

By Senator Wilson

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1 A bill to be entitled

2 An act relating to the tax on corporate income; amending  
3 s. 220.187, F.S.; providing for tax credits for  
4 contributions to eligible nonprofit educational-  
5 improvement organizations, as well as for contributions to  
6 eligible nonprofit scholarship-funding organizations;  
7 providing that an additional purpose of the section is to  
8 enable students in specified grades in public schools to  
9 receive certain assistance in attaining grade-level  
10 performance; defining terms; providing for allocating  
11 among the categories of recipients the total allowable  
12 amount of tax credits which may be granted during each  
13 state fiscal year; providing obligations of eligible  
14 nonprofit educational-improvement organizations; revising  
15 parental obligations; revising provisions relating to  
16 administration and to deposits of eligible contributions,  
17 to conform; providing an effective date.

18  
19 Be It Enacted by the Legislature of the State of Florida:

20  
21 Section 1. Section 220.187, Florida Statutes, is amended to  
22 read:

23 220.187 Credits for contributions to nonprofit scholarship-  
24 funding and nonprofit educational-improvement organizations.--

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

26 (a) Encourage private, voluntary contributions to nonprofit  
27 scholarship-funding organizations and eligible nonprofit  
28 educational-improvement organizations.

29 (b) Expand educational opportunities for children of

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30 families that have limited financial resources.

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

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

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

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

38 (b) "Eligible contribution" means a monetary contribution  
39 from a taxpayer, subject to the restrictions provided in this  
40 section, to an eligible nonprofit scholarship-funding  
41 organization or eligible nonprofit educational-improvement  
42 organization. The taxpayer making the contribution may not  
43 designate a specific child as the beneficiary of the  
44 contribution.

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

49 (d)-(e) "Eligible nonprofit scholarship-funding  
50 organization" means a charitable organization that:

51 1. Is exempt from federal income tax pursuant to s.  
52 501(c)(3) of the Internal Revenue Code;

53 2. Is a Florida entity formed under chapter 607, chapter  
54 608, or chapter 617 and whose principal office is located in the  
55 state; and

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

57 (e)-(d) "Eligible private school" means a private school, as  
58 defined in s. 1002.01(2), located in Florida which offers an

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59 | education to students in any grades K-12 and that meets the  
60 | requirements in subsection (9) ~~(8)~~.

61 | (f) ~~(e)~~ "Owner or operator" includes:

62 | 1. An owner, president, officer, or director of an eligible  
63 | nonprofit scholarship-funding organization or nonprofit  
64 | educational-improvement organization or a person with equivalent  
65 | decisionmaking authority over an eligible nonprofit scholarship-  
66 | funding organization or nonprofit educational-improvement  
67 | organization.

68 | 2. An owner, operator, superintendent, or principal of an  
69 | eligible private school or a person with equivalent  
70 | decisionmaking authority over an eligible private school.

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

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

79 | (b) Received a scholarship from an eligible nonprofit  
80 | scholarship-funding organization, from a nonprofit educational-  
81 | improvement organization, or from the State of Florida during the  
82 | previous school year; ~~or~~

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

84 | (d) Is a student in grade 2, grade 5, grade 6, grade 8, or  
85 | grade 9 in an eligible public school.

86 |  
87 | Contingent upon available funds, a student may continue in the

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88 scholarship program as long as the student's family income level  
89 does not exceed 200 percent of the federal poverty level.

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

92 (a) Enrolled in a school operating for the purpose of  
93 providing educational services to youth in Department of Juvenile  
94 Justice commitment programs;

95 (b) Receiving a scholarship from another eligible nonprofit  
96 scholarship-funding organization or eligible nonprofit  
97 educational-improvement organization under this section;

98 (c) Receiving an educational scholarship pursuant to  
99 chapter 1002;

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

102 (e) Participating in a private tutoring program pursuant to  
103 s. 1002.43;

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

108 (g) Enrolled in the Florida School for the Deaf and the  
109 Blind.

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

112 (a) There is allowed a credit of 100 percent of an eligible  
113 contribution against any tax due for a taxable year under this  
114 chapter. However, such a credit may not exceed 75 percent of the  
115 tax due under this chapter for the taxable year, after the  
116 application of any other allowable credits by the taxpayer. The

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117 | credit granted by this section shall be reduced by the difference  
118 | between the amount of federal corporate income tax taking into  
119 | account the credit granted by this section and the amount of  
120 | federal corporate income tax without application of the credit  
121 | granted by this section.

122 |       (b) The total amount of tax credits and carryforward of tax  
123 | credits which may be granted each state fiscal year under this  
124 | section is \$60 million to nonprofit scholarship-funding  
125 | organizations and \$28 million to nonprofit educational-  
126 | improvement organizations ~~\$88 million~~. At least 1 percent of the  
127 | total statewide amount authorized for the tax credit shall be  
128 | reserved for taxpayers who meet the definition of a small  
129 | business provided in s. 288.703(1) at the time of application.

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

135 |       (d) Effective for tax years beginning January 1, 2006, a  
136 | taxpayer may rescind all or part of its allocated tax credit  
137 | under this section. The amount rescinded shall become available  
138 | for purposes of the cap for that state fiscal year under this  
139 | section to an eligible taxpayer as approved by the department if  
140 | the taxpayer receives notice from the department that the  
141 | rescindment has been accepted by the department and the taxpayer  
142 | has not previously rescinded any or all of its tax credit  
143 | allocation under this section more than once in the previous 3  
144 | tax years. Any amount rescinded under this paragraph shall become  
145 | available to an eligible taxpayer on a first-come, first-served

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146 basis based on tax credit applications received after the date  
147 the rescindment is accepted by the department.

148 (6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING  
149 ORGANIZATIONS.--An eligible nonprofit scholarship-funding  
150 organization:

151 (a) Must comply with the antidiscrimination provisions of  
152 42 U.S.C. s. 2000d.

153 (b) Must comply with the following background check  
154 requirements:

155 1. All owners and operators as defined in subparagraph

156 (2) (e) 1. are, upon employment or engagement to provide services,  
157 subject to level 2 background screening as provided under chapter  
158 435. The fingerprints for the background screening must be  
159 electronically submitted to the Department of Law Enforcement and  
160 can be taken by an authorized law enforcement agency or by an  
161 employee of the eligible nonprofit scholarship-funding  
162 organization or a private company who is trained to take  
163 fingerprints. However, the complete set of fingerprints of an  
164 owner or operator may not be taken by the owner or operator. The  
165 results of the state and national criminal history check shall be  
166 provided to the Department of Education for screening under  
167 chapter 435. The cost of the background screening may be borne by  
168 the eligible nonprofit scholarship-funding organization or the  
169 owner or operator.

170 2. Every 5 years following employment or engagement to  
171 provide services or association with an eligible nonprofit  
172 scholarship-funding organization, each owner or operator must  
173 meet level 2 screening standards as described in s. 435.04, at  
174 which time the nonprofit scholarship-funding organization shall

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175 request the Department of Law Enforcement to forward the  
176 fingerprints to the Federal Bureau of Investigation for level 2  
177 screening. If the fingerprints of an owner or operator are not  
178 retained by the Department of Law Enforcement under subparagraph  
179 3., the owner or operator must electronically file a complete set  
180 of fingerprints with the Department of Law Enforcement. Upon  
181 submission of fingerprints for this purpose, the eligible  
182 nonprofit scholarship-funding organization shall request that the  
183 Department of Law Enforcement forward the fingerprints to the  
184 Federal Bureau of Investigation for level 2 screening, and the  
185 fingerprints shall be retained by the Department of Law  
186 Enforcement under subparagraph 3.

187 3. Beginning July 1, 2007, all fingerprints submitted to  
188 the Department of Law Enforcement as required by this paragraph  
189 must be retained by the Department of Law Enforcement in a manner  
190 approved by rule and entered in the statewide automated  
191 fingerprint identification system authorized by s. 943.05(2)(b).  
192 The fingerprints must thereafter be available for all purposes  
193 and uses authorized for arrest fingerprint cards entered in the  
194 statewide automated fingerprint identification system pursuant to  
195 s. 943.051.

196 4. Beginning July 1, 2007, the Department of Law  
197 Enforcement shall search all arrest fingerprint cards received  
198 under s. 943.051 against the fingerprints retained in the  
199 statewide automated fingerprint identification system under  
200 subparagraph 3. Any arrest record that is identified with an  
201 owner's or operator's fingerprints must be reported to the  
202 Department of Education. The Department of Education shall  
203 participate in this search process by paying an annual fee to the

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204 Department of Law Enforcement and by informing the Department of  
205 Law Enforcement of any change in the employment, engagement, or  
206 association status of the owners or operators whose fingerprints  
207 are retained under subparagraph 3. The Department of Law  
208 Enforcement shall adopt a rule setting the amount of the annual  
209 fee to be imposed upon the Department of Education for performing  
210 these services and establishing the procedures for the retention  
211 of owner and operator fingerprints and the dissemination of  
212 search results. The fee may be borne by the owner or operator of  
213 the nonprofit scholarship-funding organization.

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

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

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

225 (d) Must provide scholarships, from eligible contributions,  
226 to eligible students for:

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

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



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233 (e) Must give priority to eligible students who received a  
234 scholarship from an eligible nonprofit scholarship-funding  
235 organization or from the State of Florida during the previous  
236 school year.

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

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

243 (h) Must allow an eligible student to attend any eligible  
244 private school and must allow a parent to transfer a scholarship  
245 during a school year to any other eligible private school of the  
246 parent's choice.

247 (i) Must obligate, in the same fiscal year in which the  
248 contribution was received, 100 percent of the eligible  
249 contribution to provide annual or partial-year scholarships;  
250 however, up to 25 percent of the total contribution may be  
251 carried forward for expenditure in the following state fiscal  
252 year. A scholarship-funding organization must, before granting a  
253 scholarship for an academic year, document each scholarship  
254 student's eligibility for that academic year. A scholarship-  
255 funding organization may not grant multiyear scholarships in one  
256 approval process. No portion of eligible contributions may be  
257 used for administrative expenses. All interest accrued from  
258 contributions must be used for scholarships.

259 (j) Must maintain separate accounts for scholarship funds  
260 and operating funds.

261 (k) With the prior approval of the Department of Education,

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262 | may transfer funds to another eligible nonprofit scholarship-  
263 | funding organization if additional funds are required to meet  
264 | scholarship demand at the receiving nonprofit scholarship-funding  
265 | organization. A transfer shall be limited to the greater of  
266 | \$500,000 or 20 percent of the total contributions received by the  
267 | nonprofit scholarship-funding organization making the transfer.  
268 | All transferred funds must be deposited by the receiving  
269 | nonprofit scholarship-funding organization into its scholarship  
270 | accounts. All transferred amounts received by any nonprofit  
271 | scholarship-funding organization must be separately disclosed in  
272 | the annual financial and compliance audit required in this  
273 | section.

274 |       (1) Must provide to the Auditor General and the Department  
275 | of Education an annual financial and compliance audit of its  
276 | accounts and records conducted by an independent certified public  
277 | accountant and in accordance with rules adopted by the Auditor  
278 | General. The audit must be conducted in compliance with generally  
279 | accepted auditing standards and must include a report on  
280 | financial statements presented in accordance with generally  
281 | accepted accounting principles set forth by the American  
282 | Institute of Certified Public Accountants for not-for-profit  
283 | organizations and a determination of compliance with the  
284 | statutory eligibility and expenditure requirements set forth in  
285 | this section. Audits must be provided to the Auditor General and  
286 | the Department of Education within 180 days after completion of  
287 | the eligible nonprofit scholarship-funding organization's fiscal  
288 | year.

289 |       (m) Must prepare and submit quarterly reports to the  
290 | Department of Education pursuant to paragraph (10) (m) ~~(9) (m)~~. In

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291 | addition, an eligible nonprofit scholarship-funding organization  
292 | must submit in a timely manner any information requested by the  
293 | Department of Education relating to the scholarship program.

294

295 | Any and all information and documentation provided to the  
296 | Department of Education and the Auditor General relating to the  
297 | identity of a taxpayer that provides an eligible contribution  
298 | under this section shall remain confidential at all times in  
299 | accordance with s. 213.053.

300 | (7) OBLIGATIONS OF ELIGIBLE NONPROFIT EDUCATIONAL-  
301 | IMPROVEMENT ORGANIZATIONS.--

302 | (a) An eligible nonprofit educational-improvement  
303 | organization that receives an eligible contribution must spend  
304 | 100 percent of the eligible contribution to establish  
305 | scholarships to eligible students as defined in subsection (3) in  
306 | the same year the contribution was received. A portion of  
307 | contributions may not be used for administrative expenses. All  
308 | portions of interest accrued from contributions must be used for  
309 | the establishment of scholarships.

310 | (b) An eligible nonprofit educational-improvement  
311 | organization shall ensure that payments are made to parents or  
312 | guardians of eligible students as defined in subsection (3).  
313 | Payment of the scholarship by the eligible nonprofit educational-  
314 | improvement organization must be by individual warrant or check  
315 | made payable to the student's parent or guardian. The warrant or  
316 | check must be mailed by the eligible nonprofit educational-  
317 | improvement organization to the eligible public school that the  
318 | qualified student is attending, and the student's parent or  
319 | guardian shall restrictively endorse the warrant or check to the

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320 school. An eligible nonprofit educational-improvement  
321 organization shall ensure that, upon receipt of a scholarship  
322 warrant or check, the parent or guardian to whom the warrant or  
323 check is made restrictively endorses the warrant or check to the  
324 eligible public school that the student is attending for deposit  
325 into the account of the school. Recipient students must be funded  
326 until grade-level performance is achieved before new qualified  
327 students can be funded. Students in grade 2 shall receive  
328 priority, followed by those in grade 9, grade 8, grade 6, and  
329 grade 5.

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

334 (d) Payment by the eligible nonprofit educational-  
335 improvement organization must not exceed the amount needed to  
336 have the qualified student attain grade-level performance or  
337 \$3,000 in any school year, whichever is less.

338 (8)(7)- PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM  
339 PARTICIPATION.--

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

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

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

348 (d) Each parent and each student has an obligation to the

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349 private school to comply with the private school's published  
350 policies.

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

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

368 (9)~~(8)~~ PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.--An  
369 eligible private school may be sectarian or nonsectarian and  
370 must:

371 (a) Comply with all requirements for private schools  
372 participating in state school choice scholarship programs  
373 pursuant to s. 1002.421.

374 (b) Provide to the eligible nonprofit scholarship-funding  
375 organization or eligible nonprofit educational-improvement  
376 organization, upon request, all documentation required for the  
377 student's participation, including the private school's and

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378 student's fee schedules.

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

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

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

392 3. Cooperating with the scholarship student whose parent  
393 chooses to participate in the statewide assessments pursuant to  
394 s. 1008.32.

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

398

399 The inability of a private school to meet the requirements of  
400 this subsection shall constitute a basis for the ineligibility of  
401 the private school to participate in the scholarship program as  
402 determined by the Department of Education.

403 (10) (9) DEPARTMENT OF EDUCATION OBLIGATIONS.--The  
404 Department of Education shall:

405 (a) Annually submit to the department, by March 15, a list  
406 of eligible nonprofit educational-improvement organizations and

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407 eligible nonprofit scholarship-funding organizations that meet  
408 the requirements of paragraph (2) (c) or paragraph (2) (d),  
409 respectively.

410 (b) Annually verify the eligibility of nonprofit  
411 educational-improvement organizations and nonprofit scholarship-  
412 funding organizations that meet the requirements of paragraph  
413 (2) (c) or paragraph (2) (d), respectively.

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

416 (d) Annually verify the eligibility of expenditures as  
417 provided in paragraph (6) (d) using the audit required by  
418 paragraph (6) (l).

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

422 (f) Establish a process by which individuals may notify the  
423 Department of Education of any violation by a parent, private  
424 school, or school district of state laws relating to program  
425 participation. The Department of Education shall conduct an  
426 inquiry of any written complaint of a violation of this section,  
427 or make a referral to the appropriate agency for an  
428 investigation, if the complaint is signed by the complainant and  
429 is legally sufficient. A complaint is legally sufficient if it  
430 contains ultimate facts that show that a violation of this  
431 section or any rule adopted by the State Board of Education has  
432 occurred. In order to determine legal sufficiency, the Department  
433 of Education may require supporting information or documentation  
434 from the complainant. A department inquiry is not subject to the  
435 requirements of chapter 120.

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

439 (h) Cross-check the list of participating scholarship  
440 students with the public school enrollment lists to avoid  
441 duplication.

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

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



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

477 (k) Notify an eligible nonprofit scholarship-funding  
478 organization or an eligible nonprofit educational-improvement  
479 organization of any of the organization's identified students who  
480 are receiving educational scholarships pursuant to chapter 1002.

481 (l) Notify an eligible nonprofit scholarship-funding  
482 organization or an eligible nonprofit educational-improvement  
483 organization of any of the organization's identified students who  
484 are receiving corporate income tax credit scholarships from other  
485 such eligible nonprofit scholarship-funding organizations.

486 (m) Require quarterly reports by an eligible nonprofit  
487 scholarship-funding organization or an eligible nonprofit  
488 educational-improvement organization regarding the number of  
489 students participating in the scholarship program, the private  
490 schools at which the students are enrolled, and other information  
491 that deemed necessary by the Department of Education considers  
492 necessary.

493 (n)1. Conduct random site visits to private schools

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

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

512 (11)~~(10)~~ COMMISSIONER OF EDUCATION AUTHORITY AND  
513 OBLIGATIONS.--

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

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523 compliance before ~~prior to~~ taking action to suspend or revoke the  
524 private school's participation in the scholarship program.

525 (b) The commissioner's determination is subject to the  
526 following:

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

535 2. The private school that is adversely affected by the  
536 proposed action shall have 15 days from receipt of the notice of  
537 proposed action to file with the Department of Education's agency  
538 clerk a request for a proceeding pursuant to ss. 120.569 and  
539 120.57. If the private school is entitled to a hearing under s.  
540 120.57(1), the Department of Education shall forward the request  
541 to the Division of Administrative Hearings.

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

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

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

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

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

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

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

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

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

585 (12)~~(11)~~ SCHOLARSHIP AMOUNT AND PAYMENT.--

586 (a) The amount of a scholarship provided to any student for  
587 any single school year by an eligible nonprofit scholarship-  
588 funding organization or an eligible nonprofit educational-  
589 improvement organization from eligible contributions may ~~shall~~  
590 not exceed the following annual limits:

591 1. Three thousand ~~seven hundred fifty~~ dollars for a  
592 scholarship awarded to a student enrolled in an eligible private  
593 school.

594 2. Five hundred dollars for a scholarship awarded to a  
595 student enrolled in a Florida public school that is located  
596 outside the district in which the student resides or in a lab  
597 school as defined in s. 1002.32.

598 (b) Payment of the scholarship by the eligible nonprofit  
599 scholarship-funding organization or the eligible nonprofit  
600 educational-improvement organization ~~shall~~ be by individual  
601 warrant made payable to the student's parent. If the parent  
602 chooses that his or her child attend an eligible private school,  
603 the warrant must be delivered by the eligible nonprofit  
604 scholarship-funding organization or eligible nonprofit  
605 educational-improvement organization to the private school of the  
606 parent's choice, and the parent shall restrictively endorse the  
607 warrant to the private school. An eligible nonprofit scholarship-  
608 funding organization or eligible nonprofit educational-  
609 improvement organization shall ensure that the parent to whom the

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610 warrant is made restrictively endorsed the warrant to the private  
611 school for deposit into the account of the private school.

612 (c) An eligible nonprofit scholarship-funding organization  
613 or eligible nonprofit educational-improvement organization shall  
614 obtain verification from the private school of a student's  
615 continued attendance at the school prior to each scholarship  
616 payment.

617 (d) Payment of the scholarship shall be made by the  
618 eligible nonprofit scholarship-funding organization or eligible  
619 nonprofit educational-improvement organization no less frequently  
620 than ~~on a~~ quarterly ~~basis~~.

621 (13)~~(12)~~ ADMINISTRATION; RULES.--

622 (a) If the credit granted pursuant to this section is not  
623 fully used in any one year because of insufficient tax liability  
624 on the part of the corporation, the unused amount may be carried  
625 forward for a period not to exceed 3 years; however, any taxpayer  
626 that seeks to carry forward an unused amount of tax credit must  
627 submit an application for allocation of tax credits or  
628 carryforward credits as required in paragraph (d) in the year  
629 that the taxpayer intends to use the carryforward. This  
630 carryforward applies to all approved contributions made after  
631 January 1, 2002. A taxpayer may not convey, assign, or transfer  
632 the credit authorized by this section to another entity unless  
633 all of the assets of the taxpayer are conveyed, assigned, or  
634 transferred in the same transaction.

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

638 (c) The department and the Department of Education shall

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639 develop a cooperative agreement to assist in the administration  
640 of this section.

641 (d) The department shall adopt rules necessary to  
642 administer this section, including rules establishing application  
643 forms and procedures and governing the allocation of tax credits  
644 and carryforward credits under this section on a first-come,  
645 first-served basis.

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

650 (14)~~(13)~~ DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--All eligible  
651 contributions received by an eligible nonprofit scholarship-  
652 funding organization or eligible nonprofit educational-  
653 improvement organization must ~~shall~~ be deposited in a manner  
654 consistent with s. 17.57(2).

655 Section 2. This act shall take effect July 1, 2008.