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CHAMBER ACTION

Senate

House

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Floor: WD/2R
4/29/2008 11:31 AM

1 Senator Deutch moved the following **amendment**:

2
3 **Senate Amendment**

4 Delete lines 31-279

5 and insert:

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

8 220.187 Credits for contributions to nonprofit scholarship-
9 funding organizations and to public schools.--

10 (1) FINDINGS AND PURPOSE.--

11 (a) The Legislature finds that:

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

14 2. Expanding educational opportunities and improving the
15 quality of educational services within the state are valid public
16 purposes that the Legislature may promote using its sovereign



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17 power to determine subjects of taxation and exemptions from
18 taxation.

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

24 4. The existence of programs that provide expanded
25 educational opportunities in this state has not been shown to
26 reduce funding to or otherwise harm public schools within the
27 state, and, to the contrary, per-student funding in public
28 schools has risen each year since the inception of those programs
29 in 1999.

30 5. Expanded educational opportunities and the healthy
31 competition they promote are critical to improving the quality of
32 education in the state and to ensuring that all children receive
33 the high-quality education to which they are entitled.

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

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

38 2. Provide taxpayers who wish to help parents with limited
39 resources exercise their basic right to educate their children as
40 they see fit with a means to do so.

41 3.~~(b)~~ Promote the general welfare by expanding ~~Expand~~
42 educational opportunities for children of families that have
43 limited financial resources.

44 4.~~(e)~~ Enable children in this state to achieve a greater
45 level of excellence in their education.



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

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

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

51 (b) "Eligible contribution" means a monetary contribution
52 from a taxpayer, subject to the restrictions provided in this
53 section, to an eligible nonprofit scholarship-funding
54 organization. The taxpayer making the contribution may not
55 designate a specific child as the beneficiary of the
56 contribution.

57 (c) "Eligible nonprofit scholarship-funding organization"
58 means a charitable organization that:

59 1. Is exempt from federal income tax pursuant to s.
60 501(c)(3) of the Internal Revenue Code;

61 2. Is a Florida entity formed under chapter 607, chapter
62 608, or chapter 617 and whose principal office is located in the
63 state; and

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

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

69 (e) "Owner or operator" includes:

70 1. An owner, president, officer, or director of an eligible
71 nonprofit scholarship-funding organization or a person with
72 equivalent decisionmaking authority over an eligible nonprofit
73 scholarship-funding organization.



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74 | 2. An owner, operator, superintendent, or principal of an
75 | eligible private school or a person with equivalent
76 | decisionmaking authority over an eligible private school.

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

82 | (a) Was counted as a full-time equivalent student during
83 | the previous state fiscal year for purposes of state per-student
84 | funding;

85 | (b) Received a scholarship from an eligible nonprofit
86 | scholarship-funding organization or from the State of Florida
87 | during the previous school year; ~~or~~

88 | (c) Is eligible to enter kindergarten or first grade; or

89 | (d) Is currently placed, or during the previous state
90 | fiscal year was placed, in foster care as defined in s. 39.01.

91 |
92 | Contingent upon available funds, a student may continue in the
93 | scholarship program as long as the student's household family
94 | income level does not exceed 200 percent of the federal poverty
95 | level. A sibling of a student who is continuing in the program
96 | and resides in the same household as the student shall also be
97 | eligible as a first-time corporate income tax credit scholarship
98 | recipient as long as the student's and sibling's household income
99 | level does not exceed 200 percent of the federal poverty level.
100 | Household income for purposes of a student who is currently in
101 | foster care as defined in s. 39.01 shall consist only of the
102 | income that may be considered in determining whether he or she



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103 qualifies for free or reduced-price school lunches under the
104 National School Lunch Act.

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

107 (a) Enrolled in a school operating for the purpose of
108 providing educational services to youth in Department of Juvenile
109 Justice commitment programs;

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

112 (c) Receiving an educational scholarship pursuant to
113 chapter 1002;

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

116 (e) Participating in a private tutoring program pursuant to
117 s. 1002.43;

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

122 (g) Enrolled in the Florida School for the Deaf and the
123 Blind.

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

126 (a) There is allowed a credit of 100 percent of an eligible
127 contribution against any tax due for a taxable year under this
128 chapter. However, such a credit may not exceed 75 percent of the
129 tax due under this chapter for the taxable year, after the
130 application of any other allowable credits by the taxpayer. The
131 credit granted by this section shall be reduced by the difference
132 between the amount of federal corporate income tax taking into



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133 account the credit granted by this section and the amount of
134 federal corporate income tax without application of the credit
135 granted by this section.

136 (b) The total amount of tax credits and carryforward of tax
137 credits which may be granted each state fiscal year under this
138 section is:

139 1. Through June 30, 2008, \$88 million.

140 2. Through June 30, 2009, and thereafter, \$118 million. ~~At~~
141 ~~least 1 percent of the total statewide amount authorized for the~~
142 ~~tax credit shall be reserved for taxpayers who meet the~~
143 ~~definition of a small business provided in s. 288.703(1) at the~~
144 ~~time of application.~~

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

150 (d) Effective for tax years beginning January 1, 2006, a
151 taxpayer may rescind all or part of its allocated tax credit
152 under this section. The amount rescinded shall become available
153 for purposes of the cap for that state fiscal year under this
154 section to an eligible taxpayer as approved by the department if
155 the taxpayer receives notice from the department that the
156 rescindment has been accepted by the department and the taxpayer
157 has not previously rescinded any or all of its tax credit
158 allocation under this section more than once in the previous 3
159 tax years. Any amount rescinded under this paragraph shall become
160 available to an eligible taxpayer on a first-come, first-served
161 basis based on tax credit applications received after the date
162 the rescindment is accepted by the department.



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163 (6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING
164 ORGANIZATIONS.--An eligible nonprofit scholarship-funding
165 organization:

166 (a) Must comply with the antidiscrimination provisions of
167 42 U.S.C. s. 2000d.

168 (b) Must comply with the following background check
169 requirements:

170 1. All owners and operators as defined in subparagraph
171 (2) (e)1. are, upon employment or engagement to provide services,
172 subject to level 2 background screening as provided under chapter
173 435. The fingerprints for the background screening must be
174 electronically submitted to the Department of Law Enforcement and
175 can be taken by an authorized law enforcement agency or by an
176 employee of the eligible nonprofit scholarship-funding
177 organization or a private company who is trained to take
178 fingerprints. However, the complete set of fingerprints of an
179 owner or operator may not be taken by the owner or operator. The
180 results of the state and national criminal history check shall be
181 provided to the Department of Education for screening under
182 chapter 435. The cost of the background screening may be borne by
183 the eligible nonprofit scholarship-funding organization or the
184 owner or operator.

185 2. Every 5 years following employment or engagement to
186 provide services or association with an eligible nonprofit
187 scholarship-funding organization, each owner or operator must
188 meet level 2 screening standards as described in s. 435.04, at
189 which time the nonprofit scholarship-funding organization shall
190 request the Department of Law Enforcement to forward the
191 fingerprints to the Federal Bureau of Investigation for level 2
192 screening. If the fingerprints of an owner or operator are not



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193 retained by the Department of Law Enforcement under subparagraph
194 3., the owner or operator must electronically file a complete set
195 of fingerprints with the Department of Law Enforcement. Upon
196 submission of fingerprints for this purpose, the eligible
197 nonprofit scholarship-funding organization shall request that the
198 Department of Law Enforcement forward the fingerprints to the
199 Federal Bureau of Investigation for level 2 screening, and the
200 fingerprints shall be retained by the Department of Law
201 Enforcement under subparagraph 3.

202 3. Beginning July 1, 2007, all fingerprints submitted to
203 the Department of Law Enforcement as required by this paragraph
204 must be retained by the Department of Law Enforcement in a manner
205 approved by rule and entered in the statewide automated
206 fingerprint identification system authorized by s. 943.05(2)(b).
207 The fingerprints must thereafter be available for all purposes
208 and uses authorized for arrest fingerprint cards entered in the
209 statewide automated fingerprint identification system pursuant to
210 s. 943.051.

211 4. Beginning July 1, 2007, the Department of Law
212 Enforcement shall search all arrest fingerprint cards received
213 under s. 943.051 against the fingerprints retained in the
214 statewide automated fingerprint identification system under
215 subparagraph 3. Any arrest record that is identified with an
216 owner's or operator's fingerprints must be reported to the
217 Department of Education. The Department of Education shall
218 participate in this search process by paying an annual fee to the
219 Department of Law Enforcement and by informing the Department of
220 Law Enforcement of any change in the employment, engagement, or
221 association status of the owners or operators whose fingerprints
222 are retained under subparagraph 3. The Department of Law



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223 Enforcement shall adopt a rule setting the amount of the annual
224 fee to be imposed upon the Department of Education for performing
225 these services and establishing the procedures for the retention
226 of owner and operator fingerprints and the dissemination of
227 search results. The fee may be borne by the owner or operator of
228 the nonprofit scholarship-funding organization.

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

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

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

240 (d)1. Must provide scholarships, from eligible
241 contributions, to eligible students for the cost of:

242 ~~a.1. Tuition and fees or textbook expenses for, or~~
243 ~~transportation to, an eligible private school. At least 75~~
244 ~~percent of the scholarship funding must be used to pay tuition~~
245 ~~expenses; or~~

246 ~~b.2. Transportation expenses to a Florida public school~~
247 ~~that is located outside the district in which the student resides~~
248 ~~or to a lab school as defined in s. 1002.32.~~

249 2. Beginning in the 2009-2010 state fiscal year, must
250 provide a premium payment to a scholarship student who
251 participates in the statewide assessments pursuant to s. 1008.22
252 and who attends an eligible private school that has at least 95-



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253 percent participation of eligible scholarship students in the
254 statewide assessments. This premium payment shall be applied to
255 transportation costs related to participation in the statewide
256 assessments, statewide assessment preparation costs, and other
257 school fees incurred by a student that are not otherwise covered
258 under this paragraph.

259 (e) Must give priority to eligible students who received a
260 scholarship from an eligible nonprofit scholarship-funding
261 organization or from the State of Florida during the previous
262 school year.

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

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

269 (h) Must allow an eligible student to attend any eligible
270 private school and must allow a parent to transfer a scholarship
271 during a school year to any other eligible private school of the
272 parent's choice.

273 (i) Must expend for annual or partial-year scholarships an
274 amount equal to or greater than 75 percent of the eligible
275 contributions received during the fiscal year in which such
276 contributions are collected. No more than 25 percent of such
277 eligible contributions may be carried forward to the following
278 fiscal year. Any amounts carried forward shall be expended for
279 ~~obligate, in the same fiscal year in which the contribution was~~
280 ~~received, 100 percent of the eligible contribution to provide~~
281 ~~annual or partial-year scholarships; however, up to 25 percent of~~
282 ~~the total contribution may be carried forward for expenditure in~~



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283 | the following ~~state~~ fiscal year. A scholarship-funding
284 | organization must, before granting a scholarship for an academic
285 | year, document each scholarship student's eligibility for that
286 | academic year. A scholarship-funding organization may not grant
287 | multiyear scholarships in one approval process. No portion of
288 | eligible contributions may be used for administrative expenses.
289 | Beginning in the 2009-2010 state fiscal year, up to 3 percent of
290 | eligible collected contributions may be used for administrative
291 | expenses incurred by a scholarship-funding organization under
292 | this section. All interest accrued from contributions must be
293 | used for scholarships.

294 | (j) Must maintain separate accounts for scholarship funds
295 | and operating funds.

296 | (k) With the prior approval of the Department of Education,
297 | may transfer funds to another eligible nonprofit scholarship-
298 | funding organization if additional funds are required to meet
299 | scholarship demand at the receiving nonprofit scholarship-funding
300 | organization. A transfer shall be limited to the greater of
301 | \$500,000 or 20 percent of the total contributions received by the
302 | nonprofit scholarship-funding organization making the transfer.
303 | All transferred funds must be deposited by the receiving
304 | nonprofit scholarship-funding organization into its scholarship
305 | accounts. All transferred amounts received by any nonprofit
306 | scholarship-funding organization must be separately disclosed in
307 | the annual financial and compliance audit required in this
308 | section.

309 | (l) Must provide to the Auditor General and the Department
310 | of Education an annual financial and compliance audit of its
311 | accounts and records conducted by an independent certified public
312 | accountant and in accordance with rules adopted by the Auditor



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313 General. The audit must be conducted in compliance with generally
314 accepted auditing standards and must include a report on
315 financial statements presented in accordance with generally
316 accepted accounting principles set forth by the American
317 Institute of Certified Public Accountants for not-for-profit
318 organizations and a determination of compliance with the
319 statutory eligibility and expenditure requirements set forth in
320 this section. Audits must be provided to the Auditor General and
321 the Department of Education within 180 days after completion of
322 the eligible nonprofit scholarship-funding organization's fiscal
323 year.

324 (m) Must prepare and submit quarterly reports to the
325 Department of Education pursuant to paragraph (9) (o) ~~(m)~~. In
326 addition, an eligible nonprofit scholarship-funding organization
327 must submit in a timely manner any information requested by the
328 Department of Education relating to the scholarship program.

329
330 Any and all information and documentation provided to the
331 Department of Education and the Auditor General relating to the
332 identity of a taxpayer that provides an eligible contribution
333 under this section shall remain confidential at all times in
334 accordance with s. 213.053.

335 (7) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
336 PARTICIPATION.--

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

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



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

345 (d) Each parent and each student has an obligation to the
346 private school to comply with the private school's published
347 policies.

348 (e) The parent shall ensure that the student participating
349 in the scholarship program takes the norm-referenced assessment
350 offered by the private school. The parent may also choose to have
351 the student participate in the statewide assessments pursuant to
352 s. 1008.22. Except as provided in subsection (6), if the parent
353 requests that the student participating in the scholarship
354 program take statewide assessments pursuant to s. 1008.22, the
355 parent is responsible for transporting the student to the
356 assessment site designated by the school district.

357 (f) Upon receipt of a scholarship warrant from the eligible
358 nonprofit scholarship-funding organization, the parent to whom
359 the warrant is made must restrictively endorse the warrant to the
360 private school for deposit into the account of the private
361 school. The parent may not designate any entity or individual
362 associated with the participating private school as the parent's
363 attorney in fact to endorse a scholarship warrant. A participant
364 who fails to comply with this paragraph forfeits the scholarship.

365 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.--An
366 eligible private school may be sectarian or nonsectarian and
367 must:

368 (a) Comply with all requirements for private schools
369 participating in state school choice scholarship programs
370 pursuant to s. 1002.421.



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371 (b) Provide to the eligible nonprofit scholarship-funding
372 organization, upon request, all documentation required for the
373 student's participation, including the private school's and
374 student's fee schedules.

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

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

379 2. Annually administering or making provision for students
380 participating in the scholarship program to take one of the
381 nationally norm-referenced tests identified by the Department of
382 Education. Students with disabilities for whom standardized
383 testing is not appropriate are exempt from this requirement. A
384 participating private school must report a student's scores to
385 the parent and to the independent research organization selected
386 by the Department of Education as described in paragraph (9) (j).

387 3. Cooperating with the scholarship student whose parent
388 chooses to have the student participate in the statewide
389 assessments pursuant to s. 1008.22 s. 1008.32. Beginning in the
390 2009-2010 state fiscal year, in order to encourage participation,
391 a scholarship student who participates in the statewide
392 assessments is eligible for a premium payment pursuant to
393 subparagraphs (6) (d)2. and (11) (a)2.

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

397
398 The inability of a private school to meet the requirements of
399 this subsection shall constitute a basis for the ineligibility of



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400 | the private school to participate in the scholarship program as
401 | determined by the Department of Education.

402 | (9) DEPARTMENT OF EDUCATION OBLIGATIONS.--The Department of
403 | Education shall:

404 | (a) Annually submit to the department, by March 15, a list
405 | of eligible nonprofit scholarship-funding organizations that meet
406 | the requirements of paragraph (2)(c).

407 | (b) Annually verify the eligibility of nonprofit
408 | scholarship-funding organizations that meet the requirements of
409 | paragraph (2)(c).

410 | (c) Annually verify the eligibility of private schools that
411 | meet the requirements of subsection (8).

412 | (d) Annually verify the eligibility of expenditures as
413 | provided in paragraph (6)(d) using the audit required by
414 | paragraph (6)(1).

415 | (e) Establish a toll-free hotline that provides parents and
416 | private schools with information on participation in the
417 | scholarship program.

418 | (f) Establish a process by which individuals may notify the
419 | Department of Education of any violation by a parent, private
420 | school, or school district of state laws relating to program
421 | participation. The Department of Education shall conduct an
422 | inquiry of any written complaint of a violation of this section,
423 | or make a referral to the appropriate agency for an
424 | investigation, if the complaint is signed by the complainant and
425 | is legally sufficient. A complaint is legally sufficient if it
426 | contains ultimate facts that show that a violation of this
427 | section or any rule adopted by the State Board of Education has
428 | occurred. In order to determine legal sufficiency, the Department
429 | of Education may require supporting information or documentation



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430 | from the complainant. A department inquiry is not subject to the
431 | requirements of chapter 120.

432 | (g) Require an annual, notarized, sworn compliance
433 | statement by participating private schools certifying compliance
434 | with state laws and shall retain such records.

435 | (h) Cross-check the list of participating scholarship
436 | students with the public school enrollment lists to avoid
437 | duplication.

438 | (i) In accordance with State Board of Education rule,
439 | identify and select the nationally norm-referenced tests that are
440 | comparable to the norm-referenced provisions of the Florida
441 | Comprehensive Assessment Test (FCAT) provided that the FCAT may
442 | be one of the tests selected. However, the Department of
443 | Education may approve the use of an additional assessment by the
444 | school if the assessment meets industry standards of quality and
445 | comparability.

446 | (j) Select an independent research organization, which may
447 | be a public or private entity or university, to which
448 | participating private schools must report the scores of
449 | participating students on the nationally norm-referenced tests
450 | administered by the private school. The independent research
451 | organization must annually report to the Department of Education
452 | on the year-to-year improvements of participating students. The
453 | independent research organization must analyze and report student
454 | performance data in a manner that protects the rights of students
455 | and parents as mandated in 20 U.S.C. s. 1232g, the Family
456 | Educational Rights and Privacy Act, and must not disaggregate
457 | data to a level that will disclose the academic level of
458 | individual students or of individual schools. To the extent
459 | possible, the independent research organization must accumulate



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460 historical performance data on students from the Department of
461 Education and private schools to describe baseline performance
462 and to conduct longitudinal studies. To minimize costs and reduce
463 time required for third-party analysis and evaluation, the
464 Department of Education shall conduct analyses of matched
465 students from public school assessment data and calculate control
466 group learning gains using an agreed-upon methodology outlined in
467 the contract with the third-party evaluator. The sharing of
468 student data must be in accordance with requirements of 20 U.S.C.
469 s. 1232g, the Family Educational Rights and Privacy Act, and
470 shall be for the sole purpose of conducting the evaluation. All
471 parties must preserve the confidentiality of such information as
472 required by law.

473 (k) Provide participating schools with all preparation and
474 instructional materials to prepare students for the statewide
475 assessments pursuant to s. 1008.22.

476 (l) Beginning in the 2009-2010 state fiscal year, determine
477 if at least 95 percent of a private school's eligible scholarship
478 students participate in the statewide assessments pursuant to s.
479 1008.22.

480 (m) ~~(k)~~ Notify an eligible nonprofit scholarship-funding
481 organization of any of the organization's identified students who
482 are receiving educational scholarships pursuant to chapter 1002.

483 (n) ~~(l)~~ Notify an eligible nonprofit scholarship-funding
484 organization of any of the organization's identified students who
485 are receiving corporate income tax credit scholarships from other
486 eligible nonprofit scholarship-funding organizations.

487 (o) ~~(m)~~ Require quarterly reports by an eligible nonprofit
488 scholarship-funding organization regarding the number of students
489 participating in the scholarship program, the private schools at



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490 | which the students are enrolled, and other information deemed
491 | necessary by the Department of Education.

492 | (p) ~~(n)~~ 1. Conduct random site visits to private schools
493 | participating in the Corporate Tax Credit Scholarship Program.
494 | The purpose of the site visits is solely to verify the
495 | information reported by the schools concerning the enrollment and
496 | attendance of students, the credentials of teachers, background
497 | screening of teachers, and teachers' fingerprinting results. The
498 | Department of Education may not make more than seven random site
499 | visits each year and may not make more than one random site visit
500 | each year to the same private school.

501 | 2. Annually, by December 15, report to the Governor, the
502 | President of the Senate, and the Speaker of the House of
503 | Representatives the Department of Education's actions with
504 | respect to implementing accountability in the scholarship program
505 | under this section and s. 1002.421, any substantiated allegations
506 | or violations of law or rule by an eligible private school under
507 | this program concerning the enrollment and attendance of
508 | students, the credentials of teachers, background screening of
509 | teachers, and teachers' fingerprinting results and the corrective
510 | action taken by the Department of Education.

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

512 | (a) The Commissioner of Education shall deny, suspend, or
513 | revoke a private school's participation in the scholarship
514 | program if it is determined that the private school has failed to
515 | comply with the provisions of this section. However, in instances
516 | in which the noncompliance is correctable within a reasonable
517 | amount of time and in which the health, safety, or welfare of the
518 | students is not threatened, the commissioner may issue a notice
519 | of noncompliance that shall provide the private school with a



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520 | timeframe within which to provide evidence of compliance prior to
521 | taking action to suspend or revoke the private school's
522 | participation in the scholarship program.

523 | (b) The commissioner's determination is subject to the
524 | following:

525 | 1. If the commissioner intends to deny, suspend, or revoke
526 | a private school's participation in the scholarship program, the
527 | Department of Education shall notify the private school of such
528 | proposed action in writing by certified mail and regular mail to
529 | the private school's address of record with the Department of
530 | Education. The notification shall include the reasons for the
531 | proposed action and notice of the timelines and procedures set
532 | forth in this paragraph.

533 | 2. The private school that is adversely affected by the
534 | proposed action shall have 15 days from receipt of the notice of
535 | proposed action to file with the Department of Education's agency
536 | clerk a request for a proceeding pursuant to ss. 120.569 and
537 | 120.57. If the private school is entitled to a hearing under s.
538 | 120.57(1), the Department of Education shall forward the request
539 | to the Division of Administrative Hearings.

540 | 3. Upon receipt of a request referred pursuant to this
541 | paragraph, the director of the Division of Administrative
542 | Hearings shall expedite the hearing and assign an administrative
543 | law judge who shall commence a hearing within 30 days after the
544 | receipt of the formal written request by the division and enter a
545 | recommended order within 30 days after the hearing or within 30
546 | days after receipt of the hearing transcript, whichever is later.
547 | Each party shall be allowed 10 days in which to submit written
548 | exceptions to the recommended order. A final order shall be
549 | entered by the agency within 30 days after the entry of a



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550 recommended order. The provisions of this subparagraph may be
551 waived upon stipulation by all parties.

552 (c) The commissioner may immediately suspend payment of
553 scholarship funds if it is determined that there is probable
554 cause to believe that there is:

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

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

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

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

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

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579 The commissioner's order suspending payment pursuant to this
580 paragraph may be appealed pursuant to the same procedures and
581 timelines as the notice of proposed action set forth in paragraph
582 (b).

583 (11) SCHOLARSHIP AND PREMIUM AMOUNT AND PAYMENT.--

584 (a)1. The amount of a scholarship provided to any student
585 for any single school year by an eligible nonprofit scholarship-
586 funding organization from eligible contributions shall be for
587 total costs authorized under subparagraph (6) (d)1., not to exceed
588 the following annual limits:

589 a.1. Three thousand seven hundred fifty dollars for a
590 scholarship awarded to a student enrolled in an eligible private
591 school for the 2008-2009 state fiscal year. Beginning in the
592 2009-2010 state fiscal year, the State Board of Education shall,
593 by rule, adjust the maximum amounts for the scholarship awards
594 under this sub-subparagraph to reflect 60 percent of the
595 unweighted FEFP student funding amount established in the annual
596 appropriations act for the ensuing state fiscal year. However,
597 the increase in the maximum amounts for a scholarship award under
598 this sub-subparagraph may not exceed \$200 annually. The annually
599 adjusted amounts shall be rounded downward to the nearest dollar.

600 b.2. Five hundred dollars for a scholarship awarded to a
601 student enrolled in a Florida public school that is located
602 outside the district in which the student resides or in a lab
603 school as defined in s. 1002.32.

604 2. Beginning in the 2009-2010 state fiscal year, the amount
605 of an annual premium payment by an eligible nonprofit
606 scholarship-funding organization from eligible contributions
607 shall be \$200 for costs authorized under subparagraph (6) (d)2.
608 provided to a student who takes the statewide assessments



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609 pursuant to s. 1008.22 if at least 95 percent of the private
610 school's eligible scholarship students participate in the
611 statewide assessments.

612 (b) Payment of the scholarship and premium by the eligible
613 nonprofit scholarship-funding organization shall be by individual
614 warrant made payable to the student's parent. If the parent
615 chooses that his or her child attend an eligible private school,
616 the warrant must be delivered by the eligible nonprofit
617 scholarship-funding organization to the private school of the
618 parent's choice, and the parent shall restrictively endorse the
619 warrant to the private school. An eligible nonprofit scholarship-
620 funding organization shall ensure that the parent to whom the
621 warrant is made restrictively endorsed the warrant to the private
622 school for deposit into the account of the private school.

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

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

630 (12) ADMINISTRATION; RULES.--

631 (a) If the credit granted pursuant to this section is not
632 fully used in any one year because of insufficient tax liability
633 on the part of the corporation, the unused amount may be carried
634 forward for a period not to exceed 3 years; however, any taxpayer
635 that seeks to carry forward an unused amount of tax credit must
636 submit an application for allocation of tax credits or
637 carryforward credits as required in paragraph (d) in the year
638 that the taxpayer intends to use the carryforward. This



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639 carryforward applies to all approved contributions made after
640 January 1, 2002. A taxpayer may not convey, assign, or transfer
641 the credit authorized by this section to another entity unless
642 all of the assets of the taxpayer are conveyed, assigned, or
643 transferred in the same transaction.

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

647 (c) The department and the Department of Education shall
648 develop a cooperative agreement to assist in the administration
649 of this section.

650 (d) The department shall adopt rules necessary to
651 administer this section, including rules establishing application
652 forms and procedures and governing the allocation of tax credits
653 and carryforward credits under this section on a first-come,
654 first-served basis.

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

659 (13) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--All eligible
660 contributions received by an eligible nonprofit scholarship-
661 funding organization shall be deposited in a manner consistent
662 with s. 17.57(2).

663 (14) PRESERVATION OF CREDIT.--If any provision or portion
664 of subsection (5) or the application thereof to any person or
665 circumstance is held unconstitutional by any court or is
666 otherwise declared invalid, the unconstitutionality or invalidity
667 shall not affect any credit earned under subsection (5) by any
668 taxpayer with respect to any contribution paid to an eligible



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669 | nonprofit scholarship-funding organization before the date of a
670 | determination of unconstitutionality or invalidity. Such credit
671 | shall be allowed at such time and in such a manner as if a
672 | determination of unconstitutionality or invalidity had not been
673 | made, provided that nothing in this subsection by itself or in
674 | combination with any other provision of law shall result in the
675 | allowance of any credit to any taxpayer in excess of one dollar
676 | of credit for each dollar paid to an eligible nonprofit
677 | scholarship-funding organization.