1 (11) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--

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

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

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

17 213.053 Confidentiality and information sharing.--

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

20 (z) Information relative to s. 220.1875 to the
21 Department of Education in the conduct of its official
22 business.

23
24 Disclosure of information under this subsection shall be
25 pursuant to a written agreement between the executive director
26 and the agency. Such agencies, governmental or
27 nongovernmental, shall be bound by the same requirements of
28 confidentiality as the Department of Revenue. Breach of
29 confidentiality is a misdemeanor of the first degree,
30 punishable as provided by s. 775.082 or s. 775.083.
31

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

3 220.02 Legislative intent.--

4 (8) It is the intent of the Legislature that credits
5 against either the corporate income tax or the franchise tax
6 be applied in the following order: those enumerated in s.
7 631.828, those enumerated in s. 220.191, those enumerated in
8 s. 220.181, those enumerated in s. 220.183, those enumerated
9 in s. 220.182, those enumerated in s. 220.1895, those
10 enumerated in s. 221.02, those enumerated in s. 220.184, those
11 enumerated in s. 220.186, those enumerated in s. 220.1845,
12 those enumerated in s. 220.19, those enumerated in s. 220.185,
13 those enumerated in s. 220.187, those enumerated in s.
14 220.1875, those enumerated in s. 220.192, and those enumerated
15 in s. 220.193.

16 Section 6. Paragraph (a) of subsection (1) of section
17 220.13, Florida Statutes, is amended to read:

18 220.13 "Adjusted federal income" defined.--

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

24 (a) Additions.--There shall be added to such taxable
25 income:

26 1. The amount of any tax upon or measured by income,
27 excluding taxes based on gross receipts or revenues, paid or
28 accrued as a liability to the District of Columbia or any
29 state of the United States which is deductible from gross
30 income in the computation of taxable income for the taxable
31 year.

1 2. The amount of interest which is excluded from
2 taxable income under s. 103(a) of the Internal Revenue Code or
3 any other federal law, less the associated expenses disallowed
4 in the computation of taxable income under s. 265 of the
5 Internal Revenue Code or any other law, excluding 60 percent
6 of any amounts included in alternative minimum taxable income,
7 as defined in s. 55(b)(2) of the Internal Revenue Code, if the
8 taxpayer pays tax under s. 220.11(3).

9 3. In the case of a regulated investment company or
10 real estate investment trust, an amount equal to the excess of
11 the net long-term capital gain for the taxable year over the
12 amount of the capital gain dividends attributable to the
13 taxable year.

14 4. That portion of the wages or salaries paid or
15 incurred for the taxable year which is equal to the amount of
16 the credit allowable for the taxable year under s. 220.181.
17 This subparagraph shall expire on the date specified in s.
18 290.016 for the expiration of the Florida Enterprise Zone Act.

19 5. That portion of the ad valorem school taxes paid or
20 incurred for the taxable year which is equal to the amount of
21 the credit allowable for the taxable year under s. 220.182.
22 This subparagraph shall expire on the date specified in s.
23 290.016 for the expiration of the Florida Enterprise Zone Act.

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

28 7. That portion of assessments to fund a guaranty
29 association incurred for the taxable year which is equal to
30 the amount of the credit allowable for the taxable year.
31

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

6 9. The amount taken as a credit for the taxable year
7 under s. 220.1895.

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

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

13 12. The amount taken as a credit for the taxable year
14 under s. 220.1875.

15 ~~13.12.~~ The amount taken as a credit for the taxable
16 year under s. 220.192.

17 ~~14.13.~~ The amount taken as a credit for the taxable
18 year under s. 220.193.

19 Section 7. Section 220.701, Florida Statutes, is
20 amended to read:

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

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

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

27 (13) To prepare and publish annually reports giving
28 statistics and other useful information pertaining to the tax
29 credit programs under ss. 220.187 and 220.1875 ~~Opportunity~~
30 ~~Scholarship Program~~.
31

1 The commissioner's office shall operate all statewide
2 functions necessary to support the State Board of Education
3 and the K-20 education system, including strategic planning
4 and budget development, general administration, and assessment
5 and accountability.

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

8 1001.42 Powers and duties of district school
9 board.--The district school board, acting as a board, shall
10 exercise all powers and perform all duties listed below:

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

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

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

30 (6) EDUCATIONAL CHOICE.--
31

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

18 (b) Private school choices.--Parents of public school
19 students may seek private school choice options under certain
20 programs.

21 1. Under the corporate income tax credit scholarship
22 program for families of students attending schools failing to
23 make adequate progress ~~Opportunity Scholarship Program~~, the
24 parent of a student in a failing public school may seek a
25 ~~request and receive an opportunity~~ scholarship from an
26 eligible nonprofit scholarship-funding organization for the
27 student to attend a private school in accordance with s.
28 220.1875 ~~the provisions of s. 1002.38.~~

29 2. Under the McKay Scholarships for Students with
30 Disabilities Program, the parent of a public school student
31 with a disability who is dissatisfied with the student's

1 progress may request and receive a McKay Scholarship for the
2 student to attend a private school in accordance with ~~the~~
3 ~~provisions of s. 1002.39.~~

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

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

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

17 Section 11. Section 1002.38, Florida Statutes, is
18 repealed.

19 Section 12. Section 1002.39, Florida Statutes, is
20 amended to read:

21 1002.39 The John M. McKay Scholarships for Students
22 with Disabilities Program.--There is established a program
23 that is ~~separate and distinct from the Opportunity Scholarship~~
24 ~~Program and is~~ named the John M. McKay Scholarships for
25 Students with Disabilities Program.

26 (1) THE JOHN M. MCKAY SCHOLARSHIPS FOR STUDENTS WITH
27 DISABILITIES PROGRAM.--The John M. McKay Scholarships for
28 Students with Disabilities Program is established to provide
29 the option to attend a public school other than the one to
30 which assigned, or to provide a scholarship to a private
31 school of choice, for students with disabilities for whom an

1 individual education plan has been written in accordance with
2 rules of the State Board of Education. Students with
3 disabilities include K-12 students who are documented as
4 having a mental handicap, including trainable, profound, or
5 educable; a speech or language impairment; a hearing
6 impairment, including deafness; a visual impairment, including
7 blindness; a dual sensory impairment; a physical impairment; a
8 serious emotional disturbance, including an emotional
9 handicap; a specific learning disability, including, but not
10 limited to, dyslexia, dyscalculia, or developmental aphasia; a
11 traumatic brain injury; or autism.

12 (2) JOHN M. MCKAY SCHOLARSHIP ELIGIBILITY.--The parent
13 of a public school student with a disability who is
14 dissatisfied with the student's progress may request and
15 receive from the state a John M. McKay Scholarship for the
16 child to enroll in and attend a private school in accordance
17 with this section if:

18 (a) The student has spent the prior school year in
19 attendance at a Florida public school or the Florida School
20 for the Deaf and the Blind. Prior school year in attendance
21 means that the student was:

22 1. Enrolled and reported by a school district for
23 funding during the preceding October and February Florida
24 Education Finance Program surveys in kindergarten through
25 grade 12, which shall include time spent in a Department of
26 Juvenile Justice commitment program if funded under the
27 Florida Education Finance Program;

28 2. Enrolled and reported by the Florida School for the
29 Deaf and the Blind during the preceding October and February
30 student membership surveys in kindergarten through grade 12;
31 or

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

6
7 However, a dependent child of a member of the United States
8 Armed Forces who transfers to a school in this state from out
9 of state or from a foreign country pursuant to a parent's
10 permanent change of station orders is exempt from this
11 paragraph but must meet all other eligibility requirements to
12 participate in the program.

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

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

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

29 (b) Receiving a corporate income tax credit
30 scholarship under s. 220.187;

31

1 (c) Receiving an educational scholarship pursuant to
2 this chapter;

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

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

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

12 (g) Enrolled in the Florida School for the Deaf and
13 the Blind; or

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

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

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

21 (b) Upon reasonable notice to the department and the
22 school district, the student's parent may remove the student
23 from the private school and place the student in a public
24 school in accordance with this section.

25 (c) Upon reasonable notice to the department, the
26 student's parent may move the student from one participating
27 private school to another participating private school.

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

29 (a)1. By April 1 of each year and within 10 days after
30 an individual education plan meeting, a school district shall
31 notify the parent of the student of all options available

1 pursuant to this section, inform the parent of the
2 availability of the department's telephone hotline and
3 Internet website for additional information on John M. McKay
4 Scholarships, and offer that student's parent an opportunity
5 to enroll the student in another public school within the
6 district.

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

13 3. If the parent chooses a public school consistent
14 with the district school board's choice plan under s. 1002.31,
15 the school district shall provide transportation to the public
16 school selected by the parent. The parent is responsible to
17 provide transportation to a public school chosen that is not
18 consistent with the district school board's choice plan under
19 s. 1002.31.

20 (b)1. For a student with disabilities who does not
21 have a matrix of services under s. 1011.62(1)(e), the school
22 district must complete a matrix that assigns the student to
23 one of the levels of service as they existed prior to the
24 2000-2001 school year.

25 2.a. Within 10 school days after it receives
26 notification of a parent's request for a John M. McKay
27 Scholarship, a school district must notify the student's
28 parent if the matrix of services has not been completed and
29 inform the parent that the district is required to complete
30 the matrix within 30 days after receiving notice of the
31

1 | parent's request for a John M. McKay Scholarship. This notice
2 | should include the required completion date for the matrix.

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

11 | c. The department shall notify the private school of
12 | the amount of the scholarship within 10 days after receiving
13 | the school district's notification of the student's matrix
14 | level.

15 | d. A school district may change a matrix of services
16 | only if the change is to correct a technical, typographical,
17 | or calculation error.

18 | (c) A school district shall provide notification to
19 | parents of the availability of a reevaluation at least every 3
20 | years of each student who receives a John M. McKay
21 | Scholarship.

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

29 | (e) The parent of a student may choose, as an
30 | alternative, to enroll the student in and transport the
31 | student to a public school in an adjacent school district

1 | which has available space and has a program with the services
2 | agreed to in the student's individual education plan already
3 | in place, and that school district shall accept the student
4 | and report the student for purposes of the district's funding
5 | pursuant to the Florida Education Finance Program.

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

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

14 | (a) Establish a toll-free hotline that provides
15 | parents and private schools with information on participation
16 | in the John M. McKay Scholarships for Students with
17 | Disabilities Program.

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

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

1 complainant. A department inquiry is not subject to the
2 requirements of chapter 120.

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

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

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

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

1 (7) COMMISSIONER OF EDUCATION AUTHORITY AND
2 OBLIGATIONS.--

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

15 (b) The commissioner's determination is subject to the
16 following:

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

25 2. The private school that is adversely affected by
26 the proposed action shall have 15 days from receipt of the
27 notice of proposed action to file with the department's agency
28 clerk a request for a proceeding pursuant to ss. 120.569 and
29 120.57. If the private school is entitled to a hearing under
30 s. 120.57(1), the department shall forward the request to the
31 Division of Administrative Hearings.

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

14 (c) The commissioner may immediately suspend payment
15 of scholarship funds if it is determined that there is
16 probable cause to believe that there is:

17 1. An imminent threat to the health, safety, or
18 welfare of the students; or

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

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

30 b. A person or entity authorized by a court of
31 competent jurisdiction in compliance with an order of that

1 | court or the attorney of record pursuant to a lawfully issued
2 | subpoena, consistent with the Family Educational Rights and
3 | Privacy Act, 20 U.S.C. s. 1232g.

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

11 |
12 | The commissioner's order suspending payment pursuant to this
13 | paragraph may be appealed pursuant to the same procedures and
14 | timelines as the notice of proposed action set forth in
15 | paragraph (b).

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

20 | (a) Comply with all requirements for private schools
21 | participating in state school choice scholarship programs
22 | pursuant to s. 1002.421.

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

28 | (c) Be academically accountable to the parent for
29 | meeting the educational needs of the student by:

30 | 1. At a minimum, annually providing to the parent a
31 | written explanation of the student's progress.

1 2. Cooperating with the scholarship student whose
2 parent chooses to participate in the statewide assessments
3 pursuant to s. 1008.22.

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

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

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

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

17 (b) The parent must have requested the scholarship at
18 least 60 days prior to the date of the first scholarship
19 payment.

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

24 (d) Each parent and each student has an obligation to
25 the private school to comply with the private school's
26 published policies.

27 (e) If the parent requests that the student
28 participating in the John M. McKay Scholarships for Students
29 with Disabilities Program take all statewide assessments
30 required pursuant to s. 1008.22, the parent is responsible for
31

1 transporting the student to the assessment site designated by
2 the school district.

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

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

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

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

1 amount shall include the per-student share of supplemental
2 academic instruction funds, instructional materials funds,
3 technology funds, and other categorical funds as provided for
4 such purposes in the General Appropriations Act.

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

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

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

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

27 2. For program participants who are eligible under
28 subparagraph (2)(a)2., the school district that is used as the
29 basis for the calculation of the scholarship amount as
30 provided in subparagraph (a)3. shall:
31

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

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

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

30 (e) Upon notification by the department that it has
31 received the documentation required under paragraph (d), the

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

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

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

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

27 (13) RULES.--The State Board of Education shall adopt
28 rules pursuant to ss. 120.536(1) and 120.54 to administer this
29 section, including rules that school districts must use to
30 expedite the development of a matrix of services based on an
31 active individual education plan from another state or a

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

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

13 1002.421 Accountability of private schools
14 participating in state school choice scholarship programs.--

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

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

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
CS/SB 2380

This committee substitute:

1. Provides a definition of the "owner" or "operator" of a nonprofit scholarship-funding organizations that provide scholarships to families of students attending schools failing to make adequate progress;
2. Allows a parent to transfer a scholarship during a school year to any other eligible private school of the parent's choice;
3. Creates additional requirements for a private school that is eligible to enroll students funded through the new scholarship credit program;
4. Requires the Department of Education to submit annually a list of eligible scholarship funding organizations under this program to the Department of Revenue; and
5. Makes private schools participating in the new scholarship program subject to the same accountability standards that apply to the Corporate Income Tax Credit Scholarship Program.