

By the Committees on Government Efficiency Appropriations;
Judiciary; and Senators King and Wise

593-2308-06

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. The Department of Education must notify the
3 district of the parent's intent upon receipt of the parent's
4 request.

5
6 ~~This section does not apply to a student who is enrolled in a~~
7 ~~school operating for the purpose of providing educational~~
8 ~~services to youth in Department of Juvenile Justice commitment~~
9 ~~programs. For purposes of continuity of educational choice,~~
10 ~~the scholarship shall remain in force until the student~~
11 ~~returns to a public school or graduates from high school.~~
12 ~~However, at any time, the student's parent may remove the~~
13 ~~student from the private school and place the student in~~
14 ~~another private school that is eligible for the program under~~
15 ~~subsection (4) or in a public school as provided in subsection~~
16 ~~(3).~~

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

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

23 (b) Receiving a corporate income tax credit
24 scholarship under s. 220.187;

25 (c) Receiving an educational scholarship pursuant to
26 this chapter;

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

29 (e) Participating in a private tutoring program
30 pursuant to s. 1002.43;

31

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

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

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

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

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

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

19 (c) Upon reasonable notice to the department, the
20 student's parent may move the student from one participating
21 private school to another participating private school.

22 (5)(3) SCHOOL DISTRICT ~~AND DEPARTMENT OF EDUCATION~~
23 OBLIGATIONS; PARENTAL OPTIONS.--

24 (a)1. By April 1 of each year and within 10 days after
25 an individual education plan meeting, a school district shall
26 timely notify the parent of the student of all options
27 available pursuant to this section, inform the parent of the
28 availability of the department's telephone hotline and
29 Internet website for additional information on John M. McKay
30 Scholarships, and offer that student's parent an opportunity
31

1 to enroll the student in another public school within the
2 district.

3 2. The parent is not required to accept ~~the this~~ offer
4 of enrolling in another public school in lieu of requesting a
5 John M. McKay Scholarship to a private school. However, if the
6 parent chooses the public school option, the student may
7 continue attending a public school chosen by the parent until
8 the student graduates from high school.

9 3. If the parent chooses a public school consistent
10 with the district school board's choice plan under s. 1002.31,
11 the school district shall provide transportation to the public
12 school selected by the parent. The parent is responsible to
13 provide transportation to a public school chosen that is not
14 consistent with the district school board's choice plan under
15 s. 1002.31.

16 (b)1. For a student with disabilities who does not
17 have a matrix of services under s. 1011.62(1)(e), the school
18 district must complete a matrix that assigns the student to
19 one of the levels of service as they existed prior to the
20 2000-2001 school year.

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

29 b. The school district must complete the matrix of
30 services for any student who is participating in the John M.
31 McKay Scholarships for Students with Disabilities Program and

1 must notify the department ~~of Education~~ of the student's
2 matrix level within 30 days after receiving notification of a
3 request by the student's parent of intent to participate in
4 the scholarship program. The school district must provide the
5 student's parent with the student's matrix level within 10
6 school days after its completion.

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

16 d. A school district may change a matrix of services
17 only if the change is to correct a technical, typographical,
18 or calculation error.

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

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

1 ~~(e)~~~~(d)~~ The parent of a student may choose, as an
2 alternative, to enroll the student in and transport the
3 student to a public school in an adjacent school district
4 which has available space and has a program with the services
5 agreed to in the student's individual education plan already
6 in place, and that school district shall accept the student
7 and report the student for purposes of the district's funding
8 pursuant to the Florida Education Finance Program.

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

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

21 (6) DEPARTMENT OF EDUCATION OBLIGATIONS.--The
22 department shall:

23 (a) Establish a toll-free hotline that provides
24 parents and private schools with information on participation
25 in the John M. McKay Scholarships for Students with
26 Disabilities Program.

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

29 (c) Establish a process by which individuals may
30 notify the department of any violation by a parent, private
31 school, or school district of state laws relating to program

1 participation. The department shall conduct an inquiry of any
2 written complaint of a violation of this section, or make a
3 referral to the appropriate agency for an investigation, if
4 the complaint is signed by the complainant and is legally
5 sufficient. A complaint is legally sufficient if it contains
6 ultimate facts that show that a violation of this section or
7 any rule adopted by the State Board of Education has occurred.
8 In order to determine legal sufficiency, the department may
9 require supporting information or documentation from the
10 complainant. A department inquiry is not subject to the
11 requirements of chapter 120.

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

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

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

30 2. Annually, by December 15, report to the Governor,
31 the President of the Senate, and the Speaker of the House of

1 Representatives the Department of Education's actions with
2 respect to implementing accountability in the scholarship
3 program under this section and s. 1002.421, any substantiated
4 allegations or violations of law or rule by an eligible
5 private school under this program concerning the enrollment
6 and attendance of students, the credentials of teachers,
7 background screening of teachers, and teachers' fingerprinting
8 results and the corrective action taken by the Department of
9 Education.

10 (7) COMMISSIONER OF EDUCATION AUTHORITY AND
11 OBLIGATIONS.--

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

24 (b) The commissioner's determination is subject to the
25 following:

26 1. If the commissioner intends to deny, suspend, or
27 revoke a private school's participation in the scholarship
28 program, the department shall notify the private school of
29 such proposed action in writing by certified mail and regular
30 mail to the private school's address of record with the
31 department. The notification shall include the reasons for the

1 proposed action and notice of the timelines and procedures set
2 forth in this paragraph.

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

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

23 (c) The commissioner may immediately suspend payment
24 of scholarship funds if it is determined that there is
25 probable cause to believe that there is:

26 1. An imminent threat to the health, safety, or
27 welfare of the students; or

28 2. Fraudulent activity on the part of the private
29 school. Notwithstanding s. 1002.22(3), in incidents of alleged
30 fraudulent activity pursuant to this section, the Department
31 of Education's Office of Inspector General is authorized to

1 release personally identifiable records or reports of students
2 to the following persons or organizations:

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

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

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

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

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

30
31

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

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

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

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

13 2. Cooperating with the scholarship student whose
14 parent chooses to participate in the statewide assessments
15 pursuant to s. 1008.22.

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

18
19 The inability of a private school to meet the requirements of
20 this subsection shall constitute a basis for the ineligibility
21 of the private school to participate in the scholarship
22 program as determined by the department.

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

1 ~~equal to the scholarship funds for any quarter may be filed~~
2 ~~with the department.~~

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

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

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

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

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

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

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

23 ~~(9)(5) PARENT AND STUDENT RESPONSIBILITIES FOR~~
24 ~~OBLIGATION OF PROGRAM PARTICIPATION PARTICIPANTS.--A parent~~
25 ~~who applies for a John M. McKay Scholarship is exercising his~~
26 ~~or her parental option to place his or her child in a private~~
27 ~~school.~~

28 ~~(a) A parent who applies for a John M. McKay~~
29 ~~Scholarship is exercising his or her parental option to place~~
30 ~~his or her child in a private school. The parent must select~~
31

1 the private school and apply for the admission of his or her
2 child.

3 (b) The parent must have requested the scholarship at
4 least 60 days prior to the date of the first scholarship
5 payment.

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

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

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

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

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

1 ~~(10)(6)~~ JOHN M. MCKAY SCHOLARSHIP FUNDING AND
2 PAYMENT.--

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

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

28 3. The calculated scholarship amount for a student who
29 is eligible under subparagraph (2)(a)2. shall be calculated as
30 provided in subparagraphs 1. and 2. However, the calculation
31

1 shall be based on the school district in which the parent
2 resides at the time of the scholarship request.

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

9 (b) The amount of the John M. McKay Scholarship shall
10 be the calculated amount or the amount of the private school's
11 tuition and fees, whichever is less. The amount of any
12 assessment fee required by the participating private school
13 may be paid from the total amount of the scholarship.

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

26 ~~(c)1.(d)~~ The school district shall report all students
27 who are attending a private school in the district under this
28 program. The students with disabilities attending private
29 schools on John M. McKay Scholarships shall be reported
30 separately from other students reported for purposes of the
31 Florida Education Finance Program.

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

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

7 b. Be held harmless for such students from the
8 weighted enrollment ceiling for group 2 programs in s.
9 1011.62(1)(d)3.a. during the first school year in which the
10 students are reported.

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

1 least 30 days before the first quarterly scholarship payment
2 is made for the student. ~~The Department of Education may not~~
3 ~~make any retroactive payments.~~

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

20 (f) Subsequent to each scholarship payment, the
21 department shall request from the Department of Financial
22 Services a sample of endorsed warrants to review and confirm
23 compliance with endorsement requirements.

24 ~~(11)(7)~~ LIABILITY.--No liability shall arise on the
25 part of the state based on the award or use of a John M. McKay
26 Scholarship.

27 (12) SCOPE OF AUTHORITY.--The inclusion of eligible
28 private schools within options available to Florida public
29 school students does not expand the regulatory authority of
30 the state, its officers, or any school district to impose any
31 additional regulation of private schools beyond those

1 reasonably necessary to enforce requirements expressly set
2 forth in this section.

3 ~~(13)(8)~~ RULES.--The State Board of Education shall
4 adopt rules pursuant to ss. 120.536(1) and 120.54 to
5 administer this section, including rules that school districts
6 must use to expedite the development of a matrix of services
7 based on an active ~~a current~~ individual education plan from
8 another state or a foreign country for a transferring student
9 with a disability who is a dependent child of a member of the
10 United States Armed Forces. The rules must identify the
11 appropriate school district personnel who must complete the
12 matrix of services. For purposes of these rules, a
13 transferring student with a disability is one who was
14 previously enrolled as a student with a disability in an
15 out-of-state or an out-of-country public or private school or
16 agency program and who is transferring from out of state or
17 from a foreign country pursuant to a parent's permanent change
18 of station orders. ~~However, the inclusion of eligible private~~
19 ~~schools within options available to Florida public school~~
20 ~~students does not expand the regulatory authority of the~~
21 ~~state, its officers, or any school district to impose any~~
22 ~~additional regulation of private schools beyond those~~
23 ~~reasonably necessary to enforce requirements expressly set~~
24 ~~forth in this section.~~

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

27 220.187 Credits for contributions to nonprofit
28 scholarship-funding organizations.--

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

30 (a) Encourage private, voluntary contributions to
31 nonprofit scholarship-funding organizations.

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

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

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

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

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

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

17 1. Is exempt from federal income tax pursuant to s.
18 501(c)(3) of the Internal Revenue Code;

19 2. Is a Florida entity formed under chapter 607,
20 chapter 608, or chapter 617 and whose principal office is
21 located in the state; and

22 3. ~~and that~~ Complies with the provisions of subsection
23 ~~(6)(4).~~

24 ~~(d)(e)~~ "Eligible private nonpublic school" means a
25 private nonpublic school, as defined in s. 1002.01(2), located
26 in Florida which ~~that~~ offers an education to students in any
27 grades K-12 and that meets the requirements in subsection(8)
28 ~~(6).~~

29 (e) "Owner or operator" includes:

30 1. An owner, president, officer, or director of an
31 eligible nonprofit scholarship-funding organization or a

1 person with equivalent decisionmaking authority over an
2 eligible nonprofit scholarship-funding organization.

3 2. An owner, operator, superintendent, or principal of
4 an eligible private school or a person with equivalent
5 decisionmaking authority over an eligible private school.

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

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

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

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

20 (c)3- Is eligible to enter kindergarten or first
21 grade.

22
23 Contingent upon available funds, a student may continue in the
24 scholarship program as long as the student's family income
25 level does not exceed 200 percent of the federal poverty
26 level.

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

29 (a) Enrolled in a school operating for the purpose of
30 providing educational services to youth in Department of
31 Juvenile Justice commitment programs;

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

3 (c) Receiving an educational scholarship pursuant to
4 chapter 1002;

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

7 (e) Participating in a private tutoring program
8 pursuant to s. 1002.43;

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

14 (g) Enrolled in the Florida School for the Deaf and
15 the Blind.

16 ~~(5)(3)~~ AUTHORIZATION TO GRANT SCHOLARSHIP FUNDING TAX
17 CREDITS; LIMITATIONS ON INDIVIDUAL AND TOTAL CREDITS.--

18 (a) There is allowed a credit of 100 percent of an
19 eligible contribution against any tax due for a taxable year
20 under this chapter. However, such a credit may not exceed 75
21 percent of the tax due under this chapter for the taxable
22 year, after the application of any other allowable credits by
23 the taxpayer. ~~However, at least 5 percent of the total~~
24 ~~statewide amount authorized for the tax credit shall be~~
25 ~~reserved for taxpayers who meet the definition of a small~~
26 ~~business provided in s. 288.703(1) at the time of application.~~
27 The credit granted by this section shall be reduced by the
28 difference between the amount of federal corporate income tax
29 taking into account the credit granted by this section and the
30 amount of federal corporate income tax without application of
31 the credit granted by this section.

1 (b) The total amount of tax credits and carryforward
2 of tax credits which may be granted ~~each state fiscal year~~
3 under this section is \$88 million during the 2006-2007 fiscal
4 year. The total amount of tax credits and carryforward of tax
5 credits which may be granted under this section shall be
6 adjusted each year thereafter, should 99 percent of the prior
7 year's total tax credit and carryforward tax credit limits be
8 obtained, by the same percentage as the increase or decrease
9 in total funding, adjusted for Florida Retirement System
10 changes if applicable, under the Florida Education Finance
11 Program as provided in the General Appropriations Act
12 workpapers. However, the total amount of tax credits that may
13 be granted pursuant to this paragraph may not increase by more
14 than 5 percent in any year. The Commissioner of Education
15 shall certify to the department and notify eligible nonprofit
16 scholarship-funding organizations of the resulting value of
17 tax credits that may be granted within 30 days after the
18 General Appropriations Act becomes law. However, at least 1
19 percent of the total statewide amount authorized for the tax
20 credit shall be reserved for taxpayers who meet the definition
21 of a small business provided in s. 288.703(1) at the time of
22 application.

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

28 (d) Effective for tax years beginning January 1, 2006,
29 a taxpayer may rescind all or part of its allocated tax credit
30 under this section. The amount rescinded shall become
31 available for purposes of the cap for that state fiscal year

1 under this section to an eligible taxpayer as approved by the
2 department if the taxpayer receives notice from the department
3 that the rescindment has been accepted by the department and
4 the taxpayer has not previously rescinded any or all of its
5 tax credit allocation under this section more than once in the
6 previous 3 tax years. Any amount rescinded under this
7 paragraph shall become available to an eligible taxpayer on a
8 first-come, first-served basis based on tax credit
9 applications received after the date the rescindment is
10 accepted by the department.

11 ~~(6)(4)~~ OBLIGATIONS OF ELIGIBLE NONPROFIT
12 SCHOLARSHIP-FUNDING ORGANIZATIONS.--An eligible nonprofit
13 scholarship-funding organization:

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

16 (b) Must comply with the following background check
17 requirements:

18 1. All owners and operators as defined in subparagraph
19 (2)(e)1. are, upon employment or engagement to provide
20 services, subject to level 2 background screening as provided
21 under chapter 435. The fingerprints for the background
22 screening must be electronically submitted to the Department
23 of Law Enforcement and can be taken by an authorized law
24 enforcement agency or by an employee of the eligible nonprofit
25 scholarship-funding organization or a private company who is
26 trained to take fingerprints. However, the complete set of
27 fingerprints of an owner or operator may not be taken by the
28 owner or operator. The results of the state and national
29 criminal history check shall be provided to the Department of
30 Education for screening under chapter 435. The cost of the
31

1 background screening may be borne by the eligible nonprofit
2 scholarship-funding organization or the owner or operator.

3 2. Every 5 years following employment or engagement to
4 provide services or association with an eligible nonprofit
5 scholarship-funding organization, each owner or operator must
6 meet level 2 screening standards as described in s. 435.04, at
7 which time the nonprofit scholarship-funding organization
8 shall request the Department of Law Enforcement to forward the
9 fingerprints to the Federal Bureau of Investigation for level
10 2 screening. If the fingerprints of an owner or operator are
11 not retained by the Department of Law Enforcement under
12 subparagraph 3., the owner or operator must electronically
13 file a complete set of fingerprints with the Department of Law
14 Enforcement. Upon submission of fingerprints for this purpose,
15 the eligible nonprofit scholarship-funding organization shall
16 request that the Department of Law Enforcement forward the
17 fingerprints to the Federal Bureau of Investigation for level
18 2 screening, and the fingerprints shall be retained by the
19 Department of Law Enforcement under subparagraph 3.

20 3. Beginning July 1, 2007, all fingerprints submitted
21 to the Department of Law Enforcement as required by this
22 paragraph must be retained by the Department of Law
23 Enforcement in a manner approved by rule and entered in the
24 statewide automated fingerprint identification system
25 authorized by s. 943.05(2)(b). The fingerprints must
26 thereafter be available for all purposes and uses authorized
27 for arrest fingerprint cards entered in the statewide
28 automated fingerprint identification system pursuant to s.
29 943.051.

30 4. Beginning July 1, 2007, the Department of Law
31 Enforcement shall search all arrest fingerprint cards received

1 under s. 943.051 against the fingerprints retained in the
2 statewide automated fingerprint identification system under
3 subparagraph 3. Any arrest record that is identified with an
4 owner's or operator's fingerprints must be reported to the
5 Department of Education. The Department of Education shall
6 participate in this search process by paying an annual fee to
7 the Department of Law Enforcement and by informing the
8 Department of Law Enforcement of any change in the employment,
9 engagement, or association status of the owners or operators
10 whose fingerprints are retained under subparagraph 3. The
11 Department of Law Enforcement shall adopt a rule setting the
12 amount of the annual fee to be imposed upon the Department of
13 Education for performing these services and establishing the
14 procedures for the retention of owner and operator
15 fingerprints and the dissemination of search results. The fee
16 may be borne by the owner or operator of the nonprofit
17 scholarship-funding organization.

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

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

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

29 (d)(a) ~~Must~~ An eligible nonprofit scholarship funding
30 organization shall provide scholarships, from eligible
31 contributions, to eligible ~~qualified~~ students for:

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

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

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

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

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

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

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

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

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

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

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

21 ~~(j) Must maintain separate accounts for scholarship~~
22 ~~funds and operating funds.~~

23 ~~(k) With the prior approval of the Department of~~
24 ~~Education, may transfer funds to another eligible nonprofit~~
25 ~~scholarship-funding organization if additional funds are~~
26 ~~required to meet scholarship demand at the receiving nonprofit~~
27 ~~scholarship-funding organization. A transfer shall be limited~~
28 ~~to the greater of \$500,000 or 20 percent of the total~~
29 ~~contributions received by the nonprofit scholarship-funding~~
30 ~~organization making the transfer. All transferred funds must~~
31 ~~be deposited by the receiving nonprofit scholarship-funding~~

1 organization into its scholarship accounts. All transferred
2 amounts received by any nonprofit scholarship-funding
3 organization must be separately disclosed in the annual
4 financial and compliance audit required in this section.

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

22 (m) Must prepare and submit quarterly reports to the
23 Department of Education pursuant to paragraph (9)(m). In
24 addition, an eligible nonprofit scholarship-funding
25 organization must submit in a timely manner any information
26 requested by the Department of Education relating to the
27 scholarship program.

28
29 Any and all information and documentation provided to the
30 Department of Education and the Auditor General relating to
31 the identity of a taxpayer that provides an eligible

1 contribution under this section shall remain confidential at
2 all times in accordance with s. 213.053.

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

17 (7)(5) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
18 PARTICIPATION OBLIGATIONS.--

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

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

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

27 (d) Each parent and each student has an obligation to
28 the private school to comply with the private school's
29 published policies.

30 (e) The parent shall ensure that the student
31 participating in the scholarship program takes the

1 norm-referenced assessment offered by the private school. The
2 parent may also choose to have the student participate in the
3 statewide assessments pursuant to s. 1008.22. If the parent
4 requests that the student participating in the scholarship
5 program take statewide assessments pursuant to s. 1008.22, the
6 parent is responsible for transporting the student to the
7 assessment site designated by the school district.

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

21 (8)(6) PRIVATE ELIGIBLE NONPUBLIC SCHOOL ELIGIBILITY
22 AND OBLIGATIONS.--An eligible private nonpublic school may be
23 sectarian or nonsectarian and must:

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

27 (b) Provide to the eligible nonprofit
28 scholarship-funding organization, upon request, all
29 documentation required for the student's participation,
30 including the private school's and student's fee schedules.

31

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

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

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

14 3. Cooperating with the scholarship student whose
15 parent chooses to participate in the statewide assessments
16 pursuant to s. 1008.32.

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

20
21 The inability of a private school to meet the requirements of
22 this subsection shall constitute a basis for the ineligibility
23 of the private school to participate in the scholarship
24 program as determined by the Department of Education.

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

1 ~~other sources that may be reasonably expected. In lieu of such~~
2 ~~a statement, a surety bond or letter of credit for the amount~~
3 ~~equal to the scholarship funds for any quarter may be filed~~
4 ~~with the department.~~

5 ~~(b) Comply with the antidiscrimination provisions of~~
6 ~~42 U.S.C. s. 2000d.~~

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

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

11 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.--The
12 Department of Education shall:

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

16 (b) Annually verify the eligibility of nonprofit
17 scholarship-funding organizations that meet the requirements
18 of paragraph (2)(c).

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

21 (d) Annually verify the eligibility of expenditures as
22 provided in paragraph (6)(d) using the audit required by
23 paragraph (6)(l).

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

27 (f) Establish a process by which individuals may
28 notify the Department of Education of any violation by a
29 parent, private school, or school district of state laws
30 relating to program participation. The Department of Education
31 shall conduct an inquiry of any written complaint of a

1 violation of this section, or make a referral to the
2 appropriate agency for an investigation, if the complaint is
3 signed by the complainant and is legally sufficient. A
4 complaint is legally sufficient if it contains ultimate facts
5 that show that a violation of this section or any rule adopted
6 by the State Board of Education has occurred. In order to
7 determine legal sufficiency, the Department of Education may
8 require supporting information or documentation from the
9 complainant. A department inquiry is not subject to the
10 requirements of chapter 120.

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

14 (h) Cross-check the list of participating scholarship
15 students with the public school enrollment lists to avoid
16 duplication.

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

25 (j) Select an independent research organization, which
26 may be a public or private entity or university, to which
27 participating private schools must report the scores of
28 participating students on the nationally norm-referenced tests
29 administered by the private school. The independent research
30 organization must annually report to the Department of
31 Education on the year-to-year improvements of participating

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

22 (k) Notify an eligible nonprofit scholarship-funding
23 organization of any of the organization's identified students
24 who are receiving educational scholarships pursuant to chapter
25 1002.

26 (l) Notify an eligible nonprofit scholarship-funding
27 organization of any of the organization's identified students
28 who are receiving corporate income tax credit scholarships
29 from other eligible nonprofit scholarship-funding
30 organizations.

31

1 (m) Require quarterly reports by an eligible nonprofit
2 scholarship-funding organization regarding the number of
3 students participating in the scholarship program, the private
4 schools at which the students are enrolled, and other
5 information deemed necessary by the Department of Education.

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

8 The purpose of the site visits is solely to verify the
9 information reported by the schools concerning the enrollment
10 and attendance of students, the credentials of teachers,
11 background screening of teachers, and teachers' fingerprinting
12 results. The Department of Education may not make more than
13 seven random site visits each year and may not make more than
14 one random site visit each year to the same private school.

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

26 (10) COMMISSIONER OF EDUCATION AUTHORITY AND
27 OBLIGATIONS.--

28 (a) The Commissioner of Education shall deny, suspend,
29 or revoke a private school's participation in the scholarship
30 program if it is determined that the private school has failed
31 to comply with the provisions of this section. However, in

1 instances in which the noncompliance is correctable within a
2 reasonable amount of time and in which the health, safety, or
3 welfare of the students are not threatened, the commissioner
4 may issue a notice of noncompliance that shall provide the
5 private school with a timeframe within which to provide
6 evidence of compliance prior to taking action to suspend or
7 revoke the private school's participation in the scholarship
8 program.

9 (b) The commissioner's determination is subject to the
10 following:

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

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

27 3. Upon receipt of a request referred pursuant to this
28 paragraph, the director of the Division of Administrative
29 Hearings shall expedite the hearing and assign an
30 administrative law judge who shall commence a hearing within
31 30 days after the receipt of the formal written request by the

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

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

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

14 2. Fraudulent activity on the part of the private
15 school. Notwithstanding s. 1002.22(3), in incidents of alleged
16 fraudulent activity pursuant to this section, the Department
17 of Education's Office of Inspector General is authorized to
18 release personally identifiable records or reports of students
19 to the following persons or organizations:

20 a. A court of competent jurisdiction in compliance
21 with an order of that court or the attorney of record in
22 accordance with a lawfully issued subpoena, consistent with
23 the Family Educational Rights and Privacy Act, 20 U.S.C. s.
24 1232g.

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

30 c. Any person, entity, or authority issuing a subpoena
31 for law enforcement purposes when the court or other issuing

1 agency has ordered that the existence or the contents of the
2 subpoena or the information furnished in response to the
3 subpoena not be disclosed, consistent with the Family
4 Educational Rights and Privacy Act, 20 U.S.C. s. 1232g, and 34
5 C.F.R. s. 99.31.

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

11 (11) SCHOLARSHIP AMOUNT AND PAYMENT.--

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

16 1. Three thousand seven hundred fifty dollars for a
17 scholarship awarded to a student enrolled in an eligible
18 private school.

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

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

1 ensure that the parent to whom the warrant is made
2 restrictively endorsed the warrant to the private school for
3 deposit into the account of the private school.

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

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

11 ~~(12)(7)~~ ADMINISTRATION; RULES.--

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

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

31

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

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

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

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

30 Section 3. Section 1002.421, Florida Statutes, is
31 created to read:

1 1002.421 Accountability of private schools
2 participating in state school-choice scholarship programs.--
3 (1) A Florida private school participating in the
4 Corporate Income Tax Credit Scholarship Program established
5 pursuant to s. 220.187 or an educational scholarship program
6 established pursuant to this chapter must comply with all
7 requirements of this section in addition to private school
8 requirements outlined in s. 1002.42, specific requirements
9 identified within respective scholarship program laws, and
10 other provisions of Florida law that apply to private schools.
11 (2) A private school participating in a scholarship
12 program must be a Florida private school as defined in s.
13 1002.01(2), must be registered in accordance with s. 1002.42,
14 and must:
15 (a) Comply with the antidiscrimination provisions of
16 42 U.S.C. s. 2000d.
17 (b) Notify the department of its intent to participate
18 in a scholarship program.
19 (c) Notify the department of any change in the
20 school's name, school director, mailing address, or physical
21 location within 15 days after the change.
22 (d) Complete student enrollment and attendance
23 verification requirements, including use of an on-line
24 attendance verification form, prior to scholarship payment.
25 (e) Annually complete and submit to the department a
26 notarized scholarship compliance statement certifying that all
27 school employees and contracted personnel with direct student
28 contact have undergone background screening pursuant to s.
29 943.0542.
30 (f) Demonstrate fiscal soundness and accountability
31 by:

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

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

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

14 1. Firesafety.

15 2. Building safety.

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

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

3 1. An "employee or contracted personnel with direct
4 student contact" means any employee or contracted personnel
5 who has unsupervised access to a scholarship student for whom
6 the private school is responsible.

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

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

14 4. An employee or contracted personnel holding a valid
15 Florida teaching certificate who has been fingerprinted
16 pursuant to s. 1012.32 is not required to comply with the
17 provisions of this paragraph.

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

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

1 paragraph (a). Any arrest record that is identified with the
2 retained fingerprints of a person subject to the background
3 screening under this section shall be reported to the
4 employing school with which the person is affiliated. Each
5 private school participating in a scholarship program is
6 required to participate in this search process by informing
7 the Department of Law Enforcement of any change in the
8 employment or contractual status of its personnel whose
9 fingerprints are retained under paragraph (a). The Department
10 of Law Enforcement shall adopt a rule setting the amount of
11 the annual fee to be imposed upon each private school for
12 performing these searches and establishing the procedures for
13 the retention of private school employee and contracted
14 personnel fingerprints and the dissemination of search
15 results. The fee may be borne by the private school or the
16 person fingerprinted.

17 (c) Employees and contracted personnel whose
18 fingerprints are not retained by the Department of Law
19 Enforcement under paragraphs (a) and (b) are required to be
20 refingerprinted and must meet state and national background
21 screening requirements upon reemployment or reengagement to
22 provide services in order to comply with the requirements of
23 this section.

24 (d) Every 5 years following employment or engagement
25 to provide services with a private school, employees or
26 contracted personnel required to be screened under this
27 section must meet screening standards under s. 435.04, at
28 which time the private school shall request the Department of
29 Law Enforcement to forward the fingerprints to the Federal
30 Bureau of Investigation for national processing. If the
31 fingerprints of employees or contracted personnel are not

1 retained by the Department of Law Enforcement under paragraph
2 (a), employees and contracted personnel must electronically
3 file a complete set of fingerprints with the Department of Law
4 Enforcement. Upon submission of fingerprints for this purpose,
5 the private school shall request that the Department of Law
6 Enforcement forward the fingerprints to the Federal Bureau of
7 Investigation for national processing, and the fingerprints
8 shall be retained by the Department of Law Enforcement under
9 paragraph (a).

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

14 (5) The inclusion of eligible private schools within
15 options available to Florida public school students does not
16 expand the regulatory authority of the state, its officers, or
17 any school district to impose any additional regulation of
18 private schools beyond those reasonably necessary to enforce
19 requirements expressly set forth in this section.

20 (6) The State Board of Education shall adopt rules
21 pursuant to ss. 120.536(1) and 120.54 to administer this
22 section.

23 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 CS/SB 256
4 The committee substitute provides:
5 1. The Department of Education must notify the school
6 district when it receives a request from a parent for a
7 McKay Scholarship.
8 2. An "eligible nonprofit scholarship-funding organization"
9 must meet all the criteria set forth in s. 220.187(2)(c),
10 F.S.
11 3. After FY 2006-07 the total amount of tax credits and
12 carryforward tax credits that may be granted under the
13 Corporate Tax Credit Scholarship Program will be adjusted
14 by the growth in the Florida Education Finance Program if
15 at least 99 percent of the available credits is used.
16 4. All owners and operators of eligible nonprofit
17 scholarship-funding organizations and eligible private
18 schools, and employees and contracted personnel with
19 direct student contact of private schools participating
20 in state school-choice scholarship programs, must undergo
21 level 2 background screening upon employment or
22 engagement to perform services.
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