

1 relating to scholarship funding and payment;
2 providing funding and payment requirements for
3 former students of the Florida School for the
4 Deaf and the Blind and for students exiting a
5 Department of Juvenile Justice program;
6 providing obligations of the Department of
7 Financial Services; providing scope of
8 authority; requiring adoption of rules;
9 amending s. 220.187, F.S., relating to credits
10 for contributions to nonprofit
11 scholarship-funding organizations; redefining
12 terms; naming the scholarship program;
13 providing requirements for student eligibility
14 to receive a corporate income tax credit
15 scholarship and restricting eligibility
16 therefor; revising provisions relating to tax
17 credit for small businesses; providing for
18 rescindment of tax credit allocation; revising
19 and adding obligations of eligible nonprofit
20 scholarship-funding organizations, including
21 compliance with requirements for background
22 checks and requirements relating to ownership
23 or operation, audits, and reports; requiring
24 certain information to remain confidential in
25 accordance with s. 213.053, F.S.; revising and
26 adding parents' and students' responsibilities
27 for participation in scholarship programs,
28 including compliance with the private school's
29 published policies, participation in student
30 academic assessment, and restrictive
31 endorsement of scholarship warrants or checks;

1 prohibiting power of attorney for endorsing a
2 scholarship warrant or check; revising and
3 adding eligibility requirements and obligations
4 of private schools, including compliance with
5 specified laws and academic accountability to
6 the parent; revising and adding obligations of
7 the Department of Education, including
8 verification of program participants,
9 establishment of a procedure for notification
10 of violations, subsequent investigation, and
11 certification of compliance by private schools
12 and selection of a research organization to
13 analyze student performance data; providing
14 authority and obligations of the Commissioner
15 of Education, including the denial, suspension,
16 or revocation of a private school's
17 participation in the scholarship program and
18 procedures and timelines therefor; revising and
19 adding provisions relating to scholarship
20 funding and payment, including the amount of a
21 scholarship and payment procedures; requiring
22 adoption of rules; creating s. 1002.421, F.S.,
23 relating to rights and obligations of private
24 schools participating in state school choice
25 scholarship programs; providing requirements
26 for participation in a scholarship program,
27 including compliance with specified state,
28 local, and federal laws and demonstration of
29 fiscal soundness; requiring restrictive
30 endorsement of checks and prohibiting a school
31 from acting as attorney in fact; creating s.

1 1002.422, F.S.; requiring employment of
2 qualified teachers and background screening of
3 individuals having direct student contact;
4 providing scope of authority; requiring
5 adoption of rules; providing for purchase of an
6 electronic fingerprint scanner for purposes of
7 background screening for certain private school
8 employees; providing an effective date.
9

10 Be It Enacted by the Legislature of the State of Florida:
11

12 Section 1. Section 1002.39, Florida Statutes, is
13 amended to read:

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

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

1 physical impairment; a serious emotional disturbance,
2 including an emotional handicap; a ~~impaired, physically~~
3 ~~impaired, emotionally handicapped,~~ specific learning
4 disability, including, but not limited to, dyslexia,
5 dyscalculia, or developmental aphasia; a traumatic brain
6 injury; or autism ~~disabled, hospitalized or homebound, or~~
7 autistic.

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

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

19 1. Enrolled and reported by a school district for
20 funding during the preceding October and February Florida
21 Education Finance Program surveys in kindergarten through
22 grade 12, which shall include time spent in a Department of
23 Juvenile Justice commitment program if funded under the
24 Florida Education Finance Program;

25 2. Enrolled and reported by the Florida School for the
26 Deaf and the Blind during the preceding October and February
27 student membership surveys in kindergarten through grade 12;
28 or

29 3. Enrolled and reported by a school district for
30 funding during the preceding October and February Florida
31 Education Finance Program surveys, at least 4 years old when

1 so enrolled and reported, and eligible for services under s.
2 1003.21(1)(e). However, ~~this paragraph does not apply to a~~
3 ~~dependent child of a member of the United States Armed Forces~~
4 ~~who transfers to a school in this state from out of state or~~
5 ~~from a foreign country pursuant to a parent's permanent change~~
6 ~~of station orders is exempt from this paragraph but. A~~
7 ~~dependent child of a member of the United States Armed Forces~~
8 ~~who transfers to a school in this state from out of state or~~
9 ~~from a foreign country pursuant to a parent's permanent change~~
10 ~~of station orders~~ must meet all other eligibility requirements
11 to participate in the program.

12 (b) The parent has obtained acceptance for admission
13 of the student to a private school that is eligible for the
14 program under subsection ~~(8)(4)~~ and has requested from the
15 department ~~notified the school district of the request for a~~
16 ~~scholarship at least 60 days prior to the date of the first~~
17 ~~scholarship payment. The request ~~parental notification~~ must be~~
18 ~~through a communication directly to the department ~~district or~~~~
19 ~~through the Department of Education to the district in a~~
20 ~~manner that creates a written or electronic record of the~~
21 ~~request notification and the date of receipt of the request~~
22 ~~notification.~~

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

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

4 (3) JOHN M. MCKAY SCHOLARSHIP PROHIBITIONS.--A student
5 is not eligible for a John M. McKay Scholarship while he or
6 she is:

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

10 (b) Receiving a corporate income tax credit
11 scholarship under s. 220.187.

12 (c) Receiving an educational scholarship pursuant to
13 this chapter.

14 (d) Participating in a home education program as
15 defined in s. 1002.01(1).

16 (e) Participating in a private tutoring program
17 pursuant to s. 1002.43.

18 (f) Participating in a virtual school, correspondence
19 school, or distance learning program that receives state
20 funding pursuant to the student's participation.

21 (g) Enrolled in the Florida School for the Deaf and
22 the Blind.

23 (4) TERM OF JOHN M. MCKAY SCHOLARSHIP.--

24 (a) For purposes of continuity of educational choice,
25 a John M. McKay Scholarship shall remain in force until the
26 student returns to a public school, graduates from high
27 school, or reaches the age of 22, whichever occurs first.

28 (b) Upon reasonable notice to the department and the
29 school district, the student's parent may remove the student
30 from the private school and place the student in a public
31 school, as provided in subparagraph (5)(a)2.

1 (c) Upon reasonable notice to the department, the
2 student's parent may move the student from one participating
3 private school to another participating private school.

4 ~~(5)(3) SCHOOL DISTRICT AND DEPARTMENT OF EDUCATION~~
5 OBLIGATIONS; PARENTAL OPTIONS.--

6 (a)1. By April 1 of each year and within 10 days after
7 an individual education plan meeting, a school district shall
8 ~~timely~~ notify the parent of the student of all options
9 available pursuant to this section, inform the parent of the
10 availability of the department's telephone hotline and
11 Internet website for additional information on John M. McKay
12 Scholarships, and offer that student's parent an opportunity
13 to enroll the student in another public school within the
14 district.

15 2. The parent is not required to accept ~~the this~~ offer
16 of enrolling in another public school in lieu of requesting a
17 John M. McKay Scholarship to a private school. However, if the
18 parent chooses the public school option, the student may
19 continue attending a public school chosen by the parent until
20 the student graduates from high school.

21 3. If the parent chooses a public school consistent
22 with the district school board's choice plan under s. 1002.31,
23 the school district shall provide transportation to the public
24 school selected by the parent. The parent is responsible to
25 provide transportation to a public school chosen that is not
26 consistent with the district school board's choice plan under
27 s. 1002.31.

28 (b)1. For a student with disabilities who does not
29 have a matrix of services under s. 1011.62(1)(e), the school
30 district must complete a matrix that assigns the student to
31

1 one of the levels of service as they existed prior to the
2 2000-2001 school year.

3 2.a. Within 10 school days after it receives
4 notification of a parent's request for a John M. McKay
5 Scholarship, a district school board must notify the student's
6 parent if the matrix has not been completed and inform the
7 parent that the district is required to complete the matrix
8 within 30 days after receiving notice of the parent's request
9 for a John M. McKay Scholarship. This notice should include
10 the required completion date for the matrix.

11 b. The school district must complete the matrix of
12 services for any student who is participating in the John M.
13 McKay Scholarships for Students with Disabilities Program and
14 must notify the department ~~of Education~~ of the student's
15 matrix level within 30 days after receiving notification of a
16 request by the student's parent of intent to participate in
17 the scholarship program. The school district must provide the
18 student's parent with the student's matrix level within 10
19 school days after its completion.

20 c. The department ~~of Education~~ shall notify the
21 private school of the amount of the scholarship within 10 days
22 after receiving the school district's notification of the
23 student's matrix level. ~~Within 10 school days after it~~
24 ~~receives notification of a parent's intent to apply for a~~
25 ~~McKay Scholarship, a district school board must notify the~~
26 ~~student's parent if the matrix has not been completed and~~
27 ~~provide the parent with the date for completion of the matrix~~
28 ~~required in this paragraph.~~

29 d. A school district may change a matrix of services
30 only if the change is to correct a technical, typographical,
31 or calculation error.

1 (c) A school district shall provide notification to
2 parents of the availability of a reevaluation at least every 3
3 years of each student who receives a John M. McKay
4 Scholarship.

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

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

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

27 ~~(f) A school district must notify the Department of~~
28 ~~Education within 10 days after it receives notification of a~~
29 ~~parent's intent to apply for a scholarship for a student with~~
30 ~~a disability. A school district must provide the student's~~
31

1 ~~parent with the student's matrix level within 10 school days~~
2 ~~after its completion.~~

3 (6) DEPARTMENT OF EDUCATION; OBLIGATIONS.--The
4 department shall:

5 (a) Establish a toll-free hotline that provides
6 parents and private schools with information on participation
7 in the John M. McKay Scholarships for Students with
8 Disabilities Program.

9 (b) Annually verify the eligibility of private schools
10 that meet the requirements of subsection (8).

11 (c) Establish a procedure by which individuals may
12 notify the department of any violation by a parent, private
13 school, or school district of state laws relating to program
14 participation. The department shall conduct an investigation
15 of any written complaint of a violation of this section, or
16 make a referral to the appropriate agency for an
17 investigation, if the complaint is signed by the complainant
18 and is legally sufficient. A complaint is legally sufficient
19 if it contains ultimate facts that show that a violation of
20 this section or any rule adopted by the State Board of
21 Education has occurred. In order to determine legal
22 sufficiency, the department may require supporting information
23 or documentation from the complainant.

24 (d) Require an annual, notarized, sworn compliance
25 statement by participating private schools certifying
26 compliance with state laws and shall retain such records.

27 (e) Cross-check the list of participating scholarship
28 students with the public school enrollment lists prior to the
29 first scholarship payment to avoid duplication.

30 (7) COMMISSIONER OF EDUCATION; AUTHORITY AND
31 OBLIGATIONS.--

1 (a) The Commissioner of Education shall deny, suspend,
2 or revoke a private school's participation in the scholarship
3 program if it is determined that the private school has failed
4 to comply with this section. However, if the noncompliance is
5 correctable within a reasonable amount of time and the health,
6 safety, and welfare of the students are not threatened, the
7 commissioner may issue a notice of noncompliance which
8 provides the private school with a timeframe within which to
9 provide evidence of compliance before taking action to suspend
10 or revoke the private school's participation in the
11 scholarship program.

12 (b) The commissioner's determination is subject to the
13 following requirements:

14 1. If the commissioner intends to deny, suspend, or
15 revoke a private school's participation in the scholarship
16 program, the department shall notify the private school of
17 such proposed action in writing sent by certified mail and
18 regular mail to the private school's address of record with
19 the department. The notification must include the reasons for
20 the proposed action and notice of the timelines and procedures
21 set forth in this paragraph.

22 2. The private school that is adversely affected by
23 the proposed action shall have 15 days after receipt of the
24 notice of proposed action to file with the department's agency
25 clerk a request for a proceeding pursuant to ss. 120.569 and
26 120.57. If the private school is entitled to a hearing under
27 s. 120.57(1), the department shall forward the request to the
28 Division of Administrative Hearings.

29 3. Upon receipt of a request referred pursuant to this
30 paragraph, the director of the Division of Administrative
31 Hearings shall expedite the hearing and assign an

1 administrative law judge who shall commence a hearing within
2 30 days after the receipt of the formal written request by the
3 division and enter a recommended order within 30 days after
4 the hearing or within 30 days after receipt of the hearing
5 transcript, whichever is later. Each party shall be allowed 10
6 days in which to submit written exceptions to the recommended
7 order. A final order shall be entered by the agency within 30
8 days after the entry of a recommended order. The provisions of
9 this subparagraph may be waived upon stipulation by all
10 parties.

11 (c) The commissioner may immediately suspend payment
12 of scholarship funds if it is determined that there is
13 probable cause to believe that there is:

14 1. An imminent threat to the health, safety, and
15 welfare of the students; or

16 2. Fraudulent activity on the part of the private
17 school.

18
19 The commissioner's order suspending payment pursuant to this
20 paragraph may be appealed pursuant to the same procedures and
21 timelines as the notice of proposed action set forth in
22 paragraph (b).

23 (8)(4) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.--To
24 be eligible to participate in the John M. McKay Scholarships
25 for Students with Disabilities Program, a private school ~~must~~
26 ~~be a Florida private school,~~ may be sectarian or nonsectarian,
27 and must:

28 (a) Comply with all requirements for private schools
29 participating in state school choice scholarship programs
30 pursuant to s. 1002.421.

31

1 (b) Provide the department all documentation required
2 for a student's participation, including the private school's
3 and student's fee schedules, at least 30 days before the first
4 quarterly scholarship payment is made for the student.

5 (c) Be academically accountable to the parent for
6 meeting the educational needs of the student by:

7 1. At a minimum, annually providing to the parent a
8 written explanation of the student's progress.

9 2. Cooperating with the scholarship student whose
10 parent chooses to participate in the statewide assessments
11 pursuant to s. 1008.22.

12
13 The inability of a private school to meet the requirements of
14 this subsection shall constitute a basis for the ineligibility
15 of the private school to participate in the scholarship
16 program as determined by the department.

17 ~~(a) Demonstrate fiscal soundness by being in operation~~
18 ~~for 1 school year or provide the Department of Education with~~
19 ~~a statement by a certified public accountant confirming that~~
20 ~~the private school desiring to participate is insured and the~~
21 ~~owner or owners have sufficient capital or credit to operate~~
22 ~~the school for the upcoming year serving the number of~~
23 ~~students anticipated with expected revenues from tuition and~~
24 ~~other sources that may be reasonably expected. In lieu of such~~
25 ~~a statement, a surety bond or letter of credit for the amount~~
26 ~~equal to the scholarship funds for any quarter may be filed~~
27 ~~with the department.~~

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

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

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

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

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

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

14 ~~(g) Comply with all state laws relating to general~~
15 ~~regulation of private schools.~~

16 ~~(h) Adhere to the tenets of its published disciplinary~~
17 ~~procedures prior to the expulsion of a scholarship student.~~

18 ~~(9)(5) PARENTS' AND STUDENTS' RESPONSIBILITIES FOR~~
19 ~~OBLIGATION OF PROGRAM PARTICIPATION PARTICIPANTS.~~

20 ~~(a) A parent who applies for a John M. McKay~~
21 ~~Scholarship is exercising his or her parental option to place~~
22 ~~his or her child in a private school.~~

23 ~~(a) The parent must select the private school and~~
24 ~~apply for the admission of his or her child.~~

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

28 ~~(c) Any student participating in the John M. McKay~~
29 ~~Scholarships for Students with Disabilities ~~scholarship~~~~
30 ~~Program must remain in attendance throughout the school year.~~
31

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

3 (d) Each ~~The~~ parent and ~~of~~ each student has an
4 obligation to the private school to participating in the
5 ~~scholarship program must~~ comply fully with the private
6 school's published policies ~~parental involvement requirements,~~
7 ~~unless excused by the school for illness or other good cause.~~

8 (e) If the parent requests that the student
9 participating in the John M. Mckay Scholarships for Students
10 with Disabilities ~~scholarship~~ Program take all statewide
11 assessments required pursuant to s. 1008.22, the parent is
12 responsible for transporting the student to the assessment
13 site designated by the school district.

14 (f) Upon receipt of a scholarship warrant, the parent
15 to whom the warrant is made must restrictively endorse the
16 warrant to the private school for deposit into the account of
17 the private school. The parent may not designate any entity or
18 individual associated with the participating private school as
19 the parent's attorney in fact to sign a scholarship warrant.

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

22 ~~(10)(6)~~ JOHN M. MCKAY SCHOLARSHIP FUNDING AND
23 PAYMENT.--

24 (a)1. The maximum scholarship granted for an eligible
25 student with disabilities shall be a calculated amount
26 equivalent to the base student allocation in the Florida
27 Education Finance Program multiplied by the appropriate cost
28 factor for the educational program that would have been
29 provided for the student in the district school to which he or
30 she was assigned, multiplied by the district cost
31 differential.

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

18 3. The calculated scholarship amount for a student who
19 has spent the prior school year in attendance at the Florida
20 School for the Deaf and the Blind shall be calculated as
21 provided in subparagraphs 1. and 2. However, the calculation
22 must be based on the school district in which the parent
23 resides at the time of the scholarship request.

24 ~~4.3.~~ Until the school district completes the matrix
25 required by paragraph(5)(b)(3)(b), the calculation shall be
26 based on the matrix that assigns the student to support level
27 I of service as it existed prior to the 2000-2001 school year.
28 When the school district completes the matrix, the amount of
29 the payment shall be adjusted as needed.

30 (b) The amount of the John M. McKay Scholarship shall
31 be the calculated amount or the amount of the private school's

1 tuition and fees, whichever is less. The amount of any
2 assessment fee required by the participating private school
3 may be paid from the total amount of the scholarship.

4 ~~(c) If the participating private school requires~~
5 ~~partial payment of tuition prior to the start of the academic~~
6 ~~year to reserve space for students admitted to the school,~~
7 ~~that partial payment may be paid by the Department of~~
8 ~~Education prior to the first quarterly payment of the year in~~
9 ~~which the John M. McKay Scholarship is awarded, up to a~~
10 ~~maximum of \$1,000, and deducted from subsequent scholarship~~
11 ~~payments. If a student decides not to attend the participating~~
12 ~~private school, the partial reservation payment must be~~
13 ~~returned to the Department of Education by the participating~~
14 ~~private school. There is a limit of one reservation payment~~
15 ~~per student per year.~~

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

22 2. For program participants who are eligible under
23 subparagraph (2)(a)2., the school district that is used as the
24 basis for the calculation of the scholarship amount as
25 provided in subparagraph (a)3. shall:

26 a. Report to the department all such students who are
27 attending a private school under this program.

28 b. Be held harmless for such students from the
29 weighted enrollment ceiling for group 2 programs in s.
30 1011.62(1)(d)3.a. during the first school year in which the
31 students are reported.

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

25 ~~(e)(f)~~ Upon notification ~~proper documentation reviewed~~
26 ~~and approved~~ by the department that it has received the
27 documentation required under paragraph (d) of Education, the
28 Chief Financial Officer shall make scholarship payments in
29 four equal amounts no later than September 1, November 1,
30 February 1, and April 1 ~~15~~ of each academic year in which the
31 scholarship is in force. The initial payment shall be made

1 after department ~~of Education~~ verification of admission
2 acceptance, and subsequent payments shall be made upon
3 verification of continued enrollment and attendance at the
4 private school. Payment must be by individual warrant made
5 payable to the student's parent and mailed by the department
6 ~~of Education~~ to the private school of the parent's choice, and
7 the parent shall restrictively endorse the warrant to the
8 private school for deposit into the account of the private
9 school.

10 (f) Subsequent to each scholarship payment, the
11 Department of Financial Services shall randomly review
12 endorsed warrants to confirm compliance with endorsement
13 requirements. The Department of Financial Services shall
14 immediately report inconsistencies or irregularities to the
15 department.

16 (11)(7) LIABILITY.--No Liability shall arise on the
17 part of the state may not arise based on the award or use of a
18 John M. McKay Scholarship.

19 (12) SCOPE OF AUTHORITY.--The inclusion of eligible
20 private schools within options available to Florida public
21 school students does not expand the regulatory authority of
22 the state, its officers, or any school district to impose any
23 additional regulation of private schools beyond those
24 reasonably necessary to enforce requirements expressly set
25 forth in this section.

26 (13)(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 an active ~~a current~~ individual education plan from
31 another state or a foreign country for a transferring student

1 with a disability who is a dependent child of a member of the
2 United States Armed Forces. The rules must identify the
3 appropriate school district personnel who must complete the
4 matrix of services. For purposes of these rules, a
5 transferring student with a disability is one who was
6 previously enrolled as a student with a disability in an
7 out-of-state or an out-of-country public or private school or
8 agency program and who is transferring from out of state or
9 from a foreign country pursuant to a parent's permanent change
10 of station orders. ~~However, the inclusion of eligible private~~
11 ~~schools within options available to Florida public school~~
12 ~~students does not expand the regulatory authority of the~~
13 ~~state, its officers, or any school district to impose any~~
14 ~~additional regulation of private schools beyond those~~
15 ~~reasonably necessary to enforce requirements expressly set~~
16 ~~forth in this section.~~

17 Section 2. Section 220.187, Florida Statutes, is
18 amended to read:

19 220.187 Credits for contributions to nonprofit
20 scholarship-funding organizations.--

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

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

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

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

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

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

30 (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 ~~(c) "Eligible nonpublic school" means a nonpublic~~
8 ~~school located in Florida that offers an education to students~~
9 ~~in any grades K-12 and that meets the requirements in~~
10 ~~subsection (6).~~

11 ~~(c)(d)~~ "Eligible nonprofit scholarship-funding
12 organization" means a charitable organization that:

13 1. Is exempt from federal income tax pursuant to s.
14 501(c)(3) of the Internal Revenue Code.

15 2. Is a Florida entity formed under chapter 607,
16 chapter 608, or chapter 617 and whose principal office is
17 located in the state. and that

18 3. Complies with the provisions of subsection(6)(4).

19 (d) "Eligible private school" means a private school,
20 as defined in s. 1002.01, located in this state which offers
21 an education to students in any grades K-12 and which meets
22 the requirements in subsection (8).

23 (e) "Owner or operator" includes:

24 1. An owner, president, officer, or director of an
25 eligible nonprofit scholarship-funding organization or a
26 person having equivalent decisionmaking authority over an
27 eligible nonprofit scholarship-funding organization.

28 2. An owner, operator, superintendent, or principal of
29 an eligible private school or a person having equivalent
30 decisionmaking authority over an eligible private school.

31

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

4 (3) PROGRAM; SCHOLARSHIP ELIGIBILITY.--The Corporate
5 Income Tax Credit Scholarship Program is established. A
6 student is eligible for a corporate income tax credit
7 scholarship if the student qualifies for free or reduced-price
8 school lunches under the National School Lunch Act and:

9 (a)1- Was counted as a full-time equivalent student
10 during the previous state fiscal year for purposes of state
11 per-student funding;

12 (b)2- Received a scholarship from an eligible
13 nonprofit scholarship-funding organization during the previous
14 school year; or

15 (c)3- Is eligible to enter kindergarten or first
16 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.

21 (4) SCHOLARSHIP PROHIBITIONS.--A student is not
22 eligible for a scholarship while he or she is:

23 (a) Enrolled in a school operating for the purpose of
24 providing educational services to youth in commitment programs
25 of the Department of Juvenile Justice.

26 (b) Receiving a scholarship from another eligible
27 nonprofit scholarship-funding organization under this section.

28 (c) Receiving an educational scholarship pursuant to
29 chapter 1002.

30 (d) Participating in a home education program as
31 defined in s. 1002.01(1).

1 (e) Participating in a private tutoring program
2 pursuant to s. 1002.43.

3 (f) Participating in a virtual school, correspondence
4 school, or distance learning program that receives state
5 funding pursuant to the student's participation.

6 (g) Enrolled in the Florida School for the Deaf and
7 the Blind.

8 ~~(5)(3)~~ AUTHORIZATION TO GRANT SCHOLARSHIP FUNDING TAX
9 CREDITS; LIMITATIONS ON INDIVIDUAL AND TOTAL CREDITS.--

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

19 The credit granted by this section shall be reduced by the
20 difference between the amount of federal corporate income tax
21 taking into account the credit granted by this section and the
22 amount of federal corporate income tax without application of
23 the credit granted by this section.

24 (b) The total amount of tax credits and carryforward
25 of tax credits which may be granted ~~each state fiscal year~~
26 under this section is \$88 million during the 2006-2007 fiscal
27 year. In each fiscal year thereafter, if the total allowable
28 amount of the tax credit and carryforward tax credits has been
29 attained for the prior year, the total amount of tax credits
30 and carryforward of tax credits which may be granted under
31 this section shall be adjusted by the same percentage as the

1 increase or decrease in total funding, adjusted for Florida
2 Retirement System changes, if applicable, under the Florida
3 Education Finance Program as provided in work papers of the
4 General Appropriations Act. However, the total amount of tax
5 credits which may be granted pursuant to this paragraph may
6 not increase by more than 5 percent in any year. The
7 Commissioner of Education shall certify to the department and
8 notify eligible nonprofit scholarship-funding organizations of
9 the resulting value of tax credits that may be granted within
10 30 days after the General Appropriations Act becomes law.
11 However, at least 1 percent of the total statewide amount
12 authorized for the tax credit shall be reserved for taxpayers
13 who meet the definition of a small business provided in s.
14 288.703 at the time of application.

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

20 (d) Effective for tax years beginning January 1, 2006,
21 or thereafter, a taxpayer may rescind all or part of its
22 allocated tax credit under this section. The amount rescinded
23 shall become available for purposes of the cap for that state
24 fiscal year under this section to an eligible taxpayer as
25 approved by the department if the taxpayer receives notice
26 from the department that the rescindment has been accepted by
27 the department and the taxpayer has not previously rescinded
28 any or all of its tax credit allocation under this section
29 more than once in the previous 3 tax years. An amount
30 rescinded under this paragraph shall become available to an
31 eligible taxpayer on a first-come, first-served basis based on

1 applications for tax credit received after the date the
2 rescindment is accepted by the department.

3 ~~(6)(4)~~ OBLIGATIONS OF ELIGIBLE NONPROFIT
4 SCHOLARSHIP-FUNDING ORGANIZATIONS.--An eligible nonprofit
5 scholarship-funding organization:

6 (a) Must comply with the antidiscrimination provisions
7 of 42 U.S.C. s. 2000d.

8 (b) Must comply with the following background check
9 requirements:

10 1. An owner, operator, or employee of an eligible
11 nonprofit scholarship-funding organization is subject to level
12 2 background screening as provided under chapter 435. The
13 results of the level 2 background screening shall be provided
14 to the department.

15 2. A nonprofit scholarship-funding organization whose
16 owner or operator fails the level 2 background screening is
17 ineligible to provide scholarships under this section.

18 3. A nonprofit scholarship-funding organization's
19 continued employment of an employee after notification that
20 the employee has failed the level 2 background screening shall
21 cause the nonprofit scholarship-funding organization to be
22 ineligible for participation in the scholarship program.

23 4. A nonprofit scholarship-funding organization whose
24 owner or operator in the last 7 years has filed for personal
25 bankruptcy or corporate bankruptcy in a corporation of which
26 he or she owned more than 20 percent is ineligible to provide
27 scholarships under this section.

28 (c) Must not have an owner or operator who owns or
29 operates an eligible private school that is participating in
30 the scholarship program.

31

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

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

8 2. Transportation expenses to a Florida public school
9 that is located outside the district in which the student
10 resides or to a lab school as defined in s. 1002.32.

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

16 (f) Must provide a scholarship to an eligible student
17 on a first-come, first-served basis unless the student
18 qualifies for priority pursuant to paragraph (e).

19 (g) May not restrict or reserve scholarships for use
20 at a particular private school or provide scholarships to a
21 child of an owner or operator.

22 (h) Must allow an eligible student to attend any
23 eligible private school and must allow a parent to transfer a
24 scholarship during a school year to any other eligible private
25 school of the parent's choice.

26 ~~(c) The amount of a scholarship provided to any child~~
27 ~~for any single school year by all eligible nonprofit~~
28 ~~scholarship funding organizations from eligible contributions~~
29 ~~shall not exceed the following annual limits:~~
30
31

1 ~~1. Three thousand five hundred dollars for a~~
2 ~~scholarship awarded to a student enrolled in an eligible~~
3 ~~nonpublic school.~~

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

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

13 ~~(i)(e) Must obligate, in the same fiscal year in which~~
14 ~~the contribution was received, An eligible nonprofit~~
15 ~~scholarship funding organization that receives an eligible~~
16 ~~contribution must spend 100 percent of the eligible~~
17 ~~contribution to provide scholarships; however, up to 25~~
18 ~~percent of the total contribution may be carried forward for~~
19 ~~scholarships to be granted in the following in the same state~~
20 ~~fiscal year in which the contribution was received. No portion~~
21 ~~of eligible contributions may be used for administrative~~
22 ~~expenses. All interest accrued from contributions must be used~~
23 ~~for scholarships.~~

24 ~~(j) Must maintain separate accounts for scholarship~~
25 ~~funds and operating funds.~~

26 ~~(k) With the prior approval of the Department of~~
27 ~~Education, may transfer funds to another eligible nonprofit~~
28 ~~scholarship-funding organization if additional funds are~~
29 ~~required to meet the demand for scholarships at the receiving~~
30 ~~nonprofit scholarship-funding organization. The amount of a~~
31 ~~transfer is limited to the greater of \$500,000 or 20 percent~~

1 of the total contributions received by the nonprofit
2 scholarship-funding organization making the transfer. All
3 transferred funds must be deposited by the receiving nonprofit
4 scholarship-funding organization into its scholarship
5 accounts. All transferred amounts received by any nonprofit
6 scholarship-funding organization must be separately disclosed
7 in the annual financial and compliance audit required in this
8 section.

9 ~~(l)(f)~~ ~~An eligible nonprofit scholarship funding~~
10 ~~organization that receives eligible contributions~~ Must provide
11 to the Auditor General and the Department of Education an
12 annual financial and compliance audit of its accounts and
13 records conducted by an independent certified public
14 accountant and in accordance with rules adopted by the Auditor
15 General. The audit must be conducted in compliance with
16 generally accepted auditing standards and must include a
17 report on financial statements presented in accordance with
18 generally accepted accounting principles set forth by the
19 American Institute of Certified Public Accountants for
20 not-for-profit organizations and a determination of compliance
21 with the statutory eligibility and expenditure requirements
22 set forth in this section. Audits must be provided to the
23 Auditor General and the Department of Education within 180
24 days after completion of the eligible nonprofit
25 scholarship-funding organization's fiscal year.

26 (m) Must prepare and submit quarterly reports to the
27 Department of Education pursuant to paragraph (9)(m). In
28 addition, an eligible nonprofit scholarship-funding
29 organization must timely submit any information requested by
30 the Department of Education relating to the scholarship
31 program.

1
2 Any information and documentation provided to the Department
3 of Education and the Auditor General relating to the identity
4 of a taxpayer that provides an eligible contribution under
5 this section shall remain confidential at all times in
6 accordance with s. 213.053.

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

21 (7)(5) PARENTS' AND STUDENTS' RESPONSIBILITIES FOR
22 PROGRAM PARTICIPATION.--

23 (a) The parent must select an eligible private school
24 and apply for the admission of his or her child.

25 (b) The parent must inform the child's school district
26 when the parent withdraws his or her child to attend an
27 eligible private school.

28 (c) A student participating in the scholarship program
29 must remain in attendance throughout the school year unless
30 excused by the school for illness or other good cause.

31

1 (d) Each parent and each student has an obligation to
2 the private school to comply with the private school's
3 published policies.

4 (e) The parent shall ensure that the student
5 participating in the scholarship program takes the
6 norm-referenced assessment offered by the private school. The
7 parent may also choose to have the student participate in the
8 statewide assessments pursuant to s. 1008.22. If the parent
9 requests that the student participating in the scholarship
10 program take statewide assessments pursuant to s. 1008.22, the
11 parent is responsible for transporting the student to the
12 assessment site designated by the school district.

13 (f) Upon receipt of a scholarship warrant or check
14 from the eligible nonprofit scholarship-funding organization,
15 the parent to whom the warrant or check is made must
16 restrictively endorse the warrant or check to the private
17 school for deposit into the account of the private school. The
18 parent may not designate any entity or individual associated
19 with the participating private school as the parent's attorney
20 in fact to sign a scholarship warrant or check. A participant
21 who fails to comply with this paragraph forfeits the
22 scholarship. ~~PARENT OBLIGATIONS. As a condition for~~
23 ~~scholarship payment pursuant to paragraph (4)(g), if the~~
24 ~~parent chooses for his or her child to attend an eligible~~
25 ~~nonpublic school, the parent must inform the child's school~~
26 ~~district within 15 days after such decision.~~

27 (8)(6) PRIVATE ELIGIBLE NONPUBLIC SCHOOL ELIGIBILITY
28 AND OBLIGATIONS.--An eligible private nonpublic school may be
29 sectarian or nonsectarian and must:

1 (a) Comply with all requirements for private schools
2 participating in state school choice scholarship programs
3 pursuant to s. 1002.421.

4 (b) Provide to the eligible nonprofit
5 scholarship-funding organization, upon request, all
6 documentation required for the student's participation,
7 including the private school's and student's fee schedules.

8 (c) Be academically accountable to the parent for
9 meeting the educational needs of the student by:

10 1. At a minimum, annually providing to the parent a
11 written explanation of the student's progress.

12 2. Annually administering or making provision for
13 students participating in the scholarship program to take one
14 of the nationally norm-referenced tests identified by the
15 Department of Education. Students with disabilities for whom
16 standardized testing is not appropriate are exempt from this
17 requirement. A participating private school must report a
18 student's scores to the parent and to the independent research
19 organization as described in paragraph (9)(j) selected by the
20 Department of Education.

21 3. Cooperating with the scholarship student whose
22 parent chooses to participate in the statewide assessments
23 pursuant to s. 1008.32.

24
25 The inability of a private school to meet the requirements of
26 this subsection shall constitute a basis for the ineligibility
27 of the private school to participate in the scholarship
28 program as determined by the Department of Education.

29 ~~(a) Demonstrate fiscal soundness by being in operation~~
30 ~~for one school year or provide the Department of Education~~
31 ~~with a statement by a certified public accountant confirming~~

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

9 ~~(b) Comply with the antidiscrimination provisions of~~
10 ~~42 U.S.C. s. 2000d.~~

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

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

15 (9) DEPARTMENT OF EDUCATION; OBLIGATIONS.--The
16 Department of Education shall:

17 (a) Annually submit to the department, by March 15, a
18 list of eligible nonprofit scholarship-funding organizations
19 that meet the requirements of paragraph (2)(c).

20 (b) Annually verify the eligibility of nonprofit
21 scholarship-funding organizations that meet the requirements
22 of paragraph (2)(c).

23 (c) Annually verify the eligibility of private schools
24 that meet the requirements of subsection (8).

25 (d) Annually verify the eligibility of expenditures as
26 provided in paragraph (6)(d) using the audit required by
27 paragraph (6)(l).

28 (e) Establish a toll-free hotline that provides
29 parents and private schools with information on participation
30 in the scholarship program.

31

1 (f) Establish a procedure by which individuals may
2 notify the Department of Education of any violation by a
3 parent, private school, or school district of state laws
4 relating to program participation. The Department of Education
5 shall conduct an investigation of any written complaint of a
6 violation of this section, or make a referral to the
7 appropriate agency for an investigation, if the complaint is
8 signed by the complainant and is legally sufficient. A
9 complaint is legally sufficient if it contains ultimate facts
10 that show that a violation of this section or of any rule
11 adopted by the State Board of Education has occurred. In order
12 to determine legal sufficiency, the Department of Education
13 may require supporting information or documentation from the
14 complainant.

15 (g) Require an annual, notarized, sworn compliance
16 statement by participating private schools certifying
17 compliance with state laws and shall retain such records.

18 (h) Cross-check the list of participating scholarship
19 students with the public school enrollment lists to avoid
20 duplication.

21 (i) Identify and select the nationally norm-referenced
22 tests that are comparable to the norm-referenced provisions of
23 the Florida Comprehensive Assessment Test. The State Board of
24 Education may not identify more than four norm-referenced
25 tests for use in meeting the requirements of this section.
26 However, the Department of Education may approve the use of an
27 additional assessment by the school if the school can
28 demonstrate that the assessment meets industry standards of
29 quality and comparability. The State Board of Education may
30 select the Florida Comprehensive Assessment Test as one of the
31 four tests for use in meeting such requirements.

1 (j) Select an independent research organization, which
2 may be a public or private entity or university, to which
3 participating private schools must report the scores of
4 participating students on the nationally norm-referenced tests
5 administered by the private school. The independent research
6 organization shall report annually to the Department of
7 Education on the year-to-year improvements of participating
8 students. The independent research organization must analyze
9 and report student performance data in a manner that protects
10 the rights of students and parents as mandated in 20 U.S.C. s.
11 1232g, the Family Educational Rights and Privacy Act, and must
12 not disaggregate data to a level that will disclose the
13 academic level of individual students or of individual
14 schools. To the greatest possible extent, the independent
15 research organization must accumulate historical performance
16 data on students from the Department of Education and private
17 schools to describe baseline performance and to conduct
18 longitudinal studies. To minimize costs and reduce time
19 required for third-party analysis and evaluation, the
20 Department of Education shall conduct analyses of matched
21 students from public school assessment data and calculate
22 control-group learning gains using an agreed-upon methodology
23 outlined in the contract with the third-party evaluator. The
24 sharing of student data must be in accordance with 20 U.S.C.
25 1232g, the Family Educational Rights and Privacy Act, and must
26 be for the sole purpose of conducting the evaluation. All
27 parties must preserve the confidentiality of such information
28 as required by law.

29 (k) Notify an eligible nonprofit scholarship-funding
30 organization of any of the organization's identified students
31

1 who are receiving an educational scholarship pursuant to
2 chapter 1002.

3 (l) Notify an eligible nonprofit scholarship-funding
4 organization of any of the organization's identified students
5 who are receiving a corporate income tax credit scholarship
6 from another eligible nonprofit scholarship-funding
7 organization.

8 (m) Require quarterly reports by an eligible nonprofit
9 scholarship-funding organization regarding the number of
10 students participating in the scholarship program, the private
11 schools at which the students are enrolled, and other
12 information that the Department of Education considers
13 necessary.

14 (10) COMMISSIONER OF EDUCATION; AUTHORITY AND
15 OBLIGATIONS.--

16 (a) The Commissioner of Education shall deny, suspend,
17 or revoke a private school's participation in the scholarship
18 program if it is determined that the private school has failed
19 to comply with this section. However, if the noncompliance is
20 correctable within a reasonable amount of time and the health,
21 safety, and welfare of the students are not threatened, the
22 commissioner may issue a notice of noncompliance which
23 provides the private school with a timeframe within which to
24 provide evidence of compliance before taking action to suspend
25 or revoke the private school's participation in the
26 scholarship program.

27 (b) The commissioner's determination is subject to the
28 following requirements:

29 1. If the commissioner intends to deny, suspend, or
30 revoke a private school's participation in the scholarship
31 program, the Department of Education shall notify the private

1 school of such proposed action in writing sent by certified
2 mail and regular mail to the private school's address of
3 record with the Department of Education. The notification must
4 include the reasons for the proposed action and notice of the
5 timelines and procedures set forth in this paragraph.

6 2. The private school that is adversely affected by
7 the proposed action shall have 15 days after receipt of the
8 notice of proposed action to file with the Department of
9 Education's agency clerk a request for a proceeding pursuant
10 to ss. 120.569 and 120.57. If the private school is entitled
11 to a hearing under s. 120.57(1), the Department of Education
12 shall forward the request to the Division of Administrative
13 Hearings.

14 3. Upon receipt of a request referred pursuant to this
15 paragraph, the director of the Division of Administrative
16 Hearings shall expedite the hearing and assign an
17 administrative law judge who shall commence a hearing within
18 30 days after the receipt of the formal written request by the
19 division and enter a recommended order within 30 days after
20 the hearing or within 30 days after receipt of the hearing
21 transcript, whichever is later. Each party shall be allowed 10
22 days in which to submit written exceptions to the recommended
23 order. A final order must be entered by the agency within 30
24 days after the entry of a recommended order. The provisions of
25 this subparagraph may be waived upon stipulation by all
26 parties.

27 (c) The commissioner may immediately suspend payment
28 of scholarship funds if it is determined that there is
29 probable cause to believe that there is:

30 1. An imminent threat to the health, safety, and
31 welfare of the students; or

1 2. Fraudulent activity on the part of the private
2 school.

3
4 The commissioner's order suspending payment pursuant to this
5 paragraph may be appealed pursuant to the same procedures and
6 timelines as the notice of proposed action set forth in
7 paragraph (b).

8 (11) SCHOLARSHIP AMOUNT AND PAYMENT.--

9 (a) The amount of a scholarship provided to any
10 student for any single school year by an eligible nonprofit
11 scholarship-funding organization from eligible contributions
12 may not exceed the following annual limits:

13 1. Three thousand seven hundred fifty dollars for a
14 scholarship awarded to a student enrolled in an eligible
15 private school.

16 2. Five hundred dollars for a scholarship awarded to a
17 student enrolled in a Florida public school that is located
18 outside the district in which the student resides or in a lab
19 school as defined in s. 1002.32.

20 (b) Payment of the scholarship by the eligible
21 nonprofit scholarship-funding organization must be by
22 individual warrant or check made payable to the student's
23 parent. If the parent chooses for his or her child to attend
24 an eligible private school, the warrant or check must be
25 delivered by the eligible nonprofit scholarship-funding
26 organization to the private school of the parent's choice, and
27 the parent shall restrictively endorse the warrant or check to
28 the private school. An eligible nonprofit scholarship-funding
29 organization shall ensure that the parent to whom the warrant
30 or check is made has restrictively endorsed the warrant or

31

1 check to the private school for deposit into the account of
2 the private school.

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

7 (d) Payment of the scholarship shall be made by the
8 eligible nonprofit scholarship-funding organization no less
9 frequently than quarterly.

10 ~~(12)(7)~~ ADMINISTRATION; RULES.--

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

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

30 (c) The department and the Department of Education
31 shall develop a cooperative agreement to assist in the

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

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

16 (e) The State Board ~~Department~~ of Education shall
17 adopt rules pursuant to ss. 120.536(1) and 120.54 to
18 administer this section necessary to determine eligibility of
19 nonprofit scholarship funding organizations as defined in
20 paragraph (2)(d) and according to the provisions of subsection
21 (4) and identify qualified students as defined in paragraph
22 (2)(e).

23 ~~(13)(8)~~ DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--All
24 eligible contributions received by an eligible nonprofit
25 scholarship-funding organization shall be deposited in a
26 manner consistent with s. 17.57(2).

27 Section 3. Section 1002.421, Florida Statutes, is
28 created to read:

29 1002.421 Rights and obligations of private schools
30 participating in state school-choice scholarship
31 programs.--Requirements of this section are in addition to

1 private school requirements outlined in s. 1002.42, specific
2 requirements identified within respective scholarship program
3 laws, and other provisions of Florida law which apply to
4 private schools.

5 (1) A Florida private school participating in the
6 Corporate Income Tax Credit Scholarship Program established
7 pursuant to s. 220.187 or an educational scholarship program
8 established pursuant to this chapter must comply with all
9 requirements of this section.

10 (2) A private school participating in a scholarship
11 program must be a Florida private school as defined in s.
12 1002.01 and must:

13 (a) Be a registered Florida private school in
14 accordance with s. 1002.42.

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

17 (c) Notify the department of its intent to participate
18 in a scholarship program.

19 (d) Notify the department of any change in the
20 school's name, school director, mailing address, or physical
21 location within 15 days after the change.

22 (e) Complete student-enrollment and
23 attendance-verification requirements, including use of an
24 on-line attendance-verification form, prior to scholarship
25 payment.

26 (f) Annually complete and submit to the department a
27 notarized scholarship compliance statement certifying that all
28 employees of the school have undergone background screening
29 pursuant to s. 943.0542.

30 (g) Demonstrate fiscal soundness and accountability
31 by:

1 1. Being in operation for at least 3 school years or
2 obtaining a surety bond or letter of credit for the amount
3 equal to the scholarship funds for any quarter and filing the
4 surety bond or letter of credit with the department.

5 2. Requiring the parent of each scholarship student to
6 personally restrictively endorse the scholarship warrant to
7 the school. The school may not act as attorney in fact for the
8 parent of a scholarship student under the authority of a power
9 of attorney executed by such a parent, or under any other
10 authority, to endorse scholarship warrants on behalf of such a
11 parent.

12 (h) Meet applicable state and local health, safety,
13 and welfare laws, codes, and rules, including those relating
14 to:

15 1. Fire safety.

16 2. Building safety.

17 (i) Employ or contract with teachers who hold
18 baccalaureate or higher degrees, have at least 3 years of
19 teaching experience in public or private schools, or have
20 special skills, knowledge, or expertise that qualifies them to
21 provide instruction in subjects taught.

22 (j) Require each individual having direct student
23 contact with a scholarship student to undergo a state and
24 national background screening pursuant to s. 943.0542, by
25 filing with the Department of Law Enforcement a complete set
26 of fingerprints taken by an authorized law enforcement agency
27 or an employee of the private school, a school district, or a
28 private company who is trained to take fingerprints; to be
29 denied employment or terminated if required under s. 435.06;
30 and not to be ineligible to teach in a public school because
31

1 his or her educator certificate is suspended or revoked. For
2 purposes of this paragraph:

3 1. The term "individual having direct student contact"
4 means any individual who has unsupervised access to a
5 scholarship student for whom the private school is
6 responsible.

7 2. The costs of fingerprinting and the background
8 check shall not be borne by the state.

9 3. Continued employment of an individual after
10 notification that the individual has failed the background
11 screening under this paragraph shall cause a private school to
12 be ineligible for participation in a scholarship program.

13 4. An individual holding a valid Florida teaching
14 certificate who has been fingerprinted pursuant to s. 1012.32
15 need not comply with this paragraph.

16 (3) The inability of a private school to meet the
17 requirements of this section shall constitute a basis for the
18 ineligibility of the private school to participate in a
19 scholarship program as determined by the department.

20 (4) The inclusion of eligible private schools within
21 options available to Florida public school students does not
22 expand the regulatory authority of the state, its officers, or
23 any school district to impose any additional regulation of
24 private schools beyond those reasonably necessary to enforce
25 requirements expressly set forth in this section.

26 (5) The State Board of Education shall adopt rules
27 pursuant to ss. 120.536(1) and 120.54 to administer this
28 section.

29 Section 4. Section 1002.422, Florida Statutes, is
30 created to read:

31

1 1002.422 Background screening for private schools
2 participating in the John M. McKay Scholarships for Students
3 with Disabilities Program and the Corporate Income Tax Credit
4 Scholarship Program.--

5 (1) Subject to appropriation, the Department of Law
6 Enforcement shall purchase a high-speed electronic fingerprint
7 scanner and provide sufficient staff support to conduct state
8 and national background fingerprint screening for private
9 schools participating in the John M. McKay Scholarships for
10 Students with Disabilities Program and the Corporate Income
11 Tax Credit Scholarship Program. Within 90 days after
12 acquisition of the scanner, state and national background
13 fingerprint screening shall be required for all employees who
14 have direct contact with students in the private schools
15 participating in the scholarship programs. Results of the
16 screening shall be provided to the participating private
17 schools.

18 (2) Beginning July 1, 2007, all fingerprints submitted
19 to the Department of Law Enforcement as required by s.
20 1002.421(2)(j) shall be retained by the Department of Law
21 Enforcement in a manner provided by rule and entered in the
22 statewide automated fingerprint identification system
23 authorized by s. 943.05(2)(b). Such fingerprints shall
24 thereafter be available for all purposes and uses authorized
25 for arrest fingerprint cards entered in the statewide
26 automated fingerprint identification system pursuant to s.
27 943.051.

28 (3) Beginning July 1, 2007, the Department of Law
29 Enforcement shall search all arrest fingerprint cards received
30 under s. 943.051 against the fingerprints retained in the
31 statewide automated fingerprint identification system under

1 subsection (2). Any arrest record that is identified with the
2 retained fingerprints of a person subject to the background
3 screening under this section shall be reported to the
4 employing school with which the person is affiliated. Each
5 private school participating in the John M. McKay Scholarships
6 for Students with Disabilities Program and the Corporate
7 Income Tax Credit Scholarship Program must participate in this
8 search process by informing the Department of Law Enforcement
9 of any change in the employment status of its personnel whose
10 fingerprints are retained under subsection (2). The Department
11 of Law Enforcement shall adopt a rule setting the amount of
12 the annual fee to be imposed upon each private school for
13 performing these searches and establishing the procedures for
14 the retention of private school employees' fingerprints and
15 the dissemination of search results. The fee may be borne by
16 the private school or the person who is fingerprinted.

17 (4) Personnel whose fingerprints are not retained by
18 the Department of Law Enforcement under subsections (2) and
19 (3) must be reprinted and must meet state and national
20 background screening requirements upon reemployment or
21 reengagement to provide services in order to comply with this
22 section.

23 Section 5. This act shall take effect July 1, 2006.
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SENATE SUMMARY

Pertains to accountability requirements for scholarship programs, including the John M. McKay Scholarships for Students with Disabilities Program, credits for contributions to nonprofit scholarship-funding organizations, the Corporate Income Tax Credit Scholarship Program, and state school choice scholarship programs. Provides duties and obligations of the Commissioner of Education, of participating parents and students, participating private schools, scholarship-funding organizations, and the Department of Education. (See bill for details.)