

1                   A bill to be entitled  
2           An act relating to scholarship program accountability;  
3           amending s. 1002.39, F.S., relating to the John M. McKay  
4           Scholarships for Students with Disabilities Program;  
5           revising definition of the term "students with  
6           disabilities"; revising student eligibility requirements  
7           for receipt of a scholarship and restricting eligibility  
8           therefor; providing for term of a scholarship; revising  
9           and adding school district obligations and clarifying  
10          parental options; revising and adding Department of  
11          Education obligations, including verification of  
12          eligibility of private schools and establishment of a  
13          process for notification of violations, subsequent  
14          investigation, and certification of compliance by private  
15          schools; providing Commissioner of Education authority and  
16          obligations, including the denial, suspension, or  
17          revocation of a private school's participation in the  
18          scholarship program and procedures and timelines therefor;  
19          revising private school eligibility and obligations,  
20          including compliance with specified laws and academic  
21          accountability to the parent; revising parent and student  
22          responsibilities for scholarship program participation;  
23          prohibiting a private school from acting as attorney in  
24          fact to sign a scholarship warrant; revising provisions  
25          relating to scholarship funding and payment; providing  
26          funding and payment requirements for former Florida School  
27          for the Deaf and the Blind students and for students  
28          exiting a Department of Juvenile Justice program;

29 providing Department of Financial Services obligations;  
30 authorizing waiver of deadlines; requiring adoption of  
31 rules; amending s. 220.187, F.S., relating to credits for  
32 contributions to nonprofit scholarship-funding  
33 organizations; revising and providing definitions; naming  
34 the scholarship program; providing student eligibility  
35 requirements for receipt of a corporate income tax credit  
36 scholarship and restricting eligibility therefor; revising  
37 provisions relating to the total amount of tax credits and  
38 carryforward of tax credits and providing certain  
39 limitation; providing for rescindment of tax credit  
40 allocation; revising and adding obligations of eligible  
41 nonprofit scholarship-funding organizations, including  
42 compliance with requirements for background checks,  
43 scholarship-funding organization ownership or operation,  
44 audits, and reports; requiring certain information to  
45 remain confidential in accordance with s. 213.053, F.S.;  
46 revising and adding parent and student responsibilities  
47 for scholarship program participation, including  
48 compliance with private school's published policies,  
49 participation in student academic assessment, and  
50 restrictive endorsement of scholarship warrants or checks;  
51 prohibiting power of attorney for endorsing a scholarship  
52 warrant or check; revising and adding private school  
53 eligibility requirements and obligations, including  
54 compliance with specified laws and academic accountability  
55 to the parent; revising and adding Department of Education  
56 obligations, including verification of eligibility of

57 | program participants, establishment of a process for  
58 | notification of violations, subsequent investigation, and  
59 | certification of compliance by private schools, and  
60 | selection of a research organization to analyze student  
61 | performance data; providing Commissioner of Education  
62 | authority and obligations, including the denial,  
63 | suspension, or revocation of a private school's  
64 | participation in the scholarship program and procedures  
65 | and timelines therefor; revising and adding provisions  
66 | relating to scholarship funding and payment, including the  
67 | amount of a scholarship and the payment process; requiring  
68 | adoption of rules; creating s. 1002.421, F.S., relating to  
69 | rights and obligations of private schools participating in  
70 | state school choice scholarship programs; providing  
71 | requirements for participation in a scholarship program,  
72 | including compliance with specified state, local, and  
73 | federal laws and demonstration of fiscal soundness;  
74 | requiring restrictive endorsement of checks and  
75 | prohibiting a school from acting as attorney in fact;  
76 | requiring employment of qualified teachers and background  
77 | screening of individuals with direct student contact;  
78 | providing scope of authority; requiring adoption of rules;  
79 | providing an effective date.

80 |  
81 | Be It Enacted by the Legislature of the State of Florida:

82 |  
83 | Section 1. Section 1002.39, Florida Statutes, is amended  
84 | to read:

HB 1163

2005

85           1002.39 The John M. McKay Scholarships for Students with  
86 Disabilities Program.--There is established a program that is  
87 separate and distinct from the Opportunity Scholarship Program  
88 and is named the John M. McKay Scholarships for Students with  
89 Disabilities Program, ~~pursuant to this section.~~

90           (1) THE JOHN M. MCKAY SCHOLARSHIPS FOR STUDENTS WITH  
91 DISABILITIES PROGRAM.--The John M. McKay Scholarships for  
92 Students with Disabilities Program is established to provide the  
93 option to attend a public school other than the one to which  
94 assigned, or to provide a scholarship to a private school of  
95 choice, for students with disabilities for whom an individual  
96 education plan has been written in accordance with rules of the  
97 State Board of Education. Students with disabilities include K-  
98 12 students who are documented as having mental retardation; a  
99 ~~mentally handicapped,~~ speech or and language impairment; a  
100 ~~impaired, deaf or hard of hearing impairment, including~~  
101 deafness; a visual impairment, including blindness; a visually  
102 ~~impaired,~~ dual sensory impairment; a physical impairment; a  
103 serious emotional disturbance, including an emotional handicap;  
104 a impaired, physically impaired, emotionally handicapped,  
105 specific learning disability, including, but not limited to,  
106 dyslexia, dyscalculia, or developmental aphasia; a traumatic  
107 brain injury; disabled, hospitalized or homebound, or autism  
108 autistic.

109           (2) JOHN M. MCKAY SCHOLARSHIP ELIGIBILITY.--The parent of  
110 a public school student with a disability who is dissatisfied  
111 with the student's progress may request and receive from the

112 state a John M. McKay Scholarship for the child to enroll in and  
 113 attend a private school in accordance with this section if:

114 (a) ~~By assigned school attendance area or by special~~  
 115 ~~assignment,~~ The student has spent the prior school year in  
 116 attendance at a Florida public school or the Florida School for  
 117 the Deaf and the Blind. Prior school year in attendance means  
 118 that the student was:

119 1. Enrolled and reported by a school district for funding  
 120 during the preceding October and February Florida Education  
 121 Finance Program surveys in kindergarten through grade 12, which  
 122 shall include time spent in a Department of Juvenile Justice  
 123 commitment program if funded under the Florida Education Finance  
 124 Program; or

125 2. Enrolled and reported by the Florida School for the  
 126 Deaf and the Blind during the preceding October and February  
 127 student membership surveys in kindergarten through grade 12.

128  
 129 However, ~~this paragraph does not apply to a dependent child of a~~  
 130 ~~member of the United States Armed Forces who transfers to a~~  
 131 ~~school in this state from out of state or from a foreign country~~  
 132 ~~pursuant to a parent's permanent change of station orders is~~  
 133 ~~exempt from this paragraph but.~~ A dependent child of a member of  
 134 ~~the United States Armed Forces who transfers to a school in this~~  
 135 ~~state from out of state or from a foreign country pursuant to a~~  
 136 ~~parent's permanent change of station orders must meet all other~~  
 137 eligibility requirements to participate in the program.

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

140 under subsection ~~(8)~~(4) and has requested from the department  
 141 ~~notified the school district of the request for a scholarship at~~  
 142 ~~least 60 days prior to the date of the first scholarship~~  
 143 ~~payment. The request ~~parental notification~~ must be through a~~  
 144 ~~communication directly to the department ~~district or through the~~~~  
 145 ~~Department of Education to the district in a manner that creates~~  
 146 ~~a written or electronic record of the request ~~notification~~ and~~  
 147 ~~the date of receipt of the request ~~notification~~.~~

148  
 149 ~~This section does not apply to a student who is enrolled in a~~  
 150 ~~school operating for the purpose of providing educational~~  
 151 ~~services to youth in Department of Juvenile Justice commitment~~  
 152 ~~programs. For purposes of continuity of educational choice, the~~  
 153 ~~scholarship shall remain in force until the student returns to a~~  
 154 ~~public school or graduates from high school. However, at any~~  
 155 ~~time, the student's parent may remove the student from the~~  
 156 ~~private school and place the student in another private school~~  
 157 ~~that is eligible for the program under subsection (4) or in a~~  
 158 ~~public school as provided in subsection (3).~~

159 (3) JOHN M. MCKAY SCHOLARSHIP PROHIBITIONS.--A student is  
 160 not eligible for a John M. McKay Scholarship if he or she is:

161 (a) Enrolled in a school operating for the purpose of  
 162 providing educational services to youth in Department of  
 163 Juvenile Justice commitment programs.

164 (b) Receiving a corporate income tax credit scholarship  
 165 under s. 220.187.

166 (c) Receiving an educational scholarship pursuant to this  
 167 chapter.

168 (d) Participating in a home education program as defined  
 169 in s. 1002.01(1).

170 (e) Participating in a private tutoring program pursuant  
 171 to s. 1002.43.

172 (f) Participating in a virtual school, correspondence  
 173 school, or distance learning program that receives state funding  
 174 pursuant to the student's participation.

175 (4) TERM OF JOHN M. MCKAY SCHOLARSHIP.--

176 (a) For purposes of continuity of educational choice, a  
 177 John M. McKay Scholarship shall remain in force until the  
 178 student returns to a public school, graduates from high school,  
 179 or reaches the age of 22, whichever occurs first.

180 (b) Upon reasonable notice to the department and the  
 181 school district, the student's parent may remove the student  
 182 from the private school and place the student in a public  
 183 school, as provided in subparagraph (5)(a)2.

184 (c) Upon reasonable notice to the department, the  
 185 student's parent may move the student from one participating  
 186 private school to another participating private school.

187 (5)(3) SCHOOL DISTRICT AND DEPARTMENT OF EDUCATION  
 188 OBLIGATIONS; PARENTAL OPTIONS.--

189 (a)1. A school district shall timely notify, by April 1 of  
 190 each year and within 10 days after an individual education plan  
 191 meeting, the parent of the student of all options available  
 192 pursuant to this section and offer that student's parent an  
 193 opportunity to enroll the student in another public school  
 194 within the district.

195           2. The parent is not required to accept ~~the this~~ offer of  
 196 enrolling in another public school in lieu of requesting a John  
 197 M. McKay Scholarship to a private school. However, if the parent  
 198 chooses the public school option, the student may continue  
 199 attending a public school chosen by the parent until the student  
 200 graduates from high school.

201           3. If the parent chooses a public school consistent with  
 202 the district school board's choice plan under s. 1002.31, the  
 203 school district shall provide transportation to the public  
 204 school selected by the parent. The parent is responsible to  
 205 provide transportation to a public school chosen that is not  
 206 consistent with the district school board's choice plan under s.  
 207 1002.31.

208           (b)1. For a student with disabilities who does not have a  
 209 matrix of services under s. 1011.62(1)(e), the school district  
 210 must complete a matrix that assigns the student to one of the  
 211 levels of service as they existed prior to the 2000-2001 school  
 212 year.

213           2.a. Within 10 school days after it receives notification  
 214 of a parent's request for a John M. McKay Scholarship, a  
 215 district school board must notify the student's parent if the  
 216 matrix has not been completed and inform the parent that the  
 217 district is required to complete the matrix within 30 days after  
 218 receiving notice of the parent's request for a John M. McKay  
 219 Scholarship. This notice should include the required completion  
 220 date for the matrix.

221           b. The school district must complete the matrix of  
 222 services for any student who is participating in the John M.



223 McKay Scholarships for Students with Disabilities Program and  
 224 must notify the department ~~of Education~~ of the student's matrix  
 225 level within 30 days after receiving notification of a request  
 226 ~~by the student's parent of intent~~ to participate in the  
 227 scholarship program. The school district must provide the  
 228 student's parent with the student's matrix level within 10  
 229 school days after its completion.

230 c. The department ~~of Education~~ shall notify the private  
 231 school of the amount of the scholarship within 10 days after  
 232 receiving the school district's notification of the student's  
 233 matrix level. ~~Within 10 school days after it receives~~  
 234 ~~notification of a parent's intent to apply for a McKay~~  
 235 ~~Scholarship, a district school board must notify the student's~~  
 236 ~~parent if the matrix has not been completed and provide the~~  
 237 ~~parent with the date for completion of the matrix required in~~  
 238 ~~this paragraph.~~

239 d. A school district may change a matrix of services only  
 240 if the change is to correct a technical, typographical, or  
 241 calculation error.

242 (c) A school district shall provide notification to  
 243 parents of the availability of a reevaluation at least every 3  
 244 years of each student who receives a John M. McKay Scholarship.

245 (d)(e) If the parent chooses the private school option and  
 246 the student is accepted by the private school pending the  
 247 availability of a space for the student, the parent of the  
 248 student must notify the department ~~school district~~ 60 days prior  
 249 to the first scholarship payment and before entering the private

250 school in order to be eligible for the scholarship when a space  
 251 becomes available for the student in the private school.

252 (e)~~(d)~~ The parent of a student may choose, as an  
 253 alternative, to enroll the student in and transport the student  
 254 to a public school in an adjacent school district which has  
 255 available space and has a program with the services agreed to in  
 256 the student's individual education plan already in place, and  
 257 that school district shall accept the student and report the  
 258 student for purposes of the district's funding pursuant to the  
 259 Florida Education Finance Program.

260 (f)~~(e)~~ For a student in the district who participates in  
 261 the John M. McKay Scholarships for Students with Disabilities  
 262 Program whose parent requests that the student take the  
 263 statewide assessments under s. 1008.22, the district shall  
 264 provide locations and times to take all statewide assessments.

265 ~~(f) A school district must notify the Department of  
 266 Education within 10 days after it receives notification of a  
 267 parent's intent to apply for a scholarship for a student with a  
 268 disability. A school district must provide the student's parent  
 269 with the student's matrix level within 10 school days after its  
 270 completion.~~

271 (6) DEPARTMENT OF EDUCATION OBLIGATIONS.--The department  
 272 shall:

273 (a) Establish a toll-free hotline that provides parents  
 274 and private schools with information on participation in the  
 275 John M. McKay Scholarships for Students with Disabilities  
 276 Program.

277 (b) Annually verify the eligibility of private schools  
 278 that meet the requirements of subsection (8).

279 (c) Establish a process by which individuals may notify  
 280 the department of any violation by a parent, private school, or  
 281 school district of state laws relating to program participation.  
 282 The department shall conduct an investigation of any written  
 283 complaint of a violation of this section, or make a referral to  
 284 the appropriate agency for an investigation, if the complaint is  
 285 signed by the complainant and is legally sufficient. A complaint  
 286 is legally sufficient if it contains ultimate facts that show  
 287 that a violation of this section or any rule adopted by the  
 288 State Board of Education has occurred. In order to determine  
 289 legal sufficiency, the department may require supporting  
 290 information or documentation from the complainant.

291 (d) Require an annual, notarized, sworn compliance  
 292 statement by participating private schools certifying compliance  
 293 with state laws and shall retain such records.

294 (e) Cross-check the list of participating scholarship  
 295 students with the public school enrollment lists prior to the  
 296 first scholarship payment to avoid duplication.

297 (7) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.--

298 (a) The Commissioner of Education shall deny, suspend, or  
 299 revoke a private school's participation in the scholarship  
 300 program if it is determined that the private school has failed  
 301 to comply with the provisions of this section. However, in  
 302 instances in which the noncompliance is correctable within a  
 303 reasonable amount of time and in which the health, safety, and  
 304 welfare of the students are not threatened, the commissioner may

305 issue a notice of noncompliance which shall provide the private  
306 school with a timeframe within which to provide evidence of  
307 compliance prior to taking action to suspend or revoke the  
308 private school's participation in the scholarship program.

309 (b) The commissioner's determination is subject to the  
310 following:

311 1. If the commissioner intends to deny, suspend, or revoke  
312 a private school's participation in the scholarship program, the  
313 department shall notify the private school of such proposed  
314 action in writing by certified mail and regular mail to the  
315 private school's address of record with the department. The  
316 notification shall include the reasons for the proposed action  
317 and notice of the timelines and procedures set forth in this  
318 paragraph.

319 2. The private school that is adversely affected by the  
320 proposed action shall have 15 days from receipt of the notice of  
321 proposed action to file with the department's agency clerk a  
322 request for a proceeding pursuant to ss. 120.569 and 120.57. If  
323 the private school is entitled to a hearing under s. 120.57(1),  
324 the department shall forward the request to the Division of  
325 Administrative Hearings.

326 3. Upon receipt of a request referred pursuant to this  
327 paragraph, the director of the Division of Administrative  
328 Hearings shall expedite the hearing and assign an administrative  
329 law judge who shall commence a hearing within 30 days after the  
330 receipt of the formal written request by the division and enter  
331 a recommended order within 30 days after the hearing or within  
332 30 days after receipt of the hearing transcript, whichever is

333 later. Each party shall be allowed 10 days in which to submit  
 334 written exceptions to the recommended order. A final order shall  
 335 be entered by the agency within 30 days after the entry of a  
 336 recommended order. The provisions of this subparagraph may be  
 337 waived upon stipulation by all parties.

338 (c) The commissioner may immediately suspend payment of  
 339 scholarship funds if it is determined that there is probable  
 340 cause to believe that there is:

341 1. An imminent threat to the health, safety, and welfare  
 342 of the students; or

343 2. Fraudulent activity on the part of the private school.  
 344

345 The commissioner's order suspending payment pursuant to this  
 346 paragraph may be appealed pursuant to the same procedures and  
 347 timelines as the notice of proposed action set forth in  
 348 paragraph (b).

349 (8)(4) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.--To be  
 350 eligible to participate in the John M. McKay Scholarships for  
 351 Students with Disabilities Program, a private school ~~must be a~~  
 352 Florida private school, may be sectarian or nonsectarian, and  
 353 must:

354 (a) Comply with all requirements for private schools  
 355 participating in state school choice scholarship programs  
 356 pursuant to s. 1002.421.

357 (b) Provide the department all documentation required for  
 358 a student's participation, including the private school's and  
 359 student's fee schedules, at least 30 days before the first  
 360 quarterly scholarship payment is made for the student.

361 (c) Be academically accountable to the parent for meeting  
 362 the educational needs of the student by:

363 1. At a minimum, annually providing to the parent a  
 364 written explanation of the student's progress.

365 2. Cooperating with the scholarship student whose parent  
 366 chooses to participate in the statewide assessments pursuant to  
 367 s. 1008.22.

368  
 369 The inability of a private school to meet the requirements of  
 370 this subsection shall constitute a basis for the ineligibility  
 371 of the private school to participate in the scholarship program  
 372 as determined by the department.

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

384 ~~(b) Notify the Department of Education of its intent to~~  
 385 ~~participate in the program under this section. The notice must~~  
 386 ~~specify the grade levels and services that the private school~~  
 387 ~~has available for students with disabilities who are~~  
 388 ~~participating in the scholarship program.~~

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

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

392 ~~(e) Be academically accountable to the parent for meeting~~  
 393 ~~the educational needs of the student.~~

394 ~~(f) Employ or contract with teachers who hold~~  
 395 ~~baccalaureate or higher degrees, or have at least 3 years of~~  
 396 ~~teaching experience in public or private schools, or have~~  
 397 ~~special skills, knowledge, or expertise that qualifies them to~~  
 398 ~~provide instruction in subjects taught.~~

399 ~~(g) Comply with all state laws relating to general~~  
 400 ~~regulation of private schools.~~

401 ~~(h) Adhere to the tenets of its published disciplinary~~  
 402 ~~procedures prior to the expulsion of a scholarship student.~~

403 (9)(5) PARENT AND STUDENT RESPONSIBILITIES FOR OBLIGATION  
 404 OF PROGRAM PARTICIPATION PARTICIPANTS.--A parent who applies for  
 405 a John M. McKay Scholarship is exercising his or her parental  
 406 option to place his or her child in a private school.

407 ~~(a) A parent who applies for a John M. McKay Scholarship~~  
 408 ~~is exercising his or her parental option to place his or her~~  
 409 ~~child in a private school. The parent must select the private~~  
 410 ~~school and apply for the admission of his or her child.~~

411 ~~(b) The parent must have requested the scholarship at~~  
 412 ~~least 60 days prior to the date of the first scholarship~~  
 413 ~~payment.~~

414 ~~(c) Any student participating in the John M. McKay~~  
 415 ~~Scholarships for Students with Disabilities scholarship Program~~  
 416 ~~must remain in attendance throughout the school year, unless~~

417 excused by the school for illness or other good cause, ~~and must~~  
 418 ~~comply fully with the school's code of conduct.~~

419 (d) Each ~~The~~ parent and of each student has an obligation  
 420 to the private school to ~~participating in the scholarship~~  
 421 ~~program must~~ comply fully with the private school's published  
 422 policies ~~parental involvement requirements, unless exeused by~~  
 423 ~~the school for illness or other good cause.~~

424 (e) If the parent requests that the student participating  
 425 in the John M. McKay Scholarships for Students with Disabilities  
 426 scholarship Program take all statewide assessments required  
 427 pursuant to s. 1008.22, the parent is responsible for  
 428 transporting the student to the assessment site designated by  
 429 the school district.

430 (f) Upon receipt of a scholarship warrant, the parent to  
 431 whom the warrant is made must restrictively endorse the warrant  
 432 to the private school for deposit into the account of the  
 433 private school. The parent may not designate any entity or  
 434 individual associated with the participating private school as  
 435 the parent's attorney in fact to sign a scholarship warrant. A  
 436 participant who fails to comply with this paragraph forfeits the  
 437 scholarship.

438 ~~(g) A participant who fails to comply with this subsection~~  
 439 ~~forfeits the scholarship.~~

440 ~~(10)(6)~~ JOHN M. MCKAY SCHOLARSHIP FUNDING AND PAYMENT.--

441 (a)1. The maximum scholarship granted for an eligible  
 442 student with disabilities shall be a calculated amount  
 443 equivalent to the base student allocation in the Florida  
 444 Education Finance Program multiplied by the appropriate cost



445 factor for the educational program that would have been provided  
446 for the student in the district school to which he or she was  
447 assigned, multiplied by the district cost differential.

448 2. In addition, a share of the guaranteed allocation for  
449 exceptional students shall be determined and added to the  
450 calculated amount. The calculation shall be based on the  
451 methodology and the data used to calculate the guaranteed  
452 allocation for exceptional students for each district in chapter  
453 2000-166, Laws of Florida. Except as provided in subparagraphs  
454 ~~subparagraph~~ 3. and 4., the calculation shall be based on the  
455 student's grade, matrix level of services, and the difference  
456 between the 2000-2001 basic program and the appropriate level of  
457 services cost factor, multiplied by the 2000-2001 base student  
458 allocation and the 2000-2001 district cost differential for the  
459 sending district. Also, the calculated amount shall include the  
460 per-student share of supplemental academic instruction funds,  
461 instructional materials funds, technology funds, and other  
462 categorical funds as provided for such purposes in the General  
463 Appropriations Act.

464 3. The calculated scholarship amount for a student who has  
465 spent the prior school year in attendance at the Florida School  
466 for the Deaf and the Blind shall be calculated as provided in  
467 subparagraphs 1. and 2. However, the calculation shall be based  
468 on the school district in which the parent resides at the time  
469 of the scholarship request.

470 ~~4.3.~~ Until the school district completes the matrix  
471 required by paragraph ~~(5)~~~~(3)~~(b), the calculation shall be based  
472 on the matrix that assigns the student to support level I of

473 service as it existed prior to the 2000-2001 school year. When  
474 the school district completes the matrix, the amount of the  
475 payment shall be adjusted as needed.

476 (b) The amount of the John M. McKay Scholarship shall be  
477 the calculated amount or the amount of the private school's  
478 tuition and fees, whichever is less. The amount of any  
479 assessment fee required by the participating private school may  
480 be paid from the total amount of the scholarship.

481 ~~(c) If the participating private school requires partial~~  
482 ~~payment of tuition prior to the start of the academic year to~~  
483 ~~reserve space for students admitted to the school, that partial~~  
484 ~~payment may be paid by the Department of Education prior to the~~  
485 ~~first quarterly payment of the year in which the John M. McKay~~  
486 ~~Scholarship is awarded, up to a maximum of \$1,000, and deducted~~  
487 ~~from subsequent scholarship payments. If a student decides not~~  
488 ~~to attend the participating private school, the partial~~  
489 ~~reservation payment must be returned to the Department of~~  
490 ~~Education by the participating private school. There is a limit~~  
491 ~~of one reservation payment per student per year.~~

492 (c)1.(d) The school district shall report all students who  
493 are attending a private school under this program. The students  
494 with disabilities attending private schools on John M. McKay  
495 Scholarships shall be reported separately from other students  
496 reported for purposes of the Florida Education Finance Program.

497 2. For program participants who are eligible under  
498 subparagraph (2)(a)2., the school district that is used as the  
499 basis for the calculation of the scholarship amount as provided  
500 in subparagraph (a)3. shall:

501        a. Report to the department all such students who are  
 502 attending a private school under this program.

503        b. Be held harmless for such students from the weighted  
 504 enrollment ceiling for group 2 programs in s. 1011.62(1)(d)3.a.  
 505 during the first school year in which the students are reported.

506        ~~(d)(e)~~ Following notification on July 1, September 1,  
 507 December 1, or February 1 of the number of program participants,  
 508 the department ~~of Education~~ shall transfer, from General Revenue  
 509 funds only, the amount calculated under paragraph (b) from the  
 510 school district's total funding entitlement under the Florida  
 511 Education Finance Program and from authorized categorical  
 512 accounts to a separate account for the scholarship program for  
 513 quarterly disbursement to the parents of participating students.  
 514 Funds may not be transferred from any funding provided to the  
 515 Florida School for the Deaf and the Blind for program  
 516 participants who are eligible under subparagraph (2)(a)2. For a  
 517 student exiting a Department of Juvenile Justice commitment  
 518 program who chooses to participate in the scholarship program,  
 519 the amount of the John M. McKay Scholarship calculated pursuant  
 520 to paragraph (b) shall be transferred from the school district  
 521 in which the student last attended a public school prior to  
 522 commitment to the Department of Juvenile Justice. When a student  
 523 enters the scholarship program, the department ~~of Education~~ must  
 524 receive all documentation required for the student's  
 525 participation, including the private school's and student's fee  
 526 schedules, at least 30 days before the first quarterly  
 527 scholarship payment is made for the student. ~~The Department of~~  
 528 ~~Education may not make any retroactive payments.~~

529            ~~(e)(f)~~ Upon notification ~~proper documentation reviewed and~~  
 530 ~~approved~~ by the department that it has received the  
 531 documentation required under paragraph (d) ~~Department of~~  
 532 ~~Education~~, the Chief Financial Officer shall make scholarship  
 533 payments in four equal amounts no later than September 1,  
 534 November 1, February 1, and April 1 ~~15~~ of each academic year in  
 535 which the scholarship is in force. The initial payment shall be  
 536 made after department ~~of Education~~ verification of admission  
 537 acceptance, and subsequent payments shall be made upon  
 538 verification of continued enrollment and attendance at the  
 539 private school. Payment must be by individual warrant made  
 540 payable to the student's parent and mailed by the department ~~of~~  
 541 ~~Education~~ to the private school of the parent's choice, and the  
 542 parent shall restrictively endorse the warrant to the private  
 543 school for deposit into the account of the private school.

544            (f) Subsequent to each scholarship payment, the Department  
 545 of Financial Services shall randomly review endorsed warrants to  
 546 confirm compliance with endorsement requirements. The Department  
 547 of Financial Services shall immediately report inconsistencies  
 548 or irregularities to the department.

549            ~~(11)(7)~~ LIABILITY.--No liability shall arise on the part  
 550 of the state based on the award or use of a John M. McKay  
 551 Scholarship.

552            (12) WAIVER.--In the event of an act of God, the State  
 553 Board of Education shall have the authority to waive any  
 554 deadlines to effectuate the purposes of the scholarship program.

555            (13) SCOPE OF AUTHORITY.--The inclusion of eligible  
 556 private schools within options available to Florida public

557 school students does not expand the regulatory authority of the  
558 state, its officers, or any school district to impose any  
559 additional regulation of private schools beyond those reasonably  
560 necessary to enforce requirements expressly set forth in this  
561 section.

562 (14)(8) RULES.--The State Board of Education shall adopt  
563 rules pursuant to ss. 120.536(1) and 120.54 to administer this  
564 section, including rules that school districts must use to  
565 expedite the development of a matrix of services based on an  
566 active ~~a current~~ individual education plan from another state or  
567 a foreign country for a transferring student with a disability  
568 who is a dependent child of a member of the United States Armed  
569 Forces. The rules must identify the appropriate school district  
570 personnel who must complete the matrix of services. For purposes  
571 of these rules, a transferring student with a disability is one  
572 who was previously enrolled as a student with a disability in an  
573 out-of-state or an out-of-country public or private school or  
574 agency program and who is transferring from out of state or from  
575 a foreign country pursuant to a parent's permanent change of  
576 station orders. ~~However, the inclusion of eligible private~~  
577 ~~schools within options available to Florida public school~~  
578 ~~students does not expand the regulatory authority of the state,~~  
579 ~~its officers, or any school district to impose any additional~~  
580 ~~regulation of private schools beyond those reasonably necessary~~  
581 ~~to enforce requirements expressly set forth in this section.~~

582 Section 2. Section 220.187, Florida Statutes, is amended  
583 to read:

584           220.187 Credits for contributions to nonprofit  
 585 scholarship-funding organizations.--  
 586           (1) PURPOSE.--The purpose of this section is to:  
 587           (a) Encourage private, voluntary contributions to  
 588 nonprofit scholarship-funding organizations.  
 589           (b) Expand educational opportunities for children of  
 590 families that have limited financial resources.  
 591           (c) Enable children in this state to achieve a greater  
 592 level of excellence in their education.  
 593           (2) DEFINITIONS.--As used in this section, the term:  
 594           (a) "Department" means the Department of Revenue.  
 595           (b) "Eligible contribution" means a monetary contribution  
 596 from a taxpayer, subject to the restrictions provided in this  
 597 section, to an eligible nonprofit scholarship-funding  
 598 organization. The taxpayer making the contribution may not  
 599 designate a specific child as the beneficiary of the  
 600 contribution. ~~The taxpayer may not contribute more than \$5~~  
 601 ~~million to any single eligible nonprofit scholarship-funding~~  
 602 ~~organization.~~  
 603           (c)(d) "Eligible nonprofit scholarship-funding  
 604 organization" means a charitable organization that:  
 605           1. Is exempt from federal income tax pursuant to s.  
 606 501(c)(3) of the Internal Revenue Code.  
 607           2. Is a Florida entity formed under chapter 607, chapter  
 608 608, or chapter 617 and whose principal office is located in the  
 609 state.  
 610           3. ~~and that~~ Complies with the provisions of subsection  
 611 (6)(4).

612 (d)~~(e)~~ "Eligible private nonpublic school" means a private  
 613 nonpublic school, as defined in s. 1002.01(2), located in  
 614 Florida that offers an education to students in any grades K-12  
 615 and that meets the requirements in subsection (8)~~(6)~~.

616 (e) "Owner or operator" includes:

617 1. An owner, president, officer, or director of an  
 618 eligible nonprofit scholarship-funding organization or a person  
 619 with equivalent decisionmaking authority over an eligible  
 620 nonprofit scholarship-funding organization.

621 2. An owner, operator, superintendent, or principal of an  
 622 eligible private school or a person with equivalent  
 623 decisionmaking authority over an eligible private school.

624 ~~(e) "Qualified student" means a student who qualifies for~~  
 625 ~~free or reduced-price school lunches under the National School~~  
 626 ~~Lunch Act and who:~~

627 (3) PROGRAM; SCHOLARSHIP ELIGIBILITY.--The Corporate  
 628 Income Tax Credit Scholarship Program is established. A student  
 629 is eligible for a corporate income tax credit scholarship if the  
 630 student qualifies for free or reduced-price school lunches under  
 631 the National School Lunch Act and:

632 (a)1- Was counted as a full-time equivalent student during  
 633 the previous state fiscal year for purposes of state per-student  
 634 funding;

635 (b)2- Received a scholarship from an eligible nonprofit  
 636 scholarship-funding organization during the previous school  
 637 year; or

638 (c)3- Is eligible to enter kindergarten or first grade.

639

640 A student may continue in the scholarship program as long as the  
 641 family income level does not exceed 200 percent of the federal  
 642 poverty level.

643 (4) SCHOLARSHIP PROHIBITIONS.--A student is not eligible  
 644 for a scholarship if he or she is:

645 (a) Enrolled in a school operating for the purpose of  
 646 providing educational services to youth in Department of  
 647 Juvenile Justice commitment programs.

648 (b) Receiving a scholarship from another eligible  
 649 nonprofit scholarship-funding organization under this section.

650 (c) Receiving an educational scholarship pursuant to  
 651 chapter 1002.

652 (d) Participating in a home education program as defined  
 653 in s. 1002.01(1).

654 (e) Participating in a private tutoring program pursuant  
 655 to s. 1002.43.

656 (f) Participating in a virtual school, correspondence  
 657 school, or distance learning program that receives state funding  
 658 pursuant to the student's participation.

659 (5)(3) AUTHORIZATION TO GRANT SCHOLARSHIP FUNDING TAX  
 660 CREDITS; LIMITATIONS ON INDIVIDUAL AND TOTAL CREDITS.--

661 (a) There is allowed a credit of 100 percent of an  
 662 eligible contribution against any tax due for a taxable year  
 663 under this chapter. However, such a credit may not exceed 75  
 664 percent of the tax due under this chapter for the taxable year,  
 665 after the application of any other allowable credits by the  
 666 taxpayer. However, at least 5 percent of the total statewide  
 667 amount authorized for the tax credit shall be reserved for



668 ~~taxpayers who meet the definition of a small business provided~~  
669 ~~in s. 288.703(1) at the time of application.~~ The credit granted  
670 by this section shall be reduced by the difference between the  
671 amount of federal corporate income tax taking into account the  
672 credit granted by this section and the amount of federal  
673 corporate income tax without application of the credit granted  
674 by this section.

675 (b) The total amount of tax credits and carryforward of  
676 tax credits which may be granted ~~each state fiscal year~~ under  
677 this section is \$88 million during the 2005-2006 fiscal year.  
678 The total amount of tax credits and carryforward of tax credits  
679 which may be granted under this section shall be adjusted each  
680 year by the same percentage as the increase or decrease in total  
681 funding, adjusted for Florida Retirement System changes if  
682 applicable, under the Florida Education Finance Program as  
683 provided in the General Appropriations Act workpapers. However,  
684 the total amount of tax credits that may be granted pursuant to  
685 this paragraph may not increase by more than 5 percent in any  
686 year. The Commissioner of Education shall certify to the  
687 department and notify eligible nonprofit scholarship-funding  
688 organizations of the resulting value of tax credits that may be  
689 granted within 30 days after the General Appropriations Act  
690 becomes law. However, at least 1 percent of the total statewide  
691 amount authorized for the tax credit shall be reserved for  
692 taxpayers who meet the definition of a small business provided  
693 in s. 288.703(1) at the time of application.

694 (c) A taxpayer who files a Florida consolidated return as  
695 a member of an affiliated group pursuant to s. 220.131(1) may be

696 allowed the credit on a consolidated return basis; however, the  
 697 total credit taken by the affiliated group is subject to the  
 698 limitation established under paragraph (a).

699 (d) Effective for tax years beginning January 1, 2005, a  
 700 taxpayer may rescind all or part of its allocated tax credit  
 701 under this section. The amount rescinded shall become available  
 702 for purposes of the cap for that state fiscal year under this  
 703 section to an eligible taxpayer as approved by the department if  
 704 the taxpayer receives notice from the department that the  
 705 rescindment has been accepted by the department and the taxpayer  
 706 has not previously rescinded any or all of its tax credit  
 707 allocation under this section more than once in the previous 3  
 708 tax years. Any amount rescinded under this paragraph shall  
 709 become available to an eligible taxpayer on a first-come, first-  
 710 served basis based on tax credit applications received after the  
 711 date the rescindment is accepted by the department.

712 (6)(4) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-  
 713 FUNDING ORGANIZATIONS.--An eligible nonprofit scholarship-  
 714 funding organization:

715 (a) Must comply with the antidiscrimination provisions of  
 716 42 U.S.C. s. 2000d.

717 (b) Must comply with the following background check  
 718 requirements:

719 1. An owner or operator of an eligible nonprofit  
 720 scholarship-funding organization is subject to level 1  
 721 background screening as provided under chapter 435.

722           2. A nonprofit scholarship-funding organization whose  
 723 owner or operator fails the level 1 background screening shall  
 724 not be eligible to provide scholarships under this section.

725           3. A nonprofit scholarship-funding organization whose  
 726 owner or operator in the last 7 years has filed for personal  
 727 bankruptcy or corporate bankruptcy in a corporation of which he  
 728 or she owned more than 20 percent shall not be eligible to  
 729 provide scholarships under this section.

730           (c) Must not have an owner or operator who owns or  
 731 operates an eligible private school that is participating in the  
 732 scholarship program.

733           (d)(a) Must ~~An eligible nonprofit scholarship-funding~~  
 734 ~~organization shall~~ provide scholarships, from eligible  
 735 contributions, to eligible ~~qualified~~ students for:

736           1. Tuition or textbook expenses for, or transportation to,  
 737 an eligible private ~~nonpublic~~ school. At least 75 percent of the  
 738 scholarship funding must be used to pay tuition expenses; or

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

742           (e)(b) Must ~~An eligible nonprofit scholarship-funding~~  
 743 ~~organization shall~~ give priority to eligible ~~qualified~~ students  
 744 who received a scholarship from an eligible nonprofit  
 745 scholarship-funding organization during the previous school  
 746 year.

747           (f) Must provide a scholarship to an eligible student on a  
 748 first-come, first-served basis unless the student qualifies for  
 749 priority pursuant to paragraph (e).

750        (g) May not restrict or reserve scholarships for use at a  
 751 particular private school or provide scholarships to a child of  
 752 an owner or operator.

753        (h) Must allow an eligible student to attend any eligible  
 754 private school and must allow a parent to transfer a scholarship  
 755 during a school year to any other eligible private school of the  
 756 parent's choice.

757        ~~(c) The amount of a scholarship provided to any child for~~  
 758 ~~any single school year by all eligible nonprofit scholarship-~~  
 759 ~~funding organizations from eligible contributions shall not~~  
 760 ~~exceed the following annual limits:~~

761            1. ~~Three thousand five hundred dollars for a scholarship~~  
 762 ~~awarded to a student enrolled in an eligible nonpublic school.~~

763            2. ~~Five hundred dollars for a scholarship awarded to a~~  
 764 ~~student enrolled in a Florida public school that is located~~  
 765 ~~outside the district in which the student resides.~~

766        ~~(d) The amount of an eligible contribution which may be~~  
 767 ~~accepted by an eligible nonprofit scholarship-funding~~  
 768 ~~organization is limited to the amount needed to provide~~  
 769 ~~scholarships for qualified students which the organization has~~  
 770 ~~identified and for which vacancies in eligible nonpublic schools~~  
 771 ~~have been identified.~~

772        (i)(e) Must obligate ~~An eligible nonprofit scholarship-~~  
 773 ~~funding organization that receives an eligible contribution must~~  
 774 ~~spend~~ 100 percent of the eligible contribution to provide  
 775 scholarships in the same state fiscal year in which the  
 776 contribution was received. No portion of eligible contributions

777 may be used for administrative expenses. All interest accrued  
 778 from contributions must be used for scholarships.

779 (j) Must maintain separate accounts for scholarship funds  
 780 and operating funds.

781 (k) May transfer funds to another eligible nonprofit  
 782 scholarship-funding organization when additional funds are  
 783 required to meet scholarship demand.

784 (l) May obtain a secured line of credit to fund  
 785 scholarship payments based on estimated contributions to be  
 786 received within a 6-month period. These funds may only be used  
 787 to provide scholarship payments. Interest and fees related to  
 788 the line of credit shall be paid from the eligible nonprofit  
 789 scholarship-funding organization's operating budget and not from  
 790 contributions or loan proceeds.

791 (m)(f) Must ~~An eligible nonprofit scholarship-funding~~  
 792 ~~organization that receives eligible contributions must~~ provide  
 793 to the Auditor General and the Department of Education an annual  
 794 financial and compliance audit of its accounts and records  
 795 conducted by an independent certified public accountant and in  
 796 accordance with rules adopted by the Auditor General. The audit  
 797 must be conducted in compliance with generally accepted auditing  
 798 standards and must include a report on financial statements  
 799 presented in accordance with generally accepted accounting  
 800 principles set forth by the American Institute of Certified  
 801 Public Accountants for not-for-profit organizations and a  
 802 determination of compliance with the statutory eligibility and  
 803 expenditure requirements set forth in this section. Audits must  
 804 be provided to the Auditor General and the Department of

805 Education within 180 days after completion of the eligible  
 806 nonprofit scholarship-funding organization's fiscal year.

807 (n) Must prepare and submit quarterly reports to the  
 808 Department of Education pursuant to paragraph (9)(m). In  
 809 addition, an eligible nonprofit scholarship-funding organization  
 810 must submit in a timely manner any information requested by the  
 811 Department of Education relating to the scholarship program.

812  
 813 Any and all information and documentation provided to the  
 814 Department of Education and the Auditor General relating to the  
 815 identity of a taxpayer that provides an eligible contribution  
 816 under this section shall remain confidential at all times in  
 817 accordance with s. 213.053.

818 ~~(g) Payment of the scholarship by the eligible nonprofit~~  
 819 ~~scholarship-funding organization shall be by individual warrant~~  
 820 ~~or check made payable to the student's parent. If the parent~~  
 821 ~~chooses for his or her child to attend an eligible nonpublic~~  
 822 ~~school, the warrant or check must be mailed by the eligible~~  
 823 ~~nonprofit scholarship-funding organization to the nonpublic~~  
 824 ~~school of the parent's choice, and the parent shall~~  
 825 ~~restrictively endorse the warrant or check to the nonpublic~~  
 826 ~~school. An eligible nonprofit scholarship-funding organization~~  
 827 ~~shall ensure that, upon receipt of a scholarship warrant or~~  
 828 ~~check, the parent to whom the warrant or check is made~~  
 829 ~~restrictively endorses the warrant or check to the nonpublic~~  
 830 ~~school of the parent's choice for deposit into the account of~~  
 831 ~~the nonpublic school.~~

832           ~~(7)(5)~~ PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM  
833 PARTICIPATION OBLIGATIONS.--~~As a condition for scholarship~~  
834 ~~payment pursuant to paragraph (4)(g), if the parent chooses for~~  
835 ~~his or her child to attend an eligible nonpublic school, the~~  
836 ~~parent must inform the child's school district within 15 days~~  
837 ~~after such decision.~~

838           (a) The parent must select an eligible private school and  
839 apply for the admission of his or her child.

840           (b) The parent must inform the child's school district  
841 when the parent withdraws his or her child to attend an eligible  
842 private school.

843           (c) Any student participating in the scholarship program  
844 must remain in attendance throughout the school year, unless  
845 excused by the school for illness or other good cause.

846           (d) Each parent and each student has an obligation to the  
847 private school to comply with the private school's published  
848 policies.

849           (e) The parent shall ensure that the student participating  
850 in the scholarship program takes the norm-referenced assessment  
851 offered by the private school. The parent may also choose to  
852 have the student participate in the statewide assessments  
853 pursuant to s. 1008.22. If the parent requests that the student  
854 participating in the scholarship program take statewide  
855 assessments pursuant to s. 1008.22, the parent is responsible  
856 for transporting the student to the assessment site designated  
857 by the school district.

858           (f) Upon receipt of a scholarship warrant or check from  
859 the eligible nonprofit scholarship-funding organization, the

860 parent to whom the warrant or check is made must restrictively  
 861 endorse the warrant or check to the private school for deposit  
 862 into the account of the private school. The parent may not  
 863 designate any entity or individual associated with the  
 864 participating private school as the parent's attorney in fact to  
 865 sign a scholarship warrant or check. A participant who fails to  
 866 comply with this paragraph forfeits the scholarship.

867 (8)(6) PRIVATE ELIGIBLE-NONPUBLIC SCHOOL ELIGIBILITY AND  
 868 OBLIGATIONS.--An eligible private nonpublic school may be  
 869 sectarian or nonsectarian and must:

870 (a) Comply with all requirements for private schools  
 871 participating in state school choice scholarship programs  
 872 pursuant to s. 1002.421.

873 (b) Provide to the eligible nonprofit scholarship-funding  
 874 organization, upon request, all documentation required for the  
 875 student's participation, including the private school's and  
 876 student's fee schedules.

877 (c) Be academically accountable to the parent for meeting  
 878 the educational needs of the student by:

879 1. At a minimum, annually providing to the parent a  
 880 written explanation of the student's progress.

881 2. Annually administering or making provision for students  
 882 participating in the scholarship program to take one of the  
 883 nationally norm-referenced tests identified by the Department of  
 884 Education. Students with disabilities for whom standardized  
 885 testing is not appropriate are exempt from this requirement. A  
 886 participating private school must report a student's scores to  
 887 the parent and to the independent private research organization



888 selected by the Department of Education pursuant to paragraph  
 889 (9)(j).

890 3. Cooperating with the scholarship student whose parent  
 891 chooses to participate in the statewide assessments pursuant to  
 892 s. 1008.32.

893  
 894 The inability of a private school to meet the requirements of  
 895 this subsection shall constitute a basis for the ineligibility  
 896 of the private school to participate in the scholarship program  
 897 as determined by the Department of Education.

898 ~~(a) Demonstrate fiscal soundness by being in operation for~~  
 899 ~~one school year or provide the Department of Education with a~~  
 900 ~~statement by a certified public accountant confirming that the~~  
 901 ~~nonpublic school desiring to participate is insured and the~~  
 902 ~~owner or owners have sufficient capital or credit to operate the~~  
 903 ~~school for the upcoming year serving the number of students~~  
 904 ~~anticipated with expected revenues from tuition and other~~  
 905 ~~sources that may be reasonably expected. In lieu of such a~~  
 906 ~~statement, a surety bond or letter of credit for the amount~~  
 907 ~~equal to the scholarship funds for any quarter may be filed with~~  
 908 ~~the department.~~

909 ~~(b) Comply with the antidiscrimination provisions of 42~~  
 910 ~~U.S.C. s. 2000d.~~

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

912 ~~(d) Comply with all state laws relating to general~~  
 913 ~~regulation of nonpublic schools.~~

914 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.--The Department  
 915 of Education shall:

916 (a) Annually submit to the department, by March 15, a list  
917 of eligible nonprofit scholarship-funding organizations that  
918 meet the requirements of paragraph (2)(c).

919 (b) Annually verify the eligibility of nonprofit  
920 scholarship-funding organizations that meet the requirements of  
921 paragraph (2)(c).

922 (c) Annually verify the eligibility of private schools  
923 that meet the requirements of subsection (8).

924 (d) Annually verify the eligibility of expenditures as  
925 provided in paragraph (6)(d) using the audit required by  
926 paragraph (6)(m).

927 (e) Establish a toll-free hotline that provides parents  
928 and private schools with information on participation in the  
929 scholarship program.

930 (f) Establish a process by which individuals may notify  
931 the Department of Education of any violation by a parent,  
932 private school, or school district of state laws relating to  
933 program participation. The Department of Education shall conduct  
934 an investigation of any written complaint of a violation of this  
935 section, or make a referral to the appropriate agency for an  
936 investigation, if the complaint is signed by the complainant and  
937 is legally sufficient. A complaint is legally sufficient if it  
938 contains ultimate facts that show that a violation of this  
939 section or any rule adopted by the State Board of Education has  
940 occurred. In order to determine legal sufficiency, the  
941 Department of Education may require supporting information or  
942 documentation from the complainant.

943 (g) Require an annual, notarized, sworn compliance

944 statement by participating private schools certifying compliance  
945 with state laws and shall retain such records.

946 (h) Cross-check the list of participating scholarship  
947 students with the public school enrollment lists to avoid  
948 duplication.

949 (i) Identify all nationally norm-referenced tests that are  
950 comparable to the norm-referenced test portions of the Florida  
951 Comprehensive Assessment Test (FCAT).

952 (j) Select an independent private research organization to  
953 which participating private schools must report the scores of  
954 participating students on the nationally norm-referenced tests  
955 administered by the private school. The independent private  
956 research organization must annually report to the Department of  
957 Education on the year-to-year improvements of participating  
958 students. The independent private research organization must  
959 analyze and report student performance data in a manner that  
960 protects the rights of students and parents as mandated in 20  
961 U.S.C. s. 1232g, the Family Educational Rights and Privacy Act,  
962 and must not disaggregate data to a level that will disclose the  
963 academic level of individual students or of individual schools.  
964 To the extent possible, the independent private research  
965 organization must accumulate historical performance data on  
966 students from the Department of Education and private schools to  
967 describe baseline performance and to conduct longitudinal  
968 studies. To minimize costs and reduce time required for third-  
969 party analysis and evaluation, the Department of Education shall  
970 conduct analyses of matched students from public school  
971 assessment data and calculate control group learning gains using

972 an agreed-upon methodology outlined in the contract with the  
 973 third-party evaluator. The sharing of student data must be in  
 974 accordance with requirements of 20 U.S.C. 1232g, the Family  
 975 Educational Rights and Privacy Act, and shall be for the sole  
 976 purpose of conducting the evaluation. All parties must preserve  
 977 the confidentiality of such information as required by law.

978 (k) Notify an eligible nonprofit scholarship-funding  
 979 organization of any of the organization's identified students  
 980 who are receiving an educational scholarship pursuant to chapter  
 981 1002.

982 (l) Notify an eligible nonprofit scholarship-funding  
 983 organization of any of the organization's identified students  
 984 who are receiving a corporate income tax credit scholarship from  
 985 another eligible nonprofit scholarship-funding organization.

986 (m) Require quarterly reports by an eligible nonprofit  
 987 scholarship-funding organization regarding the number of  
 988 students participating in the scholarship program, the private  
 989 schools at which the students are enrolled, and other  
 990 information deemed necessary by the Department of Education.

991 (10) COMMISSIONER OF EDUCATION AUTHORITY AND  
 992 OBLIGATIONS.-- (a) The Commissioner of Education shall deny,  
 993 suspend, or revoke a private school's participation in the  
 994 scholarship program if it is determined that the private school  
 995 has failed to comply with the provisions of this section.  
 996 However, in instances in which the noncompliance is correctable  
 997 within a reasonable amount of time and in which the health,  
 998 safety, and welfare of the students are not threatened, the  
 999 commissioner may issue a notice of noncompliance which shall

1000 provide the private school with a timeframe within which to  
 1001 provide evidence of compliance prior to taking action to suspend  
 1002 or revoke the private school's participation in the scholarship  
 1003 program.

1004 (b) The commissioner's determination is subject to the  
 1005 following:

1006 1. If the commissioner intends to deny, suspend, or revoke  
 1007 a private school's participation in the scholarship program, the  
 1008 Department of Education shall notify the private school of such  
 1009 proposed action in writing by certified and regular mail to the  
 1010 private school's address of record with the Department of  
 1011 Education. The notification shall include the reasons for the  
 1012 proposed action and notice of the timelines and procedures set  
 1013 forth in this paragraph.

1014 2. The private school that is adversely affected by the  
 1015 proposed action shall have 15 days from receipt of the notice of  
 1016 proposed action to file with the Department of Education's  
 1017 agency clerk a request for a proceeding pursuant to ss. 120.569  
 1018 and 120.57. If the private school is entitled to a hearing under  
 1019 s. 120.57(1), the Department of Education shall forward the  
 1020 request to the Division of Administrative Hearings.

1021 3. Upon receipt of a request referred pursuant to this  
 1022 paragraph, the director of the Division of Administrative  
 1023 Hearings shall expedite the hearing and assign an administrative  
 1024 law judge who shall commence a hearing within 30 days after the  
 1025 receipt of the formal written request by the division and enter  
 1026 a recommended order within 30 days after the hearing or within  
 1027 30 days after receipt of the hearing transcript, whichever is

1028 later. Each party shall be allowed 10 days in which to submit  
 1029 written exceptions to the recommended order. A final order shall  
 1030 be entered by the agency within 30 days after the entry of a  
 1031 recommended order. The provisions of this subparagraph may be  
 1032 waived upon stipulation by all parties.

1033 (c) The commissioner may immediately suspend payment of  
 1034 scholarship funds if it is determined that there is probable  
 1035 cause to believe that there is:

1036 1. An imminent threat to the health, safety, and welfare  
 1037 of the students; or

1038 2. Fraudulent activity on the part of the private school.

1039  
 1040 The commissioner's order suspending payment pursuant to this  
 1041 paragraph may be appealed pursuant to the same procedures and  
 1042 timelines as the notice of proposed action set forth in  
 1043 paragraph (b).

1044 (11) SCHOLARSHIP AMOUNT AND PAYMENT.--

1045 (a) The amount of a scholarship provided to any student  
 1046 for any single school year by an eligible nonprofit scholarship-  
 1047 funding organization from eligible contributions shall not  
 1048 exceed the following annual limits:

1049 1. Three thousand five hundred dollars for a scholarship  
 1050 awarded to a student enrolled in an eligible private school.

1051 2. Five hundred dollars for a scholarship awarded to a  
 1052 student enrolled in a Florida public school that is located  
 1053 outside the district in which the student resides or in a lab  
 1054 school as defined in s. 1002.32.

1055

1056 Scholarship amounts in subparagraph (a)1. are for the 2005-2006  
 1057 fiscal year. The amount of each scholarship shall be adjusted  
 1058 each year by the same percentage as the increase or decrease in  
 1059 total funds per unweighted FTE, adjusted for Florida Retirement  
 1060 System changes if applicable, under the Florida Education Finance  
 1061 Program as provided in the General Appropriations Act workpapers.  
 1062 However, the scholarship amount may not increase by more than 3  
 1063 percent in any year. The Commissioner of Education shall certify  
 1064 to the department and notify eligible nonprofit scholarship-  
 1065 funding organizations of the resulting value of the scholarship  
 1066 within 30 days after the General Appropriations Act becomes law.

1067 (b) Payment of the scholarship by the eligible nonprofit  
 1068 scholarship-funding organization shall be by individual warrant  
 1069 or check made payable to the student's parent. If the parent  
 1070 chooses for his or her child to attend an eligible private  
 1071 school, the warrant or check must be delivered by the eligible  
 1072 nonprofit scholarship-funding organization to the private school  
 1073 of the parent's choice, and the parent shall restrictively  
 1074 endorse the warrant or check to the private school. An eligible  
 1075 nonprofit scholarship-funding organization shall ensure that the  
 1076 parent to whom the warrant or check is made restrictively  
 1077 endorsed the warrant or check to the private school for deposit  
 1078 into the account of the private school.

1079 (c) An eligible nonprofit scholarship-funding organization  
 1080 shall obtain verification from the private school of a student's  
 1081 continued attendance at the school prior to each scholarship  
 1082 payment.

1083           (d) Payment of the scholarship shall be made by the  
 1084 eligible nonprofit scholarship-funding organization no less  
 1085 frequently than on a quarterly basis.

1086           ~~(12)(7)~~ ADMINISTRATION; RULES.--

1087           (a) If the credit granted pursuant to this section is not  
 1088 fully used in any one year because of insufficient tax liability  
 1089 on the part of the corporation, the unused amount may be carried  
 1090 forward for a period not to exceed 3 years; however, any  
 1091 taxpayer that seeks to carry forward an unused amount of tax  
 1092 credit must submit an application for allocation of tax credits  
 1093 or carryforward credits as required in paragraph (d) in the year  
 1094 that the taxpayer intends to use the carryforward. ~~The total~~  
 1095 ~~amount of tax credits and carryforward of tax credits granted~~  
 1096 ~~each state fiscal year under this section is \$88 million.~~ This  
 1097 carryforward applies to all approved contributions made after  
 1098 January 1, 2002. A taxpayer may not convey, assign, or transfer  
 1099 the credit authorized by this section to another entity unless  
 1100 all of the assets of the taxpayer are conveyed, assigned, or  
 1101 transferred in the same transaction.

1102           (b) An application for a tax credit pursuant to this  
 1103 section shall be submitted to the department on forms  
 1104 established by rule of the department.

1105           (c) The department and the Department of Education shall  
 1106 develop a cooperative agreement to assist in the administration  
 1107 of this section. ~~The Department of Education shall be~~  
 1108 ~~responsible for annually submitting, by March 15, to the~~  
 1109 ~~department a list of eligible nonprofit scholarship-funding~~  
 1110 ~~organizations that meet the requirements of paragraph (2)(d) and~~



1111 ~~for monitoring eligibility of nonprofit scholarship-funding~~  
 1112 ~~organizations that meet the requirements of paragraph (2)(d),~~  
 1113 ~~eligibility of nonpublic schools that meet the requirements of~~  
 1114 ~~paragraph (2)(c), and eligibility of expenditures under this~~  
 1115 ~~section as provided in subsection (4).~~

1116 (d) The department shall adopt rules necessary to  
 1117 administer this section, including rules establishing  
 1118 application forms and procedures and governing the allocation of  
 1119 tax credits and carryforward credits under this section on a  
 1120 first-come, first-served basis.

1121 (e) The State Board ~~Department~~ of Education shall adopt  
 1122 rules pursuant to ss. 120.536(1) and 120.54 ~~necessary to~~  
 1123 administer this section ~~determine eligibility of nonprofit~~  
 1124 ~~scholarship-funding organizations as defined in paragraph (2)(d)~~  
 1125 ~~and according to the provisions of subsection (4) and identify~~  
 1126 ~~qualified students as defined in paragraph (2)(e).~~

1127 ~~(13)(8)~~ DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--All eligible  
 1128 contributions received by an eligible nonprofit scholarship-  
 1129 funding organization shall be deposited in a manner consistent  
 1130 with s. 17.57(2).

1131 Section 3. Section 1002.421, Florida Statutes, is created  
 1132 to read:

1133 1002.421 Rights and obligations of private schools  
 1134 participating in state school choice scholarship  
 1135 programs.--Requirements of this section are in addition to  
 1136 private school requirements outlined in s. 1002.42, specific  
 1137 requirements identified within respective scholarship program

1138 laws, and other provisions of Florida law that apply to private  
1139 schools.

1140 (1) A Florida private school participating in the  
1141 Corporate Income Tax Credit Scholarship Program established  
1142 pursuant to s. 220.187 or an educational scholarship program  
1143 established pursuant to this chapter must comply with all  
1144 requirements of this section.

1145 (2) A private school participating in a scholarship  
1146 program must be a Florida private school as defined in s.  
1147 1002.01(2) and must:

1148 (a) Be a registered Florida private school in accordance  
1149 with s. 1002.42.

1150 (b) Comply with antidiscrimination provisions of 42 U.S.C.  
1151 s. 2000d.

1152 (c) Notify the department of its intent to participate in  
1153 a scholarship program.

1154 (d) Notify the department of any change in the school's  
1155 name, school director, mailing address, or physical location  
1156 within 15 days after the change.

1157 (e) Complete student enrollment and attendance  
1158 verification requirements, including use of an on-line  
1159 attendance verification form, prior to scholarship payment.

1160 (f) Annually complete and submit to the department a  
1161 notarized scholarship compliance statement certifying compliance  
1162 with state laws relating to private school participation in the  
1163 scholarship program.

1164 (g) Demonstrate fiscal soundness and accountability by:

1165 1. Being in operation for at least 3 school years or  
 1166 obtaining a surety bond or letter of credit for the amount equal  
 1167 to the scholarship funds for any quarter and filing the surety  
 1168 bond or letter of credit with the department.

1169 2. Requiring the parent of each scholarship student to  
 1170 personally restrictively endorse the scholarship warrant to the  
 1171 school. The school may not act as attorney in fact for the  
 1172 parent of a scholarship student under the authority of a power  
 1173 of attorney executed by such parent, or under any other  
 1174 authority, to endorse scholarship warrants on behalf of such  
 1175 parent.

1176 (h) Meet applicable state and local health, safety, and  
 1177 welfare laws, codes, and rules, including:

- 1178 1. Fire safety.
- 1179 2. Building safety.

1180 (i) Employ or contract with teachers who hold  
 1181 baccalaureate or higher degrees, have at least 3 years of  
 1182 teaching experience in public or private schools, or have  
 1183 special skills, knowledge, or expertise that qualifies them to  
 1184 provide instruction in subjects taught.

1185 (j) Require each individual with direct student contact  
 1186 with a scholarship student to be of good moral character, to be  
 1187 subject to the level 1 background screening as provided under  
 1188 chapter 435, to be denied employment or terminated if required  
 1189 under s. 435.06, and not to be ineligible to teach in a public  
 1190 school because his or her educator certificate is suspended or  
 1191 revoked. For purposes of this paragraph:

1192           1. An "individual with direct student contact" means any  
 1193 individual who has unsupervised access to a scholarship student  
 1194 for whom the private school is responsible.

1195           2. The costs of fingerprinting and the background check  
 1196 shall not be borne by the state.

1197           3. Continued employment of an individual after  
 1198 notification that the individual has failed the level 1  
 1199 background screening shall cause a private school to be  
 1200 ineligible for participation in a scholarship program.

1201           4. An individual holding a valid Florida teaching  
 1202 certificate who has been fingerprinted pursuant to s. 1012.32  
 1203 shall not be required to comply with the provisions of this  
 1204 paragraph.

1205           (3) The inability of a private school to meet the  
 1206 requirements of this section shall constitute a basis for the  
 1207 ineligibility of the private school to participate in a  
 1208 scholarship program as determined by the department.

1209           (4) The inclusion of eligible private schools within  
 1210 options available to Florida public school students does not  
 1211 expand the regulatory authority of the state, its officers, or  
 1212 any school district to impose any additional regulation of  
 1213 private schools beyond those reasonably necessary to enforce  
 1214 requirements expressly set forth in this section.

1215           (5) The State Board of Education shall adopt rules  
 1216 pursuant to ss. 120.536(1) and 120.54 to administer this  
 1217 section.

1218           Section 4. This act shall take effect upon becoming a law.