

By Senator Wilson

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1                   A bill to be entitled  
2           An act relating to the Corporate Tax Credit  
3           Scholarship Program; amending s. 220.187, F.S.;  
4           providing an additional purpose that enables students  
5           in specified grades in public schools to receive  
6           certain assistance in attaining grade-level  
7           performance; revising definitions; requiring  
8           scholarship funding organizations to allocate at least  
9           25 percent of their scholarships to public school  
10          students; permitting scholarships of a certain amount  
11          for public school students; requiring public schools  
12          to account for the use of scholarship funds; providing  
13          an effective date.

14  
15 Be It Enacted by the Legislature of the State of Florida:

16  
17           Section 1. Section 220.187, Florida Statutes, is amended to  
18           read:

19           220.187 Credits for contributions to nonprofit scholarship-  
20           funding organizations.—

21           (1) FINDINGS AND PURPOSE.—

22           (a) The Legislature finds that:

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

25           2. Expanding educational opportunities and improving the  
26           quality of educational services within the state are valid  
27           public purposes that the Legislature may promote using its  
28           sovereign power to determine subjects of taxation and exemptions  
29           from taxation.

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

35           4. Expanding educational opportunities and the healthy  
36 competition they promote are critical to improving the quality  
37 of education in the state and to ensuring that all children  
38 receive the high-quality education to which they are entitled.

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

40           1. Enable taxpayers to make private, voluntary  
41 contributions to nonprofit scholarship-funding organizations in  
42 order to promote the general welfare.

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

46           3. Promote the general welfare by expanding educational  
47 opportunities for children of families that have limited  
48 financial resources.

49           4. Enable children in this state to achieve a greater level  
50 of excellence in their education.

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

54           6. Enable students in grades 2, 5, 6, 8, and 9 in public  
55 schools to receive tutoring, remediation, computers, and other  
56 educational aids necessary to attain grade-level performance.

57           (2) DEFINITIONS.—As used in this section, the term:

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

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59 (b) "Eligible contribution" means a monetary contribution  
60 from a taxpayer, subject to the restrictions provided in this  
61 section, to an eligible nonprofit scholarship-funding  
62 organization. The taxpayer making the contribution may not  
63 designate a specific child as the beneficiary of the  
64 contribution.

65 (c) "Eligible nonprofit scholarship-funding organization"  
66 means a charitable organization that:

- 67 1. Is exempt from federal income tax pursuant to s.  
68 501(c)(3) of the Internal Revenue Code;
- 69 2. Is a Florida entity formed under chapter 607, chapter  
70 608, or chapter 617 and whose principal office is located in the  
71 state; and
- 72 3. Complies with ~~the provisions of~~ subsection (6).

73 (d) "Eligible ~~private~~ school" means a private school, as  
74 defined in s. 1002.01(2), or a public school located in Florida  
75 which offers an education to students in any grades K-12 and  
76 that meets the requirements in subsection (8).

77 (e) "Owner or operator" includes:

- 78 1. An owner, president, officer, or director of an eligible  
79 nonprofit scholarship-funding organization or a person who has  
80 ~~with~~ equivalent decisionmaking authority over an eligible  
81 nonprofit scholarship-funding organization.
- 82 2. An owner, operator, superintendent, or principal of an  
83 eligible ~~private~~ school or a person who has ~~with~~ equivalent  
84 decisionmaking authority over an eligible ~~private~~ school.

85 (3) PROGRAM; SCHOLARSHIP ELIGIBILITY.—The Corporate Income  
86 Tax Credit Scholarship Program is established. A student is  
87 eligible for a corporate income tax credit scholarship if the

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88 student qualifies for free or reduced-price school lunches under  
89 the National School Lunch Act and:

90 (a) Was counted as a full-time equivalent student during  
91 the previous state fiscal year for purposes of state per-student  
92 funding;

93 (b) Received a scholarship from an eligible nonprofit  
94 scholarship-funding organization or from the State of Florida  
95 during the previous school year;

96 (c) Is eligible to enter kindergarten or first grade; ~~or~~

97 (d) Is a student in grade 2, grade 5, grade 6, grade 8, or  
98 grade 9 in an eligible public school; or

99 (e)~~(d)~~ Is currently placed, or during the previous state  
100 fiscal year was placed, in foster care as defined in s. 39.01.

101  
102 Contingent upon available funds, a student may continue in the  
103 scholarship program as long as the student's household income  
104 level does not exceed 200 percent of the federal poverty level.  
105 A sibling of a student who is continuing in the program and  
106 resides in the same household as the student shall also be  
107 eligible as a first-time corporate income tax credit scholarship  
108 recipient as long as the student's and sibling's household  
109 income level does not exceed 200 percent of the federal poverty  
110 level. Household income for purposes of a student who is  
111 currently in foster care as defined in s. 39.01 shall consist  
112 only of the income that may be considered in determining whether  
113 he or she qualifies for free or reduced-price school lunches  
114 under the National School Lunch Act.

115 (4) SCHOLARSHIP PROHIBITIONS.—A student is not eligible for  
116 a scholarship while he or she is:

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117 (a) Enrolled in a school operating for the purpose of  
118 providing educational services to youth in Department of  
119 Juvenile Justice commitment programs;

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

122 (c) Receiving an educational scholarship pursuant to  
123 chapter 1002;

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

126 (e) Participating in a private tutoring program pursuant to  
127 s. 1002.43;

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

132 (g) Enrolled in the Florida School for the Deaf and the  
133 Blind.

134 (5) AUTHORIZATION TO GRANT SCHOLARSHIP FUNDING TAX CREDITS;  
135 LIMITATIONS ON INDIVIDUAL AND TOTAL CREDITS.—

136 (a) There is allowed a credit of 100 percent of an eligible  
137 contribution against any tax due for a taxable year under this  
138 chapter. However, such a credit may not exceed 75 percent of the  
139 tax due under this chapter for the taxable year, after the  
140 application of any other allowable credits by the taxpayer. The  
141 credit granted by this section shall be reduced by the  
142 difference between the amount of federal corporate income tax  
143 taking into account the credit granted by this section and the  
144 amount of federal corporate income tax without application of  
145 the credit granted by this section.

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

149 ~~1. Through June 30, 2008, \$88 million.~~

150 ~~2. Beginning July 1, 2008, and thereafter, \$118 million.~~

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

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

169 (6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING  
170 ORGANIZATIONS.—An eligible nonprofit scholarship-funding  
171 organization:

172 (a) Must comply with the antidiscrimination provisions of  
173 42 U.S.C. s. 2000d.

174 (b) Must comply with the following background check

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175 requirements:

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

191 2. Every 5 years following employment or engagement to  
192 provide services or association with an eligible nonprofit  
193 scholarship-funding organization, each owner or operator must  
194 meet level 2 screening standards as described in s. 435.04, at  
195 which time the nonprofit scholarship-funding organization shall  
196 request the Department of Law Enforcement to forward the  
197 fingerprints to the Federal Bureau of Investigation for level 2  
198 screening. If the fingerprints of an owner or operator are not  
199 retained by the Department of Law Enforcement under subparagraph  
200 3., the owner or operator must electronically file a complete  
201 set of fingerprints with the Department of Law Enforcement. Upon  
202 submission of fingerprints for this purpose, the eligible  
203 nonprofit scholarship-funding organization shall request that

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204 the Department of Law Enforcement forward the fingerprints to  
205 the Federal Bureau of Investigation for level 2 screening, and  
206 the fingerprints shall be retained by the Department of Law  
207 Enforcement under subparagraph 3.

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

217 4. Beginning July 1, 2007, the Department of Law  
218 Enforcement shall search all arrest fingerprint cards received  
219 under s. 943.051 against the fingerprints retained in the  
220 statewide automated fingerprint identification system under  
221 subparagraph 3. Any arrest record that is identified with an  
222 owner's or operator's fingerprints must be reported to the  
223 Department of Education. The Department of Education shall  
224 participate in this search process by paying an annual fee to  
225 the Department of Law Enforcement and by informing the  
226 Department of Law Enforcement of any change in the employment,  
227 engagement, or association status of the owners or operators  
228 whose fingerprints are retained under subparagraph 3. The  
229 Department of Law Enforcement shall adopt a rule setting the  
230 amount of the annual fee to be imposed upon the Department of  
231 Education for performing these services and establishing the  
232 procedures for the retention of owner and operator fingerprints



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233 and the dissemination of search results. The fee may be borne by  
234 the owner or operator of the nonprofit scholarship-funding  
235 organization.

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

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

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

247 (d) Must provide scholarships, from eligible contributions,  
248 to eligible students for the cost of:

- 249 1. Tuition and fees for an eligible private school; or  
250 2. Tutoring, remediation, computers, and other educational  
251 aids necessary to attain grade-level performance at a public  
252 school. ~~Transportation to a Florida public school that is~~  
253 ~~located outside the district in which the student resides or to~~  
254 ~~a lab school as defined in s. 1002.32.~~

255 (e) Must give priority to eligible students who received a  
256 scholarship from an eligible nonprofit scholarship-funding  
257 organization or from the State of Florida during the previous  
258 school year.

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

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262 (g) May not restrict or reserve scholarships for use at a  
263 particular ~~private~~ school or provide scholarships to a child of  
264 an owner or operator.

265 (h) Must allow an eligible student to attend any eligible  
266 ~~private~~ school and must allow a parent to transfer a scholarship  
267 during a school year to any other eligible ~~private~~ school of the  
268 parent's choice.

269 (i)1. May use up to 3 percent of eligible contributions  
270 received during the state fiscal year in which such  
271 contributions are collected for administrative expenses if the  
272 organization has operated under this section for at least 3  
273 state fiscal years and did not have any negative financial  
274 findings in its most recent audit under paragraph (l). Such  
275 administrative expenses must be reasonable and necessary for the  
276 organization's management and distribution of eligible  
277 contributions under this section. No more than one-third of the  
278 funds authorized for administrative expenses under this  
279 subparagraph may be used for expenses related to the recruitment  
280 of contributions from corporate taxpayers.

281 2. Must expend for annual or partial-year scholarships an  
282 amount equal to or greater than 75 percent of the net eligible  
283 contributions remaining after administrative expenses during the  
284 state fiscal year in which such contributions are collected. No  
285 more than 25 percent of such net eligible contributions may be  
286 carried forward to the following state fiscal year. Any amounts  
287 carried forward shall be expended for annual or partial-year  
288 scholarships in the following state fiscal year. Net eligible  
289 contributions remaining on June 30 of each year that are in  
290 excess of the 25 percent that may be carried forward shall be

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291 returned to the State Treasury for deposit in the General  
292 Revenue Fund.

293 3. Must, before granting a scholarship for an academic  
294 year, document each scholarship student's eligibility for that  
295 academic year. A scholarship-funding organization may not grant  
296 multiyear scholarships in one approval process.

297 (j) Must maintain separate accounts for scholarship funds  
298 and operating funds.

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

312 (l) Must provide to the Auditor General and the Department  
313 of Education an annual financial and compliance audit of its  
314 accounts and records conducted by an independent certified  
315 public accountant and in accordance with rules adopted by the  
316 Auditor General. The audit must be conducted in compliance with  
317 generally accepted auditing standards and must include a report  
318 on financial statements presented in accordance with generally  
319 accepted accounting principles set forth by the American

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320 Institute of Certified Public Accountants for not-for-profit  
321 organizations and a determination of compliance with the  
322 statutory eligibility and expenditure requirements set forth in  
323 this section. Audits must be provided to the Auditor General and  
324 the Department of Education within 180 days after completion of  
325 the eligible nonprofit scholarship-funding organization's fiscal  
326 year.

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

332 (n) Must allocate at least 25 percent of its scholarships  
333 to public school students.

334  
335 Any and all information and documentation provided to the  
336 Department of Education and the Auditor General relating to the  
337 identity of a taxpayer that provides an eligible contribution  
338 under this section shall remain confidential at all times in  
339 accordance with s. 213.053.

340 (7) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM  
341 PARTICIPATION.—

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

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

347 (c) Any student participating in the scholarship program  
348 must remain in attendance throughout the school year unless

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349 excused by the school for illness or other good cause.

350 (d) Each parent and each student has an obligation to the  
351 ~~private~~ school to comply with the ~~private~~ school's published  
352 policies.

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

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

371 (8) ~~PRIVATE~~ SCHOOL ELIGIBILITY AND OBLIGATIONS.—An eligible  
372 ~~private~~ school may be a public school or sectarian or  
373 nonsectarian private school and must:

374 (a) Comply with all requirements for private schools  
375 participating in state school choice scholarship programs  
376 pursuant to s. 1002.421 if the school is a private school.

377 (b) Provide to the eligible nonprofit scholarship-funding

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378 organization, upon request, all documentation required for the  
379 student's participation, including the ~~private~~ school's and  
380 student's fee schedules.

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

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

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

393 3. Cooperating with the scholarship student whose parent  
394 chooses to have the student participate in the statewide  
395 assessments pursuant to s. 1008.22.

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

399 (e) Provide a monthly accounting of the use of the  
400 scholarship funds to the legal guardian of each scholarship  
401 student in a public school.

402

403 The inability of a ~~private~~ school to meet the requirements of  
404 this subsection shall constitute a basis for the ineligibility  
405 of the ~~private~~ school to participate in the scholarship program  
406 as determined by the Department of Education.

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407 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The Department of  
408 Education shall:

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

412 (b) Annually verify the eligibility of nonprofit  
413 scholarship-funding organizations that meet the requirements of  
414 paragraph (2)(c).

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

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

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

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

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436 subject to the requirements of chapter 120.

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

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

443 (i) Maintain a list of nationally norm-referenced tests  
444 identified for purposes of satisfying the testing requirement in  
445 subparagraph (8)(c)2. The tests must meet industry standards of  
446 quality in accordance with State Board of Education rule.

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



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

474 (k) Notify an eligible nonprofit scholarship-funding  
475 organization of any of the organization's identified students  
476 who are receiving educational scholarships pursuant to chapter  
477 1002.

478 (l) Notify an eligible nonprofit scholarship-funding  
479 organization of any of the organization's identified students  
480 who are receiving corporate income tax credit scholarships from  
481 other eligible nonprofit scholarship-funding organizations.

482 (m) Require quarterly reports by an eligible nonprofit  
483 scholarship-funding organization regarding the number of  
484 students participating in the scholarship program, the ~~private~~  
485 schools at which the students are enrolled, and other  
486 information that deemed necessary by the Department of Education  
487 considers necessary.

488 (n)1. Conduct random site visits to ~~private~~ schools  
489 participating in the Corporate Tax Credit Scholarship Program.  
490 The purpose of the site visits is solely to verify the  
491 information reported by the schools concerning the enrollment  
492 and attendance of students, the credentials of teachers,  
493 background screening of teachers, ~~and~~ teachers' fingerprinting

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494 results, and accounting for the use of funds at public schools.

495 The Department of Education may not make more than seven random  
496 site visits each year and may not make more than one random site  
497 visit each year to the same ~~private~~ school.

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

508 (10) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.—

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

520 (b) The commissioner's determination is subject to the  
521 following:

522 1. If the commissioner intends to deny, suspend, or revoke

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523 a ~~private~~ school's participation in the scholarship program, the  
524 Department of Education shall notify the ~~private~~ school of such  
525 proposed action in writing by certified mail and regular mail to  
526 the ~~private~~ school's address of record with the Department of  
527 Education. The notification must ~~shall~~ include the reasons for  
528 the proposed action and notice of the timelines and procedures  
529 set forth in this paragraph.

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

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

549 (c) The commissioner may immediately suspend payment of  
550 scholarship funds if it is determined that there is probable  
551 cause to believe that there is:

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

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

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

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

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

575

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

580 (11) SCHOLARSHIP AMOUNT AND PAYMENT.—

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581 (a) The amount of a scholarship provided to any student for  
582 any single school year by an eligible nonprofit scholarship-  
583 funding organization from eligible contributions may ~~shall~~ be  
584 for total costs authorized under paragraph (6)(d), not to exceed  
585 the following annual limits:

586 1. Four ~~Three~~ thousand ~~nine hundred fifty~~ dollars for a  
587 scholarship awarded to a student enrolled in an eligible ~~private~~  
588 school for the 2008-2009 state fiscal year and each fiscal year  
589 thereafter.

590 2. Four thousand ~~Five hundred~~ dollars for a scholarship  
591 awarded to a student enrolled in a Florida public school ~~that is~~  
592 ~~located outside the district in which the student resides or in~~  
593 ~~a lab school as defined in s. 1002.32.~~

594 (b) Payment of the scholarship by the eligible nonprofit  
595 scholarship-funding organization ~~shall~~ be by individual warrant  
596 made payable to the student's parent. ~~If the parent chooses that~~  
597 ~~his or her child attend an eligible private school,~~ The warrant  
598 must be delivered by the eligible nonprofit scholarship-funding  
599 organization to the ~~private~~ school of the parent's choice, and  
600 the parent shall restrictively endorse the warrant to the  
601 ~~private~~ school. An eligible nonprofit scholarship-funding  
602 organization shall ensure that the parent to whom the warrant is  
603 made restrictively endorsed the warrant to the ~~private~~ school  
604 for deposit into the account of the ~~private~~ school.

605 (c) An eligible nonprofit scholarship-funding organization  
606 shall obtain verification from the ~~private~~ school of a student's  
607 continued attendance at the school for each period covered by a  
608 scholarship payment.

609 (d) Payment of the scholarship shall be made by the

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610 eligible nonprofit scholarship-funding organization no less  
611 frequently than ~~on a~~ quarterly ~~basis~~.

612 (12) ADMINISTRATION; RULES.—

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

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

629 (c) The department and the Department of Education shall  
630 develop a cooperative agreement to assist in the administration  
631 of this section.

632 (d) The department shall adopt rules necessary to  
633 administer this section, including rules establishing  
634 application forms and procedures and governing the allocation of  
635 tax credits and carryforward credits under this section on a  
636 first-come, first-served basis.

637 (e) The State Board of Education shall adopt rules pursuant  
638 to ss. 120.536(1) and 120.54 to administer this section as it

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639 relates to the roles of the Department of Education and the  
640 Commissioner of Education.

641 (13) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.—All eligible  
642 contributions received by an eligible nonprofit scholarship-  
643 funding organization ~~shall~~ be deposited in a manner consistent  
644 with s. 17.57(2).

645 (14) PRESERVATION OF CREDIT.—If any provision or portion of  
646 subsection (5) or the application thereof to any person or  
647 circumstance is held unconstitutional by any court or is  
648 otherwise declared invalid, the unconstitutionality or  
649 invalidity shall not affect any credit earned under subsection  
650 (5) by any taxpayer with respect to any contribution paid to an  
651 eligible nonprofit scholarship-funding organization before the  
652 date of a determination of unconstitutionality or invalidity.  
653 Such credit shall be allowed at such time and in such a manner  
654 as if a determination of unconstitutionality or invalidity had  
655 not been made, provided that nothing in this subsection by  
656 itself or in combination with any other provision of law shall  
657 result in the allowance of any credit to any taxpayer in excess  
658 of one dollar of credit for each dollar paid to an eligible  
659 nonprofit scholarship-funding organization.

660 Section 2. This act shall take effect July 1, 2009.