

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 an effective date.

29
30 Be It Enacted by the Legislature of the State of Florida:
31

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

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

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

1 (2) SCHOLARSHIP ELIGIBILITY; PROHIBITIONS.--

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

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

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

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

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

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

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

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

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

29 2. Receives an opportunity scholarship under s.
30 1002.38.

31

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

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

6 5. Does not have regular and direct contact with his
7 or her private school teachers at the school's physical
8 location.

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

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

19 (3) SCHOOL DISTRICT AND DEPARTMENT OF EDUCATION
20 OBLIGATIONS.--

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

1 school board's choice plan under s. 1002.31, the school
2 district shall provide transportation to the public school
3 selected by the parent. The parent is responsible to provide
4 transportation to a public school chosen that is not
5 consistent with the district school board's choice plan under
6 s. 1002.31. For purposes of this paragraph, timely
7 notification means notification no later than April 1 of each
8 school year.

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

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

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

26 (I) Correct a technical, typographical, or calculation
27 error; or

28 (II) Align the matrix of services with the student's
29 individual education plan completed by the public school
30 district for use in the public school prior to the student
31 enrolling in or attending a private school.

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

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

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

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

28 (e) For a student in the district who participates in
29 the John M. McKay Scholarships for Students with Disabilities
30 Program whose parent requests that the student take the
31

1 statewide assessments under s. 1008.22, the district shall
2 provide locations and times to take all statewide assessments.

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

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

13 (4) PRIVATE SCHOOL ELIGIBILITY; REGISTRATION;
14 PROHIBITIONS.--

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

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

25 2. Annually register with the Department of Education.
26 Each owner or administrator of a private school must provide
27 the following information:

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

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

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

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

20 3.(e) Comply with the antidiscrimination provisions of
21 42 U.S.C. s. 2000d.

22 4.(d) Meet state and local health and safety laws and
23 codes.

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

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

31

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

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

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

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

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

20
21 The on-line attendance form must be documented each quarter by
22 a notarized statement that is signed by the private school and
23 the parents of each McKay Scholarship student in attendance at
24 the private school. The private school must maintain the
25 completed notarized statements at the private school for each
26 academic year. The completed notarized statements must be open
27 to the Department of Education upon request.

28 10. Maintain in this state a physical location where a
29 scholarship student regularly attends classes.

30 11.a. Advertise or notify potential McKay Scholarship
31 students and parents of the specific types of disabilities

1 served by the school, and provide this information to the
2 Department of Education.

3 b. Review with the parent the student's individual
4 education plan.

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

10 13. Notify the student's parent at least annually
11 about the student's skill level on a student assessment that
12 is determined by the private school.

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

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

22 16. Annually complete and file with the Department of
23 Education a sworn and notarized compliance statement in a form
24 and by a deadline specified in rules adopted by the State
25 Board of Education.

26 17. Accept scholarship students on a religion-neutral
27 basis. A private school may not discriminate against a
28 student on the basis of the religion of the student, the
29 parent, or the private school.

30 (b) A private school participating in the John M.
31 McKay Scholarships for Students with Disabilities Program must

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

1 ownership position, a position of decisionmaking authority, or
2 a position having access to scholarship funds. The cost of the
3 background screening may be borne by the private school, the
4 employee, the person engaged to provide services, or the
5 owner.

6 1. Every 5 years each person described in this
7 paragraph must meet level 2 screening requirements as
8 described in s. 435.04, at which time the private school shall
9 request the Department of Law Enforcement pursuant to s.
10 943.0542 to forward the fingerprints to the Federal Bureau of
11 Investigation for level 2 screening. If the fingerprints of a
12 person described in this paragraph are not retained by the
13 Department of Law Enforcement under subparagraph 2., the
14 person must file a complete set of fingerprints with the
15 private school. Upon submission of fingerprints for this
16 purpose, the private school shall request that the Department
17 of Law Enforcement forward the fingerprints to the Federal
18 Bureau of Investigation for level 2 screening, and the
19 fingerprints must be retained by the Department of Law
20 Enforcement under subparagraph 2. The cost of the state and
21 federal criminal history check required by level 2 screening
22 may be borne by the private school, the employee, the person
23 engaged to provide services, or the owner. Under penalty of
24 perjury, each person described in this paragraph must agree to
25 inform the private school immediately if convicted of any
26 disqualifying offense while in a capacity with the private
27 school as described in this paragraph.

28 2. Effective December 15, 2005, all fingerprints
29 submitted to the Department of Law Enforcement as required by
30 this paragraph shall be retained by the Department of Law
31 Enforcement in a manner provided by rule and entered in the

1 statewide automated fingerprint identification system
2 authorized by s. 943.05(2)(b). Such fingerprints shall
3 thereafter be available for all purposes and uses authorized
4 for arrest fingerprint cards entered in the statewide
5 automated fingerprint identification system under s. 943.051.

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

31

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

14 (c) A private school participating in the John M.
15 McKay Scholarships for Students with Disabilities Program may
16 not:

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

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

23 3. Be a correspondence school or distance learning
24 school.

25 4. Operate as a private tutoring program as defined in
26 s. 1002.43.

27 5. Accept a McKay Scholarship student until the sworn
28 and notarized compliance statement has been completed,
29 submitted to, and independently verified by the Department of
30 Education.

31

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

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

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

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

27 3. May not accept new scholarship students until the
28 Department of Education determines that the private school is
29 in compliance with each requirement in this section and in all
30 rules of the State Board of Education.

31 (5) OBLIGATION OF PROGRAM PARTICIPANTS.--

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

6 (b) The parent must have requested the scholarship at
7 least 60 days prior to the date of the first scholarship
8 payment.

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

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

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

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

26 (g) The parent of a student participating in the
27 scholarship program may not designate any participating
28 private school as the parent's attorney in fact to sign a
29 scholarship warrant.

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

1 (6) SCHOLARSHIP FUNDING AND PAYMENT.--

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

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

26 3. The calculated scholarship amount for a student who
27 has spent the prior school year in attendance at the Florida
28 School for the Deaf and the Blind shall be calculated as
29 provided in subparagraphs 1. and 2. However, the calculation
30 shall be based on the school district in which the parent
31 resides at the time that the intent is filed by the parent.

1 ~~4.3-~~ Until the school district completes the matrix
2 required by paragraph (3)(b), the calculation shall be based
3 on the matrix that assigns the student to support level I of
4 service as it existed prior to the 2000-2001 school year.
5 When the school district completes the matrix, the amount of
6 the payment shall be adjusted as needed.

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

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

18 a. Report to the Department of Education all such
19 students who are attending a private school under this
20 program; and

21 b. Be held harmless for such students from the
22 weighted enrollment ceiling for group 2 programs in s.
23 1011.62(1)(d)3.a. during the first school year in which the
24 students are reported.

25 (e) Following notification on July 1, September 1,
26 December 1, or February 1 of the number of program
27 participants, the Department of Education shall transfer, from
28 General Revenue funds only, the amount calculated under
29 paragraph (b) from the school district's total funding
30 entitlement under the Florida Education Finance Program and
31 from authorized categorical accounts to a separate account for

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 7. Publish a current, on-line list of eligible private
23 schools.

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

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

1 10. 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 school, as
4 provided for in paragraphs (b) and (c).

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

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

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

26 1. Receives a scholarship under s. 220.187 or s.
27 1002.38.

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

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

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

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

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

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

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

25 1. A correction to a technical, typographical, or
26 calculation error; or

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

31

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

4 (8) OBLIGATIONS OF THE AUDITOR

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

23 (9)(7) LIABILITY.--No liability shall arise on the
24 part of the state based on the award or use of a John M. McKay
25 Scholarship.

26 (10)(8) RULES.--The State Board of Education shall
27 adopt rules pursuant to ss. 120.536(1) and 120.54 to
28 administer this section, including rules that school districts
29 must use to expedite the development of a matrix of services
30 based on a current individual education plan from another
31 state or a foreign country for a transferring student with a

1 disability who is a dependent child of a member of the United
2 States Armed Forces. The rules must identify the appropriate
3 school district personnel who must complete the matrix of
4 services. For purposes of these rules, a transferring student
5 with a disability is one who was previously enrolled as a
6 student with a disability in an out-of-state or an
7 out-of-country public or private school or agency program and
8 who is transferring from out of state or from a foreign
9 country pursuant to a parent's permanent change of station
10 orders. The rules must include provisions for:

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

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

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

17 (d) Implementing the requirement that a private school
18 timely notify the Department of Education of material changes
19 to the school's registration information;

20 (e) Establishing attendance-verification procedures
21 and forms; and

22 (f) Establishing procedures for determining student
23 eligibility and approving scholarships.

24
25 The rules related to the annual sworn and notarized compliance
26 statement shall establish a deadline for the receipt of the
27 initial sworn and notarized compliance statement from the
28 private school and shall enumerate the items to be included in
29 the statement. The rules shall enumerate the items to be
30 included in a subsequent annual sworn and notarized compliance
31 statement that is required in January of each year from the

1 private school. However, the inclusion of eligible private
 2 schools within options available to Florida public school
 3 students does not expand the regulatory authority of the
 4 state, its officers, or any school district to impose any
 5 additional regulation of private schools beyond those
 6 reasonably necessary to enforce requirements expressly set
 7 forth in this section.

8 Section 2. The State Board of Education shall initiate
 9 the adoption of rules required by this act 10 days after the
 10 effective date of this act. The State Board of Education shall
 11 report to the presiding officers of the Legislature by
 12 December 1, 2005, on the status of the rulemaking required by
 13 this act.

14 Section 3. Section 220.187, Florida Statutes, is
 15 amended to read:

16 220.187 Credits for contributions to nonprofit
 17 scholarship-funding organizations.--

18 (1) This section may be cited as the "Corporate
 19 Scholarship Program."

20 (2)(1) PURPOSE.--The purpose of this section is to:

21 (a) Encourage private, voluntary contributions to
 22 nonprofit scholarship-funding organizations.

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

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

27 (3)(2) DEFINITIONS.--As used in this section, the
 28 term:

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

30 (a)(b) "Eligible contribution" means a monetary
 31 contribution from a taxpayer, subject to the restrictions

1 provided in this section, to an eligible nonprofit
 2 scholarship-funding organization. The taxpayer making the
 3 contribution may not designate a specific child as the
 4 beneficiary of the contribution. ~~The taxpayer may not~~
 5 ~~contribute more than \$5 million to any single eligible~~
 6 ~~nonprofit scholarship funding organization.~~

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

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

14 2. May not be a correspondence school or distance
 15 learning school.

16 3. May not direct or provide scholarship funds to a
 17 parent of a scholarship student who receives instruction under
 18 the program at home.

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

21 5. May not be a private tutoring program as described
 22 in s. 1002.43.

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

29 (d) "Owner" means the owner, president, chairperson of
 30 the board of directors, superintendent, principal, or person
 31 with equivalent decisionmaking authority who owns, operates,

1 or administers an eligible nonprofit scholarship-funding
2 organization or eligible private school. In addition, the term
3 "owner" means an individual who has access to or processes
4 scholarship funds or eligible contributions at an eligible
5 nonprofit scholarship-funding organization or eligible private
6 school.

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

- 10 1. Was counted as a full-time equivalent student
11 during the previous state fiscal year for purposes of state
12 per-student funding;
- 13 2. Received a scholarship from an eligible nonprofit
14 scholarship-funding organization during the previous school
15 year; or
- 16 3. Is eligible to enter kindergarten or first grade.

17
18 A student may continue in the scholarship program as long as
19 the family income level does not exceed 200 percent of the
20 federal poverty level. A student who was enrolled in a school
21 operating for the purpose of providing educational services to
22 youth in a commitment program of the Department of Juvenile
23 Justice shall not be counted as a full-time equivalent student
24 for the previous state fiscal year for purposes of state
25 per-student funding under this program. A student is not
26 eligible to receive a scholarship under this section if the
27 student is participating in the Opportunity Scholarship
28 Program under s. 1002.38, the John M. McKay Scholarships for
29 Students with Disabilities Program under s. 1002.39, or a home
30 education program as defined in s. 1002.01(1) or is enrolled
31 in a school operating for the purpose of providing educational

1 services to youth in commitment programs of the Department of
2 Juvenile Justice. A student is not eligible to receive a
3 scholarship from more than one eligible nonprofit
4 scholarship-funding organization at the same time.

5 ~~(4)(3)~~ AUTHORIZATION TO GRANT SCHOLARSHIP FUNDING TAX
6 CREDITS; LIMITATIONS ON INDIVIDUAL AND TOTAL CREDITS.--

7 (a) There is allowed a credit of 100 percent of an
8 eligible contribution against any tax due for a taxable year
9 under this chapter. However, such a credit may not exceed 75
10 percent of the tax due under this chapter for the taxable
11 year, after the application of any other allowable credits by
12 the taxpayer. ~~However, at least 5 percent of the total~~
13 ~~statewide amount authorized for the tax credit shall be~~
14 ~~reserved for taxpayers who meet the definition of a small~~
15 ~~business provided in s. 288.703(1) at the time of application.~~
16 The credit granted by this section shall be reduced by the
17 difference between the amount of federal corporate income tax
18 taking into account the credit granted by this section and the
19 amount of federal corporate income tax without application of
20 the credit granted by this section.

21 (b) The total amount of tax credits and carryforward
22 of tax credits which may be granted each state fiscal year
23 under this section is \$88 million. Effective for tax years
24 beginning January 1, 2005, 1 percent of the total statewide
25 amount authorized for the tax credit must be reserved for
26 taxpayers that are small businesses as defined in s.
27 288.703(1) at the time of application.

28 (c) A taxpayer who files a Florida consolidated return
29 as a member of an affiliated group pursuant to s. 220.131(1)
30 may be allowed the credit on a consolidated return basis;

31

1 however, the total credit taken by the affiliated group is
 2 subject to the limitation established under paragraph (a).

3 (d) Effective for the tax years beginning January 1,
 4 2005, a taxpayer may rescind its application for tax credit
 5 under this section, and the amount approved in the application
 6 for tax credit shall become available for purposes of the cap
 7 for that state fiscal year under this section to an eligible
 8 taxpayer as approved by the Department of Revenue, if the
 9 taxpayer receives notice from the Department of Revenue that
 10 the rescindment application has been accepted by the
 11 Department of Revenue, the taxpayer has not previously
 12 rescinded its application for tax credit under this section
 13 more than once in the previous 3 tax years, and the taxpayer
 14 rescinds before the end of the taxpayer's tax year for which
 15 the credit was approved. Any amount rescinded under this
 16 paragraph shall become available to an eligible taxpayer on a
 17 first-come, first-served basis based on tax credit
 18 applications received after the date the rescindment is
 19 accepted by the Department of Revenue.

20 ~~(5)(4)~~ OBLIGATIONS OF ELIGIBLE NONPROFIT
 21 SCHOLARSHIP-FUNDING ORGANIZATIONS.--

22 (a) An eligible nonprofit scholarship-funding
 23 organization shall provide scholarships, from eligible
 24 contributions, to qualified students for:

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

29 2. Transportation expenses to a Florida public school
 30 that is located outside the district in which the student
 31 resides.

1 (b) An eligible nonprofit scholarship-funding
2 organization shall give priority to qualified students who
3 received a scholarship from an eligible nonprofit
4 scholarship-funding organization during the previous school
5 year.

6 (c) The amount of a scholarship provided to any child
7 for any single school year by one or more ~~all~~ eligible
8 nonprofit scholarship-funding organizations from eligible
9 contributions ~~may shall~~ not exceed the following annual
10 limits:

11 1. Three thousand five hundred dollars for a
12 scholarship awarded to a student enrolled in an eligible
13 private ~~nonpublic~~ school.

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

17 (d) The amount of an eligible contribution which may
18 be accepted by an eligible nonprofit scholarship-funding
19 organization is limited to the amount needed to provide
20 scholarships for qualified students whom ~~which~~ the
21 organization has identified and for whom ~~which~~ vacancies in
22 eligible private ~~nonpublic~~ schools have been identified.

23 (e) 1. An eligible nonprofit scholarship-funding
24 organization that receives an eligible contribution must
25 obligate, in the same fiscal year in which the contribution
26 was received, spend 100 percent of the eligible contribution
27 to provide scholarships, provided that up to 5 percent of the
28 total contribution may be carried forward for scholarships to
29 be granted in the following ~~same~~ state fiscal year ~~in which~~
30 ~~the contribution was received~~. No portion of eligible
31 contributions may be used for administrative expenses. All

1 interest accrued from contributions must be used for
2 scholarships.

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

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

1 Legislative Auditing Committee may schedule a hearing. If a
2 hearing is scheduled, the committee shall determine if the
3 eligible nonprofit scholarship-funding organization should be
4 subject to further state action. If the committee determines
5 that the eligible nonprofit scholarship-funding organization
6 should be subject to further state action, the committee shall
7 notify the Department of Education, which shall terminate the
8 eligibility of the eligible nonprofit scholarship-funding
9 organization to participate in the program under this section.

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

27 (h) An eligible nonprofit scholarship-funding
28 organization may not commingle scholarship funds with any
29 other funds and must maintain a separate account for
30 scholarship funds.

31

1 (i) An eligible nonprofit scholarship-funding
2 organization shall obtain verification from a private school
3 of each student's continued attendance at the private school
4 prior to each scholarship payment.

5 (j) An eligible nonprofit scholarship-funding
6 organization must verify the income of all scholarship
7 applicants participating in the program at least once each
8 school year through independent income documentation as
9 provided in rules of the State Board of Education.

10 (k) An eligible nonprofit scholarship-funding
11 organization must prepare and submit quarterly reports to the
12 Department of Education pursuant to subsection (8). In
13 addition, an eligible nonprofit scholarship-funding
14 organization must timely submit to the Department of Education
15 any information requested by the Department of Education
16 relating to the scholarship program.

17 (l) All owners of an eligible nonprofit
18 scholarship-funding organization shall, upon employment or
19 engagement to provide services, undergo background screening
20 pursuant to s. 943.0542 by electronically filing with the
21 Department of Law Enforcement, for state processing, a
22 complete set of fingerprints taken by an authorized law
23 enforcement agency or by an employee of the eligible nonprofit
24 scholarship-funding organization or a private company who is
25 trained to take fingerprints. However, the complete set of
26 fingerprints of an owner may not be taken by the owner. The
27 Department of Law Enforcement shall submit the fingerprints to
28 the Federal Bureau of Investigation for federal processing.
29 The eligible nonprofit scholarship-funding organization shall
30 screen the background results pursuant to s. 435.04 and timely
31 report to the Department of Education any owner who fails to

1 meet level 2 screening standards pursuant to s. 435.04 or any
2 owner who has been convicted of a crime involving moral
3 turpitude. The Department of Education shall verify the
4 information reported by the eligible nonprofit
5 scholarship-funding organization. Owners found through
6 fingerprint processing to have been convicted of a crime
7 involving moral turpitude or failing to meet level 2 screening
8 standards pursuant to s. 435.04 may not be employed or engaged
9 to provide services in any position with the eligible
10 nonprofit scholarship-funding organization. The cost of the
11 background screening may be borne by the eligible nonprofit
12 scholarship-funding organization or the owner.

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

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

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

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

1 Department of Law Enforcement and by informing the Department
2 of Law Enforcement of any change in the employment or
3 engagement status or place of employment or engagement of its
4 owners whose fingerprints are retained under subparagraph 2.
5 The Department of Law Enforcement shall adopt a rule setting
6 the amount of the annual fee to be imposed upon each eligible
7 nonprofit scholarship-funding organization for performing
8 these searches and establishing the procedures for the
9 retention of owner fingerprints and the dissemination of
10 search results. The fee may be borne by the eligible nonprofit
11 scholarship-funding organization or by the owner.

12 4. If it is found that an owner of an eligible
13 nonprofit scholarship-funding organization does not meet level
14 2 requirements, the eligible nonprofit scholarship-funding
15 organization shall be immediately suspended from participating
16 in the program and shall remain suspended until final
17 resolution of any appeals. An eligible nonprofit
18 scholarship-funding organization the owner of which fails to
19 meet level 2 screening standards or has been convicted of a
20 crime involving moral turpitude may not participate in this
21 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 (m) If the owner of an eligible nonprofit
28 scholarship-funding organization has in the immediately
29 preceding 7 years filed for personal bankruptcy or owned 20
30 percent or more of a corporation that filed for corporate
31 bankruptcy in the immediately preceding 7 years, the eligible

1 nonprofit scholarship-funding organization may not participate
2 in this program.

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

6 (o) An eligible nonprofit scholarship-funding
7 organization or an owner of an eligible nonprofit
8 scholarship-funding organization may not own, operate, or
9 administer an eligible private school participating in the
10 program.

11 (p) An eligible nonprofit scholarship-funding
12 organization must report to the Department of Education any
13 eligible private school participating in the scholarship
14 program under this section which does not comply with the
15 requirements of this program. The eligible nonprofit
16 scholarship-funding organization may not provide additional
17 scholarship funds for a qualified student to attend an
18 eligible private school until the State Board of Education
19 determines that the school is in compliance with this section.

20 (q) An eligible nonprofit scholarship-funding
21 organization must allow a qualified student to attend any
22 eligible private school and must allow the parent to transfer
23 the scholarship during the school year to another eligible
24 private school of the parent's choice.

25 (r) An eligible nonprofit scholarship-funding
26 organization must provide a scholarship to a qualified student
27 on a first-come, first-served basis unless the student
28 qualifies for priority pursuant to paragraph (5)(b). An
29 eligible nonprofit scholarship-funding organization may not
30 target scholarships to a particular private school or provide
31 scholarships to a child of an owner.

1 (s) An eligible nonprofit scholarship-funding
2 organization may not secure a promissory note, a line of
3 credit, or other financing to fund a scholarship in
4 anticipation of an eligible contribution. An eligible
5 scholarship-funding organization may fund scholarships only
6 through eligible contributions received under the scholarship
7 program.

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

11 ~~(6)(5)~~ PARENT OBLIGATIONS.--

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

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

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

25 (d) Upon receipt of scholarship funds from an eligible
26 nonprofit scholarship-funding organization, the parent to whom
27 the warrant is made must restrictively endorse the warrant to
28 the eligible private school for deposit into the account of
29 the private school. If a parent refuses to restrictively
30 endorse a warrant to which an eligible private school is
31 lawfully entitled, that student's scholarship shall be

1 forfeited. The parent may not authorize the eligible private
2 school, its owners, or employees to act as an attorney in fact
3 for purposes of endorsing scholarship warrants.

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

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

9 (7)(6) ELIGIBLE PRIVATE ~~NONPUBLIC~~ SCHOOL

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

11 (a) Demonstrate fiscal soundness by being in operation
12 for at least 3 school years or obtaining a surety bond or
13 letter of credit for the amount equal to the scholarship funds
14 for any quarter and filing the surety bond or letter of credit
15 with ~~one school year or provide~~ the Department of Education.
16 If the private school becomes subject to an action taken by
17 the Department of Education for a violation of this section,
18 the school:

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

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

26 3. May not accept new scholarship students until the
27 Department of Education determines that the private school is
28 in compliance with each requirement in this section and in all
29 rules of the State Board of Education. ~~with a statement by a~~
30 ~~certified public accountant confirming that the nonpublic~~
31 ~~school desiring to participate is insured and the owner or~~

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

8 (b) Comply with the antidiscrimination provisions of
9 42 U.S.C. s. 2000d.

10 (c) Meet state and local health and safety laws and
11 codes.

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

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

26 (f) Annually register with the Department of
27 Education. Each eligible private school must annually provide
28 the following information to the Department of Education:

29 1. The legal business and trade names, mailing
30 address, and business location of the eligible private school;
31

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

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

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

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

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

9 1. Every 5 years each person described in this
10 paragraph must meet level 2 screening requirements as
11 described in s. 435.04, at which time the private school shall
12 request the Department of Law Enforcement pursuant to s.
13 943.0542 to forward the fingerprints to the Federal Bureau of
14 Investigation for level 2 screening. If the fingerprints of a
15 person described in this paragraph are not retained by the
16 Department of Law Enforcement under subparagraph 2., the
17 person must file a complete set of fingerprints with the
18 private school. Upon submission of fingerprints for this
19 purpose, the private school shall request the Department of
20 Law Enforcement to forward the fingerprints to the Federal
21 Bureau of Investigation for level 2 screening, and the
22 fingerprints shall be retained by the Department of Law
23 Enforcement under subparagraph 2. The cost of the state and
24 federal criminal history check required by level 2 screening
25 may be borne by the eligible private school, the employee, the
26 person engaged to provide services, or the owner. Under
27 penalty of perjury, each person described in this paragraph
28 must agree to inform the eligible private school immediately
29 if convicted of any disqualifying offense while in a capacity
30 with the eligible private school as described in this
31 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 pursuant to s.
10 943.051.

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

1 for the retention of eligible private school personnel
2 fingerprints and the dissemination of search results. The fee
3 may be borne by the eligible private school, the employee, the
4 person engaged to provide services, or the owner.

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

14
15 The Department of Law Enforcement shall provide the Department
16 of Education with the results of the state and national
17 records checks provided to the qualified entity at each
18 private school as provided in s. 943.0542.

19 (h)1. Select one of the four nationally
20 norm-referenced tests identified by the State Board of
21 Education under subsection (8) for each scholarship student.
22 The test initially selected for a student must be used for
23 that student for no less than 5 consecutive years. However,
24 the private school may use an updated version of the same
25 test, based on the new norms, from the same publisher.

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

31

1 (i) Cooperate with a scholarship student whose parent
2 choses to participate in the statewide assessments under s.
3 1008.22.

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

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

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

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

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

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

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

24
25 The Department of Education shall make the annual list of
26 accredited and nonaccredited eligible private schools
27 available to the public and shall make that list available by
28 county.

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

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

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

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

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

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

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

28 (d) Annually verify the eligibility of students that
29 meet the requirements of this section. The Department of
30 Education must maintain a database of students participating
31 in the program. The Department of Education must, at least

1 quarterly, update its database to ensure that a student
2 continues to meet the requirements of this section. The
3 Department of Education must timely notify an eligible
4 nonprofit scholarship-funding organization of any student that
5 fails to meet the requirements of this section.

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

8 (f) Annually review all audit reports of eligible
9 nonprofit scholarship-funding organizations for compliance
10 with this section.

11 (g) Annually submit, administer, and retain records of
12 affidavits from private schools certifying compliance with
13 this section.

14 (h) Identify and select the nationally norm-referenced
15 tests that are comparable to the norm-referenced provisions of
16 the Florida Comprehensive Assessment Test. The State Board of
17 Education may not identify more than four norm-referenced
18 tests for use in meeting the requirements of this section. The
19 State Board of Education may select the Florida Comprehensive
20 Assessment Test as one of the four tests for use in meeting
21 such requirements. The Commissioner of Education shall select
22 a Florida public university to analyze and report student
23 performance data for each scholarship student. The
24 Commissioner of Education shall select the university based
25 upon the university's mission and the university's
26 demonstrated experience in the analysis of student performance
27 data. The university must report annually on the year-to-year
28 improvements of the qualified students and must analyze and
29 report student performance data, including student scores by
30 grade level, in a manner that protects the rights of students
31 and parents as mandated in 20 U.S.C. s. 1232g and must not

1 disaggregate data to a level that will disclose the identity
2 of students. Any comparison of student performance data
3 between two or more eligible private schools must be solely
4 based on the performance of qualified scholarship students.

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

16 (j) Revoke the eligibility of a nonprofit
17 scholarship-funding organization, private school, or student
18 to participate in the program for noncompliance with this
19 section.

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

29 (l) Review and verify the results of the background
30 checks reported by the private school pursuant to subsections
31 (5) and (7) for each person who fails to meet level 2

1 screening standards or who has been convicted of a crime
2 involving moral turpitude.

3 ~~(9)(7)~~ ADMINISTRATION; RULES.--

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

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

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

1 ~~schools that meet the requirements of paragraph (2)(c), and~~
2 ~~eligibility of expenditures under this section as provided in~~
3 ~~subsection (4).~~

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

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

12 1. Determining necessary to determine eligibility of
13 nonprofit scholarship-funding organizations and private
14 schools;

15 2. Identifying as defined in paragraph (2)(d) and
16 according to the provisions of subsection (4) and identify
17 qualified students; as defined in paragraph (2)(e).

18 3. Requiring documentation to establish eligibility
19 for nonprofit scholarship-funding organizations;

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

23 5. Requiring independent income-verification
24 documentation to establish student eligibility under this
25 section.

26 (f) The State Board of Education may delegate its
27 authority under this section to the Commissioner of Education
28 with the exception of rulemaking authority.

29 ~~(10)(8)~~ DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--All
30 eligible contributions received by an eligible nonprofit
31

1 scholarship-funding organization shall be deposited in a
2 manner consistent with s. 17.57(2).
3 Section 4. This act shall take effect upon becoming a
4 law.
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