



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

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

1 private school for failing to satisfy the  
2 requirements in the notice; requiring the  
3 Department of Education to immediately revoke  
4 the registration of a private school for  
5 certain other violations; requiring the  
6 department to revoke the scholarship for a  
7 participant for failing to comply with  
8 statutory requirements or for engaging in  
9 specified practices; requiring the department  
10 to conduct investigations of legally sufficient  
11 complaints of violations; authorizing the  
12 department to require supporting information or  
13 documentation; authorizing the Department of  
14 Education to change the matrix of services  
15 under certain circumstances; providing for  
16 audits by the Auditor General; providing  
17 requirements for the audits; requiring the  
18 State Board of Education to adopt rules;  
19 specifying the required rules; requiring the  
20 State Board of Education to initiate the  
21 adoption of rules by a time certain and report  
22 to the Legislature; providing exceptions for  
23 certain participating private schools subject  
24 to specific conditions; amending s. 220.187,  
25 F.S., relating to the Corporate Tax Credit  
26 Scholarship Program; providing a short title;  
27 providing definitions; prohibiting certain  
28 private schools and other entities from  
29 participating in the scholarship program;  
30 authorizing students whose family income level  
31 meets certain federal poverty level criteria to

1 continue to participate in the scholarship  
2 program; prohibiting certain students from  
3 participating in the scholarship program;  
4 revising limitations on the allocation of  
5 annual credits granted under the program;  
6 providing limitations on eligible  
7 contributions; requiring the Auditor General to  
8 review certain audits, request certain  
9 information, and report to the Legislative  
10 Auditing Committee any findings of  
11 noncompliance; authorizing the Legislative  
12 Auditing Committee to conduct hearings and  
13 compel the Department of Education to revoke  
14 eligibility of certain nonprofit  
15 scholarship-funding organizations; providing  
16 for audit reports to be submitted to the  
17 Department of Education; requiring audits be  
18 conducted within 180 days after completion of  
19 the nonprofit scholarship-funding  
20 organization's fiscal year; requiring a  
21 nonprofit scholarship-funding organization to  
22 make scholarship payments at least on a  
23 quarterly basis; prohibiting commingling of  
24 certain scholarship funds; requiring a  
25 nonprofit scholarship-funding organization to  
26 maintain a separate account for scholarship  
27 funds; requiring a nonprofit  
28 scholarship-funding organization to verify  
29 student attendance at a private school prior to  
30 submission of scholarship funds; requiring a  
31 nonprofit scholarship-funding organization to

1 verify income eligibility of qualified students  
2 at least once a year in accordance with State  
3 Board of Education rules; requiring a nonprofit  
4 scholarship-funding organization to submit  
5 certain reports to the Department of Education;  
6 requiring certain individuals to undergo level  
7 2 background screening requirements pursuant to  
8 s. 435.04, F.S.; providing for the Department  
9 of Law Enforcement to retain and search  
10 fingerprint records; providing for an annual  
11 fee as provided by rule of the Department of  
12 Law Enforcement; requiring costs of background  
13 checks be borne by certain parties; prohibiting  
14 certain eligible nonprofit scholarship-funding  
15 organizations the owners of which have filed  
16 for bankruptcy from participating in the  
17 program; requiring a nonprofit  
18 scholarship-funding organization comply with  
19 antidiscrimination provisions of 42 U.S.C. s.  
20 2000d; prohibiting an owner or a nonprofit  
21 scholarship-funding organization from owning,  
22 operating, or administering an eligible private  
23 school under the scholarship program; requiring  
24 a nonprofit scholarship-funding organization to  
25 report any private school not in compliance  
26 with scholarship program requirements to the  
27 Department of Education; prohibiting provision  
28 of scholarship funds to a student to attend a  
29 private school not in compliance; authorizing a  
30 parent to transfer the scholarship; requiring  
31 award of scholarships on a first-come,

1 first-served basis; prohibiting a nonprofit  
2 scholarship-funding organization from targeting  
3 certain students for scholarships; prohibiting  
4 the award of scholarships to a child of an  
5 owner of a nonprofit scholarship-funding  
6 organization; prohibiting the transfer of an  
7 eligible contribution between nonprofit  
8 scholarship-funding organizations; prohibiting  
9 a nonprofit scholarship-funding organization  
10 from securing financing in anticipation of  
11 eligible contributions; prohibiting a nonprofit  
12 scholarship-funding organization from  
13 participating in the program if the  
14 organization fails to meet statutory  
15 obligations; requiring students to meet certain  
16 attendance policies; requiring parents to meet  
17 certain parental involvement requirements  
18 unless excused; prohibiting a parent from  
19 authorizing a power of attorney for endorsement  
20 of scholarship warrant; requiring a parent to  
21 ensure that a scholarship student participates  
22 in testing requirements; prohibiting a student  
23 or parent of a student from participating in  
24 the scholarship program if the student or  
25 parent fails to meet statutory obligations;  
26 revising provisions with respect to private  
27 schools; revising requirements that a  
28 participating private school demonstrate fiscal  
29 soundness; requiring a surety bond; providing  
30 an exception; requiring a private school to  
31 employ or contract with teachers who have

1 regular and direct contact with students at the  
2 school's physical location; requiring the  
3 private schools to employ or contract with  
4 teachers who have at least a baccalaureate  
5 degree or 3 years of teaching experience at a  
6 public or private school, and other skills that  
7 qualify the teacher to provide appropriate  
8 instruction; requiring a private school to  
9 report to the Department of Education the  
10 qualifications of teachers; requiring a private  
11 school to annually register with the Department  
12 of Education and provide certain information  
13 concerning the private school organization,  
14 student list, and notice of intent to  
15 participate in the scholarship program;  
16 requiring certain individuals to undergo level  
17 2 background screening requirements pursuant to  
18 s. 435.04, F.S.; providing for the Department  
19 of Law Enforcement to retain and search  
20 fingerprint records; providing for an annual  
21 fee as provided by rule of the Department of  
22 Law Enforcement; requiring costs of background  
23 checks be borne by certain parties; requiring a  
24 private school to administer or to make  
25 provision for administering certain tests to  
26 scholarship students; requiring reporting of  
27 scores to the student's parent and to the  
28 Department of Education; requiring a private  
29 school to file an affidavit; requiring a  
30 private school to notify the Department of  
31 Education in writing within 7 days if a student



1 is ineligible to participate in the scholarship  
2 program; requiring a private school to report  
3 to the Department of Education and distribute  
4 to scholarship applicants information  
5 concerning accreditation and years in  
6 existence; requiring the Department of  
7 Education to make certain information  
8 concerning private school accreditation  
9 available to the public; prohibiting a private  
10 school from participating in the scholarship  
11 program if the private school fails to meet its  
12 statutory obligations; requiring the Department  
13 of Education to determine the eligibility of  
14 certain nonprofit scholarship-funding  
15 organizations within 90 days after application;  
16 requiring a written notice with specific  
17 reasons for approval or denial; requiring the  
18 Department of Education to annually determine  
19 the eligibility of nonprofit  
20 scholarship-funding organizations and private  
21 schools; requiring the Department of Education  
22 to make accessible to the public a list of  
23 eligible private schools; requiring the  
24 Department of Education to annually verify the  
25 eligibility of students; requiring the  
26 Department of Education to maintain a student  
27 database of program participants and to update  
28 the database at least quarterly; requiring the  
29 Department of Education to notify a nonprofit  
30 scholarship-funding organization of any  
31 ineligible student; requiring the Department of

1 Education to annually account for and verify  
2 the eligibility of program expenditures;  
3 requiring the Department of Education to review  
4 audits; requiring the Department of Education  
5 to report student performance data; providing  
6 limitations on reporting; requiring the  
7 Department of Education to revoke the  
8 eligibility of program participants for failure  
9 to comply with statutory obligations; requiring  
10 the Department of Education to conduct  
11 investigations of certain complaints; requiring  
12 the Department of Education to annually report  
13 on accountability activities; requiring the  
14 State Board of Education to adopt rules  
15 regarding documentation to establish  
16 eligibility of nonprofit scholarship-funding  
17 organizations, requiring an affidavit, and  
18 requiring independent income verification for  
19 determining the eligibility of students;  
20 authorizing the State Board of Education to  
21 delegate its authority to the Commissioner of  
22 Education with the exception of rulemaking  
23 authority; providing an effective date.  
24

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

26  
27 Section 1. Subsections (1), (2), (3), (4), and (5) and  
28 paragraphs (a), (d), and (e) of subsection (6) of section  
29 1002.39, Florida Statutes, are amended, present subsections  
30 (7) and (8) of that section are redesignated as subsections  
31

1 (9) and (10), respectively, and amended, and new subsections  
2 (7) and (8) are added to that section, to read:

3 1002.39 The John M. McKay Scholarships for Students  
4 with Disabilities Program.--There is established a program  
5 that is separate and distinct from the Opportunity Scholarship  
6 Program and is named the John M. McKay Scholarships for  
7 Students with Disabilities Program, pursuant to this section.

8 (1) THE JOHN M. MCKAY SCHOLARSHIPS FOR STUDENTS WITH  
9 DISABILITIES PROGRAM.--The John M. McKay Scholarships for  
10 Students with Disabilities Program is established to provide  
11 the option to attend a public school other than the one to  
12 which assigned, or to provide a scholarship to a private  
13 school of choice, for students with disabilities for whom an  
14 individual education plan has been written in accordance with  
15 rules of the State Board of Education. Students with  
16 disabilities include K-12 students who are documented as  
17 having mental retardation; a speech or language impairment; a  
18 hearing impairment, including deafness; a visual impairment,  
19 including blindness; a dual sensory impairment; a physical  
20 impairment; a serious emotional disturbance, including an  
21 emotional handicap; a specific learning disability, including,  
22 but not limited to, dyslexia, dyscalculia, or developmental  
23 aphasia; a traumatic brain injury; or autism mentally  
24 ~~handicapped, speech and language impaired, deaf or hard of~~  
25 ~~hearing, visually impaired, dual sensory impaired, physically~~  
26 ~~impaired, emotionally handicapped, specific learning disabled,~~  
27 ~~hospitalized or homebound, or autistic.~~

28 (2) SCHOLARSHIP ELIGIBILITY; PROHIBITIONS.--

29 (a) The parent of a public school student with a  
30 disability who is dissatisfied with the student's progress may  
31 request and receive from the state a John M. McKay Scholarship

1 for the child to enroll in and attend a private school in  
2 accordance with this section if:

3 1.(a) By assigned school attendance area or by special  
4 assignment, the student has spent the prior school year in  
5 attendance at a Florida public school or the Florida School  
6 for the Deaf and the Blind. Prior school year in attendance  
7 means that the student was:

8 a. Enrolled and reported by a school district for  
9 funding during the preceding October and February Florida  
10 Education Finance Program surveys in kindergarten through  
11 grade 12; or-

12 b. Enrolled and reported by the Florida School for the  
13 Deaf and the Blind during the preceding October and February  
14 student membership surveys in kindergarten through grade 12.  
15 Prior school year in attendance does not include the period of  
16 time that the student was enrolled in a school operating for  
17 the purposes of providing educational services to youth in a  
18 commitment program of the Department of Juvenile Justice.

19 However, this subparagraph ~~paragraph~~ does not apply to a  
20 dependent child of a member of the United States Armed Forces  
21 who transfers to a school in this state from out of state or  
22 from a foreign country pursuant to a parent's permanent change  
23 of station orders. A dependent child of a member of the United  
24 States Armed Forces who transfers to a school in this state  
25 from out of state or from a foreign country pursuant to a  
26 parent's permanent change of station orders must meet all  
27 other eligibility requirements to participate in the program.

28 2.(b) The parent has obtained acceptance for admission  
29 of the student to a private school that is eligible for the  
30 program under subsection (4) and has notified the Department  
31 of Education ~~school district~~ of the request for a scholarship

1 at least 60 days prior to the date of the first scholarship  
2 payment. The parental notification must be through a  
3 communication directly to the ~~district or through the~~  
4 Department of Education ~~to the district~~ in a manner that  
5 creates a written or electronic record of the notification and  
6 the date of receipt of the notification. The Department of  
7 Education must notify the district of the parent's intent,  
8 upon receipt of the parent's notification.

9  
10 ~~This section does not apply to a student who is enrolled in a~~  
11 ~~school operating for the purpose of providing educational~~  
12 ~~services to youth in Department of Juvenile Justice commitment~~  
13 ~~programs.~~ For purposes of continuity of educational choice,  
14 the scholarship shall remain in force until the student  
15 returns to a public school or graduates from high school or  
16 reaches the age of 22, whichever occurs first. However, at any  
17 time, the student's parent may remove the student from the  
18 private school and place the student in another private school  
19 that is eligible for the program under subsection (4) or in a  
20 public school as provided in subsection (3).

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

23 1. Receives a scholarship from an eligible  
24 scholarship-funding organization under s. 220.187.

25 2. Receives an opportunity scholarship under s.  
26 1002.38.

27 3. Participates in a home education program as defined  
28 in s. 1002.01(1).

29 4. Receives instruction from a correspondence school  
30 or a private tutoring program as described in s. 1002.43, or  
31 participates in distance learning courses.

1           5. Does not have regular and direct contact with his  
2 or her private school teachers at the school's physical  
3 location.

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

7  
8 Notwithstanding the prohibition set forth in subparagraph 4.,  
9 a student who receives a John M. McKay Scholarship may  
10 participate in a distance learning course, a private tutoring  
11 program, or a course offered by a correspondence school, the  
12 tuition and other costs of which are not paid by scholarship  
13 funds provided under this section.

14           (3) SCHOOL DISTRICT AND DEPARTMENT OF EDUCATION  
15 OBLIGATIONS.--

16           (a) The Department of Education ~~A school district~~  
17 shall timely notify the parent of each public school ~~the~~  
18 student of all options available pursuant to this section and  
19 offer that student's parent an opportunity to enroll the  
20 student in another public school within the district. The  
21 parent is not required to accept this offer in lieu of  
22 requesting a John M. McKay Scholarship to a private school.  
23 However, if the parent chooses the public school option, the  
24 student may continue attending a public school chosen by the  
25 parent until the student graduates from high school. If the  
26 parent chooses a public school consistent with the district  
27 school board's choice plan under s. 1002.31, the school  
28 district shall provide transportation to the public school  
29 selected by the parent. The parent is responsible to provide  
30 transportation to a public school chosen that is not  
31 consistent with the district school board's choice plan under

1 s. 1002.31. For purposes of this paragraph, timely  
2 notification means notification no later than April 1 of each  
3 school year.

4 (b)1. For a student with disabilities who does not  
5 have a matrix of services under s. 1011.62(1)(e), the school  
6 district must complete a matrix that assigns the student to  
7 one of the levels of service as they existed prior to the  
8 2000-2001 school year.

9 2.a. The school district must complete the matrix of  
10 services for any student who is participating in the John M.  
11 McKay Scholarships for Students with Disabilities Program and  
12 must notify the Department of Education of the student's  
13 matrix level within 30 days after receiving notification by  
14 the Department of Education of the parent's ~~the student's~~  
15 ~~parent~~ of intent to participate in the scholarship program.  
16 The nature and intensity of the services indicated in the  
17 matrix must be consistent with the services described in the  
18 student's individual education plan.

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

21 (I) Correct a technical, typographical, or calculation  
22 error; or

23 (II) Align the matrix of services with the student's  
24 individual education plan completed by the public school  
25 district for use in the public school prior to the student  
26 enrolling in or attending a private school.

27 3. The Department of Education shall notify the  
28 private school of the amount of the scholarship within 10 days  
29 after receiving the school district's notification of the  
30 student's matrix level.

31

1           4. Within 10 school days after it receives  
2 notification of a parent's intent to apply for a McKay  
3 Scholarship, a district school board must notify the student's  
4 parent if the matrix has not been completed and provide the  
5 parent with the date for completion of the matrix required in  
6 this paragraph.

7           (c) If the parent chooses the private school option  
8 and the student is accepted by the private school pending the  
9 availability of a space for the student, the parent of the  
10 student must notify the Department of Education ~~school~~  
11 ~~district~~ 60 days prior to the first scholarship payment and  
12 before entering the private school in order to be eligible for  
13 the scholarship when a space becomes available for the student  
14 in the private school.

15           (d) The parent of a student may choose, as an  
16 alternative, to enroll the student in and transport the  
17 student to a public school in an adjacent school district  
18 which has available space and has a program with the services  
19 agreed to in the student's individual education plan already  
20 in place, and that school district shall accept the student  
21 and report the student to the Department of Education for  
22 purposes of the district's funding pursuant to the Florida  
23 Education Finance Program.

24           (e) For a student in the district who participates in  
25 the John M. McKay Scholarships for Students with Disabilities  
26 Program whose parent requests that the student take the  
27 statewide assessments under s. 1008.22, the district shall  
28 provide locations and times to take all statewide assessments.

29           (f) ~~A school district must notify~~ The Department of  
30 Education must notify the school district upon receipt of the  
31 ~~within 10 days after it receives~~ notification of a parent's



1 intent to apply for a scholarship for a student with a  
2 disability. A school district must provide the student's  
3 parent with the student's matrix level within 10 school days  
4 after its completion.

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

8 (4) PRIVATE SCHOOL ELIGIBILITY; REGISTRATION;  
9 PROHIBITIONS.--

10 (a) To be eligible to participate in the John M. McKay  
11 Scholarships for Students with Disabilities Program, a private  
12 school must be a Florida private school as defined in s.  
13 1002.01(2), may be sectarian or nonsectarian, and must:

14 1.(a) Demonstrate fiscal soundness by filing with  
15 being in operation for 1 school year or provide the Department  
16 of Education with a surety bond for the amount equal to the  
17 scholarship amount for each quarter of the school year. The  
18 purpose of the surety bond is to secure expenditures of  
19 scholarship funds if such funds are found to have been used  
20 for unlawful purposes. The surety bond must be filed at the  
21 time of the private school's initial registration and at each  
22 renewal period thereafter for a total of 3 consecutive years.  
23 This requirement does not apply to an eligible private school  
24 that:

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

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

30  
31

1 However, any private school that was subject to an action  
2 taken by the department for any violation of this section  
3 shall, following the date on which the action was taken  
4 against the private school for a violation of this section,  
5 but prior to receiving the next quarterly payment and for 2  
6 years thereafter, file a surety bond with the department.

7 2. Annually register with the Department of Education.

8 Each owner or administrator of a private school must provide  
9 the following information:

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

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

14 c. A notification of the private school's intent to  
15 participate in the program under this section. The notice must  
16 specify the grade levels and services that the private school  
17 has available for students with disabilities who are  
18 participating in the scholarship program. ~~statement by a~~  
19 ~~certified public accountant confirming that the private school~~  
20 ~~desiring to participate is insured and the owner or owners~~  
21 ~~have sufficient capital or credit to operate the school for~~  
22 ~~the upcoming year serving the number of students anticipated~~  
23 ~~with expected revenues from tuition and other sources that may~~  
24 ~~be reasonably expected. In lieu of such a statement, a surety~~  
25 ~~bond or letter of credit for the amount equal to the~~  
26 ~~scholarship funds for any quarter may be filed with the~~  
27 ~~department.~~

28 ~~(b) Notify the Department of Education of its intent~~  
29 ~~to participate in the program under this section. The notice~~  
30 ~~must specify the grade levels and services that the private~~  
31

1 ~~school has available for students with disabilities who are~~  
2 ~~participating in the scholarship program.~~

3       ~~3.(e)~~ Comply with the antidiscrimination provisions of  
4 42 U.S.C. s. 2000d.

5       ~~4.(d)~~ Meet state and local health and safety laws and  
6 codes.

7       ~~5.(e)~~ Be academically accountable to the parent for  
8 meeting the educational needs of the student.

9       ~~6.(f)~~ Employ or contract with teachers who hold  
10 baccalaureate or higher degrees, or have at least 3 years of  
11 teaching experience in public or private schools, or have  
12 special skills, knowledge, or expertise that qualifies them to  
13 provide instruction in subjects taught.

14       ~~7.(g)~~ Comply with all state laws relating to general  
15 regulation of private schools, including, but not limited to,  
16 s. 1002.42.

17       ~~8.(h)~~ Publish and adhere to the tenets of its adopted  
18 ~~published~~ disciplinary procedures prior to the expulsion of a  
19 scholarship student.

20       9. Provide the Department of Education with all  
21 documentation required for each scholarship student's  
22 participation in the scholarship program, including, but not  
23 limited to:

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

29       b. The enrollment and attendance information,  
30 including an on-line attendance verification form, for each  
31

1 scholarship student at the private school, prior to each  
2 scholarship payment.

3  
4 The on-line attendance form must be documented each quarter by  
5 a notarized statement that is signed by the private school and  
6 the parents of each McKay Scholarship student in attendance at  
7 the private school. The private school must maintain the  
8 completed notarized statements at the private school for each  
9 academic year. The completed notarized statements must be open  
10 to the Department of Education upon request.

11 10. Maintain in this state a physical location where a  
12 scholarship student regularly attends classes.

13 11.a. Advertise or notify potential McKay Scholarship  
14 students and parents of the specific types of disabilities  
15 served by the school, and provide this information to the  
16 Department of Education.

17 b. Review with the parent the student's individual  
18 education plan.

19 12. Require each McKay Scholarship student to  
20 participate at least annually in a student assessment which,  
21 as determined by the private school in consultation with the  
22 student's parent or guardian, will demonstrate the student's  
23 skill level to the student's parents.

24 13. Notify the student's parent at least annually  
25 about the student's skill level on a student assessment that  
26 is determined by the private school.

27 14. Notify the Department of Education of any change  
28 in the school's registered name or location prior to any such  
29 change and notify the Department of Education within 15 days  
30 after any other change in the registration information  
31 submitted to the department.

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

5           16. Annually complete and file with the Department of  
6 Education a sworn and notarized compliance statement in a form  
7 and by a deadline specified in rules adopted by the State  
8 Board of Education.

9           (b) A private school participating in the John M.  
10 McKay Scholarships for Students with Disabilities Program must  
11 ensure that all personnel who are hired or contracted to  
12 provide services to fill positions requiring direct contact  
13 with students in the private school, and all owners of a  
14 private school, shall, upon employment, engagement to provide  
15 services, or assumption of a position of ownership, a position  
16 of decisionmaking authority, or a position having access to  
17 scholarship funds, undergo background screening pursuant to s.  
18 435.04 by filing with the Department of Education a complete  
19 set of fingerprints taken by an authorized law enforcement  
20 agency or an employee of the private school who is trained to  
21 take fingerprints. However, the complete set of fingerprints  
22 for an owner of an eligible private school must be taken by an  
23 authorized law enforcement agency. These fingerprints must be  
24 submitted to the Department of Law Enforcement for state  
25 processing, which shall in turn submit the fingerprints to the  
26 Federal Bureau of Investigation for federal processing. The  
27 Department of Education shall screen the background results  
28 and report to the private school any person described in this  
29 paragraph who fails to meet level 2 screening standards  
30 pursuant to s. 435.04 or any person described in this  
31 paragraph who has been convicted of a crime involving moral

1 turpitude. Any person described in this paragraph who is found  
2 through fingerprint processing to have been convicted of a  
3 crime involving moral turpitude or fails to meet level 2  
4 screening standards pursuant to s. 435.04 may not be employed  
5 or engaged to provide services in any position in the private  
6 school requiring direct contact with students and may not  
7 assume an ownership position, a position of decisionmaking  
8 authority, or a position having access to scholarship funds.  
9 The cost of the background screening may be borne by the  
10 private school, the employee, the person engaged to provide  
11 services, or the owner.

12 1. Every 5 years each person described in this  
13 paragraph must meet level 2 screening requirements as  
14 described in s. 435.04, at which time the Department of  
15 Education shall request the Department of Law Enforcement to  
16 forward the fingerprints to the Federal Bureau of  
17 Investigation for level 2 screening. If the fingerprints of a  
18 person described in this paragraph are not retained by the  
19 Department of Law Enforcement under subparagraph 2., the  
20 person must file a complete set of fingerprints with the  
21 Department of Education. Upon submission of fingerprints for  
22 this purpose, the Department of Education shall request that  
23 the Department of Law Enforcement forward the fingerprints to  
24 the Federal Bureau of Investigation for level 2 screening, and  
25 the fingerprints must be retained by the Department of Law  
26 Enforcement under subparagraph 2. The cost of the state and  
27 federal criminal history check required by level 2 screening  
28 may be borne by the private school, the employee, the person  
29 engaged to provide services, or the owner. Under penalty of  
30 perjury, each person described in this paragraph must agree to  
31 inform the private school immediately if convicted of any

1 disqualifying offense while in a capacity with the private  
2 school as described in this paragraph.

3 2. Effective December 15, 2005, all fingerprints  
4 submitted to the Department of Law Enforcement as required by  
5 this paragraph shall be retained by the Department of Law  
6 Enforcement in a manner provided by rule and entered in the  
7 statewide automated fingerprint identification system  
8 authorized by s. 943.05(2)(b). Such fingerprints shall  
9 thereafter be available for all purposes and uses authorized  
10 for arrest fingerprint cards entered in the statewide  
11 automated fingerprint identification system under s. 943.051.

12 3. Effective December 15, 2005, the Department of Law  
13 Enforcement shall search all arrest fingerprint cards received  
14 under s. 943.051 against the fingerprints retained in the  
15 statewide automated fingerprint identification system under  
16 subparagraph 2. Any arrest record that is identified with the  
17 fingerprints of a person described in this paragraph must be  
18 reported to the Department of Education. Each eligible private  
19 school shall participate in this search process by paying an  
20 annual fee to the Department of Education and by informing the  
21 Department of Law Enforcement of any change in the status or  
22 place of employment or engagement of services of its personnel  
23 as described in this paragraph whose fingerprints are retained  
24 under subparagraph 2. The Department of Law Enforcement shall  
25 adopt a rule setting the amount of the annual fee to be  
26 imposed upon each private school for performing these searches  
27 and establishing the procedures for the retention of private  
28 school personnel fingerprints and the dissemination of search  
29 results. The fee may be borne by the private school, the  
30 employee, the person engaged to provide services, or the  
31 owner.

1           4. If it is found that a person described in this  
2 paragraph does not meet the level 2 requirements, the eligible  
3 private school shall be immediately suspended from  
4 participating in the program and shall remain suspended until  
5 final resolution of any appeals. An eligible private school  
6 that employs or engages to provide services with a person  
7 described in this paragraph who fails to meet level 2  
8 screening standards or has been convicted of a crime involving  
9 moral turpitude may not participate in this program.

10           (c) A private school participating in the John M.  
11 McKay Scholarships for Students with Disabilities Program may  
12 not:

13           1. Act as attorney in fact for parents of a  
14 scholarship student under the authority of a power of attorney  
15 executed by such parents, or under any other authority, to  
16 endorse scholarship warrants on behalf of parents.

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

19           3. Be a correspondence school or distance learning  
20 school.

21           4. Operate as a private tutoring program as defined in  
22 s. 1002.43.

23           5. Accept a McKay Scholarship student until the sworn  
24 and notarized compliance statement has been completed,  
25 submitted to, and independently verified by the Department of  
26 Education.

27           (d) A participating private school may request that  
28 the school be listed by the Department of Education with a  
29 closed-enrollment status in the McKay Scholarship program if  
30 the school is no longer accepting new students with McKay  
31 Scholarships. As used in this paragraph, the term



1 "closed-enrollment status" means that the private school is no  
2 longer accepting any new student with a McKay Scholarship.  
3 However, the private school is subject to all the requirements  
4 under this section and all applicable rules adopted by the  
5 State Board of Education if the private school is serving a  
6 student with a McKay Scholarship. The private school must  
7 provide a written request for closed-enrollment status to the  
8 Department of Education. The Department of Education may grant  
9 closed-enrollment status to a participating private school.  
10 However, closed-enrollment status may not be granted for  
11 longer than 1 school year.

12 (5) OBLIGATION OF PROGRAM PARTICIPANTS.--

13 (a) A parent who applies for a John M. McKay  
14 Scholarship is exercising his or her parental option to place  
15 his or her child in a private school. The parent must select  
16 the private school and apply for the admission of his or her  
17 child.

18 (b) The parent must have requested the scholarship at  
19 least 60 days prior to the date of the first scholarship  
20 payment.

21 (c) Any student participating in the scholarship  
22 program must remain in attendance throughout the school year,  
23 unless excused by the school for illness or other good cause,  
24 and must comply fully with the school's code of conduct.

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

29 (e) If the parent requests that the student  
30 participating in the scholarship program take all statewide  
31 assessments required pursuant to s. 1008.22, the parent is

1 responsible for transporting the student to the assessment  
2 site designated by the school district.

3 (f) Upon receipt of a scholarship warrant, the parent  
4 to whom the warrant is made must restrictively endorse the  
5 warrant to the private school for deposit into the account of  
6 the private school.

7 (g) The parent of a student participating in the  
8 scholarship program may not designate any participating  
9 private school as the parent's attorney in fact to sign a  
10 scholarship warrant.

11 (h)(g) A participant who fails to comply with this  
12 subsection forfeits the scholarship.

13 (6) SCHOLARSHIP FUNDING AND PAYMENT.--

14 (a)1. The maximum scholarship granted for an eligible  
15 student with disabilities shall be a calculated amount  
16 equivalent to the base student allocation in the Florida  
17 Education Finance Program multiplied by the appropriate cost  
18 factor for the educational program that would have been  
19 provided for the student in the district school to which he or  
20 she was assigned, multiplied by the district cost  
21 differential.

22 2. In addition, a share of the guaranteed allocation  
23 for exceptional students shall be determined and added to the  
24 calculated amount. The calculation shall be based on the  
25 methodology and the data used to calculate the guaranteed  
26 allocation for exceptional students for each district in  
27 chapter 2000-166, Laws of Florida. Except as provided in  
28 subparagraph 4. 3-, the calculation shall be based on the  
29 student's grade, matrix level of services, and the difference  
30 between the 2000-2001 basic program and the appropriate level  
31 of services cost factor, multiplied by the 2000-2001 base

1 student allocation and the 2000-2001 district cost  
2 differential for the sending district. Also, the calculated  
3 amount shall include the per-student share of supplemental  
4 academic instruction funds, instructional materials funds,  
5 technology funds, and other categorical funds as provided for  
6 such purposes in the General Appropriations Act.

7 3. The calculated scholarship amount for a student who  
8 has spent the prior school year in attendance at the Florida  
9 School for the Deaf and the Blind shall be calculated as  
10 provided in subparagraphs 1. and 2. However, the calculation  
11 shall be based on the school district in which the parent  
12 resides at the time that the intent is filed by the parent.

13 ~~4.3.~~ Until the school district completes the matrix  
14 required by paragraph (3)(b), the calculation shall be based  
15 on the matrix that assigns the student to support level I of  
16 service as it existed prior to the 2000-2001 school year.  
17 When the school district completes the matrix, the amount of  
18 the payment shall be adjusted as needed.

19 (d)1. The school district shall report to the  
20 Department of Education all students who are attending a  
21 private school under this program. The students with  
22 disabilities attending private schools on John M. McKay  
23 Scholarships shall be reported separately from other students  
24 reported for purposes of the Florida Education Finance  
25 Program.

26 2. For program participants who are eligible under  
27 sub-subparagraph (2)(a)1.b., the school district, which is  
28 used as the basis for the calculation of the scholarship  
29 amount as provided in subparagraph (6)(a)3., shall:  
30  
31

1           a. Report to the Department of Education all such  
2 students who are attending a private school under this  
3 program; and

4           b. Be held harmless for such students from the  
5 weighted enrollment ceiling for group 2 programs in s.  
6 1011.62(1)(d)3.a. during the first school year in which the  
7 students are reported.

8           (e) Following notification on July 1, September 1,  
9 December 1, or February 1 of the number of program  
10 participants, the Department of Education shall transfer, from  
11 General Revenue funds only, the amount calculated under  
12 paragraph (b) from the school district's total funding  
13 entitlement under the Florida Education Finance Program and  
14 from authorized categorical accounts to a separate account for  
15 the scholarship program for quarterly disbursement to the  
16 parents of participating students. Funds may not be  
17 transferred from any funding provided to the Florida School  
18 for the Deaf and the Blind for program participants who are  
19 eligible under sub-subparagraph (2)(a)1.b. When a student  
20 enters the scholarship program, the Department of Education  
21 must receive all documentation required for the student's  
22 participation, including, but not limited to, the private  
23 school's and student's fee schedules, at least 30 days before  
24 the first quarterly scholarship payment is made for the  
25 student. The Department of Education may not make any  
26 retroactive payments.

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

28           (a) The Department of Education shall perform the  
29 following duties:

30           1. Review for compliance all documentation required  
31 for each scholarship student's participation, including,

1 without limitation, the private school's schedule and the  
2 student's fee schedule.

3 2. Verify the admission acceptance of each scholarship  
4 student to an eligible private school prior to the initial  
5 scholarship payment.

6 3. Verify, prior to each scholarship payment, the  
7 enrollment and attendance of each scholarship student at the  
8 private school and that the scholarship student is not:

9 a. Receiving a scholarship under s. 220.187 or s.  
10 1002.38.

11 b. Participating in a home education program as  
12 defined in s. 1002.01(1).

13 c. Participating in instruction delivered by a  
14 correspondence school, private tutoring program as defined in  
15 s. 1002.43, or distance learning courses, except as  
16 specifically permitted in paragraph (2)(b).

17 d. Enrolled in a school operating for the purpose of  
18 providing education services to youth in commitment programs  
19 of the Department of Juvenile Justice.

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

22 4. Administer and prescribe an annual sworn and  
23 notarized compliance statement for each participating private  
24 school and independently verify the information provided by  
25 each participating private school.

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

28 6. Determine the eligibility of a private school to  
29 accept McKay Scholarship students, based upon independent  
30 verification that the private school meets all the  
31

1 requirements in this section and all applicable rules adopted  
2 by the State Board of Education.

3 7. Publish a current, on-line list of eligible private  
4 schools.

5 8. Include each eligible private school on the on-line  
6 list of eligible private schools within 10 days after the  
7 private school is determined to be eligible to participate in  
8 the McKay Scholarship program.

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

13 10. Remove immediately from the on-line list of  
14 eligible private schools any school that is determined by the  
15 Department of Education to be an ineligible school, as  
16 provided for in paragraphs (b) and (c).

17 (b) The Department of Education shall deny or refuse  
18 to allow the participation of any private school if it  
19 determines that the private school or any of its owners or  
20 administrators has failed to meet the requirements for initial  
21 application or renewal as provided in this section.

22 (c) The Department of Education shall issue a notice  
23 of noncompliance pursuant to s. 120.695 to any participating  
24 private school that violates any of the provisions of this  
25 section or the rules of the State Board of Education, if the  
26 violation is a minor violation as defined in s. 120.695. If a  
27 private school fails to satisfy the requirements specified in  
28 the notice of noncompliance within 30 days after its receipt  
29 by the school, the Department of Education shall issue an  
30 emergency order revoking the registration of the participating  
31 private school. The Department of Education shall issue an

1 emergency order to immediately revoke the registration of a  
2 participating private school for a violation that is not a  
3 minor violation as defined in s. 120.695.

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

7 1. Receives a scholarship under s. 220.187 or s.  
8 1002.38.

9 2. Participates in a home education program as defined  
10 in s. 1002.01(1).

11 3. Participates in instruction delivered by a  
12 correspondence school, a private tutoring program as defined  
13 in s. 1002.43, or distance learning courses, except as  
14 specifically permitted in paragraph (2)(b).

15 4. Does not have regular and direct contact with the  
16 student's private school teachers at the school's physical  
17 location.

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

21 (e) The Department of Education shall conduct an  
22 investigation of any written complaint of a violation of this  
23 section if the complaint is signed by the complainant and is  
24 legally sufficient. A complaint is legally sufficient if it  
25 contains ultimate facts that show that a violation of this  
26 section or any rule adopted by the State Board of Education  
27 has occurred. In order to determine legal sufficiency, the  
28 Department of Education may require supporting information or  
29 documentation. The Department of Education may investigate any  
30 complaint, including, but not limited to, anonymous  
31 complaints.

1           (f) The Department of Education may not change a  
2 matrix of services completed by a school district. However,  
3 the department may make the following changes for a matrix for  
4 a student if the school district has identified the error but  
5 has failed to make a correction in a timely manner:

6           1. A correction to a technical, typographical, or  
7 calculation error; or

8           2. A change to align the matrix of services with the  
9 student's individual education plan completed by the school  
10 district for use in the public school prior to the student's  
11 enrolling in or attending a private school.

12  
13 The department must report any change made under this  
14 paragraph to the school district and the parent of the  
15 student.

16           (8) OBLIGATIONS OF THE AUDITOR

17 GENERAL.--Notwithstanding any other law to the contrary, the  
18 Auditor General must include in the operational audit of the  
19 Department of Education the John M. McKay Scholarships for  
20 Students with Disabilities Program. The Auditor General must  
21 include in the audit a review of a sample of the warrants used  
22 to pay for the scholarships, as well as random site visits to  
23 private schools participating in the John M. McKay  
24 Scholarships for Students with Disabilities Program, in order  
25 to verify student enrollment and other information reported by  
26 the private schools as required by rules of the State Board of  
27 Education.

28           (9)(7) LIABILITY.--No liability shall arise on the  
29 part of the state based on the award or use of a John M. McKay  
30 Scholarship.

31



1           ~~(10)(8)~~ RULES.--The State Board of Education shall  
2 adopt rules pursuant to ss. 120.536(1) and 120.54 to  
3 administer this section, including rules that school districts  
4 must use to expedite the development of a matrix of services  
5 based on a current individual education plan from another  
6 state or a foreign country for a transferring student with a  
7 disability who is a dependent child of a member of the United  
8 States Armed Forces. The rules must identify the appropriate  
9 school district personnel who must complete the matrix of  
10 services. For purposes of these rules, a transferring student  
11 with a disability is one who was previously enrolled as a  
12 student with a disability in an out-of-state or an  
13 out-of-country public or private school or agency program and  
14 who is transferring from out of state or from a foreign  
15 country pursuant to a parent's permanent change of station  
16 orders. The rules must include provisions for:

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

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

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

23           (d) Implementing the requirement that a private school  
24 timely notify the Department of Education of material changes  
25 to the school's registration information;

26           (e) Establishing attendance-verification procedures  
27 and forms; and

28           (f) Establishing procedures for determining student  
29 eligibility and approving scholarships.

30  
31

1 The rules related to the annual sworn and notarized compliance  
2 statement shall establish a deadline for the receipt of the  
3 initial sworn and notarized compliance statement from the  
4 private school and shall enumerate the items to be included in  
5 the statement. The rules shall enumerate the items to be  
6 included in a subsequent annual sworn and notarized compliance  
7 statement that is required in January of each year from the  
8 private school. However, the inclusion of eligible private  
9 schools within options available to Florida public school  
10 students does not expand the regulatory authority of the  
11 state, its officers, or any school district to impose any  
12 additional regulation of private schools beyond those  
13 reasonably necessary to enforce requirements expressly set  
14 forth in this section.

15 Section 2. The State Board of Education shall initiate  
16 the adoption of rules required by this act 10 days after the  
17 effective date of this act. The State Board of Education shall  
18 report to the presiding officers of the Legislature by  
19 December 1, 2005, on the status of the rulemaking required by  
20 this act.

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

25 (a) The private school is participating in the McKay  
26 Scholarship Program under section 1002.39, Florida Statutes;  
27 and

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

31

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

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

9           (a) Shall file a surety bond with the Department of  
10 Education following the date on which the action was taken  
11 against the private school for a violation of section 1002.39,  
12 Florida Statutes, but prior to receiving the next quarterly  
13 payment;

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

16           (c) May not accept new McKay Scholarship students  
17 until the private school complies with all the requirements in  
18 section 1002.39, Florida Statutes, and all applicable rules of  
19 the State Board of Education, as determined by the Department  
20 of Education.

21           Section 4. Section 220.187, Florida Statutes, is  
22 amended to read:

23           220.187 Credits for contributions to nonprofit  
24 scholarship-funding organizations.--

25           (1) This section may be cited as the "Corporate  
26 Scholarship Program."

27           (2)(1) PURPOSE.--The purpose of this section is to:

28           (a) Encourage private, voluntary contributions to  
29 nonprofit scholarship-funding organizations.

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

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

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

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

6 ~~(a)(b)~~ "Eligible contribution" means a monetary  
7 contribution from a taxpayer, subject to the restrictions  
8 provided in this section, to an eligible nonprofit  
9 scholarship-funding organization. The taxpayer making the  
10 contribution may not designate a specific child as the  
11 beneficiary of the contribution. The taxpayer may not  
12 contribute more than \$5 million to any single eligible  
13 nonprofit scholarship-funding organization.

14 ~~(b)(c)~~ "Eligible private nonprofit school" means a  
15 private nonprofit school, as defined in s. 1002.01(2), located  
16 in Florida which ~~that~~ offers an education to students in any  
17 grades K-12 and ~~that~~ meets the requirements in subsection (7)  
18 ~~(6)~~. An eligible private school:

19 1. Must maintain a physical location in this state  
20 where each scholarship student regularly attends classes.

21 2. May not be a correspondence school or distance  
22 learning school.

23 3. May not direct or provide scholarship funds to a  
24 parent of a scholarship student who receives instruction under  
25 the program at home.

26 4. May not be a home education program as defined in  
27 s. 1002.01(1).

28 5. May not be a private tutoring program as described  
29 in s. 1002.43.

30 ~~(c)(d)~~ "Eligible nonprofit scholarship-funding  
31 organization" means a charitable organization that is exempt

1 from federal income tax pursuant to s. 501(c)(3) of the  
2 Internal Revenue Code, is incorporated under laws of this  
3 state, has its principal office located in the state, and that  
4 ~~complies with the provisions of subsection(5)(4).~~

5 (d) "Owner" means the owner, president, chairperson of  
6 the board of directors, superintendent, principal, or person  
7 with equivalent decisionmaking authority who owns, operates,  
8 or administers an eligible nonprofit scholarship-funding  
9 organization or eligible private school. In addition, the term  
10 "owner" means an individual who has access to or processes  
11 scholarship funds or eligible contributions at an eligible  
12 nonprofit scholarship-funding organization or eligible private  
13 school.

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

- 17 1. Was counted as a full-time equivalent student  
18 during the previous state fiscal year for purposes of state  
19 per-student funding;
- 20 2. Received a scholarship from an eligible nonprofit  
21 scholarship-funding organization during the previous school  
22 year; or
- 23 3. Is eligible to enter kindergarten or first grade.

24  
25 A student may continue in the scholarship program as long as  
26 the family income level does not exceed 200 percent of the  
27 federal poverty level. A student who was enrolled in a school  
28 operating for the purpose of providing educational services to  
29 youth in a commitment program of the Department of Juvenile  
30 Justice shall not be counted as a full-time equivalent student  
31 for the previous state fiscal year for purposes of state

1 per-student funding under this program. A student is not  
2 eligible to receive a scholarship under this section if the  
3 student is participating in the Opportunity Scholarship  
4 Program under s. 1002.38, the John M. McKay Scholarships for  
5 Students with Disabilities Program under s. 1002.39, or a home  
6 education program as defined in s. 1002.01(1) or is enrolled  
7 in a school operating for the purpose of providing educational  
8 services to youth in commitment programs of the Department of  
9 Juvenile Justice. A student is not eligible to receive a  
10 scholarship from more than one eligible nonprofit  
11 scholarship-funding organization at the same time.

12 ~~(4)(3)~~ AUTHORIZATION TO GRANT SCHOLARSHIP FUNDING TAX  
13 CREDITS; LIMITATIONS ON INDIVIDUAL AND TOTAL CREDITS.--

14 (a) There is allowed a credit of 100 percent of an  
15 eligible contribution against any tax due for a taxable year  
16 under this chapter. However, such a credit may not exceed 75  
17 percent of the tax due under this chapter for the taxable  
18 year, after the application of any other allowable credits by  
19 the taxpayer. ~~However, at least 5 percent of the total~~  
20 ~~statewide amount authorized for the tax credit shall be~~  
21 ~~reserved for taxpayers who meet the definition of a small~~  
22 ~~business provided in s. 288.703(1) at the time of application.~~

23 The credit granted by this section shall be reduced by the  
24 difference between the amount of federal corporate income tax  
25 taking into account the credit granted by this section and the  
26 amount of federal corporate income tax without application of  
27 the credit granted by this section.

28 (b) The total amount of tax credits and carryforward  
29 of tax credits which may be granted each state fiscal year  
30 under this section is \$88 million. Effective for tax years  
31 beginning January 1, 2005, 1 percent of the total statewide

1 amount authorized for the tax credit must be reserved for  
2 taxpayers that are small businesses as defined in s.  
3 288.703(1) at the time of application.

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

9 (d) Effective for the tax years beginning January 1,  
10 2005, a taxpayer may rescind its application for tax credit  
11 under this section, and the amount approved in the application  
12 for tax credit shall become available for purposes of the cap  
13 for that state fiscal year under this section to an eligible  
14 taxpayer as approved by the Department of Revenue, if the  
15 taxpayer receives notice from the Department of Revenue that  
16 the rescindment application has been accepted by the  
17 Department of Revenue, the taxpayer has not previously  
18 rescinded its application for tax credit under this section  
19 more than once in the previous 3 tax years, the taxpayer  
20 rescinds prior to the end of the taxpayer's tax year for which  
21 the credit was approved, and the taxpayer has not made a  
22 contribution pursuant to its approved application for tax  
23 credit under this section. Any amount rescinded under this  
24 paragraph shall become available to an eligible taxpayer on a  
25 first-come, first-served basis based on tax credit  
26 applications received after the date the rescindment is  
27 accepted by the Department of Revenue.

28 ~~(5)(4)~~ OBLIGATIONS OF ELIGIBLE NONPROFIT  
29 SCHOLARSHIP-FUNDING ORGANIZATIONS.--

30  
31

1 (a) An eligible nonprofit scholarship-funding  
2 organization shall provide scholarships, from eligible  
3 contributions, to qualified students for:

4 1. Tuition or textbook expenses for, or transportation  
5 to, an eligible private ~~nonpublic~~ school. At least 75 percent  
6 of ~~each the~~ scholarship ~~funding~~ must be used to pay tuition  
7 expenses; or

8 2. Transportation expenses to a Florida public school  
9 that is located outside the district in which the student  
10 resides.

11 (b) An eligible nonprofit scholarship-funding  
12 organization shall give priority to qualified students who  
13 received a scholarship from an eligible nonprofit  
14 scholarship-funding organization during the previous school  
15 year.

16 (c) The amount of a scholarship provided to any child  
17 for any single school year by one or more ~~all~~ eligible  
18 nonprofit scholarship-funding organizations from eligible  
19 contributions ~~may shall~~ not exceed the following annual  
20 limits:

21 1. Three thousand five hundred dollars for a  
22 scholarship awarded to a student enrolled in an eligible  
23 private ~~nonpublic~~ school.

24 2. Five hundred dollars for a scholarship awarded to a  
25 student enrolled in a Florida public school that is located  
26 outside the district in which the student resides.

27 (d) The amount of an eligible contribution which may  
28 be accepted by an eligible nonprofit scholarship-funding  
29 organization is limited to the amount needed to provide  
30 scholarships for qualified students whom ~~which~~ the  
31



1 organization has identified and for ~~whom~~ ~~which~~ vacancies in  
2 eligible ~~private~~ ~~nonpublic~~ schools have been identified.

3 (e) An eligible nonprofit scholarship-funding  
4 organization that receives an eligible contribution must spend  
5 100 percent of the eligible contribution to provide  
6 scholarships in the same state fiscal year in which the  
7 contribution was received. No portion of eligible  
8 contributions may be used for administrative expenses. All  
9 interest accrued from contributions must be used for  
10 scholarships.

11 (f) An eligible nonprofit scholarship-funding  
12 organization that receives eligible contributions must, within  
13 180 days after the end of the organization's fiscal year,  
14 provide to the Auditor General and the Department of Education  
15 an annual financial and compliance audit of its accounts and  
16 records conducted by an independent certified public  
17 accountant and in accordance with rules adopted by the Auditor  
18 General. The Auditor General shall review all audit reports  
19 submitted pursuant to this section. The Auditor General shall  
20 request any significant items that were omitted in violation  
21 of a rule adopted by the Auditor General. The items must be  
22 provided within 45 days after the date of the request. If the  
23 eligible nonprofit scholarship-funding organization does not  
24 comply with the Auditor General's request, the Auditor General  
25 shall notify the Legislative Auditing Committee. The  
26 Legislative Auditing Committee may schedule a hearing. If a  
27 hearing is scheduled, the committee shall determine if the  
28 eligible nonprofit scholarship-funding organization should be  
29 subject to further state action. If the committee determines  
30 that the eligible nonprofit scholarship-funding organization  
31 should be subject to further state action, the committee shall

1 notify the Department of Education, which shall terminate the  
2 eligibility of the eligible nonprofit scholarship-funding  
3 organization to participate in the program under this section.

4 (g) An eligible nonprofit scholarship-funding  
5 organization shall make payment of the scholarship, at a  
6 minimum, on a quarterly basis. Payment of the scholarship by  
7 the eligible nonprofit scholarship-funding organization shall  
8 be by individual warrant or check made payable to the  
9 student's parent. If the parent chooses for his or her child  
10 to attend an eligible private ~~nonpublic~~ school, the warrant or  
11 check must be mailed by the eligible nonprofit  
12 scholarship-funding organization to the private ~~nonpublic~~  
13 school of the parent's choice, and the parent shall  
14 restrictively endorse the warrant or check to the private  
15 ~~nonpublic~~ school. An eligible nonprofit scholarship-funding  
16 organization shall ensure that, upon receipt of a scholarship  
17 warrant or check, the parent to whom the warrant or check is  
18 made restrictively endorses the warrant or check to the  
19 private ~~nonpublic~~ school of the parent's choice for deposit  
20 into the account of the private ~~nonpublic~~ school.

21 (h) An eligible nonprofit scholarship-funding  
22 organization may not commingle scholarship funds with any  
23 other funds and must maintain a separate account for  
24 scholarship funds.

25 (i) An eligible nonprofit scholarship-funding  
26 organization shall obtain verification from a private school  
27 of each student's continued attendance at the private school  
28 prior to each scholarship payment.

29 (j) An eligible nonprofit scholarship-funding  
30 organization must verify the income of all scholarship  
31 applicants participating in the program at least once each

1 school year through independent income documentation as  
2 provided in rules of the State Board of Education.

3 (k) An eligible nonprofit scholarship-funding  
4 organization must prepare and submit quarterly reports to the  
5 Department of Education pursuant to subsection (8). In  
6 addition, an eligible nonprofit scholarship-funding  
7 organization must timely submit to the Department of Education  
8 any information requested by the Department of Education  
9 relating to the scholarship program.

10 (l) All owners of an eligible nonprofit  
11 scholarship-funding organization shall, upon employment or  
12 engagement to provide services, undergo background screening  
13 pursuant to s. 435.04 by filing with the Department of  
14 Education a complete set of fingerprints taken by an  
15 authorized law enforcement agency or an employee of the  
16 eligible nonprofit scholarship-funding organization who is  
17 trained to take fingerprints. These fingerprints shall be  
18 submitted to the Department of Law Enforcement for state  
19 processing, which shall in turn submit the fingerprints to the  
20 Federal Bureau of Investigation for federal processing. The  
21 Department of Education shall screen the background results  
22 and report to the eligible nonprofit scholarship-funding  
23 organization any owner who fails to meet level 2 screening  
24 standards pursuant to s. 435.04 or any owner who has been  
25 convicted of a crime involving moral turpitude. Owners found  
26 through fingerprint processing to have been convicted of a  
27 crime involving moral turpitude or failing to meet level 2  
28 screening standards pursuant to s. 435.04 may not be employed  
29 or engaged to provide services in any position with the  
30 eligible nonprofit scholarship-funding organization. The cost  
31

1 of the background screening may be borne by the eligible  
2 nonprofit scholarship-funding organization or the owner.

3 1. Every 5 years following employment or engagement to  
4 provide services with an eligible nonprofit  
5 scholarship-funding organization, each owner must meet level 2  
6 screening requirements as described in s. 435.04, at which  
7 time the Department of Education shall request the Department  
8 of Law Enforcement to forward the fingerprints to the Federal  
9 Bureau of Investigation for level 2 screening. If the  
10 fingerprints of an owner are not retained by the Department of  
11 Law Enforcement under subparagraph 2., the owner must file a  
12 complete set of fingerprints with the Department of Education.  
13 Upon submission of fingerprints for this purpose, the  
14 Department of Education shall request the Department of Law  
15 Enforcement to forward the fingerprints to the Federal Bureau  
16 of Investigation for level 2 screening, and the fingerprints  
17 shall be retained by the Department of Law Enforcement under  
18 subparagraph 2. The cost of the state and federal criminal  
19 history check required by level 2 screening may be borne by  
20 the eligible nonprofit scholarship-funding organization or the  
21 owner. Under penalty of perjury, each owner must agree to  
22 inform the eligible nonprofit scholarship-funding organization  
23 immediately if convicted of any disqualifying offense while he  
24 or she is employed or engaged to provide services with the  
25 eligible nonprofit scholarship-funding organization.

26 2. Effective December 15, 2005, all fingerprints  
27 submitted to the Department of Law Enforcement as required by  
28 this paragraph shall be retained by the Department of Law  
29 Enforcement in a manner provided by rule and entered in the  
30 statewide automated fingerprint identification system  
31 authorized by s. 943.05(2)(b). Such fingerprints shall

1 thereafter be available for all purposes and uses authorized  
2 for arrest fingerprint cards entered in the statewide  
3 automated fingerprint identification system pursuant to s.  
4 943.051.

5 3. Effective December 15, 2005, the Department of Law  
6 Enforcement shall search all arrest fingerprint cards received  
7 under s. 943.051 against the fingerprints retained in the  
8 statewide automated fingerprint identification system under  
9 subparagraph 2. Any arrest record that is identified with an  
10 owner's fingerprints shall be reported to the Department of  
11 Education. Each eligible nonprofit scholarship-funding  
12 organization shall participate in this search process by  
13 paying an annual fee to the Department of Education and by  
14 informing the Department of Law Enforcement of any change in  
15 the employment or engagement status or place of employment or  
16 engagement of its owners whose fingerprints are retained under  
17 subparagraph 2. The Department of Law Enforcement shall adopt  
18 a rule setting the amount of the annual fee to be imposed upon  
19 each eligible nonprofit scholarship-funding organization for  
20 performing these searches and establishing the procedures for  
21 the retention of owner fingerprints and the dissemination of  
22 search results. The fee may be borne by the eligible nonprofit  
23 scholarship-funding organization or by the owner.

24 4. If it is found that an owner of an eligible  
25 nonprofit scholarship-funding organization does not meet level  
26 2 requirements, the eligible nonprofit scholarship-funding  
27 organization shall be immediately suspended from participating  
28 in the program and shall remain suspended until final  
29 resolution of any appeals. An eligible nonprofit  
30 scholarship-funding organization the owner of which fails to  
31 meet level 2 screening standards or has been convicted of a

1 crime involving moral turpitude may not participate in this  
2 program.

3 (m) If the owner of an eligible nonprofit  
4 scholarship-funding organization has in the immediately  
5 preceding 7 years filed for personal bankruptcy or owned 20  
6 percent or more of a corporation that filed for corporate  
7 bankruptcy in the immediately preceding 7 years, the eligible  
8 nonprofit scholarship-funding organization may not participate  
9 in this program.

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

13 (o) An eligible nonprofit scholarship-funding  
14 organization or an owner of an eligible nonprofit  
15 scholarship-funding organization may not own, operate, or  
16 administer an eligible private school participating in the  
17 program.

18 (p) An eligible nonprofit scholarship-funding  
19 organization must report to the Department of Education any  
20 eligible private school participating in the scholarship  
21 program under this section which does not comply with the  
22 requirements of this program. The eligible nonprofit  
23 scholarship-funding organization may not provide additional  
24 scholarship funds for a qualified student to attend an  
25 eligible private school until the State Board of Education  
26 determines that the school is in compliance with this section.

27 (q) An eligible nonprofit scholarship-funding  
28 organization must allow a qualified student to attend any  
29 eligible private school and must allow the parent to transfer  
30 the scholarship during the school year to another eligible  
31 private school of the parent's choice.

1           (r) An eligible nonprofit scholarship-funding  
2 organization must provide a scholarship to a qualified student  
3 on a first-come, first-served basis unless the student  
4 qualifies for priority pursuant to paragraph (5)(b). An  
5 eligible nonprofit scholarship-funding organization may not  
6 target scholarships to a particular private school or provide  
7 scholarships to a child of an owner.

8           (s) An eligible nonprofit scholarship-funding  
9 organization may not transfer scholarship funds to another  
10 eligible nonprofit scholarship-funding organization.

11           (t) An eligible nonprofit scholarship-funding  
12 organization may not secure a promissory note, a line of  
13 credit, or other financing to fund a scholarship in  
14 anticipation of an eligible contribution. An eligible  
15 scholarship-funding organization may only fund scholarships  
16 through eligible contributions received under the scholarship  
17 program.

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

21           ~~(6)(5)~~ PARENT OBLIGATIONS.--

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

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

31

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

5       (d) Upon receipt of scholarship funds from an eligible  
6 nonprofit scholarship-funding organization, the parent to whom  
7 the warrant is made must restrictively endorse the warrant to  
8 the eligible private school for deposit into the account of  
9 the private school. If a parent refuses to restrictively  
10 endorse a warrant to which an eligible private school is  
11 lawfully entitled, that student's scholarship shall be  
12 forfeited. The parent may not authorize the eligible private  
13 school, its owners, or employees to act as an attorney in fact  
14 for purposes of endorsing scholarship warrants.

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

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

20       (7)(6) ELIGIBLE PRIVATE NONPUBLIC SCHOOL

21 OBLIGATIONS.--An eligible private ~~nonpublic~~ school must:

22       (a) Demonstrate fiscal soundness by filing with ~~being~~  
23 ~~in operation for one school year or provide~~ the Department of  
24 Education ~~with~~ a surety bond for the amount equal to the  
25 scholarship amount for each quarter of the school year. The  
26 purpose of the surety bond is to secure expenditures of  
27 scholarship funds if the Department of Education determines  
28 that the funds have been used for unlawful purposes. The  
29 surety bond must be filed at the time of the eligible private  
30 school's initial registration to participate in the program  
31 under this section with the Department of Education and at



1 each annual registration period thereafter for a total of 3  
2 consecutive years. This requirement does not apply to an  
3 eligible private school that:

4 1. Has participated in the program for 3 consecutive  
5 years or longer; and

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

9  
10 However, any eligible private school that was subject to an  
11 action taken by the Department of Education for any violation  
12 of this section shall, following the date on which action was  
13 taken against the eligible private school for a violation of  
14 this section, but prior to receiving the next quarterly  
15 payment, and for 2 additional consecutive years thereafter,  
16 file a surety bond with the Department of Education. ~~statement~~  
17 by a certified public accountant confirming that the nonpublic  
18 school desiring to participate is insured and the owner or  
19 owners have sufficient capital or credit to operate the school  
20 for the upcoming year serving the number of students  
21 anticipated with expected revenues from tuition and other  
22 sources that may be reasonably expected. In lieu of such a  
23 statement, a surety bond or letter of credit for the amount  
24 equal to the scholarship funds for any quarter may be filed  
25 with the department.

26 (b) Comply with the antidiscrimination provisions of  
27 42 U.S.C. s. 2000d.

28 (c) Meet state and local health and safety laws and  
29 codes.

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

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

13           (f) Annually register with the Department of  
14 Education. Each eligible private school must annually provide  
15 the following information to the Department of Education:

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

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

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

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

24           (g) Ensure that all personnel who are hired or  
25 contracted to provide services to fill positions requiring  
26 direct contact with students in the eligible private school,  
27 and all owners of an eligible private school shall, upon  
28 employment or engagement to provide services, undergo  
29 background screening pursuant to s. 435.04 by filing with the  
30 Department of Education a complete set of fingerprints taken  
31 by an authorized law enforcement agency or an employee of the

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

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

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

15 2. Effective December 15, 2005, all fingerprints  
16 submitted to the Department of Law Enforcement as required by  
17 this paragraph shall be retained by the Department of Law  
18 Enforcement in a manner provided by rule and entered in the  
19 statewide automated fingerprint identification system  
20 authorized by s. 943.05(2)(b). Such fingerprints shall  
21 thereafter be available for all purposes and uses authorized  
22 for arrest fingerprint cards entered in the statewide  
23 automated fingerprint identification system pursuant to s.  
24 943.051.

25 3. Effective December 15, 2005, the Department of Law  
26 Enforcement shall search all arrest fingerprint cards received  
27 under s. 943.051 against the fingerprints retained in the  
28 statewide automated fingerprint identification system under  
29 subparagraph 2. Any arrest record that is identified with the  
30 fingerprints of a person described in this paragraph shall be  
31 reported to the Department of Education. Each eligible private

1 school shall participate in this search process by paying an  
2 annual fee to the Department of Education and by informing the  
3 Department of Law Enforcement of any change in the status or  
4 place of employment or engagement of services of its personnel  
5 as described in this paragraph whose fingerprints are retained  
6 under subparagraph 2. The Department of Law Enforcement shall  
7 adopt a rule setting the amount of the annual fee to be  
8 imposed upon each eligible private school for performing these  
9 searches and establishing the procedures for the retention of  
10 eligible private school personnel fingerprints and the  
11 dissemination of search results. The fee may be borne by the  
12 eligible private school, the employee, the person engaged to  
13 provide services, or the owner.

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

23 (h) Annually administer or make provisions for  
24 scholarship students to take one of the nationally  
25 norm-referenced tests identified by the State Board of  
26 Education under subsection (8). An eligible private school  
27 must report a student's scores to the parent and to the  
28 Department of Education.

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

31

1           (j) Timely notify in writing the Department of  
2 Education and the eligible nonprofit scholarship-funding  
3 organization if a qualified student is ineligible to  
4 participate in the scholarship program.

5           (k) Report annually to the Department of Education and  
6 the scholarship applicants of the eligible private school if  
7 the eligible private school has been in existence for 3 years  
8 or less.

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

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

15           2. The name of the accrediting association that  
16 accredits the eligible private school; and

17           3. Whether the eligible private school is in the  
18 process of receiving candidate status.

19  
20 The Department of Education shall make the annual list of  
21 accredited and nonaccredited eligible private schools  
22 available to the public and shall make that list available by  
23 county.

24           (m) Comply with this section's requirements. An  
25 eligible private school that fails to comply with this section  
26 is ineligible to participate in the scholarship program under  
27 this section.

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

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

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

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

20           (d) Annually verify the eligibility of students that  
21 meet the requirements of this section. The Department of  
22 Education must maintain a database of students participating  
23 in the program. The Department of Education must, at least  
24 quarterly, update its database to ensure that a student  
25 continues to meet the requirements of this section. The  
26 Department of Education must timely notify an eligible  
27 nonprofit scholarship-funding organization of any student that  
28 fails to meet the requirements of this section.

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

31

1           (f) Annually review all audit reports of eligible  
2 nonprofit scholarship-funding organizations for compliance  
3 with this section.

4           (g) Annually submit, administer, and retain records of  
5 affidavits from private schools certifying compliance with  
6 this section.

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

21           (i) The Department of Education shall conduct an  
22 investigation of any written complaint of a violation of this  
23 section if the complaint is signed by the complainant and is  
24 legally sufficient. A complaint is legally sufficient if it  
25 contains ultimate facts that show that a violation of this  
26 section or any rule adopted by the State Board of Education  
27 has occurred. In order to determine legal sufficiency, the  
28 Department of Education may require supporting information or  
29 documentation. The Department of Education may investigate any  
30 complaint, including, but not limited to, anonymous  
31 complaints.



1           (j) Revoke the eligibility of a nonprofit  
2 scholarship-funding organization, private school, or student  
3 to participate in the program for noncompliance with this  
4 section.

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

14           ~~(9)(7)~~ ADMINISTRATION; RULES.--

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

31

1 (b) An application for a tax credit pursuant to this  
2 section shall be submitted to the Department of Revenue on  
3 forms established by rule of the Department of Revenue.

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

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

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

24 1. Determining necessary to determine eligibility of  
25 nonprofit scholarship-funding organizations and private  
26 schools;

27 2. Identifying as defined in paragraph (2)(d) and  
28 according to the provisions of subsection (4) and identify  
29 qualified students; as defined in paragraph (2)(c).

30 3. Requiring documentation to establish eligibility  
31 for nonprofit scholarship-funding organizations;

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

4           5. Requiring independent income-verification  
5 documentation to establish student eligibility under this  
6 section.

7           (f) The State Board of Education may delegate its  
8 authority under this section to the Commissioner of Education  
9 with the exception of rulemaking authority.

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

14           Section 5. This act shall take effect upon becoming a  
15 law.

16  
17           STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
18           COMMITTEE SUBSTITUTE FOR  
19           Senate Bill 2

20 The committee substitute makes the following changes:

21 -Provides for the eligibility of students from the Florida  
22 School for the Deaf and the Blind for McKay Scholarships, the  
23 method for calculating the scholarship amount, and the  
24 reporting requirements for school districts.

25 -Allows current scholarship students to continue participating  
26 in the Corporate Tax Credit Scholarship Program if parental  
27 income does not exceed 200 percent of the federal poverty  
28 level.

29 -Requires fingerprint search fees to be paid to the Department  
30 of Education rather than the Florida Department of Law  
31 Enforcement.

-Requires a law enforcement agency to take a private school  
owner's fingerprints.

-Delays the date for searching and retaining the fingerprints  
of personnel in Scholarship Funding Organizations and private  
schools participating in the scholarship programs.

-Makes technical and conforming changes.