

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representatives Goodlette and Kilmer offered the following:

2
3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5
6 Section 1. Subsections (1), (2), and (4), paragraph (b) of
7 subsection (3), paragraph (f) of subsection (5), and paragraphs
8 (e) and (f) of subsection (6) of section 1002.39, Florida
9 Statutes, are amended, paragraphs (g) through (k) are added to
10 subsection (3), paragraph (g) is added to subsection (6),
11 subsection (8) is renumbered as subsection (9) and amended, and
12 a new subsection (8) is added to said section, to read:

13 1002.39 The John M. McKay Scholarships for Students with
14 Disabilities Program.--There is established a program that is
15 separate and distinct from the Opportunity Scholarship Program

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

18 (1) THE JOHN M. MCKAY SCHOLARSHIPS FOR STUDENTS WITH
19 DISABILITIES PROGRAM.--The John M. McKay Scholarships for
20 Students with Disabilities Program is established to provide the
21 option to attend a public school other than the one to which
22 assigned, or to provide a scholarship to a private school of
23 choice, for students with disabilities for whom an individual
24 education plan has been written in accordance with rules of the
25 State Board of Education. Students with disabilities include K-
26 12 students who are documented as having mental retardation; a
27 mentally handicapped, speech or and language impairment; a
28 impaired, deaf or hard of hearing impairment, including
29 deafness; a visual impairment, including blindness; a, visually
30 impaired, dual sensory impairment; a physical impairment; a
31 serious emotional disturbance, including an emotional handicap;
32 a impaired, physically impaired, emotionally handicapped,
33 specific learning disability, including, but not limited to,
34 dyslexia, dyscalculia, or developmental aphasia; a traumatic
35 brain injury; disabled, hospitalized or homebound, or autism
36 autistic.

37 (2) SCHOLARSHIP ELIGIBILITY.--

38 (a) The parent of a public school student with a
39 disability who is dissatisfied with the student's progress may
40 request and receive from the state a John M. McKay Scholarship
41 for the child to enroll in and attend a private school in
42 accordance with this section if:

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43 1.(a) By assigned school attendance area or by special
44 assignment, the student has spent the prior school year in
45 attendance at a Florida public school. Prior school year in
46 attendance means that the student was enrolled and reported by a
47 school district for funding during the preceding October and
48 February Florida Education Finance Program surveys in
49 kindergarten through grade 12.

50 2.(b) The parent has obtained acceptance for admission of
51 the student to a private school that is eligible for the program
52 under subsection (4) and has notified the school district of the
53 request for a scholarship at least 60 days prior to the date of
54 the first scholarship payment. The parental notification must be
55 through a communication directly to the district or through the
56 Department of Education to the district in a manner that creates
57 a written or electronic record of the notification and the date
58 of receipt of the notification.

59
60 ~~This section does not apply to a student who is enrolled in a~~
61 ~~school operating for the purpose of providing educational~~
62 ~~services to youth in Department of Juvenile Justice commitment~~
63 ~~programs.~~ For purposes of continuity of educational choice, the
64 scholarship shall remain in force until the student returns to a
65 public school, ~~or~~ graduates from high school, or reaches the age
66 of 22, whichever occurs first. However, at any time, the
67 student's parent may remove the student from the private school
68 and place the student in another private school that is eligible
69 for the program under subsection (4) or in a public school as
70 provided in subsection (3).

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71 (b) A student is not eligible to receive a scholarship
72 under this section if he or she:

73 1. Receives a scholarship from an eligible nonprofit
74 scholarship-funding organization under s. 220.187;

75 2. Receives an opportunity scholarship under s. 1002.38;

76 3. Participates in a home education program as defined in
77 s. 1002.01(1);

78 4. Receives instruction from a correspondence school,
79 participates in distance learning courses, or participates in a
80 private tutoring program;

81 5. Does not have regular and direct contact with his or
82 her private school teachers at the school's physical location;
83 or

84 6. Is enrolled in a school operating for the purpose of
85 providing educational services to youth in commitment programs
86 of the Department of Juvenile Justice.

87
88 Notwithstanding the prohibition set forth in subparagraph 4., a
89 student who receives a John M. McKay Scholarship may participate
90 in a course offered by a correspondence school, a distance
91 learning course, or a private tutoring program the tuition and
92 other costs of which are not paid by scholarship funds provided
93 under this section.

94 (3) SCHOOL DISTRICT AND DEPARTMENT OF EDUCATION
95 OBLIGATIONS.--

96 (b)1. For a student with disabilities who does not have a
97 matrix of services under s. 1011.62(1)(e), the school district
98 must complete a matrix that assigns the student to one of the

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99 | levels of service as they existed prior to the 2000-2001 school
100 | year.

101 | 2.a. The school district must complete the matrix of
102 | services for any student who is participating in the John M.
103 | McKay Scholarships for Students with Disabilities Program and
104 | must notify the Department of Education of the student's matrix
105 | level within 30 days after receiving notification by the
106 | student's parent of intent to participate in the scholarship
107 | program.

108 | b. A school district may change a matrix of services only
109 | if the change is to:

110 | (I) Correct a technical, typographical, or calculation
111 | error; or

112 | (II) Align the matrix of services with the student's
113 | individual education plan completed by the public school
114 | district for use in the public school prior to the student
115 | enrolling in or attending a private school.

116 | 3. The Department of Education shall notify the private
117 | school of the amount of the scholarship within 10 days after
118 | receiving the school district's notification of the student's
119 | matrix level.

120 | 4. Within 10 school days after it receives notification of
121 | a parent's intent to apply for a John M. McKay Scholarship, a
122 | district school board must notify the student's parent if the
123 | matrix has not been completed and provide the parent with the
124 | date for completion of the matrix required in this paragraph.

125 | (g) The Department of Education shall establish a toll-
126 | free hotline that provides parents and private schools with

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127 information on participation in the John M. McKay Scholarships
128 for Students with Disabilities Program.

129 (h) The Department of Education shall establish a process
130 by which individuals may notify the department of any violation
131 by a private school of state laws relating to program
132 participation. The department shall conduct an investigation of
133 any written complaint of a violation of this section if the
134 complaint is signed by the complainant and is legally
135 sufficient. A complaint is legally sufficient if it contains
136 ultimate facts that show that a violation of this section or any
137 rule adopted by the State Board of Education or other state
138 agency has occurred. In order to determine legal sufficiency,
139 the Department of Education may require supporting information
140 or documentation from the complainant.

141 (i) The Department of Education shall require an annual
142 notarized sworn compliance statement by participating private
143 schools certifying compliance with state laws and shall retain
144 such records. The Department of Education shall approve a
145 process for verifying the information provided by the private
146 school.

147 (j) The Department of Education shall regularly cross-
148 check the list of participating scholarship students with the
149 public school enrollment lists to avoid duplication.

150 (k) A school district shall provide notification to
151 parents of the availability of a reassessment of each student
152 who receives a John M. McKay Scholarship at least every 3 years.

153 (4) PRIVATE SCHOOL ELIGIBILITY.--To be eligible to
154 participate in the John M. McKay Scholarships for Students with

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155 Disabilities Program, a private school must be a Florida private
156 school, as defined in s. 1002.01(2), may be sectarian or
157 nonsectarian, and must:

158 (a) Demonstrate fiscal soundness by being in operation for
159 2 or more consecutive school years or obtain 1 school year or
160 ~~provide the Department of Education with a statement by a~~
161 ~~certified public accountant confirming that the private school~~
162 ~~desiring to participate is insured and the owner or owners have~~
163 ~~sufficient capital or credit to operate the school for the~~
164 ~~upcoming year serving the number of students anticipated with~~
165 ~~expected revenues from tuition and other sources that may be~~
166 ~~reasonably expected. In lieu of such a statement, a surety bond~~
167 ~~or letter of credit for the amount equal to the scholarship~~
168 ~~funds for any quarter to may be filed with the Department of~~
169 ~~Education. The surety bond or letter of credit shall serve to~~
170 ~~secure expenditures of scholarship funds should such funds be~~
171 ~~found to have been used for unlawful purposes. However, if~~
172 ~~during the school year a private school exhibits financial~~
173 ~~difficulty or is otherwise not in compliance with this section,~~
174 ~~the Commissioner of Education may impose additional requirements~~
175 ~~on the private school, which may include additional security~~
176 ~~bonding.~~

177 (b) Notify the Department of Education of its intent to
178 participate in the program under this section. The notice must
179 specify the grade levels and services that the private school
180 has available for students with disabilities who are
181 participating in the scholarship program.

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

184 (d) Meet state and local health and safety laws and codes,
185 including, but not limited to, laws pertaining to:

186 1. Fire safety.

187 2. Building codes.

188 (e) 1. Require each John M. McKay Scholarship student to
189 participate at least annually in a student assessment which, as
190 determined by the private school in consultation with the
191 student's parent, will demonstrate the student's skill level to
192 the student's parent.

193 2. Notify the student's parent at least annually about the
194 student's skill level on a student assessment that is determined
195 by the private school. ~~Be academically accountable to the parent~~
196 ~~for meeting the educational needs of the student.~~

197 (f) Employ or contract with teachers who hold
198 baccalaureate or higher degrees, or have at least 3 years of
199 teaching experience in public or private schools, or have
200 special skills, knowledge, or expertise that qualifies them to
201 provide instruction in subjects taught.

202 (g) Comply with all state laws relating to general
203 regulation of private schools, including, but not limited to,
204 laws pertaining to:

205 1. Annual private school survey required in s. 1002.42(2).

206 2. Retention of records required in s. 1002.42(3).

207 3. Attendance records and reports required in s.
208 1003.23(2).

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209 4. School-entry health examinations and immunizations
210 required in s. 1003.22.

211 5. Attendance requirements prescribed in ss. 1003.01(13)
212 and 1003.21(1).

213 (h) Publish and adhere to the tenets of its adopted
214 ~~published~~ disciplinary procedures prior to the expulsion of a
215 scholarship student.

216 (i) Within 60 days after employment, for any individual
217 with direct student contact with John M. McKay Scholarship
218 students, file with the Department of Law Enforcement a complete
219 set of fingerprints for state processing for a criminal
220 background check. The Department of Law Enforcement shall in
221 turn submit the fingerprints to the Federal Bureau of
222 Investigation for federal processing for a background check. An
223 "individual with direct student contact with John M. McKay
224 Scholarship students" means any individual who:

225 1. Is employed by a private school in any capacity,
226 including an individual employed as a child care provider, a
227 teacher, or another member of school personnel, and who is
228 responsible for the provision of care, treatment, education,
229 training, instruction, supervision, or recreation of John M.
230 McKay Scholarship students;

231 2. Is the owner or operator of the private school
232 accepting John M. McKay Scholarship students; or

233 3. Has unsupervised access to a John M. McKay Scholarship
234 student for whom the private school is responsible.

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236 The costs of fingerprinting and the background check shall not
237 be borne by the state. The results of a criminal background
238 check for private school owners shall be reported to the
239 Department of Education. The owner or operator of the private
240 school shall receive the results of a criminal background check
241 for all other persons subject to the private school background
242 check requirements and immediately report to the Department of
243 Education any individual with direct student contact with John
244 M. McKay Scholarship students who has failed the Level 2
245 background check. Employment of such an individual shall cause a
246 private school to be ineligible for participation in the
247 scholarship program. An individual holding a valid Florida
248 teaching certificate who has been fingerprinted pursuant to s.
249 1012.32 shall not be required to comply with the provisions of
250 this paragraph.

251 (j) Annually comply with the requirements of the
252 Department of Education to submit a notarized sworn compliance
253 statement certifying compliance with state laws pursuant to
254 subsection (3). The form and timeline for submission of the
255 compliance statement shall be specified in rules adopted by the
256 State Board of Education. The statement must be filed with the
257 Department of Education.

258 (k) Comply with all applicable state agency rules relating
259 to private schools.

260 (l) Not operate as a private tutoring program as described
261 in s. 1002.43, a correspondence school, or a distance learning
262 school or provide instruction to students at home.

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263 (m) Maintain a physical private school location where a
264 scholarship student regularly attends classes.

265 (n) Require the parent of each scholarship student to
266 personally restrictively endorse the scholarship check to the
267 school. The school may not:

268 1. Act as attorney in fact for parents of a scholarship
269 student under the authority of a power of attorney executed by
270 such parents, or under any other authority, to endorse
271 scholarship warrants on behalf of parents.

272 2. Send or direct John M. McKay Scholarship funds to
273 parents of a scholarship student who receives instruction at
274 home.

275 3. Accept a John M. McKay Scholarship student until the
276 notarized sworn compliance statement has been completed and has
277 been submitted to and verified by the Department of Education.

278 (o) Annually register with the Department of Education.
279 Each owner or administrator of a private school must provide the
280 following information:

281 1. The legal business and trade name, mailing address, and
282 business location of the private school.

283 2. The full name, address, and telephone number of each
284 owner or administrator of the private school.

285 3. A notification of the private school's intent to
286 participate in the program under this section. The notice must
287 specify the grade levels and services that the private school
288 has available for students with disabilities who are
289 participating in the scholarship program.

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290 (p) Provide the Department of Education with all
291 documentation required for each scholarship student's
292 participation in the scholarship program, including, but not
293 limited to:

294 1. The private school's fee schedule, including, but not
295 limited to, fees for services, tuition, and instructional
296 materials, and each individual scholarship student's schedule of
297 fees and charges, at least 30 days before the first quarterly
298 scholarship payment is made for the student.

299 2. The enrollment and attendance information, including an
300 on-line attendance verification form, for each scholarship
301 student at the private school, prior to each scholarship
302 payment.

303 (q) Notify the Department of Education of any change in
304 the school's registered name or location prior to any such
305 change and notify the Department of Education within 15 days
306 after any other change in the registration information submitted
307 to the department.

308 (5) OBLIGATION OF PROGRAM PARTICIPANTS.--

309 (f) Upon receipt of a scholarship warrant, the parent to
310 whom the warrant is made must restrictively endorse the warrant
311 to the private school for deposit into the account of the
312 private school. The parent of a student participating in the
313 scholarship program may not designate any participating private
314 school as the parent's attorney in fact to sign a scholarship
315 warrant.

316 (6) SCHOLARSHIP FUNDING AND PAYMENT.--

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317 (e) Following notification on July 1, September 1,
318 December 1, or February 1 of the number of program participants,
319 the Department of Education shall transfer, from General Revenue
320 funds only, the amount calculated under paragraph (b) from the
321 school district's total funding entitlement under the Florida
322 Education Finance Program and from authorized categorical
323 accounts to a separate account for the scholarship program for
324 quarterly disbursement to the parents of participating students.
325 When a student enters the scholarship program, the Department of
326 Education must receive all documentation required for the
327 student's participation, including, but not limited to, the
328 private school's and student's fee schedules, at least 30 days
329 before the first quarterly scholarship payment is made for the
330 student. The Department of Education may not make any
331 retroactive payments.

332 (f) Upon proper documentation reviewed and approved by the
333 Department of Education, the Chief Financial Officer shall make
334 scholarship payments in four equal amounts no later than
335 September 1, November 1, February 1, and April 1 ~~15~~ of each
336 academic year in which the scholarship is in force. The initial
337 payment shall be made after Department of Education verification
338 of admission acceptance, and subsequent payments shall be made
339 upon verification of continued enrollment and attendance at the
340 private school. Payment must be by individual warrant made
341 payable to the student's parent and mailed by the Department of
342 Education to the private school of the parent's choice, and the
343 parent shall restrictively endorse the warrant to the private
344 school for deposit into the account of the private school.

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345 (g) Subsequent to each scholarship payment, the Department
346 of Financial Services shall randomly review endorsed warrants to
347 confirm compliance with endorsement requirements.

348 (8) COMMISSIONER AUTHORITY.--The Commissioner of Education
349 may suspend or prohibit a private school or a student from
350 participation in the scholarship program and take other action
351 necessary to ensure compliance with the provisions of this
352 section.

353 (9)~~(8)~~ RULES.--The State Board of Education shall may
354 adopt rules pursuant to ss. 120.536(1) and 120.54 to administer
355 this section, including rules for:

356 (a) Administering the annual notarized sworn compliance
357 statement to all participating private schools.

358 (b) Establishing forms for changes to a matrix by a school
359 district and the Department of Education.

360 (c) Implementing the requirement that a private school
361 timely notify the Department of Education of material changes to
362 the school's registration information.

363 (d) Establishing attendance-verification procedures and
364 forms.

365 (e) Establishing procedures for determining student
366 eligibility and approving scholarships.

367
368 The rules related to the annual notarized sworn compliance
369 statement shall establish a deadline for the receipt of the
370 initial notarized sworn compliance statement from the private
371 school and shall enumerate the items to be included in the
372 statement. The rules shall enumerate the items to be included in

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373 | a subsequent annual notarized sworn compliance statement that is
374 | required in January of each year from the private school.

375 | However, the inclusion of eligible private schools within
376 | options available to Florida public school students does not
377 | expand the regulatory authority of the state, its officers, or
378 | any school district to impose any additional regulation of
379 | private schools beyond those reasonably necessary to enforce
380 | requirements expressly set forth in this section.

381 | Section 2. Section 220.187, Florida Statutes, is amended
382 | to read:

383 | 220.187 Credits for contributions to nonprofit
384 | scholarship-funding organizations.--

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

386 | (a) Encourage private, voluntary contributions to
387 | nonprofit scholarship-funding organizations.

388 | (b) Expand educational opportunities for children of
389 | families that have limited financial resources.

390 | (c) Enable children in this state to achieve a greater
391 | level of excellence in their education.

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

393 | (a) "Department" means the Department of Revenue.

394 | (b) "Eligible contribution" means a monetary contribution
395 | from a taxpayer, subject to the restrictions provided in this
396 | section, to an eligible nonprofit scholarship-funding
397 | organization. The taxpayer making the contribution may not
398 | designate a specific child as the beneficiary of the
399 | contribution. The taxpayer may not contribute more than \$5

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400 million to any single eligible nonprofit scholarship-funding
401 organization.

402 (c)~~(d)~~ "Eligible nonprofit scholarship-funding
403 organization" means a charitable organization that is exempt
404 from federal income tax pursuant to s. 501(c)(3) of the Internal
405 Revenue Code, that is a Florida entity formed under chapter 607,
406 chapter 608, or chapter 617 and whose principal office is
407 located in the state, and that complies with the provisions of
408 subsection (4).

409 (d)~~(e)~~ "Eligible private ~~nonpublic~~ school" means a private
410 ~~nonpublic~~ school, as defined in s. 1002.01(2), located in
411 Florida that offers an education to students in any grades K-12
412 and ~~that~~ meets the requirements in subsection (6) ~~(5)~~. An
413 eligible private school:

414 1. Must maintain a physical location in this state where
415 each scholarship student regularly attends classes.

416 2. May not be a correspondence school or distance learning
417 school.

418 3. May not direct or provide scholarship funds to a parent
419 of a scholarship student who receives instruction under the
420 program at home.

421 4. May not be a home education program as defined in s.
422 1002.01(1).

423 5. May not be a private tutoring program as described in
424 s. 1002.43.

425 (e) "Owner or operator" includes:

426 1. An owner, president, officer, or director of an
427 eligible nonprofit scholarship-funding organization or a person

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428 with equivalent decisionmaking authority over an eligible
429 nonprofit scholarship-funding organization.

430 2. An owner, operator, superintendent, or principal of an
431 eligible private school or a person with equivalent
432 decisionmaking authority over an eligible private school.

433 (f)-(e) "Qualified student" means a student who qualifies
434 for free or reduced-price school lunches under the National
435 School Lunch Act and who:

436 1. Was counted as a full-time equivalent student during
437 the previous state fiscal year for purposes of state per-student
438 funding;

439 2. Received a scholarship from an eligible nonprofit
440 scholarship-funding organization during the previous school
441 year; or

442 3. Is eligible to enter kindergarten or first grade.

443
444 A student is not eligible to receive a scholarship under this
445 section if the student is participating in the Opportunity
446 Scholarship Program under s. 1002.38, the John M. McKay
447 Scholarships for Students with Disabilities Program under s.
448 1002.39, or a home education program as defined in s.
449 1002.01(1). A student is not eligible to receive a scholarship
450 from more than one eligible nonprofit scholarship-funding
451 organization at the same time.

452 (3) AUTHORIZATION TO GRANT SCHOLARSHIP FUNDING TAX
453 CREDITS; LIMITATIONS ON INDIVIDUAL AND TOTAL CREDITS.--

454 (a) There is allowed a credit of 100 percent of an
455 eligible contribution against any tax due for a taxable year

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456 under this chapter. However, such a credit may not exceed 75
457 percent of the tax due under this chapter for the taxable year,
458 after the application of any other allowable credits by the
459 taxpayer. ~~However, at least 5 percent of the total statewide~~
460 ~~amount authorized for the tax credit shall be reserved for~~
461 ~~taxpayers who meet the definition of a small business provided~~
462 ~~in s. 288.703(1) at the time of application.~~ The credit granted
463 by this section shall be reduced by the difference between the
464 amount of federal corporate income tax taking into account the
465 credit granted by this section and the amount of federal
466 corporate income tax without application of the credit granted
467 by this section.

468 (b) The total amount of tax credits and carryforward of
469 tax credits which may be granted each state fiscal year under
470 this section is \$88 million. However, effective for tax years
471 beginning January 1, 2004, at least 1 percent of the total
472 statewide amount authorized for tax credits shall be reserved
473 for taxpayers who meet the definition of a small business
474 provided in s. 288.703(1) at the time of application.

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

480 (d) Effective for tax years beginning January 1, 2004, a
481 taxpayer may rescind all or part of its allocated tax credit
482 under this section. The amount of the rescindment shall become
483 available for purposes of the cap for that state fiscal year

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484 under this section to an eligible taxpayer as approved by the
485 department if the taxpayer receives notice from the department
486 that the rescindment has been accepted by the department, the
487 taxpayer has rescinded its tax credit prior to the conclusion of
488 the taxpayer's tax year, and the taxpayer has not previously
489 rescinded any or all of its tax credit allocation under this
490 section more than once in the previous 3 tax years. Any amount
491 rescinded under this paragraph shall become available to an
492 eligible taxpayer on a first-come, first-served basis based on
493 tax credit applications received after the date the rescindment
494 is accepted by the department.

495 (4) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING
496 ORGANIZATIONS.--An eligible nonprofit scholarship-funding
497 organization participating in the scholarship program
498 established in this section shall have the following
499 obligations:

500 (a) An eligible nonprofit scholarship-funding organization
501 shall provide corporate tax credit scholarships, from eligible
502 contributions, to qualified students for:

503 1. Tuition or textbook expenses for, or transportation to,
504 an eligible private nonpublic school. At least 75 percent of
505 each the scholarship funding must be used to pay tuition
506 expenses; or

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

510 (b) An eligible nonprofit scholarship-funding organization
511 shall give priority to qualified students who received a

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512 scholarship from an eligible nonprofit scholarship-funding
513 organization during the previous school year.

514 (c) An eligible nonprofit scholarship-funding organization
515 shall not provide a scholarship to a student who is receiving an
516 opportunity scholarship pursuant to s. 1002.38 or a John M.
517 McKay Scholarship pursuant to s. 1002.39. In addition, an
518 eligible nonprofit scholarship-funding organization shall not
519 provide a scholarship to a student who is receiving a corporate
520 tax credit scholarship from another eligible nonprofit
521 scholarship-funding organization.

522 (d)-(e) The amount of a scholarship provided to any child
523 for any single school year by an ~~all~~ eligible nonprofit
524 scholarship-funding organization ~~organizations~~ from eligible
525 contributions shall not exceed the following annual limits:

526 1. Three thousand five hundred dollars for a scholarship
527 awarded to a student enrolled in an eligible private ~~nonpublic~~
528 school.

529 2. Five hundred dollars for a scholarship awarded to a
530 student enrolled in a Florida public school that is located
531 outside the district in which the student resides or in a lab
532 school as defined in s. 1002.32.

533 (e)-(d) The amount of an eligible contribution which may be
534 accepted by an eligible nonprofit scholarship-funding
535 organization is limited to the amount needed to provide
536 scholarships for qualified students which the organization has
537 identified and for which vacancies in eligible private ~~nonpublic~~
538 schools have been identified.

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539 ~~(f)(e)~~ An eligible nonprofit scholarship-funding
540 organization that receives an eligible contribution must spend
541 100 percent of the eligible contribution to provide scholarships
542 in the same state fiscal year in which the contribution was
543 received. No portion of eligible contributions may be used for
544 administrative expenses. All interest accrued from contributions
545 must be used for scholarships.

546 (g) An eligible nonprofit scholarship-funding organization
547 must maintain separate accounts for scholarship funds and
548 operating funds.

549 (h) An eligible nonprofit scholarship-funding organization
550 may transfer funds to another eligible nonprofit scholarship-
551 funding organization when additional funds are required to meet
552 scholarship demand. The scholarship-funding organization
553 transferring funds must request approval for the transfer from
554 the Department of Education and provide documentation to support
555 the transfer, including a listing of the scholarships to be
556 funded from the transfer. The Department of Education shall
557 verify the listing of students to receive scholarships from the
558 transfer. No funds may be transferred unless matching eligible
559 scholarship recipients can be identified by the scholarship-
560 funding organization receiving the transfer.

561 ~~(i)(f)~~ An eligible nonprofit scholarship-funding
562 organization that receives eligible contributions must provide
563 to the Auditor General and the Department of Education an annual
564 financial and compliance audit of its accounts and records
565 conducted by an independent certified public accountant and in
566 accordance with rules adopted by the Auditor General. The audit

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567 must be conducted in compliance with generally accepted auditing
568 standards and must include a report on financial statements
569 presented in accordance with Generally Accepted Accounting
570 Principles set forth by the American Institute of Certified
571 Public Accountants for not-for-profit organizations and a
572 determination of compliance with the statutory eligibility and
573 expenditure requirements set forth in this section. Audits must
574 be provided to the Auditor General and the Department of
575 Education within 180 days after completion of the nonprofit
576 scholarship-funding organization's fiscal year.

577 (j)-(g) An eligible nonprofit scholarship-funding
578 organization shall obtain verification from the private school
579 of a student's continued attendance at the school prior to each
580 scholarship payment. Payment of the scholarship shall be made by
581 the eligible nonprofit scholarship-funding organization no less
582 frequently than on a quarterly basis. Payment of the scholarship
583 by the eligible nonprofit scholarship-funding organization shall
584 be by individual warrant or check made payable to the student's
585 parent. If the parent chooses for his or her child to attend an
586 eligible private ~~nonpublic~~ school, the warrant or check must be
587 mailed by the eligible nonprofit scholarship-funding
588 organization to the private ~~nonpublic~~ school of the parent's
589 choice, and the parent shall restrictively endorse the warrant
590 or check to the private ~~nonpublic~~ school. An eligible nonprofit
591 scholarship-funding organization shall ensure that, upon receipt
592 of a scholarship warrant or check, the parent to whom the
593 warrant or check is made restrictively endorses the warrant or

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594 check to the private nonpublic school of the parent's choice for
595 deposit into the account of the private nonpublic school.

596 (k) An eligible nonprofit scholarship-funding organization
597 must prepare and submit quarterly reports to the Department of
598 Education pursuant to subsection (7). In addition, an eligible
599 nonprofit scholarship-funding organization must submit in a
600 timely manner any information requested by the Department of
601 Education relating to the scholarship program.

602 (l) An eligible nonprofit scholarship-funding organization
603 must verify the income of all applicants participating in the
604 scholarship program each year with independent income
605 documentation.

606 (m)1. An owner or operator of an eligible nonprofit
607 scholarship-funding organization must, within 5 days after
608 assuming ownership or decisionmaking authority, file with the
609 Department of Law Enforcement a complete set of fingerprints for
610 state processing for a criminal background check and the
611 Department of Law Enforcement shall in turn submit the
612 fingerprints to the Federal Bureau of Investigation for federal
613 processing for a background check. The costs of fingerprinting
614 and the background check shall not be borne by the state.

615 2. The results of a criminal background check shall be
616 reported to the owner or operator of the eligible nonprofit
617 scholarship-funding organization and to the Department of
618 Education.

619 3. A nonprofit scholarship-funding organization whose
620 owner or operator has been convicted of a crime involving moral
621 turpitude or a crime that bears upon the fitness of the owner or

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622 operator to have responsibility for the safety and well-being of
623 children shall not be eligible to provide scholarships under
624 this section.

625 (n) A nonprofit scholarship-funding organization whose
626 owner or operator in the last 7 years has filed for personal
627 bankruptcy or corporate bankruptcy in a corporation in which he
628 or she owned more than 20 percent of the corporation shall not
629 be eligible to provide scholarships under this section.

630 (o) An owner or operator of an eligible nonprofit
631 scholarship-funding organization is prohibited from owning or
632 operating an eligible private school that is participating in
633 the scholarship program.

634 (p) An eligible nonprofit scholarship-funding organization
635 shall report to the Department of Education any private school
636 that is not in compliance with the requirements of the
637 scholarship program. The eligible nonprofit scholarship-funding
638 organization shall not provide additional scholarship funds to a
639 parent for a student to attend the private school until a
640 determination is made by the Commissioner of Education that the
641 school is in compliance with the requirements of the scholarship
642 program.

643 (q) An eligible nonprofit scholarship-funding organization
644 must comply with the antidiscrimination provisions of 42 U.S.C.
645 s. 2000d.

646 (r) An eligible nonprofit scholarship-funding organization
647 shall allow a qualified student to attend any eligible private
648 school and shall allow a parent to transfer a scholarship during

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649 a school year to any other eligible private school of the
650 parent's choice.

651 (s) An eligible nonprofit scholarship-funding organization
652 must provide a scholarship to a qualified student on a first-
653 come, first-served basis unless the student qualifies for
654 priority pursuant to paragraph (b). An eligible nonprofit
655 scholarship-funding organization may not target scholarships to
656 a particular private school or provide scholarships to a child
657 of an owner or operator.

658 (5) ~~PARENT~~ OBLIGATIONS OF PARENTS AND STUDENTS.--

659 (a) As a condition for scholarship payment pursuant to
660 paragraph (4) ~~(j)~~ ~~(g)~~, if the parent chooses for his or her child
661 to attend an eligible private ~~nonpublic~~ school, the parent must
662 inform the child's school district within 15 days after such
663 decision.

664 (b) Upon receipt of a scholarship warrant or check from
665 the eligible nonprofit scholarship-funding organization, the
666 parent to whom the warrant or check is made must restrictively
667 endorse the warrant or check to the private school for deposit
668 into the account of the private school. A private school may not
669 act as attorney in fact for parents of a scholarship student
670 under the authority of a power of attorney executed by such
671 parents or under any other authority allowing endorsement of
672 scholarship warrants on behalf of parents. If a parent refuses
673 to restrictively endorse a warrant to which a private school is
674 entitled, that student's scholarship shall be forfeited
675 immediately.

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676 (c) Any student participating in the scholarship program
677 must remain in attendance throughout the school year unless
678 excused by the school for illness or other good cause and must
679 comply fully with the school's code of conduct.

680 (d) The parent of a student participating in the
681 scholarship program must comply fully with the private school's
682 parental involvement requirements unless excused by the school
683 for illness or other good cause.

684 (e) The parent of a student participating in the
685 scholarship program must ensure that the student participates in
686 the nationally norm-referenced testing required by this section.
687 Students with disabilities for whom standardized testing is not
688 appropriate are exempt from this requirement.

689 (f) A participant in the scholarship program who fails to
690 comply with this subsection forfeits the scholarship.

691 (6) ELIGIBLE PRIVATE ~~NONPUBLIC~~ SCHOOL OBLIGATIONS.--An
692 eligible private ~~nonpublic~~ school must:

693 (a) Demonstrate fiscal soundness by being in operation for
694 2 or more consecutive school years or obtain one school year or
695 provide the Department of Education with a statement by a
696 certified public accountant confirming that the nonpublic school
697 desiring to participate is insured and the owner or owners have
698 sufficient capital or credit to operate the school for the
699 upcoming year serving the number of students anticipated with
700 expected revenues from tuition and other sources that may be
701 reasonably expected. In lieu of such a statement, a surety bond
702 or letter of credit for the amount equal to the scholarship
703 funds for any quarter to ~~may~~ be filed with the Department of

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704 Education. The surety bond or letter of credit shall serve to
705 secure expenditures of scholarship funds should such funds be
706 found to have been used for unlawful purposes. However, if
707 during the school year a private school exhibits financial
708 difficulty or is otherwise not in compliance with this section,
709 the Commissioner of Education may impose additional requirements
710 on the private school, which may include additional security
711 bonding.

712 (b) Notify the Department of Education of its intent to
713 participate in the scholarship program. The notice must specify
714 the grade levels that the private school has available for
715 students participating in the scholarship program.

716 (c) ~~(b)~~ Comply with the antidiscrimination provisions of 42
717 U.S.C. s. 2000d.

718 (d) ~~(e)~~ Meet state and local health and safety laws and
719 codes, including, but not limited to, laws pertaining to:

720 1. Fire safety.

721 2. Building codes.

722 (e) ~~(d)~~ Comply with all state laws relating to general
723 regulation of private ~~nonpublic~~ schools, including, but not
724 limited to, laws pertaining to:

725 1. Annual private school survey required in s. 1002.42(2).

726 2. Retention of records required in s. 1002.42(3).

727 3. Attendance records and reports required in s.

728 1003.23(2).

729 4. School-entry health examinations and immunizations
730 required in s. 1003.22.

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731 5. Attendance requirements prescribed in ss. 1003.01(13)
732 and 1003.21(1).

733 (f) Employ or contract with teachers who hold
734 baccalaureate or higher degrees, have at least 3 years of
735 teaching experience in public or private schools, or have
736 special skills, knowledge, or expertise that qualifies them to
737 provide instruction in subjects taught.

738 (g) Annually administer or make provision for students
739 participating in the scholarship program to take the Iowa Test
740 of Basic Skills, the Stanford-9, or subsequent versions of these
741 tests, or an assessment identified by the Department of
742 Education under subsection (7). A participating private school
743 must report a student's scores to the parent and to the
744 independent private research organization selected by the
745 Department of Education pursuant to subsection (7).

746 (h) Within 60 days after employment, for any individual
747 with direct student contact with corporate tax credit
748 scholarship students, file with the Department of Law
749 Enforcement a complete set of fingerprints for state processing
750 for a criminal background check. The Department of Law
751 Enforcement shall in turn submit the fingerprints to the Federal
752 Bureau of Investigation for federal processing for a background
753 check. An "individual with direct student contact with corporate
754 tax credit scholarship students" means any individual who:

755 1. Is employed by a private school in any capacity,
756 including an individual employed as a child care provider, a
757 teacher, or another member of school personnel, and who is
758 responsible for the provision of care, treatment, education,

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759 training, instruction, supervision, or recreation of corporate
760 tax credit scholarship students;

761 2. Is the owner or operator of the private school
762 accepting corporate tax credit scholarship students; or

763 3. Has unsupervised access to a corporate tax credit
764 scholarship student for whom the private school is responsible.

765

766 The costs of fingerprinting and the background check shall not
767 be borne by the state. The results of a criminal background
768 check for private school owners shall be reported to the
769 Department of Education. The owner or operator of the private
770 school shall receive the results of a criminal background check
771 for all other persons subject to the private school background
772 check requirements and immediately report to the Department of
773 Education any individual with direct student contact with
774 corporate tax credit scholarship students who has failed the
775 Level 2 background check. Employment of such an individual shall
776 cause a private school to be ineligible for participation in the
777 scholarship program. An individual holding a valid Florida
778 teaching certificate who has been fingerprinted pursuant to s.
779 1012.32 shall not be required to comply with the provisions of
780 this paragraph.

781 (i) Annually comply with the requirements of the
782 Department of Education to complete a notarized sworn compliance
783 statement certifying compliance with state laws pursuant to
784 subsection (7).

785 (j) Notify the Department of Education and the eligible
786 nonprofit scholarship-funding organization if any participating

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787 student is receiving a warrant or check from more than one
788 eligible nonprofit scholarship-funding organization.

789 (k) Comply with all applicable state agency rules relating
790 to private schools.

791 (l) Publish and report, as part of the annual database
792 survey form and notarized statement of compliance required
793 pursuant to s. 1002.42(2), to the Department of Education and
794 distribute to the scholarship applicants:

795 1. Whether the private school is accredited by an in-state
796 or regional accrediting association that is validated by a
797 third-party accreditor at the state or national level which has
798 been in existence at least 3 years.

799 2. The name of the accrediting association that accredits
800 the private school.

801 3. Whether the private school is in the process of
802 receiving candidate status.

803
804 The inability of a private school to meet the requirements of
805 this subsection shall constitute a basis for the ineligibility
806 of the private school to participate in the scholarship program
807 as determined by the Department of Education.

808 (7) DEPARTMENT OF EDUCATION, COMMISSIONER OF EDUCATION,
809 AND STATE BOARD OF EDUCATION OBLIGATIONS; RESPONSIBILITIES.--

810 (a) The Department of Education shall:

811 1. Annually submit to the Department of Revenue, by March
812 15, a list of eligible nonprofit scholarship-funding
813 organizations that meet the requirements of paragraph (2)(c).

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- 814 2. Annually verify the eligibility of nonprofit
815 scholarship-funding organizations that meet the requirements of
816 paragraph (2) (c).
- 817 3. Annually verify the eligibility of private schools that
818 meet the requirements of paragraph (2) (d).
- 819 4. Annually verify the eligibility of expenditures as
820 provided in subsection (4).
- 821 5. Establish a toll-free hotline that provides parents,
822 private schools, and nonprofit scholarship-funding organizations
823 with information on participation in the scholarship program.
- 824 6. Establish a process by which individuals may notify the
825 Department of Education of any violation by a private school or
826 nonprofit scholarship-funding organization of state laws
827 relating to scholarship program participation. The department
828 shall conduct an investigation of any written complaint of a
829 violation of this section if the complaint is signed by the
830 complainant and is legally sufficient. A complaint is legally
831 sufficient if it contains ultimate facts that show that a
832 violation of this section or any rule adopted by the State Board
833 of Education or other state agency has occurred. In order to
834 determine legal sufficiency, the Department of Education may
835 require supporting information or documentation from the
836 complainant. In addition, the department is authorized to
837 investigate anonymous complaints.
- 838 7. Require annual completion of a notarized sworn
839 compliance statement by participating private schools certifying
840 compliance with state laws and retain such records.

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841 8. Identify all nationally norm-referenced tests that are
842 comparable to the norm-referenced test portions of the Florida
843 Comprehensive Assessment Test (FCAT).

844 9. Select an independent private research organization to
845 which participating private schools must report the scores of
846 participating students on the assessments administered by the
847 private school under paragraph (6) (g). The independent private
848 research organization must annually report to the Department of
849 Education on the year-to-year improvements of the participating
850 students. The independent private research organization must
851 analyze and report student performance data, including student
852 scores by grade level, in a manner that protects the rights of
853 students and parents as mandated in 20 U.S.C. s. 1232g and must
854 not disaggregate data to a level that will disclose the academic
855 level of individuals or of individual schools. To the extent
856 possible, the independent private research organization must
857 accumulate historical performance data on students from the
858 Department of Education and private schools to describe baseline
859 performance and to conduct longitudinal studies. To minimize
860 costs and reduce time required for third-party analysis and
861 evaluation, the Department of Education shall conduct analyses
862 of matched students from public school assessment data and
863 calculate control group learning gains using an agreed upon
864 methodology outlined in the contract with the third-party
865 evaluator. The sharing of student data must be in accordance
866 with the Family Educational Rights and Privacy Act requirements
867 and shall be for the sole purpose of conducting the evaluation.

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868 All parties must preserve the confidentiality of such
869 information.

870 10. Provide a private school profile on-line for those
871 private schools participating in the scholarship program.

872 11. Notify an eligible nonprofit scholarship-funding
873 organization of any of the organization's identified students
874 who are receiving an opportunity scholarship pursuant to s.
875 1002.38 or a John M. McKay Scholarship pursuant to s. 1002.39.

876 12. Notify an eligible nonprofit scholarship-funding
877 organization of any of the organization's identified students
878 who are receiving a corporate tax credit scholarship from
879 another eligible nonprofit scholarship-funding organization.

880 13. Require quarterly reports by an eligible nonprofit
881 scholarship-funding organization regarding the number of
882 students participating in the scholarship program, the private
883 schools at which the students are enrolled, and other
884 information deemed necessary by the Department of Education.

885 14. Regularly cross-check the list of participating
886 scholarship students with the public school enrollment lists to
887 avoid duplication.

888 (b) The Commissioner of Education shall revoke the
889 eligibility of a nonprofit scholarship-funding organization,
890 private school, or student to participate in the scholarship
891 program for noncompliance with this section.

892 (8)(7) ADMINISTRATION; RULES.--

893 (a) If the credit granted pursuant to this section is not
894 fully used in any one year because of insufficient tax liability
895 on the part of the corporation, the unused amount may be carried

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896 forward for a period not to exceed 3 years; however, any
897 taxpayer that seeks to carry forward an unused amount of tax
898 credit must submit an application for allocation of tax credits
899 or carryforward credits as required in paragraph (d) in the year
900 that the taxpayer intends to use the carryforward. ~~The total~~
901 ~~amount of tax credits and carryforward of tax credits granted~~
902 ~~each state fiscal year under this section is \$88 million.~~ This
903 carryforward applies to all approved contributions made after
904 January 1, 2002. A taxpayer may not convey, assign, or transfer
905 the credit authorized by this section to another entity unless
906 all of the assets of the taxpayer are conveyed, assigned, or
907 transferred in the same transaction.

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

911 (c) The department and the Department of Education shall
912 develop a cooperative agreement to assist in the administration
913 of this section. ~~The Department of Education shall be~~
914 ~~responsible for annually submitting, by March 15, to the~~
915 ~~department a list of eligible nonprofit scholarship funding~~
916 ~~organizations that meet the requirements of paragraph (2)(d) and~~
917 ~~for monitoring eligibility of nonprofit scholarship funding~~
918 ~~organizations that meet the requirements of paragraph (2)(d),~~
919 ~~eligibility of nonpublic schools that meet the requirements of~~
920 ~~paragraph (2)(c), and eligibility of expenditures under this~~
921 ~~section as provided in subsection (4).~~

922 (d) The department shall adopt rules necessary to
923 administer this section, including rules establishing

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924 application forms and procedures and governing the allocation of
925 tax credits and carryforward credits under this section on a
926 first-come, first-served basis.

927 (e) The State Board Department of Education shall adopt
928 rules pursuant to ss. 120.536(1) and 120.54 to administer this
929 section, including, but not limited to, rules:

930 1. Determining necessary to determine eligibility of
931 nonprofit scholarship-funding organizations and private schools.

932 2. Identifying as defined in paragraph (2) (d) and
933 according to the provisions of subsection (4) and identify
934 qualified students as defined in paragraph (2) (e).

935 3. Identifying the documentation required to establish
936 eligibility for nonprofit scholarship-funding organizations.

937 4. Requiring an annual notarized sworn statement of
938 compliance for private schools that participate in the
939 scholarship program.

940 5. Identifying the independent income-verification
941 documentation required to establish student eligibility under
942 this section.

943 (f) Subsequent to each scholarship payment, the Department
944 of Financial Services shall randomly review endorsed warrants to
945 confirm compliance with endorsement requirements.

946 (g) The State Board of Education may delegate its
947 authority under this section to the Commissioner of Education
948 with the exception of rulemaking authority.

949 (9)-(8) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--All eligible
950 contributions received by an eligible nonprofit scholarship-

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951 funding organization shall be deposited in a manner consistent
952 with s. 17.57(2).

953 Section 3. This act shall take effect upon becoming a law.

954

955 ===== T I T L E A M E N D M E N T =====

956 Remove the entire title and insert:

957 A bill to be entitled

958 An act relating to scholarship program accountability;
959 amending s. 1002.39, F.S., relating to the John M. McKay
960 Scholarships for Students with Disabilities Program;
961 revising definition of the term "students with
962 disabilities"; restricting eligibility to receive a John
963 M. McKay Scholarship; revising and adding school district
964 and Department of Education obligations; providing for
965 department investigation of private school violations;
966 revising requirements for private school fiscal soundness;
967 revising eligibility requirements for private schools,
968 including compliance with specified laws and requirements
969 of the department, annual assessment of students, and
970 maintenance of a physical location in the state; requiring
971 fingerprinting and criminal background checks; requiring
972 annual completion of a notarized sworn compliance
973 statement; prohibiting certain types of educational
974 programs; prohibiting power of attorney for endorsing
975 scholarship checks; requiring annual registration with the
976 department; revising provisions relating to scholarship
977 payment; providing for Department of Financial Services
978 obligations; providing Commissioner of Education authority

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979 | to suspend or prohibit program participation; requiring
980 | the adoption of specified rules; amending s. 220.187,
981 | F.S., relating to credits for contributions to nonprofit
982 | scholarship-funding organizations; revising definition of
983 | the terms "eligible nonprofit scholarship-funding
984 | organization" and "qualified student"; defining the terms
985 | "eligible private school" and "owner or operator";
986 | reducing small business tax credit reservation; providing
987 | for rescindment of tax credit allocation; revising
988 | obligations of eligible nonprofit scholarship-funding
989 | organizations; authorizing scholarships for certain
990 | transportation expenses; providing restrictions on
991 | provision of a scholarship; requiring a separate account
992 | for scholarship funds; authorizing transfer of funds
993 | between scholarship-funding organizations; specifying
994 | audit requirements; requiring quarterly scholarship
995 | payments and reports; requiring income verification;
996 | requiring fingerprinting and criminal background checks;
997 | providing restrictions on scholarship-funding organization
998 | ownership or operation; providing for reporting of
999 | noncompliant private schools; providing parent and student
1000 | obligations; prohibiting power of attorney for endorsing
1001 | scholarship checks; revising requirements for private
1002 | school fiscal soundness; providing additional private
1003 | school obligations, including compliance with specified
1004 | laws, employment of qualified teachers, and provision of
1005 | student testing; requiring fingerprinting and criminal
1006 | background checks; requiring annual completion of a

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1007 | notarized sworn compliance statement; providing Department
1008 | of Education and Commissioner of Education obligations and
1009 | responsibilities, including verification of eligibility of
1010 | program participants, investigation of violations,
1011 | selection of a research organization to analyze student
1012 | performance data, and revocation of eligibility to
1013 | participate in the scholarship program; requiring adoption
1014 | of specified rules; providing for Department of Financial
1015 | Services obligations; providing an effective date.