

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

29 providing Department of Financial Services obligations;
30 amending s. 220.187, F.S., relating to credits for
31 contributions to nonprofit scholarship-funding
32 organizations; revising and providing definitions; naming
33 the Corporate Income Tax Credit Scholarship Program;
34 providing student eligibility requirements for receipt of
35 a corporate income tax credit scholarship and restricting
36 eligibility therefor; revising provisions relating to tax
37 credit for small businesses; providing for adjustment of
38 the total amount of tax credits and carryforward of tax
39 credits; providing for rescindment of tax credit
40 allocation; revising and adding obligations of eligible
41 nonprofit scholarship-funding organizations, including
42 compliance with requirements for background checks of
43 owners and operators, scholarship-funding organization
44 ownership or operation, carryforward and transfer of
45 funds, audits, and reports; specifying background
46 screening requirements and procedures; requiring certain
47 information to remain confidential in accordance with s.
48 213.053, F.S.; revising and adding parent and student
49 responsibilities for scholarship program participation,
50 including compliance with a private school's published
51 policies, participation in student academic assessment,
52 and restrictive endorsement of scholarship warrants;
53 prohibiting power of attorney for endorsing a scholarship
54 warrant; revising and adding private school eligibility
55 requirements and obligations, including compliance with
56 specified laws and academic accountability to the parent;

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57 | revising and adding Department of Education obligations,
58 | including verification of eligibility of program
59 | participants, establishment of a process for notification
60 | of violations, subsequent inquiry or investigation,
61 | certification of compliance by private schools, and
62 | selection of a research organization to analyze student
63 | performance data; providing Commissioner of Education
64 | authority and obligations, including the denial,
65 | suspension, or revocation of a private school's
66 | participation in the scholarship program and procedures
67 | and timelines therefor; revising and adding provisions
68 | relating to scholarship funding and payment, including the
69 | amount of a scholarship and the payment process; requiring
70 | adoption of rules; creating s. 1002.421, F.S., relating to
71 | rights and obligations of private schools participating in
72 | state school choice scholarship programs; providing
73 | requirements for participation in a scholarship program,
74 | including compliance with specified state, local, and
75 | federal laws and demonstration of fiscal soundness;
76 | requiring restrictive endorsement of a scholarship warrant
77 | and prohibiting power of attorney for endorsing a warrant;
78 | requiring employment of qualified teachers and background
79 | screening of employees and contracted personnel with
80 | direct student contact; specifying background screening
81 | requirements and procedures; providing scope of authority;
82 | requiring adoption of rules; providing an effective date.

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84 | Be It Enacted by the Legislature of the State of Florida:

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

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

(1) THE JOHN M. MCKAY SCHOLARSHIPS FOR STUDENTS WITH DISABILITIES PROGRAM.--The John M. McKay Scholarships for Students with Disabilities Program is established to provide the option to attend a public school other than the one to which assigned, or to provide a scholarship to a private school of choice, for students with disabilities for whom an individual education plan has been written in accordance with rules of the State Board of Education. Students with disabilities include K-12 students who are documented as having mental retardation; a mentally handicapped, speech or and language impairment; a impaired, deaf or hard of hearing impairment, including deafness; a visual impairment, including blindness; a visually impaired, dual sensory impairment; a physical impairment; a serious emotional disturbance, including an emotional handicap; a impaired, physically impaired, emotionally handicapped, specific learning disability, including, but not limited to, dyslexia, dyscalculia, or developmental aphasia; a traumatic brain injury; disabled, hospitalized or homebound, or autism autistic.

(2) JOHN M. MCKAY SCHOLARSHIP ELIGIBILITY.--The parent of

113 a public school student with a disability who is dissatisfied
 114 with the student's progress may request and receive from the
 115 state a John M. McKay Scholarship for the child to enroll in and
 116 attend a private school in accordance with this section if:

117 (a) ~~By assigned school attendance area or by special~~
 118 ~~assignment,~~ The student has spent the prior school year in
 119 attendance at a Florida public school or the Florida School for
 120 the Deaf and the Blind. Prior school year in attendance means
 121 that the student was:

122 1. Enrolled and reported by a school district for funding
 123 during the preceding October and February Florida Education
 124 Finance Program surveys in kindergarten through grade 12, which
 125 shall include time spent in a Department of Juvenile Justice
 126 commitment program if funded under the Florida Education Finance
 127 Program;

128 2. Enrolled and reported by the Florida School for the
 129 Deaf and the Blind during the preceding October and February
 130 student membership surveys in kindergarten through grade 12; or

131 3. Enrolled and reported by a school district for funding
 132 during the preceding October and February Florida Education
 133 Finance Program surveys, at least 4 years old when so enrolled
 134 and reported, and eligible for services under s. 1003.21(1)(e).

135
 136 However, ~~this paragraph does not apply to~~ a dependent child of a
 137 member of the United States Armed Forces who transfers to a
 138 school in this state from out of state or from a foreign country
 139 pursuant to a parent's permanent change of station orders is
 140 exempt from this paragraph but. ~~A dependent child of a member of~~

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141 ~~the United States Armed Forces who transfers to a school in this~~
142 ~~state from out of state or from a foreign country pursuant to a~~
143 ~~parent's permanent change of station orders~~ must meet all other
144 eligibility requirements to participate in the program.

145 (b) The parent has obtained acceptance for admission of
146 the student to a private school that is eligible for the program
147 under subsection (8) ~~(4)~~ and has requested from the department
148 ~~notified the school district of the request for a scholarship at~~
149 least 60 days prior to the date of the first scholarship
150 payment. The request ~~parental notification~~ must be through a
151 communication directly to the department ~~district or through the~~
152 ~~Department of Education to the district~~ in a manner that creates
153 a written or electronic record of the request ~~notification~~ and
154 the date of receipt of the request ~~notification~~.

155
156 ~~This section does not apply to a student who is enrolled in a~~
157 ~~school operating for the purpose of providing educational~~
158 ~~services to youth in Department of Juvenile Justice commitment~~
159 ~~programs. For purposes of continuity of educational choice, the~~
160 ~~scholarship shall remain in force until the student returns to a~~
161 ~~public school or graduates from high school. However, at any~~
162 ~~time, the student's parent may remove the student from the~~
163 ~~private school and place the student in another private school~~
164 ~~that is eligible for the program under subsection (4) or in a~~
165 ~~public school as provided in subsection (3).~~

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

168 (a) Enrolled in a school operating for the purpose of

169 providing educational services to youth in Department of
 170 Juvenile Justice commitment programs;
 171 (b) Receiving a corporate income tax credit scholarship
 172 under s. 220.187;
 173 (c) Receiving an educational scholarship pursuant to this
 174 chapter;
 175 (d) Participating in a home education program as defined
 176 in s. 1002.01(1);
 177 (e) Participating in a private tutoring program pursuant
 178 to s. 1002.43;
 179 (f) Participating in a virtual school, correspondence
 180 school, or distance learning program that receives state funding
 181 pursuant to the student's participation unless the participation
 182 is limited to no more than two courses per school year; or
 183 (g) Enrolled in the Florida School for the Deaf and the
 184 Blind.
 185 (4) TERM OF JOHN M. MCKAY SCHOLARSHIP.--
 186 (a) For purposes of continuity of educational choice, a
 187 John M. McKay Scholarship shall remain in force until the
 188 student returns to a public school, graduates from high school,
 189 or reaches the age of 22, whichever occurs first.
 190 (b) Upon reasonable notice to the department and the
 191 school district, the student's parent may remove the student
 192 from the private school and place the student in a public school
 193 in accordance with this section.
 194 (c) Upon reasonable notice to the department, the
 195 student's parent may move the student from one participating
 196 private school to another participating private school.

197 (5)~~(3)~~ SCHOOL DISTRICT ~~AND DEPARTMENT OF EDUCATION~~
 198 OBLIGATIONS; PARENTAL OPTIONS.--

199 (a)1. By April 1 of each year and within 10 days after an
 200 individual education plan meeting, a school district shall
 201 ~~timely~~ notify the parent of the student of all options available
 202 pursuant to this section, inform the parent of the availability
 203 of the department's telephone hotline and Internet website for
 204 additional information on John M. McKay Scholarships, and offer
 205 that student's parent an opportunity to enroll the student in
 206 another public school within the district.

207 2. The parent is not required to accept the ~~this~~ offer of
 208 enrolling in another public school in lieu of requesting a John
 209 M. McKay Scholarship to a private school. However, if the parent
 210 chooses the public school option, the student may continue
 211 attending a public school chosen by the parent until the student
 212 graduates from high school.

213 3. If the parent chooses a public school consistent with
 214 the district school board's choice plan under s. 1002.31, the
 215 school district shall provide transportation to the public
 216 school selected by the parent. The parent is responsible to
 217 provide transportation to a public school chosen that is not
 218 consistent with the district school board's choice plan under s.
 219 1002.31.

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

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225 2.a. Within 10 school days after it receives notification
226 of a parent's request for a John M. McKay Scholarship, a school
227 district must notify the student's parent if the matrix of
228 services has not been completed and inform the parent that the
229 district is required to complete the matrix within 30 days after
230 receiving notice of the parent's request for a John M. McKay
231 Scholarship. This notice should include the required completion
232 date for the matrix.

233 b. The school district must complete the matrix of
234 services for any student who is participating in the John M.
235 McKay Scholarships for Students with Disabilities Program and
236 must notify the department of Education of the student's matrix
237 level within 30 days after receiving notification of a request
238 by the student's parent of intent to participate in the
239 scholarship program. The school district must provide the
240 student's parent with the student's matrix level within 10
241 school days after its completion.

242 c. The department of Education shall notify the private
243 school of the amount of the scholarship within 10 days after
244 receiving the school district's notification of the student's
245 matrix level. Within 10 school days after it receives
246 notification of a parent's intent to apply for a McKay
247 Scholarship, a district school board must notify the student's
248 parent if the matrix has not been completed and provide the
249 parent with the date for completion of the matrix required in
250 this paragraph.

251 d. A school district may change a matrix of services only
252 if the change is to correct a technical, typographical, or

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253 calculation error.

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

257 (d)(e) If the parent chooses the private school option and
258 the student is accepted by the private school pending the
259 availability of a space for the student, the parent of the
260 student must notify the department ~~school district~~ 60 days prior
261 to the first scholarship payment and before entering the private
262 school in order to be eligible for the scholarship when a space
263 becomes available for the student in the private school.

264 (e)(d) The parent of a student may choose, as an
265 alternative, to enroll the student in and transport the student
266 to a public school in an adjacent school district which has
267 available space and has a program with the services agreed to in
268 the student's individual education plan already in place, and
269 that school district shall accept the student and report the
270 student for purposes of the district's funding pursuant to the
271 Florida Education Finance Program.

272 (f)(e) For a student ~~in the district~~ who participates in
273 the John M. McKay Scholarships for Students with Disabilities
274 Program whose parent requests that the student take the
275 statewide assessments under s. 1008.22, the district in which
276 the student attends private school shall provide locations and
277 times to take all statewide assessments.

278 ~~(f) A school district must notify the Department of~~
279 ~~Education within 10 days after it receives notification of a~~
280 ~~parent's intent to apply for a scholarship for a student with a~~

281 ~~disability. A school district must provide the student's parent~~
 282 ~~with the student's matrix level within 10 school days after its~~
 283 ~~completion.~~

284 (6) DEPARTMENT OF EDUCATION OBLIGATIONS.--The department
 285 shall:

286 (a) Establish a toll-free hotline that provides parents
 287 and private schools with information on participation in the
 288 John M. McKay Scholarships for Students with Disabilities
 289 Program.

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

292 (c) Establish a process by which individuals may notify
 293 the department of any violation by a parent, private school, or
 294 school district of state laws relating to program participation.
 295 The department shall conduct an inquiry of any written complaint
 296 of a violation of this section, or make a referral to the
 297 appropriate agency for an investigation, if the complaint is
 298 signed by the complainant and is legally sufficient. A complaint
 299 is legally sufficient if it contains ultimate facts that show
 300 that a violation of this section or any rule adopted by the
 301 State Board of Education has occurred. In order to determine
 302 legal sufficiency, the department may require supporting
 303 information or documentation from the complainant. A department
 304 inquiry is not subject to the requirements of chapter 120.

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

308 (e) Cross-check the list of participating scholarship

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309 students with the public school enrollment lists prior to the
310 first scholarship payment to avoid duplication.

311 (7) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.--

312 (a) The Commissioner of Education shall deny, suspend, or
313 revoke a private school's participation in the scholarship
314 program if it is determined that the private school has failed
315 to comply with the provisions of this section. However, in
316 instances in which the noncompliance is correctable within a
317 reasonable amount of time and in which the health, safety, and
318 welfare of the students are not threatened, the commissioner may
319 issue a notice of noncompliance that shall provide the private
320 school with a timeframe within which to provide evidence of
321 compliance prior to taking action to suspend or revoke the
322 private school's participation in the scholarship program.

323 (b) The commissioner's determination is subject to the
324 following:

325 1. If the commissioner intends to deny, suspend, or revoke
326 a private school's participation in the scholarship program, the
327 department shall notify the private school of such proposed
328 action in writing by certified mail and regular mail to the
329 private school's address of record with the department. The
330 notification shall include the reasons for the proposed action
331 and notice of the timelines and procedures set forth in this
332 paragraph.

333 2. The private school that is adversely affected by the
334 proposed action shall have 15 days from receipt of the notice of
335 proposed action to file with the department's agency clerk a
336 request for a proceeding pursuant to ss. 120.569 and 120.57. If

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337 the private school is entitled to a hearing under s. 120.57(1),
338 the department shall forward the request to the Division of
339 Administrative Hearings.

340 3. Upon receipt of a request referred pursuant to this
341 paragraph, the director of the Division of Administrative
342 Hearings shall expedite the hearing and assign an administrative
343 law judge who shall commence a hearing within 30 days after the
344 receipt of the formal written request by the division and enter
345 a recommended order within 30 days after the hearing or within
346 30 days after receipt of the hearing transcript, whichever is
347 later. Each party shall be allowed 10 days in which to submit
348 written exceptions to the recommended order. A final order shall
349 be entered by the agency within 30 days after the entry of a
350 recommended order. The provisions of this subparagraph may be
351 waived upon stipulation by all parties.

352 (c) The commissioner may immediately suspend payment of
353 scholarship funds if it is determined that there is probable
354 cause to believe that there is:

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

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

358
359 The commissioner's order suspending payment pursuant to this
360 paragraph may be appealed pursuant to the same procedures and
361 timelines as the notice of proposed action set forth in
362 paragraph (b).

363 (8)(4) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.--To be
364 eligible to participate in the John M. McKay Scholarships for

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365 Students with Disabilities Program, a private school ~~must be a~~
 366 ~~Florida private school,~~ may be sectarian or nonsectarian, and
 367 must:

368 (a) Comply with all requirements for private schools
 369 participating in state school choice scholarship programs
 370 pursuant to s. 1002.421.

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

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

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

379 2. Cooperating with the scholarship student whose parent
 380 chooses to participate in the statewide assessments pursuant to
 381 s. 1008.22.

382
 383 The inability of a private school to meet the requirements of
 384 this subsection shall constitute a basis for the ineligibility
 385 of the private school to participate in the scholarship program
 386 as determined by the department.

387 ~~(a) Demonstrate fiscal soundness by being in operation for~~
 388 ~~1 school year or provide the Department of Education with a~~
 389 ~~statement by a certified public accountant confirming that the~~
 390 ~~private school desiring to participate is insured and the owner~~
 391 ~~or owners have sufficient capital or credit to operate the~~
 392 ~~school for the upcoming year serving the number of students~~

393 ~~anticipated with expected revenues from tuition and other~~
 394 ~~sources that may be reasonably expected. In lieu of such a~~
 395 ~~statement, a surety bond or letter of credit for the amount~~
 396 ~~equal to the scholarship funds for any quarter may be filed with~~
 397 ~~the department.~~

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

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

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

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

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

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

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

417 (9)(5) PARENT AND STUDENT RESPONSIBILITIES FOR OBLIGATION
 418 OF PROGRAM PARTICIPATION PARTICIPANTS.--A parent who applies for
 419 a John M. McKay Scholarship is exercising his or her parental
 420 option to place his or her child in a private school.

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421 (a) ~~A parent who applies for a John M. McKay Scholarship~~
422 ~~is exercising his or her parental option to place his or her~~
423 ~~child in a private school.~~ The parent must select the private
424 school and apply for the admission of his or her child.

425 (b) The parent must have requested the scholarship at
426 least 60 days prior to the date of the first scholarship
427 payment.

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

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

438 (e) If the parent requests that the student participating
439 in the John M. McKay Scholarships for Students with Disabilities
440 ~~scholarship~~ Program take all statewide assessments required
441 pursuant to s. 1008.22, the parent is responsible for
442 transporting the student to the assessment site designated by
443 the school district.

444 (f) Upon receipt of a scholarship warrant, the parent to
445 whom the warrant is made must restrictively endorse the warrant
446 to the private school for deposit into the account of the
447 private school. The parent may not designate any entity or
448 individual associated with the participating private school as

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449 the parent's attorney in fact to endorse a scholarship warrant.
450 A participant who fails to comply with this paragraph forfeits
451 the scholarship.

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

454 (10)(6) JOHN M. MCKAY SCHOLARSHIP FUNDING AND PAYMENT.--

455 (a)1. The maximum scholarship granted for an eligible
456 student with disabilities shall be a calculated amount
457 equivalent to the base student allocation in the Florida
458 Education Finance Program multiplied by the appropriate cost
459 factor for the educational program that would have been provided
460 for the student in the district school to which he or she was
461 assigned, multiplied by the district cost differential.

462 2. In addition, a share of the guaranteed allocation for
463 exceptional students shall be determined and added to the
464 calculated amount. The calculation shall be based on the
465 methodology and the data used to calculate the guaranteed
466 allocation for exceptional students for each district in chapter
467 2000-166, Laws of Florida. Except as provided in subparagraphs
468 ~~subparagraph~~ 3. and 4., the calculation shall be based on the
469 student's grade, matrix level of services, and the difference
470 between the 2000-2001 basic program and the appropriate level of
471 services cost factor, multiplied by the 2000-2001 base student
472 allocation and the 2000-2001 district cost differential for the
473 sending district. Also, the calculated amount shall include the
474 per-student share of supplemental academic instruction funds,
475 instructional materials funds, technology funds, and other
476 categorical funds as provided for such purposes in the General

477 Appropriations Act.

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

483 ~~4.3-~~ Until the school district completes the matrix
484 required by paragraph ~~(5)~~~~(3)~~(b), the calculation shall be based
485 on the matrix that assigns the student to support level I of
486 service as it existed prior to the 2000-2001 school year. When
487 the school district completes the matrix, the amount of the
488 payment shall be adjusted as needed.

489 (b) The amount of the John M. McKay Scholarship shall be
490 the calculated amount or the amount of the private school's
491 tuition and fees, whichever is less. The amount of any
492 assessment fee required by the participating private school may
493 be paid from the total amount of the scholarship.

494 ~~(c) If the participating private school requires partial~~
495 ~~payment of tuition prior to the start of the academic year to~~
496 ~~reserve space for students admitted to the school, that partial~~
497 ~~payment may be paid by the Department of Education prior to the~~
498 ~~first quarterly payment of the year in which the John M. McKay~~
499 ~~Scholarship is awarded, up to a maximum of \$1,000, and deducted~~
500 ~~from subsequent scholarship payments. If a student decides not~~
501 ~~to attend the participating private school, the partial~~
502 ~~reservation payment must be returned to the Department of~~
503 ~~Education by the participating private school. There is a limit~~
504 ~~of one reservation payment per student per year.~~

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505 (c)1.~~(d)~~ The school district shall report all students who
506 are attending a private school in the district under this
507 program. The students with disabilities attending private
508 schools on John M. McKay Scholarships shall be reported
509 separately from other students reported for purposes of the
510 Florida Education Finance Program.

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

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

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

520 (d)~~(e)~~ Following notification on July 1, September 1,
521 December 1, or February 1 of the number of program participants,
522 the department ~~of Education~~ shall transfer, from General Revenue
523 funds only, the amount calculated under paragraph (b) from the
524 school district's total funding entitlement under the Florida
525 Education Finance Program and from authorized categorical
526 accounts to a separate account for the scholarship program for
527 quarterly disbursement to the parents of participating students.
528 Funds may not be transferred from any funding provided to the
529 Florida School for the Deaf and the Blind for program
530 participants who are eligible under subparagraph (2)(a)2. For a
531 student exiting a Department of Juvenile Justice commitment
532 program who chooses to participate in the scholarship program,

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533 the amount of the John M. McKay Scholarship calculated pursuant
534 to paragraph (b) shall be transferred from the school district
535 in which the student last attended a public school prior to
536 commitment to the Department of Juvenile Justice. When a student
537 enters the scholarship program, the department ~~of Education~~ must
538 receive all documentation required for the student's
539 participation, including the private school's and student's fee
540 schedules, at least 30 days before the first quarterly
541 scholarship payment is made for the student. ~~The Department of~~
542 ~~Education may not make any retroactive payments.~~

543 (e) (f) Upon notification ~~proper documentation reviewed and~~
544 ~~approved~~ by the department that it has received the
545 documentation required under paragraph (d) ~~Department of~~
546 ~~Education~~, the Chief Financial Officer shall make scholarship
547 payments in four equal amounts no later than September 1,
548 November 1, February 1, and April 1 ~~15~~ of each academic year in
549 which the scholarship is in force. The initial payment shall be
550 made after department ~~of Education~~ verification of admission
551 acceptance, and subsequent payments shall be made upon
552 verification of continued enrollment and attendance at the
553 private school. Payment must be by individual warrant made
554 payable to the student's parent and mailed by the department ~~of~~
555 ~~Education~~ to the private school of the parent's choice, and the
556 parent shall restrictively endorse the warrant to the private
557 school for deposit into the account of the private school.

558 (f) Subsequent to each scholarship payment, the Department
559 of Financial Services shall randomly review endorsed warrants to
560 confirm compliance with endorsement requirements. The Department

561 of Financial Services shall immediately report inconsistencies
 562 or irregularities to the department.

563 (11)(7) LIABILITY.--No liability shall arise on the part
 564 of the state based on the award or use of a John M. McKay
 565 Scholarship.

566 (12) SCOPE OF AUTHORITY.--The inclusion of eligible
 567 private schools within options available to Florida public
 568 school students does not expand the regulatory authority of the
 569 state, its officers, or any school district to impose any
 570 additional regulation of private schools beyond those reasonably
 571 necessary to enforce requirements expressly set forth in this
 572 section.

573 (13)(8) RULES.--The State Board of Education shall adopt
 574 rules pursuant to ss. 120.536(1) and 120.54 to administer this
 575 section, including rules that school districts must use to
 576 expedite the development of a matrix of services based on an
 577 active ~~a current~~ individual education plan from another state or
 578 a foreign country for a transferring student with a disability
 579 who is a dependent child of a member of the United States Armed
 580 Forces. The rules must identify the appropriate school district
 581 personnel who must complete the matrix of services. For purposes
 582 of these rules, a transferring student with a disability is one
 583 who was previously enrolled as a student with a disability in an
 584 out-of-state or an out-of-country public or private school or
 585 agency program and who is transferring from out of state or from
 586 a foreign country pursuant to a parent's permanent change of
 587 station orders. ~~However, the inclusion of eligible private~~
 588 ~~schools within options available to Florida public school~~

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589 ~~students does not expand the regulatory authority of the state,~~
 590 ~~its officers, or any school district to impose any additional~~
 591 ~~regulation of private schools beyond those reasonably necessary~~
 592 ~~to enforce requirements expressly set forth in this section.~~

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

595 220.187 Credits for contributions to nonprofit
 596 scholarship-funding organizations.--

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

598 (a) Encourage private, voluntary contributions to
 599 nonprofit scholarship-funding organizations.

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

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

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

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

606 (b) "Eligible contribution" means a monetary contribution
 607 from a taxpayer, subject to the restrictions provided in this
 608 section, to an eligible nonprofit scholarship-funding
 609 organization. The taxpayer making the contribution may not
 610 designate a specific child as the beneficiary of the
 611 contribution. ~~The taxpayer may not contribute more than \$5~~
 612 ~~million to any single eligible nonprofit scholarship-funding~~
 613 ~~organization.~~

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

616 1. Is exempt from federal income tax pursuant to s.

617 501(c)(3) of the Internal Revenue Code.

618 2. Is a Florida entity formed under chapter 607, chapter

619 608, or chapter 617 and whose principal office is located in the

620 state.

621 3. and that Complies with the provisions of subsection (6)

622 (4).

623 (d)(e) "Eligible private nonpublic school" means a private

624 nonpublic school, as defined in s. 1002.01(2), located in

625 Florida that offers an education to students in any grades K-12

626 and that meets the requirements in subsection (8) (6).

627 (e) "Owner or operator" includes:

628 1. An owner, president, officer, or director of an

629 eligible nonprofit scholarship-funding organization or a person

630 with equivalent decisionmaking authority over an eligible

631 nonprofit scholarship-funding organization.

632 2. An owner, operator, superintendent, or principal of an

633 eligible private school or a person with equivalent

634 decisionmaking authority over an eligible private school.

635 ~~(e) "Qualified student" means a student who qualifies for~~

636 ~~free or reduced price school lunches under the National School~~

637 ~~Lunch Act and who:~~

638 (3) PROGRAM; SCHOLARSHIP ELIGIBILITY.--The Corporate

639 Income Tax Credit Scholarship Program is established. A student

640 is eligible for a corporate income tax credit scholarship if the

641 student qualifies for free or reduced-price school lunches under

642 the National School Lunch Act and:

643 (a)1- Was counted as a full-time equivalent student during

644 the previous state fiscal year for purposes of state per-student

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645 funding;

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

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

650

651 Contingent upon available funds, a student may continue in the
652 scholarship program as long as the student's family income level
653 does not exceed 200 percent of the federal poverty level.

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

656 (a) Enrolled in a school operating for the purpose of
657 providing educational services to youth in Department of
658 Juvenile Justice commitment programs;

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

661 (c) Receiving an educational scholarship pursuant to
662 chapter 1002;

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

665 (e) Participating in a private tutoring program pursuant
666 to s. 1002.43;

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

671 (g) Enrolled in the Florida School for the Deaf and the
672 Blind.

673 ~~(5)-(3)~~ AUTHORIZATION TO GRANT SCHOLARSHIP FUNDING TAX
 674 CREDITS; LIMITATIONS ON INDIVIDUAL AND TOTAL CREDITS.--

675 (a) There is allowed a credit of 100 percent of an
 676 eligible contribution against any tax due for a taxable year
 677 under this chapter. However, such a credit may not exceed 75
 678 percent of the tax due under this chapter for the taxable year,
 679 after the application of any other allowable credits by the
 680 taxpayer. ~~However, at least 5 percent of the total statewide~~
 681 ~~amount authorized for the tax credit shall be reserved for~~
 682 ~~taxpayers who meet the definition of a small business provided~~
 683 ~~in s. 288.703(1) at the time of application.~~ The credit granted
 684 by this section shall be reduced by the difference between the
 685 amount of federal corporate income tax taking into account the
 686 credit granted by this section and the amount of federal
 687 corporate income tax without application of the credit granted
 688 by this section.

689 (b) The total amount of tax credits and carryforward of
 690 tax credits which may be granted ~~each state fiscal year~~ under
 691 this section is \$88 million during the 2006-2007 fiscal year.
 692 The total amount of tax credits and carryforward of tax credits
 693 which may be granted under this section shall be adjusted each
 694 year thereafter, should the prior year's total tax credit and
 695 carryforward tax credit limits be obtained, by the same
 696 percentage as the increase or decrease in total funding,
 697 adjusted for Florida Retirement System changes if applicable,
 698 under the Florida Education Finance Program as provided in the
 699 General Appropriations Act workpapers. However, the total amount
 700 of tax credits that may be granted pursuant to this paragraph

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701 may not increase by more than 5 percent in any year. The
702 Commissioner of Education shall certify to the department and
703 notify eligible nonprofit scholarship-funding organizations of
704 the resulting value of tax credits that may be granted within 30
705 days after the General Appropriations Act becomes law. However,
706 at least 1 percent of the total statewide amount authorized for
707 the tax credit shall be reserved for taxpayers who meet the
708 definition of a small business provided in s. 288.703(1) at the
709 time of application.

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

715 (d) Effective for tax years beginning January 1, 2006, a
716 taxpayer may rescind all or part of its allocated tax credit
717 under this section. The amount rescinded shall become available
718 for purposes of the cap for that state fiscal year under this
719 section to an eligible taxpayer as approved by the department if
720 the taxpayer receives notice from the department that the
721 rescindment has been accepted by the department and the taxpayer
722 has not previously rescinded any or all of its tax credit
723 allocation under this section more than once in the previous 3
724 tax years. Any amount rescinded under this paragraph shall
725 become available to an eligible taxpayer on a first-come, first-
726 served basis based on tax credit applications received after the
727 date the rescindment is accepted by the department.

728 (6)-(4) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-

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729 FUNDING ORGANIZATIONS.--An eligible nonprofit scholarship-
 730 funding organization:

731 (a) Must comply with the antidiscrimination provisions of
 732 42 U.S.C. s. 2000d.

733 (b) Must comply with the following background check
 734 requirements:

735 1. All owners and operators as defined in subparagraph
 736 (2) (e)1. are subject to level 2 background screening as provided
 737 under chapter 435. The fingerprints for the background screening
 738 must be electronically submitted to the Department of Law
 739 Enforcement and can be taken by an authorized law enforcement
 740 agency or by an employee of the eligible nonprofit scholarship-
 741 funding organization or a private company who is trained to take
 742 fingerprints. However, the complete set of fingerprints of an
 743 owner or operator may not be taken by the owner or operator. The
 744 results of the state and national criminal history check shall
 745 be provided to the Department of Education for screening under
 746 chapter 435. The cost of the background screening may be borne
 747 by the eligible nonprofit scholarship-funding organization or
 748 the owner or operator.

749 2. Every 5 years following employment or engagement to
 750 provide services or association with an eligible nonprofit
 751 scholarship-funding organization, each owner or operator must
 752 meet level 2 screening standards as described in s. 435.04, at
 753 which time the nonprofit scholarship-funding organization shall
 754 request the Department of Law Enforcement to forward the
 755 fingerprints to the Federal Bureau of Investigation for level 2
 756 screening. If the fingerprints of an owner or operator are not

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757 retained by the Department of Law Enforcement under subparagraph
758 3., the owner or operator must electronically file a complete
759 set of fingerprints with the Department of Law Enforcement. Upon
760 submission of fingerprints for this purpose, the eligible
761 nonprofit scholarship-funding organization shall request that
762 the Department of Law Enforcement forward the fingerprints to
763 the Federal Bureau of Investigation for level 2 screening, and
764 the fingerprints shall be retained by the Department of Law
765 Enforcement under subparagraph 3.

766 3. Beginning July 1, 2007, all fingerprints submitted to
767 the Department of Law Enforcement as required by this paragraph
768 must be retained by the Department of Law Enforcement in a
769 manner approved by rule and entered in the statewide automated
770 fingerprint identification system authorized by s. 943.05(2)(b).
771 The fingerprints must thereafter be available for all purposes
772 and uses authorized for arrest fingerprint cards entered in the
773 statewide automated fingerprint identification system pursuant
774 to s. 943.051.

775 4. Beginning July 1, 2007, the Department of Law
776 Enforcement shall search all arrest fingerprint cards received
777 under s. 943.051 against the fingerprints retained in the
778 statewide automated fingerprint identification system under
779 subparagraph 3. Any arrest record that is identified with an
780 owner's or operator's fingerprints must be reported to the
781 Department of Education. The Department of Education shall
782 participate in this search process by paying an annual fee to
783 the Department of Law Enforcement and by informing the
784 Department of Law Enforcement of any change in the employment,

785 engagement, or association status of the owners or operators
 786 whose fingerprints are retained under subparagraph 3. The
 787 Department of Law Enforcement shall adopt a rule setting the
 788 amount of the annual fee to be imposed upon the Department of
 789 Education for performing these services and establishing the
 790 procedures for the retention of owner and operator fingerprints
 791 and the dissemination of search results. The fee may be borne by
 792 the owner or operator of the nonprofit scholarship-funding
 793 organization.

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

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

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

805 (d) (a) ~~Must An eligible nonprofit scholarship-funding~~
 806 ~~organization shall~~ provide scholarships, from eligible
 807 contributions, to eligible ~~qualified~~ students for:

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

811 2. Transportation expenses to a Florida public school that
 812 is located outside the district in which the student resides or

813 to a lab school as defined in s. 1002.32.

814 ~~(e)(b) Must~~ An eligible nonprofit scholarship funding
 815 ~~organization shall~~ give priority to eligible ~~qualified~~ students
 816 who received a scholarship from an eligible nonprofit
 817 scholarship-funding organization or from the State of Florida
 818 during the previous school year.

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

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

825 (h) Must allow an eligible student to attend any eligible
 826 private school and must allow a parent to transfer a scholarship
 827 during a school year to any other eligible private school of the
 828 parent's choice.

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

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

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

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

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841 ~~scholarships for qualified students which the organization has~~
842 ~~identified and for which vacancies in eligible nonpublic schools~~
843 ~~have been identified.~~

844 (i)(e) Must obligate, in the same fiscal year in which the
845 contribution was received, An eligible nonprofit scholarship-
846 funding organization that receives an eligible contribution must
847 spend 100 percent of the eligible contribution to provide
848 scholarships; however, up to 25 percent of the total
849 contribution may be carried forward for scholarships to be
850 granted in the following same state fiscal year in which the
851 ~~contribution was received.~~ No portion of eligible contributions
852 may be used for administrative expenses. All interest accrued
853 from contributions must be used for scholarships.

854 (j) Must maintain separate accounts for scholarship funds
855 and operating funds.

856 (k) With the prior approval of the Department of
857 Education, may transfer funds to another eligible nonprofit
858 scholarship-funding organization if additional funds are
859 required to meet scholarship demand at the receiving nonprofit
860 scholarship-funding organization. A transfer shall be limited to
861 the greater of \$500,000 or 20 percent of the total contributions
862 received by the nonprofit scholarship-funding organization
863 making the transfer. All transferred funds must be deposited by
864 the receiving nonprofit scholarship-funding organization into
865 its scholarship accounts. All transferred amounts received by
866 any nonprofit scholarship-funding organization must be
867 separately disclosed in the annual financial and compliance
868 audit required in this section.

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869 ~~(1)(f) An eligible nonprofit scholarship funding~~
870 ~~organization that receives eligible contributions~~ Must provide
871 to the Auditor General and the Department of Education an annual
872 financial and compliance audit of its accounts and records
873 conducted by an independent certified public accountant and in
874 accordance with rules adopted by the Auditor General. The audit
875 must be conducted in compliance with generally accepted auditing
876 standards and must include a report on financial statements
877 presented in accordance with generally accepted accounting
878 principles set forth by the American Institute of Certified
879 Public Accountants for not-for-profit organizations and a
880 determination of compliance with the statutory eligibility and
881 expenditure requirements set forth in this section. Audits must
882 be provided to the Auditor General and the Department of
883 Education within 180 days after completion of the eligible
884 nonprofit scholarship-funding organization's fiscal year.

885 (m) Must prepare and submit quarterly reports to the
886 Department of Education pursuant to paragraph (9)(m). In
887 addition, an eligible nonprofit scholarship-funding organization
888 must submit in a timely manner any information requested by the
889 Department of Education relating to the scholarship program.

890
891 Any and all information and documentation provided to the
892 Department of Education and the Auditor General relating to the
893 identity of a taxpayer that provides an eligible contribution
894 under this section shall remain confidential at all times in
895 accordance with s. 213.053.

896 ~~(g) Payment of the scholarship by the eligible nonprofit~~

897 ~~scholarship funding organization shall be by individual warrant~~
 898 ~~or check made payable to the student's parent. If the parent~~
 899 ~~chooses for his or her child to attend an eligible nonpublic~~
 900 ~~school, the warrant or check must be mailed by the eligible~~
 901 ~~nonprofit scholarship funding organization to the nonpublic~~
 902 ~~school of the parent's choice, and the parent shall~~
 903 ~~restrictively endorse the warrant or check to the nonpublic~~
 904 ~~school. An eligible nonprofit scholarship funding organization~~
 905 ~~shall ensure that, upon receipt of a scholarship warrant or~~
 906 ~~check, the parent to whom the warrant or check is made~~
 907 ~~restrictively endorses the warrant or check to the nonpublic~~
 908 ~~school of the parent's choice for deposit into the account of~~
 909 ~~the nonpublic school.~~

910 (7)(5) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
 911 PARTICIPATION OBLIGATIONS.---

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

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

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

920 (d) Each parent and each student has an obligation to the
 921 private school to comply with the private school's published
 922 policies.

923 (e) The parent shall ensure that the student participating
 924 in the scholarship program takes the norm-referenced assessment

925 offered by the private school. The parent may also choose to
 926 have the student participate in the statewide assessments
 927 pursuant to s. 1008.22. If the parent requests that the student
 928 participating in the scholarship program take statewide
 929 assessments pursuant to s. 1008.22, the parent is responsible
 930 for transporting the student to the assessment site designated
 931 by the school district.

932 (f) Upon receipt of a scholarship warrant from the
 933 eligible nonprofit scholarship-funding organization, the parent
 934 to whom the warrant is made must restrictively endorse the
 935 warrant to the private school for deposit into the account of
 936 the private school. The parent may not designate any entity or
 937 individual associated with the participating private school as
 938 the parent's attorney in fact to endorse a scholarship warrant.
 939 A participant who fails to comply with this paragraph forfeits
 940 the scholarship. As a condition for scholarship payment pursuant
 941 to paragraph (4)(g), if the parent chooses for his or her child
 942 to attend an eligible nonpublic school, the parent must inform
 943 the child's school district within 15 days after such decision.

944 (8)(6) PRIVATE ELIGIBLE NONPUBLIC SCHOOL ELIGIBILITY AND
 945 OBLIGATIONS.--An eligible private nonpublic school may be
 946 sectarian or nonsectarian and must:

947 (a) Comply with all requirements for private schools
 948 participating in state school choice scholarship programs
 949 pursuant to s. 1002.421.

950 (b) Provide to the eligible nonprofit scholarship-funding
 951 organization, upon request, all documentation required for the
 952 student's participation, including the private school's and

953 student's fee schedules.

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

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

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

966 3. Cooperating with the scholarship student whose parent
 967 chooses to participate in the statewide assessments pursuant to
 968 s. 1008.32.

969
 970 The inability of a private school to meet the requirements of
 971 this subsection shall constitute a basis for the ineligibility
 972 of the private school to participate in the scholarship program
 973 as determined by the Department of Education.

974 ~~(a) Demonstrate fiscal soundness by being in operation for~~
 975 ~~one school year or provide the Department of Education with a~~
 976 ~~statement by a certified public accountant confirming that the~~
 977 ~~nonpublic school desiring to participate is insured and the~~
 978 ~~owner or owners have sufficient capital or credit to operate the~~
 979 ~~school for the upcoming year serving the number of students~~
 980 ~~anticipated with expected revenues from tuition and other~~

981 ~~sources that may be reasonably expected. In lieu of such a~~
 982 ~~statement, a surety bond or letter of credit for the amount~~
 983 ~~equal to the scholarship funds for any quarter may be filed with~~
 984 ~~the department.~~

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

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

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

990 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.--The Department
 991 of Education shall:

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

995 (b) Annually verify the eligibility of nonprofit
 996 scholarship-funding organizations that meet the requirements of
 997 paragraph (2)(c).

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

1000 (d) Annually verify the eligibility of expenditures as
 1001 provided in paragraph (6)(d) using the audit required by
 1002 paragraph (6)(1).

1003 (e) Establish a toll-free hotline that provides parents
 1004 and private schools with information on participation in the
 1005 scholarship program.

1006 (f) Establish a process by which individuals may notify
 1007 the Department of Education of any violation by a parent,
 1008 private school, or school district of state laws relating to

1009 program participation. The Department of Education shall conduct
 1010 an inquiry of any written complaint of a violation of this
 1011 section, or make a referral to the appropriate agency for an
 1012 investigation, if the complaint is signed by the complainant and
 1013 is legally sufficient. A complaint is legally sufficient if it
 1014 contains ultimate facts that show that a violation of this
 1015 section or any rule adopted by the State Board of Education has
 1016 occurred. In order to determine legal sufficiency, the
 1017 Department of Education may require supporting information or
 1018 documentation from the complainant. A department inquiry is not
 1019 subject to the requirements of chapter 120.

1020 (g) Require an annual, notarized, sworn compliance
 1021 statement by participating private schools certifying compliance
 1022 with state laws and shall retain such records.

1023 (h) Cross-check the list of participating scholarship
 1024 students with the public school enrollment lists to avoid
 1025 duplication.

1026 (i) In accordance with State Board of Education rule,
 1027 identify and select the nationally norm-referenced tests that
 1028 are comparable to the norm-referenced provisions of the Florida
 1029 Comprehensive Assessment Test (FCAT) provided that the FCAT may
 1030 be one of the tests selected. However, the Department of
 1031 Education may approve the use of an additional assessment by the
 1032 school if the assessment meets industry standards of quality and
 1033 comparability.

1034 (j) Select an independent research organization, which may
 1035 be a public or private entity or university, to which
 1036 participating private schools must report the scores of

1037 participating students on the nationally norm-referenced tests
 1038 administered by the private school. The independent research
 1039 organization must annually report to the Department of Education
 1040 on the year-to-year improvements of participating students. The
 1041 independent research organization must analyze and report
 1042 student performance data in a manner that protects the rights of
 1043 students and parents as mandated in 20 U.S.C. s. 1232g, the
 1044 Family Educational Rights and Privacy Act, and must not
 1045 disaggregate data to a level that will disclose the academic
 1046 level of individual students or of individual schools. To the
 1047 extent possible, the independent research organization must
 1048 accumulate historical performance data on students from the
 1049 Department of Education and private schools to describe baseline
 1050 performance and to conduct longitudinal studies. To minimize
 1051 costs and reduce time required for third-party analysis and
 1052 evaluation, the Department of Education shall conduct analyses
 1053 of matched students from public school assessment data and
 1054 calculate control group learning gains using an agreed-upon
 1055 methodology outlined in the contract with the third-party
 1056 evaluator. The sharing of student data must be in accordance
 1057 with requirements of 20 U.S.C. s. 1232g, the Family Educational
 1058 Rights and Privacy Act, and shall be for the sole purpose of
 1059 conducting the evaluation. All parties must preserve the
 1060 confidentiality of such information as required by law.

1061 (k) Notify an eligible nonprofit scholarship-funding
 1062 organization of any of the organization's identified students
 1063 who are receiving educational scholarships pursuant to chapter
 1064 1002.

1065 (l) Notify an eligible nonprofit scholarship-funding
 1066 organization of any of the organization's identified students
 1067 who are receiving corporate income tax credit scholarships from
 1068 other eligible nonprofit scholarship-funding organizations.

1069 (m) Require quarterly reports by an eligible nonprofit
 1070 scholarship-funding organization regarding the number of
 1071 students participating in the scholarship program, the private
 1072 schools at which the students are enrolled, and other
 1073 information deemed necessary by the Department of Education.

1074 (10) COMMISSIONER OF EDUCATION AUTHORITY AND
 1075 OBLIGATIONS.--

1076 (a) The Commissioner of Education shall deny, suspend, or
 1077 revoke a private school's participation in the scholarship
 1078 program if it is determined that the private school has failed
 1079 to comply with the provisions of this section. However, in
 1080 instances in which the noncompliance is correctable within a
 1081 reasonable amount of time and in which the health, safety, and
 1082 welfare of the students are not threatened, the commissioner may
 1083 issue a notice of noncompliance that shall provide the private
 1084 school with a timeframe within which to provide evidence of
 1085 compliance prior to taking action to suspend or revoke the
 1086 private school's participation in the scholarship program.

1087 (b) The commissioner's determination is subject to the
 1088 following:

1089 1. If the commissioner intends to deny, suspend, or revoke
 1090 a private school's participation in the scholarship program, the
 1091 Department of Education shall notify the private school of such
 1092 proposed action in writing by certified mail and regular mail to

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1093 the private school's address of record with the Department of
 1094 Education. The notification shall include the reasons for the
 1095 proposed action and notice of the timelines and procedures set
 1096 forth in this paragraph.

1097 2. The private school that is adversely affected by the
 1098 proposed action shall have 15 days from receipt of the notice of
 1099 proposed action to file with the Department of Education's
 1100 agency clerk a request for a proceeding pursuant to ss. 120.569
 1101 and 120.57. If the private school is entitled to a hearing under
 1102 s. 120.57(1), the Department of Education shall forward the
 1103 request to the Division of Administrative Hearings.

1104 3. Upon receipt of a request referred pursuant to this
 1105 paragraph, the director of the Division of Administrative
 1106 Hearings shall expedite the hearing and assign an administrative
 1107 law judge who shall commence a hearing within 30 days after the
 1108 receipt of the formal written request by the division and enter
 1109 a recommended order within 30 days after the hearing or within
 1110 30 days after receipt of the hearing transcript, whichever is
 1111 later. Each party shall be allowed 10 days in which to submit
 1112 written exceptions to the recommended order. A final order shall
 1113 be entered by the agency within 30 days after the entry of a
 1114 recommended order. The provisions of this subparagraph may be
 1115 waived upon stipulation by all parties.

1116 (c) The commissioner may immediately suspend payment of
 1117 scholarship funds if it is determined that there is probable
 1118 cause to believe that there is:

1119 1. An imminent threat to the health, safety, and welfare
 1120 of the students; or

1121 2. Fraudulent activity on the part of the private school.

1122
 1123 The commissioner's order suspending payment pursuant to this
 1124 paragraph may be appealed pursuant to the same procedures and
 1125 timelines as the notice of proposed action set forth in
 1126 paragraph (b).

1127 (11) SCHOLARSHIP AMOUNT AND PAYMENT.--

1128 (a) The amount of a scholarship provided to any student
 1129 for any single school year by an eligible nonprofit scholarship-
 1130 funding organization from eligible contributions shall not
 1131 exceed the following annual limits:

1132 1. Three thousand seven hundred fifty dollars for a
 1133 scholarship awarded to a student enrolled in an eligible private
 1134 school.

1135 2. Five hundred dollars for a scholarship awarded to a
 1136 student enrolled in a Florida public school that is located
 1137 outside the district in which the student resides or in a lab
 1138 school as defined in s. 1002.32.

1139 (b) Payment of the scholarship by the eligible nonprofit
 1140 scholarship-funding organization shall be by individual warrant
 1141 made payable to the student's parent. If the parent chooses for
 1142 his or her child to attend an eligible private school, the
 1143 warrant must be delivered by the eligible nonprofit scholarship-
 1144 funding organization to the private school of the parent's
 1145 choice, and the parent shall restrictively endorse the warrant to
 1146 the private school. An eligible nonprofit scholarship-funding
 1147 organization shall ensure that the parent to whom the warrant is

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1148 made restrictively endorsed the warrant to the private school for
 1149 deposit into the account of the private school.

1150 (c) An eligible nonprofit scholarship-funding organization
 1151 shall obtain verification from the private school of a student's
 1152 continued attendance at the school prior to each scholarship
 1153 payment.

1154 (d) Payment of the scholarship shall be made by the
 1155 eligible nonprofit scholarship-funding organization no less
 1156 frequently than on a quarterly basis.

1157 ~~(12)(7)~~ ADMINISTRATION; RULES.--

1158 (a) If the credit granted pursuant to this section is not
 1159 fully used in any one year because of insufficient tax liability
 1160 on the part of the corporation, the unused amount may be carried
 1161 forward for a period not to exceed 3 years; however, any
 1162 taxpayer that seeks to carry forward an unused amount of tax
 1163 credit must submit an application for allocation of tax credits
 1164 or carryforward credits as required in paragraph (d) in the year
 1165 that the taxpayer intends to use the carryforward ~~carry forward~~.
 1166 ~~The total amount of tax credits and carryforward of tax credits~~
 1167 ~~granted each state fiscal year under this section is \$88~~
 1168 ~~million.~~ This carryforward applies to all approved contributions
 1169 made after January 1, 2002. A taxpayer may not convey, assign,
 1170 or transfer the credit authorized by this section to another
 1171 entity unless all of the assets of the taxpayer are conveyed,
 1172 assigned, or transferred in the same transaction.

1173 (b) An application for a tax credit pursuant to this
 1174 section shall be submitted to the department on forms
 1175 established by rule of the department.

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1176 (c) The department and the Department of Education shall
 1177 develop a cooperative agreement to assist in the administration
 1178 of this section. ~~The Department of Education shall be~~
 1179 ~~responsible for annually submitting, by March 15, to the~~
 1180 ~~department a list of eligible nonprofit scholarship funding~~
 1181 ~~organizations that meet the requirements of paragraph (2) (d) and~~
 1182 ~~for monitoring eligibility of nonprofit scholarship funding~~
 1183 ~~organizations that meet the requirements of paragraph (2) (d),~~
 1184 ~~eligibility of nonpublic schools that meet the requirements of~~
 1185 ~~paragraph (2) (c), and eligibility of expenditures under this~~
 1186 ~~section as provided in subsection (4).~~

1187 (d) The department shall adopt rules necessary to
 1188 administer this section, including rules establishing
 1189 application forms and procedures and governing the allocation of
 1190 tax credits and carryforward credits under this section on a
 1191 first-come, first-served basis.

1192 (e) The State Board ~~Department~~ of Education shall adopt
 1193 rules pursuant to ss. 120.536(1) and 120.54 ~~necessary~~ to
 1194 administer this section as it relates to the roles of the
 1195 Department of Education and the Commissioner of Education
 1196 ~~determine eligibility of nonprofit scholarship funding~~
 1197 ~~organizations as defined in paragraph (2) (d) and according to~~
 1198 ~~the provisions of subsection (4) and identify qualified students~~
 1199 ~~as defined in paragraph (2) (e).~~

1200 (13)-(8) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--All eligible
 1201 contributions received by an eligible nonprofit scholarship-
 1202 funding organization shall be deposited in a manner consistent
 1203 with s. 17.57(2).

1204 Section 3. Section 1002.421, Florida Statutes, is created
 1205 to read:

1206 1002.421 Rights and obligations of private schools
 1207 participating in state school choice scholarship programs.--

1208 (1) A Florida private school participating in the
 1209 Corporate Income Tax Credit Scholarship Program established
 1210 pursuant to s. 220.187 or an educational scholarship program
 1211 established pursuant to this chapter must comply with all
 1212 requirements of this section in addition to private school
 1213 requirements outlined in s. 1002.42, specific requirements
 1214 identified within respective scholarship program laws, and other
 1215 provisions of Florida law that apply to private schools.

1216 (2) A private school participating in a scholarship
 1217 program must be a Florida private school as defined in s.
 1218 1002.01(2), must be registered in accordance with s. 1002.42,
 1219 and must:

1220 (a) Comply with antidiscrimination provisions of 42 U.S.C.
 1221 s. 2000d.

1222 (b) Notify the department of its intent to participate in
 1223 a scholarship program.

1224 (c) Notify the department of any change in the school's
 1225 name, school director, mailing address, or physical location
 1226 within 15 days after the change.

1227 (d) Complete student enrollment and attendance
 1228 verification requirements, including use of an on-line
 1229 attendance verification form, prior to scholarship payment.

1230 (e) Annually complete and submit to the department a
 1231 notarized scholarship compliance statement certifying that all

1232 school employees and contracted personnel with direct student
 1233 contact have undergone background screening pursuant to s.
 1234 943.0542.

1235 (f) Demonstrate fiscal soundness and accountability by:

1236 1. Being in operation for at least 3 school years or
 1237 obtaining a surety bond or letter of credit for the amount equal
 1238 to the scholarship funds for any quarter and filing the surety
 1239 bond or letter of credit with the department.

1240 2. Requiring the parent of each scholarship student to
 1241 personally restrictively endorse the scholarship warrant to the
 1242 school. The school may not act as attorney in fact for the
 1243 parent of a scholarship student under the authority of a power
 1244 of attorney executed by such parent, or under any other
 1245 authority, to endorse scholarship warrants on behalf of such
 1246 parent.

1247 (g) Meet applicable state and local health, safety, and
 1248 welfare laws, codes, and rules, including:

- 1249 1. Fire safety.
- 1250 2. Building safety.

1251 (h) Employ or contract with teachers who hold
 1252 baccalaureate or higher degrees, have at least 3 years of
 1253 teaching experience in public or private schools, or have
 1254 special skills, knowledge, or expertise that qualifies them to
 1255 provide instruction in subjects taught.

1256 (i) Require each employee and contracted personnel with
 1257 direct student contact to undergo a state and national
 1258 background screening, pursuant to s. 943.0542, by electronically
 1259 filing with the Department of Law Enforcement a complete set of

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1260 fingerprints taken by an authorized law enforcement agency or an
1261 employee of the private school, a school district, or a private
1262 company who is trained to take fingerprints and to be denied
1263 employment or terminated if he or she fails to meet the
1264 screening standards under s. 435.04. Results of the screening
1265 shall be provided to the participating private school. For
1266 purposes of this paragraph:

1267 1. An "employee or contracted personnel with direct
1268 student contact" means any employee or contracted personnel who
1269 has unsupervised access to a scholarship student for whom the
1270 private school is responsible.

1271 2. The costs of fingerprinting and the background check
1272 shall not be borne by the state.

1273 3. Continued employment of an employee or contracted
1274 personnel after notification that he or she has failed the
1275 background screening under this paragraph shall cause a private
1276 school to be ineligible for participation in a scholarship
1277 program.

1278 4. An employee or contracted personnel holding a valid
1279 Florida teaching certificate who has been fingerprinted pursuant
1280 to s. 1012.32 shall not be required to comply with the
1281 provisions of this paragraph.

1282 (3) (a) Beginning July 1, 2007, all fingerprints submitted
1283 to the Department of Law Enforcement as required by this section
1284 shall be retained by the Department of Law Enforcement in a
1285 manner provided by rule and entered in the statewide automated
1286 fingerprint identification system authorized by s. 943.05(2)(b).
1287 Such fingerprints shall thereafter be available for all purposes

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1288 and uses authorized for arrest fingerprint cards entered in the
1289 statewide automated fingerprint identification system pursuant
1290 to s. 943.051.

1291 (b) Beginning July 1, 2007, the Department of Law
1292 Enforcement shall search all arrest fingerprint cards received
1293 under s. 943.051 against the fingerprints retained in the
1294 statewide automated fingerprint identification system under
1295 paragraph (a). Any arrest record that is identified with the
1296 retained fingerprints of a person subject to the background
1297 screening under this section shall be reported to the employing
1298 school with which the person is affiliated. Each private school
1299 participating in a scholarship program is required to
1300 participate in this search process by informing the Department
1301 of Law Enforcement of any change in the employment or
1302 contractual status of its personnel whose fingerprints are
1303 retained under paragraph (a). The Department of Law Enforcement
1304 shall adopt a rule setting the amount of the annual fee to be
1305 imposed upon each private school for performing these searches
1306 and establishing the procedures for the retention of private
1307 school employee and contracted personnel fingerprints and the
1308 dissemination of search results. The fee may be borne by the
1309 private school or the person fingerprinted.

1310 (c) Employees and contracted personnel whose fingerprints
1311 are not retained by the Department of Law Enforcement under
1312 paragraphs (a) and (b) are required to be refingerprinted and
1313 must meet state and national background screening requirements
1314 upon reemployment or reengagement to provide services in order
1315 to comply with the requirements of this section.

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1316 (d) Every 5 years following employment or engagement to
1317 provide services with a private school, employees or contracted
1318 personnel required to be screened under this section must meet
1319 screening standards under s. 435.04, at which time the private
1320 school shall request the Department of Law Enforcement to
1321 forward the fingerprints to the Federal Bureau of Investigation
1322 for national processing. If the fingerprints of employees or
1323 contracted personnel are not retained by the Department of Law
1324 Enforcement under paragraph (a), employees and contracted
1325 personnel must electronically file a complete set of
1326 fingerprints with the Department of Law Enforcement. Upon
1327 submission of fingerprints for this purpose, the private school
1328 shall request that the Department of Law Enforcement forward the
1329 fingerprints to the Federal Bureau of Investigation for national
1330 processing, and the fingerprints shall be retained by the
1331 Department of Law Enforcement under paragraph (a).

1332 (4) The inability of a private school to meet the
1333 requirements of this section shall constitute a basis for the
1334 ineligibility of the private school to participate in a
1335 scholarship program as determined by the department.

1336 (5) The inclusion of eligible private schools within
1337 options available to Florida public school students does not
1338 expand the regulatory authority of the state, its officers, or
1339 any school district to impose any additional regulation of
1340 private schools beyond those reasonably necessary to enforce
1341 requirements expressly set forth in this section.

1342 (6) The State Board of Education shall adopt rules
1343 pursuant to ss. 120.536(1) and 120.54 to administer this

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1344 | section.

1345 | Section 4. This act shall take effect July 1, 2006.