

By the Committee on Judiciary; and Senators King and Wise

590-2197-06

1 A bill to be entitled
2 An act relating to scholarship program
3 accountability; amending s. 1002.39, F.S.,
4 relating to the John M. McKay Scholarships for
5 Students with Disabilities Program; revising
6 the definition of the term "students with
7 disabilities"; revising student eligibility
8 requirements for receipt of a scholarship and
9 restricting eligibility therefor; providing for
10 the term of a scholarship; revising and adding
11 school district obligations and clarifying
12 parental options; revising and adding
13 Department of Education obligations, including
14 verification of eligibility of private schools
15 and establishment of a process for notification
16 of violations, subsequent inquiry or
17 investigation, and certification of compliance
18 by private schools; providing Commissioner of
19 Education authority and obligations, including
20 the denial, suspension, or revocation of a
21 private school's participation in the
22 scholarship program and procedures and
23 timelines therefor; authorizing the Department
24 of Education's Office of the Inspector General
25 to release student records under certain
26 conditions; revising private school eligibility
27 and obligations, including compliance with
28 specified laws and academic accountability to
29 the parent; revising parent and student
30 responsibilities for scholarship program
31 participation; prohibiting power of attorney

1 for endorsing a scholarship warrant; revising
2 provisions relating to scholarship funding and
3 payment; providing funding and payment
4 requirements for former Florida School for the
5 Deaf and the Blind students and for students
6 exiting a Department of Juvenile Justice
7 program; providing for the Department of
8 Education to request a sample of endorsed
9 warrants from the Department of Financial
10 Services; amending s. 220.187, F.S., relating
11 to credits for contributions to nonprofit
12 scholarship-funding organizations; revising and
13 providing definitions; naming the Corporate
14 Income Tax Credit Scholarship Program;
15 providing student eligibility requirements for
16 receipt of a corporate income tax credit
17 scholarship and restricting eligibility
18 therefor; revising provisions relating to tax
19 credits for small businesses; providing for
20 adjustment of the total amount of tax credits
21 and carryforward of tax credits; providing for
22 rescindment of tax credit allocation; revising
23 and adding obligations of eligible nonprofit
24 scholarship-funding organizations, including
25 compliance with requirements for background
26 checks of owners and operators,
27 scholarship-funding organization ownership or
28 operation, carryforward and transfer of funds,
29 audits, and reports; specifying background
30 screening requirements and procedures;
31 requiring that certain information remain

1 confidential in accordance with s. 213.053,
2 F.S.; revising and adding parent and student
3 responsibilities for scholarship program
4 participation, including compliance with a
5 private school's published policies,
6 participation in student academic assessment,
7 and restrictive endorsement of scholarship
8 warrants; prohibiting power of attorney for
9 endorsing a scholarship warrant; revising and
10 adding private school eligibility requirements
11 and obligations, including compliance with
12 specified laws and academic accountability to
13 parents; revising and adding Department of
14 Education obligations, including verification
15 of eligibility of program participants,
16 establishment of a process for notification of
17 violations, subsequent inquiry or
18 investigation, certification of compliance by
19 private schools, and selection of a research
20 organization to analyze student performance
21 data; providing Commissioner of Education
22 authority and obligations, including the
23 denial, suspension, or revocation of a private
24 school's participation in the scholarship
25 program and procedures and timelines therefor;
26 authorizing the Department of Education's
27 Office of the Inspector General to release
28 student records under certain circumstances;
29 revising and adding provisions relating to
30 scholarship funding and payment, including the
31 amount of a scholarship and the payment

1 process; requiring adoption of rules; creating
2 s. 1002.421, F.S., relating to accountability
3 of private schools participating in state
4 school choice scholarship programs; providing
5 requirements for participation in a scholarship
6 program, including compliance with specified
7 state, local, and federal laws and
8 demonstration of fiscal soundness; requiring
9 restrictive endorsement of a scholarship
10 warrant and prohibiting power of attorney for
11 endorsing a warrant; requiring employment of
12 qualified teachers and background screening of
13 employees and contracted personnel having
14 direct student contact; specifying background
15 screening requirements and procedures;
16 providing scope of authority; requiring
17 adoption of rules; providing an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

20
21 Section 1. Section 1002.39, Florida Statutes, is
22 amended to read:

23 1002.39 The John M. McKay Scholarships for Students
24 with Disabilities Program.--There is established a program
25 that is separate and distinct from the Opportunity Scholarship
26 Program and is named the John M. McKay Scholarships for
27 Students with Disabilities Program, ~~pursuant to this section.~~

28 (1) THE JOHN M. MCKAY SCHOLARSHIPS FOR STUDENTS WITH
29 DISABILITIES PROGRAM.--The John M. McKay Scholarships for
30 Students with Disabilities Program is established to provide
31 the option to attend a public school other than the one to

1 | which assigned, or to provide a scholarship to a private
2 | school of choice, for students with disabilities for whom an
3 | individual education plan has been written in accordance with
4 | rules of the State Board of Education. Students with
5 | disabilities include K-12 students who are documented as
6 | having mental retardation; a mentally handicapped, speech or
7 | and language impairment; a impaired, deaf or hard of hearing
8 | impairment, including deafness; a visual impairment, including
9 | blindness; a visually impaired, dual sensory impairment; a
10 | physical impairment; a serious emotional disturbance,
11 | including an emotional handicap; a impaired, physically
12 | impaired, emotionally handicapped, specific learning
13 | disability, including, but not limited to, dyslexia,
14 | dyscalculia, or developmental aphasia; a traumatic brain
15 | injury; disabled, hospitalized or homebound, or autism
16 | autistic.

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

23 | (a) ~~By assigned school attendance area or by special~~
24 | ~~assignment,~~ The student has spent the prior school year in
25 | attendance at a Florida public school or the Florida School
26 | for the Deaf and the Blind. Prior school year in attendance
27 | means that the student was:

28 | 1. Enrolled and reported by a school district for
29 | funding during the preceding October and February Florida
30 | Education Finance Program surveys in kindergarten through
31 | grade 12, which shall include time spent in a Department of

1 Juvenile Justice commitment program if funded under the
2 Florida Education Finance Program;

3 2. Enrolled and reported by the Florida School for the
4 Deaf and the Blind during the preceding October and February
5 student membership surveys in kindergarten through grade 12;
6 or

7 3. Enrolled and reported by a school district for
8 funding during the preceding October and February Florida
9 Education Finance Program surveys, was at least 4 years old
10 when so enrolled and reported, and was eligible for services
11 under s. 1003.21(1)(e).

12
13 ~~However, this paragraph does not apply to a dependent child of~~
14 ~~a member of the United States Armed Forces who transfers to a~~
15 ~~school in this state from out of state or from a foreign~~
16 ~~country pursuant to a parent's permanent change of station~~
17 ~~orders is exempt from this paragraph but. A dependent child of~~
18 ~~a member of the United States Armed Forces who transfers to a~~
19 ~~school in this state from out of state or from a foreign~~
20 ~~country pursuant to a parent's permanent change of station~~
21 ~~orders~~ must meet all other eligibility requirements to
22 participate in the program.

23 (b) The parent has obtained acceptance for admission
24 of the student to a private school that is eligible for the
25 program under subsection(8)(4) and has requested from the
26 department ~~notified the school district of the request for a~~
27 ~~scholarship at least 60 days prior to the date of the first~~
28 ~~scholarship payment. The request parental notification~~ must be
29 through a communication directly to the department ~~district or~~
30 ~~through the Department of Education to the district in a~~
31 manner that creates a written or electronic record of the

1 request notification and the date of receipt of the request
2 notification.

3
4 ~~This section does not apply to a student who is enrolled in a~~
5 ~~school operating for the purpose of providing educational~~
6 ~~services to youth in Department of Juvenile Justice commitment~~
7 ~~programs. For purposes of continuity of educational choice,~~
8 ~~the scholarship shall remain in force until the student~~
9 ~~returns to a public school or graduates from high school.~~
10 ~~However, at any time, the student's parent may remove the~~
11 ~~student from the private school and place the student in~~
12 ~~another private school that is eligible for the program under~~
13 ~~subsection (4) or in a public school as provided in subsection~~
14 ~~(3).~~

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

18 (a) Enrolled in a school operating for the purpose of
19 providing educational services to youth in Department of
20 Juvenile Justice commitment programs;

21 (b) Receiving a corporate income tax credit
22 scholarship under s. 220.187;

23 (c) Receiving an educational scholarship pursuant to
24 this chapter;

25 (d) Participating in a home education program as
26 defined in s. 1002.01(1);

27 (e) Participating in a private tutoring program
28 pursuant to s. 1002.43;

29 (f) Participating in a virtual school, correspondence
30 school, or distance learning program that receives state
31 funding pursuant to the student's participation unless the

1 participation is limited to no more than two courses per
2 school year;

3 (g) Enrolled in the Florida School for the Deaf and
4 the Blind; or

5 (h) Not having regular and direct contact with his or
6 her private school teachers at the school's physical location.

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

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

12 (b) Upon reasonable notice to the department and the
13 school district, the student's parent may remove the student
14 from the private school and place the student in a public
15 school in accordance with this section.

16 (c) Upon reasonable notice to the department, the
17 student's parent may move the student from one participating
18 private school to another participating private school.

19 (5)(3) SCHOOL DISTRICT AND DEPARTMENT OF EDUCATION
20 OBLIGATIONS; PARENTAL OPTIONS.--

21 (a)1. By April 1 of each year and within 10 days after
22 an individual education plan meeting, a school district shall
23 timely notify the parent of the student of all options
24 available pursuant to this section, inform the parent of the
25 availability of the department's telephone hotline and
26 Internet website for additional information on John M. McKay
27 Scholarships, and offer that student's parent an opportunity
28 to enroll the student in another public school within the
29 district.

30 2. The parent is not required to accept ~~the~~ this offer
31 of enrolling in another public school in lieu of requesting a

1 | John M. McKay Scholarship to a private school. However, if the
2 | parent chooses the public school option, the student may
3 | continue attending a public school chosen by the parent until
4 | the student graduates from high school.

5 | 3. If the parent chooses a public school consistent
6 | with the district school board's choice plan under s. 1002.31,
7 | the school district shall provide transportation to the public
8 | school selected by the parent. The parent is responsible to
9 | provide transportation to a public school chosen that is not
10 | consistent with the district school board's choice plan under
11 | s. 1002.31.

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

17 | 2.a. Within 10 school days after it receives
18 | notification of a parent's request for a John M. McKay
19 | Scholarship, a school district must notify the student's
20 | parent if the matrix of services has not been completed and
21 | inform the parent that the district is required to complete
22 | the matrix within 30 days after receiving notice of the
23 | parent's request for a John M. McKay Scholarship. This notice
24 | should include the required completion date for the matrix.

25 | b. The school district must complete the matrix of
26 | services for any student who is participating in the John M.
27 | McKay Scholarships for Students with Disabilities Program and
28 | must notify the department ~~of Education~~ of the student's
29 | matrix level within 30 days after receiving notification of a
30 | request by the student's parent of intent to participate in
31 | the scholarship program. The school district must provide the

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

3 c. The department ~~of Education~~ shall notify the
4 private school of the amount of the scholarship within 10 days
5 after receiving the school district's notification of the
6 student's matrix level. ~~Within 10 school days after it~~
7 ~~receives notification of a parent's intent to apply for a~~
8 ~~McKay Scholarship, a district school board must notify the~~
9 ~~student's parent if the matrix has not been completed and~~
10 ~~provide the parent with the date for completion of the matrix~~
11 ~~required in this paragraph.~~

12 d. A school district may change a matrix of services
13 only if the change is to correct a technical, typographical,
14 or calculation error.

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

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

27 (e)(d) The parent of a student may choose, as an
28 alternative, to enroll the student in and transport the
29 student to a public school in an adjacent school district
30 which has available space and has a program with the services
31 agreed to in the student's individual education plan already

1 in place, and that school district shall accept the student
2 and report the student for purposes of the district's funding
3 pursuant to the Florida Education Finance Program.

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

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

16 (6) DEPARTMENT OF EDUCATION OBLIGATIONS.--The
17 department shall:

18 (a) Establish a toll-free hotline that provides
19 parents and private schools with information on participation
20 in the John M. McKay Scholarships for Students with
21 Disabilities Program.

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

24 (c) Establish a process by which individuals may
25 notify the department of any violation by a parent, private
26 school, or school district of state laws relating to program
27 participation. The department shall conduct an inquiry of any
28 written complaint of a violation of this section, or make a
29 referral to the appropriate agency for an investigation, if
30 the complaint is signed by the complainant and is legally
31 sufficient. A complaint is legally sufficient if it contains

1 ultimate facts that show that a violation of this section or
2 any rule adopted by the State Board of Education has occurred.
3 In order to determine legal sufficiency, the department may
4 require supporting information or documentation from the
5 complainant. A department inquiry is not subject to the
6 requirements of chapter 120.

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

10 (e) Cross-check the list of participating scholarship
11 students with the public school enrollment lists prior to each
12 scholarship payment to avoid duplication.

13 (f)1. Conduct random site visits to private schools
14 participating in the John M. McKay Scholarships for Students
15 with Disabilities Program. The purpose of the site visits is
16 solely to verify the information reported by the schools
17 concerning the enrollment and attendance of students, the
18 credentials of teachers, background screening of teachers, and
19 teachers' fingerprinting results, which information is
20 required by rules of the State Board of Education, subsection
21 (8), and s. 1002.421. The Department of Education may not make
22 more than three random site visits each year and may not make
23 more than one random site visit each year to the same private
24 school.

25 2. Annually, by December 15, report to the Governor,
26 the President of the Senate, and the Speaker of the House of
27 Representatives the Department of Education's actions with
28 respect to implementing accountability in the scholarship
29 program under this section and s. 1002.421, any substantiated
30 allegations or violations of law or rule by an eligible
31 private school under this program concerning the enrollment

1 and attendance of students, the credentials of teachers,
2 background screening of teachers, and teachers' fingerprinting
3 results and the corrective action taken by the Department of
4 Education.

5 (7) COMMISSIONER OF EDUCATION AUTHORITY AND
6 OBLIGATIONS.--

7 (a) The Commissioner of Education shall deny, suspend,
8 or revoke a private school's participation in the scholarship
9 program if it is determined that the private school has failed
10 to comply with the provisions of this section. However, in
11 instances in which the noncompliance is correctable within a
12 reasonable amount of time and in which the health, safety, or
13 welfare of the students are not threatened, the commissioner
14 may issue a notice of noncompliance which shall provide the
15 private school with a timeframe within which to provide
16 evidence of compliance prior to taking action to suspend or
17 revoke the private school's participation in the scholarship
18 program.

19 (b) The commissioner's determination is subject to the
20 following:

21 1. If the commissioner intends to deny, suspend, or
22 revoke a private school's participation in the scholarship
23 program, the department shall notify the private school of
24 such proposed action in writing by certified mail and regular
25 mail to the private school's address of record with the
26 department. The notification shall include the reasons for the
27 proposed action and notice of the timelines and procedures set
28 forth in this paragraph.

29 2. The private school that is adversely affected by
30 the proposed action shall have 15 days from receipt of the
31 notice of proposed action to file with the department's agency

1 clerk a request for a proceeding pursuant to ss. 120.569 and
2 120.57. If the private school is entitled to a hearing under
3 s. 120.57(1), the department shall forward the request to the
4 Division of Administrative Hearings.

5 3. Upon receipt of a request referred pursuant to this
6 paragraph, the director of the Division of Administrative
7 Hearings shall expedite the hearing and assign an
8 administrative law judge who shall commence a hearing within
9 30 days after the receipt of the formal written request by the
10 division and enter a recommended order within 30 days after
11 the hearing or within 30 days after receipt of the hearing
12 transcript, whichever is later. Each party shall be allowed 10
13 days in which to submit written exceptions to the recommended
14 order. A final order shall be entered by the agency within 30
15 days after the entry of a recommended order. The provisions of
16 this subparagraph may be waived upon stipulation by all
17 parties.

18 (c) The commissioner may immediately suspend payment
19 of scholarship funds if it is determined that there is
20 probable cause to believe that there is:

21 1. An imminent threat to the health, safety, or
22 welfare of the students; or

23 2. Fraudulent activity on the part of the private
24 school. Notwithstanding s. 1002.22(3), in incidents of alleged
25 fraudulent activity pursuant to this section, the Department
26 of Education's Office of Inspector General is authorized to
27 release personally identifiable records or reports of students
28 to the following persons or organizations:

29 a. A court of competent jurisdiction in compliance
30 with an order of that court or the attorney of record in
31 accordance with a lawfully issued subpoena, consistent with

1 the Family Educational Rights and Privacy Act, 20 U.S.C. s.
2 1232g.

3 b. A person or entity authorized by a court of
4 competent jurisdiction in compliance with an order of that
5 court or the attorney of record pursuant to a lawfully issued
6 subpoena, consistent with the Family Educational Rights and
7 Privacy Act, 20 U.S.C. s. 1232g.

8 c. Any person, entity, or authority issuing a subpoena
9 for law enforcement purposes when the court or other issuing
10 agency has ordered that the existence or the contents of the
11 subpoena or the information furnished in response to the
12 subpoena not be disclosed, consistent with the Family
13 Educational Rights and Privacy Act, 20 U.S.C. s. 1232g, and 34
14 C.F.R. s. 99.31.

15
16 The commissioner's order suspending payment pursuant to this
17 paragraph may be appealed pursuant to the same procedures and
18 timelines as the notice of proposed action set forth in
19 paragraph (b).

20 ~~(8)(4)~~ PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.--To
21 be eligible to participate in the John M. McKay Scholarships
22 for Students with Disabilities Program, a private school ~~must~~
23 ~~be a Florida private school,~~ may be sectarian or nonsectarian,
24 and must:

25 (a) Comply with all requirements for private schools
26 participating in state school-choice scholarship programs
27 pursuant to s. 1002.421.

28 (b) Provide to the department all documentation
29 required for a student's participation, including the private
30 school's and student's fee schedules, at least 30 days before
31

1 the first quarterly scholarship payment is made for the
2 student.

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

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

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

10 (d) Maintain in this state a physical location where a
11 scholarship student regularly attends classes.

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

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

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

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

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

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

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

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

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

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

18 ~~(9)(5) PARENT AND STUDENT RESPONSIBILITIES FOR~~
19 ~~OBLIGATION OF PROGRAM PARTICIPATION PARTICIPANTS.--A parent~~
20 ~~who applies for a John M. McKay Scholarship is exercising his~~
21 ~~or her parental option to place his or her child in a private~~
22 ~~school.~~

23 ~~(a) A parent who applies for a John M. McKay~~
24 ~~Scholarship is exercising his or her parental option to place~~
25 ~~his or her child in a private school. The parent must select~~
26 ~~the private school and apply for the admission of his or her~~
27 ~~child.~~

28 (b) The parent must have requested the scholarship at
29 least 60 days prior to the date of the first scholarship
30 payment.

31

1 (c) Any student participating in the John M. McKay
2 Scholarships for Students with Disabilities ~~scholarship~~
3 Program must remain in attendance throughout the school year,
4 unless excused by the school for illness or other good cause,
5 ~~and must comply fully with the school's code of conduct.~~

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

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

17 (f) Upon receipt of a scholarship warrant, the parent
18 to whom the warrant is made must restrictively endorse the
19 warrant to the private school for deposit into the account of
20 the private school. The parent may not designate any entity or
21 individual associated with the participating private school as
22 the parent's attorney in fact to endorse a scholarship
23 warrant. A participant who fails to comply with this paragraph
24 forfeits the scholarship.

25 ~~(g) A participant who fails to comply with this~~
26 ~~subsection forfeits the scholarship.~~

27 (10)(6) JOHN M. MCKAY SCHOLARSHIP FUNDING AND
28 PAYMENT.--

29 (a)1. The maximum scholarship granted for an eligible
30 student with disabilities shall be a calculated amount
31 equivalent to the base student allocation in the Florida

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

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

23 3. The calculated scholarship amount for a student who
24 is eligible under subparagraph (2)(a)2. shall be calculated as
25 provided in subparagraphs 1. and 2. However, the calculation
26 shall be based on the school district in which the parent
27 resides at the time of the scholarship request.

28 ~~4.3-~~ Until the school district completes the matrix
29 required by paragraph~~(5)~~~~(3)~~(b), the calculation shall be
30 based on the matrix that assigns the student to support level
31 I of service as it existed prior to the 2000-2001 school year.

1 When the school district completes the matrix, the amount of
2 the payment shall be adjusted as needed.

3 (b) The amount of the John M. McKay Scholarship shall
4 be the calculated amount or the amount of the private school's
5 tuition and fees, whichever is less. The amount of any
6 assessment fee required by the participating private school
7 may be paid from the total amount of the scholarship.

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

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

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

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

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

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

29 ~~(e)(f)~~ Upon notification ~~proper documentation reviewed~~
30 ~~and approved~~ by the department that it has received the
31 documentation required under paragraph (d). ~~Department of~~

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

14 (f) Subsequent to each scholarship payment, the
15 department shall request from the Department of Financial
16 Services a sample of endorsed warrants to review and confirm
17 compliance with endorsement requirements.

18 ~~(11)(7)~~ LIABILITY.--No liability shall arise on the
19 part of the state based on the award or use of a John M. McKay
20 Scholarship.

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

28 ~~(13)(8)~~ RULES.--The State Board of Education shall
29 adopt rules pursuant to ss. 120.536(1) and 120.54 to
30 administer this section, including rules that school districts
31 must use to expedite the development of a matrix of services

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

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

21 220.187 Credits for contributions to nonprofit
22 scholarship-funding organizations.--

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

24 (a) Encourage private, voluntary contributions to
25 nonprofit scholarship-funding organizations.

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

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

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

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

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

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

11 1. Is exempt from federal income tax pursuant to s.
12 501(c)(3) of the Internal Revenue Code.

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

16 3. ~~and that~~ Complies with the provisions of subsection
17 ~~(6)(4).~~

18 (d)~~(c)~~ "Eligible private nonpublic school" means a
19 private nonpublic school, as defined in s. 1002.01(2), located
20 in Florida which ~~that~~ offers an education to students in any
21 grades K-12 and that meets the requirements in subsection(8)
22 ~~(6).~~

23 (e) "Owner or operator" includes:

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

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

31

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

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

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

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

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

17
18 Contingent upon available funds, a student may continue in the
19 scholarship program as long as the student's family income
20 level does not exceed 200 percent of the federal poverty
21 level.

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

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

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

29 (c) Receiving an educational scholarship pursuant to
30 chapter 1002;

31

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

3 (e) Participating in a private tutoring program
4 pursuant to s. 1002.43;

5 (f) Participating in a virtual school, correspondence
6 school, or distance learning program that receives state
7 funding pursuant to the student's participation unless the
8 participation is limited to no more than two courses per
9 school year; or

10 (g) Enrolled in the Florida School for the Deaf and
11 the Blind.

12 ~~(5)(3)~~ AUTHORIZATION TO GRANT SCHOLARSHIP FUNDING TAX
13 CREDITS; LIMITATIONS ON INDIVIDUAL AND TOTAL CREDITS.--

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

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

28 (b) The total amount of tax credits and carryforward
29 of tax credits which may be granted ~~each state fiscal year~~
30 under this section is \$88 million during the 2006-2007 fiscal
31 year. The total amount of tax credits and carryforward of tax

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

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

24 (d) Effective for tax years beginning January 1, 2006,
25 a taxpayer may rescind all or part of its allocated tax credit
26 under this section. The amount rescinded shall become
27 available for purposes of the cap for that state fiscal year
28 under this section to an eligible taxpayer as approved by the
29 department if the taxpayer receives notice from the department
30 that the rescindment has been accepted by the department and
31 the taxpayer has not previously rescinded any or all of its

1 tax credit allocation under this section more than once in the
2 previous 3 tax years. Any amount rescinded under this
3 paragraph shall become available to an eligible taxpayer on a
4 first-come, first-served basis based on tax credit
5 applications received after the date the rescindment is
6 accepted by the department.

7 ~~(6)(4)~~ OBLIGATIONS OF ELIGIBLE NONPROFIT
8 SCHOLARSHIP-FUNDING ORGANIZATIONS.--An eligible nonprofit
9 scholarship-funding organization:

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

12 (b) Must comply with the following background check
13 requirements:

14 1. All owners and operators as defined in subparagraph
15 (2)(e)1. are subject to level 2 background screening as
16 provided under chapter 435. The fingerprints for the
17 background screening must be electronically submitted to the
18 Department of Law Enforcement and can be taken by an
19 authorized law enforcement agency or by an employee of the
20 eligible nonprofit scholarship-funding organization or a
21 private company who is trained to take fingerprints. However,
22 the complete set of fingerprints of an owner or operator may
23 not be taken by the owner or operator. The results of the
24 state and national criminal history check shall be provided to
25 the Department of Education for screening under chapter 435.
26 The cost of the background screening may be borne by the
27 eligible nonprofit scholarship-funding organization or the
28 owner or operator.

29 2. Every 5 years following employment or engagement to
30 provide services or association with an eligible nonprofit
31 scholarship-funding organization, each owner or operator must

1 meet level 2 screening standards as described in s. 435.04, at
2 which time the nonprofit scholarship-funding organization
3 shall request the Department of Law Enforcement to forward the
4 fingerprints to the Federal Bureau of Investigation for level
5 2 screening. If the fingerprints of an owner or operator are
6 not retained by the Department of Law Enforcement under
7 subparagraph 3., the owner or operator must electronically
8 file a complete set of fingerprints with the Department of Law
9 Enforcement. Upon submission of fingerprints for this purpose,
10 the eligible nonprofit scholarship-funding organization shall
11 request that the Department of Law Enforcement forward the
12 fingerprints to the Federal Bureau of Investigation for level
13 2 screening, and the fingerprints shall be retained by the
14 Department of Law Enforcement under subparagraph 3.

15 3. Beginning July 1, 2007, all fingerprints submitted
16 to the Department of Law Enforcement as required by this
17 paragraph must be retained by the Department of Law
18 Enforcement in a manner approved by rule and entered in the
19 statewide automated fingerprint identification system
20 authorized by s. 943.05(2)(b). The 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 4. Beginning July 1, 2007, 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 3. Any arrest record that is identified with an
30 owner's or operator's fingerprints must be reported to the
31 Department of Education. The Department of Education shall

1 participate in this search process by paying an annual fee to
2 the Department of Law Enforcement and by informing the
3 Department of Law Enforcement of any change in the employment,
4 engagement, or association status of the owners or operators
5 whose fingerprints are retained under subparagraph 3. The
6 Department of Law Enforcement shall adopt a rule setting the
7 amount of the annual fee to be imposed upon the Department of
8 Education for performing these services and establishing the
9 procedures for the retention of owner and operator
10 fingerprints and the dissemination of search results. The fee
11 may be borne by the owner or operator of the nonprofit
12 scholarship-funding organization.

13 5. A nonprofit scholarship-funding organization whose
14 owner or operator fails the level 2 background screening shall
15 not be eligible to provide scholarships under this section.

16 6. A nonprofit scholarship-funding organization whose
17 owner or operator in the last 7 years has filed for personal
18 bankruptcy or corporate bankruptcy in a corporation of which
19 he or she owned more than 20 percent shall not be eligible to
20 provide scholarships under this section.

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

24 (d)(a) Must ~~An eligible nonprofit scholarship funding~~
25 ~~organization shall~~ provide scholarships, from eligible
26 contributions, to eligible ~~qualified~~ students for:

27 1. Tuition or textbook expenses for, or transportation
28 to, an eligible private ~~nonpublic~~ school. At least 75 percent
29 of the scholarship funding must be used to pay tuition
30 expenses; or
31

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

4 ~~(e)(b) Must An eligible nonprofit scholarship funding~~
5 ~~organization shall~~ give priority to eligible ~~qualified~~
6 students who received a scholarship from an eligible nonprofit
7 scholarship-funding organization or from the State of Florida
8 during the previous school year.

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

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

15 (h) Must allow an eligible student to attend any
16 eligible private school and must allow a parent to transfer a
17 scholarship during a school year to any other eligible private
18 school of the parent's choice.

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

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

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

29 ~~(d) The amount of an eligible contribution which may~~
30 ~~be accepted by an eligible nonprofit scholarship funding~~
31 ~~organization is limited to the amount needed to provide~~

1 ~~scholarships for qualified students which the organization has~~
2 ~~identified and for which vacancies in eligible nonpublic~~
3 ~~schools have been identified.~~

4 (i)(e) Must obligate, in the same fiscal year in which
5 the contribution was received, An eligible nonprofit
6 scholarship funding organization that receives an eligible
7 contribution must spend 100 percent of the eligible
8 contribution to provide scholarships; however, up to 25
9 percent of the total contribution may be carried forward for
10 scholarships to be granted in the following same state fiscal
11 year in which the contribution was received. No portion of
12 eligible contributions may be used for administrative
13 expenses. All interest accrued from contributions must be used
14 for scholarships.

15 (j) Must maintain separate accounts for scholarship
16 funds and operating funds.

17 (k) With the prior approval of the Department of
18 Education, may transfer funds to another eligible nonprofit
19 scholarship-funding organization if additional funds are
20 required to meet scholarship demand at the receiving nonprofit
21 scholarship-funding organization. A transfer shall be limited
22 to the greater of \$500,000 or 20 percent of the total
23 contributions received by the nonprofit scholarship-funding
24 organization making the transfer. All transferred funds must
25 be deposited by the receiving nonprofit scholarship-funding
26 organization into its scholarship accounts. All transferred
27 amounts received by any nonprofit scholarship-funding
28 organization must be separately disclosed in the annual
29 financial and compliance audit required in this section.

30 ~~(l)(f) An eligible nonprofit scholarship funding~~
31 ~~organization that receives eligible contributions~~ Must provide

1 to the Auditor General and the Department of Education an
2 annual financial and compliance audit of its accounts and
3 records conducted by an independent certified public
4 accountant and in accordance with rules adopted by the Auditor
5 General. The audit must be conducted in compliance with
6 generally accepted auditing standards and must include a
7 report on financial statements presented in accordance with
8 generally accepted accounting principles set forth by the
9 American Institute of Certified Public Accountants for
10 not-for-profit organizations and a determination of compliance
11 with the statutory eligibility and expenditure requirements
12 set forth in this section. Audits must be provided to the
13 Auditor General and the Department of Education within 180
14 days after completion of the eligible nonprofit
15 scholarship-funding organization's fiscal year.

16 (m) Must prepare and submit quarterly reports to the
17 Department of Education pursuant to paragraph (9)(m). In
18 addition, an eligible nonprofit scholarship-funding
19 organization must submit in a timely manner any information
20 requested by the Department of Education relating to the
21 scholarship program.

22
23 Any and all information and documentation provided to the
24 Department of Education and the Auditor General relating to
25 the identity of a taxpayer that provides an eligible
26 contribution under this section shall remain confidential at
27 all times in accordance with s. 213.053.

28 ~~(g) Payment of the scholarship by the eligible~~
29 ~~nonprofit scholarship funding organization shall be by~~
30 ~~individual warrant or check made payable to the student's~~
31 ~~parent. If the parent chooses for his or her child to attend~~

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

11 (7)(5) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
12 PARTICIPATION OBLIGATIONS.--

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

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

18 (c) Any student participating in the scholarship
19 program must remain in attendance throughout the school year
20 unless excused by the school for illness or other good cause.

21 (d) Each parent and each student has an obligation to
22 the private school to comply with the private school's
23 published policies.

24 (e) The parent shall ensure that the student
25 participating in the scholarship program takes the
26 norm-referenced assessment offered by the private school. The
27 parent may also choose to have the student participate in the
28 statewide assessments pursuant to s. 1008.22. If the parent
29 requests that the student participating in the scholarship
30 program take statewide assessments pursuant to s. 1008.22, the
31

1 parent is responsible for transporting the student to the
2 assessment site designated by the school district.

3 (f) Upon receipt of a scholarship warrant from the
4 eligible nonprofit scholarship-funding organization, the
5 parent to whom the warrant is made must restrictively endorse
6 the warrant to the private school for deposit into the account
7 of the private school. The parent may not designate any entity
8 or individual associated with the participating private school
9 as the parent's attorney in fact to endorse a scholarship
10 warrant. A participant who fails to comply with this paragraph
11 forfeits the scholarship. ~~As a condition for scholarship~~
12 ~~payment pursuant to paragraph (4)(g), if the parent chooses~~
13 ~~for his or her child to attend an eligible nonpublic school,~~
14 ~~the parent must inform the child's school district within 15~~
15 ~~days after such decision.~~

16 (8)(6) PRIVATE ELIGIBLE NONPUBLIC SCHOOL ELIGIBILITY
17 AND OBLIGATIONS.--An eligible private ~~nonpublic~~ school may be
18 sectarian or nonsectarian and must:

19 (a) Comply with all requirements for private schools
20 participating in state school choice scholarship programs
21 pursuant to s. 1002.421.

22 (b) Provide to the eligible nonprofit
23 scholarship-funding organization, upon request, all
24 documentation required for the student's participation,
25 including the private school's and student's fee schedules.

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

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

30 2. Annually administering or making provision for
31 students participating in the scholarship program to take one

1 of the nationally norm-referenced tests identified by the
2 Department of Education. Students with disabilities for whom
3 standardized testing is not appropriate are exempt from this
4 requirement. A participating private school must report a
5 student's scores to the parent and to the independent research
6 organization selected by the Department of Education as
7 described in paragraph (9)(j).

8 3. Cooperating with the scholarship student whose
9 parent chooses to participate in the statewide assessments
10 pursuant to s. 1008.32.

11 (d) Employ or contract with teachers who have regular
12 and direct contact with each student receiving a scholarship
13 under this section at the school's physical location.

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

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

30 ~~(b) Comply with the antidiscrimination provisions of~~
31 ~~42 U.S.C. s. 2000d.~~

1 ~~(c) Meet state and local health and safety laws and~~
2 ~~codes.~~

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

5 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.--The
6 Department of Education shall:

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

10 (b) Annually verify the eligibility of nonprofit
11 scholarship-funding organizations that meet the requirements
12 of paragraph (2)(c).

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

15 (d) Annually verify the eligibility of expenditures as
16 provided in paragraph (6)(d) using the audit required by
17 paragraph (6)(l).

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

21 (f) Establish a process by which individuals may
22 notify the Department of Education of any violation by a
23 parent, private school, or school district of state laws
24 relating to program participation. The Department of Education
25 shall conduct an inquiry of any written complaint of a
26 violation of this section, or make a referral to the
27 appropriate agency for an investigation, if the complaint is
28 signed by the complainant and is legally sufficient. A
29 complaint is legally sufficient if it contains ultimate facts
30 that show that a violation of this section or any rule adopted
31 by the State Board of Education has occurred. In order to

1 determine legal sufficiency, the Department of Education may
2 require supporting information or documentation from the
3 complainant. A department inquiry is not subject to the
4 requirements of chapter 120.

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

8 (h) Cross-check the list of participating scholarship
9 students with the public school enrollment lists to avoid
10 duplication.

11 (i) In accordance with State Board of Education rule,
12 identify and select the nationally norm-referenced tests that
13 are comparable to the norm-referenced provisions of the
14 Florida Comprehensive Assessment Test (FCAT) provided that the
15 FCAT may be one of the tests selected. However, the Department
16 of Education may approve the use of an additional assessment
17 by the school if the assessment meets industry standards of
18 quality and comparability.

19 (j) Select an independent research organization, which
20 may be a public or private entity or university, to which
21 participating private schools must report the scores of
22 participating students on the nationally norm-referenced tests
23 administered by the private school. The independent research
24 organization must annually report to the Department of
25 Education on the year-to-year improvements of participating
26 students. The independent research organization must analyze
27 and report student performance data in a manner that protects
28 the rights of students and parents as mandated in 20 U.S.C. s.
29 1232g, the Family Educational Rights and Privacy Act, and must
30 not disaggregate data to a level that will disclose the
31 academic level of individual students or of individual

1 schools. To the extent possible, the independent research
2 organization must accumulate historical performance data on
3 students from the Department of Education and private schools
4 to describe baseline performance and to conduct longitudinal
5 studies. To minimize costs and reduce time required for
6 third-party analysis and evaluation, the Department of
7 Education shall conduct analyses of matched students from
8 public school assessment data and calculate control group
9 learning gains using an agreed-upon methodology outlined in
10 the contract with the third-party evaluator. The sharing of
11 student data must be in accordance with requirements of 20
12 U.S.C. s. 1232g, the Family Educational Rights and Privacy
13 Act, and shall be for the sole purpose of conducting the
14 evaluation. All parties must preserve the confidentiality of
15 such information as required by law.

16 (k) Notify an eligible nonprofit scholarship-funding
17 organization of any of the organization's identified students
18 who are receiving educational scholarships pursuant to chapter
19 1002.

20 (l) Notify an eligible nonprofit scholarship-funding
21 organization of any of the organization's identified students
22 who are receiving corporate income tax credit scholarships
23 from other eligible nonprofit scholarship-funding
24 organizations.

25 (m) Require quarterly reports by an eligible nonprofit
26 scholarship-funding organization regarding the number of
27 students participating in the scholarship program, the private
28 schools at which the students are enrolled, and other
29 information deemed necessary by the Department of Education.

30 (n)1. Conduct random site visits to private schools
31 participating in the Corporate Tax Credit Scholarship Program.

1 The purpose of the site visits is solely to verify the
2 information reported by the schools concerning the enrollment
3 and attendance of students, the credentials of teachers,
4 background screening of teachers, and teachers' fingerprinting
5 results. The Department of Education may not make more than
6 seven random site visits each year and may not make more than
7 one random site visit each year to the same private school.

8 2. Annually, by December 15, report to the Governor,
9 the President of the Senate, and the Speaker of the House of
10 Representatives the Department of Education's actions with
11 respect to implementing accountability in the scholarship
12 program under this section and s. 1002.421, any substantiated
13 allegations or violations of law or rule by an eligible
14 private school under this program concerning the enrollment
15 and attendance of students, the credentials of teachers,
16 background screening of teachers, and teachers' fingerprinting
17 results and the corrective action taken by the Department of
18 Education.

19 (10) COMMISSIONER OF EDUCATION AUTHORITY AND
20 OBLIGATIONS.--

21 (a) The Commissioner of Education shall deny, suspend,
22 or revoke a private school's participation in the scholarship
23 program if it is determined that the private school has failed
24 to comply with the provisions of this section. However, in
25 instances in which the noncompliance is correctable within a
26 reasonable amount of time and in which the health, safety, or
27 welfare of the students are not threatened, the commissioner
28 may issue a notice of noncompliance that shall provide the
29 private school with a timeframe within which to provide
30 evidence of compliance prior to taking action to suspend or
31

1 revoke the private school's participation in the scholarship
2 program.

3 (b) The commissioner's determination is subject to the
4 following:

5 1. If the commissioner intends to deny, suspend, or
6 revoke a private school's participation in the scholarship
7 program, the Department of Education shall notify the private
8 school of such proposed action in writing by certified mail
9 and regular mail to the private school's address of record
10 with the Department of Education. The notification shall
11 include the reasons for the proposed action and notice of the
12 timelines and procedures set forth in this paragraph.

13 2. The private school that is adversely affected by
14 the proposed action shall have 15 days from receipt of the
15 notice of proposed action to file with the Department of
16 Education's agency clerk a request for a proceeding pursuant
17 to ss. 120.569 and 120.57. If the private school is entitled
18 to a hearing under s. 120.57(1), the Department of Education
19 shall forward the request to the Division of Administrative
20 Hearings.

21 3. Upon receipt of a request referred pursuant to this
22 paragraph, the director of the Division of Administrative
23 Hearings shall expedite the hearing and assign an
24 administrative law judge who shall commence a hearing within
25 30 days after the receipt of the formal written request by the
26 division and enter a recommended order within 30 days after
27 the hearing or within 30 days after receipt of the hearing
28 transcript, whichever is later. Each party shall be allowed 10
29 days in which to submit written exceptions to the recommended
30 order. A final order shall be entered by the agency within 30
31 days after the entry of a recommended order. The provisions of

1 this subparagraph may be waived upon stipulation by all
2 parties.

3 (c) The commissioner may immediately suspend payment
4 of scholarship funds if it is determined that there is
5 probable cause to believe that there is:

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

8 2. Fraudulent activity on the part of the private
9 school. Notwithstanding s. 1002.22(3), in incidents of alleged
10 fraudulent activity pursuant to this section, the Department
11 of Education's Office of Inspector General is authorized to
12 release personally identifiable records or reports of students
13 to the following persons or organizations:

14 a. A court of competent jurisdiction in compliance
15 with an order of that court or the attorney of record in
16 accordance with a lawfully issued subpoena, consistent with
17 the Family Educational Rights and Privacy Act, 20 U.S.C. s.
18 1232g.

19 b. A person or entity authorized by a court of
20 competent jurisdiction in compliance with an order of that
21 court or the attorney of record pursuant to a lawfully issued
22 subpoena, consistent with the Family Educational Rights and
23 Privacy Act, 20 U.S.C. s. 1232g.

24 c. Any person, entity, or authority issuing a subpoena
25 for law enforcement purposes when the court or other issuing
26 agency has ordered that the existence or the contents of the
27 subpoena or the information furnished in response to the
28 subpoena not be disclosed, consistent with the Family
29 Educational Rights and Privacy Act, 20 U.S.C. s. 1232g, and 34
30 C.F.R. s. 99.31.

31

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

5 (11) SCHOLARSHIP AMOUNT AND PAYMENT.--

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

10 1. Three thousand seven hundred fifty dollars for a
11 scholarship awarded to a student enrolled in an eligible
12 private school.

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

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

29 (c) An eligible nonprofit scholarship-funding
30 organization shall obtain verification from the private school
31

1 of a student's continued attendance at the school prior to
2 each scholarship payment.

3 (d) Payment of the scholarship shall be made by the
4 eligible nonprofit scholarship-funding organization no less
5 frequently than on a quarterly basis.

6 ~~(12)(7)~~ ADMINISTRATION; RULES.--

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

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

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

1 ~~of paragraph (2)(d) and for monitoring eligibility of~~
2 ~~nonprofit scholarship funding organizations that meet the~~
3 ~~requirements of paragraph (2)(d), eligibility of nonpublic~~
4 ~~schools that meet the requirements of paragraph (2)(c), and~~
5 ~~eligibility of expenditures under this section as provided in~~
6 ~~subsection (4).~~

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

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

20 ~~(13)(8)~~ DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--All
21 eligible contributions received by an eligible nonprofit
22 scholarship-funding organization shall be deposited in a
23 manner consistent with s. 17.57(2).

24 Section 3. Section 1002.421, Florida Statutes, is
25 created to read:

26 1002.421 Accountability of private schools
27 participating in state school-choice scholarship programs.--

28 (1) A Florida private school participating in the
29 Corporate Income Tax Credit Scholarship Program established
30 pursuant to s. 220.187 or an educational scholarship program
31 established pursuant to this chapter must comply with all

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

5 (2) A private school participating in a scholarship
6 program must be a Florida private school as defined in s.
7 1002.01(2), must be registered in accordance with s. 1002.42,
8 and must:

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

11 (b) Notify the department of its intent to participate
12 in a scholarship program.

13 (c) Notify the department of any change in the
14 school's name, school director, mailing address, or physical
15 location within 15 days after the change.

16 (d) Complete student enrollment and attendance
17 verification requirements, including use of an on-line
18 attendance verification form, prior to scholarship payment.

19 (e) Annually complete and submit to the department a
20 notarized scholarship compliance statement certifying that all
21 school employees and contracted personnel with direct student
22 contact have undergone background screening pursuant to s.
23 943.0542.

24 (f) Demonstrate fiscal soundness and accountability
25 by:

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

30 2. Requiring the parent of each scholarship student to
31 personally restrictively endorse the scholarship warrant to

1 the school. The school may not act as attorney in fact for the
2 parent of a scholarship student under the authority of a power
3 of attorney executed by such parent, or under any other
4 authority, to endorse scholarship warrants on behalf of such
5 parent.

6 (g) Meet applicable state and local health, safety,
7 and welfare laws, codes, and rules, including:

8 1. Firesafety.

9 2. Building safety.

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

15 (i) Require each employee and contracted personnel
16 with direct student contact to undergo a state and national
17 background screening, pursuant to s. 943.0542, by
18 electronically filing with the Department of Law Enforcement a
19 complete set of fingerprints taken by an authorized law
20 enforcement agency or an employee of the private school, a
21 school district, or a private company who is trained to take
22 fingerprints and deny employment to or terminate an employee
23 if he or she fails to meet the screening standards under s.
24 435.04. Results of the screening shall be provided to the
25 participating private school. For purposes of this paragraph:

26 1. An "employee or contracted personnel with direct
27 student contact" means any employee or contracted personnel
28 who has unsupervised access to a scholarship student for whom
29 the private school is responsible.

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

1 3. Continued employment of an employee or contracted
2 personnel after notification that he or she has failed the
3 background screening under this paragraph shall cause a
4 private school to be ineligible for participation in a
5 scholarship program.

6 4. An employee or contracted personnel holding a valid
7 Florida teaching certificate who has been fingerprinted
8 pursuant to s. 1012.32 is not required to comply with the
9 provisions of this paragraph.

10 (3)(a) Beginning July 1, 2007, all fingerprints
11 submitted to the Department of Law Enforcement as required by
12 this section shall be retained by the Department of Law
13 Enforcement in a manner provided by rule and entered in the
14 statewide automated fingerprint identification system
15 authorized by s. 943.05(2)(b). Such fingerprints shall
16 thereafter be available for all purposes and uses authorized
17 for arrest fingerprint cards entered in the statewide
18 automated fingerprint identification system pursuant to s.
19 943.051.

20 (b) Beginning July 1, 2007, the Department of Law
21 Enforcement shall search all arrest fingerprint cards received
22 under s. 943.051 against the fingerprints retained in the
23 statewide automated fingerprint identification system under
24 paragraph (a). Any arrest record that is identified with the
25 retained fingerprints of a person subject to the background
26 screening under this section shall be reported to the
27 employing school with which the person is affiliated. Each
28 private school participating in a scholarship program is
29 required to participate in this search process by informing
30 the Department of Law Enforcement of any change in the
31 employment or contractual status of its personnel whose

1 fingerprints are retained under paragraph (a). The Department
2 of Law Enforcement shall adopt a rule setting the amount of
3 the annual fee to be imposed upon each private school for
4 performing these searches and establishing the procedures for
5 the retention of private school employee and contracted
6 personnel fingerprints and the dissemination of search
7 results. The fee may be borne by the private school or the
8 person fingerprinted.

9 (c) Employees and contracted personnel whose
10 fingerprints are not retained by the Department of Law
11 Enforcement under paragraphs (a) and (b) are required to be
12 refingerprinted and must meet state and national background
13 screening requirements upon reemployment or reengagement to
14 provide services in order to comply with the requirements of
15 this section.

16 (d) Every 5 years following employment or engagement
17 to provide services with a private school, employees or
18 contracted personnel required to be screened under this
19 section must meet screening standards under s. 435.04, at
20 which time the private school shall request the Department of
21 Law Enforcement to forward the fingerprints to the Federal
22 Bureau of Investigation for national processing. If the
23 fingerprints of employees or contracted personnel are not
24 retained by the Department of Law Enforcement under paragraph
25 (a), employees and contracted personnel must electronically
26 file a complete set of fingerprints with the Department of Law
27 Enforcement. Upon submission of fingerprints for this purpose,
28 the private school shall request that the Department of Law
29 Enforcement forward the fingerprints to the Federal Bureau of
30 Investigation for national processing, and the fingerprints
31

1 shall be retained by the Department of Law Enforcement under
2 paragraph (a).

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

7 (5) The inclusion of eligible private schools within
8 options available to Florida public school students does not
9 expand the regulatory authority of the state, its officers, or
10 any school district to impose any additional regulation of
11 private schools beyond those reasonably necessary to enforce
12 requirements expressly set forth in this section.

13 (6) The State Board of Education shall adopt rules
14 pursuant to ss. 120.536(1) and 120.54 to administer this
15 section.

16 Section 4. This act shall take effect July 1, 2006.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 256

4 The committee substitute makes the following changes to the
5 underlying bill:

6 -- Revises eligibility for John M. McKay Scholarships for
7 Students with Disabilities Program (McKay program) to
8 provide eligibility to students who attended a Department
9 of Juvenile Justice commitment center and students who
10 are at least four years old and eligible for special
11 education and services under statute;

12 -- Limits schools district's ability to revise a student's
13 matrix of services to correcting technical,
14 typographical, or calculation errors, only;

15 -- Provides that students attending virtual schools are not
16 eligible for a McKay scholarship or a Corporate Tax
17 Credit Scholarship (CTC);

18 -- Requires the Department of Education (DOE) to establish
19 and inform parents about a toll-free hotline and Internet
20 website to provide parents and private schools
21 information about the McKay and CTC programs;

22 -- Removes language that explicitly provided for anonymous
23 complaints of violations of statute with respect to McKay
24 and CTC programs;

25 -- Revises procedures for verification of students attending
26 private schools prior to sending scholarship warrants for
27 both McKay and CTC programs;

28 -- Requires the DOE, rather than the Auditor General, to
29 conduct random site visits to private schools to check
30 for compliance, and requires these visits for private
31 schools participating in both McKay and/or CTC programs;

-- Requires the Commissioner of Education to deny, suspend,
or revoke participation of private schools in both McKay
and CTC programs for failure to comply with statute;

-- Provides procedures for notice, request for hearing, and
an expedited hearing related to violations of statute
with respect to McKay and CTC programs;

-- Allows for immediate suspension of scholarship payments
in both McKay and CTC programs where there is probable
cause to believe an imminent threat of the health,
safety, and welfare or fraud exists;

-- Provides for investigations by the DOE's Office of the
Inspector General in cases of alleged fraud and
authorizes the office to release personally identifiable
student records related to such investigations, subject
to federal privacy law requirements;

-- Removes requirement in McKay and CTC program that a

- 1 private school must accept students on a
2 religious-neutral basis;
- 3 -- Establishes an \$88 million cap for allowable tax credits
4 for 2006-2007 fiscal year and provides for subsequent
5 adjustments;
- 6 -- Increases the amount that may be carried forward by a
7 private scholarship funding organization as proposed in
8 the bill from 5 to 25 percent;
- 9 -- Gives students who received a scholarship from the State
10 of Florida the previous school year and students who
11 received a CTC scholarship the previous year equal
12 priority in the awarding of CTC scholarships;
- 13 -- Prevents disclosure of private school performance for the
14 CTC program;
- 15 -- Raises the tuition scholarship amount in the CTC program
16 from \$3,500 to \$3,750; and
- 17 -- Creates new section subjecting all private schools
18 participating in state school choice programs to
19 accountability provisions.
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