

CHAMBER ACTION

1 The Committee on Education K-20 recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to scholarship program accountability;
7 amending s. 220.187, F.S., relating to credits for
8 contributions to nonprofit scholarship-funding
9 organizations; removing a cap on contributions to a single
10 eligible nonprofit scholarship-funding organization;
11 revising definition of the terms "eligible nonprofit
12 scholarship-funding organization" and "qualified student";
13 defining the term "owner or operator"; reducing small
14 business credit reservation; providing for rescindment of
15 tax credit allocation; authorizing scholarships for
16 transportation expenses to lab schools; providing
17 restrictions on receipt of a scholarship; providing for
18 obligation of eligible contributions; requiring a separate
19 account for scholarship funds; authorizing transfer of
20 funds between scholarship-funding organizations;
21 specifying audit requirements; requiring attendance
22 verification prior to scholarship payment; requiring
23 quarterly scholarship payments; requiring quarterly

24 reports; requiring income verification; requiring
25 fingerprinting and criminal background checks; providing
26 restrictions on scholarship-funding organization ownership
27 or operation; providing for reporting of noncompliant
28 private schools; providing for equal opportunity;
29 providing for private school availability; providing for a
30 line of credit; providing for parent and student
31 obligations; prohibiting power of attorney for endorsing
32 scholarship checks; revising fiscal soundness requirements
33 for private schools; providing for additional private
34 school obligations, including compliance with specified
35 laws, employment of qualified teachers, and provision of
36 student testing; requiring fingerprinting and criminal
37 background checks; prohibiting certain types of
38 educational programs; providing Department of Education
39 and Commissioner of Education obligations and
40 responsibilities, including verification of eligibility of
41 program participants, investigation of violations,
42 analysis of student performance data, and authority to
43 suspend or prohibit participation in the scholarship
44 program; requiring State Board of Education rules;
45 providing for Department of Financial Services
46 obligations; amending s. 1002.39, F.S., relating to the
47 John M. McKay Scholarships for Students with Disabilities
48 Program; revising definition of the term "students with
49 disabilities"; restricting eligibility to receive a John
50 M. McKay Scholarship; providing Department of Education
51 obligations to establish an information hotline,

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52 | investigate private school violations, and retain records;
 53 | revising requirements for private school fiscal soundness;
 54 | revising eligibility requirements for private schools,
 55 | including compliance with specified laws and rules and
 56 | maintenance of a physical location in the state, with an
 57 | exception; requiring fingerprinting and criminal
 58 | background checks; prohibiting certain types of
 59 | educational programs; prohibiting power of attorney for
 60 | endorsing scholarship checks; revising provisions relating
 61 | to scholarship payment; providing for Department of
 62 | Financial Services obligations; providing Commissioner of
 63 | Education authority to suspend or prohibit program
 64 | participation; providing an effective date.

65 |
 66 | Be It Enacted by the Legislature of the State of Florida:
 67 |

68 | Section 1. Section 220.187, Florida Statutes, is amended
 69 | to read:

70 | 220.187 Credits for contributions to nonprofit
 71 | scholarship-funding organizations.--

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

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

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

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

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

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

81 (b) "Eligible contribution" means a monetary contribution
82 from a taxpayer, subject to the restrictions provided in this
83 section, to an eligible nonprofit scholarship-funding
84 organization. The taxpayer making the contribution may not
85 designate a specific child as the beneficiary of the
86 contribution. ~~The taxpayer may not contribute more than \$5~~
87 ~~million to any single eligible nonprofit scholarship-funding~~
88 ~~organization.~~

89 ~~(c)~~~~(d)~~ "Eligible nonprofit scholarship-funding
90 organization" means a charitable organization that is exempt
91 from federal income tax pursuant to s. 501(c)(3) of the Internal
92 Revenue Code, that is a Florida entity formed under chapter 607,
93 chapter 608, or chapter 617 and whose principal office is
94 located in the state, and that complies with the provisions of
95 subsection (4).

96 ~~(d)~~~~(e)~~ "Eligible private ~~nonpublic~~ school" means a private
97 ~~nonpublic~~ school located in Florida that offers an education to
98 students in any grades K-12 and that meets the requirements in
99 subsection ~~(6)~~~~(5)~~.

100 (e) "Owner or operator" includes:

101 1. An owner, president, officer, or director of an
102 eligible nonprofit scholarship-funding organization or a person
103 with equivalent decisionmaking authority over an eligible
104 nonprofit scholarship-funding organization.

105 2. An owner, operator, superintendent, or principal of an
106 eligible private school or a person with equivalent
107 decisionmaking authority over an eligible private school.

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108 ~~(f)(e)~~ "Qualified student" means a student who qualifies
 109 for free or reduced-price school lunches under the National
 110 School Lunch Act and who:

111 1. Was counted as a full-time equivalent student during
 112 the previous state fiscal year for purposes of state per-student
 113 funding;

114 2. Received a scholarship from an eligible nonprofit
 115 scholarship-funding organization during the previous school
 116 year; or

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

118
 119 However, for purposes of continuity of educational choice, a
 120 student who is a qualified student shall remain a qualified
 121 student notwithstanding a change in the family's economic status
 122 up to 200 percent of the federal poverty level.

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

125 (a) There is allowed a credit of 100 percent of an
 126 eligible contribution against any tax due for a taxable year
 127 under this chapter. However, such a credit may not exceed 75
 128 percent of the tax due under this chapter for the taxable year,
 129 after the application of any other allowable credits by the
 130 taxpayer. ~~However, at least 5 percent of the total statewide~~
 131 ~~amount authorized for the tax credit shall be reserved for~~
 132 ~~taxpayers who meet the definition of a small business provided~~
 133 ~~in s. 288.703(1) at the time of application.~~ The credit granted
 134 by this section shall be reduced by the difference between the
 135 amount of federal corporate income tax taking into account the

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136 credit granted by this section and the amount of federal
137 corporate income tax without application of the credit granted
138 by this section.

139 (b) The total amount of tax credits and carryforward of
140 tax credits which may be granted each state fiscal year under
141 this section is \$88 million. However, at least 1 percent of the
142 total statewide amount authorized for tax credits shall be
143 reserved for taxpayers who meet the definition of a small
144 business provided in s. 288.703(1) at the time of application.

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

150 (d) A taxpayer may rescind all or part of its allocated
151 tax credit under this section. The amount of the rescindment
152 shall become available for purposes of the cap for that state
153 fiscal year under this section to an eligible taxpayer as
154 approved by the department if the taxpayer receives notice from
155 the department that the rescindment has been accepted by the
156 department, the taxpayer has not previously rescinded any or all
157 of its tax credit allocation under this section more than once
158 in the previous 3 tax years, and the taxpayer has not made a
159 contribution pursuant to its approved application for tax credit
160 under this section. Any amount rescinded under this paragraph
161 shall become available to an eligible taxpayer on a first-come,
162 first-served basis based on tax credit applications received
163 after the date the rescindment is accepted by the department.

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164 (4) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING
 165 ORGANIZATIONS.--An eligible nonprofit scholarship-funding
 166 organization participating in the scholarship program
 167 established in this section shall have the following
 168 obligations:

169 (a) An eligible nonprofit scholarship-funding organization
 170 shall provide corporate income tax credit scholarships, from
 171 eligible contributions, to qualified students for:

172 1. Tuition or textbook expenses for, or transportation to,
 173 an eligible private ~~nonpublic~~ school. At least 75 percent of
 174 each the scholarship funding must be used to pay tuition
 175 expenses; or

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

179 (b) An eligible nonprofit scholarship-funding organization
 180 shall give priority to qualified students who received a
 181 scholarship from an eligible nonprofit scholarship-funding
 182 organization during the previous school year.

183 (c) An eligible nonprofit scholarship-funding organization
 184 shall not provide a scholarship to a student who is receiving an
 185 opportunity scholarship pursuant to s. 1002.38 or a John M.
 186 McKay Scholarship pursuant to s. 1002.39. In addition, an
 187 eligible nonprofit scholarship-funding organization shall not
 188 provide a scholarship to a student who is receiving a corporate
 189 income tax credit scholarship from another eligible nonprofit
 190 scholarship-funding organization.

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

195 1. Three thousand five hundred dollars for a scholarship
 196 awarded to a student enrolled in an eligible private ~~nonpublic~~
 197 school.

198 2. Five hundred dollars for a scholarship awarded to a
 199 student enrolled in a Florida public school that is located
 200 outside the district in which the student resides or in a lab
 201 school as defined in s. 1002.32.

202 (e)~~(d)~~ The amount of an eligible contribution which may be
 203 accepted by an eligible nonprofit scholarship-funding
 204 organization is limited to the amount needed to provide
 205 scholarships for qualified students which the organization has
 206 identified and for which vacancies in eligible private ~~nonpublic~~
 207 schools have been identified.

208 (f)~~(e)~~ An eligible nonprofit scholarship-funding
 209 organization that receives an eligible contribution must
 210 obligate ~~spend~~ 100 percent of the eligible contribution to
 211 provide scholarships in the same state fiscal year in which the
 212 contribution was received. No portion of eligible contributions
 213 may be used for administrative expenses. All interest accrued
 214 from contributions must be used for scholarships.

215 (g) An eligible nonprofit scholarship-funding organization
 216 must maintain separate accounts for scholarship funds and
 217 operating funds.

218 (h) An eligible nonprofit scholarship-funding organization
 219 may transfer funds to another eligible nonprofit scholarship-
 220 funding organization when additional funds are required to meet
 221 scholarship demand. The scholarship-funding organization
 222 transferring funds must request approval for the transfer from
 223 the Department of Education and provide documentation to support
 224 the transfer, including a listing of the scholarships to be
 225 funded from the transfer. The Department of Education shall
 226 verify the listing of students to receive scholarships from the
 227 transfer. No funds may be transferred unless matching eligible
 228 scholarship recipients can be identified by the scholarship-
 229 funding organization receiving the transfer.

230 (i)~~(f)~~ An eligible nonprofit scholarship-funding
 231 organization that receives eligible contributions must provide
 232 to the Auditor General and the Department of Education an annual
 233 financial and compliance audit of its accounts and records
 234 conducted by an independent certified public accountant and in
 235 accordance with rules adopted by the Auditor General. The audit
 236 must be conducted in compliance with generally accepted auditing
 237 standards and must include a report on financial statements
 238 presented in accordance with Generally Accepted Accounting
 239 Principles set forth by the American Institute of Certified
 240 Public Accountants for not-for-profit organizations and a
 241 determination of compliance with the statutory eligibility and
 242 expenditure requirements set forth in this section. Audits must
 243 be provided to the Auditor General and the Department of
 244 Education within 120 days after completion of the nonprofit
 245 scholarship-funding organization's fiscal year.

246 (j)~~(g)~~ An eligible nonprofit scholarship-funding
 247 organization shall obtain verification from the private school
 248 of a student's continued attendance at the school prior to each
 249 scholarship payment. Payment of the scholarship shall be made by
 250 the eligible nonprofit scholarship-funding organization no less
 251 frequently than on a quarterly basis. Payment of the scholarship
 252 by the eligible nonprofit scholarship-funding organization shall
 253 be by individual warrant or check made payable to the student's
 254 parent. If the parent chooses for his or her child to attend an
 255 eligible private ~~nonpublic~~ school, the warrant or check must be
 256 mailed by the eligible nonprofit scholarship-funding
 257 organization to the private ~~nonpublic~~ school of the parent's
 258 choice, and the parent shall restrictively endorse the warrant
 259 or check to the private ~~nonpublic~~ school. An eligible nonprofit
 260 scholarship-funding organization shall ensure that, upon receipt
 261 of a scholarship warrant or check, the parent to whom the
 262 warrant or check is made restrictively endorses the warrant or
 263 check to the private ~~nonpublic~~ school of the parent's choice for
 264 deposit into the account of the private ~~nonpublic~~ school.

265 (k) An eligible nonprofit scholarship-funding organization
 266 must prepare and submit quarterly reports to the Department of
 267 Education pursuant to subsection (7). In addition, an eligible
 268 nonprofit scholarship-funding organization must submit in a
 269 timely manner any information requested by the Department of
 270 Education relating to the scholarship program.

271 (l) An eligible nonprofit scholarship-funding organization
 272 must verify the income of all applicants participating in the

273 scholarship program each year with independent income
274 documentation.

275 (m) An owner or operator of an eligible nonprofit
276 scholarship-funding organization must, within 5 days after
277 assuming ownership or decisionmaking authority, file with the
278 Department of Law Enforcement a complete set of fingerprints for
279 state processing for a criminal background check. The costs of
280 fingerprinting and the background check shall not be borne by
281 the state. The results of the criminal background check shall be
282 forwarded to the owner or operator and to the Department of
283 Education.

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

289 (o) An owner or operator of an eligible nonprofit
290 scholarship-funding organization is prohibited from owning or
291 operating an eligible private school that is participating in
292 the scholarship program.

293 (p) An eligible nonprofit scholarship-funding organization
294 shall report to the Department of Education any private school
295 that is not in compliance with the requirements of the
296 scholarship program. The eligible nonprofit scholarship-funding
297 organization shall not provide additional scholarship funds to a
298 parent for a student to attend the private school until a
299 determination is made by the Commissioner of Education that the

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300 school is in compliance with the requirements of the scholarship
301 program.

302 (q) An eligible nonprofit scholarship-funding organization
303 shall not discriminate in the provision of scholarships to a
304 qualified student based on the student's race, color, national
305 origin, sex, or religion.

306 (r) An eligible nonprofit scholarship-funding organization
307 shall allow a qualified student to attend any eligible private
308 school and shall allow a parent to transfer a scholarship during
309 a school year to any other eligible private school of the
310 parent's choice.

311 (s) An eligible nonprofit scholarship-funding organization
312 shall not target scholarships to a particular private school or
313 provide scholarships to children of employees of the nonprofit
314 scholarship-funding organization.

315 (t) An eligible nonprofit scholarship-funding organization
316 may obtain a secured line of credit to fund scholarship payments
317 based on estimated contributions to be received within a 6-
318 month period. These funds may only be used to provide
319 scholarship payments. Interest and fees related to the line of
320 credit shall be paid from the scholarship-funding organization's
321 operating budget and not from contributions or loan proceeds.

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

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

328 (b) A student is not eligible to receive a corporate
 329 income tax credit scholarship if he or she is receiving an
 330 opportunity scholarship pursuant to s. 1002.38 or a John M.
 331 McKay Scholarship pursuant to s. 1002.39. A student is not
 332 eligible to receive a scholarship from more than one eligible
 333 nonprofit scholarship-funding organization. A student is not
 334 eligible to receive a corporate income tax credit scholarship if
 335 the family's economic status exceeds 200 percent of the federal
 336 poverty level.

337 (c) Upon receipt of a scholarship warrant or check from
 338 the eligible nonprofit scholarship-funding organization, the
 339 parent to whom the warrant or check is made must restrictively
 340 endorse the warrant or check to the private school for deposit
 341 into the account of the private school. A private school may not
 342 act as attorney in fact for parents of a scholarship student
 343 under the authority of a power of attorney executed by such
 344 parents or under any other authority allowing endorsement of
 345 scholarship warrants on behalf of parents. If a parent refuses
 346 to restrictively endorse a warrant to which a private school is
 347 entitled, that student's scholarship shall be forfeited
 348 immediately.

349 (d) Any student participating in the scholarship program
 350 must remain in attendance throughout the school year unless
 351 excused by the school for illness or other good cause and must
 352 comply fully with the school's code of conduct.

353 (e) The parent of a student participating in the
 354 scholarship program must comply fully with the private school's

355 parental involvement requirements unless excused by the school
 356 for illness or other good cause.

357 (f) The parent of a student participating in the
 358 scholarship program must ensure that the student participates in
 359 the nationally norm-referenced testing required by this section.
 360 Students with disabilities for whom standardized testing is not
 361 appropriate are exempt from this requirement.

362 (g) A participant in the scholarship program who fails to
 363 comply with this subsection forfeits the scholarship.

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

366 (a) Demonstrate fiscal soundness by being in operation for
 367 3 school years or obtain one school year or provide the
 368 Department of Education with a statement by a certified public
 369 accountant confirming that the nonpublic school desiring to
 370 participate is insured and the owner or owners have sufficient
 371 capital or credit to operate the school for the upcoming year
 372 erving the number of students anticipated with expected
 373 revenues from tuition and other sources that may be reasonably
 374 expected. In lieu of such a statement, a surety bond or letter
 375 of credit for the amount equal to the scholarship funds for any
 376 quarter ~~to~~ may be filed with the Department of Education. The
 377 surety bond or letter of credit shall serve to secure
 378 expenditures of scholarship funds should such funds be found to
 379 have been used for unlawful purposes. However, if during the
 380 school year a private school exhibits financial difficulty or is
 381 otherwise not in compliance with this section, the Commissioner

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382 of Education may impose additional requirements on the private
 383 school, which may include additional security bonding.

384 (b) Notify the Department of Education of its intent to
 385 participate in the scholarship program. The notice must specify
 386 the grade levels that the private school has available for
 387 students participating in the scholarship program.

388 (c)(b) Comply with the antidiscrimination provisions of 42
 389 U.S.C. s. 2000d.

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

392 1. Fire safety.

393 2. Building codes.

394 (e)(d) Comply with all state laws relating to general
 395 regulation of private nonpublic schools, including, but not
 396 limited to, laws pertaining to:

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

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

399 3. Attendance records and reports required in s.

400 1003.23(2).

401 4. School-entry health examinations and immunizations
 402 required in s. 1003.22.

403 5. Attendance requirements prescribed in ss. 1003.01(13)
 404 and 1003.21(1).

405 (f) Employ or contract with teachers who hold
 406 baccalaureate or higher degrees, have at least 3 years of
 407 teaching experience in public or private schools, or have
 408 special skills, knowledge, or expertise that qualifies them to
 409 provide instruction in subjects taught.

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410 (g) Annually administer or make provision for students
411 participating in the scholarship program to take one of the
412 nationally norm-referenced tests identified by the Department of
413 Education. Students with disabilities for whom standardized
414 testing is not appropriate are exempt from this requirement. A
415 participating private school must report a student's scores to
416 the parent and to the independent private research organization
417 selected by the Department of Education pursuant to subsection
418 (7).

419 (h) Within 60 days after employment, for any private
420 school owner-operator or private school manager, file with the
421 Department of Law Enforcement a complete set of fingerprints for
422 state processing for a criminal background check. The costs of
423 fingerprinting and the background check shall not be borne by
424 the state. The results of a criminal background check shall be
425 reported to the Department of Education. The owner or operator
426 of the private school shall immediately report to the Department
427 of Education any private school owner-operator or private school
428 manager who has been convicted of a crime that bears upon the
429 individual's fitness to have responsibility for the safety and
430 well-being of children. Employment of such an individual shall
431 cause a private school to be ineligible for participation in the
432 scholarship program. An individual holding a valid Florida
433 teaching certificate who has been fingerprinted pursuant to s.
434 1012.32 shall not be required to comply with the provisions of
435 this paragraph.

436 (i) Annually comply with the requirements of the
437 Department of Education to complete a sworn compliance form

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438 certifying compliance with state laws pursuant to subsection
439 (7).

440 (j) Notify the Department of Education and the eligible
441 nonprofit scholarship-funding organization if any participating
442 student is receiving a warrant or check from more than one
443 eligible nonprofit scholarship-funding organization.

444 (k) Comply with all applicable state agency rules relating
445 to private schools.

446 (l) Not operate as a home education program as defined in
447 ss. 1002.01 and 1002.41, a correspondence course program, or a
448 private tutoring program as described in s. 1002.43.

449
450 The inability of a private school to meet the requirements of
451 this subsection shall constitute a basis for the ineligibility
452 of the private school to participate in the scholarship program
453 as determined by the Department of Education.

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

456 (a) The Department of Education shall:

457 1. Annually submit to the Department of Revenue, by March
458 15, a list of eligible nonprofit scholarship-funding
459 organizations that meet the requirements of paragraph (2)(c).

460 2. Verify the eligibility of nonprofit scholarship-funding
461 organizations that meet the requirements of paragraph (2)(c).

462 3. Verify the eligibility of private schools that meet the
463 requirements of paragraph (2)(d).

464 4. Verify the eligibility of expenditures as provided in
465 subsection (4).

466 5. Establish a toll-free hotline that provides parents,
 467 private schools, and nonprofit scholarship-funding organizations
 468 with information on participation in the scholarship program.

469 6. Establish a process by which individuals may notify the
 470 Department of Education of any violation by a private school or
 471 nonprofit scholarship-funding organization of state laws
 472 relating to scholarship program participation. The department
 473 shall conduct an investigation of any written complaint of a
 474 violation of this section if the complaint is signed by the
 475 complainant and is legally sufficient. A complaint is legally
 476 sufficient if it contains ultimate facts that show that a
 477 violation of this section or any rule adopted by the State Board
 478 of Education or other state agency has occurred. In order to
 479 determine legal sufficiency, the Department of Education may
 480 require supporting information or documentation from the
 481 complainant.

482 7. Require annual completion of a sworn compliance form by
 483 participating private schools certifying compliance with state
 484 laws and retain such records.

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

488 9. Select an independent private research organization to
 489 which participating private schools must report the scores of
 490 participating students on the nationally norm-referenced tests
 491 administered by the private school. The independent private
 492 research organization must annually report to the Department of
 493 Education on the year-to-year improvements of the participating

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494 students. The independent private research organization must
495 analyze and report student performance data in a manner that
496 protects the rights of students and parents as mandated in 20
497 U.S.C. s. 1232g and must not disaggregate data to a level that
498 will disclose the academic level of individuals or of individual
499 schools. To the extent possible, the independent private
500 research organization must accumulate historical performance
501 data on students from the Department of Education and private
502 schools to describe baseline performance and to conduct
503 longitudinal studies. To minimize costs and reduce time required
504 for third-party analysis and evaluation, the Department of
505 Education shall conduct analyses of matched students from public
506 school assessment data and calculate control group learning
507 gains using an agreed upon methodology outlined in the contract
508 with the third-party evaluator. The sharing of student data must
509 be in accordance with the Family Educational Rights and Privacy
510 Act requirements and shall be for the sole purpose of conducting
511 the evaluation. All parties must preserve the confidentiality of
512 such information.

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

515 11. Notify an eligible nonprofit scholarship-funding
516 organization of any of the organization's identified students
517 who are receiving an opportunity scholarship pursuant to s.
518 1002.38 or a John M. McKay Scholarship pursuant to s. 1002.39.

519 12. Notify an eligible nonprofit scholarship-funding
520 organization of any of the organization's identified students

521 who are receiving a corporate income tax credit scholarship from
 522 another eligible nonprofit scholarship-funding organization.

523 13. Require quarterly reports by an eligible nonprofit
 524 scholarship-funding organization regarding the number of
 525 students participating in the scholarship program, the private
 526 schools at which the students are enrolled, and other
 527 information deemed necessary by the Department of Education.

528 14. Regularly cross-check the list of participating
 529 scholarship students with the public school enrollment lists to
 530 avoid duplication.

531 (b) The Commissioner of Education is authorized to suspend
 532 or prohibit an eligible nonprofit scholarship-funding
 533 organization from participation in the scholarship program and
 534 to take other action necessary to ensure compliance with the
 535 provisions of this section.

536 (c) The State Board of Education shall adopt rules
 537 pursuant to ss. 120.536(1) and 120.54 to implement the
 538 provisions of this subsection, including rules to determine the
 539 eligibility of nonprofit scholarship-funding organizations and
 540 to identify qualified students.

541 (8)(7) ADMINISTRATION; RULES.--

542 (a) If the credit granted pursuant to this section is not
 543 fully used in any one year because of insufficient tax liability
 544 on the part of the corporation, the unused amount may be carried
 545 forward for a period not to exceed 3 years; however, any
 546 taxpayer that seeks to carry forward an unused amount of tax
 547 credit must submit an application for allocation of tax credits
 548 or carryforward credits as required in paragraph (d) in the year

549 that the taxpayer intends to use the carryforward. ~~The total~~
550 ~~amount of tax credits and carryforward of tax credits granted~~
551 ~~each state fiscal year under this section is \$88 million.~~ This
552 carryforward applies to all approved contributions made after
553 January 1, 2002. A taxpayer may not convey, assign, or transfer
554 the credit authorized by this section to another entity unless
555 all of the assets of the taxpayer are conveyed, assigned, or
556 transferred in the same transaction.

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

560 (c) The department and the Department of Education shall
561 develop a cooperative agreement to assist in the administration
562 of this section. ~~The Department of Education shall be~~
563 ~~responsible for annually submitting, by March 15, to the~~
564 ~~department a list of eligible nonprofit scholarship funding~~
565 ~~organizations that meet the requirements of paragraph (2)(d) and~~
566 ~~for monitoring eligibility of nonprofit scholarship funding~~
567 ~~organizations that meet the requirements of paragraph (2)(d),~~
568 ~~eligibility of nonpublic schools that meet the requirements of~~
569 ~~paragraph (2)(c), and eligibility of expenditures under this~~
570 ~~section as provided in subsection (4).~~

571 (d) The department shall adopt rules necessary to
572 administer this section, including rules establishing
573 application forms and procedures and governing the allocation of
574 tax credits and carryforward credits under this section on a
575 first-come, first-served basis.

576 (e) Subsequent to each scholarship payment, the Department
 577 of Financial Services shall randomly review endorsed warrants to
 578 confirm compliance with endorsement requirements. ~~The Department~~
 579 ~~of Education shall adopt rules necessary to determine~~
 580 ~~eligibility of nonprofit scholarship funding organizations as~~
 581 ~~defined in paragraph (2)(d) and according to the provisions of~~
 582 ~~subsection (4) and identify qualified students as defined in~~
 583 ~~paragraph (2)(e).~~

584 (9)~~(8)~~ DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--All eligible
 585 contributions received by an eligible nonprofit scholarship-
 586 funding organization shall be deposited in a manner consistent
 587 with s. 17.57(2).

588 Section 2. Subsections (1), (2), and (4), paragraph (f) of
 589 subsection (5), and paragraph (f) of subsection (6) of section
 590 1002.39, Florida Statutes, are amended, paragraphs (g) through
 591 (j) are added to subsection (3), paragraph (g) is added to
 592 subsection (6), subsection (8) is renumbered as subsection (9),
 593 and a new subsection (8) is added to said section, to read:

594 1002.39 The John M. McKay Scholarships for Students with
 595 Disabilities Program.--There is established a program that is
 596 separate and distinct from the Opportunity Scholarship Program
 597 and is named the John M. McKay Scholarships for Students with
 598 Disabilities Program, pursuant to this section.

599 (1) THE JOHN M. MCKAY SCHOLARSHIPS FOR STUDENTS WITH
 600 DISABILITIES PROGRAM.--The John M. McKay Scholarships for
 601 Students with Disabilities Program is established to provide the
 602 option to attend a public school other than the one to which
 603 assigned, or to provide a scholarship to a private school of

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604 choice, for students with disabilities for whom an individual
605 education plan has been written in accordance with rules of the
606 State Board of Education. Students with disabilities include K-
607 12 students who are documented as having mental retardation; a
608 ~~mentally handicapped,~~ speech or and language impairment; a
609 ~~impaired, deaf or hard of hearing~~ impairment, including
610 deafness; a visual impairment, including blindness; a, visually
611 ~~impaired,~~ dual sensory impairment; a physical impairment; a
612 serious emotional disturbance, including an emotional handicap;
613 ~~a impaired, physically impaired, emotionally handicapped,~~
614 specific learning disability, including, but not limited to,
615 dyslexia, dyscalculia, or developmental aphasia; a traumatic
616 brain injury; disabled, hospitalized or homebound, or autism
617 autistic.

618 (2) SCHOLARSHIP ELIGIBILITY.--The parent of a public
619 school student with a disability who is dissatisfied with the
620 student's progress may request and receive from the state a John
621 M. McKay Scholarship for the child to enroll in and attend a
622 private school in accordance with this section if:

623 (a) By assigned school attendance area or by special
624 assignment, the student has spent the prior school year in
625 attendance at a Florida public school. Prior school year in
626 attendance means that the student was enrolled and reported by a
627 school district for funding during the preceding October and
628 February Florida Education Finance Program surveys in
629 kindergarten through grade 12.

630 (b) The parent has obtained acceptance for admission of
631 the student to a private school that is eligible for the program

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632 | under subsection (4) and has notified the school district of the
 633 | request for a scholarship at least 60 days prior to the date of
 634 | the first scholarship payment. The parental notification must be
 635 | through a communication directly to the district or through the
 636 | Department of Education to the district in a manner that creates
 637 | a written or electronic record of the notification and the date
 638 | of receipt of the notification.

639 |
 640 | ~~This section does not apply to~~ A student is not eligible to
 641 | receive a John M. McKay Scholarship if he or she receives an
 642 | opportunity scholarship or a corporate tax credit scholarship or
 643 | ~~who is enrolled in a school operating for the purpose of~~
 644 | ~~providing educational services to youth in~~ Department of
 645 | Juvenile Justice commitment program ~~programs~~. For purposes of
 646 | continuity of educational choice, the scholarship shall remain
 647 | in force until the student returns to a public school or
 648 | graduates from high school. However, at any time, the student's
 649 | parent may remove the student from the private school and place
 650 | the student in another private school that is eligible for the
 651 | program under subsection (4) or in a public school as provided
 652 | in subsection (3).

653 | (3) SCHOOL DISTRICT AND DEPARTMENT OF EDUCATION
 654 | OBLIGATIONS.--

655 | (g) The Department of Education shall establish a toll-
 656 | free hotline that provides parents and private schools with
 657 | information on participation in the John M. McKay Scholarships
 658 | for Students with Disabilities Program.

659 (h) The Department of Education shall establish a process
 660 by which individuals may notify the department of any violation
 661 by a private school of state laws relating to program
 662 participation. The department shall conduct an investigation of
 663 any written complaint of a violation of this section if the
 664 complaint is signed by the complainant and is legally
 665 sufficient. A complaint is legally sufficient if it contains
 666 ultimate facts that show that a violation of this section or any
 667 rule adopted by the State Board of Education or other state
 668 agency has occurred. In order to determine legal sufficiency,
 669 the Department of Education may require supporting information
 670 or documentation from the complainant.

671 (i) The Department of Education shall require annual
 672 completion of a sworn compliance form by participating private
 673 schools certifying compliance with state laws and shall retain
 674 such records.

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

678 (4) PRIVATE SCHOOL ELIGIBILITY.--To be eligible to
 679 participate in the John M. McKay Scholarships for Students with
 680 Disabilities Program, a private school must be a Florida private
 681 school, as defined in s. 1002.01(2), may be sectarian or
 682 nonsectarian, and must:

683 (a) Demonstrate fiscal soundness by being in operation for
 684 3 school years or obtain 1 school year ~~or provide the Department~~
 685 ~~of Education with a statement by a certified public accountant~~
 686 ~~confirming that the private school desiring to participate is~~

687 ~~insured and the owner or owners have sufficient capital or~~
 688 ~~credit to operate the school for the upcoming year serving the~~
 689 ~~number of students anticipated with expected revenues from~~
 690 ~~tuition and other sources that may be reasonably expected. In~~
 691 ~~lieu of such a statement,~~ a surety bond or letter of credit for
 692 the amount equal to the scholarship funds for any quarter to ~~may~~
 693 be filed with the Department of Education. The surety bond or
 694 letter of credit shall serve to secure expenditures of
 695 scholarship funds should such funds be found to have been used
 696 for unlawful purposes. However, if during the school year a
 697 private school exhibits financial difficulty or is otherwise not
 698 in compliance with this section, the Commissioner of Education
 699 may impose additional requirements on the private school, which
 700 may include additional security bonding.

701 (b) Notify the Department of Education of its intent to
 702 participate in the program under this section. The notice must
 703 specify the grade levels and services that the private school
 704 has available for students with disabilities who are
 705 participating in the scholarship program.

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

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

- 710 1. Fire safety.
- 711 2. Building codes.

712 (e) Be academically accountable to the parent for meeting
 713 the educational needs of the student by providing to the parent
 714 a written explanation of the student's progress.

715 (f) Employ or contract with teachers who hold
 716 baccalaureate or higher degrees, or have at least 3 years of
 717 teaching experience in public or private schools, or have
 718 special skills, knowledge, or expertise that qualifies them to
 719 provide instruction in subjects taught.

720 (g) Comply with all state laws relating to general
 721 regulation of private schools, including, but not limited to,
 722 laws pertaining to:

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

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

725 3. Attendance records and reports required in s.
 726 1003.23(2).

727 4. School-entry health examinations and immunizations
 728 required in s. 1003.22.

729 5. Attendance requirements prescribed in ss. 1003.01(13)
 730 and 1003.21(1).

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

733 (i) Within 60 days after employment, for any private
 734 school owner-operator or private school manager, file with the
 735 Department of Law Enforcement a complete set of fingerprints for
 736 state processing for a criminal background check. The costs of
 737 fingerprinting and the background check shall not be borne by
 738 the state. The results of a criminal background check shall be
 739 reported to the Department of Education. The owner or operator
 740 of the private school shall immediately report to the Department
 741 of Education any private school owner-operator or private school
 742 manager who has been convicted of a crime that bears upon the

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743 individual's fitness to have responsibility for the safety and
744 well-being of children. Employment of such an individual shall
745 cause a private school to be ineligible for participation in the
746 scholarship program. An individual holding a valid Florida
747 teaching certificate who has been fingerprinted pursuant to s.
748 1012.32 shall not be required to comply with the provisions of
749 this paragraph.

750 (j) Annually comply with the requirements of the
751 Department of Education to complete a sworn compliance form
752 certifying compliance with state laws pursuant to subsection
753 (3). The form and timeline for submission of the compliance form
754 shall be specified in rules adopted by the State Board of
755 Education.

756 (k) Comply with all applicable state agency rules relating
757 to private schools.

758 (l) Not operate as a home education program as defined in
759 ss. 1002.01 and 1002.41 or a private tutoring program as
760 described in s. 1002.43.

761 (m) Maintain a physical private school location in this
762 state where a scholarship student regularly attends classes
763 consistent with s. 1003.01(13)(b) or s. 1003.01(13)(c). However,
764 this paragraph does not preclude a private school from offering
765 services through a satellite-based service network that
766 implements portions of the education or training of a John M.
767 McKay Scholarship student as directed by a professional trained
768 in special education. Such a school must meet all requirements
769 relating to private schools and all other requirements in this
770 section and shall:

771 1. Make no payments to the parent of the child for
 772 services, equipment, instruction, or instructional materials.

773 2. Employ and direct payment to qualified specialists who
 774 can meet the needs of the child as identified in the educational
 775 plan developed for the child.

776 3. Have a physical location for processing services and
 777 providing oversight of the child's educational progress.

778 4. Monitor and supervise work done by the parent and the
 779 specialists to follow the educational plan developed for the
 780 child.

781 (n) Require the parent of each scholarship student to
 782 personally restrictively endorse the scholarship check to the
 783 school. The school may not:

784 1. Act as attorney in fact for parents of a scholarship
 785 student under the authority of a power of attorney executed by
 786 such parents, or under any other authority, to endorse
 787 scholarship warrants on behalf of parents.

788 2. Send or direct John M. McKay Scholarship funds to
 789 parents of a scholarship student who is home schooled pursuant
 790 to s. 1002.41.

791 3. Accept a John M. McKay Scholarship student until the
 792 sworn compliance form has been completed, submitted to, and
 793 independently verified by the Department of Education.

794

795 The inability of a private school to meet the requirements of
 796 this subsection shall constitute a basis for the ineligibility
 797 of the private school to participate in the scholarship program
 798 as determined by the Department of Education.

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799 (5) OBLIGATION OF PROGRAM PARTICIPANTS.--

800 (f) Upon receipt of a scholarship warrant, the parent to
801 whom the warrant is made must restrictively endorse the warrant
802 to the private school for deposit into the account of the
803 private school. A private school may not act as attorney in fact
804 pursuant to paragraph (4)(n).

805 (6) SCHOLARSHIP FUNDING AND PAYMENT.--

806 (f) Upon proper documentation reviewed and approved by the
807 Department of Education, the Chief Financial Officer shall make
808 scholarship payments in four equal amounts no later than
809 September 1, November 1, February 1, and April 1 ~~15~~ of each
810 academic year in which the scholarship is in force. The initial
811 payment shall be made after Department of Education verification
812 of admission acceptance, and subsequent payments shall be made
813 upon verification of continued enrollment and attendance at the
814 private school. Payment must be by individual warrant made
815 payable to the student's parent and mailed by the Department of
816 Education to the private school of the parent's choice, and the
817 parent shall restrictively endorse the warrant to the private
818 school for deposit into the account of the private school.

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

822 (8) COMMISSIONER AUTHORITY.--The Commissioner of Education
823 may suspend or prohibit a private school or a student from
824 participation in the scholarship program and take other action
825 necessary to ensure compliance with the provisions of this
826 section.

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