

By the Committees on Education Appropriations; Government Efficiency Appropriations; Education; and Senators King and Bullard

602-2358-05

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

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. 943.0542,
21 F.S.; requiring the Department of Education to
22 verify the background screening information
23 provided by the private school; providing for
24 the Department of Law Enforcement to retain and
25 search fingerprint records; providing for an
26 annual fee as provided by rule of the
27 Department of Law Enforcement; requiring that
28 costs of background checks to be borne by
29 certain parties; requiring the Department of
30 Law Enforcement to provide the Department of
31 Education with information related to

1 background screening; prohibiting a private
2 school from acting as an attorney in fact for
3 the parent of a scholarship student or
4 endorsing scholarship warrants on behalf of a
5 parent; prohibiting participating private
6 schools from sending or directing scholarship
7 funds to parents of a scholarship student who
8 receives instruction at home; prohibiting a
9 participating school from being a private
10 tutoring program or a correspondence or
11 distance learning school; requiring a private
12 school that is subject to enforcement action by
13 the department for certain violations to file
14 certain surety bonds and, pending compliance
15 with certain laws, cease accepting new
16 scholarship students; prohibiting a
17 participating school from accepting students
18 pending verification of information;
19 authorizing a participating private school to
20 request, and the department to grant,
21 closed-enrollment status for a school;
22 requiring a private school that is subject to
23 enforcement action by the department for
24 certain violations to file certain surety bonds
25 and, pending compliance with certain laws,
26 cease accepting new scholarship students;
27 prohibiting the parent of a scholarship student
28 from designating a participating private school
29 as the parent's attorney in fact to sign a
30 scholarship warrant; clarifying that the school
31 district must report to the department the

1 students who are attending a private school
2 under the program; establishing additional
3 obligations of the Department of Education;
4 requiring the department to review, approve,
5 and verify information; requiring the
6 department to determine the eligibility of a
7 private school to participate in the program;
8 requiring the department to publish an on-line
9 list of current eligible private schools;
10 requiring the department to deny or refuse to
11 allow the participation of a private school for
12 failing to meet certain requirements; requiring
13 the department to issue a notice of
14 noncompliance for minor violations; providing
15 for an emergency order revoking the
16 registration of a private school for failing to
17 satisfy the requirements in the notice;
18 requiring the Department of Education to
19 immediately revoke the registration of a
20 private school for certain other violations;
21 requiring the department to revoke the
22 scholarship for a participant for failing to
23 comply with statutory requirements or for
24 engaging in specified practices; requiring the
25 department to conduct investigations of legally
26 sufficient complaints of violations;
27 authorizing the department to require
28 supporting information or documentation;
29 authorizing the Department of Education to
30 change the matrix of services under certain
31 circumstances; providing for audits by the

1 Auditor General; providing requirements for the
2 audits; requiring the State Board of Education
3 to adopt rules; specifying the required rules;
4 amending s. 220.187, F.S., relating to the
5 Corporate Tax Credit Scholarship Program;
6 providing a short title; providing definitions;
7 eliminating the \$5-million cap on contributions
8 to any single eligible nonprofit
9 scholarship-funding organization; prohibiting
10 certain private schools and other entities from
11 participating in the scholarship program;
12 authorizing students whose family income level
13 meets certain federal poverty level criteria to
14 continue to participate in the scholarship
15 program; prohibiting certain students from
16 participating in the scholarship program;
17 revising limitations on the allocation of
18 annual credits granted under the program;
19 providing limitations on eligible
20 contributions; requiring scholarship-funding
21 organizations to obligate all of the
22 contributions subject to certain conditions;
23 requiring the Auditor General to review certain
24 audits, request certain information, and report
25 to the Legislative Auditing Committee any
26 findings of noncompliance; authorizing the
27 Legislative Auditing Committee to conduct
28 hearings and compel the Department of Education
29 to revoke eligibility of certain nonprofit
30 scholarship-funding organizations; providing
31 for audit reports to be submitted to the

1 Department of Education; requiring audits be
2 conducted within 180 days after completion of
3 the nonprofit scholarship-funding
4 organization's fiscal year; requiring a
5 nonprofit scholarship-funding organization to
6 make scholarship payments at least on a
7 quarterly basis; prohibiting commingling of
8 certain scholarship funds; requiring a
9 nonprofit scholarship-funding organization to
10 maintain a separate account for scholarship
11 funds; requiring a nonprofit
12 scholarship-funding organization to verify
13 student attendance at a private school prior to
14 submission of scholarship funds; requiring a
15 nonprofit scholarship-funding organization to
16 verify income eligibility of qualified students
17 at least once a year in accordance with State
18 Board of Education rules; requiring a nonprofit
19 scholarship-funding organization to submit
20 certain reports to the Department of Education;
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
29 the Department of Education to verify the
30 background screening information provided by
31 the eligible nonprofit scholarship-funding

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

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

1 requiring a private school to report to the
2 Department of Education the qualifications of
3 teachers; requiring a private school to
4 annually register with the Department of
5 Education and provide certain information
6 concerning the private school organization,
7 student list, and notice of intent to
8 participate in the scholarship program;
9 requiring certain individuals to undergo level
10 2 background screening requirements pursuant to
11 s. 435.04, F.S.; providing for the Department
12 of Law Enforcement to retain and search
13 fingerprint records; providing for an annual
14 fee as provided by rule of the Department of
15 Law Enforcement; requiring that costs of
16 background checks be borne by certain parties;
17 requiring the Department of Law Enforcement to
18 provide the Department of Education with
19 information related to background screening;
20 requiring a private school to administer or to
21 make provision for administering certain tests
22 to scholarship students; requiring reporting of
23 scores to the student's parent and to the
24 public university that was selected to analyze
25 and report certain data; requiring a private
26 school to cooperate with a scholarship student
27 whose parent chooses to participate in certain
28 assessments; requiring a private school to file
29 an affidavit; requiring a private school to
30 notify the Department of Education in writing
31 within 7 days if a student is ineligible to

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

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

1 violate the State Constitution; providing an
2 effective date.

3
4 Be It Enacted by the Legislature of the State of Florida:

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

12 1002.39 The John M. McKay Scholarships for Students
13 with Disabilities Program.--There is established a program
14 that is separate and distinct from the Opportunity Scholarship
15 Program and is named the John M. McKay Scholarships for
16 Students with Disabilities Program, pursuant to this section.

17 (1) THE JOHN M. MCKAY SCHOLARSHIPS FOR STUDENTS WITH
18 DISABILITIES PROGRAM.--The John M. McKay Scholarships for
19 Students with Disabilities Program is established to provide
20 the option to attend a public school other than the one to
21 which assigned, or to provide a scholarship to a private
22 school of choice, for students with disabilities for whom an
23 individual education plan has been written in accordance with
24 rules of the State Board of Education. Students with
25 disabilities include K-12 students who are documented as
26 having mental retardation; a speech or language impairment; a
27 hearing impairment, including deafness; a visual impairment,
28 including blindness; a dual sensory impairment; a physical
29 impairment; a serious emotional disturbance, including an
30 emotional handicap; a specific learning disability, including,
31 but not limited to, dyslexia, dyscalculia, or developmental

1 ~~aphasia; a traumatic brain injury; or autism mentally~~
2 ~~handicapped, speech and language impaired, deaf or hard of~~
3 ~~hearing, visually impaired, dual sensory impaired, physically~~
4 ~~impaired, emotionally handicapped, specific learning disabled,~~
5 ~~hospitalized or homebound, or autistic.~~

6 (2) SCHOLARSHIP ELIGIBILITY; PROHIBITIONS.--

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

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

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

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

28 However, this ~~subparagraph~~ ~~paragraph~~ does not apply to a
29 dependent child of a member of the United States Armed Forces
30 who transfers to a school in this state from out of state or
31 from a foreign country pursuant to a parent's permanent change

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

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

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

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

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

3 2. Receives an opportunity scholarship under s.
4 1002.38.

5 3. Participates in a home education program as defined
6 in s. 1002.01(1).

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

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

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

16
17 Notwithstanding the prohibition set forth in subparagraph 4.,
18 a student who receives a John M. McKay Scholarship may
19 participate in a distance learning course, a private tutoring
20 program, or a course offered by a correspondence school, the
21 tuition and other costs of which are not paid by scholarship
22 funds provided under this section.

23 (3) SCHOOL DISTRICT AND DEPARTMENT OF EDUCATION
24 OBLIGATIONS.--

25 (a) The Department of Education ~~A school district~~
26 shall timely notify the parent of each public school ~~the~~
27 student of all options available pursuant to this section and
28 offer that student's parent an opportunity to enroll the
29 student in another public school within the district. The
30 parent is not required to accept this offer in lieu of
31 requesting a John M. McKay Scholarship to a private school.

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

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

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

28 | b. A school district may change a matrix of services
29 | only if the change is to:

30 | (I) Correct a technical, typographical, or calculation
31 | error; or

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

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

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

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

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

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

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

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

16 (4) PRIVATE SCHOOL ELIGIBILITY; REGISTRATION;
17 PROHIBITIONS.--

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

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

28 2. Annually register with the Department of Education.
29 Each owner or administrator of a private school must provide
30 the following information:
31

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

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

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

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

24 ~~3.(e)~~ Comply with the antidiscrimination provisions of
25 42 U.S.C. s. 2000d.

26 ~~4.(d)~~ Meet state and local health and safety laws and
27 codes.

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

30 ~~6.(f)~~ Employ or contract with teachers who hold
31 baccalaureate or higher degrees, or have at least 3 years of

1 teaching experience in public or private schools, or have
2 special skills, knowledge, or expertise that qualifies them to
3 provide instruction in subjects taught.

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

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

10 9. Provide the Department of Education with all
11 documentation required for each scholarship student's
12 participation in the scholarship program, including, but not
13 limited to:

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

19 b. The enrollment and attendance information,
20 including an on-line attendance verification form, for each
21 scholarship student at the private school, prior to each
22 scholarship payment.

23
24 The on-line attendance form must be documented each quarter by
25 a notarized statement that is signed by the private school and
26 the parents of each McKay Scholarship student in attendance at
27 the private school. The private school must maintain the
28 completed notarized statements at the private school for each
29 academic year. The completed notarized statements must be open
30 to the Department of Education upon request.

31

1 10. Maintain in this state a physical location where a
2 scholarship student regularly attends classes.

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

7 b. Review with the parent the student's individual
8 education plan.

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

14 13. Notify the student's parent at least annually
15 about the student's skill level on a student assessment that
16 is determined by the private school.

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

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

26 16. Annually complete and file with the Department of
27 Education a sworn and notarized compliance statement in a form
28 and by a deadline specified in rules adopted by the State
29 Board of Education.

30 17. Accept scholarship students on a religion-neutral
31 basis. A private school may not discriminate against a

1 student on the basis of the religion of the student, the
2 parent, or the private school.

3 (b) A private school participating in the John M.
4 McKay Scholarships for Students with Disabilities Program must
5 ensure that all personnel who are hired or contracted to
6 provide services to fill positions requiring direct contact
7 with students in the private school, and all owners of a
8 private school, shall, upon employment, engagement to provide
9 services, or assumption of a position of ownership, a position
10 of decisionmaking authority, or a position having access to
11 scholarship funds, undergo background screening pursuant to s.
12 943.0542 by electronically filing with the Department of Law
13 Enforcement a complete set of fingerprints taken by an
14 authorized law enforcement agency or an employee of the
15 private school, a public school, or a private company who is
16 trained to take fingerprints. However, the complete set of
17 fingerprints of an owner of an eligible private school may not
18 be taken by the owner. These fingerprints must be
19 electronically submitted to the Department of Law Enforcement
20 for state processing, which shall in turn submit the
21 fingerprints to the Federal Bureau of Investigation for
22 federal processing. The private school shall screen the
23 background results pursuant to s. 435.04 and timely report to
24 the Department of Education any person described in this
25 paragraph who fails to meet level 2 screening standards
26 pursuant to s. 435.04 or any person described in this
27 paragraph who has been convicted of a crime involving moral
28 turpitude. The Department of Education shall verify the
29 information reported by the private school. Any person
30 described in this paragraph who is found through fingerprint
31 processing to have been convicted of a crime involving moral

1 turpitude or fails to meet level 2 screening standards
2 pursuant to s. 435.04 may not be employed or engaged to
3 provide services in any position in the private school
4 requiring direct contact with students and may not assume an
5 ownership position, a position of decisionmaking authority, or
6 a position having access to scholarship funds. The cost of the
7 background screening may be borne by the private school, the
8 employee, the person engaged to provide services, or the
9 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 private school shall
13 request the Department of Law Enforcement pursuant to s.
14 943.0542 to 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 private school. Upon submission of fingerprints for this
20 purpose, the private school shall request that the Department
21 of Law Enforcement forward the fingerprints to the Federal
22 Bureau of Investigation for level 2 screening, and the
23 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 eligible private school. The eligible private
17 school shall notify the Department of Education if the arrest
18 record reported to the private school results in a person
19 failing to meet the level 2 requirements. An eligible private
20 school that fails to report this information shall be
21 immediately suspended from the program. Each eligible private
22 school shall participate in this search process by paying an
23 annual fee to the Department of Law Enforcement and by
24 informing the Department of Law Enforcement of any change in
25 the status or place of employment or engagement of services of
26 its personnel as described in this paragraph whose
27 fingerprints are retained under subparagraph 2. The Department
28 of Law Enforcement shall adopt a rule setting the amount of
29 the annual fee to be imposed upon each private school for
30 performing these searches and establishing the procedures for
31 the retention of private school personnel fingerprints and the

1 dissemination of search results. The fee may be borne by the
2 private school, the employee, the person engaged to provide
3 services, or the owner.

4 4. If it is found that a person described in this
5 paragraph does not meet the level 2 requirements, the eligible
6 private school shall be immediately suspended from
7 participating in the program and shall remain suspended until
8 final resolution of any appeals. An eligible private school
9 that employs or engages to provide services with a person
10 described in this paragraph who fails to meet level 2
11 screening standards or has been convicted of a crime involving
12 moral turpitude may not participate in this program. The
13 Department of Law Enforcement shall provide the Department of
14 Education with the results of the state and national records
15 checks provided to the qualified entity at each private school
16 as provided in s. 943.0542.

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

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

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

26 3. Be a correspondence school or distance learning
27 school.

28 4. Operate as a private tutoring program as defined in
29 s. 1002.43.

30 5. Accept a McKay Scholarship student until the sworn
31 and notarized compliance statement has been completed,

1 submitted to, and independently verified by the Department of
2 Education.

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

19 (e) If a participating private school becomes subject
20 to an action taken by the Department of Education for a
21 violation of this section, the private school:

22 1. Shall file a surety bond with the Department of
23 Education after the date on which the action was taken for
24 such violation but before receiving the next quarterly
25 scholarship payment;

26 2. Shall file a surety bond with the Department of
27 Education for 2 additional consecutive years after the date
28 the bond was filed under subparagraph 1.; and

29 3. May not accept new scholarship students until the
30 Department of Education determines that the private school is
31

1 in compliance with each requirement in this section and in all
2 rules of the State Board of Education.

3 (5) OBLIGATION OF PROGRAM PARTICIPANTS.--

4 (a) A parent who applies for a John M. McKay
5 Scholarship is exercising his or her parental option to place
6 his or her child in a private school. The parent must select
7 the private school and apply for the admission of his or her
8 child.

9 (b) The parent must have requested the scholarship at
10 least 60 days prior to the date of the first scholarship
11 payment.

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

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

20 (e) If the parent requests that the student
21 participating in the scholarship program take all statewide
22 assessments required pursuant to s. 1008.22, the parent is
23 responsible for transporting the student to the assessment
24 site designated by the school district.

25 (f) Upon receipt of a scholarship warrant, the parent
26 to whom the warrant is made must restrictively endorse the
27 warrant to the private school for deposit into the account of
28 the private school.

29 (g) The parent of a student participating in the
30 scholarship program may not designate any participating
31

1 private school as the parent's attorney in fact to sign a
2 scholarship warrant.

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

5 (6) SCHOLARSHIP FUNDING AND PAYMENT.--

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

14 2. In addition, a share of the guaranteed allocation
15 for exceptional students shall be determined and added to the
16 calculated amount. The calculation shall be based on the
17 methodology and the data used to calculate the guaranteed
18 allocation for exceptional students for each district in
19 chapter 2000-166, Laws of Florida. Except as provided in
20 subparagraph 4. 3-, the calculation shall be based on the
21 student's grade, matrix level of services, and the difference
22 between the 2000-2001 basic program and the appropriate level
23 of services cost factor, multiplied by the 2000-2001 base
24 student allocation and the 2000-2001 district cost
25 differential for the sending district. Also, the calculated
26 amount shall include the per-student share of supplemental
27 academic instruction funds, instructional materials funds,
28 technology funds, and other categorical funds as provided for
29 such purposes in the General Appropriations Act.

30 3. The calculated scholarship amount for a student who
31 has spent the prior school year in attendance at the Florida

1 School for the Deaf and the Blind shall be calculated as
2 provided in subparagraphs 1. and 2. However, the calculation
3 shall be based on the school district in which the parent
4 resides at the time that the intent is filed by the parent.

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

11 (d)1. The school district shall report to the
12 Department of Education all students who are attending a
13 private school under this program. The students with
14 disabilities attending private schools on John M. McKay
15 Scholarships shall be reported separately from other students
16 reported for purposes of the Florida Education Finance
17 Program.

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

22 a. Report to the Department of Education all such
23 students who are attending a private school under this
24 program; and

25 b. Be held harmless for such students from the
26 weighted enrollment ceiling for group 2 programs in s.
27 1011.62(1)(d)3.a. during the first school year in which the
28 students are reported.

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

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

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

18 (a) The Department of Education shall perform the
19 following duties:

20 1. Review for compliance all documentation required
21 for each scholarship student's participation, including,
22 without limitation, the private school's schedule and the
23 student's fee schedule.

24 2. Verify the admission acceptance of each scholarship
25 student to an eligible private school prior to the initial
26 scholarship payment.

27 3. Verify, prior to each scholarship payment, the
28 enrollment and attendance of each scholarship student at the
29 private school and that the scholarship student is not:

30 a. Receiving a scholarship under s. 220.187 or s.
31 1002.38.

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

3 c. Participating in instruction delivered by a
4 correspondence school, private tutoring program as defined in
5 s. 1002.43, or distance learning courses, except as
6 specifically permitted in paragraph (2)(b).

7 d. Enrolled in a school operating for the purpose of
8 providing education services to youth in commitment programs
9 of the Department of Juvenile Justice.

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

12 4. Administer and prescribe an annual sworn and
13 notarized compliance statement for each participating private
14 school and independently verify the information provided by
15 each participating private school.

16 5. Review and verify the results of the background
17 checks reported by the private school pursuant to subsection
18 (4) for each person who fails to meet level 2 screening
19 standards or who has been convicted of a crime involving moral
20 turpitude.

21 6. Determine the eligibility of a private school to
22 accept McKay Scholarship students, based upon independent
23 verification that the private school meets all the
24 requirements in this section and all applicable rules adopted
25 by the State Board of Education.

26 7. Publish a current, on-line list of eligible private
27 schools.

28 8. Include each eligible private school on the on-line
29 list of eligible private schools within 10 days after the
30 private school is determined to be eligible to participate in
31 the McKay Scholarship program.

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

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

9 (b) The Department of Education shall deny or refuse
10 to allow the participation of any private school if it
11 determines that the private school or any of its owners or
12 administrators has failed to meet the requirements for initial
13 application or renewal as provided in this section.

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

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

30 1. Receives a scholarship under s. 220.187 or s.
31 1002.38.

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

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

7 4. Does not have regular and direct contact with the
8 student's private school teachers at the school's physical
9 location.

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

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

24 (f) The Department of Education may not change a
25 matrix of services completed by a school district. However,
26 the department may make the following changes for a matrix for
27 a student if the school district has identified the error but
28 has failed to make a correction in a timely manner:

29 1. A correction to a technical, typographical, or
30 calculation error; or
31

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

5
6 The department must report any change made under this
7 paragraph to the school district and the parent of the
8 student.

9 (8) OBLIGATIONS OF THE AUDITOR

10 GENERAL.--Notwithstanding any other law to the contrary, the
11 Auditor General must include in the operational audit of the
12 Department of Education the John M. McKay Scholarships for
13 Students with Disabilities Program. The Auditor General must
14 include in the audit a review of a sample of the warrants used
15 to pay for the scholarships, as well as random site visits to
16 private schools participating in the John M. McKay
17 Scholarships for Students with Disabilities Program. The
18 purpose of the site visits is solely to verify the information
19 reported by the schools concerning the enrollment and
20 attendance of students, the credentials of teachers,
21 background screening of teachers, and fingerprinting results
22 of teachers, which information is required by rules of the
23 State Board of Education or subsection (4). The Auditor
24 General may not make more than one random site visit each year
25 to the same private school, and each random site visit must be
26 based upon probable cause of a violation of this section or
27 other applicable laws.

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

31

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

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

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

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

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

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

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

30
31

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

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

21 Section 3. Section 220.187, Florida Statutes, is
22 amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 ~~(5)(4)~~ OBLIGATIONS OF ELIGIBLE NONPROFIT
27 SCHOLARSHIP-FUNDING ORGANIZATIONS.--

28 (a) An eligible nonprofit scholarship-funding
29 organization shall provide scholarships, from eligible
30 contributions, to qualified students for:
31

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

5 2. Transportation expenses to a Florida public school
6 that is located outside the district in which the student
7 resides.

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

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

18 1. Three thousand five hundred dollars for a
19 scholarship awarded to a student enrolled in an eligible
20 private ~~nonpublic~~ school.

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

24 (d) The amount of an eligible contribution which may
25 be accepted by an eligible nonprofit scholarship-funding
26 organization is limited to the amount needed to provide
27 scholarships for qualified students whom ~~which~~ the
28 organization has identified and for whom ~~which~~ vacancies in
29 eligible private ~~nonpublic~~ schools have been identified.

30 (e)1. An eligible nonprofit scholarship-funding
31 organization that receives an eligible contribution must

1 obligate, in the same fiscal year in which the contribution
2 was received, spend 100 percent of the eligible contribution
3 to provide scholarships, provided that up to 5 percent of the
4 total contribution may be carried forward for scholarships to
5 be granted in the following same state fiscal year in which
6 the contribution was received. No portion of eligible
7 contributions may be used for administrative expenses. All
8 interest accrued from contributions must be used for
9 scholarships.

10 2. An eligible nonprofit scholarship-funding
11 organization, with the prior approval of the Department of
12 Education, may transfer funds to another eligible nonprofit
13 scholarship-funding organization if additional funds are
14 required to meet scholarship demand at the receiving nonprofit
15 scholarship-funding organization. A transfer shall be limited
16 to the greater of \$500,000 or 20 percent of the total
17 contributions received by the nonprofit scholarship-funding
18 organization making the transfer. All transferred funds must
19 be deposited by the receiving nonprofit scholarship-funding
20 organization into its scholarship accounts. All transferred
21 amounts received by any nonprofit scholarship-funding
22 organization must be separately disclosed in the annual
23 financial and compliance audit required in this section.

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

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

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

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

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

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

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

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

23 (l) All owners of an eligible nonprofit
24 scholarship-funding organization shall, upon employment or
25 engagement to provide services, undergo background screening
26 pursuant to s. 943.0542 by electronically filing with the
27 Department of Law Enforcement, for state processing, a
28 complete set of fingerprints taken by an authorized law
29 enforcement agency or by an employee of the eligible nonprofit
30 scholarship-funding organization or a private company who is
31 trained to take fingerprints. However, the complete set of

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

19 1. Every 5 years following employment or engagement to
20 provide services with an eligible nonprofit
21 scholarship-funding organization, each owner must meet level 2
22 screening requirements as described in s. 435.04, at which
23 time the nonprofit scholarship-funding organization shall
24 request the Department of Law Enforcement pursuant to s.
25 943.0542 to forward the fingerprints to the Federal Bureau of
26 Investigation for level 2 screening. If the fingerprints of an
27 owner are not retained by the Department of Law Enforcement
28 under subparagraph 2., the owner must file a complete set of
29 fingerprints with the eligible nonprofit scholarship-funding
30 organization. Upon submission of fingerprints for this
31 purpose, the eligible nonprofit scholarship-funding

1 organization shall request the Department of Law Enforcement
2 to forward the fingerprints to the Federal Bureau of
3 Investigation for level 2 screening, and the fingerprints
4 shall be retained by the Department of Law Enforcement under
5 subparagraph 2. The cost of the state and federal criminal
6 history check required by level 2 screening may be borne by
7 the eligible nonprofit scholarship-funding organization or the
8 owner. Under penalty of perjury, each owner must agree to
9 inform the eligible nonprofit scholarship-funding organization
10 immediately if convicted of any disqualifying offense while he
11 or she is employed by or engaged to provide services with the
12 eligible nonprofit scholarship-funding organization.

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

23 3. Effective December 15, 2005, the Department of Law
24 Enforcement shall search all arrest fingerprint cards received
25 under s. 943.051 against the fingerprints retained in the
26 statewide automated fingerprint identification system under
27 subparagraph 2. Any arrest record that is identified with an
28 owner's fingerprints shall be reported to the eligible
29 nonprofit scholarship-funding organization. The eligible
30 nonprofit scholarship-funding organization shall notify the
31 Department of Education if the arrest record reported to the

1 organization results in a person's failing to meet the level 2
2 requirements. An eligible nonprofit scholarship-funding
3 organization that fails to report this information shall be
4 immediately suspended from the program. Each eligible
5 nonprofit scholarship-funding organization shall participate
6 in this search process by paying an annual fee to the
7 Department of Law Enforcement and by informing the Department
8 of Law Enforcement of any change in the employment or
9 engagement status or place of employment or engagement of its
10 owners whose fingerprints are retained under subparagraph 2.
11 The Department of Law Enforcement shall adopt a rule setting
12 the amount of the annual fee to be imposed upon each eligible
13 nonprofit scholarship-funding organization for performing
14 these searches and establishing the procedures for the
15 retention of owner fingerprints and the dissemination of
16 search results. The fee may be borne by the eligible nonprofit
17 scholarship-funding organization or by the owner.

18 4. If it is found that an owner of an eligible
19 nonprofit scholarship-funding organization does not meet level
20 2 requirements, the eligible nonprofit scholarship-funding
21 organization shall be immediately suspended from participating
22 in the program and shall remain suspended until final
23 resolution of any appeals. An eligible nonprofit
24 scholarship-funding organization the owner of which fails to
25 meet level 2 screening standards or has been convicted of a
26 crime involving moral turpitude may not participate in this
27 program.

28
29 The Department of Law Enforcement shall provide the Department
30 of Education with the results of the state and national
31

1 records checks provided to the qualified entity at each
2 private school as provided in s. 943.0542.

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 secure a promissory note, a line of
10 credit, or other financing to fund a scholarship in
11 anticipation of an eligible contribution. An eligible
12 scholarship-funding organization may fund scholarships only
13 through eligible contributions received under the scholarship
14 program.

15 (t) An eligible nonprofit scholarship-funding
16 organization that fails to comply with this section may not
17 participate in the scholarship program.

18 ~~(6)(5)~~ PARENT OBLIGATIONS.--

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

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

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

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

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

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

16 ~~(7)(6)~~ ELIGIBLE PRIVATE ~~NONPUBLIC~~ SCHOOL

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

18 (a) Demonstrate fiscal soundness by being in operation
19 for at least 3 school years or obtaining a surety bond or
20 letter of credit for the amount equal to the scholarship funds
21 for any quarter and filing the surety bond or letter of credit
22 with one school year or provide the Department of Education.
23 If the private school becomes subject to an action taken by
24 the Department of Education for a violation of this section,
25 the school:

26 1. Shall file a surety bond with the Department of
27 Education after the date on which the action was taken for
28 such violation but before receiving the next quarterly
29 scholarship payment;

1 2. Shall file a surety bond with the Department of
2 Education for 2 additional consecutive years after the date
3 the bond was filed under subparagraph 1.; and

4 3. May not accept new scholarship students until the
5 Department of Education determines that the private school is
6 in compliance with each requirement in this section and in all
7 rules of the State Board of Education. ~~with a statement by a~~
8 ~~certified public accountant confirming that the nonpublic~~
9 ~~school desiring to participate is insured and the owner or~~
10 ~~owners have sufficient capital or credit to operate the school~~
11 ~~for the upcoming year serving the number of students~~
12 ~~anticipated with expected revenues from tuition and other~~
13 ~~sources that may be reasonably expected. In lieu of such a~~
14 ~~statement, a surety bond or letter of credit for the amount~~
15 ~~equal to the scholarship funds for any quarter may be filed~~
16 ~~with the department.~~

17 (b) Comply with the antidiscrimination provisions of
18 42 U.S.C. s. 2000d.

19 (c) Meet state and local health and safety laws and
20 codes.

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

23 (e) Employ or contract with teachers who have regular
24 and direct contact with each student receiving a scholarship
25 under this section at the school's physical location. All
26 teachers must hold a baccalaureate degree or higher or have at
27 least 3 years' of teaching experience in public or private
28 schools, or have special skills, knowledge, or expertise that
29 qualifies them to provide instruction in subjects taught. As
30 part of the sworn-compliance form authorized under subsection
31 (8), an eligible private school must report to the Department

1 of Education the number of teachers employed or under contract
2 with the eligible private school, along with the manner in
3 which the teacher meets the requirements of this paragraph.

4 (f) Annually register with the Department of
5 Education. Each eligible private school must annually provide
6 the following information to the Department of Education:

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

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

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

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

15 (g) Ensure that all personnel who are hired or
16 contracted to provide services to fill positions requiring
17 direct contact with students in the eligible private school,
18 and all owners of an eligible private school shall, upon
19 employment or engagement to provide services, undergo
20 background screening pursuant to s. 943.0542 by electronically
21 filing with the Department of Law Enforcement a complete set
22 of fingerprints taken by an authorized law enforcement agency
23 or by an employee of the eligible private school or public
24 school, or an employee of a private company, who is trained to
25 take fingerprints. However, the complete set of fingerprints
26 of an owner of an eligible private school may not be taken by
27 the owner. These fingerprints shall be electronically
28 submitted to the Department of Law Enforcement for state
29 processing, which shall in turn submit the fingerprints to the
30 Federal Bureau of Investigation for federal processing. The
31 private school shall screen the background results pursuant to

1 s. 435.04 and timely report to the Department of Education any
2 person described in this paragraph who fails to meet level 2
3 screening standards pursuant to s. 435.04 or any person
4 described in this paragraph who has been convicted of a crime
5 involving moral turpitude. The Department of Education shall
6 verify the information reported by the eligible private
7 school. Any person described in this paragraph who is found
8 through fingerprint processing to have been convicted of a
9 crime involving moral turpitude or fails to meet level 2
10 screening standards pursuant to s. 435.04 may not be employed
11 or engaged to provide services in any position in the eligible
12 private school requiring direct contact with students and may
13 not assume an ownership position. The cost of the background
14 screening may be borne by the eligible private school, the
15 employee, the person engaged to provide services, or the
16 owner.

17 1. Every 5 years each person described in this
18 paragraph must meet level 2 screening requirements as
19 described in s. 435.04, at which time the private school shall
20 request the Department of Law Enforcement pursuant to s.
21 943.0542 to forward the fingerprints to the Federal Bureau of
22 Investigation for level 2 screening. If the fingerprints of a
23 person described in this paragraph are not retained by the
24 Department of Law Enforcement under subparagraph 2., the
25 person must file a complete set of fingerprints with the
26 private school. Upon submission of fingerprints for this
27 purpose, the private school shall request the Department of
28 Law Enforcement to forward the fingerprints to the Federal
29 Bureau of Investigation for level 2 screening, and the
30 fingerprints shall be retained by the Department of Law
31 Enforcement under subparagraph 2. The cost of the state and

1 federal criminal history check required by level 2 screening
2 may be borne by the eligible private school, the employee, the
3 person engaged to provide services, or the owner. Under
4 penalty of perjury, each person described in this paragraph
5 must agree to inform the eligible private school immediately
6 if convicted of any disqualifying offense while in a capacity
7 with the eligible private school as described in this
8 paragraph.

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

19 3. Effective December 15, 2005, the Department of Law
20 Enforcement shall search all arrest fingerprint cards received
21 under s. 943.051 against the fingerprints retained in the
22 statewide automated fingerprint identification system under
23 subparagraph 2. Any arrest record that is identified with the
24 fingerprints of a person described in this paragraph shall be
25 reported to the eligible private school. The eligible private
26 school shall notify the Department of Education if the arrest
27 record reported to the private school results in a person's
28 failing to meet the level 2 requirements. An eligible private
29 school that fails to report this information shall be
30 immediately suspended from the program. Each eligible private
31 school shall participate in this search process by paying an

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

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

22
23 The Department of Law Enforcement shall provide the Department
24 of Education with the results of the state and national
25 records checks provided to the qualified entity at each
26 private school as provided in s. 943.0542.

27 (h)1. Select one of the four nationally
28 norm-referenced tests identified by the State Board of
29 Education under subsection (8) for each scholarship student.
30 The test initially selected for a student must be used for
31 that student for no less than 5 consecutive years. However,

1 the private school may use an updated version of the same
2 test, based on the new norms, from the same publisher.

3 2. Annually administer or provide for each scholarship
4 student to take the nationally norm-referenced test selected
5 under subparagraph 1. and report each student's scores to the
6 parent and the public university that is selected by the
7 Commissioner of Education under subsection (8).

8 (i) Cooperate with a scholarship student whose parent
9 choses to participate in the statewide assessments under s.
10 1008.22.

11 (j) Annually comply with the Department of Education's
12 affidavit requirements as provided in subsection (9).

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

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

21 (m) Report annually to the Department of Education and
22 the scholarship applicants of the eligible private school:

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

27 2. The name of the accrediting association that
28 accredits the eligible private school; and

29 3. Whether the eligible private school is in the
30 process of receiving candidate status.

31

1 The Department of Education shall make the annual list of
2 accredited and nonaccredited eligible private schools
3 available to the public and shall make that list available by
4 county.

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

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

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

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

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

29 (c) Annually determine the eligibility of private
30 schools that meet the requirements of this section. The
31 Department of Education must maintain a list of eligible

1 private schools, and that list must be made accessible to the
2 public.

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

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

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

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

20 (h) Identify and select the nationally norm-referenced
21 tests that are comparable to the norm-referenced provisions of
22 the Florida Comprehensive Assessment Test. The State Board of
23 Education may not identify more than four norm-referenced
24 tests for use in meeting the requirements of this section. The
25 State Board of Education may select the Florida Comprehensive
26 Assessment Test as one of the four tests for use in meeting
27 such requirements. The Commissioner of Education shall select
28 a Florida public university to analyze and report student
29 performance data for each scholarship student. The
30 Commissioner of Education shall select the university based
31 upon the university's mission and the university's

1 demonstrated experience in the analysis of student performance
2 data. The university must report annually on the year-to-year
3 improvements of the qualified students and must analyze and
4 report student performance data, including student scores by
5 grade level, in a manner that protects the rights of students
6 and parents as mandated in 20 U.S.C. s. 1232g and must not
7 disaggregate data to a level that will disclose the identity
8 of students. Any comparison of student performance data
9 between two or more eligible private schools must be solely
10 based on the performance of qualified scholarship students.

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

22 (j) Revoke the eligibility of a nonprofit
23 scholarship-funding organization, private school, or student
24 to participate in the program for noncompliance with this
25 section.

26 (k) Annually report, by December 15, to the Governor,
27 the President of the Senate, and the Speaker of the House of
28 Representatives the Department of Education's actions with
29 respect to implementing accountability in the scholarship
30 program under this section, including, but not limited to, any
31 substantiated allegations or violations of law or rule by an

1 eligible nonprofit scholarship-funding organization or
2 eligible private school under this program and the corrective
3 action taken by the Department of Education.

4 (1) Review and verify the results of the background
5 checks reported by the private school pursuant to subsections
6 (5) and (7) for each person who fails to meet level 2
7 screening standards or who has been convicted of a crime
8 involving moral turpitude.

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

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

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

29 (c) The Department of Revenue and the Department of
30 Education shall develop a cooperative agreement to assist in
31 the administration of this section. ~~The Department of~~

1 ~~Education shall be responsible for annually submitting, by~~
2 ~~March 15, to the department a list of eligible nonprofit~~
3 ~~scholarship funding organizations that meet the requirements~~
4 ~~of paragraph (2)(d) and for monitoring eligibility of~~
5 ~~nonprofit scholarship funding organizations that meet the~~
6 ~~requirements of paragraph (2)(d), eligibility of nonpublic~~
7 ~~schools that meet the requirements of paragraph (2)(c), and~~
8 ~~eligibility of expenditures under this section as provided in~~
9 ~~subsection (4).~~

10 (d) The Department of Revenue shall adopt rules
11 necessary to administer this section, including rules
12 establishing application forms and procedures and governing
13 the allocation of tax credits and carryforward credits under
14 this section on a first-come, first-served basis.

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

18 1. Determining necessary to determine eligibility of
19 nonprofit scholarship-funding organizations and private
20 schools;

21 2. Identifying as defined in paragraph (2)(d) and
22 according to the provisions of subsection (4) and identify
23 qualified students; as defined in paragraph (2)(c).

24 3. Requiring documentation to establish eligibility
25 for nonprofit scholarship-funding organizations;

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

29 5. Requiring independent income-verification
30 documentation to establish student eligibility under this
31 section.

1 (f) The State Board of Education may delegate its
2 authority under this section to the Commissioner of Education
3 with the exception of rulemaking authority.

4 ~~(10)(8)~~ DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--All
5 eligible contributions received by an eligible nonprofit
6 scholarship-funding organization shall be deposited in a
7 manner consistent with s. 17.57(2).

8 Section 4. If section 1002.39, Florida Statutes, the
9 John M. McKay Scholarships for Students with Disabilities
10 Program, is found to violate Section 3 of Article I of the
11 State Constitution, a nonsectarian private school may continue
12 to participate in the program.

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

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 CS/CS for Senate Bill 0002

4 The committee substitute (CS) makes changes to the Corporate
5 Tax Credit Scholarship Program and the John M. McKay
6 Scholarships for Students with Disabilities Program. For the
7 McKay Scholarship, the CS limits the number of random site
8 visits made by the Auditor General to no more than one per
9 school per year, based on probable cause, and narrows the site
10 visits to verify only specific information reported by the
11 private school.

12 For the non-profit scholarship-funding organizations (SFOs) in
13 the Corporate Tax Credit Scholarship Program, the CS requires
14 private schools to cooperate with a scholarship student whose
15 parent wants the student to take the FCAT; provides for the
16 selection of 4 tests and allows private schools to select the
17 FCAT; requires student performance results to go to a Florida
18 public university that is selected by the Commissioner of
19 Education on the basis of demonstrated capability and
20 compatibility with the university's mission; restricts the
21 analysis of performance data to only scholarship students;
22 provides that up to 5 percent of the total contributions to
23 the SFO may be carried forward for scholarships granted in the
24 following state fiscal year; and provides for the transfer of
25 funds, with prior approval by the Department of Education, to
26 another eligible SFO if additional funds are needed to meet
27 scholarship demand. The transfer is limited to the greater of
28 \$500,000 or 20 percent of the total contributions received by
29 the SFO making the transfer.

30 For both programs, the CS requires a private school
31 participating in either program to file a surety bond with the
32 Department of Education if the department has taken action
33 against the school for a violation of law; requires private
34 schools and SFOs to submit fees and electronic fingerprints to
35 the Florida Department of Law Enforcement (FDLE); requires
36 FDLE to send state and federal screening results directly to
37 the private school and the Department of Education; requires
38 the private schools and SFOs to screen the results using Level
39 2 standards and to send the Department of Education the
40 results for persons who fail to meet Level 2 background checks
41 or who are convicted of a crime involving moral turpitude;
42 requires the private schools and SFOs to notify the Department
43 of Education if an arrest record results in failure to meet
44 Level 2 background requirements; provides that failure for a
45 school to report, results in immediate suspension from the
46 program; and requires the Department of Education to review
47 and verify the background check results provided by the
48 private schools and the SFOs.