

Bill No. CS for CS for SB 2882

Amendment No. \_\_\_\_ Barcode 360654

CHAMBER ACTION

Senate

House

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Senator Constantine moved the following amendment:

**Senate Amendment (with title amendment)**

On page 26, between lines 5 and 6,

insert:

Section 4. Section 220.187, Florida Statutes, is amended to read:

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

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

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

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

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

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

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

~~(a)(b)~~ "Eligible contribution" means a monetary contribution from a taxpayer, subject to the restrictions

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1 provided in this section, to an eligible nonprofit  
 2 scholarship-funding organization. The taxpayer making the  
 3 contribution may not designate a specific child as the  
 4 beneficiary of the contribution. The taxpayer may not  
 5 contribute more than \$5 million to any single eligible  
 6 nonprofit scholarship-funding organization.

7 ~~(b)(c)~~ "Eligible private nonprofit school" means a  
 8 private nonprofit school, as defined in s. 1002.01(2), located  
 9 in Florida which that offers an education to students in any  
 10 grades K-12 and ~~that~~ meets the requirements in subsection ~~(6)~~

11 ~~(5)~~. An eligible private school:

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

14 2. May not be a correspondence school or distance  
 15 learning school.

16 3. May not direct or provide scholarship funds to a  
 17 parent of a scholarship student who receives instruction under  
 18 the program at home.

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

21 ~~(c)(d)~~ "Eligible nonprofit scholarship-funding  
 22 organization" means a charitable organization that is exempt  
 23 from federal income tax pursuant to s. 501(c)(3) of the  
 24 Internal Revenue Code, incorporated under laws of this state,  
 25 and that complies with the provisions of subsection (4).

26 (d) "Owner" means the owner, president, chairperson of  
 27 the board of directors, superintendent, principal, or person  
 28 with equivalent decisionmaking authority who owns, operates,  
 29 or administers an eligible nonprofit scholarship-funding  
 30 organization or eligible private school. In addition, the term  
 31 "owner" means an individual who has access to or processes

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1 scholarship funds or eligible contributions at an eligible  
2 nonprofit scholarship-funding organization or eligible private  
3 school.

4 (e) "Qualified student" means a student who qualifies  
5 for free or reduced-price school lunches under the National  
6 School Lunch Act and who:

7 1. Was counted as a full-time equivalent student  
8 during the previous state fiscal year for purposes of state  
9 per-student funding;

10 2. Received a scholarship from an eligible nonprofit  
11 scholarship-funding organization during the previous school  
12 year; or

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

14

15 A student is not eligible to receive a scholarship under this  
16 section if the student is participating in the Opportunity  
17 Scholarship Program under s. 1002.38, the John M. McKay  
18 Scholarships for Students with Disabilities Program under s.  
19 1002.39, or a home education program as defined in s.  
20 1002.01(1). A student is not eligible to receive a scholarship  
21 from more than one eligible nonprofit scholarship-funding  
22 organization at the same time.

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

25 (a) There is allowed a credit of 100 percent of an  
26 eligible contribution against any tax due for a taxable year  
27 under this chapter. However, such a credit may not exceed 75  
28 percent of the tax due under this chapter for the taxable  
29 year, after the application of any other allowable credits by  
30 the taxpayer. ~~However, at least 5 percent of the total~~  
31 ~~statewide amount authorized for the tax credit shall be~~

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1 ~~reserved for taxpayers who meet the definition of a small~~  
 2 ~~business provided in s. 288.703(1) at the time of application.~~

3 The credit granted by this section shall be reduced by the  
 4 difference between the amount of federal corporate income tax  
 5 taking into account the credit granted by this section and the  
 6 amount of federal corporate income tax without application of  
 7 the credit granted by this section.

8 (b) The total amount of tax credits and carryforward  
 9 of tax credits ~~that~~ ~~which~~ may be granted each state fiscal  
 10 year under this section is \$88 million. One percent of the  
 11 total statewide amount authorized for the tax credit must be  
 12 reserved for taxpayers who are small businesses as defined in  
 13 s. 288.703(1) at the time of application.

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

19 (d) A taxpayer may rescind its application for tax  
 20 credit under this section, and the amount approved in the  
 21 application for tax credit shall become available for purposes  
 22 of the cap for that state fiscal year under this section to an  
 23 eligible taxpayer as approved by the Department of Revenue, if  
 24 the taxpayer receives notice from the Department of Revenue  
 25 that the rescindment application has been accepted by the  
 26 Department of Revenue, the taxpayer has not previously  
 27 rescinded its application for tax credit under this section  
 28 more than once in the previous 3 tax years, and the taxpayer  
 29 has not made a contribution pursuant to its approved  
 30 application for tax credit under this section. Any amount  
 31 rescinded under this paragraph shall become available to an

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1 eligible taxpayer on a first-come, first-served basis based on  
2 tax credit applications received after the date the  
3 rescindment is accepted by the Department of Revenue.

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

6 (a) An eligible nonprofit scholarship-funding  
7 organization shall provide scholarships, from eligible  
8 contributions, to qualified students for:

9 1. Tuition or textbook expenses for, or transportation  
10 to, an eligible private ~~nonpublic~~ school. At least 75 percent  
11 of each ~~the~~ scholarship ~~funding~~ must be used to pay tuition  
12 expenses; or

13 2. Transportation expenses to a Florida public school  
14 that is located outside the district in which the student  
15 resides.

16 (b) An eligible nonprofit scholarship-funding  
17 organization shall give priority to qualified students who  
18 received a scholarship from an eligible nonprofit  
19 scholarship-funding organization during the previous school  
20 year.

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

25 1. Three thousand five hundred dollars for a  
26 scholarship awarded to a student enrolled in an eligible  
27 private ~~nonpublic~~ school.

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

31 (d) The amount of an eligible contribution that ~~which~~

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1 may be accepted by an eligible nonprofit scholarship-funding  
2 organization is limited to the amount needed to provide  
3 scholarships for qualified students ~~that~~ ~~which~~ the  
4 organization has identified and for which vacancies in  
5 eligible private ~~nonpublic~~ schools have been identified.

6 (e) An eligible nonprofit scholarship-funding  
7 organization that receives an eligible contribution must spend  
8 100 percent of the eligible contribution to provide  
9 scholarships in the same state fiscal year in which the  
10 contribution was received. No portion of eligible  
11 contributions may be used for administrative expenses. All  
12 interest accrued from contributions must be used for  
13 scholarships.

14 (f) An eligible nonprofit scholarship-funding  
15 organization that receives eligible contributions must provide  
16 to the Auditor General and the Department of Education, within  
17 180 days after completion of the organization's fiscal year,  
18 an annual financial and compliance audit of its accounts and  
19 records conducted by an independent certified public  
20 accountant and in accordance with rules adopted by the Auditor  
21 General. The Auditor General shall review all audit reports  
22 submitted pursuant to this section. The Auditor General shall  
23 request any significant items that were omitted in violation  
24 of a rule adopted by the Auditor General. The items must be  
25 provided within 45 days after the date of the request. If the  
26 nonprofit scholarship-funding organization does not comply  
27 with the Auditor General's request, the Auditor General shall  
28 notify the Legislative Auditing Committee. The Legislative  
29 Auditing Committee may schedule a hearing. If a hearing is  
30 scheduled, the committee shall determine if the nonprofit  
31 scholarship-funding organization should be subject to further

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1 state action. If the committee determines that the nonprofit  
2 scholarship-funding organization should be subject to further  
3 state action, the committee shall notify the Department of  
4 Education, which shall terminate the eligibility of the  
5 nonprofit scholarship-funding organization to participate in  
6 the program under this section.

7       (g) An eligible nonprofit scholarship-funding  
8 organization shall make payment of the scholarship, at a  
9 minimum, on a quarterly basis. Payment of the scholarship by  
10 the eligible nonprofit scholarship-funding organization shall  
11 be by individual warrant or check made payable to the  
12 student's parent. If the parent chooses for his or her child  
13 to attend an eligible private ~~nonpublic~~ school, the warrant or  
14 check must be mailed by the eligible nonprofit  
15 scholarship-funding organization to the private ~~nonpublic~~  
16 school of the parent's choice, and the parent shall  
17 restrictively endorse the warrant or check to the private  
18 ~~nonpublic~~ school. An eligible nonprofit scholarship-funding  
19 organization shall ensure that, upon receipt of a scholarship  
20 warrant or check, the parent to whom the warrant or check is  
21 made restrictively endorses the warrant or check to the  
22 private ~~nonpublic~~ school of the parent's choice for deposit  
23 into the account of the private ~~nonpublic~~ school.

24       (h) An eligible nonprofit scholarship-funding  
25 organization may not commingle scholarship funds with any  
26 other funds and must maintain a separate account for  
27 scholarship funds.

28       (i) An eligible nonprofit scholarship-funding  
29 organization shall obtain verification from a private school  
30 of each student's continued attendance at the private school  
31 prior to each scholarship payment.

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1       (j) An eligible nonprofit scholarship-funding  
2 organization must verify the income of all scholarship  
3 applicants participating in the program at least once each  
4 school year through independent income documentation as  
5 provided in rules of the State Board of Education.

6       (k) An eligible nonprofit scholarship-funding  
7 organization must prepare and submit quarterly reports to the  
8 Department of Education pursuant to subsection (8). In  
9 addition, an eligible nonprofit scholarship-funding  
10 organization must immediately submit to the Department of  
11 Education any information requested by the Department of  
12 Education relating to the scholarship program.

13       (l) All owners of a nonprofit scholarship-funding  
14 organization shall, upon employment, entry into the contract,  
15 or engagement to provide services, undergo background  
16 screening pursuant to s. 435.04 by filing with the Department  
17 of Education a complete set of fingerprints taken by an  
18 authorized law enforcement agency or an employee of the  
19 scholarship-funding organization who is trained to take  
20 fingerprints. These fingerprints shall be submitted to the  
21 Department of Law Enforcement for state processing, which  
22 shall in turn submit the fingerprints to the Federal Bureau of  
23 Investigation for federal processing. The Department of  
24 Education shall screen the background results and report to  
25 the scholarship-funding organization any owner who fails to  
26 meet level 2 screening standards pursuant to s. 435.04 or any  
27 owner who has been convicted of a crime involving moral  
28 turpitude. Owners found through fingerprint processing to have  
29 been convicted of a crime involving moral turpitude or failing  
30 to meet level 2 screening standards pursuant to s. 435.04 may  
31 not be employed, contracted with, or engaged to provide

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1 services in any position with the scholarship-funding  
2 organization. The cost of the background screening may be  
3 borne by the scholarship-funding organization or the owner.

4 1. Every 5 years following employment, entry into a  
5 contract, or engagement to provide services with a  
6 scholarship-funding organization, each owner must meet level 2  
7 screening requirements as described in s. 435.04, at which  
8 time the Department of Education shall request the Department  
9 of Law Enforcement to forward the fingerprints to the Federal  
10 Bureau of Investigation for level 2 screening. If the  
11 fingerprints of an owner are not retained by the Department of  
12 Law Enforcement under subparagraph 2., the owner must file a  
13 complete set of fingerprints with the Department of Education.  
14 Upon submission of fingerprints for this purpose, the  
15 Department of Education shall request the Department of Law  
16 Enforcement to forward the fingerprints to the Federal Bureau  
17 of Investigation for level 2 screening, and the fingerprints  
18 shall be retained by the Department of Law Enforcement under  
19 subparagraph 2. The cost of the state and federal criminal  
20 history check required by level 2 screening may be borne by  
21 the scholarship-funding organization or the owner. Under  
22 penalty of perjury, each owner must agree to inform the  
23 scholarship-funding organization immediately if convicted of  
24 any disqualifying offense while he or she is employed, under  
25 contract, or engaged to provide services with the  
26 scholarship-funding organization. If it is found that an owner  
27 does not meet the level 2 requirements, the owner shall be  
28 immediately suspended from working in that capacity and shall  
29 remain suspended until final resolution of any appeals.

30 2. Beginning July 1, 2004, all fingerprints submitted  
31 to the Department of Law Enforcement as required by paragraph

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1 (1), shall be retained by the Department of Law Enforcement in  
2 a manner provided by rule and entered in the statewide  
3 automated fingerprint identification system authorized by s.  
4 943.05(2)(b). Such fingerprints shall thereafter be available  
5 for all purposes and uses authorized for arrest fingerprint  
6 cards entered in the statewide automated fingerprint  
7 identification system pursuant to s. 943.051.

8 3. Beginning December 15, 2004, the Department of Law  
9 Enforcement shall search all arrest fingerprint cards received  
10 under s. 943.051 against the fingerprints retained in the  
11 statewide automated fingerprint identification system under  
12 subparagraph 2. Any arrest record that is identified with an  
13 owner's fingerprints shall be reported to the Department of  
14 Education. Each scholarship-funding organization shall  
15 participate in this search process by paying an annual fee to  
16 the Department of Law Enforcement and by informing the  
17 Department of Law Enforcement of any change in the employment,  
18 contractual status, or engagement status or place of  
19 employment, contracting, or engagement of its owners whose  
20 fingerprints are retained under subparagraph 2. The Department  
21 of Law Enforcement shall adopt a rule setting the amount of  
22 the annual fee to be imposed upon each scholarship-funding  
23 organization for performing these searches and establishing  
24 the procedures for the retention of owner fingerprints and the  
25 dissemination of search results. The fee may be borne by the  
26 scholarship-funding organization or by the owner.

27 (m) An eligible nonprofit scholarship-funding  
28 organization must comply with the antidiscrimination  
29 provisions of 42 U.S.C. s. 2000d.

30 (n) An eligible nonprofit scholarship-funding  
31 organization or an owner of an eligible nonprofit

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1 scholarship-funding organization may not own, operate, or  
2 administer an eligible private school participating in the  
3 program.

4 (o) An eligible nonprofit scholarship-funding  
5 organization must report to the Department of Education any  
6 private school participating in the scholarship program under  
7 this section which does not comply with the requirements of  
8 the scholarship program. The eligible nonprofit  
9 scholarship-funding organization may not provide additional  
10 scholarship funds to a parent for a student to attend a  
11 private school until the State Board of Education determines  
12 that the school is in compliance with this section.

13 (p) An eligible nonprofit scholarship-funding  
14 organization must allow a qualified student to attend any  
15 eligible private school and must allow the parent to transfer  
16 the scholarship during the school year to another eligible  
17 private school of the parent's choice.

18 (q) An eligible nonprofit scholarship-funding  
19 organization must provide a scholarship to a qualified student  
20 on a first-come, first-served basis unless the student  
21 qualifies for priority pursuant to paragraph (4)(b). An  
22 eligible nonprofit scholarship-funding organization may not  
23 target scholarships to a particular private school or provide  
24 scholarships to a child of an owner.

25 (r) An eligible nonprofit scholarship-funding  
26 organization may not transfer scholarship funds to another  
27 eligible nonprofit scholarship-funding organization.

28 (s) An eligible nonprofit scholarship-funding  
29 organization may not secure a promissory note, a line of  
30 credit, or other financing to fund a scholarship in  
31 anticipation of an eligible contribution. An eligible

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1 scholarship-funding organization may only fund scholarships  
2 through eligible contributions received under the scholarship  
3 program.

4 (t) A nonprofit scholarship-funding organization that  
5 fails to comply with this section may not participate in the  
6 scholarship program.

7 (5) PARENT OBLIGATIONS.--

8 (a) As a condition for scholarship payment pursuant to  
9 paragraph (4)(g), if the parent chooses for his or her child  
10 to attend an eligible ~~private~~ ~~nonpublic~~ school, the parent  
11 must inform the child's school district within 15 days after  
12 such decision.

13 (b) Any student participating in the scholarship  
14 program must remain in attendance throughout the school year,  
15 unless excused by the school for illness or other good cause,  
16 and must comply fully with the school's code of conduct.

17 (c) The parent of each student participating in the  
18 scholarship program must comply fully with the eligible  
19 private school's parental-involvement requirements unless  
20 excused by the school for good cause.

21 (d) Upon receipt of scholarship funds from the  
22 eligible nonprofit scholarship-funding organization, the  
23 parent to whom the warrant is made must restrictively endorse  
24 the warrant to the private school for deposit into the account  
25 of the private school. The parent may not authorize the  
26 eligible private school, its owners, or employees to act as an  
27 attorney in fact for purposes of endorsing scholarship  
28 warrants.

29 (e) The parent of each qualified student participating  
30 in the scholarship program must ensure that the student  
31 participates in the required testing pursuant to this section.

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1       (f) A student or parent who fails to comply with this  
2 subsection forfeits the scholarship.

3           (6) ELIGIBLE PRIVATE NONPUBLIC SCHOOL OBLIGATIONS.--An  
4 eligible private nonpublic school must:

5           (a) Demonstrate fiscal soundness by filing with being  
6 in operation for one school year or provide the Department of  
7 Education with a surety bond for the amount equal to the  
8 scholarship amount for each quarter of the school year. The  
9 surety bond must be filed at the time of the private school's  
10 initial registration to participate in the program under this  
11 section with the Department of Education and at each annual  
12 registration period thereafter for a total of 3 consecutive  
13 years. This requirement does not apply to an eligible private  
14 school that:

15           1. Has participated in the program for 3 consecutive  
16 years or longer; and

17           2. Has had no action taken by the Department of  
18 Education against the private school for any violation of this  
19 section for 3 consecutive years or longer.

20  
21 However, any private school that was subject to an action  
22 taken by the Department of Education for any violation of this  
23 section shall, following the date on which action was taken  
24 against the private school for a violation of this section,  
25 but prior to receiving the next quarterly payment, and for 2  
26 additional consecutive years thereafter, file a surety bond  
27 with the Department of Education. statement by a certified  
28 public accountant confirming that the nonpublic school  
29 desiring to participate is insured and the owner or owners  
30 have sufficient capital or credit to operate the school for  
31 the upcoming year serving the number of students anticipated

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1 ~~with expected revenues from tuition and other sources that may~~  
 2 ~~be reasonably expected. In lieu of such a statement, a surety~~  
 3 ~~bond or letter of credit for the amount equal to the~~  
 4 ~~scholarship funds for any quarter may be filed with the~~  
 5 ~~department.~~

6 (b) Comply with the antidiscrimination provisions of  
 7 42 U.S.C. s. 2000d.

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

10 (d) Comply with all state laws relating to general  
 11 regulation of private ~~nonpublic~~ schools.

12 (e) Employ or contract with teachers who have regular  
 13 and direct contact with each student receiving a scholarship  
 14 under this section at the school's physical location. All  
 15 teachers must hold at least a baccalaureate degree or have at  
 16 least 3 years' teaching experience in public or private  
 17 schools or have special skills, knowledge, or expertise that  
 18 qualifies them to provide instruction in subjects taught. As  
 19 part of the sworn-compliance form authorized under subsection  
 20 (7), an eligible private school must report to the Department  
 21 of Education the number of teachers employed or under contract  
 22 with the private school, along with the manner in which the  
 23 teacher meets the requirements of this paragraph.

24 (f) Annually register with the Department of  
 25 Education. Each private school must annually provide the  
 26 following information to the Department of Education:

27 1. The legal business and trade names, mailing  
 28 address, and business location of the private school;

29 2. The legal name, mailing address, and telephone  
 30 numbers of an owner of the private school;

31 3. A list of students at the private school receiving

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1 a scholarship under this section; and

2 4. A notification of the private school's intent to  
3 participate in the program under this section.

4 (g) Ensure that all personnel who are hired,  
5 contracted, or engaged to provide services to fill positions  
6 requiring direct contact with students in the private school,  
7 and all owners of a private school shall, upon employment,  
8 entry into the contract, engagement to provide services, or  
9 assumption of a position of ownership, a position of  
10 decisionmaking authority, or a position having access to  
11 scholarship funds, undergo background screening pursuant to s.  
12 435.04 by filing with the Department of Education a complete  
13 set of fingerprints taken by an authorized law enforcement  
14 agency or an employee of the private school who is trained to  
15 take fingerprints. These fingerprints shall be submitted to  
16 the Department of Law Enforcement for state processing, which  
17 shall in turn submit the fingerprints to the Federal Bureau of  
18 Investigation for federal processing. The Department of  
19 Education shall screen the background results and report to  
20 the private school any person described in this paragraph who  
21 fails to meet level 2 screening standards pursuant to s.  
22 435.04 or any person described in this paragraph who has been  
23 convicted of a crime involving moral turpitude. Employees,  
24 contractors, personnel engaged to provide services, or owners  
25 found through fingerprint processing to have been convicted of  
26 a crime involving moral turpitude or failing to meet level 2  
27 screening standards pursuant to s. 435.04 may not be employed,  
28 contracted with, or engaged to provide services in any  
29 position in the private school requiring direct contact with  
30 students, and may not assume a position of ownership, a  
31 position of decisionmaking authority, or a position having

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1 access to scholarship funds. The cost of the background  
2 screening may be borne by the private school, the employee,  
3 the contractor, the person engaged to provide services, or the  
4 owner.

5 1. Every 5 years each person described in this  
6 paragraph must meet level 2 screening requirements as  
7 described in s. 435.04, at which time the Department of  
8 Education shall request the Department of Law Enforcement to  
9 forward the fingerprints to the Federal Bureau of  
10 Investigation for level 2 screening. If the fingerprints of a  
11 person described in this paragraph are not retained by the  
12 Department of Law Enforcement under subparagraph 2., the  
13 person must file a complete set of fingerprints with the  
14 Department of Education. Upon submission of fingerprints for  
15 this purpose, the Department of Education shall request the  
16 Department of Law Enforcement to forward the fingerprints to  
17 the Federal Bureau of Investigation for level 2 screening, and  
18 the fingerprints shall be retained by the Department of Law  
19 Enforcement under subparagraph 2. The cost of the state and  
20 federal criminal history check required by level 2 screening  
21 may be borne by the private school, the employee, the  
22 contractor, the person engaged to provide services, or the  
23 owner. Under penalty of perjury, each person described in this  
24 paragraph must agree to inform the private school immediately  
25 if convicted of any disqualifying offense while in a capacity  
26 with the private school as described in this paragraph. If it  
27 is found that a person described in this paragraph does not  
28 meet the level 2 requirements, the person shall be immediately  
29 suspended from working in that capacity and shall remain  
30 suspended until final resolution of any appeals.

31 2. Beginning July 1, 2004, all fingerprints submitted

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1 to the Department of Law Enforcement as required by this  
2 paragraph shall be retained by the Department of Law  
3 Enforcement in a manner provided by rule and entered in the  
4 statewide automated fingerprint identification system  
5 authorized by s. 943.05(2)(b). Such fingerprints shall  
6 thereafter be available for all purposes and uses authorized  
7 for arrest fingerprint cards entered in the statewide  
8 automated fingerprint identification system pursuant to s.  
9 943.051.

10 3. Beginning December 15, 2004, the Department of Law  
11 Enforcement shall search all arrest fingerprint cards received  
12 under s. 943.051 against the fingerprints retained in the  
13 statewide automated fingerprint identification system under  
14 subparagraph 2. Any arrest record that is identified with the  
15 fingerprints of a person described in this paragraph shall be  
16 reported to the Department of Education. Each eligible private  
17 school shall participate in this search process by paying an  
18 annual fee to the Department of Law Enforcement and by  
19 informing the Department of Law Enforcement of any change in  
20 the status or place of employment, contracting, or engagement  
21 of services of its personnel as described in this paragraph  
22 whose fingerprints are retained under subparagraph 2. The  
23 Department of Law Enforcement shall adopt a rule setting the  
24 amount of the annual fee to be imposed upon each private  
25 school for performing these searches and establishing the  
26 procedures for the retention of private school personnel  
27 fingerprints and the dissemination of search results. The fee  
28 may be borne by the private school, the employee, the  
29 contracted person, the person engaged to provide services, or  
30 the owner.

31 (h) Annually administer or make provisions for

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1 scholarship students to take the Iowa Test of Basic Skills,  
2 the Stanford-9, or the Florida Comprehensive Assessment Test,  
3 or subsequent versions of these tests. A participating private  
4 school must report a student's scores to the parent and to the  
5 independent private research organization selected by the  
6 Department of Education pursuant to subsection (7).

7 (i) Annually comply with the Department of Education's  
8 affidavit requirements as provided in subsection (8).

9 (j) Notify in writing the Department of Education and  
10 the nonprofit scholarship-funding organization within 7 days  
11 if a student is ineligible to participate in the scholarship  
12 program.

13 (k) Publish and report annually to the Department of  
14 Education and distribute to the scholarship applicants if the  
15 school has been in existence for 3 years or less.

16 (l) Publish and report annually to the Department of  
17 Education and distribute to the scholarship applicants:

18 1. Whether the private school is accredited by an in  
19 state or regional accrediting association that is validated by  
20 a third-party accreditor at the state or national level which  
21 has been in existence at least 3 years;

22 2. The name of the accrediting association that  
23 accredits the private school; and

24 3. Whether the private school is in the process of  
25 receiving candidate status.

26  
27 The Department of Education shall make the annual list of  
28 accredited and nonaccredited private schools available to the  
29 public and shall make that list available by county.

30 (m) Comply with this section's requirements. A private  
31 school that fails to comply with this section is ineligible to

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1 participate in the scholarship program under this section.  
2 (7) DEPARTMENT OF EDUCATION; RESPONSIBILITIES.--The  
3 Department of Education must:  
4 (a) Annually submit, by March 15, to the Department of  
5 Revenue a list of eligible nonprofit scholarship-funding  
6 organizations that meet the requirements of this section.  
7 (b) Annually determine the eligibility of nonprofit  
8 scholarship-funding organizations that meet the requirements  
9 of this section. The Department of Education must determine  
10 the eligibility of the nonprofit scholarship-funding  
11 organization within 90 days after the nonprofit  
12 scholarship-funding organization's application for approval to  
13 participate in the program. The Department of Education must  
14 provide written notice of approval or denial to participate in  
15 the program to the nonprofit scholarship-funding organization.  
16 The notice must contain the specific reasons for approval or  
17 denial.  
18 (c) Annually determine the eligibility of private  
19 schools that meet the requirements of this section. The  
20 Department of Education must maintain a list of eligible  
21 private schools, and that list must be made accessible to the  
22 public.  
23 (d) Annually verify the eligibility of students that  
24 meet the requirements of this section. The Department of  
25 Education must maintain a database of students participating  
26 in the program. The Department of Education must, at least  
27 quarterly, update its database to ensure that a student  
28 continues to meet the requirements of this section. The  
29 Department of Education must immediately notify an eligible  
30 nonprofit scholarship-funding organization of any student that  
31 fails to meet the requirements of this section.

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1       (e) Annually account for and verify the eligibility of  
2 expenditures under this section.

3       (f) Annually review all audit reports of nonprofit  
4 scholarship-funding organizations for compliance with this  
5 section.

6       (g) Annually submit, administer, and retain records of  
7 affidavits from private schools certifying compliance with  
8 this section.

9       (h) Select an independent private research  
10 organization to which participating private schools must  
11 report the scores of participating students on the Iowa Test  
12 of Basic Skills, the Stanford-9, or the Florida Comprehensive  
13 Assessment Test, or subsequent versions of these tests  
14 administered by the private school. The independent private  
15 research organization must annually report to the Department  
16 of Education on the year-to-year improvements of the  
17 participating students. The independent research organization  
18 must analyze and report student performance data, including  
19 student scores by grade level, in a manner that protects the  
20 rights of students and parents as mandated in 20 U.S.C. s.  
21 1232g and must not disaggregate data to a level that will  
22 disclose the identity of students or of private schools. To  
23 the extent possible, the independent private research  
24 organization must accumulate historical performance data on  
25 students from the Department of Education and private schools  
26 to describe baseline performance and to conduct longitudinal  
27 studies.

28       (i) Revoke the eligibility of a nonprofit  
29 scholarship-funding organization, private school, or student  
30 to participate in the program for noncompliance with this  
31 section.

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1           (j) Annually report, by December 15, to the Governor,  
2 the President of the Senate, and the Speaker of the House of  
3 Representatives of the Department of Education's actions with  
4 respect to implementing accountability in the scholarship  
5 program under this section including, but not limited to, any  
6 substantiated allegations or violations of law or rule by a  
7 nonprofit scholarship-funding organization or private school  
8 under this program and the corrective action taken by the  
9 Department of Education.

10           ~~(8)(7)~~ ADMINISTRATION; RULES.--

11           (a) If the credit granted pursuant to this section is  
12 not fully used in any one year because of insufficient tax  
13 liability on the part of the corporation, the unused amount  
14 may be carried forward for a period not to exceed 3 years;  
15 however, any taxpayer that seeks to carry forward an unused  
16 amount of tax credit must submit an application for allocation  
17 of tax credits or carryforward credits as required in  
18 paragraph (d) in the year that the taxpayer intends to use the  
19 carryforward. The total amount of tax credits and carryforward  
20 of tax credits granted each state fiscal year under this  
21 section is \$88 million. This carryforward applies to all  
22 approved contributions made after January 1, 2002. A taxpayer  
23 may not convey, assign, or transfer the credit authorized by  
24 this section to another entity unless all of the assets of the  
25 taxpayer are conveyed, assigned, or transferred in the same  
26 transaction.

27           (b) An application for a tax credit pursuant to this  
28 section shall be submitted to the Department of Revenue on  
29 forms established by rule of the Department of Revenue.

30           (c) The Department of Revenue and the Department of  
31 Education shall develop a cooperative agreement to assist in

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1 the administration of this section. ~~The Department of~~  
 2 ~~Education shall be responsible for annually submitting, by~~  
 3 ~~March 15, to the department a list of eligible nonprofit~~  
 4 ~~scholarship-funding organizations that meet the requirements~~  
 5 ~~of paragraph (2)(d) and for monitoring eligibility of~~  
 6 ~~nonprofit scholarship-funding organizations that meet the~~  
 7 ~~requirements of paragraph (2)(d), eligibility of nonpublic~~  
 8 ~~schools that meet the requirements of paragraph (2)(c), and~~  
 9 ~~eligibility of expenditures under this section as provided in~~  
 10 ~~subsection (4).~~

11 (d) The Department of Revenue shall adopt rules  
 12 necessary to administer this section, including rules  
 13 establishing application forms and procedures and governing  
 14 the allocation of tax credits and carryforward credits under  
 15 this section on a first-come, first-served basis.

16 (e) The State Board of Education ~~Department of~~  
 17 ~~Education~~ shall adopt rules pursuant to ss. 120.536(1) and  
 18 120.54 to administer this section, including, but not limited  
 19 to, rules: necessary to

20 1. Determining ~~determine~~ eligibility of nonprofit  
 21 scholarship-funding organizations and private schools; as  
 22 ~~defined in paragraph (2)(d) and according to the provisions of~~  
 23 ~~subsection (4) and~~

24 2. Identifying ~~identify~~ qualified students; ~~as defined~~  
 25 ~~in paragraph (2)(e).~~

26 3. Identifying the documentation required to establish  
 27 eligibility for nonprofit scholarship-funding organizations;

28 4. Requiring an affidavit, which comports with this  
 29 section's requirements for private schools that participate in  
 30 the scholarship program; and

31 5. Identifying the independent income-verification

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1 documentation required to establish student eligibility under  
2 this section.

3 (f) The State Board of Education may delegate its  
4 authority under this section to the Commissioner of Education  
5 with the exception of rulemaking authority.

6 (9)(8) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--All  
7 eligible contributions received by an eligible nonprofit  
8 scholarship-funding organization shall be deposited in a  
9 manner consistent with s. 17.57(2).

10

11 (Redesignate subsequent sections.)

12

13

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

15 And the title is amended as follows:

16 On page 1, line 2, through  
17 page 4, line 14, delete those lines

18

19 and insert:

20 An act relating to scholarship programs;  
21 amending s. 1002.39, F.S., relating to the John  
22 M. McKay Scholarships for Students with  
23 Disabilities Program; revising the definition  
24 of an eligible student; revising the  
25 eligibility requirements of the program to  
26 extend the term of the scholarship; prohibiting  
27 certain students from receiving a scholarship;  
28 revising the parental notification  
29 requirements; authorizing certain scholarship  
30 students to participate in a distance learning  
31 or correspondence course under certain

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1 circumstances; providing a definition of timely  
2 parental notification; providing requirements  
3 for district school boards with respect to  
4 completing and making changes to the matrix of  
5 services for scholarship students; requiring  
6 school districts to provide parental  
7 notification related to reassessments; revising  
8 requirements that a participating private  
9 school demonstrate fiscal soundness; requiring  
10 a surety bond; providing an exception;  
11 requiring annual registration of private  
12 schools; providing requirements for  
13 documentation and notice; providing additional  
14 requirements for participating private schools;  
15 requiring annual sworn and notarized compliance  
16 statements to be filed with the department;  
17 requiring specific documentation for  
18 participating scholarship students; requiring  
19 that the private school maintain a physical  
20 location in this state; requiring that  
21 information be made available to potential  
22 scholarship students and the department;  
23 requiring scholarship students to participate  
24 in assessments; requiring notification to  
25 parents regarding student skill levels;  
26 requiring notification to the department  
27 regarding changes in information; requiring  
28 notification to local health departments;  
29 requiring certain individuals to undergo level  
30 2 background screening requirements pursuant to  
31 s. 435.04, F.S.; providing for the Department

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1 of Law Enforcement to retain and search  
2 fingerprint records; providing for an annual  
3 fee as provided by rule of the Department of  
4 Law Enforcement; requiring that costs of  
5 background checks be borne by certain parties;  
6 prohibiting a private school from acting as an  
7 attorney in fact for the parent of a  
8 scholarship student or endorsing scholarship  
9 warrants on behalf of a parent; prohibiting  
10 participating private schools from sending or  
11 directing scholarship funds to parents of a  
12 scholarship student who receives instruction at  
13 home; prohibiting a participating school from  
14 being a correspondence or distance learning  
15 school; prohibiting a participating school from  
16 accepting students pending verification of  
17 information; authorizing a participating  
18 private school to request, and the department  
19 to grant, closed-enrollment status for a  
20 school; prohibiting the parent of a scholarship  
21 student from designating a participating  
22 private school as the parent's attorney in fact  
23 to sign a scholarship warrant; clarifying that  
24 the school district must report to the  
25 department the students who are attending a  
26 private school under the program; establishing  
27 additional obligations of the Department of  
28 Education; requiring the department to review,  
29 approve, and verify information and review  
30 background checks; requiring the department to  
31 determine the eligibility of a private school

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1 to participate in the program; requiring the  
2 department to publish an on-line list of  
3 current eligible private schools; requiring the  
4 department to deny or refuse to allow the  
5 participation of a private school for failing  
6 to meet certain requirements; requiring the  
7 department to issue a notice of noncompliance  
8 for minor violations; providing for an  
9 emergency order revoking the registration of a  
10 private school for failing to satisfy the  
11 requirements in the notice; requiring the  
12 Department of Education to immediately revoke  
13 the registration of a private school for  
14 certain other violations; requiring the  
15 department to revoke the scholarship for a  
16 participant for failing to comply with  
17 statutory requirements or for engaging in  
18 specified practices; requiring the department  
19 to conduct investigations of legally sufficient  
20 complaints of violations; authorizing the  
21 department to require supporting information or  
22 documentation; authorizing the Department of  
23 Education to change the matrix of services  
24 under certain circumstances; providing for  
25 audits by the Auditor General; providing  
26 requirements for the audits; requiring the  
27 State Board of Education to adopt rules;  
28 specifying the required rules; requiring the  
29 State Board of Education to initiate the  
30 adoption of rules by a time certain and report  
31 to the Legislature; providing exceptions for

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1 certain participating private schools subject  
2 to specific conditions; amending s. 220.187,  
3 F.S., relating to the Corporate Tax Credit  
4 Scholarship Program; providing definitions;  
5 prohibiting certain private schools and other  
6 entities from participating in the scholarship  
7 program; prohibiting certain students from  
8 participating in the scholarship program;  
9 revising limitations on the allocation of  
10 annual credits granted under the program;  
11 providing limitations on eligible  
12 contributions; requiring the Auditor General to  
13 review certain audits, request certain  
14 information, and report to the Legislative  
15 Auditing Committee any findings of  
16 noncompliance; authorizing the Legislative  
17 Auditing Committee to conduct hearings and  
18 compel the Department of Education to revoke  
19 eligibility of certain nonprofit  
20 scholarship-funding organizations; providing  
21 for audit reports to be submitted to the  
22 Department of Education; requiring audits be  
23 conducted within 180 days after completion of  
24 the nonprofit scholarship-funding  
25 organization's fiscal year; requiring a  
26 nonprofit scholarship-funding organization to  
27 make scholarship payments at least on a  
28 quarterly basis; prohibiting commingling of  
29 certain scholarship funds; requiring a  
30 nonprofit scholarship-funding organization to  
31 maintain a separate account for scholarship

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1 funds; requiring a nonprofit  
2 scholarship-funding organization to verify  
3 student attendance at a private school prior to  
4 submission of scholarship funds; requiring a  
5 nonprofit scholarship-funding organization to  
6 verify income eligibility of qualified students  
7 at least once a year in accordance with State  
8 Board of Education rules; requiring a nonprofit  
9 scholarship-funding organization to submit  
10 certain reports to the Department of Education;  
11 requiring certain individuals to undergo level  
12 2 background screening requirements pursuant to  
13 s. 435.04, F.S.; providing for the Department  
14 of Law Enforcement to retain and search  
15 fingerprint records; providing for an annual  
16 fee as provided by rule of the Department of  
17 Law Enforcement; requiring costs of background  
18 checks be borne by certain parties; requiring a  
19 nonprofit scholarship-funding organization  
20 comply with antidiscrimination provisions of 42  
21 U.S.C. s. 2000d; prohibiting an owner or a  
22 nonprofit scholarship-funding organization from  
23 owning, operating, or administering an eligible  
24 private school under the scholarship program;  
25 requiring a nonprofit scholarship-funding  
26 organization to report any private school not  
27 in compliance with scholarship program  
28 requirements to the Department of Education;  
29 prohibiting provision of scholarship funds to a  
30 student to attend a private school not in  
31 compliance; authorizing a parent to transfer

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1 the scholarship; requiring award of  
2 scholarships on a first-come, first-served  
3 basis; prohibiting a nonprofit  
4 scholarship-funding organization from targeting  
5 certain students for scholarships; prohibiting  
6 the award of scholarships to a child of an  
7 owner of a nonprofit scholarship-funding  
8 organization; prohibiting the transfer of an  
9 eligible contribution between nonprofit  
10 scholarship-funding organizations; prohibiting  
11 a nonprofit scholarship-funding organization  
12 from securing financing in anticipation of  
13 eligible contributions; prohibiting a nonprofit  
14 scholarship-funding organization from  
15 participating in the program if the  
16 organization fails to meet statutory  
17 obligations; requiring students to meet certain  
18 attendance policies; requiring parents to meet  
19 certain parental involvement requirements  
20 unless excused; prohibiting a parent from  
21 authorizing a power of attorney for endorsement  
22 of scholarship warrant; requiring a parent to  
23 ensure that a scholarship student participates  
24 in testing requirements; prohibiting a student  
25 or parent of a student from participating in  
26 the scholarship program if the student or  
27 parent fails to meet statutory obligations;  
28 revising provisions with respect to private  
29 schools; revising requirements that a  
30 participating private school demonstrate fiscal  
31 soundness; requiring a surety bond; providing

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1 an exception; requiring a private school to  
2 employ or contract with teachers who have  
3 regular and direct contact with students at the  
4 school's physical location; requiring the  
5 private schools to employ or contract with  
6 teachers who have at least a baccalaureate  
7 degree, 3 years of teaching experience at a  
8 public or private school, or other skills that  
9 qualify the teacher to provide appropriate  
10 instruction; requiring a private school to  
11 report to the Department of Education the  
12 qualifications of teachers; requiring a private  
13 school to annually register with the Department  
14 of Education and provide certain information  
15 concerning the private school organization,  
16 student list, and notice of intent to  
17 participate in the scholarship program;  
18 requiring certain individuals to undergo level  
19 2 background screening requirements pursuant to  
20 s. 435.04, F.S.; providing for the Department  
21 of Law Enforcement to retain and search  
22 fingerprint records; providing for an annual  
23 fee as provided by rule of the Department of  
24 Law Enforcement; requiring costs of background  
25 checks be borne by certain parties; requiring a  
26 private school to administer or to make  
27 provision for administering certain tests to  
28 scholarship students; requiring reporting of  
29 scores to the student's parent and to the  
30 independent private research organization  
31 selected by the Department of Education;

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1 requiring a private school to file an  
2 affidavit; requiring a private school to notify  
3 the Department of Education in writing within 7  
4 days if a student is ineligible to participate  
5 in the scholarship program; requiring a private  
6 school to report to the Department of Education  
7 and distribute to scholarship applicants  
8 information concerning accreditation and years  
9 in existence; requiring the Department of  
10 Education to make certain information  
11 concerning private school accreditation  
12 available to the public; prohibiting a private  
13 school from participating in the scholarship  
14 program if the private school fails to meet its  
15 statutory obligations; requiring the Department  
16 of Education to determine the eligibility of  
17 certain nonprofit scholarship-funding  
18 organizations within 90 days after application;  
19 requiring a written notice with specific  
20 reasons for approval or denial; requiring the  
21 Department of Education to annually determine  
22 the eligibility of nonprofit  
23 scholarship-funding organizations and private  
24 schools; requiring the Department of Education  
25 to make accessible to the public a list of  
26 eligible private schools; requiring the  
27 Department of Education to annually verify the  
28 eligibility of students; requiring the  
29 Department of Education to maintain a student  
30 database of program participants and to update  
31 the database at least quarterly; requiring the

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1 Department of Education to notify a nonprofit  
2 scholarship-funding organization of any  
3 ineligible student; requiring the Department of  
4 Education to annually account for and verify  
5 the eligibility of program expenditures;  
6 requiring the Department of Education to review  
7 audits; requiring the Department of Education  
8 to select an independent private research  
9 organization for reporting of student scores;  
10 providing limitations on reporting; requiring  
11 the Department of Education to revoke the  
12 eligibility of program participants for failure  
13 to comply with statutory obligations; requiring  
14 the Department of Education to annually report  
15 on accountability activities; requiring the  
16 State Board of Education to adopt rules  
17 regarding identification of documentation to  
18 establish eligibility of nonprofit  
19 scholarship-funding organizations, requiring an  
20 affidavit, and identification of independent  
21 income verification for determining the  
22 eligibility of students; authorizing the State  
23 Board of Education to delegate its authority to  
24 the Commissioner of Education with the  
25 exception of rulemaking authority; providing an  
26 effective

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