

By Senator King

8-1B-05

1                                   A bill to be entitled  
2           An act relating to scholarship programs;  
3           amending s. 1002.39, F.S., relating to the John  
4           M. McKay Scholarships for Students with  
5           Disabilities Program; revising the definition  
6           of an eligible student; revising the  
7           eligibility requirements of the program;  
8           extending the term of the scholarship;  
9           prohibiting certain students from receiving a  
10          scholarship; revising the parental notification  
11          requirements; authorizing certain scholarship  
12          students to participate in a distance learning  
13          or correspondence course or a private tutoring  
14          program under certain circumstances; providing  
15          a definition of timely parental notification;  
16          providing requirements for district school  
17          boards with respect to completing and making  
18          changes to the matrix of services for  
19          scholarship students; requiring school  
20          districts to provide parental notification  
21          related to reassessments; revising requirements  
22          that a participating private school demonstrate  
23          fiscal soundness; requiring a surety bond;  
24          providing an exception; requiring annual  
25          registration of private schools; providing  
26          requirements for documentation and notice;  
27          providing additional requirements for  
28          participating private schools; requiring annual  
29          sworn and notarized compliance statements to be  
30          filed with the department; requiring specific  
31          documentation for participating scholarship

1 students; requiring that the private school  
2 maintain a physical location in this state;  
3 requiring that information be made available to  
4 potential scholarship students and the  
5 department; requiring scholarship students to  
6 participate in assessments; requiring  
7 notification to parents regarding student skill  
8 levels; requiring notification to the  
9 department regarding changes in information;  
10 requiring notification to local health  
11 departments; requiring certain individuals to  
12 undergo level 2 background screening  
13 requirements pursuant to s. 435.04, F.S.;  
14 providing for the Department of Law Enforcement  
15 to retain and search fingerprint records;  
16 providing for an annual fee as provided by rule  
17 of the Department of Law Enforcement; requiring  
18 that costs of background checks to be borne by  
19 certain parties; prohibiting a private school  
20 from acting as an attorney in fact for the  
21 parent of a scholarship student or endorsing  
22 scholarship warrants on behalf of a parent;  
23 prohibiting participating private schools from  
24 sending or directing scholarship funds to  
25 parents of a scholarship student who receives  
26 instruction at home; prohibiting a  
27 participating school from being a private  
28 tutoring program or a correspondence or  
29 distance learning school; prohibiting a  
30 participating school from accepting students  
31 pending verification of information;

1 authorizing a participating private school to  
2 request, and the department to grant,  
3 closed-enrollment status for a school;  
4 prohibiting the parent of a scholarship student  
5 from designating a participating private school  
6 as the parent's attorney in fact to sign a  
7 scholarship warrant; clarifying that the school  
8 district must report to the department the  
9 students who are attending a private school  
10 under the program; establishing additional  
11 obligations of the Department of Education;  
12 requiring the department to review, approve,  
13 and verify information and review background  
14 checks; requiring the department to determine  
15 the eligibility of a private school to  
16 participate in the program; requiring the  
17 department to publish an on-line list of  
18 current eligible private schools; requiring the  
19 department to deny or refuse to allow the  
20 participation of a private school for failing  
21 to meet certain requirements; requiring the  
22 department to issue a notice of noncompliance  
23 for minor violations; providing for an  
24 emergency order revoking the registration of a  
25 private school for failing to satisfy the  
26 requirements in the notice; requiring the  
27 Department of Education to immediately revoke  
28 the registration of a private school for  
29 certain other violations; requiring the  
30 department to revoke the scholarship for a  
31 participant for failing to comply with

1 statutory requirements or for engaging in  
2 specified practices; requiring the department  
3 to conduct investigations of legally sufficient  
4 complaints of violations; authorizing the  
5 department to require supporting information or  
6 documentation; authorizing the Department of  
7 Education to change the matrix of services  
8 under certain circumstances; providing for  
9 audits by the Auditor General; providing  
10 requirements for the audits; requiring the  
11 State Board of Education to adopt rules;  
12 specifying the required rules; requiring the  
13 State Board of Education to initiate the  
14 adoption of rules by a time certain and report  
15 to the Legislature; providing exceptions for  
16 certain participating private schools subject  
17 to specific conditions; amending s. 220.187,  
18 F.S., relating to the Corporate Tax Credit  
19 Scholarship Program; providing a short title;  
20 providing definitions; prohibiting certain  
21 private schools and other entities from  
22 participating in the scholarship program;  
23 prohibiting certain students from participating  
24 in the scholarship program; revising  
25 limitations on the allocation of annual credits  
26 granted under the program; providing  
27 limitations on eligible contributions;  
28 requiring the Auditor General to review certain  
29 audits, request certain information, and report  
30 to the Legislative Auditing Committee any  
31 findings of noncompliance; authorizing the

1 Legislative Auditing Committee to conduct  
2 hearings and compel the Department of Education  
3 to revoke eligibility of certain nonprofit  
4 scholarship-funding organizations; providing  
5 for audit reports to be submitted to the  
6 Department of Education; requiring audits be  
7 conducted within 180 days after completion of  
8 the nonprofit scholarship-funding  
9 organization's fiscal year; requiring a  
10 nonprofit scholarship-funding organization to  
11 make scholarship payments at least on a  
12 quarterly basis; prohibiting commingling of  
13 certain scholarship funds; requiring a  
14 nonprofit scholarship-funding organization to  
15 maintain a separate account for scholarship  
16 funds; requiring a nonprofit  
17 scholarship-funding organization to verify  
18 student attendance at a private school prior to  
19 submission of scholarship funds; requiring a  
20 nonprofit scholarship-funding organization to  
21 verify income eligibility of qualified students  
22 at least once a year in accordance with State  
23 Board of Education rules; requiring a nonprofit  
24 scholarship-funding organization to submit  
25 certain reports to the Department of Education;  
26 requiring certain individuals to undergo level  
27 2 background screening requirements pursuant to  
28 s. 435.04, F.S.; providing for the Department  
29 of Law Enforcement to retain and search  
30 fingerprint records; providing for an annual  
31 fee as provided by rule of the Department of

1 Law Enforcement; requiring costs of background  
2 checks be borne by certain parties; prohibiting  
3 certain eligible nonprofit scholarship-funding  
4 organizations the owners of which have filed  
5 for bankruptcy from participating in the  
6 program; requiring a nonprofit  
7 scholarship-funding organization comply with  
8 antidiscrimination provisions of 42 U.S.C. s.  
9 2000d; prohibiting an owner or a nonprofit  
10 scholarship-funding organization from owning,  
11 operating, or administering an eligible private  
12 school under the scholarship program; requiring  
13 a nonprofit scholarship-funding organization to  
14 report any private school not in compliance  
15 with scholarship program requirements to the  
16 Department of Education; prohibiting provision  
17 of scholarship funds to a student to attend a  
18 private school not in compliance; authorizing a  
19 parent to transfer the scholarship; requiring  
20 award of scholarships on a first-come,  
21 first-served basis; prohibiting a nonprofit  
22 scholarship-funding organization from targeting  
23 certain students for scholarships; prohibiting  
24 the award of scholarships to a child of an  
25 owner of a nonprofit scholarship-funding  
26 organization; prohibiting the transfer of an  
27 eligible contribution between nonprofit  
28 scholarship-funding organizations; prohibiting  
29 a nonprofit scholarship-funding organization  
30 from securing financing in anticipation of  
31 eligible contributions; prohibiting a nonprofit

1 scholarship-funding organization from  
2 participating in the program if the  
3 organization fails to meet statutory  
4 obligations; requiring students to meet certain  
5 attendance policies; requiring parents to meet  
6 certain parental involvement requirements  
7 unless excused; prohibiting a parent from  
8 authorizing a power of attorney for endorsement  
9 of scholarship warrant; requiring a parent to  
10 ensure that a scholarship student participates  
11 in testing requirements; prohibiting a student  
12 or parent of a student from participating in  
13 the scholarship program if the student or  
14 parent fails to meet statutory obligations;  
15 revising provisions with respect to private  
16 schools; revising requirements that a  
17 participating private school demonstrate fiscal  
18 soundness; requiring a surety bond; providing  
19 an exception; requiring a private school to  
20 employ or contract with teachers who have  
21 regular and direct contact with students at the  
22 school's physical location; requiring the  
23 private schools to employ or contract with  
24 teachers who have at least a baccalaureate  
25 degree or 3 years of teaching experience at a  
26 public or private school, and other skills that  
27 qualify the teacher to provide appropriate  
28 instruction; requiring a private school to  
29 report to the Department of Education the  
30 qualifications of teachers; requiring a private  
31 school to annually register with the Department

1 of Education and provide certain information  
2 concerning the private school organization,  
3 student list, and notice of intent to  
4 participate in the scholarship program;  
5 requiring certain individuals to undergo level  
6 2 background screening requirements pursuant to  
7 s. 435.04, F.S.; providing for the Department  
8 of Law Enforcement to retain and search  
9 fingerprint records; providing for an annual  
10 fee as provided by rule of the Department of  
11 Law Enforcement; requiring costs of background  
12 checks be borne by certain parties; requiring a  
13 private school to administer or to make  
14 provision for administering certain tests to  
15 scholarship students; requiring reporting of  
16 scores to the student's parent and to the  
17 Department of Education; requiring a private  
18 school to file an affidavit; requiring a  
19 private school to notify the Department of  
20 Education in writing within 7 days if a student  
21 is ineligible to participate in the scholarship  
22 program; requiring a private school to report  
23 to the Department of Education and distribute  
24 to scholarship applicants information  
25 concerning accreditation and years in  
26 existence; requiring the Department of  
27 Education to make certain information  
28 concerning private school accreditation  
29 available to the public; prohibiting a private  
30 school from participating in the scholarship  
31 program if the private school fails to meet its



1 statutory obligations; requiring the Department  
2 of Education to determine the eligibility of  
3 certain nonprofit scholarship-funding  
4 organizations within 90 days after application;  
5 requiring a written notice with specific  
6 reasons for approval or denial; requiring the  
7 Department of Education to annually determine  
8 the eligibility of nonprofit  
9 scholarship-funding organizations and private  
10 schools; requiring the Department of Education  
11 to make accessible to the public a list of  
12 eligible private schools; requiring the  
13 Department of Education to annually verify the  
14 eligibility of students; requiring the  
15 Department of Education to maintain a student  
16 database of program participants and to update  
17 the database at least quarterly; requiring the  
18 Department of Education to notify a nonprofit  
19 scholarship-funding organization of any  
20 ineligible student; requiring the Department of  
21 Education to annually account for and verify  
22 the eligibility of program expenditures;  
23 requiring the Department of Education to review  
24 audits; requiring the Department of Education  
25 to report student performance data; providing  
26 limitations on reporting; requiring the  
27 Department of Education to revoke the  
28 eligibility of program participants for failure  
29 to comply with statutory obligations; requiring  
30 the Department of Education to conduct  
31 investigations of certain complaints; requiring

1 the Department of Education to annually report  
2 on accountability activities; requiring the  
3 State Board of Education to adopt rules  
4 regarding documentation to establish  
5 eligibility of nonprofit scholarship-funding  
6 organizations, requiring an affidavit, and  
7 requiring independent income verification for  
8 determining the eligibility of students;  
9 authorizing the State Board of Education to  
10 delegate its authority to the Commissioner of  
11 Education with the exception of rulemaking  
12 authority; providing an effective date.  
13

14 Be It Enacted by the Legislature of the State of Florida:  
15

16 Section 1. Subsections (1), (2), (3), (4), and (5) and  
17 paragraphs (d) and (e) of subsection (6) of section 1002.39,  
18 Florida Statutes, are amended, present subsections (7) and (8)  
19 of that section are redesignated as subsections (9) and (10),  
20 respectively, and amended, and new subsections (7) and (8) are  
21 added to that section, to read:

22 1002.39 The John M. McKay Scholarships for Students  
23 with Disabilities Program.--There is established a program  
24 that is separate and distinct from the Opportunity Scholarship  
25 Program and is named the John M. McKay Scholarships for  
26 Students with Disabilities Program, pursuant to this section.

27 (1) THE JOHN M. MCKAY SCHOLARSHIPS FOR STUDENTS WITH  
28 DISABILITIES PROGRAM.--The John M. McKay Scholarships for  
29 Students with Disabilities Program is established to provide  
30 the option to attend a public school other than the one to  
31 which assigned, or to provide a scholarship to a private

1 school of choice, for students with disabilities for whom an  
2 individual education plan has been written in accordance with  
3 rules of the State Board of Education. Students with  
4 disabilities include K-12 students who are documented as  
5 having mental retardation; a speech or language impairment; a  
6 hearing impairment, including deafness; a visual impairment,  
7 including blindness; a dual sensory impairment; a physical  
8 impairment; a serious emotional disturbance, including an  
9 emotional handicap; a specific learning disability, including,  
10 but not limited to, dyslexia, dyscalculia, or developmental  
11 aphasia; a traumatic brain injury; or autism ~~mentally~~  
12 ~~handicapped, speech and language impaired, deaf or hard of~~  
13 ~~hearing, visually impaired, dual sensory impaired, physically~~  
14 ~~impaired, emotionally handicapped, specific learning disabled,~~  
15 ~~hospitalized or homebound, or autistic.~~

16 (2) SCHOLARSHIP ELIGIBILITY; PROHIBITIONS.--

17 (a) The parent of a public school student with a  
18 disability who is dissatisfied with the student's progress may  
19 request and receive from the state a John M. McKay Scholarship  
20 for the child to enroll in and attend a private school in  
21 accordance with this section if:

22 1.(a) By assigned school attendance area or by special  
23 assignment, the student has spent the prior school year in  
24 attendance at a Florida public school. Prior school year in  
25 attendance means that the student was enrolled and reported by  
26 a school district for funding during the preceding October and  
27 February Florida Education Finance Program surveys in  
28 kindergarten through grade 12. Prior school year in attendance  
29 does not include the period of time that the student was  
30 enrolled in a school operating for the purposes of providing  
31 educational services to youth in a commitment program of the

1 Department of Juvenile Justice. However, this subparagraph  
2 ~~paragraph~~ does not apply to a dependent child of a member of  
3 the United States Armed Forces who transfers to a school in  
4 this state from out of state or from a foreign country  
5 pursuant to a parent's permanent change of station orders. A  
6 dependent child of a member of the United States Armed Forces  
7 who transfers to a school in this state from out of state or  
8 from a foreign country pursuant to a parent's permanent change  
9 of station orders must meet all other eligibility requirements  
10 to participate in the program.

11 2.(b) The parent has obtained acceptance for admission  
12 of the student to a private school that is eligible for the  
13 program under subsection (4) and has notified the Department  
14 of Education ~~school district~~ of the request for a scholarship  
15 at least 60 days prior to the date of the first scholarship  
16 payment. The parental notification must be through a  
17 communication directly to the ~~district or through the~~  
18 Department of Education ~~to the district~~ in a manner that  
19 creates a written or electronic record of the notification and  
20 the date of receipt of the notification. The Department of  
21 Education must notify the district of the parent's intent,  
22 upon receipt of the parent's notification.

23  
24 ~~This section does not apply to a student who is enrolled in a~~  
25 ~~school operating for the purpose of providing educational~~  
26 ~~services to youth in Department of Juvenile Justice commitment~~  
27 ~~programs.~~ For purposes of continuity of educational choice,  
28 the scholarship shall remain in force until the student  
29 returns to a public school or graduates from high school or  
30 reaches the age of 22, whichever occurs first. However, at any  
31 time, the student's parent may remove the student from the

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

4 (b) A student is not eligible to receive a scholarship  
5 under this section if he or she:

6 1. Receives a scholarship from an eligible  
7 scholarship-funding organization under s. 220.187.

8 2. Receives an opportunity scholarship under s.  
9 1002.38.

10 3. Participates in a home education program as defined  
11 in s. 1002.01(1).

12 4. Receives instruction from a correspondence school  
13 or a private tutoring program as described in s. 1002.43, or  
14 participates in distance learning courses.

15 5. Does not have regular and direct contact with his  
16 or her private school teachers at the school's physical  
17 location.

18 6. Is enrolled in a school operating for the purpose  
19 of providing educational services to youth in commitment  
20 programs of the Department of Juvenile Justice.

21  
22 Notwithstanding the prohibition set forth in subparagraph 4.,  
23 a student who receives a John M. McKay Scholarship may  
24 participate in a distance learning course, a private tutoring  
25 program, or a course offered by a correspondence school, the  
26 tuition and other costs of which are not paid by scholarship  
27 funds provided under this section.

28 (3) SCHOOL DISTRICT AND DEPARTMENT OF EDUCATION  
29 OBLIGATIONS.--

30 (a) The Department of Education ~~A school district~~  
31 shall timely notify the parent of each public school ~~the~~

1 student of all options available pursuant to this section and  
2 offer that student's parent an opportunity to enroll the  
3 student in another public school within the district. The  
4 parent is not required to accept this offer in lieu of  
5 requesting a John M. McKay Scholarship to a private school.  
6 However, if the parent chooses the public school option, the  
7 student may continue attending a public school chosen by the  
8 parent until the student graduates from high school. If the  
9 parent chooses a public school consistent with the district  
10 school board's choice plan under s. 1002.31, the school  
11 district shall provide transportation to the public school  
12 selected by the parent. The parent is responsible to provide  
13 transportation to a public school chosen that is not  
14 consistent with the district school board's choice plan under  
15 s. 1002.31. For purposes of this paragraph, timely  
16 notification means notification no later than April 1 of each  
17 school year.

18 (b)1. For a student with disabilities who does not  
19 have a matrix of services under s. 1011.62(1)(e), the school  
20 district must complete a matrix that assigns the student to  
21 one of the levels of service as they existed prior to the  
22 2000-2001 school year.

23 2.a. The school district must complete the matrix of  
24 services for any student who is participating in the John M.  
25 McKay Scholarships for Students with Disabilities Program and  
26 must notify the Department of Education of the student's  
27 matrix level within 30 days after receiving notification by  
28 the Department of Education of the parent's ~~the student's~~  
29 ~~parent~~ of intent to participate in the scholarship program.  
30 The nature and intensity of the services indicated in the  
31

1 matrix must be consistent with the services described in the  
2 student's individual education plan.

3 b. A school district may change a matrix of services  
4 only if the change is to:

5 (I) Correct a technical, typographical, or calculation  
6 error; or

7 (II) Align the matrix of services with the student's  
8 individual education plan completed by the public school  
9 district for use in the public school prior to the student  
10 enrolling in or attending a private school.

11 3. The Department of Education shall notify the  
12 private school of the amount of the scholarship within 10 days  
13 after receiving the school district's notification of the  
14 student's matrix level.

15 4. Within 10 school days after it receives  
16 notification of a parent's intent to apply for a McKay  
17 Scholarship, a district school board must notify the student's  
18 parent if the matrix has not been completed and provide the  
19 parent with the date for completion of the matrix required in  
20 this paragraph.

21 (c) If the parent chooses the private school option  
22 and the student is accepted by the private school pending the  
23 availability of a space for the student, the parent of the  
24 student must notify the Department of Education ~~school~~  
25 ~~district~~ 60 days prior to the first scholarship payment and  
26 before entering the private school in order to be eligible for  
27 the scholarship when a space becomes available for the student  
28 in the private school.

29 (d) The parent of a student may choose, as an  
30 alternative, to enroll the student in and transport the  
31 student to a public school in an adjacent school district

1 | which has available space and has a program with the services  
2 | agreed to in the student's individual education plan already  
3 | in place, and that school district shall accept the student  
4 | and report the student to the Department of Education for  
5 | purposes of the district's funding pursuant to the Florida  
6 | Education Finance Program.

7 |         (e) For a student in the district who participates in  
8 | the John M. McKay Scholarships for Students with Disabilities  
9 | Program whose parent requests that the student take the  
10 | statewide assessments under s. 1008.22, the district shall  
11 | provide locations and times to take all statewide assessments.

12 |         (f) ~~A school district must notify~~ The Department of  
13 | Education must notify the school district upon receipt of the  
14 | ~~within 10 days after it receives~~ notification of a parent's  
15 | intent to apply for a scholarship for a student with a  
16 | disability. A school district must provide the student's  
17 | parent with the student's matrix level within 10 school days  
18 | after its completion.

19 |         (g) A school district shall, at least every 3 years,  
20 | provide notification to parents of the availability of a  
21 | reassessment of each student who receives a McKay Scholarship.

22 |         (4) PRIVATE SCHOOL ELIGIBILITY; REGISTRATION;  
23 | PROHIBITIONS.--

24 |         (a) To be eligible to participate in the John M. McKay  
25 | Scholarships for Students with Disabilities Program, a private  
26 | school must be a Florida private school as defined in s.  
27 | 1002.01(2), may be sectarian or nonsectarian, and must:

28 |             1. ~~(a)~~ Demonstrate fiscal soundness by filing with  
29 | ~~being in operation for 1 school year or provide~~ the Department  
30 | of Education with a surety bond for the amount equal to the  
31 | scholarship amount for each quarter of the school year. The



1 purpose of the surety bond is to secure expenditures of  
2 scholarship funds if such funds are found to have been used  
3 for unlawful purposes. The surety bond must be filed at the  
4 time of the private school's initial registration and at each  
5 renewal period thereafter for a total of 3 consecutive years.  
6 This requirement does not apply to an eligible private school  
7 that:

8 a. Participates in the program for a total of 3  
9 consecutive years or longer; and

10 b. Has had no action taken by the Department of  
11 Education against the private school for any violation of this  
12 section for 3 consecutive years or longer.

13  
14 However, any private school that was subject to an action  
15 taken by the department for any violation of this section  
16 shall, following the date on which the action was taken  
17 against the private school for a violation of this section,  
18 but prior to receiving the next quarterly payment and for 2  
19 years thereafter, file a surety bond with the department.

20 2. Annually register with the Department of Education.  
21 Each owner or administrator of a private school must provide  
22 the following information:

23 a. The legal business and trade name, mailing address,  
24 and business location of the private school;

25 b. The full name, address, and telephone number of  
26 each owner or administrator of the private school; and

27 c. A notification of the private school's intent to  
28 participate in the program under this section. The notice must  
29 specify the grade levels and services that the private school  
30 has available for students with disabilities who are  
31 participating in the scholarship program. ~~statement by a~~

1 ~~certified public accountant confirming that the private school~~  
2 ~~desiring to participate is insured and the owner or owners~~  
3 ~~have sufficient capital or credit to operate the school for~~  
4 ~~the upcoming year serving the number of students anticipated~~  
5 ~~with expected revenues from tuition and other sources that may~~  
6 ~~be reasonably expected. In lieu of such a statement, a surety~~  
7 ~~bond or letter of credit for the amount equal to the~~  
8 ~~scholarship funds for any quarter may be filed with the~~  
9 ~~department.~~

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

15 3.(e) Comply with the antidiscrimination provisions of  
16 42 U.S.C. s. 2000d.

17 4.(d) Meet state and local health and safety laws and  
18 codes.

19 5.(e) Be academically accountable to the parent for  
20 meeting the educational needs of the student.

21 6.(f) Employ or contract with teachers who hold  
22 baccalaureate or higher degrees, or have at least 3 years of  
23 teaching experience in public or private schools, or have  
24 special skills, knowledge, or expertise that qualifies them to  
25 provide instruction in subjects taught.

26 7.(g) Comply with all state laws relating to general  
27 regulation of private schools, including, but not limited to,  
28 s. 1002.42.

29 8.(h) Publish and adhere to the tenets of its adopted  
30 ~~published~~ disciplinary procedures prior to the expulsion of a  
31 scholarship student.

1           9. Provide the Department of Education with all  
2 documentation required for each scholarship student's  
3 participation in the scholarship program, including, but not  
4 limited to:

5           a. The private school's fee schedule, including, but  
6 not limited to, fees for services, tuition, and instructional  
7 materials, and each individual scholarship student's schedule  
8 of fees and charges, at least 30 days before the first  
9 quarterly scholarship payment is made for the student; and

10           b. The enrollment and attendance information,  
11 including an on-line attendance verification form, for each  
12 scholarship student at the private school, prior to each  
13 scholarship payment.

14  
15 The on-line attendance form must be documented each quarter by  
16 a notarized statement that is signed by the private school and  
17 the parents of each McKay Scholarship student in attendance at  
18 the private school. The private school must maintain the  
19 completed notarized statements at the private school for each  
20 academic year. The completed notarized statements must be open  
21 to the Department of Education upon request.

22           10. Maintain in this state a physical location where a  
23 scholarship student regularly attends classes.

24           11.a. Advertise or notify potential McKay Scholarship  
25 students and parents of the specific types of disabilities  
26 served by the school, and provide this information to the  
27 Department of Education.

28           b. Review with the parent the student's individual  
29 education plan.

30           12. Require each McKay Scholarship student to  
31 participate at least annually in a student assessment which,

1 as determined by the private school in consultation with the  
2 student's parent or guardian, will demonstrate the student's  
3 skill level to the student's parents.

4 13. Notify the student's parent at least annually  
5 about the student's skill level on a student assessment that  
6 is determined by the private school.

7 14. Notify the Department of Education of any change  
8 in the school's registered name or location prior to any such  
9 change and notify the Department of Education within 15 days  
10 after any other change in the registration information  
11 submitted to the department.

12 15. Notify each local health department within 15 days  
13 after establishing operations at a physical location or  
14 address and within 3 days after discovering any ongoing health  
15 code violation that has not yet been remedied in full.

16 16. Annually complete and file with the Department of  
17 Education a sworn and notarized compliance statement in a form  
18 and by a deadline specified in rules adopted by the State  
19 Board of Education.

20 (b) A private school participating in the John M.  
21 McKay Scholarships for Students with Disabilities Program must  
22 ensure that all personnel who are hired or contracted to  
23 provide services to fill positions requiring direct contact  
24 with students in the private school, and all owners of a  
25 private school, shall, upon employment, engagement to provide  
26 services, or assumption of a position of ownership, a position  
27 of decisionmaking authority, or a position having access to  
28 scholarship funds, undergo background screening pursuant to s.  
29 435.04 by filing with the Department of Education a complete  
30 set of fingerprints taken by an authorized law enforcement  
31 agency or an employee of the private school who is trained to

1 take fingerprints. These fingerprints must be submitted to the  
2 Department of Law Enforcement for state processing, which  
3 shall in turn submit the fingerprints to the Federal Bureau of  
4 Investigation for federal processing. The Department of  
5 Education shall screen the background results and report to  
6 the private school any person described in this paragraph who  
7 fails to meet level 2 screening standards pursuant to s.  
8 435.04 or any person described in this paragraph who has been  
9 convicted of a crime involving moral turpitude. Any person  
10 described in this paragraph who is found through fingerprint  
11 processing to have been convicted of a crime involving moral  
12 turpitude or fails to meet level 2 screening standards  
13 pursuant to s. 435.04 may not be employed or engaged to  
14 provide services in any position in the private school  
15 requiring direct contact with students and may not assume an  
16 ownership position, a position of decisionmaking authority, or  
17 a position having access to scholarship funds. The cost of the  
18 background screening may be borne by the private school, the  
19 employee, the person engaged to provide services, or the  
20 owner.

21 1. Every 5 years each person described in this  
22 paragraph must meet level 2 screening requirements as  
23 described in s. 435.04, at which time the Department of  
24 Education shall request the Department of Law Enforcement to  
25 forward the fingerprints to the Federal Bureau of  
26 Investigation for level 2 screening. If the fingerprints of a  
27 person described in this paragraph are not retained by the  
28 Department of Law Enforcement under subparagraph 2., the  
29 person must file a complete set of fingerprints with the  
30 Department of Education. Upon submission of fingerprints for  
31 this purpose, the Department of Education shall request that

1 the Department of Law Enforcement forward the fingerprints to  
2 the Federal Bureau of Investigation for level 2 screening, and  
3 the fingerprints must be retained by the Department of Law  
4 Enforcement under subparagraph 2. The cost of the state and  
5 federal criminal history check required by level 2 screening  
6 may be borne by the private school, the employee, the person  
7 engaged to provide services, or the owner. Under penalty of  
8 perjury, each person described in this paragraph must agree to  
9 inform the private school immediately if convicted of any  
10 disqualifying offense while in a capacity with the private  
11 school as described in this paragraph.

12 2. All fingerprints submitted to the Department of Law  
13 Enforcement as required by this paragraph shall be retained by  
14 the Department of Law Enforcement in a manner provided by rule  
15 and entered in the statewide automated fingerprint  
16 identification system authorized by s. 943.05(2)(b). Such  
17 fingerprints shall thereafter be available for all purposes  
18 and uses authorized for arrest fingerprint cards entered in  
19 the statewide automated fingerprint identification system  
20 under s. 943.051.

21 3. The Department of Law Enforcement shall search all  
22 arrest fingerprint cards received under s. 943.051 against the  
23 fingerprints retained in the statewide automated fingerprint  
24 identification system under subparagraph 2. Any arrest record  
25 that is identified with the fingerprints of a person described  
26 in this paragraph must be reported to the Department of  
27 Education. Each eligible private school shall participate in  
28 this search process by paying an annual fee to the Department  
29 of Law Enforcement and by informing the Department of Law  
30 Enforcement of any change in the status or place of employment  
31 or engagement of services of its personnel as described in

1 this paragraph whose fingerprints are retained under  
2 subparagraph 2. The Department of Law Enforcement shall adopt  
3 a rule setting the amount of the annual fee to be imposed upon  
4 each private school for performing these searches and  
5 establishing the procedures for the retention of private  
6 school personnel fingerprints and the dissemination of search  
7 results. The fee may be borne by the private school, the  
8 employee, the person engaged to provide services, or the  
9 owner.

10 4. If it is found that a person described in this  
11 paragraph does not meet the level 2 requirements, the eligible  
12 private school shall be immediately suspended from  
13 participating in the program and shall remain suspended until  
14 final resolution of any appeals. An eligible private school  
15 that employs or engages to provide services with a person  
16 described in this paragraph who fails to meet level 2  
17 screening standards or has been convicted of a crime involving  
18 moral turpitude may not participate in this program.

19 (c) A private school participating in the John M.  
20 McKay Scholarships for Students with Disabilities Program may  
21 not:

22 1. Act as attorney in fact for parents of a  
23 scholarship student under the authority of a power of attorney  
24 executed by such parents, or under any other authority, to  
25 endorse scholarship warrants on behalf of parents.

26 2. Send or direct McKay Scholarship funds to parents  
27 of a scholarship student who receives instruction at home.

28 3. Be a correspondence school or distance learning  
29 school.

30 4. Operate as a private tutoring program as defined in  
31 s. 1002.43.

1           5. Accept a McKay Scholarship student until the sworn  
2 and notarized compliance statement has been completed,  
3 submitted to, and independently verified by the Department of  
4 Education.

5           (d) A participating private school may request that  
6 the school be listed by the Department of Education with a  
7 closed-enrollment status in the McKay Scholarship program if  
8 the school is no longer accepting new students with McKay  
9 Scholarships. As used in this paragraph, the term  
10 "closed-enrollment status" means that the private school is no  
11 longer accepting any new student with a McKay Scholarship.  
12 However, the private school is subject to all the requirements  
13 under this section and all applicable rules adopted by the  
14 State Board of Education if the private school is serving a  
15 student with a McKay Scholarship. The private school must  
16 provide a written request for closed-enrollment status to the  
17 Department of Education. The Department of Education may grant  
18 closed-enrollment status to a participating private school.  
19 However, closed-enrollment status may not be granted for  
20 longer than 1 school year.

21           (5) OBLIGATION OF PROGRAM PARTICIPANTS.--

22           (a) A parent who applies for a John M. McKay  
23 Scholarship is exercising his or her parental option to place  
24 his or her child in a private school. The parent must select  
25 the private school and apply for the admission of his or her  
26 child.

27           (b) The parent must have requested the scholarship at  
28 least 60 days prior to the date of the first scholarship  
29 payment.

30           (c) Any student participating in the scholarship  
31 program must remain in attendance throughout the school year,



1 unless excused by the school for illness or other good cause,  
2 and must comply fully with the school's code of conduct.

3 (d) The parent of each student participating in the  
4 scholarship program must comply fully with the private  
5 school's parental involvement requirements, unless excused by  
6 the school for illness or other good cause.

7 (e) If the parent requests that the student  
8 participating in the scholarship program take all statewide  
9 assessments required pursuant to s. 1008.22, the parent is  
10 responsible for transporting the student to the assessment  
11 site designated by the school district.

12 (f) Upon receipt of a scholarship warrant, the parent  
13 to whom the warrant is made must restrictively endorse the  
14 warrant to the private school for deposit into the account of  
15 the private school.

16 (g) The parent of a student participating in the  
17 scholarship program may not designate any participating  
18 private school as the parent's attorney in fact to sign a  
19 scholarship warrant.

20 ~~(h)(g)~~ A participant who fails to comply with this  
21 subsection forfeits the scholarship.

22 (6) SCHOLARSHIP FUNDING AND PAYMENT.--

23 (d) The school district shall report to the Department  
24 of Education all students who are attending a private school  
25 under this program. The students with disabilities attending  
26 private schools on John M. McKay Scholarships shall be  
27 reported separately from other students reported for purposes  
28 of the Florida Education Finance Program.

29 (e) Following notification on July 1, September 1,  
30 December 1, or February 1 of the number of program  
31 participants, the Department of Education shall transfer, from

1 General Revenue funds only, the amount calculated under  
2 paragraph (b) from the school district's total funding  
3 entitlement under the Florida Education Finance Program and  
4 from authorized categorical accounts to a separate account for  
5 the scholarship program for quarterly disbursement to the  
6 parents of participating students. When a student enters the  
7 scholarship program, the Department of Education must receive  
8 all documentation required for the student's participation,  
9 including, but not limited to, the private school's and  
10 student's fee schedules, at least 30 days before the first  
11 quarterly scholarship payment is made for the student. The  
12 Department of Education may not make any retroactive payments.

13 (7) OBLIGATIONS OF THE DEPARTMENT OF EDUCATION.--

14 (a) The Department of Education shall perform the  
15 following duties:

16 1. Review for compliance all documentation required  
17 for each scholarship student's participation, including,  
18 without limitation, the private school's schedule and the  
19 student's fee schedule.

20 2. Verify the admission acceptance of each scholarship  
21 student to an eligible private school prior to the initial  
22 scholarship payment.

23 3. Verify, prior to each scholarship payment, the  
24 enrollment and attendance of each scholarship student at the  
25 private school and that the scholarship student is not:

26 a. Receiving a scholarship under s. 220.187 or s.  
27 1002.38.

28 b. Participating in a home education program as  
29 defined in s. 1002.01(1).

30 c. Participating in instruction delivered by a  
31 correspondence school, private tutoring program as defined in

1 s. 1002.43, or distance learning courses, except as  
2 specifically permitted in paragraph (2)(b).

3 d. Enrolled in a school operating for the purpose of  
4 providing education services to youth in commitment programs  
5 of the Department of Juvenile Justice.

6 e. Currently enrolled in a public school in the state,  
7 if the student has a scholarship to attend a private school.

8 4. Administer and prescribe an annual sworn and  
9 notarized compliance statement for each participating private  
10 school and independently verify the information provided by  
11 each participating private school.

12 5. Review all results of the background checks  
13 performed pursuant to subsection (4).

14 6. Determine the eligibility of a private school to  
15 accept McKay Scholarship students, based upon independent  
16 verification that the private school meets all the  
17 requirements in this section and all applicable rules adopted  
18 by the State Board of Education.

19 7. Publish a current, on-line list of eligible private  
20 schools.

21 8. Include each eligible private school on the on-line  
22 list of eligible private schools within 10 days after the  
23 private school is determined to be eligible to participate in  
24 the McKay Scholarship program.

25 9. Remove immediately from the on-line list of  
26 eligible private schools any school that is determined by the  
27 Department of Education to be an ineligible private school, as  
28 provided for in paragraph (b).

29 10. Remove immediately from the on-line list of  
30 eligible private schools any school that is determined by the  
31

1 Department of Education to be an ineligible school, as  
2 provided for in paragraphs (b) and (c).

3 (b) The Department of Education shall deny or refuse  
4 to allow the participation of any private school if it  
5 determines that the private school or any of its owners or  
6 administrators has failed to meet the requirements for initial  
7 application or renewal as provided in this section.

8 (c) The Department of Education shall issue a notice  
9 of noncompliance pursuant to s. 120.695 to any participating  
10 private school that violates any of the provisions of this  
11 section or the rules of the State Board of Education, if the  
12 violation is a minor violation as defined in s. 120.695. If a  
13 private school fails to satisfy the requirements specified in  
14 the notice of noncompliance within 30 days after its receipt  
15 by the school, the Department of Education shall issue an  
16 emergency order revoking the registration of the participating  
17 private school. The Department of Education shall issue an  
18 emergency order to immediately revoke the registration of a  
19 participating private school for a violation that is not a  
20 minor violation as defined in s. 120.695.

21 (d) The Department of Education shall revoke the  
22 scholarship for a participant who fails to comply with the  
23 requirements in subsection (5) or who:

24 1. Receives a scholarship under s. 220.187 or s.  
25 1002.38.

26 2. Participates in a home education program as defined  
27 in s. 1002.01(1).

28 3. Participates in instruction delivered by a  
29 correspondence school, a private tutoring program as defined  
30 in s. 1002.43, or distance learning courses, except as  
31 specifically permitted in paragraph (2)(b).

1           4. Does not have regular and direct contact with the  
2 student's private school teachers at the school's physical  
3 location.

4           5. Enrolls in a school operating for the purpose of  
5 providing educational services to youth in commitment programs  
6 of the Department of Juvenile Justice.

7           (e) The Department of Education shall conduct an  
8 investigation of any written complaint of a violation of this  
9 section if the complaint is signed by the complainant and is  
10 legally sufficient. A complaint is legally sufficient if it  
11 contains ultimate facts that show that a violation of this  
12 section or any rule adopted by the State Board of Education  
13 has occurred. In order to determine legal sufficiency, the  
14 Department of Education may require supporting information or  
15 documentation. The Department of Education may investigate any  
16 complaint, including, but not limited to, anonymous  
17 complaints.

18           (f) The Department of Education may not change a  
19 matrix of services completed by a school district. However,  
20 the department may make the following changes for a matrix for  
21 a student if the school district has identified the error but  
22 has failed to make a correction in a timely manner:

23           1. A correction to a technical, typographical, or  
24 calculation error; or

25           2. A change to align the matrix of services with the  
26 student's individual education plan completed by the school  
27 district for use in the public school prior to the student's  
28 enrolling in or attending a private school.

29  
30  
31

1 The department must report any change made under this  
2 paragraph to the school district and the parent of the  
3 student.

4 (8) OBLIGATIONS OF THE AUDITOR

5 GENERAL.--Notwithstanding any other law to the contrary, the  
6 Auditor General must include in the operational audit of the  
7 Department of Education the John M. McKay Scholarships for  
8 Students with Disabilities Program. The Auditor General must  
9 include in the audit a review of a sample of the warrants used  
10 to pay for the scholarships, as well as random site visits to  
11 private schools participating in the John M. McKay  
12 Scholarships for Students with Disabilities Program, in order  
13 to verify student enrollment and other information reported by  
14 the private schools as required by rules of the State Board of  
15 Education.

16 (9)(7) LIABILITY.--No liability shall arise on the  
17 part of the state based on the award or use of a John M. McKay  
18 Scholarship.

19 (10)(8) RULES.--The State Board of Education shall  
20 adopt rules pursuant to ss. 120.536(1) and 120.54 to  
21 administer this section, including rules that school districts  
22 must use to expedite the development of a matrix of services  
23 based on a current individual education plan from another  
24 state or a foreign country for a transferring student with a  
25 disability who is a dependent child of a member of the United  
26 States Armed Forces. The rules must identify the appropriate  
27 school district personnel who must complete the matrix of  
28 services. For purposes of these rules, a transferring student  
29 with a disability is one who was previously enrolled as a  
30 student with a disability in an out-of-state or an  
31 out-of-country public or private school or agency program and

1 who is transferring from out of state or from a foreign  
2 country pursuant to a parent's permanent change of station  
3 orders. The rules must include provisions for:

4 (a) Administering the annual sworn and notarized  
5 compliance statement to all participating private schools;

6 (b) Establishing procedures for schools to request  
7 closed-enrollment and active status;

8 (c) Establishing forms for changes to a matrix by a  
9 school district and the department;

10 (d) Implementing the requirement that a private school  
11 timely notify the Department of Education of material changes  
12 to the school's registration information;

13 (e) Establishing attendance-verification procedures  
14 and forms; and

15 (f) Establishing procedures for determining student  
16 eligibility and approving scholarships.

17  
18 The rules related to the annual sworn and notarized compliance  
19 statement shall establish a deadline for the receipt of the  
20 initial sworn and notarized compliance statement from the  
21 private school and shall enumerate the items to be included in  
22 the statement. The rules shall enumerate the items to be  
23 included in a subsequent annual sworn and notarized compliance  
24 statement that is required in January of each year from the  
25 private school. However, the inclusion of eligible private  
26 schools within options available to Florida public school  
27 students does not expand the regulatory authority of the  
28 state, its officers, or any school district to impose any  
29 additional regulation of private schools beyond those  
30 reasonably necessary to enforce requirements expressly set  
31 forth in this section.

1           Section 2. The State Board of Education shall initiate  
2 the adoption of rules required by this act 10 days after the  
3 effective date of this act. The State Board of Education shall  
4 report to the presiding officers of the Legislature by  
5 December 1, 2005, on the status of the rulemaking required by  
6 this act.

7           Section 3. (1) A private school that meets the  
8 following requirements on June 1, 2005, is not required to  
9 file the surety bond as required in section 1002.39(4)(a)1.,  
10 Florida Statutes:

11           (a) The private school is participating in the McKay  
12 Scholarship Program under section 1002.39, Florida Statutes;  
13 and

14           (b) The private school is determined by the Department  
15 of Education to be in compliance with section 1002.39, Florida  
16 Statutes.

17           (2) Notwithstanding section 1002.39(4)(b)4., Florida  
18 Statutes, a private school that meets the requirements in  
19 paragraphs (1)(a) and (b) may accept a McKay Scholarship  
20 student.

21           (3) Notwithstanding subsections (1) and (2), if the  
22 private school becomes, after June 1, 2005, subject to an  
23 action taken by the Department of Education for any violation  
24 of section 1002.39, Florida Statutes, the private school:

25           (a) Shall file a surety bond with the Department of  
26 Education following the date on which the action was taken  
27 against the private school for a violation of section 1002.39,  
28 Florida Statutes, but prior to receiving the next quarterly  
29 payment;

30           (b) Shall file a surety bond with the Department of  
31 Education for 2 additional consecutive years thereafter; and



1           (c) May not accept new McKay Scholarship students  
2 until the private school complies with all the requirements in  
3 section 1002.39, Florida Statutes, and all applicable rules of  
4 the State Board of Education, as determined by the Department  
5 of Education.

6           Section 4. Section 220.187, Florida Statutes, is  
7 amended to read:

8           220.187 Credits for contributions to nonprofit  
9 scholarship-funding organizations.--

10           (1) This section may be cited as the "Corporate  
11 Scholarship Program."

12           (2)(1) PURPOSE.--The purpose of this section is to:

13           (a) Encourage private, voluntary contributions to  
14 nonprofit scholarship-funding organizations.

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

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

19           (3)(2) DEFINITIONS.--As used in this section, the  
20 term:

21           ~~(a) "Department" means the Department of Revenue.~~

22           (a)(b) "Eligible contribution" means a monetary  
23 contribution from a taxpayer, subject to the restrictions  
24 provided in this section, to an eligible nonprofit  
25 scholarship-funding organization. The taxpayer making the  
26 contribution may not designate a specific child as the  
27 beneficiary of the contribution. The taxpayer may not  
28 contribute more than \$5 million to any single eligible  
29 nonprofit scholarship-funding organization.

30           (b)(c) "Eligible private ~~nonpublic~~ school" means a  
31 private nonpublic school, as defined in s. 1002.01(2), located

1 in Florida which ~~that~~ offers an education to students in any  
2 grades K-12 and ~~that~~ meets the requirements in subsection (7)  
3 ~~(6)~~. An eligible private school:  
4       1. Must maintain a physical location in this state  
5 where each scholarship student regularly attends classes.  
6       2. May not be a correspondence school or distance  
7 learning school.  
8       3. May not direct or provide scholarship funds to a  
9 parent of a scholarship student who receives instruction under  
10 the program at home.  
11       4. May not be a home education program as defined in  
12 s. 1002.01(1).  
13       5. May not be a private tutoring program as described  
14 in s. 1002.43.  
15       ~~(c)(d)~~ "Eligible nonprofit scholarship-funding  
16 organization" means a charitable organization that is exempt  
17 from federal income tax pursuant to s. 501(c)(3) of the  
18 Internal Revenue Code, is incorporated under laws of this  
19 state, has its principal office located in the state, and that  
20 complies with the provisions of subsection(5)(4).  
21       (d) "Owner" means the owner, president, chairperson of  
22 the board of directors, superintendent, principal, or person  
23 with equivalent decisionmaking authority who owns, operates,  
24 or administers an eligible nonprofit scholarship-funding  
25 organization or eligible private school. In addition, the term  
26 "owner" means an individual who has access to or processes  
27 scholarship funds or eligible contributions at an eligible  
28 nonprofit scholarship-funding organization or eligible private  
29 school.  
30  
31

1 (e) "Qualified student" means a student who qualifies  
2 for free or reduced-price school lunches under the National  
3 School Lunch Act and who:

4 1. Was counted as a full-time equivalent student  
5 during the previous state fiscal year for purposes of state  
6 per-student funding;

7 2. Received a scholarship from an eligible nonprofit  
8 scholarship-funding organization during the previous school  
9 year; or

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

11  
12 However, a student who was enrolled in a school operating for  
13 the purpose of providing educational services to youth in a  
14 commitment program of the Department of Juvenile Justice shall  
15 not be counted as a full-time equivalent student for the  
16 previous state fiscal year for purposes of state per-student  
17 funding under this program. A student is not eligible to  
18 receive a scholarship under this section if the student is  
19 participating in the Opportunity Scholarship Program under s.  
20 1002.38, the John M. McKay Scholarships for Students with  
21 Disabilities Program under s. 1002.39, or a home education  
22 program as defined in s. 1002.01(1) or is enrolled in a school  
23 operating for the purpose of providing educational services to  
24 youth in commitment programs of the Department of Juvenile  
25 Justice. A student is not eligible to receive a scholarship  
26 from more than one eligible nonprofit scholarship-funding  
27 organization at the same time.

28 ~~(4)(3)~~ AUTHORIZATION TO GRANT SCHOLARSHIP FUNDING TAX  
29 CREDITS; LIMITATIONS ON INDIVIDUAL AND TOTAL CREDITS.--

30 (a) There is allowed a credit of 100 percent of an  
31 eligible contribution against any tax due for a taxable year

1 | under this chapter. However, such a credit may not exceed 75  
2 | percent of the tax due under this chapter for the taxable  
3 | year, after the application of any other allowable credits by  
4 | the taxpayer. ~~However, at least 5 percent of the total~~  
5 | ~~statewide amount authorized for the tax credit shall be~~  
6 | ~~reserved for taxpayers who meet the definition of a small~~  
7 | ~~business provided in s. 288.703(1) at the time of application.~~  
8 | The credit granted by this section shall be reduced by the  
9 | difference between the amount of federal corporate income tax  
10 | taking into account the credit granted by this section and the  
11 | amount of federal corporate income tax without application of  
12 | the credit granted by this section.

13 |         (b) The total amount of tax credits and carryforward  
14 | of tax credits which may be granted each state fiscal year  
15 | under this section is \$88 million. Effective for tax years  
16 | beginning January 1, 2005, 1 percent of the total statewide  
17 | amount authorized for the tax credit must be reserved for  
18 | taxpayers that are small businesses as defined in s.  
19 | 288.703(1) at the time of application.

20 |         (c) A taxpayer who files a Florida consolidated return  
21 | as a member of an affiliated group pursuant to s. 220.131(1)  
22 | may be allowed the credit on a consolidated return basis;  
23 | however, the total credit taken by the affiliated group is  
24 | subject to the limitation established under paragraph (a).

25 |         (d) Effective for the tax years beginning January 1,  
26 | 2005, a taxpayer may rescind its application for tax credit  
27 | under this section, and the amount approved in the application  
28 | for tax credit shall become available for purposes of the cap  
29 | for that state fiscal year under this section to an eligible  
30 | taxpayer as approved by the Department of Revenue, if the  
31 | taxpayer receives notice from the Department of Revenue that

1 the rescindment application has been accepted by the  
2 Department of Revenue, the taxpayer has not previously  
3 rescinded its application for tax credit under this section  
4 more than once in the previous 3 tax years, the taxpayer  
5 rescinds prior to the end of the taxpayer's tax year, and the  
6 taxpayer has not made a contribution pursuant to its approved  
7 application for tax credit under this section. Any amount  
8 rescinded under this paragraph shall become available to an  
9 eligible taxpayer on a first-come, first-served basis based on  
10 tax credit applications received after the date the  
11 rescindment is accepted by the Department of Revenue.

12 ~~(5)~~(4) OBLIGATIONS OF ELIGIBLE NONPROFIT  
13 SCHOLARSHIP-FUNDING ORGANIZATIONS.--

14 (a) An eligible nonprofit scholarship-funding  
15 organization shall provide scholarships, from eligible  
16 contributions, to qualified students for:

17 1. Tuition or textbook expenses for, or transportation  
18 to, an eligible private ~~nonpublic~~ school. At least 75 percent  
19 of each ~~the~~ scholarship ~~funding~~ must be used to pay tuition  
20 expenses; or

21 2. Transportation expenses to a Florida public school  
22 that is located outside the district in which the student  
23 resides.

24 (b) An eligible nonprofit scholarship-funding  
25 organization shall give priority to qualified students who  
26 received a scholarship from an eligible nonprofit  
27 scholarship-funding organization during the previous school  
28 year.

29 (c) The amount of a scholarship provided to any child  
30 for any single school year by one or more ~~all~~ eligible  
31 nonprofit scholarship-funding organizations from eligible

1 | contributions ~~may shall~~ not exceed the following annual  
2 | limits:

3 |         1. Three thousand five hundred dollars for a  
4 | scholarship awarded to a student enrolled in an eligible  
5 | private nonpublic school.

6 |         2. Five hundred dollars for a scholarship awarded to a  
7 | student enrolled in a Florida public school that is located  
8 | outside the district in which the student resides.

9 |         (d) The amount of an eligible contribution which may  
10 | be accepted by an eligible nonprofit scholarship-funding  
11 | organization is limited to the amount needed to provide  
12 | scholarships for qualified students ~~whom which~~ the  
13 | organization has identified and for ~~whom which~~ vacancies in  
14 | eligible private nonpublic schools have been identified.

15 |         (e) An eligible nonprofit scholarship-funding  
16 | organization that receives an eligible contribution must spend  
17 | 100 percent of the eligible contribution to provide  
18 | scholarships in the same state fiscal year in which the  
19 | contribution was received. No portion of eligible  
20 | contributions may be used for administrative expenses. All  
21 | interest accrued from contributions must be used for  
22 | scholarships.

23 |         (f) An eligible nonprofit scholarship-funding  
24 | organization that receives eligible contributions must, within  
25 | 180 days after the end of the organization's fiscal year,  
26 | provide to the Auditor General and the Department of Education  
27 | an annual financial and compliance audit of its accounts and  
28 | records conducted by an independent certified public  
29 | accountant and in accordance with rules adopted by the Auditor  
30 | General. The Auditor General shall review all audit reports  
31 | submitted pursuant to this section. The Auditor General shall

1 request any significant items that were omitted in violation  
2 of a rule adopted by the Auditor General. The items must be  
3 provided within 45 days after the date of the request. If the  
4 eligible nonprofit scholarship-funding organization does not  
5 comply with the Auditor General's request, the Auditor General  
6 shall notify the Legislative Auditing Committee. The  
7 Legislative Auditing Committee may schedule a hearing. If a  
8 hearing is scheduled, the committee shall determine if the  
9 eligible nonprofit scholarship-funding organization should be  
10 subject to further state action. If the committee determines  
11 that the eligible nonprofit scholarship-funding organization  
12 should be subject to further state action, the committee shall  
13 notify the Department of Education, which shall terminate the  
14 eligibility of the eligible nonprofit scholarship-funding  
15 organization to participate in the program under this section.

16 (g) An eligible nonprofit scholarship-funding  
17 organization shall make payment of the scholarship, at a  
18 minimum, on a quarterly basis. Payment of the scholarship by  
19 the eligible nonprofit scholarship-funding organization shall  
20 be by individual warrant or check made payable to the  
21 student's parent. If the parent chooses for his or her child  
22 to attend an eligible private ~~nonpublic~~ school, the warrant or  
23 check must be mailed by the eligible nonprofit  
24 scholarship-funding organization to the private ~~nonpublic~~  
25 school of the parent's choice, and the parent shall  
26 restrictively endorse the warrant or check to the private  
27 ~~nonpublic~~ school. An eligible nonprofit scholarship-funding  
28 organization shall ensure that, upon receipt of a scholarship  
29 warrant or check, the parent to whom the warrant or check is  
30 made restrictively endorses the warrant or check to the  
31

1 ~~private nonpublic~~ school of the parent's choice for deposit  
2 into the account of the ~~private nonpublic~~ school.

3 (h) An eligible nonprofit scholarship-funding  
4 organization may not commingle scholarship funds with any  
5 other funds and must maintain a separate account for  
6 scholarship funds.

7 (i) An eligible nonprofit scholarship-funding  
8 organization shall obtain verification from a private school  
9 of each student's continued attendance at the private school  
10 prior to each scholarship payment.

11 (j) An eligible nonprofit scholarship-funding  
12 organization must verify the income of all scholarship  
13 applicants participating in the program at least once each  
14 school year through independent income documentation as  
15 provided in rules of the State Board of Education.

16 (k) An eligible nonprofit scholarship-funding  
17 organization must prepare and submit quarterly reports to the  
18 Department of Education pursuant to subsection (8). In  
19 addition, an eligible nonprofit scholarship-funding  
20 organization must timely submit to the Department of Education  
21 any information requested by the Department of Education  
22 relating to the scholarship program.

23 (l) All owners of an eligible nonprofit  
24 scholarship-funding organization shall, upon employment or  
25 engagement to provide services, undergo background screening  
26 pursuant to s. 435.04 by filing with the Department of  
27 Education a complete set of fingerprints taken by an  
28 authorized law enforcement agency or an employee of the  
29 eligible nonprofit scholarship-funding organization who is  
30 trained to take fingerprints. These fingerprints shall be  
31 submitted to the Department of Law Enforcement for state



1 processing, which shall in turn submit the fingerprints to the  
2 Federal Bureau of Investigation for federal processing. The  
3 Department of Education shall screen the background results  
4 and report to the eligible nonprofit scholarship-funding  
5 organization any owner who fails to meet level 2 screening  
6 standards pursuant to s. 435.04 or any owner who has been  
7 convicted of a crime involving moral turpitude. Owners found  
8 through fingerprint processing to have been convicted of a  
9 crime involving moral turpitude or failing to meet level 2  
10 screening standards pursuant to s. 435.04 may not be employed  
11 or engaged to provide services in any position with the  
12 eligible nonprofit scholarship-funding organization. The cost  
13 of the background screening may be borne by the eligible  
14 nonprofit scholarship-funding organization or the owner.

15 1. Every 5 years following employment or engagement to  
16 provide services with an eligible nonprofit  
17 scholarship-funding organization, each owner must meet level 2  
18 screening requirements as described in s. 435.04, at which  
19 time the Department of Education shall request the Department  
20 of Law Enforcement to forward the fingerprints to the Federal  
21 Bureau of Investigation for level 2 screening. If the  
22 fingerprints of an owner are not retained by the Department of  
23 Law Enforcement under subparagraph 2., the owner must file a  
24 complete set of fingerprints with the Department of Education.  
25 Upon submission of fingerprints for this purpose, the  
26 Department of Education shall request the Department of Law  
27 Enforcement to forward the fingerprints to the Federal Bureau  
28 of Investigation for level 2 screening, and the fingerprints  
29 shall be retained by the Department of Law Enforcement under  
30 subparagraph 2. The cost of the state and federal criminal  
31 history check required by level 2 screening may be borne by

1 the eligible nonprofit scholarship-funding organization or the  
2 owner. Under penalty of perjury, each owner must agree to  
3 inform the eligible nonprofit scholarship-funding organization  
4 immediately if convicted of any disqualifying offense while he  
5 or she is employed or engaged to provide services with the  
6 eligible nonprofit scholarship-funding organization.

7 2. All fingerprints submitted to the Department of Law  
8 Enforcement as required by this paragraph shall be retained by  
9 the Department of Law Enforcement in a manner provided by rule  
10 and entered in the statewide automated fingerprint  
11 identification system authorized by s. 943.05(2)(b). Such  
12 fingerprints shall thereafter be available for all purposes  
13 and uses authorized for arrest fingerprint cards entered in  
14 the statewide automated fingerprint identification system  
15 pursuant to s. 943.051.

16 3. The Department of Law Enforcement shall search all  
17 arrest fingerprint cards received under s. 943.051 against the  
18 fingerprints retained in the statewide automated fingerprint  
19 identification system under subparagraph 2. Any arrest record  
20 that is identified with an owner's fingerprints shall be  
21 reported to the Department of Education. Each eligible  
22 nonprofit scholarship-funding organization shall participate  
23 in this search process by paying an annual fee to the  
24 Department of Law Enforcement and by informing the Department  
25 of Law Enforcement of any change in the employment or  
26 engagement status or place of employment or engagement of its  
27 owners whose fingerprints are retained under subparagraph 2.  
28 The Department of Law Enforcement shall adopt a rule setting  
29 the amount of the annual fee to be imposed upon each eligible  
30 nonprofit scholarship-funding organization for performing  
31 these searches and establishing the procedures for the

1 retention of owner fingerprints and the dissemination of  
2 search results. The fee may be borne by the eligible nonprofit  
3 scholarship-funding organization or by the owner.

4 4. If it is found that an owner of an eligible  
5 nonprofit scholarship-funding organization does not meet level  
6 2 requirements, the eligible nonprofit scholarship-funding  
7 organization shall be immediately suspended from participating  
8 in the program and shall remain suspended until final  
9 resolution of any appeals. An eligible nonprofit  
10 scholarship-funding organization the owner of which fails to  
11 meet level 2 screening standards or has been convicted of a  
12 crime involving moral turpitude may not participate in this  
13 program.

14 (m) If the owner of an eligible nonprofit  
15 scholarship-funding organization has in the immediately  
16 preceding 7 years filed for personal bankruptcy or owned 20  
17 percent or more of a corporation that filed for corporate  
18 bankruptcy in the immediately preceding 7 years, the eligible  
19 nonprofit scholarship-funding organization may not participate  
20 in this program.

21 (n) An eligible nonprofit scholarship-funding  
22 organization must comply with the antidiscrimination  
23 provisions of 42 U.S.C. s. 2000d.

24 (o) An eligible nonprofit scholarship-funding  
25 organization or an owner of an eligible nonprofit  
26 scholarship-funding organization may not own, operate, or  
27 administer an eligible private school participating in the  
28 program.

29 (p) An eligible nonprofit scholarship-funding  
30 organization must report to the Department of Education any  
31 eligible private school participating in the scholarship

1 program under this section which does not comply with the  
2 requirements of this program. The eligible nonprofit  
3 scholarship-funding organization may not provide additional  
4 scholarship funds for a qualified student to attend an  
5 eligible private school until the State Board of Education  
6 determines that the school is in compliance with this section.

7 (q) An eligible nonprofit scholarship-funding  
8 organization must allow a qualified student to attend any  
9 eligible private school and must allow the parent to transfer  
10 the scholarship during the school year to another eligible  
11 private school of the parent's choice.

12 (r) An eligible nonprofit scholarship-funding  
13 organization must provide a scholarship to a qualified student  
14 on a first-come, first-served basis unless the student  
15 qualifies for priority pursuant to paragraph (5)(b). An  
16 eligible nonprofit scholarship-funding organization may not  
17 target scholarships to a particular private school or provide  
18 scholarships to a child of an owner.

19 (s) An eligible nonprofit scholarship-funding  
20 organization may not transfer scholarship funds to another  
21 eligible nonprofit scholarship-funding organization.

22 (t) An eligible nonprofit scholarship-funding  
23 organization may not secure a promissory note, a line of  
24 credit, or other financing to fund a scholarship in  
25 anticipation of an eligible contribution. An eligible  
26 scholarship-funding organization may only fund scholarships  
27 through eligible contributions received under the scholarship  
28 program.

29 (u) An eligible nonprofit scholarship-funding  
30 organization that fails to comply with this section may not  
31 participate in the scholarship program.

1           ~~(6)(5)~~ PARENT OBLIGATIONS.--

2           (a) As a condition for scholarship payment ~~pursuant to~~  
3 ~~paragraph (4)(g)~~, if the parent chooses for his or her child  
4 to attend an eligible private ~~nonpublic~~ school, the parent  
5 must inform the child's school district within 15 days after  
6 the such decision has been made.

7           (b) Any student participating in the scholarship  
8 program must remain in attendance throughout the school year,  
9 unless excused by the school for illness or other good cause,  
10 and must comply fully with the school's code of conduct.

11           (c) The parent of each student participating in the  
12 scholarship program must comply fully with the eligible  
13 private school's parental-involvement requirements unless  
14 excused by the school for good cause.

15           (d) Upon receipt of scholarship funds from an eligible  
16 nonprofit scholarship-funding organization, the parent to whom  
17 the warrant is made must restrictively endorse the warrant to  
18 the eligible private school for deposit into the account of  
19 the private school. If a parent refuses to restrictively  
20 endorse a warrant to which an eligible private school is  
21 lawfully entitled, that student's scholarship shall be  
22 forfeited. The parent may not authorize the eligible private  
23 school, its owners, or employees to act as an attorney in fact  
24 for purposes of endorsing scholarship warrants.

25           (e) The parent of each qualified student participating  
26 in the scholarship program must ensure that the student  
27 participates in the required testing pursuant to this section.

28           (f) A student or parent who fails to comply with this  
29 subsection forfeits the scholarship.

30           ~~(7)(6)~~ ELIGIBLE PRIVATE ~~NONPUBLIC~~ SCHOOL  
31 OBLIGATIONS.--An eligible private ~~nonpublic~~ school must:

1           (a) Demonstrate fiscal soundness by filing with being  
2 ~~in operation for one school year or provide~~ the Department of  
3 Education ~~with~~ a surety bond for the amount equal to the  
4 scholarship amount for each quarter of the school year. The  
5 purpose of the surety bond is to secure expenditures of  
6 scholarship funds if the Department of Education determines  
7 that the funds have been used for unlawful purposes. The  
8 surety bond must be filed at the time of the eligible private  
9 school's initial registration to participate in the program  
10 under this section with the Department of Education and at  
11 each annual registration period thereafter for a total of 3  
12 consecutive years. This requirement does not apply to an  
13 eligible private school that:

14           1. Has participated in the program for 3 consecutive  
15 years or longer; and

16           2. Has had no action taken by the Department of  
17 Education against the eligible private school for any  
18 violation of this section for 3 consecutive years or longer.

19  
20 However, any eligible private school that was subject to an  
21 action taken by the Department of Education for any violation  
22 of this section shall, following the date on which action was  
23 taken against the eligible private school for a violation of  
24 this section, but prior to receiving the next quarterly  
25 payment, and for 2 additional consecutive years thereafter,  
26 file a surety bond with the Department of Education. ~~statement~~  
27 ~~by a certified public accountant confirming that the nonpublic~~  
28 ~~school desiring to participate is insured and the owner or~~  
29 ~~owners have sufficient capital or credit to operate the school~~  
30 ~~for the upcoming year serving the number of students~~  
31 ~~anticipated with expected revenues from tuition and other~~

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

5 (b) Comply with the antidiscrimination provisions of  
6 42 U.S.C. s. 2000d.

7 (c) Meet state and local health and safety laws and  
8 codes.

9 (d) Comply with all state laws relating to general  
10 regulation of private ~~nonpublic~~ schools.

11 (e) Employ or contract with teachers who have regular  
12 and direct contact with each student receiving a scholarship  
13 under this section at the school's physical location. All  
14 teachers must hold at least a baccalaureate degree or have at  
15 least 3 years' teaching experience in public or private  
16 schools and have special skills, knowledge, or expertise that  
17 qualifies them to provide instruction in subjects taught. As  
18 part of the sworn-compliance form authorized under subsection  
19 (8), an eligible private school must report to the Department  
20 of Education the number of teachers employed or under contract  
21 with the eligible private school, along with the manner in  
22 which the teacher meets the requirements of this paragraph.

23 (f) Annually register with the Department of  
24 Education. Each eligible private school must annually provide  
25 the following information to the Department of Education:

26 1. The legal business and trade names, mailing  
27 address, and business location of the eligible private school;

28 2. The legal name, mailing address, and telephone  
29 numbers of an owner of the eligible private school;

30 3. A list of students at the eligible private school  
31 receiving a scholarship under this section; and

1           4. A notification of the eligible private school's  
2 intent to participate in the program under this section.

3           (g) Ensure that all personnel who are hired or  
4 contracted to provide services to fill positions requiring  
5 direct contact with students in the eligible private school,  
6 and all owners of an eligible private school shall, upon  
7 employment or engagement to provide services, undergo  
8 background screening pursuant to s. 435.04 by filing with the  
9 Department of Education a complete set of fingerprints taken  
10 by an authorized law enforcement agency or an employee of the  
11 eligible private school who is trained to take fingerprints.  
12 These fingerprints shall be submitted to the Department of Law  
13 Enforcement for state processing, which shall in turn submit  
14 the fingerprints to the Federal Bureau of Investigation for  
15 federal processing. The Department of Education shall screen  
16 the background results and report to the eligible private  
17 school any person described in this paragraph who fails to  
18 meet level 2 screening standards pursuant to s. 435.04 or any  
19 person described in this paragraph who has been convicted of a  
20 crime involving moral turpitude. Any person described in this  
21 paragraph who is found through fingerprint processing to have  
22 been convicted of a crime involving moral turpitude or fails  
23 to meet level 2 screening standards pursuant to s. 435.04 may  
24 not be employed or engaged to provide services in any position  
25 in the eligible private school requiring direct contact with  
26 students and may not assume an ownership position. The cost of  
27 the background screening may be borne by the eligible private  
28 school, the employee, the person engaged to provide services,  
29 or the owner.

30           1. Every 5 years each person described in this  
31 paragraph must meet level 2 screening requirements as



1 described in s. 435.04, at which time the Department of  
2 Education shall request the Department of Law Enforcement to  
3 forward the fingerprints to the Federal Bureau of  
4 Investigation for level 2 screening. If the fingerprints of a  
5 person described in this paragraph are not retained by the  
6 Department of Law Enforcement under subparagraph 2., the  
7 person must file a complete set of fingerprints with the  
8 Department of Education. Upon submission of fingerprints for  
9 this purpose, the Department of Education shall request the  
10 Department of Law Enforcement to forward the fingerprints to  
11 the Federal Bureau of Investigation for level 2 screening, and  
12 the fingerprints shall be retained by the Department of Law  
13 Enforcement under subparagraph 2. The cost of the state and  
14 federal criminal history check required by level 2 screening  
15 may be borne by the eligible private school, the employee, the  
16 person engaged to provide services, or the owner. Under  
17 penalty of perjury, each person described in this paragraph  
18 must agree to inform the eligible private school immediately  
19 if convicted of any disqualifying offense while in a capacity  
20 with the eligible private school as described in this  
21 paragraph.

22 2. All fingerprints submitted to the Department of Law  
23 Enforcement as required by this paragraph shall be retained by  
24 the Department of Law Enforcement in a manner provided by rule  
25 and entered in the statewide automated fingerprint  
26 identification system authorized by s. 943.05(2)(b). Such  
27 fingerprints shall thereafter be available for all purposes  
28 and uses authorized for arrest fingerprint cards entered in  
29 the statewide automated fingerprint identification system  
30 pursuant to s. 943.051.

31

1           3. The Department of Law Enforcement shall search all  
2 arrest fingerprint cards received under s. 943.051 against the  
3 fingerprints retained in the statewide automated fingerprint  
4 identification system under subparagraph 2. Any arrest record  
5 that is identified with the fingerprints of a person described  
6 in this paragraph shall be reported to the Department of  
7 Education. Each eligible private school shall participate in  
8 this search process by paying an annual fee to the Department  
9 of Law Enforcement and by informing the Department of Law  
10 Enforcement of any change in the status or place of employment  
11 or engagement of services of its personnel as described in  
12 this paragraph whose fingerprints are retained under  
13 subparagraph 2. The Department of Law Enforcement shall adopt  
14 a rule setting the amount of the annual fee to be imposed upon  
15 each eligible private school for performing these searches and  
16 establishing the procedures for the retention of eligible  
17 private school personnel fingerprints and the dissemination of  
18 search results. The fee may be borne by the eligible private  
19 school, the employee, the person engaged to provide services,  
20 or the owner.

21           4. If it is found that a person described in this  
22 paragraph does not meet the level 2 requirements, the eligible  
23 private school shall be immediately suspended from  
24 participating in the program and shall remain suspended until  
25 final resolution of any appeals. An eligible private school  
26 that employs or engages to provide services with a person  
27 described in this paragraph who fails to meet level 2  
28 screening standards or has been convicted of a crime involving  
29 moral turpitude may not participate in this program.

30           (h) Annually administer or make provisions for  
31 scholarship students to take one of the nationally

1 norm-referenced tests identified by the State Board of  
2 Education under subsection (8). An eligible private school  
3 must report a student's scores to the parent and to the  
4 Department of Education.

5 (i) Annually comply with the Department of Education's  
6 affidavit requirements as provided in subsection (9).

7 (j) Timely notify in writing the Department of  
8 Education and the eligible nonprofit scholarship-funding  
9 organization if a qualified student is ineligible to  
10 participate in the scholarship program.

11 (k) Report annually to the Department of Education and  
12 the scholarship applicants of the eligible private school if  
13 the eligible private school has been in existence for 3 years  
14 or less.

15 (l) Report annually to the Department of Education and  
16 the scholarship applicants of the eligible private school:

17 1. Whether the eligible private school is accredited  
18 by an in state or regional accrediting association that is  
19 validated by a third-party accreditor at the state or national  
20 level which has been in existence at least 3 years;

21 2. The name of the accrediting association that  
22 accredits the eligible private school; and

23 3. Whether the eligible private school is in the  
24 process of receiving candidate status.

25  
26 The Department of Education shall make the annual list of  
27 accredited and nonaccredited eligible private schools  
28 available to the public and shall make that list available by  
29 county.

30 (m) Comply with this section's requirements. An  
31 eligible private school that fails to comply with this section

1 is ineligible to participate in the scholarship program under  
2 this section.

3 (8) DEPARTMENT OF EDUCATION; RESPONSIBILITIES.--The  
4 Department of Education shall:

5 (a) Annually submit, by March 15, to the Department of  
6 Revenue a list of eligible nonprofit scholarship-funding  
7 organizations that meet the requirements of this section.

8 (b) Annually determine the eligibility of nonprofit  
9 scholarship-funding organizations that meet the requirements  
10 of this section. The Department of Education must determine  
11 the eligibility of the nonprofit scholarship-funding  
12 organization within 90 days after the nonprofit  
13 scholarship-funding organization's application for approval to  
14 participate in the program. The Department of Education must  
15 provide written notice of approval or denial to participate in  
16 the program to the nonprofit scholarship-funding organization.  
17 The notice must contain the specific reasons for approval or  
18 denial.

19 (c) Annually determine the eligibility of private  
20 schools that meet the requirements of this section. The  
21 Department of Education must maintain a list of eligible  
22 private schools, and that list must be made accessible to the  
23 public.

24 (d) Annually verify the eligibility of students that  
25 meet the requirements of this section. The Department of  
26 Education must maintain a database of students participating  
27 in the program. The Department of Education must, at least  
28 quarterly, update its database to ensure that a student  
29 continues to meet the requirements of this section. The  
30 Department of Education must timely notify an eligible  
31

1 nonprofit scholarship-funding organization of any student that  
2 fails to meet the requirements of this section.

3 (e) Annually account for and verify the eligibility of  
4 expenditures under this section.

5 (f) Annually review all audit reports of eligible  
6 nonprofit scholarship-funding organizations for compliance  
7 with this section.

8 (g) Annually submit, administer, and retain records of  
9 affidavits from private schools certifying compliance with  
10 this section.

11 (h) Identify and select the nationally norm-referenced  
12 tests that are comparable to the norm-referenced provisions of  
13 the Florida Comprehensive Assessment Test. The State Board of  
14 Education may not identify more than three norm-referenced  
15 tests for use in meeting the requirements of this section. The  
16 State Board of Education may select the Florida Comprehensive  
17 Assessment Test for use in meeting the requirements of this  
18 section. The Department of Education must report annually on  
19 the year-to-year improvements of the qualified students and  
20 must analyze and report student performance data, including  
21 student scores by grade level, in a manner that protects the  
22 rights of students and parents as mandated in 20 U.S.C. s.  
23 1232g and must not disaggregate data to a level that will  
24 disclose the identity of students.

25 (i) The Department of Education shall conduct an  
26 investigation of any written complaint of a violation of this  
27 section if the complaint is signed by the complainant and is  
28 legally sufficient. A complaint is legally sufficient if it  
29 contains ultimate facts that show that a violation of this  
30 section or any rule adopted by the State Board of Education  
31 has occurred. In order to determine legal sufficiency, the

1 Department of Education may require supporting information or  
2 documentation. The Department of Education may investigate any  
3 complaint, including, but not limited to, anonymous  
4 complaints.

5 (j) Revoke the eligibility of a nonprofit  
6 scholarship-funding organization, private school, or student  
7 to participate in the program for noncompliance with this  
8 section.

9 (k) Annually report, by December 15, to the Governor,  
10 the President of the Senate, and the Speaker of the House of  
11 Representatives the Department of Education's actions with  
12 respect to implementing accountability in the scholarship  
13 program under this section, including, but not limited to, any  
14 substantiated allegations or violations of law or rule by an  
15 eligible nonprofit scholarship-funding organization or  
16 eligible private school under this program and the corrective  
17 action taken by the Department of Education.

18 ~~(9)(7)~~ ADMINISTRATION; RULES.--

19 (a) If the credit granted pursuant to this section is  
20 not fully used in any one year because of insufficient tax  
21 liability on the part of the corporation, the unused amount  
22 may be carried forward for a period not to exceed 3 years;  
23 however, any taxpayer that seeks to carry forward an unused  
24 amount of tax credit must submit an application for allocation  
25 of tax credits or carryforward credits as required in  
26 paragraph (d) in the year that the taxpayer intends to use the  
27 carryforward. The total amount of tax credits and carryforward  
28 of tax credits granted each state fiscal year under this  
29 section is \$88 million. This carryforward applies to all  
30 approved contributions made after January 1, 2002. A taxpayer  
31 may not convey, assign, or transfer the credit authorized by

1 | this section to another entity unless all of the assets of the  
2 | taxpayer are conveyed, assigned, or transferred in the same  
3 | transaction.

4 |         (b) An application for a tax credit pursuant to this  
5 | section shall be submitted to the Department of Revenue on  
6 | forms established by rule of the Department of Revenue.

7 |         (c) The Department of Revenue and the Department of  
8 | Education shall develop a cooperative agreement to assist in  
9 | the administration of this section. ~~The Department of~~  
10 | ~~Education shall be responsible for annually submitting, by~~  
11 | ~~March 15, to the department a list of eligible nonprofit~~  
12 | ~~scholarship funding organizations that meet the requirements~~  
13 | ~~of paragraph (2)(d) and for monitoring eligibility of~~  
14 | ~~nonprofit scholarship funding organizations that meet the~~  
15 | ~~requirements of paragraph (2)(d), eligibility of nonpublic~~  
16 | ~~schools that meet the requirements of paragraph (2)(c), and~~  
17 | ~~eligibility of expenditures under this section as provided in~~  
18 | ~~subsection (4).~~

19 |         (d) The Department of Revenue shall adopt rules  
20 | necessary to administer this section, including rules  
21 | establishing application forms and procedures and governing  
22 | the allocation of tax credits and carryforward credits under  
23 | this section on a first-come, first-served basis.

24 |         (e) The State Board of Education ~~Department of~~  
25 | ~~Education~~ shall adopt rules under ss. 120.536(1) and 120.54 to  
26 | administer this section, including, but not limited to, rules:

27 |             1. Determining necessary to determine eligibility of  
28 | nonprofit scholarship-funding organizations and private  
29 | schools;

30 |  
31 |

1           ~~2. Identifying as defined in paragraph (2)(d) and~~  
2 ~~according to the provisions of subsection (4) and identify~~  
3 ~~qualified students; as defined in paragraph (2)(e).~~

4           3. Requiring documentation to establish eligibility  
5 for nonprofit scholarship-funding organizations;

6           4. Requiring an affidavit, which comports with this  
7 section's requirements for private schools that participate in  
8 the scholarship program; and

9           5. Requiring independent income-verification  
10 documentation to establish student eligibility under this  
11 section.

12           (f) The State Board of Education may delegate its  
13 authority under this section to the Commissioner of Education  
14 with the exception of rulemaking authority.

15           ~~(10)(8)~~ DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--All  
16 eligible contributions received by an eligible nonprofit  
17 scholarship-funding organization shall be deposited in a  
18 manner consistent with s. 17.57(2).

19           Section 5. This act shall take effect upon becoming a  
20 law.

21  
22 \*\*\*\*\*

23 SENATE SUMMARY

24 Revises eligibility requirements for recipients of the  
25 John M. McKay Scholarships for Students with Disabilities  
26 and revises certain prerequisites for schools  
27 participating in the scholarship program. Revises  
28 provisions relating to the Corporate Tax Credit  
29 Scholarship Program. (See bill for details.)  
30  
31