

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative(s) Pickens offered the following:

2
3 **Amendment (with title amendment)**

4 On page 11, line 31 through page 62, line 4, remove
5 everything after the enacting clause, and insert:

6 Section 1. Section 1002.39, Florida Statutes, is amended
7 to read:

8 1002.39 The John M. McKay Scholarships for Students with
9 Disabilities Program.--There is established a program that is
10 separate and distinct from the Opportunity Scholarship Program
11 and is named the John M. McKay Scholarships for Students with
12 Disabilities Program, ~~pursuant to this section.~~

13 (1) THE JOHN M. MCKAY SCHOLARSHIPS FOR STUDENTS WITH
14 DISABILITIES PROGRAM.--The John M. McKay Scholarships for
15 Students with Disabilities Program is established to provide the

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16 option to attend a public school other than the one to which
17 assigned, or to provide a scholarship to a private school of
18 choice, for students with disabilities for whom an individual
19 education plan has been written in accordance with rules of the
20 State Board of Education. Students with disabilities include K-
21 12 students who are documented as having mental retardation; a
22 ~~mentally handicapped,~~ speech or and language impairment; a
23 ~~impaired, deaf or hard of hearing impairment, including~~
24 deafness; a visual impairment, including blindness; a visually
25 ~~impaired,~~ dual sensory impairment; a physical impairment; a
26 serious emotional disturbance, including an emotional handicap;
27 ~~a impaired, physically impaired, emotionally handicapped,~~
28 specific learning disability, including, but not limited to,
29 dyslexia, dyscalculia, or developmental aphasia; a traumatic
30 brain injury; disabled, hospitalized or homebound, or autism
31 autistic.

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

37 (a) ~~By assigned school attendance area or by special~~
38 ~~assignment,~~ The student has spent the prior school year in
39 attendance at a Florida public school or the Florida School for
40 the Deaf and the Blind. Prior school year in attendance means
41 that the student was:

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42 1. Enrolled and reported by a school district for funding
43 during the preceding October and February Florida Education
44 Finance Program surveys in kindergarten through grade 12, which
45 shall include time spent in a Department of Juvenile Justice
46 commitment program if funded under the Florida Education Finance
47 Program;

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

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

55
56 However, ~~this paragraph does not apply to a dependent child of a~~
57 ~~member of the United States Armed Forces who transfers to a~~
58 ~~school in this state from out of state or from a foreign country~~
59 ~~pursuant to a parent's permanent change of station orders is~~
60 ~~exempt from this paragraph but. A dependent child of a member of~~
61 ~~the United States Armed Forces who transfers to a school in this~~
62 ~~state from out of state or from a foreign country pursuant to a~~
63 ~~parent's permanent change of station orders must meet all other~~
64 ~~eligibility requirements to participate in the program.~~

65 (b) The parent has obtained acceptance for admission of
66 the student to a private school that is eligible for the program
67 under subsection ~~(8)(4)~~ and has requested from the department
68 ~~notified the school district of the request for a scholarship at~~

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69 least 60 days prior to the date of the first scholarship
70 payment. The request ~~parental notification~~ must be through a
71 communication directly to the department ~~district or through the~~
72 ~~Department of Education to the district~~ in a manner that creates
73 a written or electronic record of the request ~~notification~~ and
74 the date of receipt of the request ~~notification~~.

75
76 ~~This section does not apply to a student who is enrolled in a~~
77 ~~school operating for the purpose of providing educational~~
78 ~~services to youth in Department of Juvenile Justice commitment~~
79 ~~programs. For purposes of continuity of educational choice, the~~
80 ~~scholarship shall remain in force until the student returns to a~~
81 ~~public school or graduates from high school. However, at any~~
82 ~~time, the student's parent may remove the student from the~~
83 ~~private school and place the student in another private school~~
84 ~~that is eligible for the program under subsection (4) or in a~~
85 ~~public school as provided in subsection (3).~~

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

88 (a) Enrolled in a school operating for the purpose of
89 providing educational services to youth in Department of
90 Juvenile Justice commitment programs.

91 (b) Receiving a corporate income tax credit scholarship
92 under s. 220.187.

93 (c) Receiving an educational scholarship pursuant to this
94 chapter.

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95 (d) Participating in a home education program as defined
96 in s. 1002.01(1).

97 (e) Participating in a private tutoring program pursuant
98 to s. 1002.43.

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

102 (g) Enrolled in the Florida School for the Deaf and the
103 Blind.

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

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

109 (b) Upon reasonable notice to the department and the
110 school district, the student's parent may remove the student
111 from the private school and place the student in a public
112 school, as provided in subparagraph (5)(a)2.

113 (c) Upon reasonable notice to the department, the
114 student's parent may move the student from one participating
115 private school to another participating private school.

116 (5)(3) SCHOOL DISTRICT AND DEPARTMENT OF EDUCATION
117 OBLIGATIONS; PARENTAL OPTIONS.--

118 (a)1. By April 1 of each year and within 10 days after an
119 individual education plan meeting, a school district shall
120 timely notify the parent of the student of all options available
121 pursuant to this section, inform the parent of the availability

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122 of the department's telephone hotline and Internet website for
123 additional information on John M. McKay Scholarships, and offer
124 that student's parent an opportunity to enroll the student in
125 another public school within the district.

126 2. The parent is not required to accept the this offer of
127 enrolling in another public school in lieu of requesting a John
128 M. McKay Scholarship to a private school. However, if the parent
129 chooses the public school option, the student may continue
130 attending a public school chosen by the parent until the student
131 graduates from high school.

132 3. If the parent chooses a public school consistent with
133 the district school board's choice plan under s. 1002.31, the
134 school district shall provide transportation to the public
135 school selected by the parent. The parent is responsible to
136 provide transportation to a public school chosen that is not
137 consistent with the district school board's choice plan under s.
138 1002.31.

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

144 2.a. Within 10 school days after it receives notification
145 of a parent's request for a John M. McKay Scholarship, a
146 district school board must notify the student's parent if the
147 matrix has not been completed and inform the parent that the
148 district is required to complete the matrix within 30 days after

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149 receiving notice of the parent's request for a John M. McKay
150 Scholarship. This notice should include the required completion
151 date for the matrix.

152 b. The school district must complete the matrix of
153 services for any student who is participating in the John M.
154 McKay Scholarships for Students with Disabilities Program and
155 must notify the department ~~of Education~~ of the student's matrix
156 level within 30 days after receiving notification of a request
157 ~~by the student's parent of intent~~ to participate in the
158 scholarship program. The school district must provide the
159 student's parent with the student's matrix level within 10
160 school days after its completion.

161 c. The department ~~of Education~~ shall notify the private
162 school of the amount of the scholarship within 10 days after
163 receiving the school district's notification of the student's
164 matrix level. ~~Within 10 school days after it receives~~
165 ~~notification of a parent's intent to apply for a McKay~~
166 ~~Scholarship, a district school board must notify the student's~~
167 ~~parent if the matrix has not been completed and provide the~~
168 ~~parent with the date for completion of the matrix required in~~
169 ~~this paragraph.~~

170 d. A school district may change a matrix of services only
171 if the change is to correct a technical, typographical, or
172 calculation error.

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

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176 ~~(d)(e)~~ If the parent chooses the private school option and
177 the student is accepted by the private school pending the
178 availability of a space for the student, the parent of the
179 student must notify the department ~~school district~~ 60 days prior
180 to the first scholarship payment and before entering the private
181 school in order to be eligible for the scholarship when a space
182 becomes available for the student in the private school.

183 ~~(e)(d)~~ The parent of a student may choose, as an
184 alternative, to enroll the student in and transport the student
185 to a public school in an adjacent school district which has
186 available space and has a program with the services agreed to in
187 the student's individual education plan already in place, and
188 that school district shall accept the student and report the
189 student for purposes of the district's funding pursuant to the
190 Florida Education Finance Program.

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

196 ~~(f)~~ ~~A school district must notify the Department of~~
197 ~~Education within 10 days after it receives notification of a~~
198 ~~parent's intent to apply for a scholarship for a student with a~~
199 ~~disability. A school district must provide the student's parent~~
200 ~~with the student's matrix level within 10 school days after its~~
201 ~~completion.~~

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202 (6) DEPARTMENT OF EDUCATION OBLIGATIONS.--The department
203 shall:

204 (a) Establish a toll-free hotline that provides parents
205 and private schools with information on participation in the
206 John M. McKay Scholarships for Students with Disabilities
207 Program.

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

210 (c) Establish a process by which individuals may notify
211 the department of any violation by a parent, private school, or
212 school district of state laws relating to program participation.
213 The department shall conduct an investigation of any written
214 complaint of a violation of this section, or make a referral to
215 the appropriate agency for an investigation, if the complaint is
216 signed by the complainant and is legally sufficient. A complaint
217 is legally sufficient if it contains ultimate facts that show
218 that a violation of this section or any rule adopted by the
219 State Board of Education has occurred. In order to determine
220 legal sufficiency, the department may require supporting
221 information or documentation from the complainant.

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

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

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

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229 (a) The Commissioner of Education shall deny, suspend, or
230 revoke a private school's participation in the scholarship
231 program if it is determined that the private school has failed
232 to comply with the provisions of this section. However, in
233 instances in which the noncompliance is correctable within a
234 reasonable amount of time and in which the health, safety, and
235 welfare of the students are not threatened, the commissioner may
236 issue a notice of noncompliance which shall provide the private
237 school with a timeframe within which to provide evidence of
238 compliance prior to taking action to suspend or revoke the
239 private school's participation in the scholarship program.

240 (b) The commissioner's determination is subject to the
241 following:

242 1. If the commissioner intends to deny, suspend, or revoke
243 a private school's participation in the scholarship program, the
244 department shall notify the private school of such proposed
245 action in writing by certified mail and regular mail to the
246 private school's address of record with the department. The
247 notification shall include the reasons for the proposed action
248 and notice of the timelines and procedures set forth in this
249 paragraph.

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

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255 the department shall forward the request to the Division of
256 Administrative Hearings.

257 3. Upon receipt of a request referred pursuant to this
258 paragraph, the director of the Division of Administrative
259 Hearings shall expedite the hearing and assign an administrative
260 law judge who shall commence a hearing within 30 days after the
261 receipt of the formal written request by the division and enter
262 a recommended order within 30 days after the hearing or within
263 30 days after receipt of the hearing transcript, whichever is
264 later. Each party shall be allowed 10 days in which to submit
265 written exceptions to the recommended order. A final order shall
266 be entered by the agency within 30 days after the entry of a
267 recommended order. The provisions of this subparagraph may be
268 waived upon stipulation by all parties.

269 (c) The commissioner may immediately suspend payment of
270 scholarship funds if it is determined that there is probable
271 cause to believe that there is:

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

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

275
276 The commissioner's order suspending payment pursuant to this
277 paragraph may be appealed pursuant to the same procedures and
278 timelines as the notice of proposed action set forth in
279 paragraph (b).

280 (8)(4) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.--To be
281 eligible to participate in the John M. McKay Scholarships for

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282 Students with Disabilities Program, a private school ~~must be a~~
283 ~~Florida private school~~, may be sectarian or nonsectarian, and
284 must:

285 (a) Comply with all requirements for private schools
286 participating in state school choice scholarship programs
287 pursuant to s. 1002.421.

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

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

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

296 2. Cooperating with the scholarship student whose parent
297 chooses to participate in the statewide assessments pursuant to
298 s. 1008.22.

299
300 The inability of a private school to meet the requirements of
301 this subsection shall constitute a basis for the ineligibility
302 of the private school to participate in the scholarship program
303 as determined by the department.

304 ~~(a) Demonstrate fiscal soundness by being in operation for~~
305 ~~1 school year or provide the Department of Education with a~~
306 ~~statement by a certified public accountant confirming that the~~
307 ~~private school desiring to participate is insured and the owner~~
308 ~~or owners have sufficient capital or credit to operate the~~

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309 ~~school for the upcoming year serving the number of students~~
310 ~~anticipated with expected revenues from tuition and other~~
311 ~~sources that may be reasonably expected. In lieu of such a~~
312 ~~statement, a surety bond or letter of credit for the amount~~
313 ~~equal to the scholarship funds for any quarter may be filed with~~
314 ~~the department.~~

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

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

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

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

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

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

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

334 ~~(9)(5) PARENT AND STUDENT RESPONSIBILITIES FOR OBLIGATION~~
335 ~~OF PROGRAM PARTICIPATION PARTICIPANTS.--A parent who applies for~~

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336 a John M. McKay Scholarship is exercising his or her parental
337 option to place his or her child in a private school.

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

342 (b) The parent must have requested the scholarship at
343 least 60 days prior to the date of the first scholarship
344 payment.

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

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

355 (e) If the parent requests that the student participating
356 in the John M. McKay Scholarships for Students with Disabilities
357 ~~scholarship~~ Program take all statewide assessments required
358 pursuant to s. 1008.22, the parent is responsible for
359 transporting the student to the assessment site designated by
360 the school district.

361 (f) Upon receipt of a scholarship warrant, the parent to
362 whom the warrant is made must restrictively endorse the warrant

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363 to the private school for deposit into the account of the
364 private school. The parent may not designate any entity or
365 individual associated with the participating private school as
366 the parent's attorney in fact to sign a scholarship warrant. A
367 participant who fails to comply with this paragraph forfeits the
368 scholarship.

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

371 ~~(10)(6)~~ JOHN M. MCKAY SCHOLARSHIP FUNDING AND PAYMENT.--

372 (a)1. The maximum scholarship granted for an eligible
373 student with disabilities shall be a calculated amount
374 equivalent to the base student allocation in the Florida
375 Education Finance Program multiplied by the appropriate cost
376 factor for the educational program that would have been provided
377 for the student in the district school to which he or she was
378 assigned, multiplied by the district cost differential.

379 2. In addition, a share of the guaranteed allocation for
380 exceptional students shall be determined and added to the
381 calculated amount. The calculation shall be based on the
382 methodology and the data used to calculate the guaranteed
383 allocation for exceptional students for each district in chapter
384 2000-166, Laws of Florida. Except as provided in subparagraphs
385 ~~subparagraph~~ 3. and 4., the calculation shall be based on the
386 student's grade, matrix level of services, and the difference
387 between the 2000-2001 basic program and the appropriate level of
388 services cost factor, multiplied by the 2000-2001 base student
389 allocation and the 2000-2001 district cost differential for the

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390 sending district. Also, the calculated amount shall include the
391 per-student share of supplemental academic instruction funds,
392 instructional materials funds, technology funds, and other
393 categorical funds as provided for such purposes in the General
394 Appropriations Act.

395 3. The calculated scholarship amount for a student who has
396 spent the prior school year in attendance at the Florida School
397 for the Deaf and the Blind shall be calculated as provided in
398 subparagraphs 1. and 2. However, the calculation shall be based
399 on the school district in which the parent resides at the time
400 of the scholarship request.

401 ~~4.3.~~ Until the school district completes the matrix
402 required by paragraph ~~(5)(3)(b)~~, the calculation shall be based
403 on the matrix that assigns the student to support level I of
404 service as it existed prior to the 2000-2001 school year. When
405 the school district completes the matrix, the amount of the
406 payment shall be adjusted as needed.

407 (b) The amount of the John M. McKay Scholarship shall be
408 the calculated amount or the amount of the private school's
409 tuition and fees, whichever is less. The amount of any
410 assessment fee required by the participating private school may
411 be paid from the total amount of the scholarship.

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

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417 ~~Scholarship is awarded, up to a maximum of \$1,000, and deducted~~
418 ~~from subsequent scholarship payments. If a student decides not~~
419 ~~to attend the participating private school, the partial~~
420 ~~reservation payment must be returned to the Department of~~
421 ~~Education by the participating private school. There is a limit~~
422 ~~of one reservation payment per student per year.~~

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

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

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

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

437 (d)~~(e)~~ Following notification on July 1, September 1,
438 December 1, or February 1 of the number of program participants,
439 the department of ~~Education~~ shall transfer, from General Revenue
440 funds only, the amount calculated under paragraph (b) from the
441 school district's total funding entitlement under the Florida
442 Education Finance Program and from authorized categorical

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443 accounts to a separate account for the scholarship program for
444 quarterly disbursement to the parents of participating students.
445 Funds may not be transferred from any funding provided to the
446 Florida School for the Deaf and the Blind for program
447 participants who are eligible under subparagraph (2)(a)2. For a
448 student exiting a Department of Juvenile Justice commitment
449 program who chooses to participate in the scholarship program,
450 the amount of the John M. McKay Scholarship calculated pursuant
451 to paragraph (b) shall be transferred from the school district
452 in which the student last attended a public school prior to
453 commitment to the Department of Juvenile Justice. When a student
454 enters the scholarship program, the department of ~~Education~~ must
455 receive all documentation required for the student's
456 participation, including the private school's and student's fee
457 schedules, at least 30 days before the first quarterly
458 scholarship payment is made for the student. ~~The Department of~~
459 ~~Education may not make any retroactive payments.~~

460 (e)(f) Upon notification proper documentation reviewed and
461 approved by the department that it has received the
462 documentation required under paragraph (d) Department of
463 ~~Education~~, the Chief Financial Officer shall make scholarship
464 payments in four equal amounts no later than September 1,
465 November 1, February 1, and April 1 ~~15~~ of each academic year in
466 which the scholarship is in force. The initial payment shall be
467 made after department of ~~Education~~ verification of admission
468 acceptance, and subsequent payments shall be made upon
469 verification of continued enrollment and attendance at the

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470 private school. Payment must be by individual warrant made
471 payable to the student's parent and mailed by the department of
472 ~~Education~~ to the private school of the parent's choice, and the
473 parent shall restrictively endorse the warrant to the private
474 school for deposit into the account of the private school.

475 (f) Subsequent to each scholarship payment, the Department
476 of Financial Services shall randomly review endorsed warrants to
477 confirm compliance with endorsement requirements. The Department
478 of Financial Services shall immediately report inconsistencies
479 or irregularities to the department.

480 (11)(7) LIABILITY.--No liability shall arise on the part
481 of the state based on the award or use of a John M. McKay
482 Scholarship.

483 (12) SCOPE OF AUTHORITY.--The inclusion of eligible
484 private schools within options available to Florida public
485 school students does not expand the regulatory authority of the
486 state, its officers, or any school district to impose any
487 additional regulation of private schools beyond those reasonably
488 necessary to enforce requirements expressly set forth in this
489 section.

490 (13)(8) RULES.--The State Board of Education shall adopt
491 rules pursuant to ss. 120.536(1) and 120.54 to administer this
492 section, including rules that school districts must use to
493 expedite the development of a matrix of services based on an
494 active ~~a current~~ individual education plan from another state or
495 a foreign country for a transferring student with a disability
496 who is a dependent child of a member of the United States Armed

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497 Forces. The rules must identify the appropriate school district
498 personnel who must complete the matrix of services. For purposes
499 of these rules, a transferring student with a disability is one
500 who was previously enrolled as a student with a disability in an
501 out-of-state or an out-of-country public or private school or
502 agency program and who is transferring from out of state or from
503 a foreign country pursuant to a parent's permanent change of
504 station orders. ~~However, the inclusion of eligible private~~
505 ~~schools within options available to Florida public school~~
506 ~~students does not expand the regulatory authority of the state,~~
507 ~~its officers, or any school district to impose any additional~~
508 ~~regulation of private schools beyond those reasonably necessary~~
509 ~~to enforce requirements expressly set forth in this section.~~

510 Section 2. Section 220.187, Florida Statutes, is amended
511 to read:

512 220.187 Credits for contributions to nonprofit
513 scholarship-funding organizations.--

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

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

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

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

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

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

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523 (b) "Eligible contribution" means a monetary contribution
524 from a taxpayer, subject to the restrictions provided in this
525 section, to an eligible nonprofit scholarship-funding
526 organization. The taxpayer making the contribution may not
527 designate a specific child as the beneficiary of the
528 contribution. ~~The taxpayer may not contribute more than \$5~~
529 ~~million to any single eligible nonprofit scholarship-funding~~
530 ~~organization.~~

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

533 1. Is exempt from federal income tax pursuant to s.
534 501(c)(3) of the Internal Revenue Code.

535 2. Is a Florida entity formed under chapter 607, chapter
536 608, or chapter 617 and whose principal office is located in the
537 state.

538 3. ~~and that~~ Complies with the provisions of subsection
539 (6)(4).

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

544 (e) "Owner or operator" includes:

545 1. An owner, president, officer, or director of an
546 eligible nonprofit scholarship-funding organization or a person
547 with equivalent decisionmaking authority over an eligible
548 nonprofit scholarship-funding organization.

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549 2. An owner, operator, superintendent, or principal of an
550 eligible private school or a person with equivalent
551 decisionmaking authority over an eligible private school.

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

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

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

563 (b)2- Received a scholarship from an eligible nonprofit
564 scholarship-funding organization during the previous school
565 year; or

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

567
568 A student may continue in the scholarship program as long as the
569 family income level does not exceed 200 percent of the federal
570 poverty level.

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

573 (a) Enrolled in a school operating for the purpose of
574 providing educational services to youth in Department of
575 Juvenile Justice commitment programs.

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

578 (c) Receiving an educational scholarship pursuant to
579 chapter 1002.

580 (d) Participating in a home education program as defined
581 in s. 1002.01(1).

582 (e) Participating in a private tutoring program pursuant
583 to s. 1002.43.

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

587 (g) Enrolled in the Florida School for the Deaf and the
588 Blind.

589 ~~(5)(3)~~ AUTHORIZATION TO GRANT SCHOLARSHIP FUNDING TAX
590 CREDITS; LIMITATIONS ON INDIVIDUAL AND TOTAL CREDITS.--

591 (a) There is allowed a credit of 100 percent of an
592 eligible contribution against any tax due for a taxable year
593 under this chapter. However, such a credit may not exceed 75
594 percent of the tax due under this chapter for the taxable year,
595 after the application of any other allowable credits by the
596 taxpayer. ~~However, at least 5 percent of the total statewide~~
597 ~~amount authorized for the tax credit shall be reserved for~~
598 ~~taxpayers who meet the definition of a small business provided~~
599 ~~in s. 288.703(1) at the time of application.~~ The credit granted
600 by this section shall be reduced by the difference between the
601 amount of federal corporate income tax taking into account the
602 credit granted by this section and the amount of federal

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603 corporate income tax without application of the credit granted
604 by this section.

605 (b) The total amount of tax credits and carryforward of
606 tax credits which may be granted ~~each state fiscal year~~ under
607 this section is \$88 million during the 2005-2006 fiscal year.
608 The total amount of tax credits and carryforward of tax credits
609 which may be granted under this section shall be adjusted each
610 year by the same percentage as the increase or decrease in total
611 funding, adjusted for Florida Retirement System changes if
612 applicable, under the Florida Education Finance Program as
613 provided in the General Appropriations Act workpapers. However,
614 the total amount of tax credits that may be granted pursuant to
615 this paragraph may not increase by more than 5 percent in any
616 year. The Commissioner of Education shall certify to the
617 department and notify eligible nonprofit scholarship-funding
618 organizations of the resulting value of tax credits that may be
619 granted within 30 days after the General Appropriations Act
620 becomes law. However, at least 1 percent of the total statewide
621 amount authorized for the tax credit shall be reserved for
622 taxpayers who meet the definition of a small business provided
623 in s. 288.703(1) at the time of application.

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

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629 (d) Effective for tax years beginning January 1, 2005, a
630 taxpayer may rescind all or part of its allocated tax credit
631 under this section. The amount rescinded shall become available
632 for purposes of the cap for that state fiscal year under this
633 section to an eligible taxpayer as approved by the department if
634 the taxpayer receives notice from the department that the
635 rescindment has been accepted by the department and the taxpayer
636 has not previously rescinded any or all of its tax credit
637 allocation under this section more than once in the previous 3
638 tax years. Any amount rescinded under this paragraph shall
639 become available to an eligible taxpayer on a first-come, first-
640 served basis based on tax credit applications received after the
641 date the rescindment is accepted by the department.

642 (6)(4) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-
643 FUNDING ORGANIZATIONS.--An eligible nonprofit scholarship-
644 funding organization:

645 (a) Must comply with the antidiscrimination provisions of
646 42 U.S.C. s. 2000d.

647 (b) Must comply with the following background check
648 requirements:

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

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

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

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

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

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

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

672 ~~(e)(b) Must An eligible nonprofit scholarship-funding~~
673 ~~organization shall~~ give priority to eligible ~~qualified~~ students
674 who received a scholarship from an eligible nonprofit
675 scholarship-funding organization during the previous school
676 year.

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

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

683 (h) Must allow an eligible student to attend any eligible
684 private school and must allow a parent to transfer a scholarship
685 during a school year to any other eligible private school of the
686 parent's choice.

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

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

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

696 ~~(d) The amount of an eligible contribution which may be~~
697 ~~accepted by an eligible nonprofit scholarship funding~~
698 ~~organization is limited to the amount needed to provide~~
699 ~~scholarships for qualified students which the organization has~~
700 ~~identified and for which vacancies in eligible nonpublic schools~~
701 ~~have been identified.~~

702 (i)(e) Must obligate, in the same state fiscal year in
703 which the contribution was received, An eligible nonprofit
704 scholarship funding organization that receives an eligible
705 contribution must spend 100 percent of the eligible contribution
706 to provide scholarships in that the same or immediately

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707 following state fiscal year in which the contribution was
708 ~~received~~. No portion of eligible contributions may be used for
709 administrative expenses. All interest accrued from contributions
710 must be used for scholarships.

711 (j) Must maintain separate accounts for scholarship funds
712 and operating funds.

713 (k) May transfer funds to another eligible nonprofit
714 scholarship-funding organization when additional funds are
715 required to meet scholarship demand.

716 (l) May obtain a secured line of credit to fund
717 scholarship payments based on estimated contributions to be
718 received within a 6-month period. These funds may only be used
719 to provide scholarship payments. Interest and fees related to
720 the line of credit shall be paid from the eligible nonprofit
721 scholarship-funding organization's operating budget and not from
722 contributions or loan proceeds.

723 (m)(f) Must ~~An eligible nonprofit scholarship-funding~~
724 ~~organization that receives eligible contributions must provide~~
725 ~~to the Auditor General and the Department of Education an annual~~
726 ~~financial and compliance audit of its accounts and records~~
727 ~~conducted by an independent certified public accountant and in~~
728 ~~accordance with rules adopted by the Auditor General. The audit~~
729 ~~must be conducted in compliance with generally accepted auditing~~
730 ~~standards and must include a report on financial statements~~
731 ~~presented in accordance with generally accepted accounting~~
732 ~~principles set forth by the American Institute of Certified~~
733 ~~Public Accountants for not-for-profit organizations and a~~

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734 determination of compliance with the statutory eligibility and
735 expenditure requirements set forth in this section. Audits must
736 be provided to the Auditor General and the Department of
737 Education within 180 days after completion of the eligible
738 nonprofit scholarship-funding organization's fiscal year.

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

744

745 Any and all information and documentation provided to the
746 Department of Education and the Auditor General relating to the
747 identity of a taxpayer that provides an eligible contribution
748 under this section shall remain confidential at all times in
749 accordance with s. 213.053.

750 ~~(g) Payment of the scholarship by the eligible nonprofit~~
751 ~~scholarship-funding organization shall be by individual warrant~~
752 ~~or check made payable to the student's parent. If the parent~~
753 ~~chooses for his or her child to attend an eligible nonpublic~~
754 ~~school, the warrant or check must be mailed by the eligible~~
755 ~~nonprofit scholarship-funding organization to the nonpublic~~
756 ~~school of the parent's choice, and the parent shall~~
757 ~~restrictively endorse the warrant or check to the nonpublic~~
758 ~~school. An eligible nonprofit scholarship-funding organization~~
759 ~~shall ensure that, upon receipt of a scholarship warrant or~~
760 ~~check, the parent to whom the warrant or check is made~~

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761 ~~restrictively endorses the warrant or check to the nonpublic~~
762 ~~school of the parent's choice for deposit into the account of~~
763 ~~the nonpublic school.~~

764 (7)(5) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
765 PARTICIPATION OBLIGATIONS.--As a condition for scholarship
766 payment pursuant to paragraph (4)(g), if the parent chooses for
767 his or her child to attend an eligible nonpublic school, the
768 parent must inform the child's school district within 15 days
769 after such decision.

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

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

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

778 (d) Each parent and each student has an obligation to the
779 private school to comply with the private school's published
780 policies.

781 (e) The parent shall ensure that the student participating
782 in the scholarship program takes the norm-referenced assessment
783 offered by the private school. The parent may also choose to
784 have the student participate in the statewide assessments
785 pursuant to s. 1008.22. If the parent requests that the student
786 participating in the scholarship program take statewide
787 assessments pursuant to s. 1008.22, the parent is responsible

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788 for transporting the student to the assessment site designated
789 by the school district.

790 (f) Upon receipt of a scholarship warrant or check from
791 the eligible nonprofit scholarship-funding organization, the
792 parent to whom the warrant or check is made must restrictively
793 endorse the warrant or check to the private school for deposit
794 into the account of the private school. The parent may not
795 designate any entity or individual associated with the
796 participating private school as the parent's attorney in fact to
797 sign a scholarship warrant or check. A participant who fails to
798 comply with this paragraph forfeits the scholarship.

799 (8)(6) PRIVATE ~~ELIGIBLE NONPUBLIC~~ SCHOOL ELIGIBILITY AND
800 OBLIGATIONS.--An eligible private ~~nonpublic~~ school may be
801 sectarian or nonsectarian and must:

802 (a) Comply with all requirements for private schools
803 participating in state school choice scholarship programs
804 pursuant to s. 1002.421.

805 (b) Provide to the eligible nonprofit scholarship-funding
806 organization, upon request, all documentation required for the
807 student's participation, including the private school's and
808 student's fee schedules.

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

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

813 2. Annually administering or making provision for students
814 participating in the scholarship program to take one of the

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815 nationally norm-referenced tests identified by the Department of
816 Education. Students with disabilities for whom standardized
817 testing is not appropriate are exempt from this requirement. A
818 participating private school must report a student's scores to
819 the parent and to the independent private research organization
820 selected by the Department of Education pursuant to paragraph
821 (9)(j).

822 3. Cooperating with the scholarship student whose parent
823 chooses to participate in the statewide assessments pursuant to
824 s. 1008.32.

825

826 The inability of a private school to meet the requirements of
827 this subsection shall constitute a basis for the ineligibility
828 of the private school to participate in the scholarship program
829 as determined by the Department of Education.

830 ~~(a) Demonstrate fiscal soundness by being in operation for~~
831 ~~one school year or provide the Department of Education with a~~
832 ~~statement by a certified public accountant confirming that the~~
833 ~~nonpublic school desiring to participate is insured and the~~
834 ~~owner or owners have sufficient capital or credit to operate the~~
835 ~~school for the upcoming year serving the number of students~~
836 ~~anticipated with expected revenues from tuition and other~~
837 ~~sources that may be reasonably expected. In lieu of such a~~
838 ~~statement, a surety bond or letter of credit for the amount~~
839 ~~equal to the scholarship funds for any quarter may be filed with~~
840 ~~the department.~~

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

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

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

846 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.--The Department
847 of Education shall:

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

851 (b) Annually verify the eligibility of nonprofit
852 scholarship-funding organizations that meet the requirements of
853 paragraph (2)(c).

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

856 (d) Annually verify the eligibility of expenditures as
857 provided in paragraph (6)(d) using the audit required by
858 paragraph (6)(m).

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

862 (f) Establish a process by which individuals may notify
863 the Department of Education of any violation by a parent,
864 private school, or school district of state laws relating to
865 program participation. The Department of Education shall conduct
866 an investigation of any written complaint of a violation of this
867 section, or make a referral to the appropriate agency for an

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868 investigation, if the complaint is signed by the complainant and
869 is legally sufficient. A complaint is legally sufficient if it
870 contains ultimate facts that show that a violation of this
871 section or any rule adopted by the State Board of Education has
872 occurred. In order to determine legal sufficiency, the
873 Department of Education may require supporting information or
874 documentation from the complainant.

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

878 (h) Cross-check the list of participating scholarship
879 students with the public school enrollment lists to avoid
880 duplication.

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

884 (j) Select an independent private research organization to
885 which participating private schools must report the scores of
886 participating students on the nationally norm-referenced tests
887 administered by the private school. The independent private
888 research organization must annually report to the Department of
889 Education on the year-to-year improvements of participating
890 students. The independent private research organization must
891 analyze and report student performance data in a manner that
892 protects the rights of students and parents as mandated in 20
893 U.S.C. s. 1232g, the Family Educational Rights and Privacy Act,
894 and must not disaggregate data to a level that will disclose the

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895 academic level of individual students or of individual schools.
896 To the extent possible, the independent private research
897 organization must accumulate historical performance data on
898 students from the Department of Education and private schools to
899 describe baseline performance and to conduct longitudinal
900 studies. To minimize costs and reduce time required for third-
901 party analysis and evaluation, the Department of Education shall
902 conduct analyses of matched students from public school
903 assessment data and calculate control group learning gains using
904 an agreed-upon methodology outlined in the contract with the
905 third-party evaluator. The sharing of student data must be in
906 accordance with requirements of 20 U.S.C. 1232g, the Family
907 Educational Rights and Privacy Act, and shall be for the sole
908 purpose of conducting the evaluation. All parties must preserve
909 the confidentiality of such information as required by law.

910 (k) Notify an eligible nonprofit scholarship-funding
911 organization of any of the organization's identified students
912 who are receiving an educational scholarship pursuant to chapter
913 1002.

914 (l) Notify an eligible nonprofit scholarship-funding
915 organization of any of the organization's identified students
916 who are receiving a corporate income tax credit scholarship from
917 another eligible nonprofit scholarship-funding organization.

918 (m) Require quarterly reports by an eligible nonprofit
919 scholarship-funding organization regarding the number of
920 students participating in the scholarship program, the private

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921 schools at which the students are enrolled, and other
922 information deemed necessary by the Department of Education.

923 (10) COMMISSIONER OF EDUCATION AUTHORITY AND
924 OBLIGATIONS.--

925 (a) The Commissioner of Education shall deny, suspend, or
926 revoke a private school's participation in the scholarship
927 program if it is determined that the private school has failed
928 to comply with the provisions of this section. However, in
929 instances in which the noncompliance is correctable within a
930 reasonable amount of time and in which the health, safety, and
931 welfare of the students are not threatened, the commissioner may
932 issue a notice of noncompliance which shall provide the private
933 school with a timeframe within which to provide evidence of
934 compliance prior to taking action to suspend or revoke the
935 private school's participation in the scholarship program.

936 (b) The commissioner's determination is subject to the
937 following:

938 1. If the commissioner intends to deny, suspend, or revoke
939 a private school's participation in the scholarship program, the
940 Department of Education shall notify the private school of such
941 proposed action in writing by certified mail and regular mail to
942 the private school's address of record with the Department of
943 Education. The notification shall include the reasons for the
944 proposed action and notice of the timelines and procedures set
945 forth in this paragraph.

946 2. The private school that is adversely affected by the
947 proposed action shall have 15 days from receipt of the notice of

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948 proposed action to file with the Department of Education's
949 agency clerk a request for a proceeding pursuant to ss. 120.569
950 and 120.57. If the private school is entitled to a hearing under
951 s. 120.57(1), the Department of Education shall forward the
952 request to the Division of Administrative Hearings.

953 3. Upon receipt of a request referred pursuant to this
954 paragraph, the director of the Division of Administrative
955 Hearings shall expedite the hearing and assign an administrative
956 law judge who shall commence a hearing within 30 days after the
957 receipt of the formal written request by the division and enter
958 a recommended order within 30 days after the hearing or within
959 30 days after receipt of the hearing transcript, whichever is
960 later. Each party shall be allowed 10 days in which to submit
961 written exceptions to the recommended order. A final order shall
962 be entered by the agency within 30 days after the entry of a
963 recommended order. The provisions of this subparagraph may be
964 waived upon stipulation by all parties.

965 (c) The commissioner may immediately suspend payment of
966 scholarship funds if it is determined that there is probable
967 cause to believe that there is:

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

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

971
972 The commissioner's order suspending payment pursuant to this
973 paragraph may be appealed pursuant to the same procedures and

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974 timelines as the notice of proposed action set forth in
975 paragraph (b).

976 (11) SCHOLARSHIP AMOUNT AND PAYMENT.--

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

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

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

987
988 The scholarship amount in subparagraph 1. is for the 2005-2006
989 fiscal year and shall be adjusted each year by the same
990 percentage as the increase or decrease in total funds per
991 unweighted FTE, adjusted for Florida Retirement System changes
992 if applicable, under the Florida Education Finance Program as
993 provided in the General Appropriations Act workpapers. However,
994 the scholarship amount may not increase by more than 3 percent
995 in any year. The Commissioner of Education shall certify to the
996 department and notify eligible nonprofit scholarship-funding
997 organizations of the resulting value of the scholarship within
998 30 days after the General Appropriations Act becomes law.

999 (b) Payment of the scholarship by the eligible nonprofit
1000 scholarship-funding organization shall be by individual warrant

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1001 or check made payable to the student's parent. If the parent
1002 chooses for his or her child to attend an eligible private
1003 school, the warrant or check must be delivered by the eligible
1004 nonprofit scholarship-funding organization to the private school
1005 of the parent's choice, and the parent shall restrictively
1006 endorse the warrant or check to the private school. An eligible
1007 nonprofit scholarship-funding organization shall ensure that the
1008 parent to whom the warrant or check is made restrictively
1009 endorsed the warrant or check to the private school for deposit
1010 into the account of the private school.

1011 (c) An eligible nonprofit scholarship-funding organization
1012 shall obtain verification from the private school of a student's
1013 continued attendance at the school prior to each scholarship
1014 payment.

1015 (d) Payment of the scholarship shall be made by the
1016 eligible nonprofit scholarship-funding organization no less
1017 frequently than on a quarterly basis.

1018 (12)(7) ADMINISTRATION; RULES.--

1019 (a) If the credit granted pursuant to this section is not
1020 fully used in any one year because of insufficient tax liability
1021 on the part of the corporation, the unused amount may be carried
1022 forward for a period not to exceed 3 years; however, any
1023 taxpayer that seeks to carry forward an unused amount of tax
1024 credit must submit an application for allocation of tax credits
1025 or carryforward credits as required in paragraph (d) in the year
1026 that the taxpayer intends to use the carryforward. ~~The total~~
1027 ~~amount of tax credits and carryforward of tax credits granted~~

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HOUSE AMENDMENT

Bill No. CS/CS/CS/SB 2

Amendment No. (for drafter's use only)

1028 ~~each state fiscal year under this section is \$88 million. This~~
1029 carryforward applies to all approved contributions made after
1030 January 1, 2002. A taxpayer may not convey, assign, or transfer
1031 the credit authorized by this section to another entity unless
1032 all of the assets of the taxpayer are conveyed, assigned, or
1033 transferred in the same transaction.

1034 (b) An application for a tax credit pursuant to this
1035 section shall be submitted to the department on forms
1036 established by rule of the department.

1037 (c) The department and the Department of Education shall
1038 develop a cooperative agreement to assist in the administration
1039 of this section. ~~The Department of Education shall be~~
1040 ~~responsible for annually submitting, by March 15, to the~~
1041 ~~department a list of eligible nonprofit scholarship-funding~~
1042 ~~organizations that meet the requirements of paragraph (2)(d) and~~
1043 ~~for monitoring eligibility of nonprofit scholarship-funding~~
1044 ~~organizations that meet the requirements of paragraph (2)(d),~~
1045 ~~eligibility of nonpublic schools that meet the requirements of~~
1046 ~~paragraph (2)(c), and eligibility of expenditures under this~~
1047 ~~section as provided in subsection (4).~~

1048 (d) The department shall adopt rules necessary to
1049 administer this section, including rules establishing
1050 application forms and procedures and governing the allocation of
1051 tax credits and carryforward credits under this section on a
1052 first-come, first-served basis.

1053 (e) The State Board ~~Department~~ of Education shall adopt
1054 rules pursuant to ss. 120.536(1) and 120.54 ~~necessary~~ to

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1055 administer this section ~~determine eligibility of nonprofit~~
1056 ~~scholarship funding organizations as defined in paragraph (2)(d)~~
1057 ~~and according to the provisions of subsection (4) and identify~~
1058 ~~qualified students as defined in paragraph (2)(e).~~

1059 (13)(8) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--All eligible
1060 contributions received by an eligible nonprofit scholarship-
1061 funding organization shall be deposited in a manner consistent
1062 with s. 17.57(2).

1063 Section 3. Section 1002.421, Florida Statutes, is created
1064 to read:

1065 1002.421 Rights and obligations of private schools
1066 participating in state school choice scholarship
1067 programs.--Requirements of this section are in addition to
1068 private school requirements outlined in s. 1002.42, specific
1069 requirements identified within respective scholarship program
1070 laws, and other provisions of Florida law that apply to private
1071 schools.

1072 (1) A Florida private school participating in the
1073 Corporate Income Tax Credit Scholarship Program established
1074 pursuant to s. 220.187 or an educational scholarship program
1075 established pursuant to this chapter must comply with all
1076 requirements of this section.

1077 (2) A private school participating in a scholarship
1078 program must be a Florida private school as defined in s.
1079 1002.01(2) and must:

1080 (a) Be a registered Florida private school in accordance
1081 with s. 1002.42.

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1082 (b) Comply with antidiscrimination provisions of 42 U.S.C.
1083 s. 2000d.

1084 (c) Notify the department of its intent to participate in
1085 a scholarship program.

1086 (d) Notify the department of any change in the school's
1087 name, school director, mailing address, or physical location
1088 within 15 days after the change.

1089 (e) Complete student enrollment and attendance
1090 verification requirements, including use of an on-line
1091 attendance verification form, prior to scholarship payment.

1092 (f) Annually complete and submit to the department a
1093 notarized scholarship compliance statement certifying compliance
1094 with state laws relating to private school participation in the
1095 scholarship program.

1096 (g) Demonstrate fiscal soundness and accountability by:

1097 1. Being in operation for at least 3 school years or
1098 obtaining a surety bond or letter of credit for the amount equal
1099 to the scholarship funds for any quarter and filing the surety
1100 bond or letter of credit with the department.

1101 2. Requiring the parent of each scholarship student to
1102 personally restrictively endorse the scholarship warrant to the
1103 school. The school may not act as attorney in fact for the
1104 parent of a scholarship student under the authority of a power
1105 of attorney executed by such parent, or under any other
1106 authority, to endorse scholarship warrants on behalf of such
1107 parent.

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1108 (h) Meet applicable state and local health, safety, and
1109 welfare laws, codes, and rules, including:

1110 1. Fire safety.

1111 2. Building safety.

1112 (i) Employ or contract with teachers who hold
1113 baccalaureate or higher degrees, have at least 3 years of
1114 teaching experience in public or private schools, or have
1115 special skills, knowledge, or expertise that qualifies them to
1116 provide instruction in subjects taught.

1117 (j) Require each individual with direct student contact
1118 with a scholarship student to be of good moral character, to be
1119 subject to the level 1 background screening as provided under
1120 chapter 435, to be denied employment or terminated if required
1121 under s. 435.06, and not to be ineligible to teach in a public
1122 school because his or her educator certificate is suspended or
1123 revoked. For purposes of this paragraph:

1124 1. An "individual with direct student contact" means any
1125 individual who has unsupervised access to a scholarship student
1126 for whom the private school is responsible.

1127 2. The costs of fingerprinting and the background check
1128 shall not be borne by the state.

1129 3. Continued employment of an individual after
1130 notification that the individual has failed the level 1
1131 background screening shall cause a private school to be
1132 ineligible for participation in a scholarship program.

1133 4. An individual holding a valid Florida teaching
1134 certificate who has been fingerprinted pursuant to s. 1012.32

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1135 shall not be required to comply with the provisions of this
1136 paragraph.

1137 (3) The inability of a private school to meet the
1138 requirements of this section shall constitute a basis for the
1139 ineligibility of the private school to participate in a
1140 scholarship program as determined by the department.

1141 (4) The inclusion of eligible private schools within
1142 options available to Florida public school students does not
1143 expand the regulatory authority of the state, its officers, or
1144 any school district to impose any additional regulation of
1145 private schools beyond those reasonably necessary to enforce
1146 requirements expressly set forth in this section.

1147 (5) The State Board of Education shall adopt rules
1148 pursuant to ss. 120.536(1) and 120.54 to administer this
1149 section.

1150 Section 4. This act shall take effect upon becoming a law.

1151
1152 ===== T I T L E A M E N D M E N T =====

1153 On page 1, line(s) 1 through page 11, line 28, remove:
1154 the entire title
1155 and insert:

1156 A bill to be entitled
1157 An act relating to scholarship program accountability;
1158 amending s. 1002.39, F.S., relating to the John M. McKay
1159 Scholarships for Students with Disabilities Program;
1160 revising definition of the term "students with
1161 disabilities"; revising student eligibility requirements

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1162 for receipt of a scholarship and restricting eligibility
1163 therefor; providing for term of a scholarship; revising
1164 and adding school district obligations and clarifying
1165 parental options; revising and adding Department of
1166 Education obligations, including verification of
1167 eligibility of private schools and establishment of a
1168 process for notification of violations, subsequent
1169 investigation, and certification of compliance by private
1170 schools; providing Commissioner of Education authority and
1171 obligations, including the denial, suspension, or
1172 revocation of a private school's participation in the
1173 scholarship program and procedures and timelines therefor;
1174 revising private school eligibility and obligations,
1175 including compliance with specified laws and academic
1176 accountability to the parent; revising parent and student
1177 responsibilities for scholarship program participation;
1178 prohibiting a private school from acting as attorney in
1179 fact to sign a scholarship warrant; revising provisions
1180 relating to scholarship funding and payment; providing
1181 funding and payment requirements for former Florida School
1182 for the Deaf and the Blind students and for students
1183 exiting a Department of Juvenile Justice program;
1184 providing Department of Financial Services obligations;
1185 providing scope of authority; requiring adoption of rules;
1186 amending s. 220.187, F.S., relating to credits for
1187 contributions to nonprofit scholarship-funding
1188 organizations; revising and providing definitions; naming

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1189 the scholarship program; providing student eligibility
1190 requirements for receipt of a corporate income tax credit
1191 scholarship and restricting eligibility therefor; revising
1192 provisions relating to the total amount of tax credits and
1193 carryforward of tax credits and providing certain
1194 limitation; providing for rescindment of tax credit
1195 allocation; revising and adding obligations of eligible
1196 nonprofit scholarship-funding organizations, including
1197 compliance with requirements for background checks,
1198 scholarship-funding organization ownership or operation,
1199 audits, and reports; requiring certain information to
1200 remain confidential in accordance with s. 213.053, F.S.;
1201 revising and adding parent and student responsibilities
1202 for scholarship program participation, including
1203 compliance with private school's published policies,
1204 participation in student academic assessment, and
1205 restrictive endorsement of scholarship warrants or checks;
1206 prohibiting power of attorney for endorsing a scholarship
1207 warrant or check; revising and adding private school
1208 eligibility requirements and obligations, including
1209 compliance with specified laws and academic accountability
1210 to the parent; revising and adding Department of Education
1211 obligations, including verification of eligibility of
1212 program participants, establishment of a process for
1213 notification of violations, subsequent investigation, and
1214 certification of compliance by private schools, and
1215 selection of a research organization to analyze student

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1216 performance data; providing Commissioner of Education
1217 authority and obligations, including the denial,
1218 suspension, or revocation of a private school's
1219 participation in the scholarship program and procedures
1220 and timelines therefor; revising and adding provisions
1221 relating to scholarship funding and payment, including the
1222 amount of a scholarship and the payment process; requiring
1223 adoption of rules; creating s. 1002.421, F.S., relating to
1224 rights and obligations of private schools participating in
1225 state school choice scholarship programs; providing
1226 requirements for participation in a scholarship program,
1227 including compliance with specified state, local, and
1228 federal laws and demonstration of fiscal soundness;
1229 requiring restrictive endorsement of checks and
1230 prohibiting a school from acting as attorney in fact;
1231 requiring employment of qualified teachers and background
1232 screening of individuals with direct student contact;
1233 providing scope of authority; requiring adoption of rules;
1234 providing an effective date.

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