

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

1 directing scholarship funds to parents of a
2 scholarship student who receives instruction at
3 home; prohibiting a participating school from
4 being a private tutoring program or a
5 correspondence or distance learning school;
6 prohibiting a participating school from
7 accepting students pending verification of
8 information; authorizing a participating
9 private school to request, and the department
10 to grant, closed-enrollment status for a
11 school; prohibiting the parent of a scholarship
12 student from designating a participating
13 private school as the parent's attorney in fact
14 to sign a scholarship warrant; clarifying that
15 the school district must report to the
16 department the students who are attending a
17 private school under the program; establishing
18 additional obligations of the Department of
19 Education; requiring the department to review,
20 approve, and verify information and review
21 background checks; requiring the department to
22 determine the eligibility of a private school
23 to 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; eliminating the
28 \$5-million cap on contributions to any single
29 eligible nonprofit scholarship-funding
30 organization; prohibiting certain private
31 schools and other entities from participating

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

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

1 with scholarship program requirements to the
2 Department of Education; prohibiting provision
3 of scholarship funds to a student to attend a
4 private school not in compliance; authorizing a
5 parent to transfer the scholarship; requiring
6 award of scholarships on a first-come,
7 first-served basis; prohibiting a nonprofit
8 scholarship-funding organization from targeting
9 certain students for scholarships; prohibiting
10 the award of scholarships to a child of an
11 owner of a nonprofit scholarship-funding
12 organization; prohibiting the transfer of an
13 eligible contribution between nonprofit
14 scholarship-funding organizations; prohibiting
15 a nonprofit scholarship-funding organization
16 from securing financing in anticipation of
17 eligible contributions; prohibiting a nonprofit
18 scholarship-funding organization from
19 participating in the program if the
20 organization fails to meet statutory
21 obligations; requiring students to meet certain
22 attendance policies; requiring parents to meet
23 certain parental involvement requirements
24 unless excused; prohibiting a parent from
25 authorizing a power of attorney for endorsement
26 of scholarship warrant; requiring a parent to
27 ensure that a scholarship student participates
28 in testing requirements; prohibiting a student
29 or parent of a student from participating in
30 the scholarship program if the student or
31 parent fails to meet statutory obligations;

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

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

1 eligibility of students; requiring the
2 Department of Education to maintain a student
3 database of program participants and to update
4 the database at least quarterly; requiring the
5 Department of Education to notify a nonprofit
6 scholarship-funding organization of any
7 ineligible student; requiring the Department of
8 Education to annually account for and verify
9 the eligibility of program expenditures;
10 requiring the Department of Education to review
11 audits; requiring the Department of Education
12 to report student performance data; providing
13 limitations on reporting; requiring the
14 Department of Education to revoke the
15 eligibility of program participants for failure
16 to comply with statutory obligations; requiring
17 the Department of Education to conduct
18 investigations of certain complaints; requiring
19 the Department of Education to annually report
20 on accountability activities; requiring the
21 State Board of Education to adopt rules
22 regarding documentation to establish
23 eligibility of nonprofit scholarship-funding
24 organizations, requiring an affidavit, and
25 requiring independent income verification for
26 determining the eligibility of students;
27 authorizing the State Board of Education to
28 delegate its authority to the Commissioner of
29 Education with the exception of rulemaking
30 authority; providing that a secular private
31 school may continue its participation in the

1 scholarship program even if the act is found to
2 violate the State Constitution; providing an
3 effective date.
4

5 Be It Enacted by the Legislature of the State of Florida:
6

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

13 1002.39 The John M. McKay Scholarships for Students
14 with Disabilities Program.--There is established a program
15 that is separate and distinct from the Opportunity Scholarship
16 Program and is named the John M. McKay Scholarships for
17 Students with Disabilities Program, pursuant to this section.

18 (1) THE JOHN M. MCKAY SCHOLARSHIPS FOR STUDENTS WITH
19 DISABILITIES PROGRAM.--The John M. McKay Scholarships for
20 Students with Disabilities Program is established to provide
21 the option to attend a public school other than the one to
22 which assigned, or to provide a scholarship to a private
23 school of choice, for students with disabilities for whom an
24 individual education plan has been written in accordance with
25 rules of the State Board of Education. Students with
26 disabilities include K-12 students who are documented as
27 having mental retardation; a speech or language impairment; a
28 hearing impairment, including deafness; a visual impairment,
29 including blindness; a dual sensory impairment; a physical
30 impairment; a serious emotional disturbance, including an
31 emotional handicap; a specific learning disability, including,

1 but not limited to, dyslexia, dyscalculia, or developmental
2 aphasia; a traumatic brain injury; or autism ~~mentally~~
3 ~~handicapped, speech and language impaired, deaf or hard of~~
4 ~~hearing, visually impaired, dual sensory impaired, physically~~
5 ~~impaired, emotionally handicapped, specific learning disabled,~~
6 ~~hospitalized or homebound, or autistic.~~

7 (2) SCHOLARSHIP ELIGIBILITY; PROHIBITIONS.--

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

13 1.(a) By assigned school attendance area or by special
14 assignment, the student has spent the prior school year in
15 attendance at a Florida public school or the Florida School
16 for the Deaf and the Blind. Prior school year in attendance
17 means that the student was:

18 a. Enrolled and reported by a school district for
19 funding during the preceding October and February Florida
20 Education Finance Program surveys in kindergarten through
21 grade 12; ~~or-~~

22 b. Enrolled and reported by the Florida School for the
23 Deaf and the Blind during the preceding October and February
24 student membership surveys in kindergarten through grade 12.
25 Prior school year in attendance does not include the period of
26 time that the student was enrolled in a school operating for
27 the purposes of providing educational services to youth in a
28 commitment program of the Department of Juvenile Justice.

29 However, this ~~subparagraph~~ ~~paragraph~~ does not apply to a
30 dependent child of a member of the United States Armed Forces
31 who transfers to a school in this state from out of state or

1 | from a foreign country pursuant to a parent's permanent change
2 | of station orders. A dependent child of a member of the United
3 | States Armed Forces who transfers to a school in this state
4 | from out of state or from a foreign country pursuant to a
5 | parent's permanent change of station orders must meet all
6 | other eligibility requirements to participate in the program.

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

19 |
20 | ~~This section does not apply to a student who is enrolled in a~~
21 | ~~school operating for the purpose of providing educational~~
22 | ~~services to youth in Department of Juvenile Justice commitment~~
23 | ~~programs.~~ For purposes of continuity of educational choice,
24 | the scholarship shall remain in force until the student
25 | returns to a public school or graduates from high school or
26 | reaches the age of 22, whichever occurs first. However, at any
27 | time, the student's parent may remove the student from the
28 | private school and place the student in another private school
29 | that is eligible for the program under subsection (4) or in a
30 | public school as provided in subsection (3).

31 |

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

3 1. Receives a scholarship from an eligible
4 scholarship-funding organization under s. 220.187.

5 2. Receives an opportunity scholarship under s.
6 1002.38.

7 3. Participates in a home education program as defined
8 in s. 1002.01(1).

9 4. Receives instruction from a correspondence school
10 or a private tutoring program as described in s. 1002.43, or
11 participates in distance learning courses.

12 5. Does not have regular and direct contact with his
13 or her private school teachers at the school's physical
14 location.

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

18
19 Notwithstanding the prohibition set forth in subparagraph 4.,
20 a student who receives a John M. McKay Scholarship may
21 participate in a distance learning course, a private tutoring
22 program, or a course offered by a correspondence school, the
23 tuition and other costs of which are not paid by scholarship
24 funds provided under this section.

25 (3) SCHOOL DISTRICT AND DEPARTMENT OF EDUCATION
26 OBLIGATIONS.--

27 (a) The Department of Education ~~A school district~~
28 shall timely notify the parent of each public school ~~the~~
29 student of all options available pursuant to this section and
30 offer that student's parent an opportunity to enroll the
31 student in another public school within the district. The

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

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

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

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

1 (I) Correct a technical, typographical, or calculation
2 error; or

3 (II) Align the matrix of services with the student's
4 individual education plan completed by the public school
5 district for use in the public school prior to the student
6 enrolling in or attending a private school.

7 3. The Department of Education shall notify the
8 private school of the amount of the scholarship within 10 days
9 after receiving the school district's notification of the
10 student's matrix level.

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

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

25 (d) The parent of a student may choose, as an
26 alternative, to enroll the student in and transport the
27 student to a public school in an adjacent school district
28 which has available space and has a program with the services
29 agreed to in the student's individual education plan already
30 in place, and that school district shall accept the student
31 and report the student to the Department of Education for

1 purposes of the district's funding pursuant to the Florida
2 Education Finance Program.

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

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

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

18 (4) PRIVATE SCHOOL ELIGIBILITY; REGISTRATION;
19 PROHIBITIONS.--

20 (a) To be eligible to participate in the John M. McKay
21 Scholarships for Students with Disabilities Program, a private
22 school must be a Florida private school as defined in s.
23 1002.01(2), may be sectarian or nonsectarian, and must:

24 1.(a) Demonstrate fiscal soundness by being in
25 operation for at least 3 school years or obtaining a surety
26 bond or letter of credit for the amount equal to the
27 scholarship funds for any quarter and filing the surety bond
28 or letter of credit with ~~1 school year or provide the~~
29 Department of Education.
30
31

1 2. Annually register with the Department of Education.
2 Each owner or administrator of a private school must provide
3 the following information:
4 a. The legal business and trade name, mailing address,
5 and business location of the private school;
6 b. The full name, address, and telephone number of
7 each owner or administrator of the private school; and
8 c. A notification of the private school's intent to
9 participate in the program under this section. The notice must
10 specify the grade levels and services that the private school
11 has available for students with disabilities who are
12 participating in the scholarship program. with a statement by
13 a certified public accountant confirming that the private
14 school desiring to participate is insured and the owner or
15 owners have sufficient capital or credit to operate the school
16 for the upcoming year serving the number of students
17 anticipated with expected revenues from tuition and other
18 sources that may be reasonably expected. In lieu of such a
19 statement, a surety bond or letter of credit for the amount
20 equal to the scholarship funds for any quarter may be filed
21 with the department.
22 ~~(b) Notify the Department of Education of its intent~~
23 ~~to participate in the program under this section. The notice~~
24 ~~must specify the grade levels and services that the private~~
25 ~~school has available for students with disabilities who are~~
26 ~~participating in the scholarship program.~~
27 3.(c) Comply with the antidiscrimination provisions of
28 42 U.S.C. s. 2000d.
29 4.(d) Meet state and local health and safety laws and
30 codes.
31

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

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

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

11 ~~8.(h)~~ Publish and adhere to the tenets of its adopted
12 ~~published~~ disciplinary procedures prior to the expulsion of a
13 scholarship student.

14 9. Provide the Department of Education with all
15 documentation required for each scholarship student's
16 participation in the scholarship program, including, but not
17 limited to:

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

23 b. The enrollment and attendance information,
24 including an on-line attendance verification form, for each
25 scholarship student at the private school, prior to each
26 scholarship payment.

27
28 The on-line attendance form must be documented each quarter by
29 a notarized statement that is signed by the private school and
30 the parents of each McKay Scholarship student in attendance at
31 the private school. The private school must maintain the

1 completed notarized statements at the private school for each
2 academic year. The completed notarized statements must be open
3 to the Department of Education upon request.

4 10. Maintain in this state a physical location where a
5 scholarship student regularly attends classes.

6 11.a. Advertise or notify potential McKay Scholarship
7 students and parents of the specific types of disabilities
8 served by the school, and provide this information to the
9 Department of Education.

10 b. Review with the parent the student's individual
11 education plan.

12 12. Require each McKay Scholarship student to
13 participate at least annually in a student assessment which,
14 as determined by the private school in consultation with the
15 student's parent or guardian, will demonstrate the student's
16 skill level to the student's parents.

17 13. Notify the student's parent at least annually
18 about the student's skill level on a student assessment that
19 is determined by the private school.

20 14. Notify the Department of Education of any change
21 in the school's registered name or location prior to any such
22 change and notify the Department of Education within 15 days
23 after any other change in the registration information
24 submitted to the department.

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

29 16. Annually complete and file with the Department of
30 Education a sworn and notarized compliance statement in a form
31

1 and by a deadline specified in rules adopted by the State
2 Board of Education.

3 17. Accept scholarship students on a religion-neutral
4 basis. A private school may not discriminate against a
5 student on the basis of the religion of the student, the
6 parent, or the private school.

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

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

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

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

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

30 4. If it is found that a person described in this
31 paragraph does not meet the level 2 requirements, the eligible

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

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

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

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

17 3. Be a correspondence school or distance learning
18 school.

19 4. Operate as a private tutoring program as defined in
20 s. 1002.43.

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

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

1 However, the private school is subject to all the requirements
2 under this section and all applicable rules adopted by the
3 State Board of Education if the private school is serving a
4 student with a McKay Scholarship. The private school must
5 provide a written request for closed-enrollment status to the
6 Department of Education. The Department of Education may grant
7 closed-enrollment status to a participating private school.
8 However, closed-enrollment status may not be granted for
9 longer than 1 school year.

10 (5) OBLIGATION OF PROGRAM PARTICIPANTS.--

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

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

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

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

27 (e) If the parent requests that the student
28 participating in the scholarship program take all statewide
29 assessments required pursuant to s. 1008.22, the parent is
30 responsible for transporting the student to the assessment
31 site designated by the school district.

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

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

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

11 (6) SCHOLARSHIP FUNDING AND PAYMENT.--

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

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

1 amount shall include the per-student share of supplemental
2 academic instruction funds, instructional materials funds,
3 technology funds, and other categorical funds as provided for
4 such purposes in the General Appropriations Act.

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

11 ~~4.3-~~ Until the school district completes the matrix
12 required by paragraph (3)(b), the calculation shall be based
13 on the matrix that assigns the student to support level I of
14 service as it existed prior to the 2000-2001 school year.
15 When the school district completes the matrix, the amount of
16 the payment shall be adjusted as needed.

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

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

28 a. Report to the Department of Education all such
29 students who are attending a private school under this
30 program; and
31

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

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

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

25 (a) The Department of Education shall perform the
26 following duties:

27 1. Review for compliance all documentation required
28 for each scholarship student's participation, including,
29 without limitation, the private school's schedule and the
30 student's fee schedule.

31

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

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

7 a. Receiving a scholarship under s. 220.187 or s.
8 1002.38.

9 b. Participating in a home education program as
10 defined in s. 1002.01(1).

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

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

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

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

24 5. Review all results of the background checks
25 performed pursuant to subsection (4). The department shall
26 establish a record of all requests for background screening
27 and timely provide to the owner of the private school the
28 qualifying or disqualifying status of the employee or
29 applicant.

30 6. Determine the eligibility of a private school to
31 accept McKay Scholarship students, based upon independent

1 verification that the private school meets all the

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

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

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

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

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

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

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

1 private school. The Department of Education shall issue an
2 emergency order to immediately revoke the registration of a
3 participating private school for a violation that is not a
4 minor violation as defined in s. 120.695.

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

8 1. Receives a scholarship under s. 220.187 or s.
9 1002.38.

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

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

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

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

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

1 complaint, including, but not limited to, anonymous
2 complaints.

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

8 1. A correction to a technical, typographical, or
9 calculation error; or

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

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

18 (8) OBLIGATIONS OF THE AUDITOR

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

1 ~~(9)(7)~~ LIABILITY.--No liability shall arise on the
2 part of the state based on the award or use of a John M. McKay
3 Scholarship.

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

20 ~~(a) Administering the annual sworn and notarized~~
21 compliance statement to all participating private schools;

22 ~~(b) Establishing procedures for schools to request~~
23 closed-enrollment and active status;

24 ~~(c) Establishing forms for changes to a matrix by a~~
25 school district and the department;

26 ~~(d) Implementing the requirement that a private school~~
27 timely notify the Department of Education of material changes
28 to the school's registration information;

29 ~~(e) Establishing attendance-verification procedures~~
30 and forms; and
31

1 (f) Establishing procedures for determining student
2 eligibility and approving scholarships.

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

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

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

28 (a) The private school is participating in the Mckay
29 Scholarship Program under section 1002.39, Florida Statutes;
30 and

31

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

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

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

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

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

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

24 Section 4. Section 220.187, Florida Statutes, is
25 amended to read:

26 220.187 Credits for contributions to nonprofit
27 scholarship-funding organizations.--

28 (1) This section may be cited as the "Corporate
29 Scholarship Program."

30 (2)(1) PURPOSE.--The purpose of this section is to:
31

1 (a) Encourage private, voluntary contributions to
2 nonprofit scholarship-funding organizations.

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

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

7 ~~(3)(2)~~ DEFINITIONS.--As used in this section, the
8 term:

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

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

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

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

25 2. May not be a correspondence school or distance
26 learning school.

27 3. May not direct or provide scholarship funds to a
28 parent of a scholarship student who receives instruction under
29 the program at home.

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

1 5. May not be a private tutoring program as described
2 in s. 1002.43.

3 ~~(c)(d)~~ "Eligible nonprofit scholarship-funding
4 organization" means a charitable organization that is exempt
5 from federal income tax pursuant to s. 501(c)(3) of the
6 Internal Revenue Code, is incorporated under laws of this
7 state, has its principal office located in the state, and that
8 complies with the provisions of subsection(5)(4).

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

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

21 1. Was counted as a full-time equivalent student
22 during the previous state fiscal year for purposes of state
23 per-student funding;

24 2. Received a scholarship from an eligible nonprofit
25 scholarship-funding organization during the previous school
26 year; or

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

28
29 A student may continue in the scholarship program as long as
30 the family income level does not exceed 200 percent of the
31 federal poverty level. A student who was enrolled in a school

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

16 ~~(4)(3)~~ AUTHORIZATION TO GRANT SCHOLARSHIP FUNDING TAX
17 CREDITS; LIMITATIONS ON INDIVIDUAL AND TOTAL CREDITS.--

18 (a) There is allowed a credit of 100 percent of an
19 eligible contribution against any tax due for a taxable year
20 under this chapter. However, such a credit may not exceed 75
21 percent of the tax due under this chapter for the taxable
22 year, after the application of any other allowable credits by
23 the taxpayer. ~~However, at least 5 percent of the total~~
24 ~~statewide amount authorized for the tax credit shall be~~
25 ~~reserved for taxpayers who meet the definition of a small~~
26 ~~business provided in s. 288.703(1) at the time of application.~~
27 The credit granted by this section shall be reduced by the
28 difference between the amount of federal corporate income tax
29 taking into account the credit granted by this section and the
30 amount of federal corporate income tax without application of
31 the credit granted by this section.

1 (b) The total amount of tax credits and carryforward
2 of tax credits which may be granted each state fiscal year
3 under this section is \$88 million. Effective for tax years
4 beginning January 1, 2005, 1 percent of the total statewide
5 amount authorized for the tax credit must be reserved for
6 taxpayers that are small businesses as defined in s.
7 288.703(1) at the time of application.

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

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

30 ~~(5)(4)~~ OBLIGATIONS OF ELIGIBLE NONPROFIT
31 SCHOLARSHIP-FUNDING ORGANIZATIONS.--

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
5 obligate, in the same fiscal year in which the contribution
6 was received, spend 100 percent of the eligible contribution
7 to provide scholarships in ~~that~~ ~~the~~ same or immediately
8 following state fiscal year ~~in which the contribution was~~
9 ~~received~~. No portion of eligible contributions may be used for
10 administrative expenses. All interest accrued from
11 contributions must be used for scholarships.

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

1 should be subject to further state action, the committee shall
2 notify the Department of Education, which shall terminate the
3 eligibility of the eligible nonprofit scholarship-funding
4 organization to participate in the program under this section.

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

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

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

30 (j) An eligible nonprofit scholarship-funding
31 organization must verify the income of all scholarship

1 applicants participating in the program at least once each
2 school year through independent income documentation as
3 provided in rules of the State Board of Education.

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

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

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 being in operation
23 for at least 3 school years or obtaining a surety bond or
24 letter of credit for the amount equal to the scholarship funds
25 for any quarter and filing the surety bond or letter of credit
26 with one school year or provide the Department of Education.
27 ~~with a statement by a certified public accountant confirming~~
28 ~~that the nonpublic school desiring to participate is insured~~
29 ~~and the owner or owners have sufficient capital or credit to~~
30 ~~operate the school for the upcoming year serving the number of~~
31 ~~students anticipated with expected revenues from tuition and~~

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

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

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

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

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

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

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

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

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

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

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

31

1 employee, the person engaged to provide services, or the
2 owner.

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

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 the
10 fingerprints of a person described in this paragraph shall be
11 reported to the Department of Education. Each eligible private
12 school shall participate in this search process by paying an
13 annual fee to the Department of Education and by informing the
14 Department of Law Enforcement of any change in the status or
15 place of employment or engagement of services of its personnel
16 as described in this paragraph whose fingerprints are retained
17 under subparagraph 2. The Department of Law Enforcement shall
18 adopt a rule setting the amount of the annual fee to be
19 imposed upon each eligible private school for performing these
20 searches and establishing the procedures for the retention of
21 eligible private school personnel fingerprints and the
22 dissemination of search results. The fee may be borne by the
23 eligible private school, the employee, the person engaged to
24 provide services, or the owner.

25 4. If it is found that a person described in this
26 paragraph does not meet the level 2 requirements, the eligible
27 private school shall be immediately suspended from
28 participating in the program and shall remain suspended until
29 final resolution of any appeals. An eligible private school
30 that employs or engages to provide services with a person
31 described in this paragraph who fails to meet level 2

1 screening standards or has been convicted of a crime involving
2 moral turpitude may not participate in this program.

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

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

11 (j) Timely notify in writing the Department of
12 Education and the eligible nonprofit scholarship-funding
13 organization if a qualified student is ineligible to
14 participate in the scholarship program.

15 (k) Report annually to the Department of Education and
16 the scholarship applicants of the eligible private school if
17 the eligible private school has been in existence for 3 years
18 or less.

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

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

25 2. The name of the accrediting association that
26 accredits the eligible private school; and

27 3. Whether the eligible private school is in the
28 process of receiving candidate status.

29
30 The Department of Education shall make the annual list of
31 accredited and nonaccredited eligible private schools

1 available to the public and shall make that list available by
2 county.

3 (m) Comply with this section's requirements. An
4 eligible private school that fails to comply with this section
5 is ineligible to participate in the scholarship program under
6 this section.

7 (n) Accept scholarship students on a religious-neutral
8 basis. A private school may not discriminate against a student
9 on the basis of the religion of the student, the parent, or
10 the private school.

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

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

16 (b) Annually determine the eligibility of nonprofit
17 scholarship-funding organizations that meet the requirements
18 of this section. The Department of Education must determine
19 the eligibility of the nonprofit scholarship-funding
20 organization within 90 days after the nonprofit
21 scholarship-funding organization's application for approval to
22 participate in the program. The Department of Education must
23 provide written notice of approval or denial to participate in
24 the program to the nonprofit scholarship-funding organization.
25 The notice must contain the specific reasons for approval or
26 denial.

27 (c) Annually determine the eligibility of private
28 schools that meet the requirements of this section. The
29 Department of Education must maintain a list of eligible
30 private schools, and that list must be made accessible to the
31 public.

1 (d) Annually verify the eligibility of students that
2 meet the requirements of this section. The Department of
3 Education must maintain a database of students participating
4 in the program. The Department of Education must, at least
5 quarterly, update its database to ensure that a student
6 continues to meet the requirements of this section. The
7 Department of Education must timely notify an eligible
8 nonprofit scholarship-funding organization of any student that
9 fails to meet the requirements of this section.

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

12 (f) Annually review all audit reports of eligible
13 nonprofit scholarship-funding organizations for compliance
14 with this section.

15 (g) Annually submit, administer, and retain records of
16 affidavits from private schools certifying compliance with
17 this section.

18 (h) Identify and select the nationally norm-referenced
19 tests that are comparable to the norm-referenced provisions of
20 the Florida Comprehensive Assessment Test. The State Board of
21 Education may not identify more than three norm-referenced
22 tests for use in meeting the requirements of this section. The
23 State Board of Education may select the Florida Comprehensive
24 Assessment Test for use in meeting the requirements of this
25 section. The Department of Education must report annually on
26 the year-to-year improvements of the qualified students and
27 must analyze and report student performance data, including
28 student scores by grade level, in a manner that protects the
29 rights of students and parents as mandated in 20 U.S.C. s.
30 1232g and must not disaggregate data to a level that will
31 disclose the identity of students.

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

12 (j) Revoke the eligibility of a nonprofit
13 scholarship-funding organization, private school, or student
14 to participate in the program for noncompliance with this
15 section.

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

25 (l) Establish a record of all requests for background
26 screening pursuant to subsections (5) and (7) and timely
27 provide to the nonprofit scholarship-funding organization and
28 the owner of the eligible private school the qualifying or
29 disqualifying status of the employee or applicant.

30 (9)(7) ADMINISTRATION; RULES.--
31

1 (a) If the credit granted pursuant to this section is
2 not fully used in any one year because of insufficient tax
3 liability on the part of the corporation, the unused amount
4 may be carried forward for a period not to exceed 3 years;
5 however, any taxpayer that seeks to carry forward an unused
6 amount of tax credit must submit an application for allocation
7 of tax credits or carryforward credits as required in
8 paragraph (d) in the year that the taxpayer intends to use the
9 carryforward. The total amount of tax credits and carryforward
10 of tax credits granted each state fiscal year under this
11 section is \$88 million. This carryforward applies to all
12 approved contributions made after January 1, 2002. A taxpayer
13 may not convey, assign, or transfer the credit authorized by
14 this section to another entity unless all of the assets of the
15 taxpayer are conveyed, assigned, or transferred in the same
16 transaction.

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

20 (c) The Department of Revenue and the Department of
21 Education shall develop a cooperative agreement to assist in
22 the administration of this section. ~~The Department of~~
23 ~~Education shall be responsible for annually submitting, by~~
24 ~~March 15, to the department a list of eligible nonprofit~~
25 ~~scholarship funding organizations that meet the requirements~~
26 ~~of paragraph (2)(d) and for monitoring eligibility of~~
27 ~~nonprofit scholarship funding organizations that meet the~~
28 ~~requirements of paragraph (2)(d), eligibility of nonpublic~~
29 ~~schools that meet the requirements of paragraph (2)(c), and~~
30 ~~eligibility of expenditures under this section as provided in~~
31 ~~subsection (4).~~

1 (d) The Department of Revenue shall adopt rules
2 necessary to administer this section, including rules
3 establishing application forms and procedures and governing
4 the allocation of tax credits and carryforward credits under
5 this section on a first-come, first-served basis.

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

9 1. Determining necessary to determine eligibility of
10 nonprofit scholarship-funding organizations and private
11 schools;

12 2. Identifying as defined in paragraph (2)(d) and
13 according to the provisions of subsection (4) and identify
14 qualified students; as defined in paragraph (2)(e).

15 3. Requiring documentation to establish eligibility
16 for nonprofit scholarship-funding organizations;

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

20 5. Requiring independent income-verification
21 documentation to establish student eligibility under this
22 section.

23 (f) The State Board of Education may delegate its
24 authority under this section to the Commissioner of Education
25 with the exception of rulemaking authority.

26 ~~(10)(8)~~ DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--All
27 eligible contributions received by an eligible nonprofit
28 scholarship-funding organization shall be deposited in a
29 manner consistent with s. 17.57(2).

30 Section 5. If section 1002.39, Florida Statutes, the
31 John M. McKay Scholarships for Students with Disabilities

1 Program, is found to violate Section 3 of Article I, of the
2 State Constitution, a nonsectarian private school may continue
3 to participate in the program.

4 Section 6. This act shall take effect upon becoming a
5 law.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 CS/SB 2

4 The committee substitute for committee substitute for SB 2
5 makes the following changes:

- 6 1) It requires that private schools participating in the
7 McKay Scholarship Program or the Corporate Scholarship
8 Program (CSP) demonstrate fiscal soundness by being in
9 operation for at least 3 school years or obtaining a
surety bond or letter of credit for the amount equal to
the scholarship funds for any quarter and filing the
surety bond or letter of credit with the Department of
Education;
- 10 2) Requires private schools operating in these programs to
11 accept scholarship students on a religious-neutral basis;
- 12 3) Requires the Department of Education to establish a
13 record of all requests for background screening and
14 timely provide the owner of a private school the
15 qualifying or disqualifying status of the employee or
16 applicant;
- 17 4) Clarifies the purpose of random site visits of schools
18 participating in the McKay Scholarship Program by the
19 Auditor General;
- 20 5) Removes the \$5 million limit on the amount of
21 contribution a taxpayer may make to a single scholarship
22 funding organization;
- 23 6) Provides the same teacher qualification requirements for
24 private schools participating in the CSP as for those in
25 the McKay Scholarship Program;
- 26 7) Allows a taxpayer to rescind its application for a credit
27 under the CSP even if a contribution has already been
made.
- 28 8) Allows a scholarship funding organization to obligate,
29 rather than spend, 100 percent of the eligible
30 contributions it receives in a state fiscal year. The
31 contribution must be obligated to provide scholarships in
that year or the next one.
- 10) Provides that if the McKay Scholarship Program is found
to violate Section 3 of Article I of the State
Constitution, a nonsectarian private school may continue
to participate in the program.