



# Florida Tax Credit Scholarship Program

## **What is the Florida Tax Credit Scholarship Program (FTC Program)?**

The Florida Tax Credit Scholarship Program (FTC Program)<sup>1</sup> was established to encourage taxpayers to make private, voluntary contributions to non-profit scholarship-funding organizations (SFOs), expand educational opportunities for families that have limited financial resources, and enable Florida's children to achieve a greater level of excellence in their education.<sup>2</sup> The FTC Program provides a tax credit to taxpayers that make eligible contributions to nonprofit scholarship-funding organizations (SFOs).<sup>3</sup> SFOs award scholarships to eligible students who qualify for free or reduced-price school lunches under the National School Lunch Act.<sup>4</sup> The scholarships may be used for certain private school tuition and fees or transportation expenses to a public school of choice.<sup>5</sup>

## **Who is eligible for an FTC Program scholarship?**

Contingent upon available funds, a student is eligible for a FTC Program scholarship from a nonprofit SFO if he or she qualifies for free or reduced-price school lunches under the National School Lunch Act or is on the direct certification list<sup>6</sup> and:

- ❖ Was counted as a full-time student during the previous state fiscal year for purposes of state per-student funding;

<sup>1</sup> Section 1002.395, F.S. Until 2009, tax credits under the scholarship program were only available against the state's corporate income tax. In 2009, the Legislature expanded the revenue sources against which tax credits may be claimed to include the insurance premium tax; and, renamed the Corporate Income Tax Credit Scholarship Program the "Florida Tax Credit Scholarship Program." Section 2, ch. 2009-108, L.O.F., amending s. 220.187(3), F.S.

<sup>2</sup> Section 1002.395(1)(b), F.S. In 2010, the Legislature further expanded the revenue sources against which tax credits may be claimed to include the severance taxes on oil and gas production, self-accrued sales tax liabilities of direct permit holders, and alcoholic beverage taxes on beer, wine, and spirits. Section 1, ch. 2010-24, L.O.F., transferred and renumbered from s. 220.187, F.S., to s. 1002.395, F.S.

<sup>3</sup> Section 1002.395, F.S.

<sup>4</sup> Section 1002.395(30)(b), F.S. The National School Lunch Program is a federally funded program that assists schools and other agencies in providing nutritious meals to children at reasonable prices. The United States Department of Agriculture is responsible for overseeing the program nationally. 42 U.S.C. s. 1758(b). In Florida, the Florida Department of Education (DOE), Food and Nutrition Management Division administers the program. Florida Department of Education, Food and Nutrition Management, *National School Lunch and Breakfast Program*, <http://www.fldoe.org/FNM/natlschoollunch/descriptions.asp> (last visited Sept. 9, 2010). The Florida Department of Agriculture and Consumer Services is responsible for providing USDA commodity foods to Florida schools participating in the National School Lunch Program. Florida Department of Agriculture and Consumer Services, National School Lunch Program, [http://www.florida-agriculture.com/foodprograms/national\\_lunch\\_program.htm](http://www.florida-agriculture.com/foodprograms/national_lunch_program.htm) (last visited Sept. 13, 2010); see also s. 1006.06 (5) (a), F.S.

<sup>5</sup> Section 1002.395(6)(d), F.S.

<sup>6</sup> "Direct certification list" means the certified list of children who qualify for the food assistance program, the Temporary Assistance to Needy Families Program, or the Food Distribution Program on Indian Reservations provided to DOE by the Department of Children and Family Services. Section 1002.395(2)(c), F.S.

- ❖ Received a scholarship from an eligible nonprofit SFO or the State of Florida during the previous school year;
- ❖ Is eligible to enter kindergarten or first grade; or
- ❖ Is currently placed, or during the previous state fiscal year was placed, in foster care.<sup>7</sup>

A student remains eligible for an FTC Program scholarship as long as the student's household income level does not exceed 230 percent of the Federal Poverty Level.<sup>8</sup> A sibling of a scholarship recipient who continues in the program is eligible as a first-time scholarship recipient if he or she resides in the same household as the student, meets one or more of the eligibility criteria, and the household income level does not exceed 230 percent of the federal poverty level.<sup>9</sup>

During the 2009-10 academic year, 28,927 students were awarded FTC Program scholarships. Of that number, 14,765 students were female students and 14,162 students were male.<sup>10</sup>

### ***What is the maximum award amount of an FTC Program scholarship?***

The amount of the scholarship provided to any student for any single academic year by an eligible nonprofit SFO from eligible contributions may not exceed annual limits, which must be determined as follows:

- ❖ For a scholarship awarded to a student for enrollment in participating private school:
  - ◆ For FY 2009-10, the limit is \$3,950.
  - ◆ For FY 2010-11, the limit must be 60 percent of the unweighted full-time equivalent (FTE) funding amount<sup>11</sup> for that year.
  - ◆ Beginning with FY 2011-12, the limit must be determined by multiplying the unweighted FTE funding amount for that fiscal year by the percentage used to determine the limit in the prior fiscal year. However, in each fiscal year the tax credit cap increases, the prior year percentage must be increased by 4 percentage points and the increased percentage must be used to determine the limit for that fiscal year. If the percentage calculated reaches 80 percent in a fiscal year, no further increase in the percentage is allowed and the limit is 80 percent of the unweighted FTE funding amount for that fiscal year and beyond.<sup>12</sup>

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<sup>7</sup> Section 1002.395(3)(b)1., F.S.; *see also* s. 39.01(31), F.S.

<sup>8</sup> Section 1002.395(3)(b)2., F.S.

<sup>9</sup> Section 1002.395(3)(b)3., F.S.

<sup>10</sup> Florida Department of Education, Office of Independent Education and Parental Choice, *Quarterly Report: Corporate Tax Credit*, at 3 (June 2010), available at [http://www.floridaschoolchoice.org/Information/CTC/quarterly\\_reports/ftc\\_report\\_june2010.pdf](http://www.floridaschoolchoice.org/Information/CTC/quarterly_reports/ftc_report_june2010.pdf).

<sup>11</sup> "Unweighted FTE funding amount" means the statewide average total funds per unweighted full-time equivalent funding amount that is incorporated by reference in the General Appropriations Act, or any subsequent special appropriations act for the applicable state fiscal year. Section 1002.395(2)(j), F.S.; *see ss.* 1011.61 and 1011.62, F.S.; *see also* Education Funding Fact Sheet.

<sup>12</sup> Section 1002.395(12)(a)1. a., F.S.

- ❖ For a scholarship awarded to a student for enrollment in a Florida public school that is located outside the district in which the student resides, the limit is \$500.<sup>13</sup>

The annual limit for a scholarship must be reduced by 25 percent for a student with a household income that is equal to or more than 200 percent, but less than 215 percent of the federal poverty level; and reduced by 50 percent if the student's household income is equal to or more than 215 percent, but equal to or less than 230 percent of the federal poverty level.<sup>14</sup>

### **What types of expenses are covered by FTC Program scholarships?**

Scholarship funds may be used by students for:

- ❖ Tuition and fees for a participating private school; or
- ❖ Transportation expenses to a developmental research (laboratory) school<sup>15</sup> or to a Florida public school that is located outside the district in which the student resides.<sup>16</sup>

### **What criteria must a private school meet to participate in the FTC Program?**

To participate in the FTC Program, a private school must:

- ❖ Comply with all of the requirements for private schools participating in state school choice scholarship programs.<sup>17</sup>
- ❖ Provide the SFO, upon request, all documentation required for student participation, including its fee schedule.<sup>18</sup>
- ❖ Annually provide the parent with a written explanation of the student's progress.<sup>19</sup>
- ❖ Annually administer or make provisions for students in grades three through 10 to participate in one of the nationally norm-referenced tests identified by the Department of Education (DOE) and report the student's scores to the parent and to an independent private research organization selected by DOE.<sup>20</sup>
- ❖ Cooperate with a student whose parent chooses to have the student participate in statewide assessments.<sup>21</sup>
- ❖ Require each student receiving a scholarship to have regular and direct contact with his or her teachers at the school's physical location.<sup>22</sup>

In 2010, the Legislature added a requirement that participating private schools that receive more than \$250,000 in funds from FTC Program scholarships awarded in FY 2010-11 must annually

<sup>13</sup> Section 1002.395(12)(a)1.b., F.S.; rule 6A-6.0960(5), F.A.C. The rule has not been amended to reflect the statutory changes made pursuant to s. 1, ch. 2010-24, L.O.F.

<sup>14</sup> Section 1002.395(12)(a)2., F.S.

<sup>15</sup> See s. 1002.32, F.S.

<sup>16</sup> Section 1002.395(6)(d), F.S.

<sup>17</sup> Sections 1002.395(8)(a), F.S. and 1002.421, F.S.; see also the Private School Accountability in State School Choice Scholarship Programs Fact Sheet.

<sup>18</sup> Section 1002.395(8)(b), F.S.

<sup>19</sup> Section 1002.395(8)(c)1., F.S.

<sup>20</sup> Section 1002.395(8)(c)2., F.S.; rule 6A-6.0960(6), F.A.C. The rule has not been amended to reflect the statutory changes made pursuant to s. 1, ch. 2010-24, L.O.F.

<sup>21</sup> Section 1002.395(8)(c)3., F.S.; see s. 1008.22, F.S.

<sup>22</sup> Section 1002.395(8)(d), F.S.

contract with an independent certified public accountant to perform agreed-upon procedures and produce a report of the results.<sup>23</sup> The private school must submit the report annually beginning September 15, 2011, to the SFO that awarded the majority of the private school's scholarships.<sup>24</sup>

Failure to meet the requirements, as determined by DOE, constitutes a basis for a private school to become ineligible to participate in the program.<sup>25</sup>

### **What qualifies as an eligible contribution for this program?**

An eligible contribution is a monetary contribution from a taxpayer to an eligible nonprofit SFO. The taxpayer may not designate a specific child as the beneficiary of the contribution.<sup>26</sup>

### **What are the revenue sources against which tax credits may be granted for contributions to the FTC Program and how much of a tax credit is a taxpayer authorized to receive for contributing to a nonprofit scholarship-funding organization?**

**Corporate Tax Credit.** A taxpayer may receive a credit of 100 percent of an eligible contribution to an eligible SFO against any corporate income tax due for a taxable year, but the credit may not exceed 75 percent of the total tax due after the application of all other allowable tax credits.<sup>27</sup>

**Insurance Premium Tax Credit.** An insurance company may receive a credit of 100 percent of an eligible contribution to an eligible SFO against any net tax due for a taxable year under the provisions of the state's insurance code. However, the credit may not exceed 75 percent of the net tax due.<sup>28</sup>

**Severance Taxes on Oil and Gas Production.** A taxpayer may receive a credit of 100 percent of an eligible contribution to an eligible SFO against tax due to the state from a person who severs

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<sup>23</sup> An agreed-upon procedure is "one in which a practitioner is engaged by a client to issue a report of findings based on specific procedures performed on subject matter. The client engages the practitioner to assist specified parties in evaluating subject matter or an assertion as a result of a need or needs of the specified parties. Because the specified parties require that the findings be independently derived, the services of a practitioner are obtained to perform procedures and report his or her findings. The specified parties and the practitioner agree upon the procedures to be performed by the practitioner that the specified parties believe are appropriate. Because the needs of the specified parties may vary widely, the nature, timing, and extent of the agreed-upon procedures may vary as well; consequently, the specified parties assume responsibility for the sufficiency of the procedures since they best understand their own needs." American Institute of Certified Public Accountants, Audit and Attest Standards, Statements on Standards for Attestation Agreements, *Agreed-Upon Procedures Engagements*, at AT s. 201.02 (June 1, 2009), available at <http://www.aicpa.org/Research/Standards/AuditAttest/DownloadableDocuments/AT-00201.pdf>. The law requires the eligible scholarship-funding organizations to seek input from the Florida Association of Academic Nonpublic Schools and the "procedures" to be conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. Sections 1002.395(6)(n)2. and 1002.395(8)(e), F.S.

<sup>24</sup> Section 1, ch. 2010-24, L.O.F., amending s. 1002.395(8)(e), F.S.; see *infra* text accompanying notes 53-58.

<sup>25</sup> Section 1002.395(8)(e), F.S. (flush left provision at end of the paragraph).

<sup>26</sup> Section 1002.395(2)(e), F.S.

<sup>27</sup> Section 220.1875(1), F.S.; see ss. 1002.395 and 220.131(1), F.S.

<sup>28</sup> Section 624.51055, F.S.; see s. 1002.395, F.S.

oil or gas in Florida for sale, transfer, storage, profit, or commercial use. However, the credit may not exceed 50 percent of the tax due.<sup>29</sup>

**Sales Taxes Paid by Direct Pay Permit Holders.** A taxpayer may receive a credit of 100 percent of an eligible contribution to an eligible SFO against any tax imposed by the state and due from a direct pay permit holder as a result of the direct pay permit.<sup>30</sup>

**Alcoholic Beverage Taxes.** A taxpayer may receive a credit of 100 percent of an eligible contribution to an eligible SFO against any tax due, except excise taxes imposed on wine produced by manufacturers in Florida from products grown in Florida. However, the credit may not exceed 90 percent of the tax due.<sup>31</sup>

Within any state fiscal year, a taxpayer may rescind all or part of a credit approved under the FTC Program.<sup>32</sup> If the taxpayer has not rescinded his or her tax credit more than once during the previous three tax years and the rescindment is accepted by the Department of Revenue (DOR), the amount of credit rescinded must be made available to eligible taxpayers on a first-come, first served basis.<sup>33</sup> The DOR must receive prior approval from the Division of Alcoholic Beverages and Tobacco<sup>34</sup> before rescindment of a tax credit against alcoholic beverage taxes.<sup>35</sup>

***Is there a statewide cap on the amount of the tax credit that may be granted under this program?***

Yes. The tax credit cap for FY 2010-11 is \$140 million. Beginning in FY 2011-12, the tax credit amount is the tax credit cap amount in the prior state fiscal year. However, in any state fiscal year when the annual tax credit amount for the prior state fiscal year is equal to or greater than 90 percent of the tax credit cap amount applicable to that state fiscal year, the tax credit cap amount must increase by 25 percent. The DOR must publish on its website information identifying the tax credit cap amount when it is increased.<sup>36</sup>

<sup>29</sup> Section 211.0251, F.S.; see s. 1002.395, F.S. The Department of Revenue is directed to disregard tax credits for purposes of the distributions of tax revenue to ensure that any reduction in tax revenue received which is attributable to the tax credits results only in a reduction in distributions to the state's General Revenue Fund. Section 211.0251, F.S.; see also ss. 211.02, 211.025, and 211.06, F.S.

<sup>30</sup> Section 212.1831, F.S.; see s. 1002.395, F.S. The Department of Revenue is directed to disregard tax credits for purposes of the distributions of tax revenue to ensure that any reduction in tax revenue received which is attributable to the tax credits results only in a reduction in distributions to the state's General Revenue Fund. Section 212.1831, F.S.; see also ss. 212.183 and 212.20, F.S.

<sup>31</sup> Section 561.1211, F.S.; see s. 1002.395, F.S. The Department of Revenue is directed to disregard tax credits for purposes of the distributions of tax revenue to ensure that any reduction in tax revenue received which is attributable to the tax credits results only in a reduction in distributions to the state's General Revenue Fund. Section 561.1211; see also ss. 563.05, 564.06, 565.12, 561.121, and 564.06(10), F.S.

<sup>32</sup> Section 1002.395(5)(e), F.S.

<sup>33</sup> *Id.*

<sup>34</sup> The Division of Alcoholic Beverages and Tobacco is located within the Florida Department of Business and Professional Regulation. Section 1002.395(2)(d), F.S.

<sup>35</sup> *Id.*

<sup>36</sup> Section 1002.395(5)(a), F.S.

If a tax credit approved under the FTC Program is not fully used because of insufficient tax liability on the part of the taxpayer, the unused amount may be carried forward for not more than three years.<sup>37</sup> However, carry forwards are not considered as part of the tax credit amount.<sup>38</sup>

### **What are eligible nonprofit scholarship-funding organizations?**

Eligible nonprofit SFOs are charitable organizations that are exempt from the federal income tax<sup>39</sup> with their principal offices located within the state. Eligible nonprofit SFOs must:

- ❖ Comply with federal law prohibiting discrimination based on race, color, or national origin by any program receiving federal financial assistance.<sup>40</sup>
- ❖ Require owners and operators to submit to a Level 2 background screening<sup>41</sup> upon employment or engagement of services and every five years thereafter. Owners or operators that fail the Level 2 background screening are ineligible to provide scholarships.<sup>42</sup>
- ❖ Provide scholarships from eligible contributions to eligible students on a first-come, first-served basis unless the student qualifies for priority. Eligible students who received a scholarship from an eligible SFO or from the State of Florida during the previous year qualify for priority.<sup>43</sup>
- ❖ Not restrict or reserve scholarships for use at a particular private school or provide a scholarship to the child of an owner or operator.<sup>44</sup>
- ❖ Allow an eligible student to attend any eligible private school and allow a parent to transfer a scholarship during the academic year to another eligible private school.<sup>45</sup>
- ❖ Maintain separate accounts for scholarship and operating funds.<sup>46</sup>
- ❖ Expend for annual or partial-year scholarships an amount equal to or greater than 75 percent of the net eligible contributions remaining after administrative expenses during the state fiscal year in which such contributions are collected. No more than 25 percent of the net eligible contributions may be carried forward to the following state fiscal year.<sup>47</sup>
- ❖ Allow for the transfer of funds to another eligible SFO, limited to the greater of \$500,000 or 20 percent of the total contributions received by the SFO making the transfer, when additional funds are required to meet scholarship demands. The SFO must receive approval from DOE before any funds may be transferred.<sup>48</sup>

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<sup>37</sup> Section 1002.395(5)(c), F.S.

<sup>38</sup> See s. 1002.395(5), F.S.

<sup>39</sup> Section 1002.395(2)(f), F.S.; rule 6A-6.0960(1) and (2), F.A.C. The rule has not been amended to reflect the statutory changes made pursuant to s. 1, ch. 2010-24, L.O.F.; see 26 U.S.C. s. 501(c)(3) and chs. 607, 608, and 617, F.S.

<sup>40</sup> Section 1002.395(6)(a), F.S.; see 42 U.S.C. s. 2000d.

<sup>41</sup> See ch. 435, F.S.

<sup>42</sup> Section 1002.395(6)(b)1., 2., and 5., F.S.

<sup>43</sup> Sections 1002.395(6)(e) and (f), F.S.

<sup>44</sup> Section 1002.395(6)(g), F.S.

<sup>45</sup> Section 1002.395(6)(h), F.S.

<sup>46</sup> Section 1002.395(6)(j), F.S.

<sup>47</sup> Section 1002.395(6)(i)2., F.S.

<sup>48</sup> Section 1002.395(6)(k), F.S.

- ❖ Prepare and submit quarterly reports to DOE.<sup>49</sup>
- ❖ Provide the Auditor General and DOE with an annual financial and compliance audit of its accounts and records conducted by an independent certified public accountant.<sup>50</sup>
- ❖ Not own or operate a private school that is participating in the FTC Program.<sup>51</sup>

An eligible SFO may use up to three percent of eligible contributions received during the state fiscal year for administrative expenses, if the SFO has participated in the FTC Program for at least three years and did not have any negative findings in its most recent audit.<sup>52</sup>

In 2010, the Legislature established additional reporting requirements for certain SFOs.<sup>53</sup> The legislation required SFOs to participate in the joint development of agreed-upon procedures to be performed by an independent certified public accountant if the SFO provided more than \$250,000 in scholarship funds to an eligible private school during FY 2009-10. The agreed-upon procedures must apply to all private schools and must determine, at a minimum, whether the private school has been verified as eligible by DOE; has an adequate accounting system, system of financial controls, and process for deposit and classification of scholarship funds; and has properly expended scholarship funds for education-related expenses.<sup>54</sup> The procedures and guidelines must be provided to private schools and the Commissioner of Education by March 5, 2011.<sup>55</sup>

The SFOs must also participate in a joint review of the agreed-upon procedures and guidelines by February 2013 and biennially thereafter, if the SFO provided more than \$250,000 in scholarship funds to an eligible private school during the state fiscal year preceding the biennial review. If the procedures and guidelines are revised, the revisions must be provided to the private schools and the commissioner by March 15, 2013 and annually thereafter.<sup>56</sup> In developing and reviewing the procedures and guidelines, SFOs must seek input from the accrediting associations that are members of the Florida Association of Academic Nonpublic Schools.<sup>57</sup>

SFOs must monitor the compliance of a private school if the SFO provided the majority of the scholarship funding to the school. The SFO must notify the commissioner by October 30, 2011, and annually thereafter of a private school's failure to submit its annual report or any material exceptions.<sup>58</sup>

### **How is an FTC Program scholarship payment made?**

The scholarship payment is made by the eligible SFO in the form of an individual warrant payable to the student's parent. If the parent chooses for his or her child to attend an eligible private school, the warrant must be delivered by the eligible SFO to the private school of the

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<sup>49</sup> Section 1002.395(6)(m), F.S.

<sup>50</sup> Section 1002.395(6)(l), F.S.

<sup>51</sup> Section 1002.395(6)(c), F.S.

<sup>52</sup> Section 1002.395(6)(i)1., F.S.

<sup>53</sup> Section 1, ch. 2010-24, L.O.F., *amending* s. 1002.395(6), F.S.

<sup>54</sup> Section 1002.395(6)(n)1.a., F.S.

<sup>55</sup> *Id.*

<sup>56</sup> Section 1002.395(6)(n)1.b., F.S.

<sup>57</sup> Section 1002.395(6)(n)2., F.S.

<sup>58</sup> Section 1002.395(6)(n)2., F.S.

parent's choice and the parent must restrictively endorse the warrant to the private school.<sup>59</sup> An eligible SFO must:

- ❖ Ensure that the parent to whom the warrant is made restrictively endorsed the warrant to the private school of the parent's choice for deposit into the account of the private school.<sup>60</sup>
- ❖ Obtain verification from the private school of the scholarship student's continued attendance prior to each scholarship payment and must make such payments at least quarterly.<sup>61</sup>

### ***What responsibilities do the student and parent have in order to participate in the FTC Program?***

Parent and student responsibilities include:

- ❖ Parents must select an eligible private school, apply for admission, and notify the school district upon the student's withdrawal from a public school.
- ❖ Students must attend school unless excused by the school for illness or good cause.
- ❖ Students and parents must comply with the private school's published policies.
- ❖ Parents must ensure student participation in the norm-referenced assessment offered by the private school. Parents may also have their child participate in statewide assessments.
- ❖ Parents must restrictively endorse the scholarship warrant upon receipt to the private school and may not designate any entity or individual associated with the participating private school as the parent's attorney in fact to endorse the warrant.<sup>62</sup>

### ***What entities are responsible for administering the FTC Program?***

The DOR, DOE, and the Division of Alcoholic Beverages and Tobacco (DABT) cooperatively administer the FTC Program.<sup>63</sup> The DOE is responsible for adopting rules necessary to determine the eligibility of SFOs and identify private schools that are eligible to participate in the program. The DOE is also responsible for submitting annually, by March 15, a list of eligible SFOs to DOR and the DABT.<sup>64</sup>

The DOE must:

- ❖ Annually verify the eligibility of SFOs, private schools, and expenditures.
- ❖ Provide information to parents and private schools about participation in the program by way of a toll-free hotline.
- ❖ Establish a process that allows for individuals to notify DOE of violations of state law relating to program participation.<sup>65</sup>

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<sup>59</sup> Section 1002.395(12)(b), F.S.

<sup>60</sup> Section 1002.395(12)(b), F.S.

<sup>61</sup> Section 1002.395(12)(c) and (d), F.S.

<sup>62</sup> Section 1002.395(7)(a)-(f), F.S.

<sup>63</sup> Section 1002.395(13)(a), F.S.

<sup>64</sup> Section 1002.395(9)(a), F.S.; rule 6A-6.0960(1)(e), F.A.C. The rule has not been amended to reflect the statutory changes made pursuant to s. 1, ch. 2010-24, L.O.F.

<sup>65</sup> Section 1002.395(9)(f), F.S.; rule 6A-6.0960(8), F.A.C. The rule has not been amended to reflect the statutory changes made pursuant to s. 1, ch. 2010-24, L.O.F.



- ❖ Annually receive and retain from every participating private school a notarized, sworn compliance statement certifying compliance with state laws.
- ❖ Cross-check the list of participating scholarship students with public school enrollment lists.
- ❖ Identify and select nationally norm-referenced tests that are comparable to the norm-referenced provisions of statewide assessments.
- ❖ Select an independent research organization to analyze and report annually to DOE performance data on participating students. The independent research organization must annually report the year-to-year learning gains of participating program students on a statewide basis. The report must include, to the extent possible, a comparison of these learning gains to the statewide learning gains of public school students with socioeconomic backgrounds similar to those of the participating program students. The learning gains must also be reported according to each participating private school in which there are at least 30 participating program students with scores for tests administered during or after the 2009-10 academic year for two consecutive years at that private school. The annual report must be published by DOE on its website.
- ❖ Notify an SFO if one of its scholarship recipients is also receiving scholarship monies from the John M. McKay Scholarships for Students with Disabilities Program<sup>66</sup> or from another SFO.
- ❖ Require quarterly reports from each SFO.
- ❖ Conduct up to seven random site visits to private schools participating in the program.
- ❖ Annually, by December 15, report to the Governor and the Legislature on its implementation of accountability standards.<sup>67</sup>

The DOR is responsible for adopting rules necessary to administer the FTC Program, including rules that establish application forms, procedures and governing the approval of tax credits and carryforward tax credits, and procedures to be followed by taxpayers when claiming approved tax credits on their return.<sup>68</sup> The DOE and DABT are authorized to adopt rules to carry out their respective responsibilities under the FTC Program.<sup>69</sup>

### **What is the Commissioner of Education's authority?**

The Commissioner of Education has the authority to:

- ❖ Deny, suspend, or revoke a private school's participation in the FTC Program and to take other action as necessary to ensure compliance with the laws governing private schools participating in the program.<sup>70</sup>
- ❖ Deny, suspend, or revoke a private school's participation in the FTC Program if the commissioner determines that an owner or operator of the private school is operating or has

<sup>66</sup> The John M. McKay Scholarships for Students with Disabilities Program provides scholarships for eligible students with disabilities to attend an eligible public or private school of their choice. Section 1002.39, F.S.; see ch. 1002, F.S.

<sup>67</sup> Section 1002.395(9), F.S.

<sup>68</sup> Section 1002.395(13)(b), F.S.

<sup>69</sup> Section 1002.395(13)(c) and (d), F.S.

<sup>70</sup> Section 1002.395(11)(a), F.S.; rule 6A-6.0960(7), F.A.C. The rule has not been amended to reflect the statutory changes made pursuant to s. 1, ch. 2010-24, L.O.F.

operated an educational institution in Florida or in another state or jurisdiction in a manner contrary to the health, safety, or welfare of the public.

- ❖ Immediately suspend payment of scholarship funds if there is probable cause to believe that there is an imminent threat to the health, safety, and welfare of students or there is fraudulent activity on the part of the private school.<sup>71</sup>

**How many students and private schools have participated in the FTC Program since the 2005-06 academic year?<sup>72</sup>**

<b>Number of Participating Private Schools and FTC Scholarship Students 2005-06 through 2009-10 Academic Years</b>		
<b>Academic Year</b>	<b>Students</b>	<b>Private Schools</b>
2005-06	15,123	895
2006-07	17,819	948
2007-08	21,493	933
2008-09	24,871	1,022
2009-10	28,927	1,033

**What was the race/ethnicity of students who were awarded FTC Program scholarships during the 2009-10 academic year?<sup>73</sup>**

<b>2009-10 FTC Student Racial/Ethnic Enrollment</b>		
<b>Race/Ethnicity</b>	<b>Students</b>	<b>Percentage</b>
White	6,698	24.1%
Black	10,606	36.7%
Hispanic	7,354	25.4%
Asian	480	1.7%
Multiracial	1,713	5.9%
Unknown	1,806	6.2%
<b>Total</b>	<b>28,927</b>	<b>100%</b>

<sup>71</sup> Section 1002.395(11)(c), F.S.

<sup>72</sup> Florida Department of Education, Office of Independent Education and Parental Choice, *FTC Scholarship Program*, (July 2010), available at [http://www.floridaschoolchoice.org/Information/CTC/files/ctc\\_fast\\_facts.pdf](http://www.floridaschoolchoice.org/Information/CTC/files/ctc_fast_facts.pdf).

<sup>73</sup> See *supra* note 10, at 4.

**What was the enrollment by grade level of students benefiting from an FTC Program scholarship during the 2009-10 academic year?**<sup>74</sup>

<b>2009-10 FTC Student Enrollment by Grade Level</b>		
<b>Grade Level</b>	<b>Students</b>	<b>Percentage</b>
Kindergarten	4,701	16.3%
1st	4,178	14.4%
2nd	3,368	11.6%
3rd	2,945	10.2%
4th	2,554	8.8%
5th	2,205	7.6%
6th	2,134	7.4%
7th	1,969	6.8%
8th	1,662	5.7%
9th	1,115	3.9%
10th	891	3.1%
11th	713	2.5%
12th	492	1.7%
<b>Total</b>	<b>28,927</b>	<b>100.0%</b>

**What were the Florida Tax Credit Scholarship payments by district during the 2009-10 academic year?**<sup>75</sup>

<b>ID #</b>	<b>District</b>	<b>Schools</b>	<b>Sch %</b>	<b>Students</b>	<b>Percentage</b>	<b>Total Funded</b>	<b>Fund %</b>
1	Alachua	19	1.8%	234	0.8%	\$856,490.89	0.808%
2	Baker	1	0.1%			\$28,801.00	0.027%
3	Bay	4	0.4%	24	0.1%	\$81,145.00	0.077%
4	Bradford	5	0.5%	174	0.6%	\$590,521.60	0.557%
5	Brevard	42	4.1%	887	3.1%	\$3,123,100.77	2.945%
6	Broward	84	8.1%	1,998	6.9%	\$7,390,458.97	6.969%
8	Charlotte	7	0.7%	105	0.4%	\$382,030.09	0.360%
9	Citrus	7	0.7%	177	0.6%	\$627,975.34	0.592%
10	Clay	12	1.2%	159	0.5%	\$559,985.64	0.528%
11	Collier	11	1.1%	82	0.3%	\$300,595.79	0.283%
12	Columbia	3	0.3%	85	0.3%	\$300,990.00	0.284%
13	Dade	174	16.8%	7,374	25.5%	\$27,720,998.87	26.140%
14	DeSoto	1	0.1%			\$3,732.75	0.004%
15	Dixie	1	0.1%	42	0.1%	\$147,591.75	0.139%
16	Duval	85	8.2%	2,859	9.9%	\$10,473,692.69	9.876%
17	Escambia	15	1.5%	447	1.5%	\$1,593,756.47	1.503%

<sup>74</sup> See *supra* note 10, at 3.

<sup>75</sup> See *supra* note 10, at 2.

## Florida House of Representatives

18	Flagler	2	0.2%	51	0.2%	\$176,129.68	0.166%
19	Franklin	1	0.1%	20	0.1%	\$42,680.00	0.040%
20	Gadsden	4	0.4%	150	0.5%	\$539,767.50	0.509%
21	Gilchrist	1	0.1%	27	0.1%	\$106,650.00	0.101%
22	Glades	1	0.1%			\$16,980.32	0.016%
24	Hamilton	2	0.2%	32	0.1%	\$69,300.02	0.065%
26	Hendry	1	0.1%	24	0.1%	\$91,590.63	0.086%
27	Hernando	8	0.8%	195	0.7%	\$695,003.16	0.655%
28	Highlands	9	0.9%	155	0.50%	\$551,076.25	0.520%
29	Hillsborough	62	6.0%	1,398	4.8%	\$5,131,951.89	4.839%
30	Holmes	1	0.1%			\$5,036.25	0.005%
31	Indian River	7	0.7%	80	0.3%	\$301,795.65	0.285%
32	Jackson	2	0.2%	18	0.1%	\$64,431.25	0.061%
33	Jefferson	1	0.1%	18	0.1%	\$65,570.00	0.062%
34	Lafayette	1	0.1%	30	0.1%	\$78,448.49	0.074%
35	Lake	17	1.6%	315	1.1%	\$1,160,956.75	1.095%
36	Lee	22	2.1%	302	1.0%	\$1,091,516.58	1.029%
37	Leon	20	1.9%	451	1.6%	\$1,606,866.00	1.515%
38	Levy	2	0.2%	31	0.1%	\$112,673.75	0.106%
40	Madison	2	0.2%	45	0.2%	\$135,792.50	0.128%
41	Manatee	14	1.4%	211	0.7%	\$784,625.25	0.740%
42	Marion	18	1.7%	521	1.8%	\$1,910,048.72	1.801%
43	Martin	7	0.7%	103	0.4%	\$373,297.76	0.352%
44	Monroe	2	0.2%	14	0.0%	\$52,554.75	0.050%
45	Nassau	3	0.3%	57	0.2%	\$201,998.50	0.190%
46	Okaloosa	6	0.6%	194	0.7%	\$667,017.14	0.629%
47	Okeechobee	1	0.1%	19	0.1%	\$66,952.58	0.063%
48	Orange	84	8.1%	3,618	12.5%	\$13,331,509.31	12.571%
49	Osceola	20	1.9%	1,034	3.6%	\$3,782,143.45	3.566%
50	Palm Beach	37	3.6%	728	2.5%	\$2,737,597.92	2.581%
51	Pasco	16	1.5%	278	1.0%	\$1,013,140.16	0.955%
52	Pinellas	59	5.7%	798	2.8%	\$2,913,587.15	2.747%
53	Polk	34	3.3%	755	2.6%	\$2,733,210.26	2.577%
54	Putnam	3	0.3%	122	0.6%	\$426,834.13	0.402%
55	St. Johns	4	0.4%	115	0.4%	\$414,698.25	0.391%
56	St. Lucie	6	0.6%	197	0.7%	\$690,401.80	0.651%
57	Santa Rosa	2	0.2%	25	0.1%	\$92,812.75	0.088%
58	Sarasota	17	1.6%	184	0.6%	\$679,515.94	0.641%
59	Seminole	26	2.5%	586	2.0%	\$2,100,546.98	1.981%
60	Sumter	1	0.1%	31	0.1%	\$102,237.81	0.096%
61	Suwannee	3	0.3%	151	0.5%	\$463,130.61	0.437%
62	Taylor	2	0.2%			\$22,613.75	0.021%
64	Volusia	26	2.5%	1,127	3.9%	\$4,115,080.89	3.880%
65	Wakulla	3	0.3%	35	0.1%	\$121,278.17	0.114%
66	Walton	1	0.1%			\$22,266.00	0.021%

67	Washington	1	0.1%			\$4,756.50	0.004%
Total	62	1,033	100.00%	28,927	100.00%	\$106,049,940.82	100.00%

Note: Blanks indicate less than 11 students per district and are not displayed but calculated in total in order to protect student confidentiality.

### ***Has any research been conducted on the FTC Program?***

Yes. In 2006, the Legislature directed DOE to select an independent research organization to:<sup>76</sup>

- ❖ Annually report to DOE on the year-to-year improvements of participating students.
- ❖ Analyze and report student performance data in a manner that protects the rights of students.
- ❖ Not disaggregate data to a level that discloses the academic level of the individual students or individual schools.
- ❖ Accumulate, to the extent possible, historical data on students from DOE and private schools to describe baseline performance and to conduct longitudinal studies.

The DOE selected the University of Florida as the independent research organization with Professor David N. Figlio as the project director. Figlio’s most recent report concludes that there are comparable test score gains of students participating in the FTC Program and public school students.<sup>77</sup>

In 2008,<sup>78</sup> the Legislature directed the Office of Program Policy Analysis and Government Accountability (OPPAGA) to submit a report that reviews the advisability and fiscal impact of:

- ❖ Increasing the maximum annual amount of corporate tax credits permitted for the scholarship program; and
- ❖ Authorizing the use of credits for insurance premium taxes<sup>79</sup> as an additional source of funding for the scholarship program.

The report was also to identify strategies to encourage participating private schools to participate in the Florida Comprehensive Assessment Test (FCAT).<sup>80</sup> In December 2008, OPPAGA reported the following:

- ❖ The corporate income tax credit scholarship program produces a net savings to the state. It was estimated that in FY 2007-08, taxpayers saved \$1.49 in state education funding for every dollar loss in corporate income tax revenue due to credits for scholarship contributions. Expanding the cap on tax credits would produce additional savings if there is sufficient demand for the scholarships. The Legislature may wish to consider expanding the program when the level of tax credits awarded approaches the cap and there is a sufficient waiting list

<sup>76</sup> Section 1002.395(9)(j), F.S.; see 20 U.S.C. s. 1232g.

<sup>77</sup> Figlio, David N., University of Florida, Northwestern University, and National Bureau of Economic Research *Evaluation of the Florida Tax Credit Scholarship Program Participation, Compliance, Test Scores, and Parental Satisfaction in 2008-09*, at 43 (June 2010), available at [http://www.floridaschoolchoice.org/information/ctc/files/figlio\\_ftc\\_test\\_score\\_report\\_2010.pdf](http://www.floridaschoolchoice.org/information/ctc/files/figlio_ftc_test_score_report_2010.pdf). Participating private schools must report the scores of participating students on nationally norm-referenced tests when administered by the private school in grades three through 10 to the independent research organization. Section 1002.395(9)(j), F.S.

<sup>78</sup> Section 2, ch. 2008-241, L.O.F.

<sup>79</sup> See ch. 624, F.S.

<sup>80</sup> Section 2, ch. 2008-241, L.O.F.

of students who could use the scholarships. The Legislature expanded the FTC Program in 2009 and 2010.<sup>81</sup>

- ❖ Including insurance premium tax credits in the scholarship program would broaden its funding base and increase the probability that the tax credit cap is reached. Currently, not all insurance companies in the state have an incentive to participate in the program. In 2009, the Legislature included insurance premium tax credits as eligible contributions to the FTC Program.<sup>82</sup>
- ❖ Private school representatives indicated that incentives would not encourage their schools to have their scholarship students participate in the FCAT.<sup>83</sup>

In 2010,<sup>84</sup> OPPAGA published a research memorandum regarding the FTC Program's FY 2008-09 fiscal impact. In its memorandum, OPPAGA stated:

- ❖ While the FTC Program reduces the amount of tax revenues received by the state, it produces a net fiscal benefit. This occurs because education spending for students receiving scholarships is reduced by more than the amount of revenue lost.
- ❖ It is estimated that the program saved \$36.2 million in FY 2008-09. The SFOs collected \$82.2 million in contributions. The combined total of FY 2008-09 contributions and contributions carried forward from the prior year was enough to fund 21,219 scholarships at the maximum amount of \$3,950 per student. We estimate that 95 percent of these scholarships went to students who would have attended public school if not for the scholarship, avoiding \$118.4 million in education spending through the Florida Education Finance Program.<sup>85</sup>

### ***Where can I get additional information?***

#### ***Florida Department of Education***

Office of Independent Education & Parental Choice  
(850) 245-0502  
Toll-Free Information Hotline 1-800-447-1636  
[www.floridaschoolchoice.org](http://www.floridaschoolchoice.org)

#### ***Florida Department of Revenue***

(850) 922-4715  
<http://dor.myflorida.com/dor/>

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<sup>81</sup> Sections 2 and 3, ch. 2009-108, L.O.F. and s. 1, ch. 2010-24, L.O.F.

<sup>82</sup> Sections 2 and 3, ch. 2009-108, L.O.F.

<sup>83</sup> Office of Program Policy Analysis and Government Accountability, *The Corporate Income Tax Credit Scholarship Program Saves State Dollars*, at 1 (Dec. 2008), available at [http://www.floridaschoolchoice.org/information/ctc/files/OPPAGA\\_December\\_2008\\_Report.pdf](http://www.floridaschoolchoice.org/information/ctc/files/OPPAGA_December_2008_Report.pdf).

<sup>84</sup> Office of Program Policy Analysis and Government Accountability, *Research Memorandum: Florida Tax Credit Scholarship Program Fiscal Year 2008-09 Fiscal Impact*, (March 1, 2010), available at [http://www.floridaschoolchoice.org/information/ctc/files/OPPAGA\\_March\\_2010\\_Report.pdf](http://www.floridaschoolchoice.org/information/ctc/files/OPPAGA_March_2010_Report.pdf).

<sup>85</sup> *Id.*

***Florida Department of Business and Professional Regulation***

Bureau of Alcoholic Beverages and Tobacco

(850) 487-1395

<http://www.myfloridalicense.com/dbpr/abt/index.html>

***Florida House of Representatives***

Education Committee

(850) 488-7451

<http://www.myfloridahouse.gov>