

By Senator King

8-4-06

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

1 documentation and notice; providing additional
2 requirements for participating private schools;
3 requiring annual sworn and notarized compliance
4 statements to be filed with the department;
5 requiring specific documentation for
6 participating scholarship students; requiring
7 that the private school maintain a physical
8 location in this state; requiring that
9 information be made available to potential
10 scholarship students and the department;
11 requiring scholarship students to participate
12 in assessments; requiring notification to
13 parents regarding student skill levels;
14 requiring notification to the department
15 regarding changes in information; requiring
16 notification to local health departments;
17 prohibiting discrimination on the basis of
18 religion by a private school; requiring certain
19 individuals to undergo level 2 background
20 screening requirements pursuant to s. 943.0542,
21 F.S.; requiring the Department of Education to
22 verify the background screening information
23 provided by the private school; providing for
24 the Department of Law Enforcement to retain and
25 search fingerprint records; providing for an
26 annual fee as provided by rule of the
27 Department of Law Enforcement; requiring that
28 costs of background checks be borne by certain
29 parties; requiring the Department of Law
30 Enforcement to provide the Department of
31 Education with information related to

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

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

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

1 Department of Education; requiring that audits
2 be conducted within a specified time period
3 after completion of the nonprofit
4 scholarship-funding organization's fiscal year;
5 requiring a nonprofit scholarship-funding
6 organization to make scholarship payments at
7 least quarterly; prohibiting commingling of
8 certain scholarship funds; requiring a
9 nonprofit scholarship-funding organization to
10 maintain a separate account for scholarship
11 funds; requiring a nonprofit
12 scholarship-funding organization to verify
13 student attendance at a private school prior to
14 submission of scholarship funds; requiring a
15 nonprofit scholarship-funding organization to
16 verify income eligibility of qualified students
17 at least once a year in accordance with State
18 Board of Education rules; requiring a nonprofit
19 scholarship-funding organization to submit
20 certain reports to the Department of Education;
21 requiring certain individuals to undergo level
22 2 background screening requirements pursuant to
23 s. 435.04, F.S.; providing for the Department
24 of Law Enforcement to retain and search
25 fingerprint records; providing for an annual
26 fee as provided by rule of the Department of
27 Law Enforcement; requiring that costs of
28 background checks be borne by certain parties;
29 requiring the Department of Education to verify
30 the background screening information provided
31 by the eligible nonprofit scholarship-funding

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

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

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

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

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

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

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

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

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

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

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

7 (2) SCHOLARSHIP ELIGIBILITY; PROHIBITIONS.--

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

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

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

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

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

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

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

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

31

1 (b) A student is ineligible to receive a scholarship
2 under this section if he or she:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 perjury, each person described in this paragraph must agree to
2 inform the private school immediately if convicted of any
3 disqualifying offense while in a capacity with the private
4 school as described in this paragraph.

5 2. Effective December 15, 2006, all fingerprints
6 submitted to the Department of Law Enforcement as required by
7 this paragraph must be retained by the Department of Law
8 Enforcement in a manner provided by rule and entered in the
9 statewide automated fingerprint identification system
10 authorized by s. 943.05(2)(b). Such fingerprints shall
11 thereafter be available for all purposes and uses authorized
12 for arrest fingerprint cards entered in the statewide
13 automated fingerprint identification system under s. 943.051.

14 3. Effective December 15, 2006, the Department of Law
15 Enforcement shall search all arrest fingerprint cards received
16 under s. 943.051 against the fingerprints retained in the
17 statewide automated fingerprint identification system under
18 subparagraph 2. Any arrest record that is identified with the
19 fingerprints of a person described in this paragraph must be
20 reported to the eligible private school. The eligible private
21 school shall notify the Department of Education if the arrest
22 record reported to the private school results in a person
23 failing to meet the level 2 requirements. An eligible private
24 school that fails to report this information shall be
25 immediately suspended from the program. Each eligible private
26 school shall participate in this search process by paying an
27 annual fee to the Department of Law Enforcement and by
28 informing the Department of Law Enforcement of any change in
29 the status or place of employment or engagement of services of
30 its personnel as described in this paragraph whose
31 fingerprints are retained under subparagraph 2. The Department

1 of Law Enforcement shall adopt a rule setting the amount of
2 the annual fee to be imposed upon each private school for
3 performing these searches and establishing the procedures for
4 the retention of private school personnel fingerprints and the
5 dissemination of search results. The fee may be borne by the
6 private school, the employee, the person engaged to provide
7 services, or the owner.

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

21 (c) A private school participating in the John M.
22 McKay Scholarships for Students with Disabilities Program may
23 not:

24 1. Act as attorney in fact for parents of a
25 scholarship student under the authority of a power of attorney
26 executed by such parents, or under any other authority, to
27 endorse scholarship warrants on behalf of parents.

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

30 3. Be a correspondence school or distance learning
31 school.

1 4. Operate as a private tutoring program as defined in
2 s. 1002.43.

3 5. Accept a McKay Scholarship student until the sworn
4 and notarized compliance statement has been completed,
5 submitted to, and independently verified by the Department of
6 Education.

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

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

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

30
31

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

4 3. May not accept new scholarship students until the
5 Department of Education determines that the private school is
6 in compliance with each requirement in this section and in all
7 rules of the State Board of Education.

8 (5) OBLIGATION OF PROGRAM PARTICIPANTS.--

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

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

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

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

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

30 (f) Upon receipt of a scholarship warrant, the parent
31 to whom the warrant is made must restrictively endorse the

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

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

7 (h)(g) A participant who fails to comply with this
8 subsection forfeits the scholarship.

9 (6) SCHOLARSHIP FUNDING AND PAYMENT.--

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

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

1 technology funds, and other categorical funds as provided for
2 such purposes in the General Appropriations Act.

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

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

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

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

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

29 b. Be held harmless for such students from the
30 weighted enrollment ceiling for group 2 programs in s.
31

1 1011.62(1)(d)3.a. during the first school year in which the
2 students are reported.

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

22 (7) DUTIES OF THE DEPARTMENT OF EDUCATION.--

23 (a) The Department of Education shall:

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

28 2. Verify, prior to the initial scholarship payment,
29 the admission acceptance of each scholarship student to an
30 eligible private school.

31

1 3. Verify, prior to each scholarship payment, the
2 enrollment and attendance of each scholarship student at the
3 private school and that the scholarship student is not:
4 a. Receiving a scholarship under s. 220.187 or s.
5 1002.38.
6 b. Participating in a home education program as
7 defined in s. 1002.01(1).
8 c. Participating in instruction delivered by a
9 correspondence school, private tutoring program as defined in
10 s. 1002.43, or distance learning courses, except as
11 specifically permitted in paragraph (2)(b).
12 d. Enrolled in a school operating for the purpose of
13 providing education services to youth in commitment programs
14 of the Department of Juvenile Justice.
15 e. Currently enrolled in a public school in the state,
16 if the student has a scholarship to attend a private school.
17 4. Administer and prescribe an annual sworn and
18 notarized compliance statement for each participating private
19 school and independently verify the information provided by
20 each participating private school.
21 5. Review and verify the results of the background
22 checks reported by the private school pursuant to subsection
23 (4) for each person who fails to meet level 2 screening
24 standards or who has been convicted of a crime involving moral
25 turpitude.
26 6. Determine the eligibility of a private school to
27 accept McKay Scholarship students, based upon independent
28 verification that the private school meets all the
29 requirements in this section and all applicable rules adopted
30 by the State Board of Education.
31

1 7. Publish a current, on-line list of eligible private
2 schools.

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

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

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

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

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

1 participating private school for a violation that is not a
2 minor violation as defined in s. 120.695.

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

6 1. Receives a scholarship under s. 220.187 or s.
7 1002.38.

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

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

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

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

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

31

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

6 1. A correction to a technical, typographical, or
7 calculation error; or

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

12
13 The department must report any change made under this
14 paragraph to the school district and the parent of the
15 student.

16 (8) DUTIES OF THE AUDITOR GENERAL.--Notwithstanding
17 any other law to the contrary, the Auditor General must
18 include in the operational audit of the Department of
19 Education the John M. McKay Scholarships for Students with
20 Disabilities Program. The Auditor General must include in the
21 audit a review of a sample of the warrants used to pay for the
22 scholarships, as well as random site visits to private schools
23 participating in the John M. McKay Scholarships for Students
24 with Disabilities Program. The purpose of the site visits is
25 solely to verify the information reported by the schools
26 concerning the enrollment and attendance of students, the
27 credentials of teachers, background screening of teachers, and
28 fingerprinting results of teachers, which information is
29 required by rules of the State Board of Education or
30 subsection (4). The Auditor General may not make more than one
31 random site visit each year to the same private school, and

1 each random site visit must be based upon probable cause of a
2 violation of this section or other applicable laws.

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

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

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

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

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

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

31

1 (e) Establishing attendance-verification procedures
2 and forms; and
3 (f) Establishing procedures for determining student
4 eligibility and approving scholarships.

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

20 Section 2. The State Board of Education shall initiate
21 the adoption of rules required by this act 10 days after the
22 effective date of this act. The State Board of Education shall
23 report to the presiding officers of the Legislature by
24 December 1, 2006, on the status of the rulemaking required by
25 this act.

26 Section 3. Section 220.187, Florida Statutes, is
27 amended to read:

28 220.187 Credits for contributions to nonprofit
29 scholarship-funding organizations.--

30 (1) This section may be cited as the "Corporate
31 Scholarship Program."

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

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

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

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

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

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

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

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

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

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

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

31

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

3 5. May not be a private tutoring program as described
4 in s. 1002.43.

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

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

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

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

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

29 3. Is eligible to enter kindergarten or first grade.
30
31

1 A student may continue in the scholarship program as long as
2 the family income level does not exceed 200 percent of the
3 federal poverty level. A student who was enrolled in a school
4 operating for the purpose of providing educational services to
5 youth in a commitment program of the Department of Juvenile
6 Justice may not be counted as a full-time equivalent student
7 for the previous state fiscal year for purposes of state
8 per-student funding under this program. A student is
9 ineligible to receive a scholarship under this section if the
10 student is participating in the Opportunity Scholarship
11 Program under s. 1002.38, the John M. McKay Scholarships for
12 Students with Disabilities Program under s. 1002.39, or a home
13 education program as defined in s. 1002.01(1) or is enrolled
14 in a school operating for the purpose of providing educational
15 services to youth in commitment programs of the Department of
16 Juvenile Justice. A student is ineligible to receive a
17 scholarship from more than one eligible nonprofit
18 scholarship-funding organization at the same time.

19 ~~(4)(3)~~ AUTHORIZATION TO GRANT SCHOLARSHIP FUNDING TAX
20 CREDITS; LIMITATIONS ON INDIVIDUAL AND TOTAL CREDITS.--

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

1 taking into account the credit granted by this section and the
2 amount of federal corporate income tax without application of
3 the credit granted by this section.

4 (b) The total amount of tax credits and carryforward
5 of tax credits which may be granted each state fiscal year
6 under this section is \$88 million. Effective for tax years
7 beginning January 1, 2006, 1 percent of the total statewide
8 amount authorized for the tax credit must be reserved for
9 taxpayers that are small businesses as defined in s.
10 288.703(1) at the time of application.

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

16 (d) Effective for tax years beginning January 1, 2006,
17 a taxpayer may rescind its application for tax credit under
18 this section, and the amount approved in the application for
19 tax credit shall become available for purposes of the cap for
20 that state fiscal year under this section to an eligible
21 taxpayer as approved by the Department of Revenue, if the
22 taxpayer receives notice from the Department of Revenue that
23 the rescindment application has been accepted by the
24 Department of Revenue, the taxpayer has not previously
25 rescinded its application for tax credit under this section
26 more than once in the previous 3 tax years, and the taxpayer
27 rescinds before the end of the taxpayer's tax year for which
28 the credit was approved. Any amount rescinded under this
29 paragraph shall become available to an eligible taxpayer on a
30 first-come, first-served basis based on tax credit

1 applications received after the date the rescindment is
2 accepted by the Department of Revenue.

3 ~~(5)(4)~~ OBLIGATIONS OF ELIGIBLE NONPROFIT
4 SCHOLARSHIP-FUNDING ORGANIZATIONS.--

5 (a) An eligible nonprofit scholarship-funding
6 organization shall provide scholarships, from eligible
7 contributions, to qualified students for:

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

12 2. Transportation expenses to a Florida public school
13 that is located outside the district in which the student
14 resides.

15 (b) An eligible nonprofit scholarship-funding
16 organization shall give priority to qualified students who
17 received a scholarship from an eligible nonprofit
18 scholarship-funding organization during the previous school
19 year.

20 (c) The amount of a scholarship provided to any child
21 for any single school year by one or more ~~all~~ eligible
22 nonprofit scholarship-funding organizations from eligible
23 contributions ~~may shall~~ not exceed the following annual
24 limits:

25 1. Three thousand five hundred dollars for a
26 scholarship awarded to a student enrolled in an eligible
27 private ~~nonpublic~~ school.

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

31

1 (d) The amount of an eligible contribution which may
2 be accepted by an eligible nonprofit scholarship-funding
3 organization is limited to the amount needed to provide
4 scholarships for qualified students ~~whom~~ ~~which~~ the
5 organization has identified and for ~~whom~~ ~~which~~ vacancies in
6 eligible private ~~nonpublic~~ schools have been identified.

7 (e) 1. An eligible nonprofit scholarship-funding
8 organization that receives an eligible contribution must
9 obligate, in the same fiscal year in which the contribution
10 was received, spend 100 percent of the eligible contribution
11 to provide scholarships, provided that up to 5 percent of the
12 total contribution may be carried forward for scholarships to
13 be granted in the following same state fiscal year in which
14 ~~the contribution was received~~. No portion of eligible
15 contributions may be used for administrative expenses. All
16 interest accrued from contributions must be used for
17 scholarships.

18 2. An eligible nonprofit scholarship-funding
19 organization, with the prior approval of the Department of
20 Education, may transfer funds to another eligible nonprofit
21 scholarship-funding organization if additional funds are
22 required to meet scholarship demand at the receiving nonprofit
23 scholarship-funding organization. A transfer may not exceed
24 the greater of \$500,000 or 20 percent of the total
25 contributions received by the nonprofit scholarship-funding
26 organization making the transfer. All transferred funds must
27 be deposited by the receiving nonprofit scholarship-funding
28 organization into its scholarship accounts. All transferred
29 amounts received by any nonprofit scholarship-funding
30 organization must be separately disclosed in the annual
31 financial and compliance audit required in this section.

1 (f) An eligible nonprofit scholarship-funding
2 organization that receives eligible contributions must, within
3 180 days after the end of the organization's fiscal year,
4 provide to the Auditor General and the Department of Education
5 an annual financial and compliance audit of its accounts and
6 records conducted by an independent certified public
7 accountant and in accordance with rules adopted by the Auditor
8 General. The Auditor General shall review all audit reports
9 submitted pursuant to this section. The Auditor General shall
10 request any significant items that were omitted in violation
11 of a rule adopted by the Auditor General. The items must be
12 provided within 45 days after the date of the request. If the
13 eligible nonprofit scholarship-funding organization does not
14 comply with the Auditor General's request, the Auditor General
15 shall notify the Legislative Auditing Committee. The
16 Legislative Auditing Committee may schedule a hearing. If a
17 hearing is scheduled, the committee shall determine if the
18 eligible nonprofit scholarship-funding organization should be
19 subject to further state action. If the committee determines
20 that the eligible nonprofit scholarship-funding organization
21 should be subject to further state action, the committee shall
22 notify the Department of Education, which shall terminate the
23 eligibility of the eligible nonprofit scholarship-funding
24 organization to participate in the program under this section.

25 (g) An eligible nonprofit scholarship-funding
26 organization shall make payment of the scholarship at least
27 quarterly. Payment of the scholarship by the eligible
28 nonprofit scholarship-funding organization shall be by
29 individual warrant or check made payable to the student's
30 parent. If the parent chooses for his or her child to attend
31 an eligible private ~~nonpublic~~ school, the warrant or check

1 must be mailed by the eligible nonprofit scholarship-funding
2 organization to the private ~~nonpublic~~ school of the parent's
3 choice, and the parent shall restrictively endorse the warrant
4 or check to the private ~~nonpublic~~ school. An eligible
5 nonprofit scholarship-funding organization shall ensure that,
6 upon receipt of a scholarship warrant or check, the parent to
7 whom the warrant or check is made restrictively endorses the
8 warrant or check to the private ~~nonpublic~~ school of the
9 parent's choice for deposit into the account of the private
10 ~~nonpublic~~ school.

11 (h) An eligible nonprofit scholarship-funding
12 organization may not commingle scholarship funds with any
13 other funds and must maintain a separate account for
14 scholarship funds.

15 (i) An eligible nonprofit scholarship-funding
16 organization shall obtain verification from a private school
17 of each student's continued attendance at the private school
18 prior to each scholarship payment.

19 (j) An eligible nonprofit scholarship-funding
20 organization must verify the income of all scholarship
21 applicants participating in the program at least once each
22 school year through independent income documentation as
23 provided in rules of the State Board of Education.

24 (k) An eligible nonprofit scholarship-funding
25 organization must prepare and submit quarterly reports to the
26 Department of Education pursuant to subsection (8). In
27 addition, an eligible nonprofit scholarship-funding
28 organization must timely submit to the Department of Education
29 any information requested by the Department of Education
30 relating to the scholarship program.

31

1 (1) All owners of an eligible nonprofit
2 scholarship-funding organization shall, upon employment or
3 engagement to provide services, undergo background screening
4 pursuant to s. 943.0542 by electronically filing with the
5 Department of Law Enforcement, for state processing, a
6 complete set of fingerprints taken by an authorized law
7 enforcement agency or by an employee of the eligible nonprofit
8 scholarship-funding organization or a private company who is
9 trained to take fingerprints. However, the complete set of
10 fingerprints of an owner may not be taken by the owner. The
11 Department of Law Enforcement shall submit the fingerprints to
12 the Federal Bureau of Investigation for federal processing.
13 The eligible nonprofit scholarship-funding organization shall
14 screen the background results pursuant to s. 435.04 and timely
15 report to the Department of Education any owner who fails to
16 meet level 2 screening standards pursuant to s. 435.04 or any
17 owner who has been convicted of a crime involving moral
18 turpitude. The Department of Education shall verify the
19 information reported by the eligible nonprofit
20 scholarship-funding organization. An owner who is found
21 through fingerprint processing to have been convicted of a
22 crime involving moral turpitude or who fails to meet level 2
23 screening standards pursuant to s. 435.04 may not be employed
24 or engaged to provide services in any position with the
25 eligible nonprofit scholarship-funding organization. The cost
26 of the background screening may be borne by the eligible
27 nonprofit scholarship-funding organization or the owner.
28 1. Every 5 years following employment or engagement to
29 provide services with an eligible nonprofit
30 scholarship-funding organization, each owner must meet level 2
31 screening requirements as described in s. 435.04, at which

1 time the nonprofit scholarship-funding organization shall
2 request the Department of Law Enforcement pursuant to s.
3 943.0542 to forward the fingerprints to the Federal Bureau of
4 Investigation for level 2 screening. If the fingerprints of an
5 owner are not retained by the Department of Law Enforcement
6 under subparagraph 2., the owner must file a complete set of
7 fingerprints with the eligible nonprofit scholarship-funding
8 organization. Upon submission of fingerprints for this
9 purpose, the eligible nonprofit scholarship-funding
10 organization shall request that the Department of Law
11 Enforcement forward the fingerprints to the Federal Bureau of
12 Investigation for level 2 screening, and the fingerprints
13 shall be retained by the Department of Law Enforcement under
14 subparagraph 2. The cost of the state and federal criminal
15 history check required by level 2 screening may be borne by
16 the eligible nonprofit scholarship-funding organization or the
17 owner. Under penalty of perjury, each owner must agree to
18 inform the eligible nonprofit scholarship-funding organization
19 immediately if convicted of any disqualifying offense while he
20 or she is employed by or engaged to provide services with the
21 eligible nonprofit scholarship-funding organization.

22 2. Effective December 15, 2006, all fingerprints
23 submitted to the Department of Law Enforcement as required by
24 this paragraph must be retained by the Department of Law
25 Enforcement in a manner provided by rule and entered in the
26 statewide automated fingerprint identification system
27 authorized by s. 943.05(2)(b). The fingerprints must
28 thereafter be available for all purposes and uses authorized
29 for arrest fingerprint cards entered in the statewide
30 automated fingerprint identification system pursuant to s.
31 943.051.

1 3. Effective December 15, 2006, the Department of Law
2 Enforcement shall search all arrest fingerprint cards received
3 under s. 943.051 against the fingerprints retained in the
4 statewide automated fingerprint identification system under
5 subparagraph 2. Any arrest record that is identified with an
6 owner's fingerprints must be reported to the eligible
7 nonprofit scholarship-funding organization. The eligible
8 nonprofit scholarship-funding organization shall notify the
9 Department of Education if the arrest record reported to the
10 organization results in a person's failing to meet the level 2
11 requirements. An eligible nonprofit scholarship-funding
12 organization that fails to report this information shall be
13 immediately suspended from the program. Each eligible
14 nonprofit scholarship-funding organization shall participate
15 in this search process by paying an annual fee to the
16 Department of Law Enforcement and by informing the Department
17 of Law Enforcement of any change in the employment or
18 engagement status or place of employment or engagement of its
19 owners whose fingerprints are retained under subparagraph 2.
20 The Department of Law Enforcement shall adopt a rule setting
21 the amount of the annual fee to be imposed upon each eligible
22 nonprofit scholarship-funding organization for performing
23 these searches and establishing the procedures for the
24 retention of owner fingerprints and the dissemination of
25 search results. The fee may be borne by the eligible nonprofit
26 scholarship-funding organization or by the owner.

27 4. If it is found that an owner of an eligible
28 nonprofit scholarship-funding organization does not meet level
29 2 requirements, the eligible nonprofit scholarship-funding
30 organization shall be immediately suspended from participating
31 in the program and shall remain suspended until final

1 resolution of any appeals. An eligible nonprofit
2 scholarship-funding organization the owner of which fails to
3 meet level 2 screening standards or has been convicted of a
4 crime involving moral turpitude may not participate in this
5 program.

6
7 The Department of Law Enforcement shall provide the Department
8 of Education with the results of the state and national
9 records checks provided to the qualified entity at each
10 private school as provided in s. 943.0542.

11 (m) If the owner of an eligible nonprofit
12 scholarship-funding organization has in the immediately
13 preceding 7 years filed for personal bankruptcy or owned 20
14 percent or more of a corporation that filed for corporate
15 bankruptcy in the immediately preceding 7 years, the eligible
16 nonprofit scholarship-funding organization may not participate
17 in this program.

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

21 (o) An eligible nonprofit scholarship-funding
22 organization or an owner of an eligible nonprofit
23 scholarship-funding organization may not own, operate, or
24 administer an eligible private school participating in the
25 program.

26 (p) An eligible nonprofit scholarship-funding
27 organization must report to the Department of Education any
28 eligible private school participating in the scholarship
29 program under this section which does not comply with the
30 requirements of this program. The eligible nonprofit
31 scholarship-funding organization may not provide additional

1 scholarship funds for a qualified student to attend an
2 eligible private school until the State Board of Education
3 determines that the school is in compliance with this section.

4 (q) An eligible nonprofit scholarship-funding
5 organization must allow a qualified student to attend any
6 eligible private school and must allow the parent to transfer
7 the scholarship during the school year to another eligible
8 private school of the parent's choice.

9 (r) An eligible nonprofit scholarship-funding
10 organization must provide a scholarship to a qualified student
11 on a first-come, first-served basis unless the student
12 qualifies for priority pursuant to paragraph (5)(b). An
13 eligible nonprofit scholarship-funding organization may not
14 target scholarships to a particular private school or provide
15 scholarships to a child of an owner.

16 (s) An eligible nonprofit scholarship-funding
17 organization may not secure a promissory note, a line of
18 credit, or other financing to fund a scholarship in
19 anticipation of an eligible contribution. An eligible
20 scholarship-funding organization may fund scholarships only
21 through eligible contributions received under the scholarship
22 program.

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

26 ~~(6)(5)~~ PARENT OBLIGATIONS.--

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

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

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

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

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

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

24 (7)(6) ELIGIBLE PRIVATE NONPUBLIC SCHOOL
25 OBLIGATIONS.--An eligible private nonpublic school must:

26 (a) Demonstrate fiscal soundness by being in operation
27 for at least 3 school years or obtaining a surety bond or
28 letter of credit for the amount equal to the scholarship funds
29 for any quarter and filing the surety bond or letter of credit
30 with one school year or provide the Department of Education.
31 If the private school becomes subject to an action taken by

1 the Department of Education for a violation of this section,
2 the school:

3 1. Shall file a surety bond with the Department of
4 Education after the date on which the action was taken for
5 such violation but before receiving the next quarterly
6 scholarship payment;

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

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

23 (b) Comply with the antidiscrimination provisions of
24 42 U.S.C. s. 2000d.

25 (c) Meet state and local health and safety laws and
26 codes.

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

29 (e) Employ or contract with teachers who have regular
30 and direct contact with each student receiving a scholarship
31 under this section at the school's physical location. All

1 teachers must hold a baccalaureate degree or higher or have at
2 least 3 years' of teaching experience in public or private
3 schools, or have special skills, knowledge, or expertise that
4 qualifies them to provide instruction in subjects taught. As
5 part of the sworn-compliance form authorized under subsection
6 (8), an eligible private school must report to the Department
7 of Education the number of teachers employed or under contract
8 with the eligible private school, along with the manner in
9 which the teacher meets the requirements of this paragraph.

10 (f) Annually register with the Department of
11 Education. Each eligible private school must annually provide
12 the following information to the Department of Education:

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

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

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

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

21 (g) Ensure that all personnel who are hired or
22 contracted to provide services to fill positions requiring
23 direct contact with students in the eligible private school,
24 and all owners of an eligible private school shall, upon
25 employment or engagement to provide services, undergo
26 background screening pursuant to s. 943.0542 by electronically
27 filing with the Department of Law Enforcement a complete set
28 of fingerprints taken by an authorized law enforcement agency
29 or by an employee of the eligible private school or public
30 school, or an employee of a private company, who is trained to
31 take fingerprints. However, the complete set of fingerprints

1 of an owner of an eligible private school may not be taken by
2 the owner. These fingerprints must be electronically submitted
3 to the Department of Law Enforcement for state processing,
4 which shall in turn submit the fingerprints to the Federal
5 Bureau of Investigation for federal processing. The private
6 school shall screen the background results pursuant to s.
7 435.04 and timely report to the Department of Education any
8 person described in this paragraph who fails to meet level 2
9 screening standards pursuant to s. 435.04 or any person
10 described in this paragraph who has been convicted of a crime
11 involving moral turpitude. The Department of Education shall
12 verify the information reported by the eligible private
13 school. Any person described in this paragraph who is found
14 through fingerprint processing to have been convicted of a
15 crime involving moral turpitude or who fails to meet level 2
16 screening standards pursuant to s. 435.04 may not be employed
17 or engaged to provide services in any position in the eligible
18 private school requiring direct contact with students and may
19 not assume an ownership position. The cost of the background
20 screening may be borne by the eligible private school, the
21 employee, the person engaged to provide services, or the
22 owner.

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

1 private school. Upon submission of fingerprints for this
2 purpose, the private school shall request the Department of
3 Law Enforcement to forward the fingerprints to the Federal
4 Bureau of Investigation for level 2 screening, and the
5 fingerprints must be retained by the Department of Law
6 Enforcement under subparagraph 2. The cost of the state and
7 federal criminal history check required by level 2 screening
8 may be borne by the eligible private school, the employee, the
9 person engaged to provide services, or the owner. Under
10 penalty of perjury, each person described in this paragraph
11 must agree to inform the eligible private school immediately
12 if convicted of any disqualifying offense while in a capacity
13 with the eligible private school as described in this
14 paragraph.

15 2. Effective December 15, 2006, all fingerprints
16 submitted to the Department of Law Enforcement as required by
17 this paragraph must be retained by the Department of Law
18 Enforcement in a manner provided by rule and entered in the
19 statewide automated fingerprint identification system
20 authorized by s. 943.05(2)(b). Such fingerprints must
21 thereafter be available for all purposes and uses authorized
22 for arrest fingerprint cards entered in the statewide
23 automated fingerprint identification system pursuant to s.
24 943.051.

25 3. Effective December 15, 2006, the Department of Law
26 Enforcement shall search all arrest fingerprint cards received
27 under s. 943.051 against the fingerprints retained in the
28 statewide automated fingerprint identification system under
29 subparagraph 2. Any arrest record that is identified with the
30 fingerprints of a person described in this paragraph must be
31 reported to the eligible private school. The eligible private

1 school shall notify the Department of Education if the arrest
2 record reported to the private school results in a person's
3 failing to meet the level 2 requirements. An eligible private
4 school that fails to report this information shall be
5 immediately suspended from the program. Each eligible private
6 school shall participate in this search process by paying an
7 annual fee to the Department of Law Enforcement and by
8 informing the Department of Law Enforcement of any change in
9 the status or place of employment or engagement of services of
10 its personnel as described in this paragraph whose
11 fingerprints are retained under subparagraph 2. The Department
12 of Law Enforcement shall adopt a rule setting the amount of
13 the annual fee to be imposed upon each eligible private school
14 for performing these searches and establishing the procedures
15 for the retention of eligible private school personnel
16 fingerprints and the dissemination of search results. The fee
17 may be borne by the eligible private school, the employee, the
18 person engaged to provide services, or the owner.

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

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

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

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

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

15 (i) Cooperate with a scholarship student whose parent
16 chooses to participate in the statewide assessments under s.
17 1008.22.

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

20 (k) Timely notify in writing the Department of
21 Education and the eligible nonprofit scholarship-funding
22 organization if a qualified student is ineligible to
23 participate in the scholarship program.

24 (l) Report annually to the Department of Education and
25 the scholarship applicants of the eligible private school if
26 the eligible private school has been in existence for 3 years
27 or less.

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

30 1. Whether the eligible private school is accredited
31 by an in-state or regional accrediting association that is

1 validated by a third-party accreditor at the state or national
2 level which has been in existence at least 3 years;

3 2. The name of the accrediting association that
4 accredits the eligible private school; and

5 3. Whether the eligible private school is in the
6 process of receiving candidate status.

7
8 The Department of Education shall make the annual list of
9 accredited and nonaccredited eligible private schools
10 available to the public and shall make that list available by
11 county.

12 (n) Comply with this section's requirements. An
13 eligible private school that fails to comply with this section
14 is ineligible to participate in the scholarship program under
15 this section.

16 (o) Accept scholarship students on a religious-neutral
17 basis. A private school may not discriminate against a student
18 on the basis of the religion of the student, the parent, or
19 the private school.

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

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

25 (b) Annually determine the eligibility of nonprofit
26 scholarship-funding organizations that meet the requirements
27 of this section. The Department of Education must determine
28 the eligibility of the nonprofit scholarship-funding
29 organization within 90 days after the nonprofit
30 scholarship-funding organization's application for approval to
31 participate in the program. The Department of Education must

1 provide written notice of approval or denial to participate in
2 the program to the nonprofit scholarship-funding organization.
3 The notice must contain the specific reasons for approval or
4 denial.

5 (c) Annually determine the eligibility of private
6 schools that meet the requirements of this section. The
7 Department of Education must maintain a list of eligible
8 private schools, and that list must be made accessible to the
9 public.

10 (d) Annually verify the eligibility of students that
11 meet the requirements of this section. The Department of
12 Education must maintain a database of students participating
13 in the program. The Department of Education must, at least
14 quarterly, update its database to ensure that a student
15 continues to meet the requirements of this section. The
16 Department of Education must timely notify an eligible
17 nonprofit scholarship-funding organization of any student who
18 fails to meet the requirements of this section.

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

21 (f) Annually review all audit reports of eligible
22 nonprofit scholarship-funding organizations for compliance
23 with this section.

24 (g) Annually submit, administer, and retain records of
25 affidavits from private schools certifying compliance with
26 this section.

27 (h) Identify and select the nationally norm-referenced
28 tests that are comparable to the norm-referenced provisions of
29 the Florida Comprehensive Assessment Test. The State Board of
30 Education may not identify more than four norm-referenced
31 tests for use in meeting the requirements of this section. The

1 State Board of Education may select the Florida Comprehensive
2 Assessment Test as one of the four tests for use in meeting
3 such requirements. The Commissioner of Education shall select
4 a Florida public university to analyze and report student
5 performance data for each scholarship student. The
6 Commissioner of Education shall select the university based
7 upon the university's mission and the university's
8 demonstrated experience in the analysis of student performance
9 data. The university must report annually on the year-to-year
10 improvements of the qualified students and must analyze and
11 report student performance data, including student scores by
12 grade level, in a manner that protects the rights of students
13 and parents as mandated in 20 U.S.C. s. 1232g and must not
14 disaggregate data to a level that will disclose the identity
15 of students. Any comparison of student performance data
16 between two or more eligible private schools must be solely
17 based on the performance of qualified scholarship students.

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

29 (j) Revoke the eligibility of a nonprofit
30 scholarship-funding organization, private school, or student
31

1 to participate in the program for noncompliance with this
2 section.

3 (k) Annually, by December 15, report to the Governor,
4 the President of the Senate, and the Speaker of the House of
5 Representatives the Department of Education's actions with
6 respect to implementing accountability in the scholarship
7 program under this section, including, but not limited to, any
8 substantiated allegations or violations of law or rule by an
9 eligible nonprofit scholarship-funding organization or
10 eligible private school under this program and the corrective
11 action taken by the Department of Education.

12 (l) Review and verify the results of the background
13 checks reported by the private school pursuant to subsections
14 (5) and (7) for each person who fails to meet level 2
15 screening standards or who has been convicted of a crime
16 involving moral turpitude.

17 ~~(9)(7)~~ ADMINISTRATION; RULES.--

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

1 taxpayer are conveyed, assigned, or transferred in the same
2 transaction.

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

6 (c) The Department of Revenue and the Department of
7 Education shall develop a cooperative agreement to assist in
8 the administration of this section. ~~The Department of
9 Education shall be responsible for annually submitting, by
10 March 15, to the department a list of eligible nonprofit
11 scholarship funding organizations that meet the requirements
12 of paragraph (2)(d) and for monitoring eligibility of
13 nonprofit scholarship funding organizations that meet the
14 requirements of paragraph (2)(d), eligibility of nonpublic
15 schools that meet the requirements of paragraph (2)(c), and
16 eligibility of expenditures under this section as provided in
17 subsection (4).~~

18 (d) The Department of Revenue shall adopt rules
19 necessary to administer this section, including rules
20 establishing application forms and procedures and governing
21 the allocation of tax credits and carryforward credits under
22 this section on a first-come, first-served basis.

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

26 1. Determining necessary to determine eligibility of
27 nonprofit scholarship-funding organizations and private
28 schools;

29 2. Identifying as defined in paragraph (2)(d) and
30 according to the provisions of subsection (4) and identify
31 qualified students; as defined in paragraph (2)(c).

1 3. Requiring documentation to establish eligibility
2 for nonprofit scholarship-funding organizations;

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

6 5. Requiring independent income-verification
7 documentation to establish student eligibility under this
8 section.

9 (f) The State Board of Education may delegate its
10 authority under this section to the Commissioner of Education
11 with the exception of rulemaking authority.

12 ~~(10)(8)~~ DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--All
13 eligible contributions received by an eligible nonprofit
14 scholarship-funding organization shall be deposited in a
15 manner consistent with s. 17.57(2).

16 Section 4. If s. 1002.39, Florida Statutes, the John
17 M. McKay Scholarships for Students with Disabilities Program,
18 is found to violate s. 3 of Art. I of the State Constitution,
19 a nonsectarian private school may continue to participate in
20 the program.

21 Section 5. This act shall take effect upon becoming a
22 law.

23
24 *****

25 SENATE SUMMARY

26 Revises various provisions of the John M. McKay
27 Scholarships for Students with Disabilities Program.
28 Revises the eligibility requirements. Revises
29 requirements for participating private schools. Provides
30 requirements for background screening. Requires audits of
31 the program. Authorizes the State Board of Education to
adopt rules. Revises the Corporate Tax Credit Scholarship
Program. Provides limitations on contributions. Provides
for audits. Provides requirements for background
screening. Requires the State Board of Education to adopt
rules. (See bill for details.)