

By Senator Wilson

33-01380-10

20101426\_\_

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.

33-01380-10

20101426

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.

33-01380-10

20101426

59 (b) "Direct certification list" means the certified list of  
60 children who qualify for the Food Stamp Program, the Temporary  
61 Assistance to Needy Families Program, or the Food Distribution  
62 Program on Indian Reservations provided to the Department of  
63 Education by the Department of Children and Family Services.

64 (c) "Eligible contribution" means a monetary contribution  
65 from a taxpayer, subject to the restrictions provided in this  
66 section, to an eligible nonprofit scholarship-funding  
67 organization. The taxpayer making the contribution may not  
68 designate a specific child as the beneficiary of the  
69 contribution.

70 (d) "Eligible nonprofit scholarship-funding organization"  
71 means a charitable organization that:

- 72 1. Is exempt from federal income tax pursuant to s.  
73 501(c)(3) of the Internal Revenue Code;
- 74 2. Is a Florida entity formed under chapter 607, chapter  
75 608, or chapter 617 and whose principal office is located in the  
76 state; and
- 77 3. Complies with the provisions of subsection (6).

78 (e) "Eligible ~~private~~ school" means a private school, as  
79 defined in s. 1002.01(2), or a public school located in Florida  
80 which offers an education to students in any grades K-12 and  
81 that meets the requirements in subsection (8).

82 (f) "Owner or operator" includes:

- 83 1. An owner, president, officer, or director of an eligible  
84 nonprofit scholarship-funding organization or a person with  
85 equivalent decisionmaking authority over an eligible nonprofit  
86 scholarship-funding organization.
- 87 2. An owner, operator, superintendent, or principal of an

33-01380-10

20101426

88 eligible ~~private~~ school or a person who has ~~with~~ equivalent  
89 decisionmaking authority over an eligible ~~private~~ school.

90 (3) PROGRAM; SCHOLARSHIP ELIGIBILITY.—The Florida Tax  
91 Credit Scholarship Program is established. A student is eligible  
92 for a Florida tax credit scholarship under this section or s.  
93 624.51055 if the student qualifies for free or reduced-price  
94 school lunches under the National School Lunch Act or is on the  
95 direct certification list and:

96 (a) Was counted as a full-time equivalent student during  
97 the previous state fiscal year for purposes of state per-student  
98 funding;

99 (b) Received a scholarship from an eligible nonprofit  
100 scholarship-funding organization or from the State of Florida  
101 during the previous school year;

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

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

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

107  
108 Contingent upon available funds, a student may continue in the  
109 scholarship program as long as the student's household income  
110 level does not exceed 200 percent of the federal poverty level.  
111 A sibling of a student who is continuing in the program and  
112 resides in the same household as the student shall also be  
113 eligible as a first-time tax credit scholarship recipient as  
114 long as the student's and sibling's household income level does  
115 not exceed 200 percent of the federal poverty level. Household  
116 income for purposes of a student who is currently in foster care

33-01380-10

20101426\_\_

117 as defined in s. 39.01 shall consist only of the income that may  
118 be considered in determining whether he or she qualifies for  
119 free or reduced-price school lunches under the National School  
120 Lunch Act.

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

123 (a) Enrolled in a school operating for the purpose of  
124 providing educational services to youth in Department of  
125 Juvenile Justice commitment programs;

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

128 (c) Receiving an educational scholarship pursuant to  
129 chapter 1002;

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

132 (e) Participating in a private tutoring program pursuant to  
133 s. 1002.43;

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

138 (g) Enrolled in the Florida School for the Deaf and the  
139 Blind.

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

142 (a) There is allowed a credit of 100 percent of an eligible  
143 contribution against any tax due for a taxable year under this  
144 chapter. However, such a credit may not exceed 75 percent of the  
145 tax due under this chapter for the taxable year, after the

33-01380-10

20101426

146 application of any other allowable credits by the taxpayer. The  
147 credit granted by this section shall be reduced by the  
148 difference between the amount of federal corporate income tax  
149 taking into account the credit granted by this section and the  
150 amount of federal corporate income tax without application of  
151 the credit granted by this section.

152 (b) For each state fiscal year, the total amount of tax  
153 credits and carryforward of tax credits which may be granted  
154 under this section and s. 624.51055 is \$118 million.

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

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

173 (e) A taxpayer who is eligible to receive the credit  
174 provided for in s. 624.51055 is not eligible to receive the

33-01380-10

20101426

175 credit provided by this section.

176 (6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING  
177 ORGANIZATIONS.—An eligible nonprofit scholarship-funding  
178 organization:

179 (a) Must comply with the antidiscrimination provisions of  
180 42 U.S.C. s. 2000d.

181 (b) Must comply with the following background check  
182 requirements:

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

198 2. Every 5 years following employment or engagement to  
199 provide services or association with an eligible nonprofit  
200 scholarship-funding organization, each owner or operator must  
201 meet level 2 screening standards as described in s. 435.04, at  
202 which time the nonprofit scholarship-funding organization shall  
203 request the Department of Law Enforcement to forward the

33-01380-10

20101426

204 fingerprints to the Federal Bureau of Investigation for level 2  
205 screening. If the fingerprints of an owner or operator are not  
206 retained by the Department of Law Enforcement under subparagraph  
207 3., the owner or operator must electronically file a complete  
208 set of fingerprints with the Department of Law Enforcement. Upon  
209 submission of fingerprints for this purpose, the eligible  
210 nonprofit scholarship-funding organization shall request that  
211 the Department of Law Enforcement forward the fingerprints to  
212 the Federal Bureau of Investigation for level 2 screening, and  
213 the fingerprints shall be retained by the Department of Law  
214 Enforcement under subparagraph 3.

215 3. ~~Beginning July 1, 2007,~~ All fingerprints submitted to  
216 the Department of Law Enforcement as required by this paragraph  
217 must be retained by the Department of Law Enforcement in a  
218 manner approved by rule and entered in the statewide automated  
219 fingerprint identification system authorized by s. 943.05(2)(b).  
220 The fingerprints must thereafter be available for all purposes  
221 and uses authorized for arrest fingerprint cards entered in the  
222 statewide automated fingerprint identification system pursuant  
223 to s. 943.051.

224 4. ~~Beginning July 1, 2007,~~ The Department of Law  
225 Enforcement shall search all arrest fingerprint cards received  
226 under s. 943.051 against the fingerprints retained in the  
227 statewide automated fingerprint identification system under  
228 subparagraph 3. Any arrest record that is identified with an  
229 owner's or operator's fingerprints must be reported to the  
230 Department of Education. The Department of Education shall  
231 participate in this search process by paying an annual fee to  
232 the Department of Law Enforcement and by informing the



33-01380-10

20101426

233 Department of Law Enforcement of any change in the employment,  
234 engagement, or association status of the owners or operators  
235 whose fingerprints are retained under subparagraph 3. The  
236 Department of Law Enforcement shall adopt a rule setting the  
237 amount of the annual fee to be imposed upon the Department of  
238 Education for performing these services and establishing the  
239 procedures for the retention of owner and operator fingerprints  
240 and the dissemination of search results. The fee may be borne by  
241 the owner or operator of the nonprofit scholarship-funding  
242 organization.

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

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

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

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

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

33-01380-10

20101426

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

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

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

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

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

288 2. Must expend for annual or partial-year scholarships an  
289 amount equal to or greater than 75 percent of the net eligible  
290 contributions remaining after administrative expenses during the

33-01380-10

20101426

291 state fiscal year in which such contributions are collected. No  
292 more than 25 percent of such net eligible contributions may be  
293 carried forward to the following state fiscal year. Any amounts  
294 carried forward shall be expended for annual or partial-year  
295 scholarships in the following state fiscal year. Net eligible  
296 contributions remaining on June 30 of each year which ~~that~~ are  
297 in excess of the 25 percent that may be carried forward shall be  
298 returned to the State Treasury for deposit in the General  
299 Revenue Fund.

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

304 (j) Must maintain separate accounts for scholarship funds  
305 and operating funds.

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

319 (l) Must provide to the Auditor General and the Department

33-01380-10

20101426

320 of Education an annual financial and compliance audit of its  
321 accounts and records conducted by an independent certified  
322 public accountant and in accordance with rules adopted by the  
323 Auditor General. The audit must be conducted in compliance with  
324 generally accepted auditing standards and must include a report  
325 on financial statements presented in accordance with generally  
326 accepted accounting principles set forth by the American  
327 Institute of Certified Public Accountants for not-for-profit  
328 organizations and a determination of compliance with the  
329 statutory eligibility and expenditure requirements set forth in  
330 this section. Audits must be provided to the Auditor General and  
331 the Department of Education within 180 days after completion of  
332 the eligible nonprofit scholarship-funding organization's fiscal  
333 year.

334 (m) Must prepare and submit quarterly reports to the  
335 Department of Education pursuant to paragraph (9) (m). In  
336 addition, an eligible nonprofit scholarship-funding organization  
337 must submit in a timely manner any information requested by the  
338 Department of Education relating to the scholarship program.

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

341  
342 Any and all information and documentation provided to the  
343 Department of Education and the Auditor General relating to the  
344 identity of a taxpayer that provides an eligible contribution  
345 under this section shall remain confidential at all times in  
346 accordance with s. 213.053.

347 (7) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM  
348 PARTICIPATION.—

33-01380-10

20101426

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

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

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

357 (d) Each parent and each student has an obligation to the  
358 ~~private~~ school to comply with the ~~private~~ school's published  
359 policies.

360 (e) The parent shall ensure that the student participating  
361 in the scholarship program takes the norm-referenced assessment  
362 offered by the ~~private~~ school. The parent may also choose to  
363 have the student participate in the statewide assessments  
364 pursuant to s. 1008.22. If the parent requests that the student  
365 participating in the scholarship program take statewide  
366 assessments pursuant to s. 1008.22, the parent is responsible  
367 for transporting the student to the assessment site designated  
368 by the school district.

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

33-01380-10

20101426\_\_

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

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

384 (b) Provide to the eligible nonprofit scholarship-funding  
385 organization, upon request, all documentation required for the  
386 student's participation, including the ~~private~~ school's and  
387 student's fee schedules.

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

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

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

400 3. Cooperating with the scholarship student whose parent  
401 chooses to have the student participate in the statewide  
402 assessments pursuant to s. 1008.22.

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

406 (e) Provide a monthly accounting of the use of the

33-01380-10

20101426

407 scholarship funds to the legal guardian of each scholarship  
408 student in a public school.

409

410 The inability of a ~~private~~ school to meet the requirements of  
411 this subsection shall constitute a basis for the ineligibility  
412 of the ~~private~~ school to participate in the scholarship program  
413 as determined by the Department of Education.

414 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The Department of  
415 Education shall:

416 (a) Annually submit to the department, by March 15, a list  
417 of eligible nonprofit scholarship-funding organizations that  
418 meet the requirements of paragraph (2)(d).

419 (b) Annually verify the eligibility of nonprofit  
420 scholarship-funding organizations that meet the requirements of  
421 paragraph (2)(d).

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

424 (d) Annually verify the eligibility of expenditures as  
425 provided in paragraph (6)(d) using the audit required by  
426 paragraph (6)(1).

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

430 (f) Establish a process by which individuals may notify the  
431 Department of Education of any violation by a parent, ~~private~~  
432 school, or school district of state laws relating to program  
433 participation. The Department of Education shall conduct an  
434 inquiry of any written complaint of a violation of this section,  
435 or make a referral to the appropriate agency for an

33-01380-10

20101426

436 investigation, if the complaint is signed by the complainant and  
437 is legally sufficient. A complaint is legally sufficient if it  
438 contains ultimate facts that show that a violation of this  
439 section or any rule adopted by the State Board of Education has  
440 occurred. In order to determine legal sufficiency, the  
441 Department of Education may require supporting information or  
442 documentation from the complainant. A department inquiry is not  
443 subject to the requirements of chapter 120.

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

447 (h) Cross-check the list of participating scholarship  
448 students with the public school enrollment lists to avoid  
449 duplication.

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

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



33-01380-10

20101426

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

481 (k) Notify an eligible nonprofit scholarship-funding  
482 organization of any of the organization's identified students  
483 who are receiving educational scholarships pursuant to chapter  
484 1002.

485 (l) Notify an eligible nonprofit scholarship-funding  
486 organization of any of the organization's identified students  
487 who are receiving tax credit scholarships from other eligible  
488 nonprofit scholarship-funding organizations.

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

33-01380-10

20101426\_\_

494 considers necessary.

495 (n)1. Conduct random site visits to private schools  
496 participating in the Florida Tax Credit Scholarship Program. The  
497 purpose of the site visits is ~~solely~~ to verify the information  
498 reported by the schools concerning the enrollment and attendance  
499 of students, the credentials of teachers, background screening  
500 of teachers, and teachers' fingerprinting results, and to  
501 account for the use of funds at public schools. The Department  
502 of Education may not make more than seven random site visits  
503 each year and may not make more than one random site visit each  
504 year to the same ~~private~~ school.

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

515 (o) Provide a process to match the direct certification  
516 list with the scholarship application data submitted by any  
517 nonprofit scholarship-funding organization eligible to receive  
518 the 3-percent administrative allowance under paragraph (6)(i).

519 (10) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.—Upon  
520 the request of any eligible nonprofit scholarship-funding  
521 organization, a school district shall inform all households  
522 within the district receiving free or reduced-priced meals under

33-01380-10

20101426

523 the National School Lunch Act of their eligibility to apply for  
524 a tax credit scholarship. The form of such notice shall be  
525 provided by the eligible nonprofit scholarship-funding  
526 organization, and the district shall include the provided form,  
527 if requested by the organization, in any normal correspondence  
528 with eligible households. If an eligible nonprofit scholarship-  
529 funding organization requests a special communication to be  
530 issued to households within the district receiving free or  
531 reduced-price meals under the National School Lunch Act, the  
532 organization shall reimburse the district for the cost of  
533 postage. Such notice is limited to once a year.

534 (11) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.-

535 (a) The Commissioner of Education shall deny, suspend, or  
536 revoke a ~~private~~ school's participation in the scholarship  
537 program if it is determined that the ~~private~~ school has failed  
538 to comply with ~~the provisions of~~ this section. However, if in  
539 ~~instances in which~~ the noncompliance is correctable within a  
540 reasonable amount of time and in which the health, safety, or  
541 welfare of the students is not threatened, the commissioner may  
542 issue a notice of noncompliance that shall provide the ~~private~~  
543 school with a timeframe within which to provide evidence of  
544 compliance before ~~prior to~~ taking action to suspend or revoke  
545 the ~~private~~ school's participation in the scholarship program.

546 (b) The commissioner's determination is subject to the  
547 following:

548 1. If the commissioner intends to deny, suspend, or revoke  
549 a ~~private~~ school's participation in the scholarship program, the  
550 Department of Education shall notify the ~~private~~ school of such  
551 proposed action in writing by certified mail and regular mail to

33-01380-10

20101426

552 the ~~private~~ school's address of record with the Department of  
553 Education. The notification must ~~shall~~ include the reasons for  
554 the proposed action and notice of the timelines and procedures  
555 set forth in this paragraph.

556 2. The ~~private~~ school that is adversely affected by the  
557 proposed action shall have 15 days following ~~from~~ receipt of the  
558 notice of proposed action to file with the Department of  
559 Education's agency clerk a request for a proceeding pursuant to  
560 ss. 120.569 and 120.57. If the ~~private~~ school is entitled to a  
561 hearing under s. 120.57(1), the Department of Education shall  
562 forward the request to the Division of Administrative Hearings.

563 3. Upon receipt of a request referred pursuant to this  
564 paragraph, the director of the Division of Administrative  
565 Hearings shall expedite the hearing and assign an administrative  
566 law judge who shall commence a hearing within 30 days after the  
567 receipt of the formal written request by the division and enter  
568 a recommended order within 30 days after the hearing or within  
569 30 days after receipt of the hearing transcript, whichever is  
570 later. Each party shall be allowed 10 days in which to submit  
571 written exceptions to the recommended order. A final order shall  
572 be entered by the agency within 30 days after the entry of a  
573 recommended order. The provisions of this subparagraph may be  
574 waived upon stipulation by all parties.

575 (c) The commissioner may immediately suspend payment of  
576 scholarship funds if it is determined that there is probable  
577 cause to believe that there is:

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

580 2. Fraudulent activity on the part of the ~~private~~ school.

33-01380-10

20101426

581 Notwithstanding s. 1002.22, in incidents of alleged fraudulent  
582 activity pursuant to this section, the Department of Education's  
583 Office of Inspector General is authorized to release personally  
584 identifiable records or reports of students to the following  
585 persons or organizations:

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

590 b. A person or entity authorized by a court of competent  
591 jurisdiction in compliance with an order of that court or the  
592 attorney of record pursuant to a lawfully issued subpoena,  
593 consistent with the Family Educational Rights and Privacy Act,  
594 20 U.S.C. s. 1232g.

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

601  
602 The commissioner's order suspending payment pursuant to this  
603 paragraph may be appealed pursuant to the same procedures and  
604 timelines as the notice of proposed action set forth in  
605 paragraph (b).

606 (12) SCHOLARSHIP AMOUNT AND PAYMENT.—

607 (a) The amount of a scholarship provided to any student for  
608 any single school year by an eligible nonprofit scholarship-  
609 funding organization from eligible contributions may ~~shall~~ be

33-01380-10

20101426\_\_

610 for total costs authorized under paragraph (6)(d), not to exceed  
611 the following annual limits:

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

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

620 (b) Payment of the scholarship by the eligible nonprofit  
621 scholarship-funding organization shall be by individual warrant  
622 made payable to the student's parent. ~~If the parent chooses that~~  
623 ~~his or her child attend an eligible private school,~~ The warrant  
624 must be delivered by the eligible nonprofit scholarship-funding  
625 organization to the ~~private~~ school of the parent's choice, and  
626 the parent shall restrictively endorse the warrant to the  
627 ~~private~~ school. An eligible nonprofit scholarship-funding  
628 organization shall ensure that the parent to whom the warrant is  
629 made restrictively endorsed the warrant to the private school  
630 for deposit into the account of the private school.

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

635 (d) Payment of the scholarship shall be made by the  
636 eligible nonprofit scholarship-funding organization no less  
637 frequently than ~~on a~~ quarterly ~~basis~~.

638 (13) ADMINISTRATION; RULES.—

33-01380-10

20101426

639 (a) If the credit granted pursuant to this section is not  
640 fully used in any one year because of insufficient tax liability  
641 on the part of the corporation, the unused amount may be carried  
642 forward for a period not to exceed 3 years; however, any  
643 taxpayer that seeks to carry forward an unused amount of tax  
644 credit must submit an application for allocation of tax credits  
645 or carryforward credits as required in paragraph (d) in the year  
646 that the taxpayer intends to use the carryforward. This  
647 carryforward applies to all approved contributions made after  
648 January 1, 2002. A taxpayer may not convey, assign, or transfer  
649 the credit authorized by this section to another entity unless  
650 all of the assets of the taxpayer are conveyed, assigned, or  
651 transferred in the same transaction.

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

655 (c) The department and the Department of Education shall  
656 develop a cooperative agreement to assist in the administration  
657 of this section.

658 (d) The department shall adopt rules necessary to  
659 administer this section, including rules establishing  
660 application forms and procedures and governing the allocation of  
661 tax credits and carryforward credits under this section on a  
662 first-come, first-served basis.

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

667 (14) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.—All eligible

33-01380-10

20101426

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

671 (15) PRESERVATION OF CREDIT.—If any provision or portion of  
672 subsection (5) or the application thereof to any person or  
673 circumstance is held unconstitutional by any court or is  
674 otherwise declared invalid, the unconstitutionality or  
675 invalidity shall not affect any credit earned under subsection  
676 (5) by any taxpayer with respect to any contribution paid to an  
677 eligible nonprofit scholarship-funding organization before the  
678 date of a determination of unconstitutionality or invalidity.  
679 Such credit shall be allowed at such time and in such a manner  
680 as if a determination of unconstitutionality or invalidity had  
681 not been made, provided that nothing in this subsection by  
682 itself or in combination with any other provision of law shall  
683 result in the allowance of any credit to any taxpayer in excess  
684 of one dollar of credit for each dollar paid to an eligible  
685 nonprofit scholarship-funding organization.

686 Section 2. This act shall take effect July 1, 2010.