

CHAMBER ACTION

1 The Education Council recommends the following:

2
3 **Council/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. 1002.39, F.S., relating to the John M. McKay
8 Scholarships for Students with Disabilities Program;
9 revising definition of the term "students with
10 disabilities"; revising student eligibility requirements
11 for receipt of a scholarship and restricting eligibility
12 therefor; providing for term of a scholarship; revising
13 and adding school district obligations and clarifying
14 parental options; revising and adding Department of
15 Education obligations, including verification of
16 eligibility of private schools and establishment of a
17 process for notification of violations, subsequent
18 investigation, and certification of compliance by private
19 schools; providing Commissioner of Education authority and
20 obligations, including the denial, suspension, or
21 revocation of a private school's participation in the
22 scholarship program and procedures and timelines therefor;
23 revising private school eligibility and obligations,

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24 including compliance with specified laws and academic
25 accountability to the parent; revising parent and student
26 responsibilities for scholarship program participation;
27 prohibiting a private school from acting as attorney in
28 fact to sign a scholarship warrant; revising provisions
29 relating to scholarship funding and payment; providing
30 funding and payment requirements for former Florida School
31 for the Deaf and the Blind students and for students
32 exiting a Department of Juvenile Justice program;
33 providing Department of Financial Services obligations;
34 authorizing waiver of deadlines; providing scope of
35 authority; requiring adoption of rules; amending s.
36 220.187, F.S., relating to credits for contributions to
37 nonprofit scholarship-funding organizations; revising and
38 providing definitions; naming the scholarship program;
39 providing student eligibility requirements for receipt of
40 a corporate income tax credit scholarship and restricting
41 eligibility therefor; revising provisions relating to the
42 total amount of tax credits and carryforward of tax
43 credits and providing certain limitation; providing for
44 rescindment of tax credit allocation; revising and adding
45 obligations of eligible nonprofit scholarship-funding
46 organizations, including compliance with requirements for
47 background checks, scholarship-funding organization
48 ownership or operation, audits, and reports; requiring
49 certain information to remain confidential in accordance
50 with s. 213.053, F.S.; revising and adding parent and
51 student responsibilities for scholarship program

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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52 participation, including compliance with private school's
53 published policies, participation in student academic
54 assessment, and restrictive endorsement of scholarship
55 warrants or checks; prohibiting power of attorney for
56 endorsing a scholarship warrant or check; revising and
57 adding private school eligibility requirements and
58 obligations, including compliance with specified laws and
59 academic accountability to the parent; revising and adding
60 Department of Education obligations, including
61 verification of eligibility of program participants,
62 establishment of a process for notification of violations,
63 subsequent investigation, and certification of compliance
64 by private schools, and selection of a research
65 organization to analyze student performance data;
66 providing Commissioner of Education authority and
67 obligations, including the denial, suspension, or
68 revocation of a private school's participation in the
69 scholarship program and procedures and timelines therefor;
70 revising and adding provisions relating to scholarship
71 funding and payment, including the amount of a scholarship
72 and the payment process; requiring adoption of rules;
73 creating s. 1002.421, F.S., relating to rights and
74 obligations of private schools participating in state
75 school choice scholarship programs; providing requirements
76 for participation in a scholarship program, including
77 compliance with specified state, local, and federal laws
78 and demonstration of fiscal soundness; requiring
79 restrictive endorsement of checks and prohibiting a school

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80 from acting as attorney in fact; requiring employment of
81 qualified teachers and background screening of individuals
82 with direct student contact; providing scope of authority;
83 requiring adoption of rules; providing an effective date.

84

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

86

87 Section 1. Section 1002.39, Florida Statutes, is amended
88 to read:

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

94 (1) THE JOHN M. MCKAY SCHOLARSHIPS FOR STUDENTS WITH
95 DISABILITIES PROGRAM.--The John M. McKay Scholarships for
96 Students with Disabilities Program is established to provide the
97 option to attend a public school other than the one to which
98 assigned, or to provide a scholarship to a private school of
99 choice, for students with disabilities for whom an individual
100 education plan has been written in accordance with rules of the
101 State Board of Education. Students with disabilities include K-
102 12 students who are documented as having mental retardation; a
103 ~~mentally handicapped,~~ speech or and language impairment; a
104 ~~impaired, deaf or hard of hearing impairment, including~~
105 deafness; a visual impairment, including blindness; a visually
106 ~~impaired,~~ dual sensory impairment; a physical impairment; a
107 serious emotional disturbance, including an emotional handicap;

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108 a ~~impaired, physically impaired, emotionally handicapped,~~
 109 specific learning disability, including, but not limited to,
 110 dyslexia, dyscalculia, or developmental aphasia; a traumatic
 111 brain injury; disabled, hospitalized or homebound, or autism
 112 autistic.

113 (2) JOHN M. MCKAY SCHOLARSHIP ELIGIBILITY.--The parent of
 114 a public school student with a disability who is dissatisfied
 115 with the student's progress may request and receive from the
 116 state a John M. McKay Scholarship for the child to enroll in and
 117 attend a private school in accordance with this section if:

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

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

129 2. Enrolled and reported by the Florida School for the
 130 Deaf and the Blind during the preceding October and February
 131 student membership surveys in kindergarten through grade 12; or

132 3. Enrolled and reported by a school district for funding
 133 during the preceding October and February Florida Education
 134 Finance Program surveys, at least 4 years old when so enrolled
 135 and reported, and eligible for services under s. 1003.21(1)(e).

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136
137 However, ~~this paragraph does not apply to~~ a dependent child of a
138 member of the United States Armed Forces who transfers to a
139 school in this state from out of state or from a foreign country
140 pursuant to a parent's permanent change of station orders is
141 exempt from this paragraph but. ~~A dependent child of a member of~~
142 ~~the United States Armed Forces who transfers to a school in this~~
143 ~~state from out of state or from a foreign country pursuant to a~~
144 ~~parent's permanent change of station orders~~ must meet all other
145 eligibility requirements to participate in the program.

146 (b) The parent has obtained acceptance for admission of
147 the student to a private school that is eligible for the program
148 under subsection (8)(4) and has requested from the department
149 ~~notified the school district of the request for~~ a scholarship at
150 least 60 days prior to the date of the first scholarship
151 payment. The request ~~parental notification~~ must be through a
152 communication directly to the department ~~district or through the~~
153 ~~Department of Education to the district~~ in a manner that creates
154 a written or electronic record of the request ~~notification~~ and
155 the date of receipt of the request ~~notification~~.

156
157 ~~This section does not apply to a student who is enrolled in a~~
158 ~~school operating for the purpose of providing educational~~
159 ~~services to youth in Department of Juvenile Justice commitment~~
160 ~~programs. For purposes of continuity of educational choice, the~~
161 ~~scholarship shall remain in force until the student returns to a~~
162 ~~public school or graduates from high school. However, at any~~
163 ~~time, the student's parent may remove the student from the~~

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164 ~~private school and place the student in another private school~~
 165 ~~that is eligible for the program under subsection (4) or in a~~
 166 ~~public school as provided in subsection (3).~~

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

169 (a) Enrolled in a school operating for the purpose of
 170 providing educational services to youth in Department of
 171 Juvenile Justice commitment programs.

172 (b) Receiving a corporate income tax credit scholarship
 173 under s. 220.187.

174 (c) Receiving an educational scholarship pursuant to this
 175 chapter.

176 (d) Participating in a home education program as defined
 177 in s. 1002.01(1).

178 (e) Participating in a private tutoring program pursuant
 179 to s. 1002.43.

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

183 (g) Enrolled in the Florida School for the Deaf and the
 184 Blind.

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

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

190 (b) Upon reasonable notice to the department and the
 191 school district, the student's parent may remove the student

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192 | from the private school and place the student in a public
 193 | school, as provided in subparagraph (5)(a)2.

194 | (c) Upon reasonable notice to the department, the
 195 | student's parent may move the student from one participating
 196 | private school to another participating private school.

197 | (5)(3) SCHOOL DISTRICT AND DEPARTMENT OF EDUCATION
 198 | OBLIGATIONS; PARENTAL OPTIONS.--

199 | (a)1. By April 1 of each year and within 10 days after an
 200 | individual education plan meeting, a school district shall
 201 | timely notify the parent of the student of all options available
 202 | pursuant to this section, inform the parent of the availability
 203 | of the department's telephone hotline and Internet website for
 204 | additional information on John M. McKay Scholarships, and offer
 205 | that student's parent an opportunity to enroll the student in
 206 | another public school within the district.

207 | 2. The parent is not required to accept the this offer of
 208 | enrolling in another public school in lieu of requesting a John
 209 | M. McKay Scholarship to a private school. However, if the parent
 210 | chooses the public school option, the student may continue
 211 | attending a public school chosen by the parent until the student
 212 | graduates from high school.

213 | 3. If the parent chooses a public school consistent with
 214 | the district school board's choice plan under s. 1002.31, the
 215 | school district shall provide transportation to the public
 216 | school selected by the parent. The parent is responsible to
 217 | provide transportation to a public school chosen that is not
 218 | consistent with the district school board's choice plan under s.
 219 | 1002.31.

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

225 2.a. Within 10 school days after it receives notification
 226 of a parent's request for a John M. McKay Scholarship, a
 227 district school board must notify the student's parent if the
 228 matrix has not been completed and inform the parent that the
 229 district is required to complete the matrix within 30 days after
 230 receiving notice of the parent's request for a John M. McKay
 231 Scholarship. This notice should include the required completion
 232 date for the matrix.

233 b. The school district must complete the matrix of
 234 services for any student who is participating in the John M.
 235 McKay Scholarships for Students with Disabilities Program and
 236 must notify the department ~~of Education~~ of the student's matrix
 237 level within 30 days after receiving notification of a request
 238 ~~by the student's parent of intent~~ to participate in the
 239 scholarship program. The school district must provide the
 240 student's parent with the student's matrix level within 10
 241 school days after its completion.

242 c. The department ~~of Education~~ shall notify the private
 243 school of the amount of the scholarship within 10 days after
 244 receiving the school district's notification of the student's
 245 matrix level. ~~Within 10 school days after it receives~~
 246 ~~notification of a parent's intent to apply for a McKay~~
 247 ~~Scholarship, a district school board must notify the student's~~

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248 ~~parent if the matrix has not been completed and provide the~~
249 ~~parent with the date for completion of the matrix required in~~
250 ~~this paragraph.~~

251 d. A school district may change a matrix of services only
252 if the change is to correct a technical, typographical, or
253 calculation error.

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

257 (d)(e) If the parent chooses the private school option and
258 the student is accepted by the private school pending the
259 availability of a space for the student, the parent of the
260 student must notify the department ~~school district~~ 60 days prior
261 to the first scholarship payment and before entering the private
262 school in order to be eligible for the scholarship when a space
263 becomes available for the student in the private school.

264 (e)(d) The parent of a student may choose, as an
265 alternative, to enroll the student in and transport the student
266 to a public school in an adjacent school district which has
267 available space and has a program with the services agreed to in
268 the student's individual education plan already in place, and
269 that school district shall accept the student and report the
270 student for purposes of the district's funding pursuant to the
271 Florida Education Finance Program.

272 (f)(e) For a student in the district who participates in
273 the John M. McKay Scholarships for Students with Disabilities
274 Program whose parent requests that the student take the

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275 statewide assessments under s. 1008.22, the district shall
276 provide locations and times to take all statewide assessments.

277 ~~(f) A school district must notify the Department of~~
278 ~~Education within 10 days after it receives notification of a~~
279 ~~parent's intent to apply for a scholarship for a student with a~~
280 ~~disability. A school district must provide the student's parent~~
281 ~~with the student's matrix level within 10 school days after its~~
282 ~~completion.~~

283 (6) DEPARTMENT OF EDUCATION OBLIGATIONS.--The department
284 shall:

285 (a) Establish a toll-free hotline that provides parents
286 and private schools with information on participation in the
287 John M. McKay Scholarships for Students with Disabilities
288 Program.

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

291 (c) Establish a process by which individuals may notify
292 the department of any violation by a parent, private school, or
293 school district of state laws relating to program participation.
294 The department shall conduct an investigation of any written
295 complaint of a violation of this section, or make a referral to
296 the appropriate agency for an investigation, if the complaint is
297 signed by the complainant and is legally sufficient. A complaint
298 is legally sufficient if it contains ultimate facts that show
299 that a violation of this section or any rule adopted by the
300 State Board of Education has occurred. In order to determine
301 legal sufficiency, the department may require supporting
302 information or documentation from the complainant.

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

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

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

310 (a) The Commissioner of Education shall deny, suspend, or
 311 revoke a private school's participation in the scholarship
 312 program if it is determined that the private school has failed
 313 to comply with the provisions of this section. However, in
 314 instances in which the noncompliance is correctable within a
 315 reasonable amount of time and in which the health, safety, and
 316 welfare of the students are not threatened, the commissioner may
 317 issue a notice of noncompliance which shall provide the private
 318 school with a timeframe within which to provide evidence of
 319 compliance prior to taking action to suspend or revoke the
 320 private school's participation in the scholarship program.

321 (b) The commissioner's determination is subject to the
 322 following:

323 1. If the commissioner intends to deny, suspend, or revoke
 324 a private school's participation in the scholarship program, the
 325 department shall notify the private school of such proposed
 326 action in writing by certified mail and regular mail to the
 327 private school's address of record with the department. The
 328 notification shall include the reasons for the proposed action
 329 and notice of the timelines and procedures set forth in this
 330 paragraph.

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331 2. The private school that is adversely affected by the
 332 proposed action shall have 15 days from receipt of the notice of
 333 proposed action to file with the department's agency clerk a
 334 request for a proceeding pursuant to ss. 120.569 and 120.57. If
 335 the private school is entitled to a hearing under s. 120.57(1),
 336 the department shall forward the request to the Division of
 337 Administrative Hearings.

338 3. Upon receipt of a request referred pursuant to this
 339 paragraph, the director of the Division of Administrative
 340 Hearings shall expedite the hearing and assign an administrative
 341 law judge who shall commence a hearing within 30 days after the
 342 receipt of the formal written request by the division and enter
 343 a recommended order within 30 days after the hearing or within
 344 30 days after receipt of the hearing transcript, whichever is
 345 later. Each party shall be allowed 10 days in which to submit
 346 written exceptions to the recommended order. A final order shall
 347 be entered by the agency within 30 days after the entry of a
 348 recommended order. The provisions of this subparagraph may be
 349 waived upon stipulation by all parties.

350 (c) The commissioner may immediately suspend payment of
 351 scholarship funds if it is determined that there is probable
 352 cause to believe that there is:

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

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

356
 357 The commissioner's order suspending payment pursuant to this
 358 paragraph may be appealed pursuant to the same procedures and

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359 timelines as the notice of proposed action set forth in
360 paragraph (b).

361 (8)(4) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.--To be
362 eligible to participate in the John M. McKay Scholarships for
363 Students with Disabilities Program, a private school ~~must be a~~
364 ~~Florida private school,~~ may be sectarian or nonsectarian, and
365 must:

366 (a) Comply with all requirements for private schools
367 participating in state school choice scholarship programs
368 pursuant to s. 1002.421.

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

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

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

377 2. Cooperating with the scholarship student whose parent
378 chooses to participate in the statewide assessments pursuant to
379 s. 1008.22.

380
381 The inability of a private school to meet the requirements of
382 this subsection shall constitute a basis for the ineligibility
383 of the private school to participate in the scholarship program
384 as determined by the department.

385 ~~(a) Demonstrate fiscal soundness by being in operation for~~
386 ~~1 school year or provide the Department of Education with a~~

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387 ~~statement by a certified public accountant confirming that the~~
388 ~~private school desiring to participate is insured and the owner~~
389 ~~or owners have sufficient capital or credit to operate the~~
390 ~~school for the upcoming year serving the number of students~~
391 ~~anticipated with expected revenues from tuition and other~~
392 ~~sources that may be reasonably expected. In lieu of such a~~
393 ~~statement, a surety bond or letter of credit for the amount~~
394 ~~equal to the scholarship funds for any quarter may be filed with~~
395 ~~the department.~~

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

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

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

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

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

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

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

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415 ~~(9)(5)~~ PARENT AND STUDENT RESPONSIBILITIES FOR OBLIGATION
 416 ~~OF PROGRAM PARTICIPATION PARTICIPANTS.~~ -- A parent who applies for
 417 a John M. McKay Scholarship is exercising his or her parental
 418 option to place his or her child in a private school.

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

423 (b) The parent must have requested the scholarship at
 424 least 60 days prior to the date of the first scholarship
 425 payment.

426 (c) Any student participating in the John M. McKay
 427 Scholarships for Students with Disabilities ~~scholarship~~ Program
 428 must remain in attendance throughout the school year, unless
 429 excused by the school for illness or other good cause, ~~and must~~
 430 ~~comply fully with the school's code of conduct.~~

431 (d) Each ~~The~~ parent and ~~of~~ each student has an obligation
 432 to the private school to participating in the scholarship
 433 ~~program must~~ comply fully with the private school's published
 434 policies ~~parental involvement requirements, unless excused by~~
 435 ~~the school for illness or other good cause.~~

436 (e) If the parent requests that the student participating
 437 in the John M. McKay Scholarships for Students with Disabilities
 438 ~~scholarship~~ Program take all statewide assessments required
 439 pursuant to s. 1008.22, the parent is responsible for
 440 transporting the student to the assessment site designated by
 441 the school district.

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442 (f) Upon receipt of a scholarship warrant, the parent to
 443 whom the warrant is made must restrictively endorse the warrant
 444 to the private school for deposit into the account of the
 445 private school. The parent may not designate any entity or
 446 individual associated with the participating private school as
 447 the parent's attorney in fact to sign a scholarship warrant. A
 448 participant who fails to comply with this paragraph forfeits the
 449 scholarship.

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

452 ~~(10)(6)~~ JOHN M. MCKAY SCHOLARSHIP FUNDING AND PAYMENT.--

453 (a)1. The maximum scholarship granted for an eligible
 454 student with disabilities shall be a calculated amount
 455 equivalent to the base student allocation in the Florida
 456 Education Finance Program multiplied by the appropriate cost
 457 factor for the educational program that would have been provided
 458 for the student in the district school to which he or she was
 459 assigned, multiplied by the district cost differential.

460 2. In addition, a share of the guaranteed allocation for
 461 exceptional students shall be determined and added to the
 462 calculated amount. The calculation shall be based on the
 463 methodology and the data used to calculate the guaranteed
 464 allocation for exceptional students for each district in chapter
 465 2000-166, Laws of Florida. Except as provided in subparagraphs
 466 ~~subparagraph~~ 3. and 4., the calculation shall be based on the
 467 student's grade, matrix level of services, and the difference
 468 between the 2000-2001 basic program and the appropriate level of
 469 services cost factor, multiplied by the 2000-2001 base student

470 allocation and the 2000-2001 district cost differential for the
 471 sending district. Also, the calculated amount shall include the
 472 per-student share of supplemental academic instruction funds,
 473 instructional materials funds, technology funds, and other
 474 categorical funds as provided for such purposes in the General
 475 Appropriations Act.

476 3. The calculated scholarship amount for a student who has
 477 spent the prior school year in attendance at the Florida School
 478 for the Deaf and the Blind shall be calculated as provided in
 479 subparagraphs 1. and 2. However, the calculation shall be based
 480 on the school district in which the parent resides at the time
 481 of the scholarship request.

482 ~~4.3.~~ Until the school district completes the matrix
 483 required by paragraph ~~(5)(3)(b)~~, the calculation shall be based
 484 on the matrix that assigns the student to support level I of
 485 service as it existed prior to the 2000-2001 school year. When
 486 the school district completes the matrix, the amount of the
 487 payment shall be adjusted as needed.

488 (b) The amount of the John M. McKay Scholarship shall be
 489 the calculated amount or the amount of the private school's
 490 tuition and fees, whichever is less. The amount of any
 491 assessment fee required by the participating private school may
 492 be paid from the total amount of the scholarship.

493 ~~(c) If the participating private school requires partial~~
 494 ~~payment of tuition prior to the start of the academic year to~~
 495 ~~reserve space for students admitted to the school, that partial~~
 496 ~~payment may be paid by the Department of Education prior to the~~
 497 ~~first quarterly payment of the year in which the John M. McKay~~

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498 ~~Scholarship is awarded, up to a maximum of \$1,000, and deducted~~
499 ~~from subsequent scholarship payments. If a student decides not~~
500 ~~to attend the participating private school, the partial~~
501 ~~reservation payment must be returned to the Department of~~
502 ~~Education by the participating private school. There is a limit~~
503 ~~of one reservation payment per student per year.~~

504 (c)1.~~(d)~~ The school district shall report all students who
505 are attending a private school under this program. The students
506 with disabilities attending private schools on John M. McKay
507 Scholarships shall be reported separately from other students
508 reported for purposes of the Florida Education Finance Program.

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

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

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

518 (d)~~(e)~~ Following notification on July 1, September 1,
519 December 1, or February 1 of the number of program participants,
520 the department ~~of Education~~ shall transfer, from General Revenue
521 funds only, the amount calculated under paragraph (b) from the
522 school district's total funding entitlement under the Florida
523 Education Finance Program and from authorized categorical
524 accounts to a separate account for the scholarship program for
525 quarterly disbursement to the parents of participating students.

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526 Funds may not be transferred from any funding provided to the
 527 Florida School for the Deaf and the Blind for program
 528 participants who are eligible under subparagraph (2)(a)2. For a
 529 student exiting a Department of Juvenile Justice commitment
 530 program who chooses to participate in the scholarship program,
 531 the amount of the John M. McKay Scholarship calculated pursuant
 532 to paragraph (b) shall be transferred from the school district
 533 in which the student last attended a public school prior to
 534 commitment to the Department of Juvenile Justice. When a student
 535 enters the scholarship program, the department of ~~Education~~ must
 536 receive all documentation required for the student's
 537 participation, including the private school's and student's fee
 538 schedules, at least 30 days before the first quarterly
 539 scholarship payment is made for the student. ~~The Department of~~
 540 ~~Education may not make any retroactive payments.~~

541 (e)(f) Upon notification ~~proper documentation reviewed and~~
 542 ~~approved~~ by the department that it has received the
 543 documentation required under paragraph (d) ~~Department of~~
 544 ~~Education~~, the Chief Financial Officer shall make scholarship
 545 payments in four equal amounts no later than September 1,
 546 November 1, February 1, and April 1 ~~15~~ of each academic year in
 547 which the scholarship is in force. The initial payment shall be
 548 made after department of ~~Education~~ verification of admission
 549 acceptance, and subsequent payments shall be made upon
 550 verification of continued enrollment and attendance at the
 551 private school. Payment must be by individual warrant made
 552 payable to the student's parent and mailed by the department of ~~E~~
 553 ~~Education~~ to the private school of the parent's choice, and the

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554 parent shall restrictively endorse the warrant to the private
555 school for deposit into the account of the private school.

556 (f) Subsequent to each scholarship payment, the Department
557 of Financial Services shall randomly review endorsed warrants to
558 confirm compliance with endorsement requirements. The Department
559 of Financial Services shall immediately report inconsistencies
560 or irregularities to the department.

561 (11)(7) LIABILITY.--No liability shall arise on the part
562 of the state based on the award or use of a John M. McKay
563 Scholarship.

564 (12) WAIVER.--For good cause, the State Board of Education
565 shall have the authority to waive any deadlines to effectuate
566 the purposes of the scholarship program.

567 (13) SCOPE OF AUTHORITY.--The inclusion of eligible
568 private schools within options available to Florida public
569 school students does not expand the regulatory authority of the
570 state, its officers, or any school district to impose any
571 additional regulation of private schools beyond those reasonably
572 necessary to enforce requirements expressly set forth in this
573 section.

574 (14)(8) RULES.--The State Board of Education shall adopt
575 rules pursuant to ss. 120.536(1) and 120.54 to administer this
576 section, including rules that school districts must use to
577 expedite the development of a matrix of services based on an
578 active a-current individual education plan from another state or
579 a foreign country for a transferring student with a disability
580 who is a dependent child of a member of the United States Armed
581 Forces. The rules must identify the appropriate school district

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582 | personnel who must complete the matrix of services. For purposes
 583 | of these rules, a transferring student with a disability is one
 584 | who was previously enrolled as a student with a disability in an
 585 | out-of-state or an out-of-country public or private school or
 586 | agency program and who is transferring from out of state or from
 587 | a foreign country pursuant to a parent's permanent change of
 588 | station orders. ~~However, the inclusion of eligible private~~
 589 | ~~schools within options available to Florida public school~~
 590 | ~~students does not expand the regulatory authority of the state,~~
 591 | ~~its officers, or any school district to impose any additional~~
 592 | ~~regulation of private schools beyond those reasonably necessary~~
 593 | ~~to enforce requirements expressly set forth in this section.~~

594 | Section 2. Section 220.187, Florida Statutes, is amended
 595 | to read:

596 | 220.187 Credits for contributions to nonprofit
 597 | scholarship-funding organizations.--

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

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

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

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

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

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

607 | (b) "Eligible contribution" means a monetary contribution
 608 | from a taxpayer, subject to the restrictions provided in this
 609 | section, to an eligible nonprofit scholarship-funding

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610 organization. The taxpayer making the contribution may not
 611 designate a specific child as the beneficiary of the
 612 contribution. ~~The taxpayer may not contribute more than \$5~~
 613 ~~million to any single eligible nonprofit scholarship-funding~~
 614 ~~organization.~~

615 (c)(d) "Eligible nonprofit scholarship-funding
 616 organization" means a charitable organization that:

617 1. Is exempt from federal income tax pursuant to s.
 618 501(c)(3) of the Internal Revenue Code.

619 2. Is a Florida entity formed under chapter 607, chapter
 620 608, or chapter 617 and whose principal office is located in the
 621 state.

622 3. ~~and that~~ Complies with the provisions of subsection
 623 (6)(4).

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

628 (e) "Owner or operator" includes:

629 1. An owner, president, officer, or director of an
 630 eligible nonprofit scholarship-funding organization or a person
 631 with equivalent decisionmaking authority over an eligible
 632 nonprofit scholarship-funding organization.

633 2. An owner, operator, superintendent, or principal of an
 634 eligible private school or a person with equivalent
 635 decisionmaking authority over an eligible private school.

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

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

644 (a)1. Was counted as a full-time equivalent student during
 645 the previous state fiscal year for purposes of state per-student
 646 funding;

647 (b)2. Received a scholarship from an eligible nonprofit
 648 scholarship-funding organization during the previous school
 649 year; or

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

651
 652 A student may continue in the scholarship program as long as the
 653 family income level does not exceed 200 percent of the federal
 654 poverty level.

655 (4) SCHOLARSHIP PROHIBITIONS.--A student is not eligible
 656 for a scholarship while he or she is:

657 (a) Enrolled in a school operating for the purpose of
 658 providing educational services to youth in Department of
 659 Juvenile Justice commitment programs.

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

662 (c) Receiving an educational scholarship pursuant to
 663 chapter 1002.

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664 (d) Participating in a home education program as defined
665 in s. 1002.01(1).

666 (e) Participating in a private tutoring program pursuant
667 to s. 1002.43.

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

671 (g) Enrolled in the Florida School for the Deaf and the
672 Blind.

673 (5)(3) AUTHORIZATION TO GRANT SCHOLARSHIP FUNDING TAX
674 CREDITS; LIMITATIONS ON INDIVIDUAL AND TOTAL CREDITS.--

675 (a) There is allowed a credit of 100 percent of an
676 eligible contribution against any tax due for a taxable year
677 under this chapter. However, such a credit may not exceed 75
678 percent of the tax due under this chapter for the taxable year,
679 after the application of any other allowable credits by the
680 taxpayer. ~~However, at least 5 percent of the total statewide~~
681 ~~amount authorized for the tax credit shall be reserved for~~
682 ~~taxpayers who meet the definition of a small business provided~~
683 ~~in s. 288.703(1) at the time of application.~~ The credit granted
684 by this section shall be reduced by the difference between the
685 amount of federal corporate income tax taking into account the
686 credit granted by this section and the amount of federal
687 corporate income tax without application of the credit granted
688 by this section.

689 (b) The total amount of tax credits and carryforward of
690 tax credits which may be granted ~~each state fiscal year~~ under
691 this section is \$88 million during the 2005-2006 fiscal year.

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692 The total amount of tax credits and carryforward of tax credits
 693 which may be granted under this section shall be adjusted each
 694 year by the same percentage as the increase or decrease in total
 695 funding, adjusted for Florida Retirement System changes if
 696 applicable, under the Florida Education Finance Program as
 697 provided in the General Appropriations Act workpapers. However,
 698 the total amount of tax credits that may be granted pursuant to
 699 this paragraph may not increase by more than 5 percent in any
 700 year. The Commissioner of Education shall certify to the
 701 department and notify eligible nonprofit scholarship-funding
 702 organizations of the resulting value of tax credits that may be
 703 granted within 30 days after the General Appropriations Act
 704 becomes law. However, at least 1 percent of the total statewide
 705 amount authorized for the tax credit shall be reserved for
 706 taxpayers who meet the definition of a small business provided
 707 in s. 288.703(1) at the time of application.

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

713 (d) Effective for tax years beginning January 1, 2005, a
 714 taxpayer may rescind all or part of its allocated tax credit
 715 under this section. The amount rescinded shall become available
 716 for purposes of the cap for that state fiscal year under this
 717 section to an eligible taxpayer as approved by the department if
 718 the taxpayer receives notice from the department that the
 719 rescindment has been accepted by the department and the taxpayer

720 has not previously rescinded any or all of its tax credit
 721 allocation under this section more than once in the previous 3
 722 tax years. Any amount rescinded under this paragraph shall
 723 become available to an eligible taxpayer on a first-come, first-
 724 served basis based on tax credit applications received after the
 725 date the rescindment is accepted by the department.

726 ~~(6)~~(4) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-
 727 FUNDING ORGANIZATIONS.--An eligible nonprofit scholarship-
 728 funding organization:

729 (a) Must comply with the antidiscrimination provisions of
 730 42 U.S.C. s. 2000d.

731 (b) Must comply with the following background check
 732 requirements:

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

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

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

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

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

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

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

756 ~~(e)(b) Must~~ An eligible nonprofit scholarship-funding
 757 ~~organization shall~~ give priority to eligible ~~qualified~~ students
 758 who received a scholarship from an eligible nonprofit
 759 scholarship-funding organization during the previous school
 760 year.

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

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

767 (h) Must allow an eligible student to attend any eligible
 768 private school and must allow a parent to transfer a scholarship
 769 during a school year to any other eligible private school of the
 770 parent's choice.

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

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

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

780 ~~(d) The amount of an eligible contribution which may be~~
 781 ~~accepted by an eligible nonprofit scholarship funding~~
 782 ~~organization is limited to the amount needed to provide~~
 783 ~~scholarships for qualified students which the organization has~~
 784 ~~identified and for which vacancies in eligible nonpublic schools~~
 785 ~~have been identified.~~

786 (i)(e) Must obligate ~~An eligible nonprofit scholarship-~~
 787 ~~funding organization that receives an eligible contribution must~~
 788 ~~spend~~ 100 percent of the eligible contribution to provide
 789 scholarships in the same state fiscal year in which the
 790 contribution was received. No portion of eligible contributions
 791 may be used for administrative expenses. All interest accrued
 792 from contributions must be used for scholarships.

793 (j) Must maintain separate accounts for scholarship funds
 794 and operating funds.

795 (k) May transfer funds to another eligible nonprofit
 796 scholarship-funding organization when additional funds are
 797 required to meet scholarship demand.

798 (l) May obtain a secured line of credit to fund
 799 scholarship payments based on estimated contributions to be
 800 received within a 6-month period. These funds may only be used
 801 to provide scholarship payments. Interest and fees related to
 802 the line of credit shall be paid from the eligible nonprofit

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803 scholarship-funding organization's operating budget and not from
804 contributions or loan proceeds.

805 (m)(f) Must ~~An eligible nonprofit scholarship-funding~~
806 ~~organization that receives eligible contributions must~~ provide
807 to the Auditor General and the Department of Education an annual
808 financial and compliance audit of its accounts and records
809 conducted by an independent certified public accountant and in
810 accordance with rules adopted by the Auditor General. The audit
811 must be conducted in compliance with generally accepted auditing
812 standards and must include a report on financial statements
813 presented in accordance with generally accepted accounting
814 principles set forth by the American Institute of Certified
815 Public Accountants for not-for-profit organizations and a
816 determination of compliance with the statutory eligibility and
817 expenditure requirements set forth in this section. Audits must
818 be provided to the Auditor General and the Department of
819 Education within 180 days after completion of the eligible
820 nonprofit scholarship-funding organization's fiscal year.

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

826
827 Any and all information and documentation provided to the
828 Department of Education and the Auditor General relating to the
829 identity of a taxpayer that provides an eligible contribution

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830 under this section shall remain confidential at all times in
831 accordance with s. 213.053.

832 ~~(g) Payment of the scholarship by the eligible nonprofit~~
833 ~~scholarship funding organization shall be by individual warrant~~
834 ~~or check made payable to the student's parent. If the parent~~
835 ~~chooses for his or her child to attend an eligible nonpublic~~
836 ~~school, the warrant or check must be mailed by the eligible~~
837 ~~nonprofit scholarship funding organization to the nonpublic~~
838 ~~school of the parent's choice, and the parent shall~~
839 ~~restrictively endorse the warrant or check to the nonpublic~~
840 ~~school. An eligible nonprofit scholarship funding organization~~
841 ~~shall ensure that, upon receipt of a scholarship warrant or~~
842 ~~check, the parent to whom the warrant or check is made~~
843 ~~restrictively endorses the warrant or check to the nonpublic~~
844 ~~school of the parent's choice for deposit into the account of~~
845 ~~the nonpublic school.~~

846 (7)(5) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
847 PARTICIPATION OBLIGATIONS.--As a condition for scholarship
848 payment pursuant to paragraph (4)(g), if the parent chooses for
849 his or her child to attend an eligible nonpublic school, the
850 parent must inform the child's school district within 15 days
851 after such decision.

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

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

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

860 (d) Each parent and each student has an obligation to the
 861 private school to comply with the private school's published
 862 policies.

863 (e) The parent shall ensure that the student participating
 864 in the scholarship program takes the norm-referenced assessment
 865 offered by the private school. The parent may also choose to
 866 have the student participate in the statewide assessments
 867 pursuant to s. 1008.22. If the parent requests that the student
 868 participating in the scholarship program take statewide
 869 assessments pursuant to s. 1008.22, the parent is responsible
 870 for transporting the student to the assessment site designated
 871 by the school district.

872 (f) Upon receipt of a scholarship warrant or check from
 873 the eligible nonprofit scholarship-funding organization, the
 874 parent to whom the warrant or check is made must restrictively
 875 endorse the warrant or check to the private school for deposit
 876 into the account of the private school. The parent may not
 877 designate any entity or individual associated with the
 878 participating private school as the parent's attorney in fact to
 879 sign a scholarship warrant or check. A participant who fails to
 880 comply with this paragraph forfeits the scholarship.

881 (8)(6) PRIVATE ELIGIBLE ~~NONPUBLIC~~ SCHOOL ELIGIBILITY AND
 882 OBLIGATIONS.--An eligible private ~~nonpublic~~ school may be
 883 sectarian or nonsectarian and must:

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884 (a) Comply with all requirements for private schools
 885 participating in state school choice scholarship programs
 886 pursuant to s. 1002.421.

887 (b) Provide to the eligible nonprofit scholarship-funding
 888 organization, upon request, all documentation required for the
 889 student's participation, including the private school's and
 890 student's fee schedules.

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

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

895 2. Annually administering or making provision for students
 896 participating in the scholarship program to take one of the
 897 nationally norm-referenced tests identified by the Department of
 898 Education. Students with disabilities for whom standardized
 899 testing is not appropriate are exempt from this requirement. A
 900 participating private school must report a student's scores to
 901 the parent and to the independent private research organization
 902 selected by the Department of Education pursuant to paragraph
 903 (9)(j).

904 3. Cooperating with the scholarship student whose parent
 905 chooses to participate in the statewide assessments pursuant to
 906 s. 1008.32.

907
 908 The inability of a private school to meet the requirements of
 909 this subsection shall constitute a basis for the ineligibility
 910 of the private school to participate in the scholarship program
 911 as determined by the Department of Education.

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912 ~~(a) Demonstrate fiscal soundness by being in operation for~~
 913 ~~one school year or provide the Department of Education with a~~
 914 ~~statement by a certified public accountant confirming that the~~
 915 ~~nonpublic school desiring to participate is insured and the~~
 916 ~~owner or owners have sufficient capital or credit to operate the~~
 917 ~~school for the upcoming year serving the number of students~~
 918 ~~anticipated with expected revenues from tuition and other~~
 919 ~~sources that may be reasonably expected. In lieu of such a~~
 920 ~~statement, a surety bond or letter of credit for the amount~~
 921 ~~equal to the scholarship funds for any quarter may be filed with~~
 922 ~~the department.~~

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

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

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

928 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.--The Department
 929 of Education shall:

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

933 (b) Annually verify the eligibility of nonprofit
 934 scholarship-funding organizations that meet the requirements of
 935 paragraph (2)(c).

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

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938 (d) Annually verify the eligibility of expenditures as
 939 provided in paragraph (6)(d) using the audit required by
 940 paragraph (6)(m).

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

944 (f) Establish a process by which individuals may notify
 945 the Department of Education of any violation by a parent,
 946 private school, or school district of state laws relating to
 947 program participation. The Department of Education shall conduct
 948 an investigation of any written complaint of a violation of this
 949 section, or make a referral to the appropriate agency for an
 950 investigation, if the complaint is signed by the complainant and
 951 is legally sufficient. A complaint is legally sufficient if it
 952 contains ultimate facts that show that a violation of this
 953 section or any rule adopted by the State Board of Education has
 954 occurred. In order to determine legal sufficiency, the
 955 Department of Education may require supporting information or
 956 documentation from the complainant.

957 (g) Require an annual, notarized, sworn compliance
 958 statement by participating private schools certifying compliance
 959 with state laws and shall retain such records.

960 (h) Cross-check the list of participating scholarship
 961 students with the public school enrollment lists to avoid
 962 duplication.

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

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966 (j) Select an independent private research organization to
967 which participating private schools must report the scores of
968 participating students on the nationally norm-referenced tests
969 administered by the private school. The independent private
970 research organization must annually report to the Department of
971 Education on the year-to-year improvements of participating
972 students. The independent private research organization must
973 analyze and report student performance data in a manner that
974 protects the rights of students and parents as mandated in 20
975 U.S.C. s. 1232g, the Family Educational Rights and Privacy Act,
976 and must not disaggregate data to a level that will disclose the
977 academic level of individual students or of individual schools.
978 To the extent possible, the independent private research
979 organization must accumulate historical performance data on
980 students from the Department of Education and private schools to
981 describe baseline performance and to conduct longitudinal
982 studies. To minimize costs and reduce time required for third-
983 party analysis and evaluation, the Department of Education shall
984 conduct analyses of matched students from public school
985 assessment data and calculate control group learning gains using
986 an agreed-upon methodology outlined in the contract with the
987 third-party evaluator. The sharing of student data must be in
988 accordance with requirements of 20 U.S.C. 1232g, the Family
989 Educational Rights and Privacy Act, and shall be for the sole
990 purpose of conducting the evaluation. All parties must preserve
991 the confidentiality of such information as required by law.

992 (k) Notify an eligible nonprofit scholarship-funding
993 organization of any of the organization's identified students

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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994 who are receiving an educational scholarship pursuant to chapter
 995 1002.

996 (l) Notify an eligible nonprofit scholarship-funding
 997 organization of any of the organization's identified students
 998 who are receiving a corporate income tax credit scholarship from
 999 another eligible nonprofit scholarship-funding organization.

1000 (m) Require quarterly reports by an eligible nonprofit
 1001 scholarship-funding organization regarding the number of
 1002 students participating in the scholarship program, the private
 1003 schools at which the students are enrolled, and other
 1004 information deemed necessary by the Department of Education.

1005 (10) COMMISSIONER OF EDUCATION AUTHORITY AND
 1006 OBLIGATIONS.--

1007 (a) The Commissioner of Education shall deny, suspend, or
 1008 revoke a private school's participation in the scholarship
 1009 program if it is determined that the private school has failed
 1010 to comply with the provisions of this section. However, in
 1011 instances in which the noncompliance is correctable within a
 1012 reasonable amount of time and in which the health, safety, and
 1013 welfare of the students are not threatened, the commissioner may
 1014 issue a notice of noncompliance which shall provide the private
 1015 school with a timeframe within which to provide evidence of
 1016 compliance prior to taking action to suspend or revoke the
 1017 private school's participation in the scholarship program.

1018 (b) The commissioner's determination is subject to the
 1019 following:

1020 1. If the commissioner intends to deny, suspend, or revoke
 1021 a private school's participation in the scholarship program, the

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1022 Department of Education shall notify the private school of such
 1023 proposed action in writing by certified mail and regular mail to
 1024 the private school's address of record with the Department of
 1025 Education. The notification shall include the reasons for the
 1026 proposed action and notice of the timelines and procedures set
 1027 forth in this paragraph.

1028 2. The private school that is adversely affected by the
 1029 proposed action shall have 15 days from receipt of the notice of
 1030 proposed action to file with the Department of Education's
 1031 agency clerk a request for a proceeding pursuant to ss. 120.569
 1032 and 120.57. If the private school is entitled to a hearing under
 1033 s. 120.57(1), the Department of Education shall forward the
 1034 request to the Division of Administrative Hearings.

1035 3. Upon receipt of a request referred pursuant to this
 1036 paragraph, the director of the Division of Administrative
 1037 Hearings shall expedite the hearing and assign an administrative
 1038 law judge who shall commence a hearing within 30 days after the
 1039 receipt of the formal written request by the division and enter
 1040 a recommended order within 30 days after the hearing or within
 1041 30 days after receipt of the hearing transcript, whichever is
 1042 later. Each party shall be allowed 10 days in which to submit
 1043 written exceptions to the recommended order. A final order shall
 1044 be entered by the agency within 30 days after the entry of a
 1045 recommended order. The provisions of this subparagraph may be
 1046 waived upon stipulation by all parties.

1047 (c) The commissioner may immediately suspend payment of
 1048 scholarship funds if it is determined that there is probable
 1049 cause to believe that there is:

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1050 1. An imminent threat to the health, safety, and welfare
 1051 of the students; or

1052 2. Fraudulent activity on the part of the private school.

1053
 1054 The commissioner's order suspending payment pursuant to this
 1055 paragraph may be appealed pursuant to the same procedures and
 1056 timelines as the notice of proposed action set forth in
 1057 paragraph (b).

1058 (11) SCHOLARSHIP AMOUNT AND PAYMENT.--

1059 (a) The amount of a scholarship provided to any student
 1060 for any single school year by an eligible nonprofit scholarship-
 1061 funding organization from eligible contributions shall not
 1062 exceed the following annual limits:

1063 1. Three thousand five hundred dollars for a scholarship
 1064 awarded to a student enrolled in an eligible private school.

1065 2. Five hundred dollars for a scholarship awarded to a
 1066 student enrolled in a Florida public school that is located
 1067 outside the district in which the student resides or in a lab
 1068 school as defined in s. 1002.32.

1069
 1070 The scholarship amount in subparagraph 1. is for the 2005-2006
 1071 fiscal year and shall be adjusted each year by the same
 1072 percentage as the increase or decrease in total funds per
 1073 unweighted FTE, adjusted for Florida Retirement System changes
 1074 if applicable, under the Florida Education Finance Program as
 1075 provided in the General Appropriations Act workpapers. However,
 1076 the scholarship amount may not increase by more than 3 percent
 1077 in any year. The Commissioner of Education shall certify to the

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1078 department and notify eligible nonprofit scholarship-funding
 1079 organizations of the resulting value of the scholarship within
 1080 30 days after the General Appropriations Act becomes law.

1081 (b) Payment of the scholarship by the eligible nonprofit
 1082 scholarship-funding organization shall be by individual warrant
 1083 or check made payable to the student's parent. If the parent
 1084 chooses for his or her child to attend an eligible private
 1085 school, the warrant or check must be delivered by the eligible
 1086 nonprofit scholarship-funding organization to the private school
 1087 of the parent's choice, and the parent shall restrictively
 1088 endorse the warrant or check to the private school. An eligible
 1089 nonprofit scholarship-funding organization shall ensure that the
 1090 parent to whom the warrant or check is made restrictively
 1091 endorsed the warrant or check to the private school for deposit
 1092 into the account of the private school.

1093 (c) An eligible nonprofit scholarship-funding organization
 1094 shall obtain verification from the private school of a student's
 1095 continued attendance at the school prior to each scholarship
 1096 payment.

1097 (d) Payment of the scholarship shall be made by the
 1098 eligible nonprofit scholarship-funding organization no less
 1099 frequently than on a quarterly basis.

1100 (12)(7) ADMINISTRATION; RULES.--

1101 (a) If the credit granted pursuant to this section is not
 1102 fully used in any one year because of insufficient tax liability
 1103 on the part of the corporation, the unused amount may be carried
 1104 forward for a period not to exceed 3 years; however, any
 1105 taxpayer that seeks to carry forward an unused amount of tax

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1106 credit must submit an application for allocation of tax credits
 1107 or carryforward credits as required in paragraph (d) in the year
 1108 that the taxpayer intends to use the carryforward. ~~The total~~
 1109 ~~amount of tax credits and carryforward of tax credits granted~~
 1110 ~~each state fiscal year under this section is \$88 million.~~ This
 1111 carryforward applies to all approved contributions made after
 1112 January 1, 2002. A taxpayer may not convey, assign, or transfer
 1113 the credit authorized by this section to another entity unless
 1114 all of the assets of the taxpayer are conveyed, assigned, or
 1115 transferred in the same transaction.

1116 (b) An application for a tax credit pursuant to this
 1117 section shall be submitted to the department on forms
 1118 established by rule of the department.

1119 (c) The department and the Department of Education shall
 1120 develop a cooperative agreement to assist in the administration
 1121 of this section. ~~The Department of Education shall be~~
 1122 ~~responsible for annually submitting, by March 15, to the~~
 1123 ~~department a list of eligible nonprofit scholarship funding~~
 1124 ~~organizations that meet the requirements of paragraph (2)(d) and~~
 1125 ~~for monitoring eligibility of nonprofit scholarship funding~~
 1126 ~~organizations that meet the requirements of paragraph (2)(d),~~
 1127 ~~eligibility of nonpublic schools that meet the requirements of~~
 1128 ~~paragraph (2)(c), and eligibility of expenditures under this~~
 1129 ~~section as provided in subsection (4).~~

1130 (d) The department shall adopt rules necessary to
 1131 administer this section, including rules establishing
 1132 application forms and procedures and governing the allocation of

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1133 tax credits and carryforward credits under this section on a
1134 first-come, first-served basis.

1135 (e) The State Board ~~Department~~ of Education shall adopt
1136 rules pursuant to ss. 120.536(1) and 120.54 ~~necessary~~ to
1137 administer this section ~~determine eligibility of nonprofit~~
1138 ~~scholarship funding organizations as defined in paragraph (2)(d)~~
1139 ~~and according to the provisions of subsection (4) and identify~~
1140 ~~qualified students as defined in paragraph (2)(e).~~

1141 ~~(13)(8)~~ DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--All eligible
1142 contributions received by an eligible nonprofit scholarship-
1143 funding organization shall be deposited in a manner consistent
1144 with s. 17.57(2).

1145 Section 3. Section 1002.421, Florida Statutes, is created
1146 to read:

1147 1002.421 Rights and obligations of private schools
1148 participating in state school choice scholarship
1149 programs.--Requirements of this section are in addition to
1150 private school requirements outlined in s. 1002.42, specific
1151 requirements identified within respective scholarship program
1152 laws, and other provisions of Florida law that apply to private
1153 schools.

1154 (1) A Florida private school participating in the
1155 Corporate Income Tax Credit Scholarship Program established
1156 pursuant to s. 220.187 or an educational scholarship program
1157 established pursuant to this chapter must comply with all
1158 requirements of this section.

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1159 (2) A private school participating in a scholarship
 1160 program must be a Florida private school as defined in s.
 1161 1002.01(2) and must:

1162 (a) Be a registered Florida private school in accordance
 1163 with s. 1002.42.

1164 (b) Comply with antidiscrimination provisions of 42 U.S.C.
 1165 s. 2000d.

1166 (c) Notify the department of its intent to participate in
 1167 a scholarship program.

1168 (d) Notify the department of any change in the school's
 1169 name, school director, mailing address, or physical location
 1170 within 15 days after the change.

1171 (e) Complete student enrollment and attendance
 1172 verification requirements, including use of an on-line
 1173 attendance verification form, prior to scholarship payment.

1174 (f) Annually complete and submit to the department a
 1175 notarized scholarship compliance statement certifying compliance
 1176 with state laws relating to private school participation in the
 1177 scholarship program.

1178 (g) Demonstrate fiscal soundness and accountability by:

1179 1. Being in operation for at least 3 school years or
 1180 obtaining a surety bond or letter of credit for the amount equal
 1181 to the scholarship funds for any quarter and filing the surety
 1182 bond or letter of credit with the department.

1183 2. Requiring the parent of each scholarship student to
 1184 personally restrictively endorse the scholarship warrant to the
 1185 school. The school may not act as attorney in fact for the
 1186 parent of a scholarship student under the authority of a power

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1187 of attorney executed by such parent, or under any other
1188 authority, to endorse scholarship warrants on behalf of such
1189 parent.

1190 (h) Meet applicable state and local health, safety, and
1191 welfare laws, codes, and rules, including:

1192 1. Fire safety.

1193 2. Building safety.

1194 (i) Employ or contract with teachers who hold
1195 baccalaureate or higher degrees, have at least 3 years of
1196 teaching experience in public or private schools, or have
1197 special skills, knowledge, or expertise that qualifies them to
1198 provide instruction in subjects taught.

1199 (j) Require each individual with direct student contact
1200 with a scholarship student to be of good moral character, to be
1201 subject to the level 1 background screening as provided under
1202 chapter 435, to be denied employment or terminated if required
1203 under s. 435.06, and not to be ineligible to teach in a public
1204 school because his or her educator certificate is suspended or
1205 revoked. For purposes of this paragraph:

1206 1. An "individual with direct student contact" means any
1207 individual who has unsupervised access to a scholarship student
1208 for whom the private school is responsible.

1209 2. The costs of fingerprinting and the background check
1210 shall not be borne by the state.

1211 3. Continued employment of an individual after
1212 notification that the individual has failed the level 1
1213 background screening shall cause a private school to be
1214 ineligible for participation in a scholarship program.

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1215 4. An individual holding a valid Florida teaching
 1216 certificate who has been fingerprinted pursuant to s. 1012.32
 1217 shall not be required to comply with the provisions of this
 1218 paragraph.

1219 (3) The inability of a private school to meet the
 1220 requirements of this section shall constitute a basis for the
 1221 ineligibility of the private school to participate in a
 1222 scholarship program as determined by the department.

1223 (4) The inclusion of eligible private schools within
 1224 options available to Florida public school students does not
 1225 expand the regulatory authority of the state, its officers, or
 1226 any school district to impose any additional regulation of
 1227 private schools beyond those reasonably necessary to enforce
 1228 requirements expressly set forth in this section.

1229 (5) The State Board of Education shall adopt rules
 1230 pursuant to ss. 120.536(1) and 120.54 to administer this
 1231 section.

1232 Section 4. This act shall take effect upon becoming a law.