

1 A bill to be entitled
2 An act relating to education; creating s.
3 1008.3455, F.S.; expressing the intent of the
4 Legislature to create a program to enhance
5 failing schools; requiring the Commissioner of
6 Education to develop and submit such a program
7 to the Legislature; prescribing elements of the
8 program; requiring the creation of an advisory
9 committee; requiring consultation with
10 specified entities; requiring an annual report;
11 amending s. 220.187, F.S.; clarifying that the
12 tax credit program applies to students in
13 families having limited financial resources;
14 providing scholarship eligibility to students
15 receiving opportunity scholarships during the
16 2005-2006 school year for a limited amount of
17 time; providing that a scholarship funding
18 organization may be approved to provide
19 scholarships under two tax credit programs;
20 requiring separate accounting; authorizing
21 scholarship funding organizations to transfer
22 surplus funds between two programs under
23 specified circumstances; creating s. 220.1875,
24 F.S.; providing a purpose; defining terms;
25 prescribing obligations of school districts to
26 inform parents about failing schools;
27 authorizing students at such schools to attend
28 a high-performing school in the same district;
29 providing a credit against the corporate income
30 tax for contributions to nonprofit
31 scholarship-funding organizations; providing

1 | limitations; providing for use of such
2 | contributions for scholarships for students
3 | attending certain failing schools to attend
4 | nonpublic schools or public schools in adjacent
5 | districts; providing requirements and
6 | limitations with respect to scholarships;
7 | providing for payment; establishing eligibility
8 | for nonpublic school participation; providing
9 | for administration by the Department of Revenue
10 | and the Department of Education; providing for
11 | rules; providing requirements for deposit of
12 | eligible contributions; amending s. 213.053,
13 | F.S.; conforming provisions to the creation of
14 | the tax credit scholarship program for families
15 | of students in failing schools; authorizing the
16 | Department of Revenue to share certain tax
17 | information with the Department of Education;
18 | amending s. 220.02, F.S.; revising legislative
19 | intent with respect to the order in which
20 | corporate income tax credits are applied to
21 | conform to the creation of the tax credit
22 | scholarship program for families of students in
23 | failing schools; amending s. 220.13, F.S.;
24 | revising the definition of the term "adjusted
25 | federal income" to account for the creation of
26 | the tax credit scholarship program for families
27 | of students in failing schools; providing for
28 | the credit to be an addition to taxable income;
29 | amending s. 220.701, F.S.; directing the
30 | Department of Revenue to deposit moneys
31 | received through the corporate income tax into

1 the Corporate Income Tax Trust Fund rather than
2 the General Revenue Fund; providing for
3 unencumbered trust fund balances to be
4 transferred into the General Revenue Fund;
5 prescribing how transferred funds may be
6 expended; amending s. 1001.10, F.S.; conforming
7 provisions to the repeal of the Opportunity
8 Scholarship Program; authorizing the
9 Commissioner of Education to prepare and
10 publish reports related to specified tax credit
11 programs; amending ss. 1001.42 and 1002.20,
12 F.S.; conforming provisions to the repeal of
13 the Opportunity Scholarship Program and the
14 creation of the tax credit program for families
15 of students attending schools failing to make
16 adequate progress; repealing s. 1002.38, F.S.,
17 which authorizes the Opportunity Scholarship
18 Program; amending s. 1002.39, F.S., to conform
19 to the repeal of the Opportunity Scholarship
20 Program; providing an effective date.

21
22 WHEREAS, education is a fundamental value and a
23 paramount duty of the state, and

24 WHEREAS, the State Constitution requires the state to
25 provide for the free education of all children residing within
26 its borders, and

27 WHEREAS, the Florida Supreme Court held in *Bush v.*
28 *Holmes*, 2006 WL 20584 (Fla.), 31 Fla. L. Weekly S1, that the
29 state must provide a system of uniform, efficient, safe,
30 secure, and high-quality public schools to fulfill this
31 constitutional requirement, and

1 WHEREAS, the Florida Supreme Court invalidated the
2 Opportunity Scholarship Program because it allowed state funds
3 to be disbursed to private schools, and

4 WHEREAS, the Legislature created the Opportunity
5 Scholarship Program to ensure that all children have a chance
6 to gain the knowledge and skills they need to succeed, and

7 WHEREAS, the state is committed to improving the
8 quality of the education provided by the public school system,
9 and

10 WHEREAS, there are some public schools that continue to
11 fail to make adequate progress based on the school performance
12 grading categories established by law, and

13 WHEREAS, respecting the constitutional mandate cited by
14 the Florida Supreme Court, the Legislature intends for the
15 state to develop and implement a comprehensive strategic
16 program to facilitate the improvement of schools that are
17 failing to make adequate progress, and

18 WHEREAS, facilitating the improvement in the
19 performance of these schools is a multiyear endeavor, and
20 progress will occur over an extended period of time, and

21 WHEREAS, students assigned to schools that are failing
22 to make adequate progress should have the choice of attending
23 a higher-performing school while the state continues to
24 facilitate the improvement of these schools, and

25 WHEREAS, the Legislature intends to create a program to
26 provide an educational safety net to students assigned to
27 these schools, distinct from and without impeding the efforts
28 to help these schools improve, NOW, THEREFORE,

29
30 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Section 1008.3455, Florida Statutes, is
2 created to read:

3 1008.3455 Improvement program for schools failing to
4 make adequate progress.--

5 (1) It is the intent of the Legislature that the state
6 develop and implement a comprehensive strategic program to
7 facilitate the improvement of schools that are failing to make
8 adequate progress based on the school performance grading
9 categories established by law. The Legislature finds that
10 achieving meaningful and lasting progress in these schools
11 will take a number of years. Thus, it is the further intent of
12 the Legislature that the program developed under this section
13 include a multiyear design and implementation schedule, with
14 measurable goals and objectives for these schools.

15 (2) In coordination with the responsibilities
16 prescribed in s. 1008.345, the Commissioner of Education shall
17 develop and submit to the President of the Senate and the
18 Speaker of the House of Representatives, no later than
19 February 1, 2007, a multifaceted program of policies and
20 practices targeted specifically toward schools in the "F"
21 grade category under s. 1008.34.

22 (a) At a minimum, the program must include an
23 assessment of the extent to which new policies, or
24 enhancements to existing policies, in the following areas
25 would facilitate improvement at these schools:

- 26 1. Capital improvements to school facilities;
- 27 2. Salaries for teachers and staff;
- 28 3. Incentives for outstanding faculty and staff to
29 transfer to these schools;
- 30 4. Equipment and supplies;
- 31 5. Technology infrastructure, hardware, or software;

1 6. Incentives to encourage parental or other family
2 participation; and

3 7. Mentoring and other community participation.

4 (b) The program must include a suggested order of
5 priority and timeline for enacting, funding, and implementing
6 policies and practices over a 5-year period. The program
7 shall identify those elements of the program which can be
8 accomplished within existing statutory authority and those
9 elements that will require new statutory authority. The
10 program must include specific recommendations for action by
11 the Legislature.

12 (3)(a) To assist in development and implementation of
13 the program required by this section, the commissioner shall
14 create an advisory committee comprised of at least two
15 teachers, two staff persons, and two parents of students from
16 one or more schools that are failing to make adequate progress
17 based on the school performance grading categories, as well as
18 any other individuals the commissioner deems appropriate.

19 (b) In developing and implementing the program, the
20 commissioner shall consult with:

21 1. The Office of Program Policy Analysis and
22 Government Accountability; and

23 2. The district community assessment teams assigned
24 under s. 1008.345.

25 (4) The program shall be developed in coordination
26 with, and shall be consistent with, other strategic planning
27 initiatives of the Department of Education or the State Board
28 of Education.

29 (5) The commissioner shall report annually to the
30 Governor, the President of the Senate, and the Speaker of the
31 House of Representatives on implementation of the program.

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

3 220.187 Credits for contributions to nonprofit
4 scholarship-funding organizations; families that have limited
5 financial resources.--

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

7 (a) Encourage private, voluntary contributions to
8 nonprofit scholarship-funding organizations.

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

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

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

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

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

23 (c) "Eligible nonpublic school" means a nonpublic
24 school located in Florida that offers an education to students
25 in any grades K-12 and that meets the requirements in
26 subsection (6).

27 (d) "Eligible nonprofit scholarship-funding
28 organization" means a charitable organization that is exempt
29 from federal income tax pursuant to s. 501(c)(3) of the
30 Internal Revenue Code and that complies with the provisions of
31 subsection (4). An eligible nonprofit scholarship-funding

1 organization that is authorized to provide scholarships under
 2 s. 220.1875 may, subject to approval by the Department of
 3 Education, be authorized to provide scholarships under this
 4 section.

5 (e) "Qualified student" means:

6 1. A student who qualifies for free or reduced-price
 7 school lunches under the National School Lunch Act and who:
 8 a.1. Was counted as a full-time equivalent student
 9 during the previous state fiscal year for purposes of state
 10 per-student funding;

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

14 c.3. Is eligible to enter kindergarten or first grade.

15 2. A student who does not qualify under subparagraph
 16 1. but who received an opportunity scholarship under former s.
 17 1002.38 during the final quarter of the 2005-2006 school year.
 18 Students qualified under this subparagraph may receive
 19 scholarships under this section until the scholarship program
 20 under s. 220.1875 is fully implemented, subject to the
 21 limitations provided in s. 220.1875(8).

22 (3) AUTHORIZATION TO GRANT SCHOLARSHIP FUNDING TAX
 23 CREDITS; LIMITATIONS ON INDIVIDUAL AND TOTAL CREDITS.--

24 (a) There is allowed a credit of 100 percent of an
 25 eligible contribution against any tax due for a taxable year
 26 under this chapter. However, such a credit may not exceed 75
 27 percent of the tax due under this chapter for the taxable
 28 year, after the application of any other allowable credits by
 29 the taxpayer. However, at least 5 percent of the total
 30 statewide amount authorized for the tax credit shall be
 31 reserved for taxpayers who meet the definition of a small

1 business provided in s. 288.703(1) at the time of application.
2 The credit granted by this section shall be reduced by the
3 difference between the amount of federal corporate income tax
4 taking into account the credit granted by this section and the
5 amount of federal corporate income tax without application of
6 the credit granted by this section.

7 (b) The total amount of tax credits and carryforward
8 of tax credits which may be granted each state fiscal year
9 under this section is \$88 million.

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

15 (4) OBLIGATIONS OF ELIGIBLE NONPROFIT
16 SCHOLARSHIP-FUNDING ORGANIZATIONS.--

17 (a) An eligible nonprofit scholarship-funding
18 organization shall provide scholarships, from eligible
19 contributions, to qualified students for:

20 1. Tuition or textbook expenses for, or transportation
21 to, an eligible nonpublic school. At least 75 percent of the
22 scholarship funding must be used to pay tuition expenses; or

23 2. Transportation expenses to a Florida public school
24 that is located outside the district in which the student
25 resides.

26 (b) An eligible nonprofit scholarship-funding
27 organization shall give priority to qualified students who
28 received a scholarship from an eligible nonprofit
29 scholarship-funding organization during the previous school
30 year or who received an opportunity scholarship under former

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1 s. 1002.38 during the final quarter of the 2005-2006 school
2 year.

3 (c) The amount of a scholarship provided to any child
4 for any single school year by all eligible nonprofit
5 scholarship-funding organizations from eligible contributions
6 shall not exceed the following annual limits:

7 1. Three thousand five hundred dollars for a
8 scholarship awarded to a student enrolled in an eligible
9 nonpublic school.

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

13 (d) The amount of an eligible contribution which may
14 be accepted by an eligible nonprofit scholarship-funding
15 organization is limited to the amount needed to provide
16 scholarships for qualified students which the organization has
17 identified and for which vacancies in eligible nonpublic
18 schools have been identified.

19 (e) An eligible nonprofit scholarship-funding
20 organization that receives an eligible contribution must spend
21 100 percent of the eligible contribution to provide
22 scholarships in the same state fiscal year in which the
23 contribution was received. No portion of eligible
24 contributions may be used for administrative expenses. All
25 interest accrued from contributions must be used for
26 scholarships.

27 (f) An eligible nonprofit scholarship-funding
28 organization that receives eligible contributions must provide
29 to the Auditor General an annual financial and compliance
30 audit of its accounts and records conducted by an independent
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1 certified public accountant and in accordance with rules
2 adopted by the Auditor General.

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

17 (5) PARENT OBLIGATIONS.--As a condition for
18 scholarship payment pursuant to paragraph (4)(g), if the
19 parent chooses for his or her child to attend an eligible
20 nonpublic school, the parent must inform the child's school
21 district within 15 days after such decision.

22 (6) ELIGIBLE NONPUBLIC SCHOOL OBLIGATIONS.--An
23 eligible nonpublic school must:

24 (a) Demonstrate fiscal soundness by being in operation
25 for one school year or provide the Department of Education
26 with a statement by a certified public accountant confirming
27 that the nonpublic school desiring to participate is insured
28 and the owner or owners have sufficient capital or credit to
29 operate the school for the upcoming year serving the number of
30 students anticipated with expected revenues from tuition and
31 other sources that may be reasonably expected. In lieu of such

1 a statement, a surety bond or letter of credit for the amount
2 equal to the scholarship funds for any quarter may be filed
3 with the department.

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

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

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

10 (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 necessary to determine eligibility of nonprofit
18 scholarship-funding organizations as defined in paragraph
19 (2)(d) and according to the provisions of subsection (4) and
20 identify qualified students as defined in paragraph (2)(e).

21 (8) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--

22 (a) All eligible contributions received by an eligible
23 nonprofit scholarship-funding organization shall be deposited
24 in a manner consistent with s. 17.57(2).

25 (b) A nonprofit scholarship-funding organization that
26 is authorized to receive donations and distribute scholarships
27 under this section and s. 220.1875 shall account for donations
28 and scholarships separately by each tax credit program. If, in
29 a single fiscal year, the amount of donations available for
30 distribution as scholarships in one program exceeds the demand
31 for scholarships under that program for that fiscal year, the

1 organization may, with approval from the Department of
2 Education, apply those surplus funds to meet demand in the
3 other program.

4 Section 3. Section 220.1875, Florida Statutes, is
5 created to read:

6 220.1875 Credits for contributions to nonprofit
7 scholarship-funding organizations; families of students
8 attending schools failing to make adequate progress.--

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

10 (a) Ensure that, while the state is implementing a
11 multiyear, comprehensive strategic program to facilitate the
12 improvement of schools that are failing to make adequate
13 progress based on school performance grading categories,
14 students attending failing schools are not denied the
15 opportunity to gain the knowledge and skills necessary for
16 postsecondary education, a career education, or the world of
17 work.

18 (b) Enable the state to fulfill the responsibility, as
19 articulated by voters in 1998 through an amendment to s. 1,
20 Art. IX of the State Constitution, to make education a
21 paramount duty of the state.

22 (c) Complement the constitutional requirement to
23 provide a uniform, efficient, safe, secure, and high-quality
24 system of free public schools by providing educational
25 opportunities to students attending failing public schools
26 without impeding the ability of those schools to improve.

27 (d) Encourage private, voluntary contributions to
28 nonprofit scholarship-funding organizations.

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

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

31

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

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

13 (d) "Eligible nonprofit scholarship-funding
14 organization" means a charitable organization as defined in s.
15 220.187(2)(d) which is exempt from federal income tax pursuant
16 to s. 501(c)(3) of the Internal Revenue Code and complies with
17 the provisions of subsection (5). An eligible nonprofit
18 scholarship-funding organization that is authorized to provide
19 scholarships under s. 220.187 may, subject to approval by the
20 Department of Education, be authorized to provide scholarships
21 under this section.

22 (e) "Qualified student" means a student who:

23 1. Has spent the prior school year in attendance at a
24 public school that has been designated under s. 1008.34 as
25 performance grade category "F," failing to make adequate
26 progress, and that has had 2 school years in a 4-year period
27 of such low performance, and the student's attendance occurred
28 during a school year in which such designation was in effect;

29 2. Has been in attendance elsewhere in the public
30 school system and has been assigned to such school for the
31 next school year; or

1 3. Is entering kindergarten or first grade and has
2 been notified that the student has been assigned to such
3 school for the next school year.

4
5 The provisions of this section do not apply to a student who
6 is enrolled in a school operating for the purpose of providing
7 educational services to youth in commitment programs of the
8 Department of Juvenile Justice.

9 (3) SCHOOL DISTRICT OBLIGATIONS.--

10 (a) A school district shall, for each student enrolled
11 in or assigned to a school which has been designated as
12 performance grade category "F" for 2 school years in a 4-year
13 period:

14 1. Timely notify the parent of the student as soon as
15 such designation is made of all options available pursuant to
16 this section;

17 2. Offer that student's parent an opportunity to
18 enroll the student in another public school within the
19 district which has been designated by the state pursuant to s.
20 1008.34 as a school performing higher than the school in which
21 the student is currently enrolled or to which the student has
22 been assigned, but not less than performance grade category
23 "C"; and

24 3. Inform that student's parent of the child's
25 eligibility to receive a scholarship under this section to
26 enroll the student in and transport the student to attend a
27 public school outside the district which has been designated
28 by the state pursuant to s. 1008.34 as a school performing
29 higher than that in which the student is currently enrolled or
30 to which the student has been assigned, but not less than

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1 performance grade category "C," or to attend an eligible
2 nonpublic school.

3 (b) A higher-performing public school that has
4 available space in an adjacent school district shall accept
5 students qualified under this section and report the students
6 for purposes of the district's funding pursuant to the Florida
7 Education Finance Program.

8 (c) For students in the school district who are
9 attending nonpublic schools under this section, the school
10 district shall provide locations and times to take all
11 statewide assessments required pursuant to s. 1008.22.

12 (d) Students with disabilities who are eligible to
13 receive services from the school district under federal or
14 state law, and who receive a scholarship under this section,
15 remain eligible to receive services from the school district
16 as provided by federal or state law.

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

19 (a) There is allowed a credit of 100 percent of an
20 eligible contribution against any tax due for a taxable year
21 under this chapter. However, such a credit may not exceed 75
22 percent of the tax due under this chapter for the taxable
23 year, after the application of any other allowable credits by
24 the taxpayer. However, at least 5 percent of the total
25 statewide amount authorized for the tax credit shall be
26 reserved for taxpayers who meet the definition of a small
27 business provided in s. 288.703(1) at the time of application.
28 The credit granted by this section shall be reduced by the
29 difference between the amount of federal corporate income tax,
30 taking into account the credit granted by this section, and

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1 the amount of federal corporate income tax without application
2 of the credit granted by this section.

3 (b) The total amount of tax credits and carryforward
4 of tax credits which may be granted each state fiscal year
5 under this section is \$5 million.

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

11 (5) OBLIGATIONS OF ELIGIBLE NONPROFIT
12 SCHOLARSHIP-FUNDING ORGANIZATIONS.--

13 (a) An eligible nonprofit scholarship-funding
14 organization shall provide scholarships, from eligible
15 contributions, to qualified students for:

16 1. Tuition and fees for a qualified student enrolled
17 in an eligible nonpublic school.

18 2. Transportation expenses to a Florida public school
19 that is located outside the district in which the qualified
20 student resides.

21 (b) For continuity of educational choice, an eligible
22 nonprofit scholarship-funding organization shall give priority
23 to qualified students who received a scholarship to attend an
24 eligible nonpublic school during the previous school year.

25 (c) The amount of a scholarship provided to any
26 qualified student for any single school year by all eligible
27 nonprofit scholarship-funding organizations from eligible
28 contributions may not exceed the following annual limits:

29 1. For qualified students who choose to attend an
30 eligible nonpublic school, the lesser of:

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1 a. The student's tuition and fees to attend an
2 eligible nonpublic school; or

3 b. A calculated amount equivalent to the base student
4 allocation in the Florida Education Finance Program multiplied
5 by the appropriate cost factor for the educational program
6 that will be provided for the student in the district school
7 to which he or she is assigned, multiplied by the district
8 cost differential. In addition, the calculated amount shall
9 include the per-student share of instructional materials
10 funds, technology funds, and other categorical funds.

11 2. For qualified students who choose to attend a
12 higher-performing public school that is located outside the
13 district in which the student resides, \$500.

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

20 (e) An eligible nonprofit scholarship-funding
21 organization that receives an eligible contribution must spend
22 100 percent of the eligible contribution to provide
23 scholarships in the same state fiscal year in which the
24 contribution was received. No portion of eligible
25 contributions may be used for administrative expenses. All
26 interest accrued from contributions must be used for
27 scholarships.

28 (f) An eligible nonprofit scholarship-funding
29 organization that receives eligible contributions must provide
30 to the Auditor General an annual financial and compliance
31 audit of its accounts and records conducted by an independent

1 certified public accountant and in accordance with rules
2 adopted by the Auditor General.

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

17 (6) PARENT OBLIGATIONS.--As a condition for
18 scholarship payment pursuant to paragraph (5)(g), if the
19 parent chooses for his or her child to attend an eligible
20 nonpublic school, the parent must:

21 (a) Obtain acceptance for admission of the student to
22 an eligible nonpublic school and inform the child's school
23 district within 15 days after receiving acceptance;

24 (b) Comply fully with the nonpublic school's
25 parental-involvement requirements, unless excused by the
26 school for illness or other good cause; and

27 (c) Ensure that the student receiving a scholarship
28 under this section takes all statewide assessments required
29 pursuant to s. 1008.22.

30 (7) STUDENT OBLIGATIONS.--As a condition for
31 scholarship payment pursuant to paragraph (5)(g), if the

1 parent chooses for his or her child to attend an eligible
2 nonpublic school, the student must remain in attendance
3 throughout the school year, unless excused by the school for
4 illness or other good cause, and must comply fully with the
5 school's code of conduct.

6 (8) DURATION OF SCHOLARSHIP.--

7 (a) For purposes of continuity of educational choice,
8 a scholarship granted under this section shall remain in force
9 until the student returns to the public school to which the
10 student was originally assigned, or:

11 1. If the student is in grades kindergarten through
12 five, until the student matriculates to the sixth grade and
13 the public middle school to which the student is assigned is
14 an accredited school that has a performance grade category
15 designation of "C" or better;

16 2. If the student is in grades six through eight,
17 until the student matriculates to high school and the public
18 high school to which the student is assigned is an accredited
19 school that has a performance grade category designation of
20 "C" or better.

21
22 At any time upon reasonable notice to the Department of
23 Education and the school district, the student's parent may
24 remove the student from the nonpublic school and place the
25 student in a public school, as provided in subparagraph
26 (3)(a)2.

27 (b) A school from which a student transfers using a
28 scholarship under this section may continue to report the
29 student for the purpose of the district's funding pursuant to
30 the Florida Education Finance Program for the remainder of the
31 period during which the student would have attended that

1 school. The district shall provide the funding associated
2 with that student directly to the respective public school.
3 The school may not report the student under this paragraph
4 beyond the period after which the student would have
5 matriculated to another school.

6 (9) ELIGIBLE NONPUBLIC SCHOOL OBLIGATIONS.--An
7 eligible nonpublic school must:

8 (a) Demonstrate fiscal soundness by being in operation
9 for 1 school year or provide the Department of Education with
10 a statement by a certified public accountant confirming that
11 the nonpublic school desiring to participate is insured and
12 the owner or owners have sufficient capital or credit to
13 operate the school for the upcoming year serving the number of
14 students anticipated with expected revenues from tuition and
15 other sources which may be reasonably expected. In lieu of
16 such a statement, a surety bond or letter of credit for the
17 amount equal to the scholarship funds for any quarter may be
18 filed with the department.

19 (b) Notify the Department of Education, the school
20 district in whose service area the school is located, and all
21 eligible nonprofit scholarship funding organizations of its
22 intent to participate in the program under this section by May
23 1 of the school year preceding the school year in which it
24 intends to participate. The notice must specify the grade
25 levels and services that the private school has available for
26 qualified students under this section.

27 (c) Comply with the antidiscrimination provisions of
28 42 U.S.C. s. 2000d.

29 (d) Meet state and local health and safety laws and
30 codes.

31

1 (e) Comply with all state laws relating to general
2 regulation of nonpublic schools.

3 (f) Accept scholarship students on an entirely random
4 and religious-neutral basis without regard to the student's
5 past academic history; however, the nonpublic school may give
6 preference in accepting applications to siblings of students
7 who have already been accepted on a random and
8 religious-neutral basis.

9 (g) Be subject to the instruction, curriculum, and
10 attendance criteria adopted by an appropriate nonpublic school
11 accrediting body and be academically accountable to the parent
12 for meeting the educational needs of the student. The
13 nonpublic school must furnish a school profile that includes
14 student performance.

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

20 (i) Comply with all state statutes relating to private
21 schools.

22 (j) Accept as full tuition and fees the amount
23 provided by the state nonprofit scholarship-funding
24 organization for each student.

25 (k) Agree not to compel any student attending the
26 private school under this section to profess a specific
27 ideological belief, to pray, or to worship.

28 (l) Adhere to the tenets of its published disciplinary
29 procedures prior to the expulsion of any student attending the
30 private school under this section.

31 (10) ADMINISTRATION; RULES.--

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

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

18 (c) The department and the Department of Education
19 shall develop a cooperative agreement to assist in the
20 administration of this section. The Department of Education
21 shall be responsible for annually submitting, by March 15, to
22 the department a list of eligible nonprofit
23 scholarship-funding organizations that meet the requirements
24 of paragraph (2)(d) and for monitoring eligibility of
25 nonprofit scholarship-funding organizations that meet the
26 requirements of paragraph (2)(d), eligibility of nonpublic
27 schools that meet the requirements of paragraph (2)(c), and
28 eligibility of expenditures under this section as provided in
29 subsection (5).

30 (d) The department shall adopt rules pursuant to ss.
31 120.536(1) and 120.54 as necessary to administer this section,

1 including rules establishing application forms and procedures
2 and governing the allocation of tax credits and carryforward
3 credits under this section on a first-come, first-served
4 basis.

5 (e) The State Board of Education shall adopt rules
6 pursuant to ss. 120.536(1) and 120.54 as necessary to
7 determine the eligibility of nonprofit scholarship-funding
8 organizations as defined in paragraph (2)(d) and according to
9 the provisions of subsection (5) and identify qualified
10 students as defined in paragraph (2)(e).

11 (11) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--

12 (a) All eligible contributions received by an eligible
13 nonprofit scholarship-funding organization shall be deposited
14 in a manner consistent with s. 17.57(2).

15 (b) A nonprofit scholarship-funding organization that
16 is authorized to receive donations and distribute scholarships
17 under this section and s. 220.187 shall account for donations
18 and scholarships separately by each tax credit program. If,
19 in a single fiscal year, the amount of donations available for
20 distribution as scholarships in one program exceeds the demand
21 for scholarships under that program for that fiscal year, the
22 organization may, with approval from the Department of
23 Education, apply those surplus funds to meet demand in the
24 other program.

25 Section 4. Paragraph (y) is added to subsection (7) of
26 section 213.053, Florida Statutes, to read:

27 213.053 Confidentiality and information sharing.--

28 (7) Notwithstanding any other provision of this
29 section, the department may provide:

30
31

1 (y) Information relative to s. 220.1875 to the
2 Department of Education in the conduct of its official
3 business.

4
5 Disclosure of information under this subsection shall be
6 pursuant to a written agreement between the executive director
7 and the agency. Such agencies, governmental or
8 nongovernmental, shall be bound by the same requirements of
9 confidentiality as the Department of Revenue. Breach of
10 confidentiality is a misdemeanor of the first degree,
11 punishable as provided by s. 775.082 or s. 775.083.

12 Section 5. Subsection (8) of section 220.02, Florida
13 Statutes, is amended to read:

14 220.02 Legislative intent.--

15 (8) It is the intent of the Legislature that credits
16 against either the corporate income tax or the franchise tax
17 be applied in the following order: those enumerated in s.
18 631.828, those enumerated in s. 220.191, those enumerated in
19 s. 220.181, those enumerated in s. 220.183, those enumerated
20 in s. 220.182, those enumerated in s. 220.1895, those
21 enumerated in s. 221.02, those enumerated in s. 220.184, those
22 enumerated in s. 220.186, those enumerated in s. 220.1845,
23 those enumerated in s. 220.19, those enumerated in s. 220.185,
24 ~~and~~ those enumerated in s. 220.187, and those enumerated in s.
25 220.1875.

26 Section 6. Paragraph (a) of subsection (1) of section
27 220.13, Florida Statutes, is amended to read:

28 220.13 "Adjusted federal income" defined.--

29 (1) The term "adjusted federal income" means an amount
30 equal to the taxpayer's taxable income as defined in
31 subsection (2), or such taxable income of more than one

1 taxpayer as provided in s. 220.131, for the taxable year,
2 adjusted as follows:

3 (a) Additions.--There shall be added to such taxable
4 income:

5 1. The amount of any tax upon or measured by income,
6 excluding taxes based on gross receipts or revenues, paid or
7 accrued as a liability to the District of Columbia or any
8 state of the United States which is deductible from gross
9 income in the computation of taxable income for the taxable
10 year.

11 2. The amount of interest which is excluded from
12 taxable income under s. 103(a) of the Internal Revenue Code or
13 any other federal law, less the associated expenses disallowed
14 in the computation of taxable income under s. 265 of the
15 Internal Revenue Code or any other law, excluding 60 percent
16 of any amounts included in alternative minimum taxable income,
17 as defined in s. 55(b)(2) of the Internal Revenue Code, if the
18 taxpayer pays tax under s. 220.11(3).

19 3. In the case of a regulated investment company or
20 real estate investment trust, an amount equal to the excess of
21 the net long-term capital gain for the taxable year over the
22 amount of the capital gain dividends attributable to the
23 taxable year.

24 4. That portion of the wages or salaries paid or
25 incurred for the taxable year which is equal to the amount of
26 the credit allowable for the taxable year under s. 220.181.
27 The provisions of this subparagraph shall expire and be void
28 on June 30, 2005.

29 5. That portion of the ad valorem school taxes paid or
30 incurred for the taxable year which is equal to the amount of
31 the credit allowable for the taxable year under s. 220.182.

1 The provisions of this subparagraph shall expire and be void
2 on June 30, 2005.

3 6. The amount of emergency excise tax paid or accrued
4 as a liability to this state under chapter 221 which tax is
5 deductible from gross income in the computation of taxable
6 income for the taxable year.

7 7. That portion of assessments to fund a guaranty
8 association incurred for the taxable year which is equal to
9 the amount of the credit allowable for the taxable year.

10 8. In the case of a nonprofit corporation which holds
11 a pari-mutuel permit and which is exempt from federal income
12 tax as a farmers' cooperative, an amount equal to the excess
13 of the gross income attributable to the pari-mutuel operations
14 over the attributable expenses for the taxable year.

15 9. The amount taken as a credit for the taxable year
16 under s. 220.1895.

17 10. Up to nine percent of the eligible basis of any
18 designated project which is equal to the credit allowable for
19 the taxable year under s. 220.185.

20 11. The amount taken as a credit for the taxable year
21 under s. 220.187.

22 12. The amount taken as a credit for the taxable year
23 under s. 220.1875.

24 Section 7. Section 220.701, Florida Statutes, is
25 amended to read:

26 220.701 Collection authority.--The department shall
27 collect the taxes imposed by this chapter and shall pay all
28 moneys received by it into the Corporate Income Tax Trust Fund
29 created under s. 220.7015. Unencumbered balances in this trust
30 fund shall be transferred monthly into the General Revenue
31 Fund of the state. However, such transfers shall be expended

1 exclusively on programs that are consistent with the uses
2 established for the Corporate Income Tax Trust Fund and that
3 are specifically identified in the General Appropriations Act.

4 Section 8. Subsection (13) of section 1001.10, Florida
5 Statutes, is amended to read:

6 1001.10 Commissioner of Education; general powers and
7 duties.--The Commissioner of Education is the chief
8 educational officer of the state, and is responsible for
9 giving full assistance to the State Board of Education in
10 enforcing compliance with the mission and goals of the
11 seamless K-20 education system. To facilitate innovative
12 practices and to allow local selection of educational methods,
13 the State Board of Education may authorize the commissioner to
14 waive, upon the request of a district school board, State
15 Board of Education rules that relate to district school
16 instruction and school operations, except those rules
17 pertaining to civil rights, and student health, safety, and
18 welfare. The Commissioner of Education is not authorized to
19 grant waivers for any provisions in rule pertaining to the
20 allocation and appropriation of state and local funds for
21 public education; the election, compensation, and organization
22 of school board members and superintendents; graduation and
23 state accountability standards; financial reporting
24 requirements; reporting of out-of-field teaching assignments
25 under s. 1012.42; public meetings; public records; or due
26 process hearings governed by chapter 120. No later than
27 January 1 of each year, the commissioner shall report to the
28 Legislature and the State Board of Education all approved
29 waiver requests in the preceding year. Additionally, the
30 commissioner has the following general powers and duties:
31

1 (13) To prepare and publish annually reports giving
 2 statistics and other useful information pertaining to the tax
 3 credit programs under ss. 220.187 and 220.1875 ~~Opportunity~~
 4 ~~Scholarship Program~~.

5
 6 The commissioner's office shall operate all statewide
 7 functions necessary to support the State Board of Education
 8 and the K-20 education system, including strategic planning
 9 and budget development, general administration, and assessment
 10 and accountability.

11 Section 9. Subsection (18) of section 1001.42, Florida
 12 Statutes, is amended to read:

13 1001.42 Powers and duties of district school
 14 board.--The district school board, acting as a board, shall
 15 exercise all powers and perform all duties listed below:

16 (18) CORPORATE INCOME TAX CREDIT SCHOLARSHIP PROGRAM;
 17 FAMILIES OF STUDENTS ATTENDING FAILING SCHOOLS ~~OPPORTUNITY~~
 18 ~~SCHOLARSHIPS~~.--Adopt policies allowing students attending
 19 schools that have been designated as performance grade
 20 category "F," failing to make adequate progress, for 2 school
 21 years in a 4-year period to attend a higher performing public
 22 school in the same district ~~or an adjoining district~~ or be
 23 granted a ~~state opportunity~~ scholarship to transport the
 24 student to a public school in an adjoining district or a
 25 scholarship to attend a private school, in conformance with s.
 26 220.1875 ~~s. 1002.38~~ and State Board of Education rule.

27 Section 10. Subsection (6) of section 1002.20, Florida
 28 Statutes, is amended to read:

29 1002.20 K-12 student and parent rights.--Parents of
 30 public school students must receive accurate and timely
 31 information regarding their child's academic progress and must

1 be informed of ways they can help their child to succeed in
 2 school. K-12 students and their parents are afforded numerous
 3 statutory rights including, but not limited to, the following:

4 (6) EDUCATIONAL CHOICE.--

5 (a) Public school choices.--Parents of public school
 6 students may seek whatever public school choice options that
 7 are applicable to their students and are available to students
 8 in their school districts. These options may include
 9 controlled open enrollment, lab schools, charter schools,
 10 charter technical career centers, magnet schools, alternative
 11 schools, special programs, advanced placement, dual
 12 enrollment, International Baccalaureate, International General
 13 Certificate of Secondary Education (pre-AICE), Advanced
 14 International Certificate of Education, early admissions,
 15 credit by examination or demonstration of competency, the New
 16 World School of the Arts, the Florida School for the Deaf and
 17 the Blind, and the Florida Virtual School. These options may
 18 also include the public school choice options of the corporate
 19 income tax credit scholarship programs ~~Opportunity Scholarship~~
 20 ~~Program~~ and the McKay Scholarships for Students with
 21 Disabilities Program.

22 (b) Private school choices.--Parents of public school
 23 students may seek private school choice options under certain
 24 programs.

25 1. Under the corporate income tax credit scholarship
 26 program for families of students attending schools failing to
 27 make adequate progress ~~Opportunity Scholarship Program~~, the
 28 parent of a student in a failing public school may seek a
 29 ~~request and receive an opportunity~~ scholarship from an
 30 eligible nonprofit scholarship-funding organization for the
 31

1 student to attend a private school in accordance with the
2 provisions of s. 220.1875 ~~s. 1002.38~~.

3 2. Under the McKay Scholarships for Students with
4 Disabilities Program, the parent of a public school student
5 with a disability who is dissatisfied with the student's
6 progress may request and receive a McKay Scholarship for the
7 student to attend a private school in accordance with the
8 provisions of s. 1002.39.

9 3. Under the corporate income tax credit scholarship
10 program for families that have limited financial resources,
11 the parent of a student who qualifies for free or
12 reduced-price school lunch may seek a scholarship from an
13 eligible nonprofit scholarship-funding organization for the
14 student to attend a private school in accordance with the
15 provisions of s. 220.187.

16 (c) Home education.--The parent of a student may
17 choose to place the student in a home education program in
18 accordance with the provisions of s. 1002.41.

19 (d) Private tutoring.--The parent of a student may
20 choose to place the student in a private tutoring program in
21 accordance with the provisions of s. 1002.43(1).

22 Section 11. Section 1002.38, Florida Statutes, is
23 repealed.

24 Section 12. Section 1002.39, Florida Statutes, is
25 amended to read:

26 1002.39 The John M. McKay Scholarships for Students
27 with Disabilities Program.--There is established a program
28 that is ~~separate and distinct from the Opportunity Scholarship~~
29 ~~Program and is~~ named the John M. McKay Scholarships for
30 Students with Disabilities Program, pursuant to this section.
31

1 (1) THE JOHN M. MCKAY SCHOLARSHIPS FOR STUDENTS WITH
2 DISABILITIES PROGRAM.--The John M. McKay Scholarships for
3 Students with Disabilities Program is established to provide
4 the option to attend a public school other than the one to
5 which assigned, or to provide a scholarship to a private
6 school of choice, for students with disabilities for whom an
7 individual education plan has been written in accordance with
8 rules of the State Board of Education. Students with
9 disabilities include K-12 students who are mentally
10 handicapped, speech and language impaired, deaf or hard of
11 hearing, visually impaired, dual sensory impaired, physically
12 impaired, emotionally handicapped, specific learning disabled,
13 hospitalized or homebound, or autistic.

14 (2) SCHOLARSHIP ELIGIBILITY.--The parent of a public
15 school student with a disability who is dissatisfied with the
16 student's progress may request and receive from the state a
17 John M. McKay Scholarship for the child to enroll in and
18 attend a private school in accordance with this section if:

19 (a) By assigned school attendance area or by special
20 assignment, the student has spent the prior school year in
21 attendance at a Florida public school. Prior school year in
22 attendance means that the student was enrolled and reported by
23 a school district for funding during the preceding October and
24 February Florida Education Finance Program surveys in
25 kindergarten through grade 12. However, this paragraph does
26 not apply to a dependent child of a member of the United
27 States Armed Forces who transfers to a school in this state
28 from out of state or from a foreign country pursuant to a
29 parent's permanent change of station orders. A dependent child
30 of a member of the United States Armed Forces who transfers to
31 a school in this state from out of state or from a foreign

1 country pursuant to a parent's permanent change of station
2 orders must meet all other eligibility requirements to
3 participate in the program.

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

14
15 This section does not apply to a student who is enrolled in a
16 school operating for the purpose of providing educational
17 services to youth in Department of Juvenile Justice commitment
18 programs. For purposes of continuity of educational choice,
19 the scholarship shall remain in force until the student
20 returns to a public school or graduates from high school.
21 However, at any time, the student's parent may remove the
22 student from the private school and place the student in
23 another private school that is eligible for the program under
24 subsection (4) or in a public school as provided in subsection
25 (3).

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

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

1 district. The parent is not required to accept this offer in
2 lieu of requesting a John M. McKay Scholarship to a private
3 school. However, if the parent chooses the public school
4 option, the student may continue attending a public school
5 chosen by the parent until the student graduates from high
6 school. If the parent chooses a public school consistent with
7 the district school board's choice plan under s. 1002.31, the
8 school district shall provide transportation to the public
9 school selected by the parent. The parent is responsible to
10 provide transportation to a public school chosen that is not
11 consistent with the district school board's choice plan under
12 s. 1002.31.

13 (b) For a student with disabilities who does not have
14 a matrix of services under s. 1011.62(1)(e), the school
15 district must complete a matrix that assigns the student to
16 one of the levels of service as they existed prior to the
17 2000-2001 school year. The school district must complete the
18 matrix of services for any student who is participating in the
19 John M. McKay Scholarships for Students with Disabilities
20 Program and must notify the Department of Education of the
21 student's matrix level within 30 days after receiving
22 notification by the student's parent of intent to participate
23 in the scholarship program. The Department of Education shall
24 notify the private school of the amount of the scholarship
25 within 10 days after receiving the school district's
26 notification of the student's matrix level. Within 10 school
27 days after it receives notification of a parent's intent to
28 apply for a McKay Scholarship, a district school board must
29 notify the student's parent if the matrix has not been
30 completed and provide the parent with the date for completion
31 of the matrix required in this paragraph.

1 (c) If the parent chooses the private school option
2 and the student is accepted by the private school pending the
3 availability of a space for the student, the parent of the
4 student must notify the school district 60 days prior to the
5 first scholarship payment and before entering the private
6 school in order to be eligible for the scholarship when a
7 space becomes available for the student in the private school.

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

16 (e) For a student in the district who participates in
17 the John M. McKay Scholarships for Students with Disabilities
18 Program whose parent requests that the student take the
19 statewide assessments under s. 1008.22, the district shall
20 provide locations and times to take all statewide assessments.

21 (f) A school district must notify the Department of
22 Education within 10 days after it receives notification of a
23 parent's intent to apply for a scholarship for a student with
24 a disability. A school district must provide the student's
25 parent with the student's matrix level within 10 school days
26 after its completion.

27 (4) PRIVATE SCHOOL ELIGIBILITY.--To be eligible to
28 participate in the John M. McKay Scholarships for Students
29 with Disabilities Program, a private school must be a Florida
30 private school, may be sectarian or nonsectarian, and must:
31

1 (a) Demonstrate fiscal soundness by being in operation
2 for 1 school year or provide the Department of Education with
3 a statement by a certified public accountant confirming that
4 the private school desiring to participate is insured and the
5 owner or owners have sufficient capital or credit to operate
6 the school for the upcoming year serving the number of
7 students anticipated with expected revenues from tuition and
8 other sources that may be reasonably expected. In lieu of such
9 a statement, a surety bond or letter of credit for the amount
10 equal to the scholarship funds for any quarter may be filed
11 with the department.

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

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

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

21 (e) Be academically accountable to the parent for
22 meeting the educational needs of the student.

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

28 (g) Comply with all state laws relating to general
29 regulation of private schools.

30 (h) Adhere to the tenets of its published disciplinary
31 procedures prior to the expulsion of a scholarship student.

1 (5) OBLIGATION OF PROGRAM PARTICIPANTS.--

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

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

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

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

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

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

27 (g) A participant who fails to comply with this
28 subsection forfeits the scholarship.

29 (6) SCHOLARSHIP FUNDING AND PAYMENT.--

30 (a)1. The maximum scholarship granted for an eligible
31 student with disabilities shall be a calculated amount

1 equivalent to the base student allocation in the Florida
2 Education Finance Program multiplied by the appropriate cost
3 factor for the educational program that would have been
4 provided for the student in the district school to which he or
5 she was assigned, multiplied by the district cost
6 differential.

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

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

29 (b) The amount of the John M. McKay Scholarship shall
30 be the calculated amount or the amount of the private school's
31 tuition and fees, whichever is less. The amount of any

1 assessment fee required by the participating private school
2 may be paid from the total amount of the scholarship.

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

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

21 (e) Following notification on July 1, September 1,
22 December 1, or February 1 of the number of program
23 participants, the Department of Education shall transfer, from
24 General Revenue funds only, the amount calculated under
25 paragraph (b) from the school district's total funding
26 entitlement under the Florida Education Finance Program and
27 from authorized categorical accounts to a separate account for
28 the scholarship program for quarterly disbursement to the
29 parents of participating students. When a student enters the
30 scholarship program, the Department of Education must receive
31 all documentation required for the student's participation,

1 including the private school's and student's fee schedules, at
2 least 30 days before the first quarterly scholarship payment
3 is made for the student. The Department of Education may not
4 make any retroactive payments.

5 (f) Upon proper documentation reviewed and approved by
6 the Department of Education, the Chief Financial Officer shall
7 make scholarship payments in four equal amounts no later than
8 September 1, November 1, February 1, and April 15 of each
9 academic year in which the scholarship is in force. The
10 initial payment shall be made after Department of Education
11 verification of admission acceptance, and subsequent payments
12 shall be made upon verification of continued enrollment and
13 attendance at the private school. Payment must be by
14 individual warrant made payable to the student's parent and
15 mailed by the Department of Education to the private school of
16 the parent's choice, and the parent shall restrictively
17 endorse the warrant to the private school for deposit into the
18 account of the private school.

19 (7) LIABILITY.--No liability shall arise on the part
20 of the state based on the award or use of a John M. McKay
21 Scholarship.

22 (8) RULES.--The State Board of Education shall adopt
23 rules pursuant to ss. 120.536(1) and 120.54 to administer this
24 section, including rules that school districts must use to
25 expedite the development of a matrix of services based on a
26 current individual education plan from another state or a
27 foreign country for a transferring student with a disability
28 who is a dependent child of a member of the United States
29 Armed Forces. The rules must identify the appropriate school
30 district personnel who must complete the matrix of services.
31 For purposes of these rules, a transferring student with a

1 disability is one who was previously enrolled as a student
2 with a disability in an out-of-state or an out-of-country
3 public or private school or agency program and who is
4 transferring from out of state or from a foreign country
5 pursuant to a parent's permanent change of station orders.
6 However, the inclusion of eligible private schools within
7 options available to Florida public school students does not
8 expand the regulatory authority of the state, its officers, or
9 any school district to impose any additional regulation of
10 private schools beyond those reasonably necessary to enforce
11 requirements expressly set forth in this section.

12 Section 13. This act shall take effect July 1, 2006.

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