

By Senator Wilson

33-41-07

1                                   A bill to be entitled

2           An act relating to the tax on corporate income;

3           amending s. 220.187, F.S.; providing for tax

4           credits for contributions to eligible nonprofit

5           educational-improvement organizations, as well

6           as for contributions to eligible nonprofit

7           scholarship-funding organizations; providing

8           that an additional purpose of the section is to

9           enable students in specified grades in public

10          schools to receive certain assistance in

11          attaining grade-level performance; defining

12          terms; providing for allocating among the

13          categories of recipients the total allowable

14          amount of tax credits which may be granted

15          during each state fiscal year; providing

16          obligations of eligible nonprofit

17          educational-improvement organizations; revising

18          parental obligations; revising provisions

19          relating to administration and to deposits of

20          eligible contributions, to conform; providing

21          an effective date.

22

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

24

25           Section 1. Section 220.187, Florida Statutes, is

26 amended to read:

27           220.187 Credits for contributions to nonprofit

28 scholarship-funding and nonprofit educational-improvement

29 organizations.--

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

31

1 (a) Encourage private, voluntary contributions to  
2 nonprofit scholarship-funding organizations and eligible  
3 nonprofit educational-improvement organizations.

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

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

8 (d) Enable students in grades 2, 5, 6, 8, and 9 in  
9 public schools to receive tutoring and remediation to attain  
10 grade-level performance.

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

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

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

20 (c) "Eligible nonprofit educational-improvement  
21 organization" means a charitable organization that is exempt  
22 from federal income tax pursuant to s. 501(c)(3) of the  
23 Internal Revenue Code and that complies with subsection (5).

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

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

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

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

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

5           ~~(f)(e)~~ "Owner or operator" includes:

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

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

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

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

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

27           (c) Is eligible to enter kindergarten or first grade;  
28 or-

29           ~~(d)~~ Is a student in grade 2, grade 5, grade 6, grade  
30 8, or grade 9 in an eligible public school.

31

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

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

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

10 (b) Receiving a scholarship from another eligible  
11 nonprofit scholarship-funding organization or eligible  
12 nonprofit educational-improvement organization under this  
13 section;

14 (c) Receiving an educational scholarship pursuant to  
15 chapter 1002;

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

18 (e) Participating in a private tutoring program  
19 pursuant to s. 1002.43;

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

25 (g) Enrolled in the Florida School for the Deaf and  
26 the Blind.

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

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

1 | percent of the tax due under this chapter for the taxable  
2 | year, after the application of any other allowable credits by  
3 | the taxpayer. The credit granted by this section shall be  
4 | reduced by the difference between the amount of federal  
5 | corporate income tax taking into account the credit granted by  
6 | this section and the amount of federal corporate income tax  
7 | without application of the credit granted by this section.

8 |         (b) The total amount of tax credits and carryforward  
9 | of tax credits which may be granted each state fiscal year  
10 | under this section is \$60 million to nonprofit  
11 | scholarship-funding organizations and \$28 million to nonprofit  
12 | educational-improvement organizations ~~\$88 million~~. At least 1  
13 | percent of the total statewide amount authorized for the tax  
14 | credit shall be reserved for taxpayers who meet the definition  
15 | of a small business provided in s. 288.703(1) at the time of  
16 | application.

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

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

1 paragraph shall become available to an eligible taxpayer on a  
2 first-come, first-served basis based on tax credit  
3 applications received after the date the rescindment is  
4 accepted by the department.

5 (6) OBLIGATIONS OF ELIGIBLE NONPROFIT  
6 SCHOLARSHIP-FUNDING ORGANIZATIONS.--An eligible nonprofit  
7 scholarship-funding organization:

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

10 (b) Must comply with the following background check  
11 requirements:

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

27 2. Every 5 years following employment or engagement to  
28 provide services or association with an eligible nonprofit  
29 scholarship-funding organization, each owner or operator must  
30 meet level 2 screening standards as described in s. 435.04, at  
31 which time the nonprofit scholarship-funding organization

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

13           3. Beginning July 1, 2007, all fingerprints submitted  
14 to the Department of Law Enforcement as required by this  
15 paragraph must be retained by the Department of Law  
16 Enforcement in a manner approved by rule and entered in the  
17 statewide automated fingerprint identification system  
18 authorized by s. 943.05(2)(b). The fingerprints must  
19 thereafter be available for all purposes and uses authorized  
20 for arrest fingerprint cards entered in the statewide  
21 automated fingerprint identification system pursuant to s.  
22 943.051.

23           4. Beginning July 1, 2007, the Department of Law  
24 Enforcement shall search all arrest fingerprint cards received  
25 under s. 943.051 against the fingerprints retained in the  
26 statewide automated fingerprint identification system under  
27 subparagraph 3. Any arrest record that is identified with an  
28 owner's or operator's fingerprints must be reported to the  
29 Department of Education. The Department of Education shall  
30 participate in this search process by paying an annual fee to  
31 the Department of Law Enforcement and by informing the

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

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

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

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

22           (d) Must provide scholarships, from eligible  
23 contributions, to eligible students for:

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

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

30           (e) Must give priority to eligible students who  
31 received a scholarship from an eligible nonprofit



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

26 (j) Must maintain separate accounts for scholarship  
27 funds and operating funds.

28 (k) With the prior approval of the Department of  
29 Education, may transfer funds to another eligible nonprofit  
30 scholarship-funding organization if additional funds are  
31 required to meet scholarship demand at the receiving nonprofit

1 scholarship-funding organization. A transfer shall be limited  
2 to the greater of \$500,000 or 20 percent of the total  
3 contributions received by the nonprofit scholarship-funding  
4 organization making the transfer. All transferred funds must  
5 be deposited by the receiving nonprofit scholarship-funding  
6 organization into its scholarship accounts. All transferred  
7 amounts received by any nonprofit scholarship-funding  
8 organization must be separately disclosed in the annual  
9 financial and compliance audit required in this section.

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

25 (m) Must prepare and submit quarterly reports to the  
26 Department of Education pursuant to paragraph (10)(m)(9)(m).  
27 In addition, an eligible nonprofit scholarship-funding  
28 organization must submit in a timely manner any information  
29 requested by the Department of Education relating to the  
30 scholarship program.

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

6 (7) OBLIGATIONS OF ELIGIBLE NONPROFIT  
7 EDUCATIONAL-IMPROVEMENT ORGANIZATIONS.--

8 (a) An eligible nonprofit educational-improvement  
9 organization that receives an eligible contribution must spend  
10 100 percent of the eligible contribution to establish  
11 scholarships to eligible students as defined in subsection (3)  
12 in the same year the contribution was received. A portion of  
13 contributions may not be used for administrative expenses.  
14 All portions of interest accrued from contributions must be  
15 used for the establishment of scholarships.

16 (b) An eligible nonprofit educational-improvement  
17 organization shall ensure that payments are made to parents or  
18 guardians of eligible students as defined in subsection (3).  
19 Payment of the scholarship by the eligible nonprofit  
20 educational-improvement organization must be by individual  
21 warrant or check made payable to the student's parent or  
22 guardian. The warrant or check must be mailed by the eligible  
23 nonprofit educational-improvement organization to the eligible  
24 public school that the qualified student is attending, and the  
25 student's parent or guardian shall restrictively endorse the  
26 warrant or check to the school. An eligible nonprofit  
27 educational-improvement organization shall ensure that, upon  
28 receipt of a scholarship warrant or check, the parent or  
29 guardian to whom the warrant or check is made restrictively  
30 endorses the warrant or check to the eligible public school  
31 that the student is attending for deposit into the account of

1 the school. Recipient students must be funded until  
2 grade-level performance is achieved before new qualified  
3 students can be funded. Students in grade 2 shall receive  
4 priority, followed by those in grade 9, grade 8, grade 6, and  
5 grade 5.

6 (c) The amount of a scholarship for an eligible  
7 student as defined in subsection (3) for any single school  
8 year by all eligible nonprofit educational-improvement  
9 organizations from eligible contributions may not exceed  
10 \$3,000.

11 (d) Payment by the eligible nonprofit  
12 educational-improvement organization must not exceed the  
13 amount needed to have the qualified student attain grade-level  
14 performance or \$3,000 in any school year, whichever is less.

15 ~~(8)(7)~~ PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM  
16 PARTICIPATION.--

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

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

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

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

28 (e) The parent shall ensure that the student  
29 participating in the scholarship program takes the  
30 norm-referenced assessment offered by the private school. The  
31 parent may also choose to have the student participate in the

1 statewide assessments pursuant to s. 1008.22. If the parent  
2 requests that the student participating in the scholarship  
3 program take statewide assessments pursuant to s. 1008.22, the  
4 parent is responsible for transporting the student to the  
5 assessment site designated by the school district.

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

16 ~~(9)(8)~~ PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.--An  
17 eligible private school may be sectarian or nonsectarian and  
18 must:

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

22 (b) Provide to the eligible nonprofit  
23 scholarship-funding organization or eligible nonprofit  
24 educational-improvement organization, upon request, all  
25 documentation required for the student's participation,  
26 including the private school's and student's fee schedules.

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

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

31

1           2. Annually administering or making provision for  
2 students participating in the scholarship program to take one  
3 of the nationally norm-referenced tests identified by the  
4 Department of Education. Students with disabilities for whom  
5 standardized testing is not appropriate are exempt from this  
6 requirement. A participating private school must report a  
7 student's scores to the parent and to the independent research  
8 organization selected by the Department of Education as  
9 described in paragraph~~(10)(j)(9)(j)~~.

10           3. Cooperating with the scholarship student whose  
11 parent chooses to participate in the statewide assessments  
12 pursuant to s. 1008.32.

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

16  
17 The inability of a private school to meet the requirements of  
18 this subsection shall constitute a basis for the ineligibility  
19 of the private school to participate in the scholarship  
20 program as determined by the Department of Education.

21           ~~(10)(9)~~ DEPARTMENT OF EDUCATION OBLIGATIONS.--The  
22 Department of Education shall:

23           (a) Annually submit to the department, by March 15, a  
24 list of eligible nonprofit educational-improvement  
25 organizations and eligible nonprofit scholarship-funding  
26 organizations that meet the requirements of paragraph (2)(c)  
27 or paragraph (2)(d), respectively.

28           (b) Annually verify the eligibility of nonprofit  
29 educational-improvement organizations and nonprofit  
30 scholarship-funding organizations that meet the requirements  
31 of paragraph (2)(c) or paragraph (2)(d), respectively.

1           (c) Annually verify the eligibility of private schools  
2 that meet the requirements of subsection (9)~~(8)~~.

3           (d) Annually verify the eligibility of expenditures as  
4 provided in paragraph (6)(d) using the audit required by  
5 paragraph (6)(1).

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

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

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

27           (h) Cross-check the list of participating scholarship  
28 students with the public school enrollment lists to avoid  
29 duplication.

30           (i) In accordance with State Board of Education rule,  
31 identify and select the nationally norm-referenced tests that

1 are comparable to the norm-referenced provisions of the  
2 Florida Comprehensive Assessment Test (FCAT) provided that the  
3 FCAT may be one of the tests selected. However, the Department  
4 of Education may approve the use of an additional assessment  
5 by the school if the assessment meets industry standards of  
6 quality and comparability.

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



1 Act, and shall be for the sole purpose of conducting the  
2 evaluation. All parties must preserve the confidentiality of  
3 such information as required by law.

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

9 (l) Notify an eligible nonprofit scholarship-funding  
10 organization or an eligible nonprofit educational-improvement  
11 organization of any of the organization's identified students  
12 who are receiving corporate income tax credit scholarships  
13 from other ~~such eligible nonprofit scholarship funding~~  
14 organizations.

15 (m) Require quarterly reports by an eligible nonprofit  
16 scholarship-funding organization or an eligible nonprofit  
17 educational-improvement organization regarding the number of  
18 students participating in the scholarship program, the private  
19 schools at which the students are enrolled, and other  
20 information ~~that deemed necessary by~~ the Department of  
21 Education considers necessary.

22 (n)1. Conduct random site visits to private schools  
23 participating in the Corporate Tax Credit Scholarship Program.  
24 The purpose of the site visits is solely to verify the  
25 information reported by the schools concerning the enrollment  
26 and attendance of students, the credentials of teachers,  
27 background screening of teachers, and teachers' fingerprinting  
28 results. The Department of Education may not make more than  
29 seven random site visits each year and may not make more than  
30 one random site visit each year to the same private school.

31

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

12           ~~(11)~~~~(10)~~ COMMISSIONER OF EDUCATION AUTHORITY AND  
13 OBLIGATIONS.--

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

26           (b) The commissioner's determination is subject to the  
27 following:

28           1. If the commissioner intends to deny, suspend, or  
29 revoke a private school's participation in the scholarship  
30 program, the Department of Education shall notify the private  
31 school of such proposed action in writing by certified mail

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

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

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

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

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

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

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

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

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

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

29           ~~(12)~~~~(11)~~ SCHOLARSHIP AMOUNT AND PAYMENT.--

30           (a) The amount of a scholarship provided to any  
31 student for any single school year by an eligible nonprofit

1 scholarship-funding organization or an eligible nonprofit  
2 educational-improvement organization from eligible  
3 contributions ~~may shall~~ not exceed the following annual  
4 limits:

5 1. Three thousand ~~seven hundred fifty~~ dollars for a  
6 scholarship awarded to a student enrolled in an eligible  
7 private school.

8 2. Five hundred dollars for a scholarship awarded to a  
9 student enrolled in a Florida public school that is located  
10 outside the district in which the student resides or in a lab  
11 school as defined in s. 1002.32.

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

27 (c) An eligible nonprofit scholarship-funding  
28 organization or eligible nonprofit educational-improvement  
29 organization shall obtain verification from the private school  
30 of a student's continued attendance at the school prior to  
31 each scholarship payment.

1           (d) Payment of the scholarship shall be made by the  
2 eligible nonprofit scholarship-funding organization or  
3 eligible nonprofit educational-improvement organization no  
4 less frequently than ~~on a~~ quarterly ~~basis~~.

5           ~~(13)(12)~~ 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. This carryforward applies to all approved  
15 contributions made after January 1, 2002. A taxpayer may not  
16 convey, assign, or transfer the credit authorized by this  
17 section to another entity unless all of the assets of the  
18 taxpayer are conveyed, assigned, or transferred in the same  
19 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 shall adopt rules necessary to  
27 administer this section, including rules establishing  
28 application forms and procedures and governing the allocation  
29 of tax credits and carryforward credits under this section on  
30 a first-come, first-served basis.

31

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

5           ~~(14)~~~~(13)~~ DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--All  
6 eligible contributions received by an eligible nonprofit  
7 scholarship-funding organization or eligible nonprofit  
8 educational-improvement organization must ~~shall~~ be deposited  
9 in a manner consistent with s. 17.57(2).

10           Section 2. This act shall take effect July 1, 2007.

11  
12           \*\*\*\*\*

13           SENATE SUMMARY

14           Relates to the tax on corporate income. Provides for tax  
15 credits for contributions to eligible nonprofit  
16 educational-improvement organizations, as well as for  
17 contributions to eligible nonprofit scholarship-funding  
18 organizations. Provides that an additional purpose of s.  
19 220.187, F.S., is to enable public-school students in  
20 grades 2, 5, 6, 8, and 9 to receive certain assistance in  
21 attaining grade-level performance. Defines terms.  
22 Provides for allocating among the categories of  
23 recipients the total allowable amount of tax credits  
24 which may be granted during each state fiscal year.  
25 Provides obligations of eligible nonprofit  
26 educational-improvement organizations. Revises parental  
27 obligations. Revises provisions relating to  
28 administration and to deposits of eligible contributions,  
29 to conform.  
30  
31