

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 providing scope of authority; requiring adoption of rules;
31 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:

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;

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; or

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

133 However, ~~this paragraph does not apply to~~ a dependent child of a
134 member of the United States Armed Forces who transfers to a
135 school in this state from out of state or from a foreign country
136 pursuant to a parent's permanent change of station orders is
137 exempt from this paragraph but. ~~A dependent child of a member of~~
138 ~~the United States Armed Forces who transfers to a school in this~~
139 ~~state from out of state or from a foreign country pursuant to a~~

140 ~~parent's permanent change of station orders~~ must meet all other
141 eligibility requirements to participate in the program.

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

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

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

165 (a) Enrolled in a school operating for the purpose of
166 providing educational services to youth in Department of
167 Juvenile Justice commitment programs.

168 (b) Receiving a corporate income tax credit scholarship
 169 under s. 220.187.

170 (c) Receiving an educational scholarship pursuant to this
 171 chapter.

172 (d) Participating in a home education program as defined
 173 in s. 1002.01(1).

174 (e) Participating in a private tutoring program pursuant
 175 to s. 1002.43.

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

179 (g) Enrolled in the Florida School for the Deaf and the
 180 Blind.

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

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

186 (b) Upon reasonable notice to the department and the
 187 school district, the student's parent may remove the student
 188 from the private school and place the student in a public
 189 school, as provided in subparagraph (5)(a)2.

190 (c) Upon reasonable notice to the department, the
 191 student's parent may move the student from one participating
 192 private school to another participating private school.

193 (5)(3) SCHOOL DISTRICT AND DEPARTMENT OF EDUCATION
 194 OBLIGATIONS; PARENTAL OPTIONS.--

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

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

209 3. If the parent chooses a public school consistent with
210 the district school board's choice plan under s. 1002.31, the
211 school district shall provide transportation to the public
212 school selected by the parent. The parent is responsible to
213 provide transportation to a public school chosen that is not
214 consistent with the district school board's choice plan under s.
215 1002.31.

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

221 2.a. Within 10 school days after it receives notification
222 of a parent's request for a John M. McKay Scholarship, a

223 district school board must notify the student's parent if the
224 matrix has not been completed and inform the parent that the
225 district is required to complete the matrix within 30 days after
226 receiving notice of the parent's request for a John M. McKay
227 Scholarship. This notice should include the required completion
228 date for the matrix.

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

238 c. The department ~~of Education~~ shall notify the private
239 school of the amount of the scholarship within 10 days after
240 receiving the school district's notification of the student's
241 matrix level. ~~Within 10 school days after it receives~~
242 ~~notification of a parent's intent to apply for a McKay~~
243 ~~Scholarship, a district school board must notify the student's~~
244 ~~parent if the matrix has not been completed and provide the~~
245 ~~parent with the date for completion of the matrix required in~~
246 ~~this paragraph.~~

247 d. A school district may change a matrix of services only
248 if the change is to correct a technical, typographical, or
249 calculation error.

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

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

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

268 (f)-(e) For a student in the district who participates in
 269 the John M. McKay Scholarships for Students with Disabilities
 270 Program whose parent requests that the student take the
 271 statewide assessments under s. 1008.22, the district shall
 272 provide locations and times to take all statewide assessments.

273 ~~(f) A school district must notify the Department of~~
 274 ~~Education within 10 days after it receives notification of a~~
 275 ~~parent's intent to apply for a scholarship for a student with a~~
 276 ~~disability. A school district must provide the student's parent~~

277 ~~with the student's matrix level within 10 school days after its~~
278 ~~completion.~~

279 (6) DEPARTMENT OF EDUCATION OBLIGATIONS.--The department
280 shall:

281 (a) Establish a toll-free hotline that provides parents
282 and private schools with information on participation in the
283 John M. McKay Scholarships for Students with Disabilities
284 Program.

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

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

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

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

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

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

317 (b) The commissioner's determination is subject to the
318 following:

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

327 2. The private school that is adversely affected by the
328 proposed action shall have 15 days from receipt of the notice of
329 proposed action to file with the department's agency clerk a
330 request for a proceeding pursuant to ss. 120.569 and 120.57. If
331 the private school is entitled to a hearing under s. 120.57(1),

332 the department shall forward the request to the Division of
333 Administrative Hearings.

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

346 (c) The commissioner may immediately suspend payment of
347 scholarship funds if it is determined that there is probable
348 cause to believe that there is:

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

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

352
353 The commissioner's order suspending payment pursuant to this
354 paragraph may be appealed pursuant to the same procedures and
355 timelines as the notice of proposed action set forth in
356 paragraph (b).

357 (8)(4) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.--To be
358 eligible to participate in the John M. McKay Scholarships for
359 Students with Disabilities Program, a private school ~~must be a~~

360 ~~Florida private school,~~ may be sectarian or nonsectarian, and
361 must:

362 (a) Comply with all requirements for private schools
363 participating in state school choice scholarship programs
364 pursuant to s. 1002.421.

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

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

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

373 2. Cooperating with the scholarship student whose parent
374 chooses to participate in the statewide assessments pursuant to
375 s. 1008.22.

376
377 The inability of a private school to meet the requirements of
378 this subsection shall constitute a basis for the ineligibility
379 of the private school to participate in the scholarship program
380 as determined by the department.

381 ~~(a) Demonstrate fiscal soundness by being in operation for~~
382 ~~1 school year or provide the Department of Education with a~~
383 ~~statement by a certified public accountant confirming that the~~
384 ~~private school desiring to participate is insured and the owner~~
385 ~~or owners have sufficient capital or credit to operate the~~
386 ~~school for the upcoming year serving the number of students~~
387 ~~anticipated with expected revenues from tuition and other~~

388 ~~sources that may be reasonably expected. In lieu of such a~~
 389 ~~statement, a surety bond or letter of credit for the amount~~
 390 ~~equal to the scholarship funds for any quarter may be filed with~~
 391 ~~the department.~~

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

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

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

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

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

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

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

411 (9)(5) PARENT AND STUDENT RESPONSIBILITIES FOR OBLIGATION
 412 OF PROGRAM PARTICIPATION PARTICIPANTS.--A parent who applies for
 413 a John M. McKay Scholarship is exercising his or her parental
 414 option to place his or her child in a private school.

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

419 (b) The parent must have requested the scholarship at
420 least 60 days prior to the date of the first scholarship
421 payment.

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

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

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

438 (f) Upon receipt of a scholarship warrant, the parent to
439 whom the warrant is made must restrictively endorse the warrant
440 to the private school for deposit into the account of the
441 private school. The parent may not designate any entity or
442 individual associated with the participating private school as

443 the parent's attorney in fact to sign a scholarship warrant. A
 444 participant who fails to comply with this paragraph forfeits the
 445 scholarship.

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

448 ~~(10)(6)~~ JOHN M. MCKAY SCHOLARSHIP FUNDING AND PAYMENT.--

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

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

470 categorical funds as provided for such purposes in the General
471 Appropriations Act.

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

478 ~~4.3.~~ Until the school district completes the matrix
479 required by paragraph ~~(5)~~~~(3)~~(b), the calculation shall be based
480 on the matrix that assigns the student to support level I of
481 service as it existed prior to the 2000-2001 school year. When
482 the school district completes the matrix, the amount of the
483 payment shall be adjusted as needed.

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

489 ~~(c) If the participating private school requires partial~~
490 ~~payment of tuition prior to the start of the academic year to~~
491 ~~reserve space for students admitted to the school, that partial~~
492 ~~payment may be paid by the Department of Education prior to the~~
493 ~~first quarterly payment of the year in which the John M. McKay~~
494 ~~Scholarship is awarded, up to a maximum of \$1,000, and deducted~~
495 ~~from subsequent scholarship payments. If a student decides not~~
496 ~~to attend the participating private school, the partial~~
497 ~~reservation payment must be returned to the Department of~~

498 ~~Education by the participating private school. There is a limit~~
 499 ~~of one reservation payment per student per year.~~

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

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

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

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

514 (d)~~(e)~~ Following notification on July 1, September 1,
 515 December 1, or February 1 of the number of program participants,
 516 the department ~~of Education~~ shall transfer, from General Revenue
 517 funds only, the amount calculated under paragraph (b) from the
 518 school district's total funding entitlement under the Florida
 519 Education Finance Program and from authorized categorical
 520 accounts to a separate account for the scholarship program for
 521 quarterly disbursement to the parents of participating students.
 522 Funds may not be transferred from any funding provided to the
 523 Florida School for the Deaf and the Blind for program
 524 participants who are eligible under subparagraph (2)(a)2. For a
 525 student exiting a Department of Juvenile Justice commitment

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

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

552 (f) Subsequent to each scholarship payment, the Department
553 of Financial Services shall randomly review endorsed warrants to

554 confirm compliance with endorsement requirements. The Department
 555 of Financial Services shall immediately report inconsistencies
 556 or irregularities to the department.

557 (11)-(7) LIABILITY.--No liability shall arise on the part
 558 of the state based on the award or use of a John M. McKay
 559 Scholarship.

560 (12) SCOPE OF AUTHORITY.--The inclusion of eligible
 561 private schools within options available to Florida public
 562 school students does not expand the regulatory authority of the
 563 state, its officers, or any school district to impose any
 564 additional regulation of private schools beyond those reasonably
 565 necessary to enforce requirements expressly set forth in this
 566 section.

567 (13)-(8) RULES.--The State Board of Education shall adopt
 568 rules pursuant to ss. 120.536(1) and 120.54 to administer this
 569 section, including rules that school districts must use to
 570 expedite the development of a matrix of services based on an
 571 active ~~a current~~ individual education plan from another state or
 572 a foreign country for a transferring student with a disability
 573 who is a dependent child of a member of the United States Armed
 574 Forces. The rules must identify the appropriate school district
 575 personnel who must complete the matrix of services. For purposes
 576 of these rules, a transferring student with a disability is one
 577 who was previously enrolled as a student with a disability in an
 578 out-of-state or an out-of-country public or private school or
 579 agency program and who is transferring from out of state or from
 580 a foreign country pursuant to a parent's permanent change of
 581 station orders. ~~However, the inclusion of eligible private~~

582 ~~schools within options available to Florida public school~~
 583 ~~students does not expand the regulatory authority of the state,~~
 584 ~~its officers, or any school district to impose any additional~~
 585 ~~regulation of private schools beyond those reasonably necessary~~
 586 ~~to enforce requirements expressly set forth in this section.~~

587 Section 2. Section 220.187, Florida Statutes, is amended
 588 to read:

589 220.187 Credits for contributions to nonprofit
 590 scholarship-funding organizations.--

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

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

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

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

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

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

600 (b) "Eligible contribution" means a monetary contribution
 601 from a taxpayer, subject to the restrictions provided in this
 602 section, to an eligible nonprofit scholarship-funding
 603 organization. The taxpayer making the contribution may not
 604 designate a specific child as the beneficiary of the
 605 contribution. ~~The taxpayer may not contribute more than \$5~~
 606 ~~million to any single eligible nonprofit scholarship-funding~~
 607 ~~organization.~~

608 (c) ~~(d)~~ "Eligible nonprofit scholarship-funding
 609 organization" means a charitable organization that:

610 1. Is exempt from federal income tax pursuant to s.
 611 501(c)(3) of the Internal Revenue Code.

612 2. Is a Florida entity formed under chapter 607, chapter
 613 608, or chapter 617 and whose principal office is located in the
 614 state.

615 3. ~~and that~~ Complies with the provisions of subsection
 616 ~~(6)-(4)~~.

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

621 (e) "Owner or operator" includes:

622 1. An owner, president, officer, or director of an
 623 eligible nonprofit scholarship-funding organization or a person
 624 with equivalent decisionmaking authority over an eligible
 625 nonprofit scholarship-funding organization.

626 2. An owner, operator, superintendent, or principal of an
 627 eligible private school or a person with equivalent
 628 decisionmaking authority over an eligible private school.

629 ~~(e) "Qualified student" means a student who qualifies for~~
 630 ~~free or reduced price school lunches under the National School~~
 631 ~~Lunch Act and who:~~

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

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

640 (b)2- Received a scholarship from an eligible nonprofit
641 scholarship-funding organization during the previous school
642 year; or

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

644

645 A student may continue in the scholarship program as long as the
646 family income level does not exceed 200 percent of the federal
647 poverty level.

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

650 (a) Enrolled in a school operating for the purpose of
651 providing educational services to youth in Department of
652 Juvenile Justice commitment programs.

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

655 (c) Receiving an educational scholarship pursuant to
656 chapter 1002.

657 (d) Participating in a home education program as defined
658 in s. 1002.01(1).

659 (e) Participating in a private tutoring program pursuant
660 to s. 1002.43.

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

664 (g) Enrolled in the Florida School for the Deaf and the
 665 Blind.

666 ~~(5)(3)~~ AUTHORIZATION TO GRANT SCHOLARSHIP FUNDING TAX
 667 CREDITS; LIMITATIONS ON INDIVIDUAL AND TOTAL CREDITS.--

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

682 (b) The total amount of tax credits and carryforward of
 683 tax credits which may be granted ~~each state fiscal year~~ under
 684 this section is \$88 million during the 2005-2006 fiscal year.
 685 The total amount of tax credits and carryforward of tax credits
 686 which may be granted under this section shall be adjusted each
 687 year by the same percentage as the increase or decrease in total
 688 funding, adjusted for Florida Retirement System changes if
 689 applicable, under the Florida Education Finance Program as
 690 provided in the General Appropriations Act workpapers. However,
 691 the total amount of tax credits that may be granted pursuant to

692 this paragraph may not increase by more than 5 percent in any
693 year. The Commissioner of Education shall certify to the
694 department and notify eligible nonprofit scholarship-funding
695 organizations of the resulting value of tax credits that may be
696 granted within 30 days after the General Appropriations Act
697 becomes law. However, at least 1 percent of the total statewide
698 amount authorized for the tax credit shall be reserved for
699 taxpayers who meet the definition of a small business provided
700 in s. 288.703(1) at the time of application.

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

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

719 (6)-(4) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-
 720 FUNDING ORGANIZATIONS.--An eligible nonprofit scholarship-
 721 funding organization:

722 (a) Must comply with the antidiscrimination provisions of
 723 42 U.S.C. s. 2000d.

724 (b) Must comply with the following background check
 725 requirements:

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

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

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

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

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

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

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

749 ~~(e)-(b) Must~~ An eligible nonprofit scholarship funding
750 ~~organization shall~~ give priority to eligible ~~qualified~~ students
751 who received a scholarship from an eligible nonprofit
752 scholarship-funding organization during the previous school
753 year.

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

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

760 (h) Must allow an eligible student to attend any eligible
761 private school and must allow a parent to transfer a scholarship
762 during a school year to any other eligible private school of the
763 parent's choice.

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

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

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

773 ~~(d) The amount of an eligible contribution which may be~~
774 ~~accepted by an eligible nonprofit scholarship funding~~
775 ~~organization is limited to the amount needed to provide~~
776 ~~scholarships for qualified students which the organization has~~
777 ~~identified and for which vacancies in eligible nonpublic schools~~
778 ~~have been identified.~~

779 (i) Must obligate, in the same state fiscal year in
780 which the contribution was received, An eligible nonprofit
781 scholarship funding organization that receives an eligible
782 contribution must spend 100 percent of the eligible contribution
783 to provide scholarships in that the same or immediately
784 following state fiscal year in which the contribution was
785 received. No portion of eligible contributions may be used for
786 administrative expenses. All interest accrued from contributions
787 must be used for scholarships.

788 (j) Must maintain separate accounts for scholarship funds
789 and operating funds.

790 (k) May transfer funds to another eligible nonprofit
791 scholarship-funding organization when additional funds are
792 required to meet scholarship demand.

793 (l) May obtain a secured line of credit to fund
794 scholarship payments based on estimated contributions to be
795 received within a 6-month period. These funds may only be used
796 to provide scholarship payments. Interest and fees related to
797 the line of credit shall be paid from the eligible nonprofit
798 scholarship-funding organization's operating budget and not from
799 contributions or loan proceeds.

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

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

821
822 Any and all information and documentation provided to the
823 Department of Education and the Auditor General relating to the
824 identity of a taxpayer that provides an eligible contribution
825 under this section shall remain confidential at all times in
826 accordance with s. 213.053.

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

841 (7)(5) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
842 PARTICIPATION OBLIGATIONS. --~~As a condition for scholarship~~
843 ~~payment pursuant to paragraph (4)(g), if the parent chooses for~~
844 ~~his or her child to attend an eligible nonpublic school, the~~
845 ~~parent must inform the child's school district within 15 days~~
846 ~~after such decision.~~

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

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

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

855 (d) Each parent and each student has an obligation to the
 856 private school to comply with the private school's published
 857 policies.

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

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

876 (8)-(6) PRIVATE ELIGIBLE NONPUBLIC SCHOOL ELIGIBILITY AND
 877 OBLIGATIONS.--An eligible private nonpublic school may be
 878 sectarian or nonsectarian and must:

879 (a) Comply with all requirements for private schools
 880 participating in state school choice scholarship programs
 881 pursuant to s. 1002.421.

882 (b) Provide to the eligible nonprofit scholarship-funding
883 organization, upon request, all documentation required for the
884 student's participation, including the private school's and
885 student's fee schedules.

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

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

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

899 3. Cooperating with the scholarship student whose parent
900 chooses to participate in the statewide assessments pursuant to
901 s. 1008.32.

902
903 The inability of a private school to meet the requirements of
904 this subsection shall constitute a basis for the ineligibility
905 of the private school to participate in the scholarship program
906 as determined by the Department of Education.

907 ~~(a) Demonstrate fiscal soundness by being in operation for~~
908 ~~one school year or provide the Department of Education with a~~
909 ~~statement by a certified public accountant confirming that the~~

910 ~~nonpublic school desiring to participate is insured and the~~
911 ~~owner or owners have sufficient capital or credit to operate the~~
912 ~~school for the upcoming year serving the number of students~~
913 ~~anticipated with expected revenues from tuition and other~~
914 ~~sources that may be reasonably expected. In lieu of such a~~
915 ~~statement, a surety bond or letter of credit for the amount~~
916 ~~equal to the scholarship funds for any quarter may be filed with~~
917 ~~the department.~~

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

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

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

923 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.--The Department
924 of Education shall:

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

928 (b) Annually verify the eligibility of nonprofit
929 scholarship-funding organizations that meet the requirements of
930 paragraph (2)(c).

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

933 (d) Annually verify the eligibility of expenditures as
934 provided in paragraph (6)(d) using the audit required by
935 paragraph (6)(m).

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

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

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

955 (h) Cross-check the list of participating scholarship
956 students with the public school enrollment lists to avoid
957 duplication.

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

961 (j) Select an independent private research organization to
962 which participating private schools must report the scores of
963 participating students on the nationally norm-referenced tests

964 administered by the private school. The independent private
965 research organization must annually report to the Department of
966 Education on the year-to-year improvements of participating
967 students. The independent private research organization must
968 analyze and report student performance data in a manner that
969 protects the rights of students and parents as mandated in 20
970 U.S.C. s. 1232g, the Family Educational Rights and Privacy Act,
971 and must not disaggregate data to a level that will disclose the
972 academic level of individual students or of individual schools.
973 To the extent possible, the independent private research
974 organization must accumulate historical performance data on
975 students from the Department of Education and private schools to
976 describe baseline performance and to conduct longitudinal
977 studies. To minimize costs and reduce time required for third-
978 party analysis and evaluation, the Department of Education shall
979 conduct analyses of matched students from public school
980 assessment data and calculate control group learning gains using
981 an agreed-upon methodology outlined in the contract with the
982 third-party evaluator. The sharing of student data must be in
983 accordance with requirements of 20 U.S.C. 1232g, the Family
984 Educational Rights and Privacy Act, and shall be for the sole
985 purpose of conducting the evaluation. All parties must preserve
986 the confidentiality of such information as required by law.
987 (k) Notify an eligible nonprofit scholarship-funding
988 organization of any of the organization's identified students
989 who are receiving an educational scholarship pursuant to chapter
990 1002.

991 | (l) Notify an eligible nonprofit scholarship-funding
 992 | organization of any of the organization's identified students
 993 | who are receiving a corporate income tax credit scholarship from
 994 | another eligible nonprofit scholarship-funding organization.

995 | (m) Require quarterly reports by an eligible nonprofit
 996 | scholarship-funding organization regarding the number of
 997 | students participating in the scholarship program, the private
 998 | schools at which the students are enrolled, and other
 999 | information deemed necessary by the Department of Education.

1000 | (10) COMMISSIONER OF EDUCATION AUTHORITY AND
 1001 | OBLIGATIONS.--

1002 | (a) The Commissioner of Education shall deny, suspend, or
 1003 | revoke a private school's participation in the scholarship
 1004 | program if it is determined that the private school has failed
 1005 | to comply with the provisions of this section. However, in
 1006 | instances in which the noncompliance is correctable within a
 1007 | reasonable amount of time and in which the health, safety, and
 1008 | welfare of the students are not threatened, the commissioner may
 1009 | issue a notice of noncompliance which shall provide the private
 1010 | school with a timeframe within which to provide evidence of
 1011 | compliance prior to taking action to suspend or revoke the
 1012 | private school's participation in the scholarship program.

1013 | (b) The commissioner's determination is subject to the
 1014 | following:

1015 | 1. If the commissioner intends to deny, suspend, or revoke
 1016 | a private school's participation in the scholarship program, the
 1017 | Department of Education shall notify the private school of such
 1018 | proposed action in writing by certified mail and regular mail to

1019 the private school's address of record with the Department of
1020 Education. The notification shall include the reasons for the
1021 proposed action and notice of the timelines and procedures set
1022 forth in this paragraph.

1023 2. The private school that is adversely affected by the
1024 proposed action shall have 15 days from receipt of the notice of
1025 proposed action to file with the Department of Education's
1026 agency clerk a request for a proceeding pursuant to ss. 120.569
1027 and 120.57. If the private school is entitled to a hearing under
1028 s. 120.57(1), the Department of Education shall forward the
1029 request to the Division of Administrative Hearings.

1030 3. Upon receipt of a request referred pursuant to this
1031 paragraph, the director of the Division of Administrative
1032 Hearings shall expedite the hearing and assign an administrative
1033 law judge who shall commence a hearing within 30 days after the
1034 receipt of the formal written request by the division and enter
1035 a recommended order within 30 days after the hearing or within
1036 30 days after receipt of the hearing transcript, whichever is
1037 later. Each party shall be allowed 10 days in which to submit
1038 written exceptions to the recommended order. A final order shall
1039 be entered by the agency within 30 days after the entry of a
1040 recommended order. The provisions of this subparagraph may be
1041 waived upon stipulation by all parties.

1042 (c) The commissioner may immediately suspend payment of
1043 scholarship funds if it is determined that there is probable
1044 cause to believe that there is:

1045 1. An imminent threat to the health, safety, and welfare
1046 of the students; or

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

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

(11) SCHOLARSHIP AMOUNT AND PAYMENT.--

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

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

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

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

1074 organizations of the resulting value of the scholarship within
 1075 30 days after the General Appropriations Act becomes law.

1076 (b) Payment of the scholarship by the eligible nonprofit
 1077 scholarship-funding organization shall be by individual warrant
 1078 or check made payable to the student's parent. If the parent
 1079 chooses for his or her child to attend an eligible private
 1080 school, the warrant or check must be delivered by the eligible
 1081 nonprofit scholarship-funding organization to the private school
 1082 of the parent's choice, and the parent shall restrictively
 1083 endorse the warrant or check to the private school. An eligible
 1084 nonprofit scholarship-funding organization shall ensure that the
 1085 parent to whom the warrant or check is made restrictively
 1086 endorsed the warrant or check to the private school for deposit
 1087 into the account of the private school.

1088 (c) An eligible nonprofit scholarship-funding organization
 1089 shall obtain verification from the private school of a student's
 1090 continued attendance at the school prior to each scholarship
 1091 payment.

1092 (d) Payment of the scholarship shall be made by the
 1093 eligible nonprofit scholarship-funding organization no less
 1094 frequently than on a quarterly basis.

1095 (12)(7) ADMINISTRATION; RULES.--

1096 (a) If the credit granted pursuant to this section is not
 1097 fully used in any one year because of insufficient tax liability
 1098 on the part of the corporation, the unused amount may be carried
 1099 forward for a period not to exceed 3 years; however, any
 1100 taxpayer that seeks to carry forward an unused amount of tax
 1101 credit must submit an application for allocation of tax credits

1102 or carryforward credits as required in paragraph (d) in the year
 1103 that the taxpayer intends to use the carryforward. ~~The total~~
 1104 ~~amount of tax credits and carryforward of tax credits granted~~
 1105 ~~each state fiscal year under this section is \$88 million.~~ This
 1106 carryforward applies to all approved contributions made after
 1107 January 1, 2002. A taxpayer may not convey, assign, or transfer
 1108 the credit authorized by this section to another entity unless
 1109 all of the assets of the taxpayer are conveyed, assigned, or
 1110 transferred in the same transaction.

1111 (b) An application for a tax credit pursuant to this
 1112 section shall be submitted to the department on forms
 1113 established by rule of the department.

1114 (c) The department and the Department of Education shall
 1115 develop a cooperative agreement to assist in the administration
 1116 of this section. ~~The Department of Education shall be~~
 1117 ~~responsible for annually submitting, by March 15, to the~~
 1118 ~~department a list of eligible nonprofit scholarship funding~~
 1119 ~~organizations that meet the requirements of paragraph (2) (d) and~~
 1120 ~~for monitoring eligibility of nonprofit scholarship funding~~
 1121 ~~organizations that meet the requirements of paragraph (2) (d),~~
 1122 ~~eligibility of nonpublic schools that meet the requirements of~~
 1123 ~~paragraph (2) (c), and eligibility of expenditures under this~~
 1124 ~~section as provided in subsection (4).~~

1125 (d) The department shall adopt rules necessary to
 1126 administer this section, including rules establishing
 1127 application forms and procedures and governing the allocation of
 1128 tax credits and carryforward credits under this section on a
 1129 first-come, first-served basis.

1130 (e) The State Board ~~Department~~ of Education shall adopt
1131 rules pursuant to ss. 120.536(1) and 120.54 ~~necessary~~ to
1132 administer this section ~~determine eligibility of nonprofit~~
1133 ~~scholarship funding organizations as defined in paragraph (2)(d)~~
1134 ~~and according to the provisions of subsection (4) and identify~~
1135 ~~qualified students as defined in paragraph (2)(e).~~

1136 (13)(8) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--All eligible
1137 contributions received by an eligible nonprofit scholarship-
1138 funding organization shall be deposited in a manner consistent
1139 with s. 17.57(2).

1140 Section 3. Section 1002.421, Florida Statutes, is created
1141 to read:

1142 1002.421 Rights and obligations of private schools
1143 participating in state school choice scholarship
1144 programs.--Requirements of this section are in addition to
1145 private school requirements outlined in s. 1002.42, specific
1146 requirements identified within respective scholarship program
1147 laws, and other provisions of Florida law that apply to private
1148 schools.

1149 (1) A Florida private school participating in the
1150 Corporate Income Tax Credit Scholarship Program established
1151 pursuant to s. 220.187 or an educational scholarship program
1152 established pursuant to this chapter must comply with all
1153 requirements of this section.

1154 (2) A private school participating in a scholarship
1155 program must be a Florida private school as defined in s.
1156 1002.01(2) and must:

1157 | (a) Be a registered Florida private school in accordance
 1158 | with s. 1002.42.

1159 | (b) Comply with antidiscrimination provisions of 42 U.S.C.
 1160 | s. 2000d.

1161 | (c) Notify the department of its intent to participate in
 1162 | a scholarship program.

1163 | (d) Notify the department of any change in the school's
 1164 | name, school director, mailing address, or physical location
 1165 | within 15 days after the change.

1166 | (e) Complete student enrollment and attendance
 1167 | verification requirements, including use of an on-line
 1168 | attendance verification form, prior to scholarship payment.

1169 | (f) Annually complete and submit to the department a
 1170 | notarized scholarship compliance statement certifying compliance
 1171 | with state laws relating to private school participation in the
 1172 | scholarship program.

1173 | (g) Demonstrate fiscal soundness and accountability by:

1174 | 1. Being in operation for at least 3 school years or
 1175 | obtaining a surety bond or letter of credit for the amount equal
 1176 | to the scholarship funds for any quarter and filing the surety
 1177 | bond or letter of credit with the department.

1178 | 2. Requiring the parent of each scholarship student to
 1179 | personally restrictively endorse the scholarship warrant to the
 1180 | school. The school may not act as attorney in fact for the
 1181 | parent of a scholarship student under the authority of a power
 1182 | of attorney executed by such parent, or under any other
 1183 | authority, to endorse scholarship warrants on behalf of such
 1184 | parent.

1185 (h) Meet applicable state and local health, safety, and
 1186 welfare laws, codes, and rules, including:

- 1187 1. Fire safety.
- 1188 2. Building safety.

1189 (i) Employ or contract with teachers who hold
 1190 baccalaureate or higher degrees, have at least 3 years of
 1191 teaching experience in public or private schools, or have
 1192 special skills, knowledge, or expertise that qualifies them to
 1193 provide instruction in subjects taught.

1194 (j) Require each individual with direct student contact
 1195 with a scholarship student to be of good moral character, to be
 1196 subject to the level 1 background screening as provided under
 1197 chapter 435, to be denied employment or terminated if required
 1198 under s. 435.06, and not to be ineligible to teach in a public
 1199 school because his or her educator certificate is suspended or
 1200 revoked. For purposes of this paragraph:

1201 1. An "individual with direct student contact" means any
 1202 individual who has unsupervised access to a scholarship student
 1203 for whom the private school is responsible.

1204 2. The costs of fingerprinting and the background check
 1205 shall not be borne by the state.

1206 3. Continued employment of an individual after
 1207 notification that the individual has failed the level 1
 1208 background screening shall cause a private school to be
 1209 ineligible for participation in a scholarship program.

1210 4. An individual holding a valid Florida teaching
 1211 certificate who has been fingerprinted pursuant to s. 1012.32

1212 shall not be required to comply with the provisions of this
1213 paragraph.

1214 (3) The inability of a private school to meet the
1215 requirements of this section shall constitute a basis for the
1216 ineligibility of the private school to participate in a
1217 scholarship program as determined by the department.

1218 (4) The inclusion of eligible private schools within
1219 options available to Florida public school students does not
1220 expand the regulatory authority of the state, its officers, or
1221 any school district to impose any additional regulation of
1222 private schools beyond those reasonably necessary to enforce
1223 requirements expressly set forth in this section.

1224 (5) The State Board of Education shall adopt rules
1225 pursuant to ss. 120.536(1) and 120.54 to administer this
1226 section.

1227 Section 4. This act shall take effect upon becoming a law.