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A bill to be entitled

An act relating to educational and financial accountability for scholarship programs; amending s. 220.187, F.S., relating to credits for contributions to nonprofit scholarship-funding organizations; correcting a cross reference; providing obligations of nonprofit scholarship-funding organizations relating to use of contributions, financial records, and criminal background checks; providing obligations of nonpublic schools relating to financial accounts and records, operating budgets, use of scholarship funds, criminal background checks, administration and reporting of assessment tests, school profiles, and accreditation; amending ss. 1002.38 and 1002.39, F.S., relating to the Opportunity Scholarship Program and the John M. McKay Scholarships for Students with Disabilities Program; providing requirements for private school eligibility relating to use of scholarship funds, financial accounts and records, operating budgets, criminal background checks, administration and reporting of assessment tests, school profiles, and accreditation; conforming provisions; providing an effective date.

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

Section 1. Paragraph (c) of subsection (2) and subsections (4) and (6) of section 220.187, Florida Statutes, are amended to read:

220.187 Credits for contributions to nonprofit scholarship-funding organizations.--

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

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31 (c) "Eligible nonpublic school" means a nonpublic school
 32 located in Florida that offers an education to students in any
 33 grades K-12 and that meets the requirements in subsection (6)
 34 ~~(5)~~.

35 (4) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING
 36 ORGANIZATIONS.--

37 (a) An eligible nonprofit scholarship-funding organization
 38 shall provide scholarships, from eligible contributions, to
 39 qualified students for:

40 1. Tuition or textbook expenses for, or transportation to,
 41 an eligible nonpublic school. At least 75 percent of the
 42 scholarship funding must be used to pay tuition expenses; or

43 2. Transportation expenses to a Florida public school that
 44 is located outside the district in which the student resides.

45 (b) An eligible nonprofit scholarship-funding organization
 46 shall give priority to qualified students who received a
 47 scholarship from an eligible nonprofit scholarship-funding
 48 organization during the previous school year.

49 (c) The amount of a scholarship provided to any child for
 50 any single school year by all eligible nonprofit scholarship-
 51 funding organizations from eligible contributions shall not
 52 exceed the following annual limits:

53 1. Three thousand five hundred dollars for a scholarship
 54 awarded to a student enrolled in an eligible nonpublic school.

55 2. Five hundred dollars for a scholarship awarded to a
 56 student enrolled in a Florida public school that is located
 57 outside the district in which the student resides.

58 (d) The amount of an eligible contribution which may be
 59 accepted by an eligible nonprofit scholarship-funding
 60 organization is limited to the amount needed to provide

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61 scholarships for qualified students which the organization has
62 identified and for which vacancies in eligible nonpublic schools
63 have been identified.

64 (e) An eligible nonprofit scholarship-funding organization
65 that receives an eligible contribution must spend 100 percent of
66 the eligible contribution to provide scholarships in the same
67 state fiscal year in which the contribution was received. No
68 portion of eligible contributions may be used for administrative
69 expenses or set aside for profit. All interest accrued from
70 contributions must be used for scholarships.

71 (f)1. An eligible nonprofit scholarship-funding
72 organization that receives eligible contributions must provide
73 to the Auditor General an annual financial and compliance audit
74 of its accounts and records conducted by an independent
75 certified public accountant and in accordance with rules adopted
76 by the Auditor General.

77 2. Financial records of an eligible nonprofit scholarship-
78 funding organization relating to contributions received and
79 scholarships granted pursuant to this section shall be available
80 to the public in accordance with the provisions of s. 119.07.

81 (g) Payment of the scholarship by the eligible nonprofit
82 scholarship-funding organization shall be by individual warrant
83 or check made payable to the student's parent. If the parent
84 chooses for his or her child to attend an eligible nonpublic
85 school, the warrant or check must be mailed by the eligible
86 nonprofit scholarship-funding organization to the nonpublic
87 school of the parent's choice, and the parent shall
88 restrictively endorse the warrant or check to the nonpublic
89 school. An eligible nonprofit scholarship-funding organization
90 shall ensure that, upon receipt of a scholarship warrant or

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91 check, the parent to whom the warrant or check is made
 92 restrictively endorses the warrant or check to the nonpublic
 93 school of the parent's choice for deposit into the account of
 94 the nonpublic school.

95 (h) Each individual who administers an eligible nonprofit
 96 scholarship-funding organization shall file with the Department
 97 of Law Enforcement a complete set of fingerprints for state
 98 processing and criminal background checking.

99 (6) ELIGIBLE NONPUBLIC SCHOOL OBLIGATIONS.--An eligible
 100 nonpublic school must:

101 (a) Demonstrate fiscal soundness by being in operation for
 102 one school year or provide the Department of Education with a
 103 statement by a certified public accountant confirming that the
 104 nonpublic school desiring to participate is insured and the
 105 owner or owners have sufficient capital or credit to operate the
 106 school for the upcoming year serving the number of students
 107 anticipated with expected revenues from tuition and other
 108 sources that may be reasonably expected. In lieu of such a
 109 statement, a surety bond or letter of credit for the amount
 110 equal to the scholarship funds for any quarter may be filed with
 111 the department.

112 (b) Comply with the antidiscrimination provisions of 42
 113 U.S.C. s. 2000d.

114 (c) Meet state and local health and safety laws and codes.

115 (d) Comply with all state laws relating to general
 116 regulation of nonpublic schools.

117 (e)1. Provide to the Auditor General an annual financial
 118 and compliance audit of its accounts and records conducted by an
 119 independent certified public accountant and in accordance with
 120 rules adopted by the Auditor General.

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121 2. Make available to the public in accordance with the
122 provisions of s. 119.07 the financial records of the school
123 relating to scholarships granted pursuant to this section.

124 (f) Receive no more than 30 percent of its total operating
125 budget from eligible nonprofit scholarship-funding
126 organizations.

127 (g) Use scholarship funds received pursuant to this
128 section for the purposes set forth in subparagraph (4)(a)1. No
129 portion of such scholarship funds may be used for administrative
130 expenses or set aside for profit.

131 (h) File with the Department of Law Enforcement a complete
132 set of fingerprints of each of its administrators and teachers
133 for state processing and criminal background checking.

134 (i)1. Administer the Florida Comprehensive Assessment Test
135 (FCAT) to students receiving a scholarship pursuant to this
136 section and provide to the parents of each student tested the
137 individual student FCAT scores.

138 2. Release to the public FCAT summary scores for the
139 school according to rules adopted by the State Board of
140 Education pursuant to ss. 120.536(1) and 120.54.

141 (j) Provide parents of students who are potential
142 recipients of a scholarship pursuant to this section with the
143 results of student achievement tests administered by the school,
144 including the FCAT and other standardized tests.

145 (k) Make available to the public a school profile that
146 includes the percentage of teachers who are certified.

147 (l) Be accredited by the Southern Association of Colleges
148 and Schools or an equivalent established, reputable national or
149 regional accreditation organization.

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150 Section 2. Subsections (3), (4), and (5) of section
 151 1002.38, Florida Statutes, are amended to read:

152 1002.38 Opportunity Scholarship Program.--

153 (3) SCHOOL DISTRICT OBLIGATIONS.--

154 (a) A school district shall, for each student enrolled in
 155 or assigned to a school that has been designated as performance
 156 grade category "F" for 2 school years in a 4-year period:

157 1. Timely notify the parent of the student as soon as such
 158 designation is made of all options available pursuant to this
 159 section.

160 2. Offer that student's parent an opportunity to enroll
 161 the student in the public school within the district that has
 162 been designated by the state pursuant to s. 1008.34 as a school
 163 performing higher than that in which the student is currently
 164 enrolled or to which the student has been assigned, but not less
 165 than performance grade category "C." The parent is not required
 166 to accept this offer in lieu of requesting a state opportunity
 167 scholarship to a private school. The opportunity to continue
 168 attending the higher performing public school shall remain in
 169 force until the student graduates from high school.

170 (b) The parent of a student enrolled in or assigned to a
 171 school that has been designated performance grade category "F"
 172 for 2 school years in a 4-year period may choose as an
 173 alternative to enroll the student in and transport the student
 174 to a higher-performing public school that has available space in
 175 an adjacent school district, and that school district shall
 176 accept the student and report the student for purposes of the
 177 district's funding pursuant to the Florida Education Finance
 178 Program.

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179 ~~(c) For students in the school district who are~~
 180 ~~participating in the state Opportunity Scholarship Program, the~~
 181 ~~school district shall provide locations and times to take all~~
 182 ~~statewide assessments required pursuant to s. 1008.22.~~

183 (c)~~(d)~~ Students with disabilities who are eligible to
 184 receive services from the school district under federal or state
 185 law, and who participate in this program, remain eligible to
 186 receive services from the school district as provided by federal
 187 or state law.

188 (d)~~(e)~~ If for any reason a qualified private school is not
 189 available for the student or if the parent chooses to request
 190 that the student be enrolled in the higher performing public
 191 school, rather than choosing to request the state opportunity
 192 scholarship, transportation costs to the higher performing
 193 public school shall be the responsibility of the school
 194 district. The district may utilize state categorical
 195 transportation funds or state-appropriated public school choice
 196 incentive funds for this purpose.

197 (4) PRIVATE SCHOOL ELIGIBILITY.--To be eligible to
 198 participate in the Opportunity Scholarship Program, a private
 199 school must be a Florida private school, may be sectarian or
 200 nonsectarian, and must:

201 (a) Demonstrate fiscal soundness by being in operation for
 202 1 school year or provide the Department of Education with a
 203 statement by a certified public accountant confirming that the
 204 private school desiring to participate is insured and the owner
 205 or owners have sufficient capital or credit to operate the
 206 school for the upcoming year serving the number of students
 207 anticipated with expected revenues from tuition and other
 208 sources that may be reasonably expected. In lieu of such a

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209 statement, a surety bond or letter of credit for the amount
 210 equal to the opportunity scholarship funds for any quarter may
 211 be filed with the department.

212 (b) Notify the Department of Education and the school
 213 district in whose service area the school is located of its
 214 intent to participate in the program under this section by May 1
 215 of the school year preceding the school year in which it intends
 216 to participate. The notice shall specify the grade levels and
 217 services that the private school has available for the
 218 Opportunity Scholarship Program.

219 (c) Comply with the antidiscrimination provisions of 42
 220 U.S.C. s. 2000d.

221 (d) Meet state and local health and safety laws and codes.

222 (e) Accept scholarship students on an entirely random and
 223 religious-neutral basis without regard to the student's past
 224 academic history; however, the private school may give
 225 preference in accepting applications to siblings of students who
 226 have already been accepted on a random and religious-neutral
 227 basis.

228 (f) Be subject to the instruction, curriculum, and
 229 attendance criteria adopted by an appropriate nonpublic school
 230 accrediting body and be academically accountable to the parent
 231 for meeting the educational needs of the student. The private
 232 school must furnish a school profile which includes student
 233 performance and the percentage of teachers who are certified.

234 (g) Employ or contract with teachers who hold a
 235 baccalaureate or higher degree, or have at least 3 years of
 236 teaching experience in public or private schools, or have
 237 special skills, knowledge, or expertise that qualifies them to
 238 provide instruction in subjects taught.

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239 (h) Comply with all state statutes relating to private
240 schools.

241 (i) Accept as full tuition and fees the amount provided by
242 the state for each student. No portion of opportunity
243 scholarship funds received by the school may be used for
244 administrative expenses or set aside for profit.

245 (j) Agree not to compel any student attending the private
246 school on an opportunity scholarship to profess a specific
247 ideological belief, to pray, or to worship.

248 (k) Adhere to the tenets of its published disciplinary
249 procedures prior to the expulsion of any opportunity scholarship
250 student.

251 (l)1. Provide to the Auditor General an annual financial
252 and compliance audit of its accounts and records conducted by an
253 independent certified public accountant and in accordance with
254 rules adopted by the Auditor General.

255 2. Make available to the public in accordance with the
256 provisions of s. 119.07 the financial records of the school
257 relating to participation in the Opportunity Scholarship
258 Program.

259 (m) Receive no more than 30 percent of its total operating
260 budget from Opportunity Scholarship Program funds.

261 (n) File with the Department of Law Enforcement a complete
262 set of fingerprints of each of its administrators and teachers
263 for state processing and criminal background checking.

264 (o)1. Administer the Florida Comprehensive Assessment Test
265 (FCAT) to students receiving an opportunity scholarship and
266 provide to the parents of each student tested the individual
267 student FCAT scores.

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268 2. Release to the public FCAT summary scores for the
 269 school according to rules adopted by the State Board of
 270 Education.

271 (p) Provide parents of students who are potential
 272 recipients of an opportunity scholarship with the results of
 273 student achievement tests administered by the school, including
 274 the FCAT and other standardized tests.

275 (q) Be accredited by the Southern Association of Colleges
 276 and Schools or an equivalent established, reputable national or
 277 regional accreditation organization.

278 (5) OBLIGATION OF PROGRAM PARTICIPATION.--

279 (a) Any student participating in the Opportunity
 280 Scholarship Program must remain in attendance throughout the
 281 school year, unless excused by the school for illness or other
 282 good cause, and must comply fully with the school's code of
 283 conduct.

284 (b) The parent of each student participating in the
 285 Opportunity Scholarship Program must comply fully with the
 286 private school's parental involvement requirements, unless
 287 excused by the school for illness or other good cause.

288 ~~(c) The parent shall ensure that the student participating~~
 289 ~~in the Opportunity Scholarship Program takes all statewide~~
 290 ~~assessments required pursuant to s. 1008.22.~~

291 (c)(d) A participant who fails to comply with this
 292 subsection shall forfeit the opportunity scholarship.

293 Section 3. Subsections (3), (4), and (5) of section
 294 1002.39, Florida Statutes, are amended to read:

295 1002.39 The John M. McKay Scholarships for Students with
 296 Disabilities Program.--There is established a program that is
 297 separate and distinct from the Opportunity Scholarship Program

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298 and is named the John M. McKay Scholarships for Students with
299 Disabilities Program, pursuant to this section.

300 (3) SCHOOL DISTRICT AND DEPARTMENT OF EDUCATION
301 OBLIGATIONS.--

302 (a) A school district shall timely notify the parent of
303 the student of all options available pursuant to this section
304 and offer that student's parent an opportunity to enroll the
305 student in another public school within the district. The parent
306 is not required to accept this offer in lieu of requesting a
307 John M. McKay Scholarship to a private school. However, if the
308 parent chooses the public school option, the student may
309 continue attending a public school chosen by the parent until
310 the student graduates from high school. If the parent chooses a
311 public school consistent with the district school board's choice
312 plan under s. 1002.31, the school district shall provide
313 transportation to the public school selected by the parent. The
314 parent is responsible to provide transportation to a public
315 school chosen that is not consistent with the district school
316 board's choice plan under s. 1002.31.

317 (b) For a student with disabilities who does not have a
318 matrix of services under s. 1011.62(1)(e), the school district
319 must complete a matrix that assigns the student to one of the
320 levels of service as they existed prior to the 2000-2001 school
321 year. The school district must complete the matrix of services
322 for any student who is participating in the John M. McKay
323 Scholarships for Students with Disabilities Program and must
324 notify the Department of Education of the student's matrix level
325 within 30 days after receiving notification by the student's
326 parent of intent to participate in the scholarship program. The
327 Department of Education shall notify the private school of the

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328 amount of the scholarship within 10 days after receiving the
 329 school district's notification of the student's matrix level.
 330 Within 10 school days after it receives notification of a
 331 parent's intent to apply for a McKay Scholarship, a district
 332 school board must notify the student's parent if the matrix has
 333 not been completed and provide the parent with the date for
 334 completion of the matrix required in this paragraph.

335 (c) If the parent chooses the private school option and
 336 the student is accepted by the private school pending the
 337 availability of a space for the student, the parent of the
 338 student must notify the school district 60 days prior to the
 339 first scholarship payment and before entering the private school
 340 in order to be eligible for the scholarship when a space becomes
 341 available for the student in the private school.

342 (d) The parent of a student may choose, as an alternative,
 343 to enroll the student in and transport the student to a public
 344 school in an adjacent school district which has available space
 345 and has a program with the services agreed to in the student's
 346 individual education plan already in place, and that school
 347 district shall accept the student and report the student for
 348 purposes of the district's funding pursuant to the Florida
 349 Education Finance Program.

350 ~~(e) For a student in the district who participates in the~~
 351 ~~John M. McKay Scholarships for Students with Disabilities~~
 352 ~~Program whose parent requests that the student take the~~
 353 ~~statewide assessments under s. 1008.22, the district shall~~
 354 ~~provide locations and times to take all statewide assessments.~~

355 (e)~~(f)~~ A school district must notify the Department of
 356 Education within 10 days after it receives notification of a
 357 parent's intent to apply for a scholarship for a student with a

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358 disability. A school district must provide the student's parent
 359 with the student's matrix level within 10 school days after its
 360 completion.

361 (4) PRIVATE SCHOOL ELIGIBILITY.--To be eligible to
 362 participate in the John M. McKay Scholarships for Students with
 363 Disabilities Program, a private school must be a Florida private
 364 school, may be sectarian or nonsectarian, and must:

365 (a) Demonstrate fiscal soundness by being in operation for
 366 1 school year or provide the Department of Education with a
 367 statement by a certified public accountant confirming that the
 368 private school desiring to participate is insured and the owner
 369 or owners have sufficient capital or credit to operate the
 370 school for the upcoming year serving the number of students
 371 anticipated with expected revenues from tuition and other
 372 sources that may be reasonably expected. In lieu of such a
 373 statement, a surety bond or letter of credit for the amount
 374 equal to the scholarship funds for any quarter may be filed with
 375 the department.

376 (b) Notify the Department of Education of its intent to
 377 participate in the program under this section. The notice must
 378 specify the grade levels and services that the private school
 379 has available for students with disabilities who are
 380 participating in the scholarship program.

381 (c) Comply with the antidiscrimination provisions of 42
 382 U.S.C. s. 2000d.

383 (d) Meet state and local health and safety laws and codes.

384 (e) Be academically accountable to the parent for meeting
 385 the educational needs of the student.

386 (f) Employ or contract with teachers who hold
 387 baccalaureate or higher degrees, or have at least 3 years of

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388 teaching experience in public or private schools, or have
 389 special skills, knowledge, or expertise that qualifies them to
 390 provide instruction in subjects taught.

391 (g) Comply with all state laws relating to general
 392 regulation of private schools.

393 (h) Adhere to the tenets of its published disciplinary
 394 procedures prior to the expulsion of a scholarship student.

395 (i)1. Provide to the Auditor General an annual financial
 396 and compliance audit of its accounts and records conducted by an
 397 independent certified public accountant and in accordance with
 398 rules adopted by the Auditor General.

399 2. Make available to the public in accordance with the
 400 provisions of s. 119.07 the financial records of the school
 401 relating to participation in the John M. McKay Scholarships for
 402 Students with Disabilities Program.

403 (j) Receive no more than 30 percent of its total operating
 404 budget from John M. McKay Scholarships for Students with
 405 Disabilities Program funds.

406 (k) Use John M. McKay Scholarship funds for tuition and
 407 fees. No portion of such scholarship funds may be used for
 408 administrative expenses or set aside for profit.

409 (l) File with the Department of Law Enforcement a complete
 410 set of fingerprints of each of its administrators and teachers
 411 for state processing and criminal background checking.

412 (m)1. Administer the Florida Comprehensive Assessment Test
 413 (FCAT) to students receiving a John M. McKay Scholarship whose
 414 parents request that the student take the FCAT and provide to
 415 the parents of each student tested the individual student FCAT
 416 scores.

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417 2. Release to the public FCAT summary scores for the
 418 school according to rules adopted by the State Board of
 419 Education.

420 (n) Provide parents of students who are potential
 421 recipients of a John M. McKay Scholarship with the results of
 422 student achievement tests administered by the school, including
 423 the FCAT and other standardized tests.

424 (o) Make available to the public a school profile that
 425 includes the percentage of teachers who are certified.

426 (p) Be accredited by the Southern Association of Colleges
 427 and Schools or an equivalent established, reputable national or
 428 regional accreditation organization.

429 (5) OBLIGATION OF PROGRAM PARTICIPANTS.--

430 (a) A parent who applies for a John M. McKay Scholarship
 431 is exercising his or her parental option to place his or her
 432 child in a private school. The parent must select the private
 433 school and apply for the admission of his or her child.

434 (b) The parent must have requested the scholarship at
 435 least 60 days prior to the date of the first scholarship
 436 payment.

437 (c) Any student participating in the scholarship program
 438 must remain in attendance throughout the school year, unless
 439 excused by the school for illness or other good cause, and must
 440 comply fully with the school's code of conduct.

441 (d) The parent of each student participating in the
 442 scholarship program must comply fully with the private school's
 443 parental involvement requirements, unless excused by the school
 444 for illness or other good cause.

445 ~~(e) If the parent requests that the student participating~~
 446 ~~in the scholarship program take all statewide assessments~~

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447 ~~required pursuant to s. 1008.22, the parent is responsible for~~
448 ~~transporting the student to the assessment site designated by~~
449 ~~the school district.~~

450 (e)~~(f)~~ Upon receipt of a scholarship warrant, the parent
451 to whom the warrant is made must restrictively endorse the
452 warrant to the private school for deposit into the account of
453 the private school.

454 (f)~~(g)~~ A participant who fails to comply with this
455 subsection forfeits the scholarship.

456 Section 4. This act shall take effect July 1, 2004.