

Bill No. HB 7145, 1st Eng.

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	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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Senator Webster moved the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 1008.3455, Florida Statutes, is created to read:

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

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

(2) In coordination with the responsibilities

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1 prescribed in s. 1008.345, the Commissioner of Education shall
 2 develop and submit to the President of the Senate and the
 3 Speaker of the House of Representatives, no later than
 4 February 1, 2008, a multifaceted program of policies and
 5 practices targeted specifically toward schools in the "F"
 6 grade category under s. 1008.34.

7 (a) At a minimum, the program must include an
 8 assessment of the extent to which new policies, or
 9 enhancements to existing policies, in the following areas
 10 would facilitate improvement at these schools:

- 11 1. Capital improvements to school facilities;
- 12 2. Salaries for teachers and staff;
- 13 3. Incentives for outstanding faculty and staff to
 14 transfer to these schools;
- 15 4. Equipment and supplies;
- 16 5. Technology infrastructure, hardware, or software;
- 17 6. Incentives to encourage parental or other family
 18 participation; and
- 19 7. Mentoring and other community participation.

20 (b) The program must include a suggested order of
 21 priority and timeline for enacting, funding, and implementing
 22 policies and practices over a 5-year period. The program
 23 shall identify those elements of the program which can be
 24 accomplished within existing statutory authority and those
 25 elements that will require new statutory authority. The
 26 program must include specific recommendations for action by
 27 the Legislature.

28 (3)(a) To assist in development and implementation of
 29 the program required by this section, the commissioner shall
 30 create an advisory committee comprised of at least two
 31 teachers, two staff persons, and two parents of students from

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1 one or more schools that are failing to make adequate progress
2 based on the school performance grading categories, as well as
3 any other individuals the commissioner deems appropriate.

4 (b) In developing and implementing the program, the
5 commissioner shall consult with:

6 1. The Office of Program Policy Analysis and
7 Government Accountability; and

8 2. The district community assessment teams assigned
9 under s. 1008.345.

10 (4) The program shall be developed in coordination
11 with, and shall be consistent with, other strategic planning
12 initiatives of the Department of Education or the State Board
13 of Education.

14 (5) The commissioner shall report annually to the
15 Governor, the President of the Senate, and the Speaker of the
16 House of Representatives on implementation of the program.

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

19 220.187 Credits for contributions to nonprofit
20 scholarship-funding organizations; families that have limited
21 financial resources.--

22 (1) FINDINGS AND PURPOSE.--

23 (a) The Legislature finds that:

24 1. It has the inherent power to determine subjects of
25 taxation for general or particular public purposes.

26 2. Expanding educational opportunities and improving
27 the quality of educational services within the state are valid
28 public purposes that the Legislature may promote using its
29 sovereign power to determine subjects of taxation and
30 exemptions from taxation.

31 3. Ensuring that all parents, regardless of means, may

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1 exercise and enjoy their basic right to educate their children
2 as they see fit is a valid public purpose that the Legislature
3 may promote using its sovereign power to determine subjects of
4 taxation and exemptions from taxation.

5 4. The existence of programs that provide expanded
6 educational opportunities in this state has not been shown to
7 reduce funding to or otherwise harm public schools within the
8 state, and, to the contrary, per-student funding in public
9 schools has risen each year since the first inception of those
10 programs in 1999.

11 5. Expanded educational opportunities and the healthy
12 competition they promote are critical to improving the quality
13 of education in the state and to ensuring that all children
14 receive the high-quality education to which they are entitled.

15 (b) The purpose of this section is to:

16 1.(a) Enable taxpayers to make ~~Encourage~~ private,
17 voluntary contributions to nonprofit scholarship-funding
18 organizations in order to promote the general welfare.

19 2.(b) Promote the general welfare by expanding ~~Expand~~
20 educational opportunities for children of families that have
21 limited financial resources.

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

24 4. Provide taxpayers who wish to help parents having
25 limited resources exercise their basic right to educate their
26 children as they see fit with a means to do so.

27 5. Improve the quality of education in this state,
28 both by expanding educational opportunities for children and
29 by creating incentives for schools to achieve excellence.

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

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

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

7 (c) "Eligible nonprofit scholarship-funding
 8 organization" means a charitable organization that:

9 1. Is exempt from federal income tax pursuant to s.
 10 501(c)(3) of the Internal Revenue Code;

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

14 3. Complies with the provisions of subsection (6).

15 (d) "Eligible private school" means a private school,
 16 as defined in s. 1002.01(2), located in Florida which offers
 17 an education to students in any grades K-12 and that meets the
 18 requirements in subsection (8).

19 (e) "Owner or operator" includes:

20 1. An owner, president, officer, or director of an
 21 eligible nonprofit scholarship-funding organization or a
 22 person with equivalent decisionmaking authority over an
 23 eligible nonprofit scholarship-funding organization.

24 2. An owner, operator, superintendent, or principal of
 25 an eligible private school or a person with equivalent
 26 decisionmaking authority over an eligible private school.

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

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

4 (b) Received a scholarship from an eligible nonprofit
5 scholarship-funding organization or from the State of Florida
6 during the previous school year; or

7 (c) Is eligible to enter kindergarten or first grade.

8
9 Contingent upon available funds, a student may continue in the
10 scholarship program as long as the student's family income
11 level does not exceed 200 percent of the federal poverty
12 level. A sibling of a student who is continuing in the program
13 and resides in the same household as the student shall also be
14 eligible as a first-time corporate income tax credit
15 scholarship recipient as long as the student's and sibling's
16 family income level does not exceed 200 percent of the federal
17 poverty level.

18 (4) SCHOLARSHIP PROHIBITIONS.--A student is not
19 eligible for a scholarship while he or 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 scholarship from another eligible
24 nonprofit scholarship-funding organization under this section;

25 (c) Receiving an educational scholarship pursuant to
26 chapter 1002;

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 (f) Participating in a virtual school, correspondence

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1 school, or distance learning program that receives state
 2 funding pursuant to the student's participation unless the
 3 participation is limited to no more than two courses per
 4 school year; or

5 (g) Enrolled in the Florida School for the Deaf and
 6 the Blind.

7 (5) AUTHORIZATION TO GRANT SCHOLARSHIP FUNDING TAX
 8 CREDITS; LIMITATIONS ON INDIVIDUAL AND TOTAL CREDITS.--

9 (a) There is allowed a credit of 100 percent of an
 10 eligible contribution against any tax due for a taxable year
 11 under this chapter. However, such a credit may not exceed 75
 12 percent of the tax due under this chapter for the taxable
 13 year, after the application of any other allowable credits by
 14 the taxpayer. The credit granted by this section shall be
 15 reduced by the difference between the amount of federal
 16 corporate income tax taking into account the credit granted by
 17 this section and the amount of federal corporate income tax
 18 without application of the credit granted by this section.

19 (b) The total amount of tax credits and carryforward
 20 of tax credits which may be granted each state fiscal year
 21 under this section is \$88 million. At least 1 percent of the
 22 total statewide amount authorized for the tax credit shall be
 23 reserved for taxpayers who meet the definition of a small
 24 business provided in s. 288.703(1) at the time of application.

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

30 (d) Effective for tax years beginning January 1, 2006,
 31 a taxpayer may rescind all or part of its allocated tax credit

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

13 (6) OBLIGATIONS OF ELIGIBLE NONPROFIT
 14 SCHOLARSHIP-FUNDING ORGANIZATIONS.--An eligible nonprofit
 15 scholarship-funding organization:

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

18 (b) Must comply with the following background check
 19 requirements:

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

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1 Education for screening under chapter 435. The cost of the
2 background screening may be borne by the eligible nonprofit
3 scholarship-funding organization or the owner or operator.

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

21 3. Beginning July 1, 2007, all fingerprints submitted
22 to the Department of Law Enforcement as required by this
23 paragraph must be retained by the Department of Law
24 Enforcement in a manner approved by rule and entered in the
25 statewide automated fingerprint identification system
26 authorized by s. 943.05(2)(b). The fingerprints must
27 thereafter be available for all purposes and uses authorized
28 for arrest fingerprint cards entered in the statewide
29 automated fingerprint identification system pursuant to s.
30 943.051.

31 4. Beginning July 1, 2007, the Department of Law

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

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

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

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

30 (d) Must provide scholarships, from eligible
 31 contributions, to eligible students for:

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1 1. Tuition, ~~or~~ textbook expenses, or registration fees
 2 for, or transportation to, an eligible private school. The
 3 amount of the scholarship shall be the maximum allowed by law
 4 or the amount of the private school's textbook expenses and
 5 published tuition and registration fees, whichever is less; ~~At~~
 6 ~~least 75 percent of the scholarship funding must be used to~~
 7 ~~pay tuition expenses;~~ or

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

11 (e) Must give priority to eligible students who
 12 received a scholarship from an eligible nonprofit
 13 scholarship-funding organization or from the State of Florida
 14 during the previous school year or who received an opportunity
 15 scholarship under former s. 1002.38 during the final quarter
 16 of the 2006-2007 school year.

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

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

23 (h) Must allow an eligible student to attend any
 24 eligible private school and must allow a parent to transfer a
 25 scholarship during a school year to any other eligible private
 26 school of the parent's choice.

27 (i) Must expend for annual or partial-year
 28 scholarships an amount equal to or greater than 75 percent of
 29 the eligible contributions received during the fiscal year
 30 such contributions are collected. No more than 25 percent of
 31 such eligible contributions may be carried forward to the

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1 succeeding fiscal year. Any amounts carried forward shall be
 2 expended for ~~obligate, in the same fiscal year in which the~~
 3 ~~contribution was received, 100 percent of the eligible~~
 4 ~~contribution to provide~~ annual or partial-year scholarships+
 5 ~~however, up to 25 percent of the total contribution may be~~
 6 ~~carried forward for expenditure~~ in the following ~~state~~ fiscal
 7 year. A scholarship-funding organization must, before granting
 8 a scholarship for an academic year, document each scholarship
 9 student's eligibility for that academic year. A
 10 scholarship-funding organization may not grant multiyear
 11 scholarships in one approval process. No portion of eligible
 12 contributions may be used for administrative expenses. All
 13 interest accrued from contributions must be used for
 14 scholarships.

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

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

30 (l) Must provide to the Auditor General and the
 31 Department of Education an annual financial and compliance

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

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

20
 21 Any and all information and documentation provided to the
 22 Department of Education and the Auditor General relating to
 23 the identity of a taxpayer that provides an eligible
 24 contribution under this section shall remain confidential at
 25 all times in accordance with s. 213.053.

26 (7) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
 27 PARTICIPATION.--

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

30 (b) The parent must inform the child's school district
 31 when the parent withdraws his or her child to attend an

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1 eligible private school.

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

5 (d) Each parent and each student has an obligation to
6 the private school to comply with the private school's
7 published policies.

8 (e) The parent shall ensure that the student
9 participating in the scholarship program takes the
10 norm-referenced assessment offered by the private school. The
11 parent may also choose to have the student participate in the
12 statewide assessments pursuant to s. 1008.22. If the parent
13 requests that the student participating in the scholarship
14 program take statewide assessments pursuant to s. 1008.22, the
15 parent is responsible for transporting the student to the
16 assessment site designated by the school district.

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

26 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.--An
27 eligible private school may be sectarian or nonsectarian and
28 must:

29 (a) Comply with all requirements for private schools
30 participating in state school choice scholarship programs
31 pursuant to s. 1002.421.

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1 (b) Provide to the eligible nonprofit
 2 scholarship-funding organization, upon request, all
 3 documentation required for the student's participation,
 4 including the private school's and student's fee schedules.

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

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

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

18 3. Cooperating with the scholarship student whose
 19 parent chooses to participate in the statewide assessments
 20 pursuant to s. 1008.32.

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

24
 25 The inability of a private school to meet the requirements of
 26 this subsection shall constitute a basis for the ineligibility
 27 of the private school to participate in the scholarship
 28 program as determined by the Department of Education.

29 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.--The
 30 Department of Education shall:

31 (a) Annually submit to the department, by March 15, a

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1 list of eligible nonprofit scholarship-funding organizations
2 that meet the requirements of paragraph (2)(c).

3 (b) Annually verify the eligibility of nonprofit
4 scholarship-funding organizations that meet the requirements
5 of paragraph (2)(c).

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

8 (d) Annually verify the eligibility of expenditures as
9 provided in paragraph (6)(d) using the audit required by
10 paragraph (6)(1).

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

14 (f) Establish a process by which individuals may
15 notify the Department of Education of any violation by a
16 parent, private school, or school district of state laws
17 relating to program participation. The Department of Education
18 shall conduct an inquiry of any written complaint of a
19 violation of this section, or make a referral to the
20 appropriate agency for an investigation, if the complaint is
21 signed by the complainant and is legally sufficient. A
22 complaint is legally sufficient if it contains ultimate facts
23 that show that a violation of this section or any rule adopted
24 by the State Board of Education has occurred. In order to
25 determine legal sufficiency, the Department of Education may
26 require supporting information or documentation from the
27 complainant. A department inquiry is not subject to the
28 requirements of chapter 120.

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

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1 (h) Cross-check the list of participating scholarship
2 students with the public school enrollment lists to avoid
3 duplication.

4 (i) In accordance with State Board of Education rule,
5 identify and select the nationally norm-referenced tests that
6 are comparable to the norm-referenced provisions of the
7 Florida Comprehensive Assessment Test (FCAT) provided that the
8 FCAT may be one of the tests selected. However, the Department
9 of Education may approve the use of an additional assessment
10 by the school if the assessment meets industry standards of
11 quality and comparability.

12 (j) Select an independent research organization, which
13 may be a public or private entity or university, to which
14 participating private schools must report the scores of
15 participating students on the nationally norm-referenced tests
16 administered by the private school. The independent research
17 organization must annually report to the Department of
18 Education on the year-to-year improvements of participating
19 students. The independent research organization must analyze
20 and report student performance data in a manner that protects
21 the rights of students and parents as mandated in 20 U.S.C. s.
22 1232g, the Family Educational Rights and Privacy Act, and must
23 not disaggregate data to a level that will disclose the
24 academic level of individual students or of individual
25 schools. To the extent possible, the independent research
26 organization must accumulate historical performance data on
27 students from the Department of Education and private schools
28 to describe baseline performance and to conduct longitudinal
29 studies. To minimize costs and reduce time required for
30 third-party analysis and evaluation, the Department of
31 Education shall conduct analyses of matched students from

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1 public school assessment data and calculate control group
 2 learning gains using an agreed-upon methodology outlined in
 3 the contract with the third-party evaluator. The sharing of
 4 student data must be in accordance with requirements of 20
 5 U.S.C. s. 1232g, the Family Educational Rights and Privacy
 6 Act, and shall be for the sole purpose of conducting the
 7 evaluation. All parties must preserve the confidentiality of
 8 such information as required by law.

9 (k) Notify an eligible nonprofit scholarship-funding
 10 organization of any of the organization's identified students
 11 who are receiving educational scholarships pursuant to chapter
 12 1002.

13 (l) Notify an eligible nonprofit scholarship-funding
 14 organization of any of the organization's identified students
 15 who are receiving corporate income tax credit scholarships
 16 from other eligible nonprofit scholarship-funding
 17 organizations.

18 (m) Require quarterly reports by an eligible nonprofit
 19 scholarship-funding organization regarding the number of
 20 students participating in the scholarship program, the private
 21 schools at which the students are enrolled, and other
 22 information deemed necessary by the Department of Education.

23 (n)1. Conduct random site visits to private schools
 24 participating in the Corporate Tax Credit Scholarship Program.
 25 The purpose of the site visits is solely to verify the
 26 information reported by the schools concerning the enrollment
 27 and attendance of students, the credentials of teachers,
 28 background screening of teachers, and teachers' fingerprinting
 29 results. The Department of Education may not make more than
 30 seven random site visits each year and may not make more than
 31 one random site visit each year to the same private school.

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

12 (10) COMMISSIONER OF EDUCATION AUTHORITY AND
13 OBLIGATIONS.--

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

26 (b) The commissioner's determination is subject to the
27 following:

28 1. If the commissioner intends to deny, suspend, or
29 revoke a private school's participation in the scholarship
30 program, the Department of Education shall notify the private
31 school of such proposed action in writing by certified mail

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1 and regular mail to the private school's address of record
 2 with the Department of Education. The notification shall
 3 include the reasons for the proposed action and notice of the
 4 timelines and procedures set forth in this paragraph.

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

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

26 (c) The commissioner may immediately suspend payment
 27 of scholarship funds if it is determined that there is
 28 probable cause to believe that there is:

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

31 2. Fraudulent activity on the part of the private

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1 school. Notwithstanding s. 1002.22(3), in incidents of alleged
 2 fraudulent activity pursuant to this section, the Department
 3 of Education's Office of Inspector General is authorized to
 4 release personally identifiable records or reports of students
 5 to the following persons or organizations:

6 a. A court of competent jurisdiction in compliance
 7 with an order of that court or the attorney of record in
 8 accordance with a lawfully issued subpoena, consistent with
 9 the Family Educational Rights and Privacy Act, 20 U.S.C. s.
 10 1232g.

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

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

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

28 (11) SCHOLARSHIP AMOUNT AND PAYMENT.--

29 (a) The amount of a scholarship provided to any
 30 student for any single school year by an eligible nonprofit
 31 scholarship-funding organization from eligible contributions

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1 shall not exceed the following annual limits:

2 1. Three thousand seven hundred fifty dollars for a
3 scholarship awarded to a student enrolled in kindergarten
4 through grade 5 in an eligible private school.

5 2. Four thousand dollars for a scholarship awarded to
6 a student enrolled in grades 6 through 8 in an eligible
7 private school.

8 3. Four thousand two hundred fifty dollars for a
9 scholarship awarded to a student enrolled in grades 9 through
10 12 in an eligible private school.

11 ~~4.2.~~ Five hundred dollars for a scholarship awarded to
12 a student enrolled in a Florida public school that is located
13 outside the district in which the student resides or in a lab
14 school as defined in s. 1002.32.

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

27 (c) An eligible nonprofit scholarship-funding
28 organization shall obtain verification from the private school
29 of a student's continued attendance at the school for ~~prior to~~
30 each period covered by a scholarship payment.

31 (d) Payment of the scholarship shall be made by the

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1 eligible nonprofit scholarship-funding organization no less
2 frequently than on a quarterly basis.

3 (12) ADMINISTRATION; RULES.--

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

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

21 (c) The department and the Department of Education
22 shall develop a cooperative agreement to assist in the
23 administration of this section.

24 (d) The department shall adopt rules necessary to
25 administer this section, including rules establishing
26 application forms and procedures and governing the allocation
27 of tax credits and carryforward credits under this section on
28 a first-come, first-served basis.

29 (e) The State Board of Education shall adopt rules
30 pursuant to ss. 120.536(1) and 120.54 to administer this
31 section as it relates to the roles of the Department of

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1 Education and the Commissioner of Education.

2 (13) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--All eligible
3 contributions received by an eligible nonprofit
4 scholarship-funding organization shall be deposited in a
5 manner consistent with s. 17.57(2).

6 (14) PRESERVATION OF CREDIT.--If any provision or
7 portion of subsection (5) or the application thereof to any
8 person or circumstance is held unconstitutional by any court,
9 or is otherwise invalid, the unconstitutionality or invalidity
10 shall not affect any credit earned under subsection (5) by any
11 taxpayer with respect to any contribution paid to an eligible
12 nonprofit scholarship-funding organization before the date of
13 a determination of unconstitutionality or invalidity. Such
14 credit shall be allowed at such time and in such a manner as
15 if a determination of unconstitutionality or invalidity had
16 not been made if nothing in this subsection by itself or in
17 combination with any other provision of law results in the
18 allowance of any credit to any taxpayer in excess of one
19 dollar of credit for each dollar paid to an eligible nonprofit
20 scholarship-funding organization.

21 Section 3. Section 220.701, Florida Statutes, is
22 amended to read:

23 220.701 Collection authority.--The department shall
24 collect the taxes imposed by this chapter and shall pay all
25 moneys received by it into the Corporate Income Tax Trust Fund
26 created under s. 220.7015. Unencumbered balances in this trust
27 fund shall be transferred monthly into the General Revenue
28 Fund of the state. However, such transferred funds shall not
29 be expended for programs established pursuant to Article IX of
30 the State Constitution.

31 Section 4. Subsection (13) of section 1001.10, Florida

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1 Statutes, is amended to read:

2 1001.10 Commissioner of Education; general powers and
3 duties.--The Commissioner of Education is the chief
4 educational officer of the state and the sole custodian of the
5 K-20 data warehouse, and is responsible for giving full
6 assistance to the State Board of Education in enforcing
7 compliance with the mission and goals of the seamless K-20
8 education system. To facilitate innovative practices and to
9 allow local selection of educational methods, the State Board
10 of Education may authorize the commissioner to waive, upon the
11 request of a district school board, State Board of Education
12 rules that relate to district school instruction and school
13 operations, except those rules pertaining to civil rights, and
14 student health, safety, and welfare. The Commissioner of
15 Education is not authorized to grant waivers for any
16 provisions in rule pertaining to the allocation and
17 appropriation of state and local funds for public education;
18 the election, compensation, and organization of school board
19 members and superintendents; graduation and state
20 accountability standards; financial reporting requirements;
21 reporting of out-of-field teaching assignments under s.
22 1012.42; public meetings; public records; or due process
23 hearings governed by chapter 120. No later than January 1 of
24 each year, the commissioner shall report to the Legislature
25 and the State Board of Education all approved waiver requests
26 in the preceding year. Additionally, the commissioner has the
27 following general powers and duties:

28 (13) To prepare and publish annually reports giving
29 statistics and other useful information pertaining to the tax
30 credit programs under s. 220.187 Opportunity Scholarship
31 Program.

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

Section 5. Subsection (18) of section 1001.42, Florida Statutes, is amended to read:

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

(18) CORPORATE INCOME TAX CREDIT SCHOLARSHIP PROGRAM; FAMILIES OF STUDENTS ATTENDING FAILING SCHOOLS OPPORTUNITY SCHOLARSHIPS.--Adopt policies allowing students attending schools that have been designated with a grade of "F," failing to make adequate progress, for 2 school years in a 4-year period to attend a higher performing public school in the same district ~~or an adjoining district~~ or be granted a ~~state opportunity~~ scholarship to transport the student to a public school in an adjoining district or a scholarship to attend a private school, in conformance with s. 220.187 ~~s. 1002.38~~ and State Board of Education rule.

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

1002.20 K-12 student and parent rights.--Parents of public school students must receive accurate and timely information regarding their child's academic progress and must be informed of ways they can help their child to succeed in school. K-12 students and their parents are afforded numerous statutory rights including, but not limited to, the following:

(6) EDUCATIONAL CHOICE.--

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

18 (b) Private school choices.--Parents of public school
19 students may seek private school choice options under certain
20 programs.

21 1. Under the corporate income tax credit scholarship
22 program for families of students attending schools failing to
23 make adequate progress ~~Opportunity Scholarship Program~~, the
24 parent of a student in a failing public school may seek a
25 request and receive an opportunity scholarship from an
26 eligible nonprofit scholarship-funding organization for the
27 student to attend a private school in accordance with s.
28 220.187 ~~the provisions of s. 1002.38.~~

29 2. Under the McKay Scholarships for Students with
30 Disabilities Program, the parent of a public school student
31 with a disability who is dissatisfied with the student's

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1 progress may request and receive a McKay Scholarship for the
2 student to attend a private school in accordance with ~~the~~
3 ~~provisions of s. 1002.39.~~

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

11 (c) Home education.--The parent of a student may
12 choose to place the student in a home education program in
13 accordance with ~~the provisions of s. 1002.41.~~

14 (d) Private tutoring.--The parent of a student may
15 choose to place the student in a private tutoring program in
16 accordance with ~~the provisions of s. 1002.43(1).~~

17 Section 7. Section 1002.38, Florida Statutes, is
18 repealed.

19 Section 8. Section 1002.39, Florida Statutes, is
20 amended to read:

21 1002.39 The John M. McKay Scholarships for Students
22 with Disabilities Program.--There is established a program
23 that is ~~separate and distinct from the Opportunity Scholarship~~
24 ~~Program and is~~ named the John M. McKay Scholarships for
25 Students with Disabilities Program.

26 (1) THE JOHN M. MCKAY SCHOLARSHIPS FOR STUDENTS WITH
27 DISABILITIES PROGRAM.--The John M. McKay Scholarships for
28 Students with Disabilities Program is established to provide
29 the option to attend a public school other than the one to
30 which assigned, or to provide a scholarship to a private
31 school of choice, for students with disabilities for whom an

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1 individual education plan has been written in accordance with
 2 rules of the State Board of Education. Students with
 3 disabilities include K-12 students who are documented as
 4 having a mental handicap, including trainable, profound, or
 5 educable; a speech or language impairment; a hearing
 6 impairment, including deafness; a visual impairment, including
 7 blindness; a dual sensory impairment; a physical impairment; a
 8 serious emotional disturbance, including an emotional
 9 handicap; a specific learning disability, including, but not
 10 limited to, dyslexia, dyscalculia, or developmental aphasia; a
 11 traumatic brain injury; or autism.

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

18 (a) The student has spent the prior school year in
 19 attendance at a Florida public school or the Florida School
 20 for the Deaf and the Blind. Prior school year in attendance
 21 means that the student was:

22 1. Enrolled and reported by a school district for
 23 funding during the preceding October and February Florida
 24 Education Finance Program surveys in kindergarten through
 25 grade 12, which shall include time spent in a Department of
 26 Juvenile Justice commitment program if funded under the
 27 Florida Education Finance Program;

28 2. Enrolled and reported by the Florida School for the
 29 Deaf and the Blind during the preceding October and February
 30 student membership surveys in kindergarten through grade 12;

31 or

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

6
 7 However, a dependent child of a member of the United States
 8 Armed Forces who transfers to a school in this state from out
 9 of state or from a foreign country pursuant to a parent's
 10 permanent change of station orders is exempt from this
 11 paragraph but must meet all other eligibility requirements to
 12 participate in the program.

13 (b) The parent has obtained acceptance for admission
 14 of the student to a private school that is eligible for the
 15 program under subsection (8) and has requested from the
 16 department a scholarship at least 60 days prior to the date of
 17 the first scholarship payment. The request must be through a
 18 communication directly to the department in a manner that
 19 creates a written or electronic record of the request and the
 20 date of receipt of the request. The Department of Education
 21 must notify the district of the parent's intent upon receipt
 22 of the parent's request.

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

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

29 (b) Receiving a corporate income tax credit
 30 scholarship under s. 220.187;

31 (c) Receiving an educational scholarship pursuant to

1 this chapter;

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

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

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

11 (g) Enrolled in the Florida School for the Deaf and
12 the Blind; or

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

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

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

20 (b) Upon reasonable notice to the department and the
21 school district, the student's parent may remove the student
22 from the private school and place the student in a public
23 school in accordance with this section.

24 (c) Upon reasonable notice to the department, the
25 student's parent may move the student from one participating
26 private school to another participating private school.

27 (5) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.--

28 (a)1. By April 1 of each year and within 10 days after
29 an individual education plan meeting, a school district shall
30 notify the parent of the student of all options available
31 pursuant to this section, inform the parent of the

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1 availability of the department's telephone hotline and
 2 Internet website for additional information on John M. McKay
 3 Scholarships, and offer that student's parent an opportunity
 4 to enroll the student in another public school within the
 5 district.

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

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

19 (b)1. For a student with disabilities who does not
 20 have a matrix of services under s. 1011.62(1)(e), the school
 21 district must complete a matrix that assigns the student to
 22 one of the levels of service as they existed prior to the
 23 2000-2001 school year.

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

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1 b. The school district must complete the matrix of
 2 services for any student who is participating in the John M.
 3 McKay Scholarships for Students with Disabilities Program and
 4 must notify the department of the student's matrix level
 5 within 30 days after receiving notification of a request to
 6 participate in the scholarship program. The school district
 7 must provide the student's parent with the student's matrix
 8 level within 10 school days after its completion.

9 c. The department shall notify the private school of
 10 the amount of the scholarship within 10 days after receiving
 11 the school district's notification of the student's matrix
 12 level.

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

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

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

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

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

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

10 (6) DEPARTMENT OF EDUCATION OBLIGATIONS.--The
11 department shall:

12 (a) Establish a toll-free hotline that provides
13 parents and private schools with information on participation
14 in the John M. McKay Scholarships for Students with
15 Disabilities Program.

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

18 (c) Establish a process by which individuals may
19 notify the department of any violation by a parent, private
20 school, or school district of state laws relating to program
21 participation. The department shall conduct an inquiry of any
22 written complaint of a violation of this section, or make a
23 referral to the appropriate agency for an investigation, if
24 the complaint is signed by the complainant and is legally
25 sufficient. A complaint is legally sufficient if it contains
26 ultimate facts that show that a violation of this section or
27 any rule adopted by the State Board of Education has occurred.
28 In order to determine legal sufficiency, the department may
29 require supporting information or documentation from the
30 complainant. A department inquiry is not subject to the
31 requirements of chapter 120.

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

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

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

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

30 (7) COMMISSIONER OF EDUCATION AUTHORITY AND
31 OBLIGATIONS.--

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

13 (b) The commissioner's determination is subject to the
14 following:

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

23 2. The private school that is adversely affected by
24 the proposed action shall have 15 days from receipt of the
25 notice of proposed action to file with the department's agency
26 clerk a request for a proceeding pursuant to ss. 120.569 and
27 120.57. If the private school is entitled to a hearing under
28 s. 120.57(1), the department shall forward the request to the
29 Division of Administrative Hearings.

30 3. Upon receipt of a request referred pursuant to this
31 paragraph, the director of the Division of Administrative

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

12 (c) The commissioner may immediately suspend payment
 13 of scholarship funds if it is determined that there is
 14 probable cause to believe that there is:

15 1. An imminent threat to the health, safety, or
 16 welfare of the students; or

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

23 a. A court of competent jurisdiction in compliance
 24 with an order of that court or the attorney of record in
 25 accordance with a lawfully issued subpoena, consistent with
 26 the Family Educational Rights and Privacy Act, 20 U.S.C. s.
 27 1232g.

28 b. A person or entity authorized by a court of
 29 competent jurisdiction in compliance with an order of that
 30 court or the attorney of record pursuant to a lawfully issued
 31 subpoena, consistent with the Family Educational Rights and

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1 Privacy Act, 20 U.S.C. s. 1232g.

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

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

14 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.--To be
15 eligible to participate in the John M. McKay Scholarships for
16 Students with Disabilities Program, a private school may be
17 sectarian or nonsectarian and must:

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

21 (b) Provide to the department all documentation
22 required for a student's participation, including the private
23 school's and student's fee schedules, at least 30 days before
24 the first quarterly scholarship payment is made for the
25 student.

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

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

30 2. Cooperating with the scholarship student whose
31 parent chooses to participate in the statewide assessments

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1 pursuant to s. 1008.22.

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

4

5 The inability of a private school to meet the requirements of
6 this subsection shall constitute a basis for the ineligibility
7 of the private school to participate in the scholarship
8 program as determined by the department.

9 (9) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
10 PARTICIPATION.--A parent who applies for a John M. McKay
11 Scholarship is exercising his or her parental option to place
12 his or her child in a private school.

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

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

18 (c) Any student participating in the John M. McKay
19 Scholarships for Students with Disabilities Program must
20 remain in attendance throughout the school year unless excused
21 by the school for illness or other good cause.

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

25 (e) If the parent requests that the student
26 participating in the John M. McKay Scholarships for Students
27 with Disabilities Program take all statewide assessments
28 required pursuant to s. 1008.22, the parent is responsible for
29 transporting the student to the assessment site designated by
30 the school district.

31 (f) Upon receipt of a scholarship warrant, the parent

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1 to whom the warrant is made must restrictively endorse the
 2 warrant to the private school for deposit into the account of
 3 the private school. The parent may not designate any entity or
 4 individual associated with the participating private school as
 5 the parent's attorney in fact to endorse a scholarship
 6 warrant. A participant who fails to comply with this paragraph
 7 forfeits the scholarship.

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

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

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

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1 such purposes in the General Appropriations Act.

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

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

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

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

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

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

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

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

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

26 (e) Upon notification by the department that it has
27 received the documentation required under paragraph (d), the
28 Chief Financial Officer shall make scholarship payments in
29 four equal amounts no later than September 1, November 1,
30 February 1, and April 1 of each academic year in which the
31 scholarship is in force. The initial payment shall be made

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1 after department verification of admission acceptance, and
 2 subsequent payments shall be made upon verification of
 3 continued enrollment and attendance at the private school.
 4 Payment must be by individual warrant made payable to the
 5 student's parent and mailed by the department to the private
 6 school of the parent's choice, and the parent shall
 7 restrictively endorse the warrant to the private school for
 8 deposit into the account of the private school.

9 (f) Subsequent to each scholarship payment, the
 10 department shall request from the Department of Financial
 11 Services a sample of endorsed warrants to review and confirm
 12 compliance with endorsement requirements.

13 (11) LIABILITY.--No liability shall arise on the part
 14 of the state based on the award or use of a John M. McKay
 15 Scholarship.

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

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

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1 For purposes of these rules, a transferring student with a
 2 disability is one who was previously enrolled as a student
 3 with a disability in an out-of-state or an out-of-country
 4 public or private school or agency program and who is
 5 transferring from out of state or from a foreign country
 6 pursuant to a parent's permanent change of station orders.

7 Section 9. Subsection (5) is added to section 1001.23,
 8 Florida Statutes, to read:

9 1001.23 Specific powers and duties of the Department
 10 of Education.--In addition to all other duties assigned to it
 11 by law or by rule of the State Board of Education, the
 12 department shall:

13 (5) Notify parents of all eligible students about the
 14 scholarship programs in chapter 1002 and s. 220.187.

15 Section 10. This act shall take effect July 1, 2007.

16
 17
 18 ===== T I T L E A M E N D M E N T =====

19 And the title is amended as follows:

20 Delete everything before the enacting clause

21
 22 and insert:

23 A bill to be entitled
 24 An act relating to education; creating s.
 25 1008.3455, F.S.; expressing the intent of the
 26 Legislature to create a program to enhance
 27 failing schools; requiring the Commissioner of
 28 Education to develop and submit such a program
 29 to the Legislature; prescribing elements of the
 30 program; requiring the creation of an advisory
 31 committee; requiring consultation with

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1 specified entities; requiring an annual report;
2 amending s. 220.187, F.S.; providing
3 legislative findings; revising program
4 purposes; providing for eligibility of siblings
5 of certain students; revising provisions
6 relating to authorized uses of scholarship
7 funds and expenditure of contributions received
8 during the fiscal year; revising scholarship
9 amounts and payments; clarifying that the tax
10 credit program applies to students in families
11 having limited financial resources; providing
12 scholarship eligibility to students receiving
13 opportunity scholarships during the 2006-2007
14 school year for a limited amount of time;
15 providing for the preservation of credits under
16 certain circumstances; amending s. 220.701,
17 F.S.; directing the Department of Revenue to
18 deposit moneys received through the corporate
19 income tax into the Corporate Income Tax Trust
20 Fund rather than the General Revenue Fund;
21 providing for unencumbered trust fund balances
22 to be transferred into the General Revenue
23 Fund; providing a limitation on how transferred
24 funds may be expended; amending s. 1001.10,
25 F.S.; conforming provisions to the repeal of
26 the Opportunity Scholarship Program;
27 authorizing the Commissioner of Education to
28 prepare and publish reports related to
29 specified tax credit programs; amending ss.
30 1001.42 and 1002.20, F.S.; conforming
31 provisions to the repeal of the Opportunity

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1 Scholarship Program; repealing s. 1002.38,
 2 F.S., which authorizes the Opportunity
 3 Scholarship Program; amending s. 1002.39, F.S.,
 4 to conform to the repeal of the Opportunity
 5 Scholarship Program; amending s. 1001.23, F.S.;
 6 requiring the Department of Education to notify
 7 parents about scholarship programs; providing
 8 an effective date.

9
 10 WHEREAS, the Corporate Income Tax Credit Scholarship
 11 Program has produced substantial cost savings by relieving the
 12 state of the expense of educating program participants in
 13 public schools at a cost in foregone tax revenue that is
 14 substantially less than the per-student cost of educating
 15 children in public schools, and

16 WHEREAS, the Corporate Income Tax Credit Scholarship
 17 Program and the John M. McKay Scholarships for Students with
 18 Disabilities Program have relieved public school class size by
 19 creating new classroom spaces in the public schools at no cost
 20 to the taxpayers, and

21 WHEREAS, empirical evidence is clear, overwhelming, and
 22 uncontroverted that expanding educational options produces
 23 improved educational outcomes, both for participating children
 24 and for public schools that are exposed to healthy competition
 25 as a result, and no study has ever documented any harm to
 26 public schools as a result of expanding educational options
 27 through programs like the Corporate Income Tax Credit
 28 Scholarship Program and the John M. McKay Scholarships for
 29 Students with Disabilities Program, and

30 WHEREAS, education is a fundamental value and a
 31 paramount duty of the state, and

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1 WHEREAS, the State Constitution requires the state to
2 provide for the free education of all children residing within
3 its borders, and

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

9 WHEREAS, the Florida Supreme Court invalidated the
10 Opportunity Scholarship Program because it allowed state funds
11 to be disbursed to private schools, and

12 WHEREAS, the Legislature created the Opportunity
13 Scholarship Program to ensure that all children have a chance
14 to gain the knowledge and skills they need to succeed, and

15 WHEREAS, the state is committed to improving the
16 quality of the education provided by the public school system,
17 and

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

21 WHEREAS, respecting the constitutional mandate cited by
22 the Florida Supreme Court, the Legislature intends for the
23 state to develop and implement a comprehensive strategic
24 program to facilitate the improvement of schools that are
25 failing to make adequate progress, and

26 WHEREAS, facilitating the improvement in the
27 performance of these schools is a multiyear endeavor, and
28 progress will occur over an extended period of time, and

29 WHEREAS, students assigned to schools that are failing
30 to make adequate progress should have the choice of attending
31 a higher-performing school while the state continues to

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1 facilitate the improvement of these schools, and

2 WHEREAS, the Legislature intends to create a program to
3 provide an educational safety net to students assigned to
4 these schools, distinct from and without impeding the efforts
5 to help these schools improve, NOW, THEREFORE,

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