

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.

29 (a) A student is eligible for a corporate income tax  
 30 credit scholarship if the student qualifies for free or  
 31 reduced-price school lunches under the National School Lunch

1 Act and:

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

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

8 3.(c) Is eligible to enter kindergarten or first  
9 grade.

10 (b) A student is eligible for a corporate income tax  
11 credit scholarship if the student:

12 1. Has spent the prior school year in attendance at a  
13 public school that has been designated under s. 1008.34 as  
14 performance grade category "F," failing to make adequate  
15 progress, and that has had 2 school years in a 4-year period  
16 of such low performance, and the student's attendance occurred  
17 during a school year in which such designation was in effect;

18 2. Has been in attendance elsewhere in the public  
19 school system and has been assigned to such school for the  
20 next school year; or

21 3. Is entering kindergarten or first grade and has  
22 been notified that the student has been assigned to such  
23 school for the next school year.

24  
25 Contingent upon available funds, a student may continue in the  
26 scholarship program as long as the student's family income  
27 level does not exceed 200 percent of the federal poverty  
28 level. A sibling of a student who is continuing in the program  
29 and resides in the same household as the student shall also be  
30 eligible as a first-time corporate income tax credit  
31 scholarship recipient as long as the student's and sibling's

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1 family income level does not exceed 200 percent of the federal  
2 poverty level.

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

5 (a) Enrolled in a school operating for the purpose of  
6 providing educational services to youth in Department of  
7 Juvenile Justice commitment programs;

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

10 (c) Receiving an educational scholarship pursuant to  
11 chapter 1002;

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

14 (e) Participating in a private tutoring program  
15 pursuant to s. 1002.43;

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

21 (g) Enrolled in the Florida School for the Deaf and  
22 the Blind.

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

25 (a) There is allowed a credit of 100 percent of an  
26 eligible contribution against any tax due for a taxable year  
27 under this chapter. However, such a credit may not exceed 75  
28 percent of the tax due under this chapter for the taxable  
29 year, after the application of any other allowable credits by  
30 the taxpayer. The credit granted by this section shall be  
31 reduced by the difference between the amount of federal

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

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

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

15 (d) Effective for tax years beginning January 1, 2006,  
16 a taxpayer may rescind all or part of its allocated tax credit  
17 under this section. The amount rescinded shall become  
18 available for purposes of the cap for that state fiscal year  
19 under this section to an eligible taxpayer as approved by the  
20 department if the taxpayer receives notice from the department  
21 that the rescindment has been accepted by the department and  
22 the taxpayer has not previously rescinded any or all of its  
23 tax credit allocation under this section more than once in the  
24 previous 3 tax years. Any amount rescinded under this  
25 paragraph shall become available to an eligible taxpayer on a  
26 first-come, first-served basis based on tax credit  
27 applications received after the date the rescindment is  
28 accepted by the department.

29 (6) OBLIGATIONS OF ELIGIBLE NONPROFIT  
30 SCHOLARSHIP-FUNDING ORGANIZATIONS.--An eligible nonprofit  
31 scholarship-funding organization:



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

3 (b) Must comply with the following background check  
4 requirements:

5 1. All owners and operators as defined in subparagraph  
6 (2)(e)1. are, upon employment or engagement to provide  
7 services, subject to level 2 background screening as provided  
8 under chapter 435. The fingerprints for the background  
9 screening must be electronically submitted to the Department  
10 of Law Enforcement and can be taken by an authorized law  
11 enforcement agency or by an employee of the eligible nonprofit  
12 scholarship-funding organization or a private company who is  
13 trained to take fingerprints. However, the complete set of  
14 fingerprints of an owner or operator may not be taken by the  
15 owner or operator. The results of the state and national  
16 criminal history check shall be provided to the Department of  
17 Education for screening under chapter 435. The cost of the  
18 background screening may be borne by the eligible nonprofit  
19 scholarship-funding organization or the owner or operator.

20 2. Every 5 years following employment or engagement to  
21 provide services or association with an eligible nonprofit  
22 scholarship-funding organization, each owner or operator must  
23 meet level 2 screening standards as described in s. 435.04, at  
24 which time the nonprofit scholarship-funding organization  
25 shall request the Department of Law Enforcement to forward the  
26 fingerprints to the Federal Bureau of Investigation for level  
27 2 screening. If the fingerprints of an owner or operator are  
28 not retained by the Department of Law Enforcement under  
29 subparagraph 3., the owner or operator must electronically  
30 file a complete set of fingerprints with the Department of Law  
31 Enforcement. Upon submission of fingerprints for this purpose,

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1 the eligible nonprofit scholarship-funding organization shall  
 2 request that the Department of Law Enforcement forward the  
 3 fingerprints to the Federal Bureau of Investigation for level  
 4 2 screening, and the fingerprints shall be retained by the  
 5 Department of Law Enforcement under subparagraph 3.

6           3. Beginning July 1, 2007, all fingerprints submitted  
 7 to the Department of Law Enforcement as required by this  
 8 paragraph must be retained by the Department of Law  
 9 Enforcement in a manner approved by rule and entered in the  
 10 statewide automated fingerprint identification system  
 11 authorized by s. 943.05(2)(b). The fingerprints must  
 12 thereafter be available for all purposes and uses authorized  
 13 for arrest fingerprint cards entered in the statewide  
 14 automated fingerprint identification system pursuant to s.  
 15 943.051.

16           4. Beginning July 1, 2007, the Department of Law  
 17 Enforcement shall search all arrest fingerprint cards received  
 18 under s. 943.051 against the fingerprints retained in the  
 19 statewide automated fingerprint identification system under  
 20 subparagraph 3. Any arrest record that is identified with an  
 21 owner's or operator's fingerprints must be reported to the  
 22 Department of Education. The Department of Education shall  
 23 participate in this search process by paying an annual fee to  
 24 the Department of Law Enforcement and by informing the  
 25 Department of Law Enforcement of any change in the employment,  
 26 engagement, or association status of the owners or operators  
 27 whose fingerprints are retained under subparagraph 3. The  
 28 Department of Law Enforcement shall adopt a rule setting the  
 29 amount of the annual fee to be imposed upon the Department of  
 30 Education for performing these services and establishing the  
 31 procedures for the retention of owner and operator

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1 fingerprints and the dissemination of search results. The fee  
2 may be borne by the owner or operator of the nonprofit  
3 scholarship-funding organization.

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

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

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

15           (d) Must provide scholarships, from eligible  
16 contributions, to eligible students for:

17           1. Tuition, ~~or~~ textbook expenses, or registration fees  
18 for, or transportation to, an eligible private school. The  
19 amount of the scholarship shall be the maximum allowed by law  
20 or the amount of the private school's textbook expenses and  
21 published tuition and registration fees, whichever is less; At  
22 ~~least 75 percent of the scholarship funding must be used to~~  
23 ~~pay tuition expenses; or~~

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

27           (e) Must give priority to eligible students who  
28 received a scholarship from an eligible nonprofit  
29 scholarship-funding organization or from the State of Florida  
30 during the previous school year or who received an opportunity  
31 scholarship under former s. 1002.38 during the final quarter

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1 of the 2006-2007 school year.

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

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

8 (h) Must allow an eligible student to attend any  
9 eligible private school and must allow a parent to transfer a  
10 scholarship during a school year to any other eligible private  
11 school of the parent's choice.

12 (i) Must expend for annual or partial-year  
13 scholarships an amount equal to or greater than 75 percent of  
14 the eligible contributions received during the fiscal year  
15 such contributions are collected. No more than 25 percent of  
16 such eligible contributions may be carried forward to the  
17 succeeding fiscal year. Any amounts carried forward shall be  
18 expended for ~~obligate, in the same fiscal year in which the~~  
19 ~~contribution was received, 100 percent of the eligible~~  
20 ~~contribution to provide~~ annual or partial-year scholarships+  
21 however, up to 25 percent of the total contribution may be  
22 carried forward for expenditure in the following ~~state~~ fiscal  
23 year. A scholarship-funding organization must, before granting  
24 a scholarship for an academic year, document each scholarship  
25 student's eligibility for that academic year. A  
26 scholarship-funding organization may not grant multiyear  
27 scholarships in one approval process. No portion of eligible  
28 contributions may be used for administrative expenses. All  
29 interest accrued from contributions must be used for  
30 scholarships.

31 (j) Must maintain separate accounts for scholarship

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1 funds and operating funds.

2 (k) With the prior approval of the Department of  
3 Education, may transfer funds to another eligible nonprofit  
4 scholarship-funding organization if additional funds are  
5 required to meet scholarship demand at the receiving nonprofit  
6 scholarship-funding organization. A transfer shall be limited  
7 to the greater of \$500,000 or 20 percent of the total  
8 contributions received by the nonprofit scholarship-funding  
9 organization making the transfer. All transferred funds must  
10 be deposited by the receiving nonprofit scholarship-funding  
11 organization into its scholarship accounts. All transferred  
12 amounts received by any nonprofit scholarship-funding  
13 organization must be separately disclosed in the annual  
14 financial and compliance audit required in this section.

15 (l) Must provide to the Auditor General and the  
16 Department of Education an annual financial and compliance  
17 audit of its accounts and records conducted by an independent  
18 certified public accountant and in accordance with rules  
19 adopted by the Auditor General. The audit must be conducted in  
20 compliance with generally accepted auditing standards and must  
21 include a report on financial statements presented in  
22 accordance with generally accepted accounting principles set  
23 forth by the American Institute of Certified Public  
24 Accountants for not-for-profit organizations and a  
25 determination of compliance with the statutory eligibility and  
26 expenditure requirements set forth in this section. Audits  
27 must be provided to the Auditor General and the Department of  
28 Education within 180 days after completion of the eligible  
29 nonprofit scholarship-funding organization's fiscal year.

30 (m) Must prepare and submit quarterly reports to the  
31 Department of Education pursuant to paragraph (9)(m). In

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1 addition, an eligible nonprofit scholarship-funding  
 2 organization must submit in a timely manner any information  
 3 requested by the Department of Education relating to the  
 4 scholarship program.

5  
 6 Any and all information and documentation provided to the  
 7 Department of Education and the Auditor General relating to  
 8 the identity of a taxpayer that provides an eligible  
 9 contribution under this section shall remain confidential at  
 10 all times in accordance with s. 213.053.

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

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

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

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

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

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

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1 assessment site designated by the school district.

2 (f) Upon receipt of a scholarship warrant from the  
3 eligible nonprofit scholarship-funding organization, the  
4 parent to whom the warrant is made must restrictively endorse  
5 the warrant to the private school for deposit into the account  
6 of the private school. The parent may not designate any entity  
7 or individual associated with the participating private school  
8 as the parent's attorney in fact to endorse a scholarship  
9 warrant. A participant who fails to comply with this paragraph  
10 forfeits the scholarship.

11 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.--An  
12 eligible private school may be sectarian or nonsectarian and  
13 must:

14 (a) Comply with all requirements for private schools  
15 participating in state school choice scholarship programs  
16 pursuant to s. 1002.421.

17 (b) Provide to the eligible nonprofit  
18 scholarship-funding organization, upon request, all  
19 documentation required for the student's participation,  
20 including the private school's and student's fee schedules.

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

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

25 2. Annually administering or making provision for  
26 students participating in the scholarship program to take one  
27 of the nationally norm-referenced tests identified by the  
28 Department of Education. Students with disabilities for whom  
29 standardized testing is not appropriate are exempt from this  
30 requirement. A participating private school must report a  
31 student's scores to the parent and to the independent research

1 organization selected by the Department of Education as  
2 described in paragraph (9)(j).

3           3. Cooperating with the scholarship student whose  
4 parent chooses to participate in the statewide assessments  
5 pursuant to s. 1008.32.

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

9  
10 The inability of a private school to meet the requirements of  
11 this subsection shall constitute a basis for the ineligibility  
12 of the private school to participate in the scholarship  
13 program as determined by the Department of Education.

14           (9) DEPARTMENT OF EDUCATION OBLIGATIONS.--The  
15 Department of Education shall:

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

19           (b) Annually verify the eligibility of nonprofit  
20 scholarship-funding organizations that meet the requirements  
21 of paragraph (2)(c).

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

24           (d) Annually verify the eligibility of expenditures as  
25 provided in paragraph (6)(d) using the audit required by  
26 paragraph (6)(1).

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

30           (f) Establish a process by which individuals may  
31 notify the Department of Education of any violation by a



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

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

17 (h) Cross-check the list of participating scholarship  
 18 students with the public school enrollment lists to avoid  
 19 duplication.

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

28 (j) Select an independent research organization, which  
 29 may be a public or private entity or university, to which  
 30 participating private schools must report the scores of  
 31 participating students on the nationally norm-referenced tests

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

25 (k) Notify an eligible nonprofit scholarship-funding  
26 organization of any of the organization's identified students  
27 who are receiving educational scholarships pursuant to chapter  
28 1002.

29 (l) Notify an eligible nonprofit scholarship-funding  
30 organization of any of the organization's identified students  
31 who are receiving corporate income tax credit scholarships

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1 from other eligible nonprofit scholarship-funding  
2 organizations.

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

8 (n)1. Conduct random site visits to private schools  
9 participating in the Corporate Tax Credit Scholarship Program.  
10 The purpose of the site visits is solely to verify the  
11 information reported by the schools concerning the enrollment  
12 and attendance of students, the credentials of teachers,  
13 background screening of teachers, and teachers' fingerprinting  
14 results. The Department of Education may not make more than  
15 seven random site visits each year and may not make more than  
16 one random site visit each year to the same private school.

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

28 (10) COMMISSIONER OF EDUCATION AUTHORITY AND  
29 OBLIGATIONS.--

30 (a) The Commissioner of Education shall deny, suspend,  
31 or revoke a private school's participation in the scholarship

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

11 (b) The commissioner's determination is subject to the  
12 following:

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

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

29 3. Upon receipt of a request referred pursuant to this  
30 paragraph, the director of the Division of Administrative  
31 Hearings shall expedite the hearing and assign an

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

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

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

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

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

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

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

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

13           (11) SCHOLARSHIP AMOUNT AND PAYMENT.--

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

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

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

24           3. Four thousand two hundred fifty dollars for a  
 25 scholarship awarded to a student enrolled in grades 9 through  
 26 12 in an eligible private school.

27           ~~4.2.~~ Five hundred dollars for a scholarship awarded to  
 28 a student enrolled in a Florida public school that is located  
 29 outside the district in which the student resides or in a lab  
 30 school as defined in s. 1002.32.

31           (b) Payment of the scholarship by the eligible

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1 nonprofit scholarship-funding organization shall be by  
 2 individual warrant made payable to the student's parent. If  
 3 the parent chooses that his or her child attend an eligible  
 4 private school, the warrant must be delivered by the eligible  
 5 nonprofit scholarship-funding organization to the private  
 6 school of the parent's choice, and the parent shall  
 7 restrictively endorse the warrant to the private school. An  
 8 eligible nonprofit scholarship-funding organization shall  
 9 ensure that the parent to whom the warrant is made  
 10 restrictively endorsed the warrant to the private school for  
 11 deposit into the account of the private school.

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

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

19 (12) ADMINISTRATION; RULES.--

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

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

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

6 (c) The department and the Department of Education  
7 shall develop a cooperative agreement to assist in the  
8 administration of this section.

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

14 (e) The State Board of Education shall adopt rules  
15 pursuant to ss. 120.536(1) and 120.54 to administer this  
16 section as it relates to the roles of the Department of  
17 Education and the Commissioner of Education.

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

22 (14) PRESERVATION OF CREDIT.--If any provision or  
23 portion of subsection (5) or the application thereof to any  
24 person or circumstance is held unconstitutional by any court,  
25 or is otherwise invalid, the unconstitutionality or invalidity  
26 shall not affect any credit earned under subsection (5) by any  
27 taxpayer with respect to any contribution paid to an eligible  
28 nonprofit scholarship-funding organization before the date of  
29 a determination of unconstitutionality or invalidity. Such  
30 credit shall be allowed at such time and in such a manner as  
31 if a determination of unconstitutionality or invalidity had



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1 not been made if nothing in this subsection by itself or in  
 2 combination with any other provision of law results in the  
 3 allowance of any credit to any taxpayer in excess of one  
 4 dollar of credit for each dollar paid to an eligible nonprofit  
 5 scholarship-funding organization.

6 Section 3. Section 220.701, Florida Statutes, is  
 7 amended to read:

8 220.701 Collection authority.--The department shall  
 9 collect the taxes imposed by this chapter and shall pay all  
 10 moneys received by it into the Corporate Income Tax Trust Fund  
 11 created under s. 220.7015. Unencumbered balances in this trust  
 12 fund shall be transferred monthly into the General Revenue  
 13 Fund of the state. However, such transferred funds shall not  
 14 be expended for programs established pursuant to Article IX of  
 15 the State Constitution.

16 Section 4. Subsection (13) of section 1001.10, Florida  
 17 Statutes, is amended to read:

18 1001.10 Commissioner of Education; general powers and  
 19 duties.--The Commissioner of Education is the chief  
 20 educational officer of the state and the sole custodian of the  
 21 K-20 data warehouse, and is responsible for giving full  
 22 assistance to the State Board of Education in enforcing  
 23 compliance with the mission and goals of the seamless K-20  
 24 education system. To facilitate innovative practices and to  
 25 allow local selection of educational methods, the State Board  
 26 of Education may authorize the commissioner to waive, upon the  
 27 request of a district school board, State Board of Education  
 28 rules that relate to district school instruction and school  
 29 operations, except those rules pertaining to civil rights, and  
 30 student health, safety, and welfare. The Commissioner of  
 31 Education is not authorized to grant waivers for any

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1 provisions in rule pertaining to the allocation and  
 2 appropriation of state and local funds for public education;  
 3 the election, compensation, and organization of school board  
 4 members and superintendents; graduation and state  
 5 accountability standards; financial reporting requirements;  
 6 reporting of out-of-field teaching assignments under s.  
 7 1012.42; public meetings; public records; or due process  
 8 hearings governed by chapter 120. No later than January 1 of  
 9 each year, the commissioner shall report to the Legislature  
 10 and the State Board of Education all approved waiver requests  
 11 in the preceding year. Additionally, the commissioner has the  
 12 following general powers and duties:

13           (13) To prepare and publish annually reports giving  
 14 statistics and other useful information pertaining to the tax  
 15 credit programs under s. 220.187 ~~Opportunity Scholarship~~  
 16 ~~Program.~~

17  
 18 The commissioner's office shall operate all statewide  
 19 functions necessary to support the State Board of Education  
 20 and the K-20 education system, including strategic planning  
 21 and budget development, general administration, and assessment  
 22 and accountability.

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

25           1001.42 Powers and duties of district school  
 26 board.--The district school board, acting as a board, shall  
 27 exercise all powers and perform all duties listed below:

28           (18) CORPORATE INCOME TAX CREDIT SCHOLARSHIP PROGRAM;  
 29 FAMILIES OF STUDENTS ATTENDING FAILING SCHOOLS ~~OPPORTUNITY~~  
 30 ~~SCHOLARSHIPS~~.--Adopt policies allowing students attending

31 schools that have been designated with a grade of "F," failing

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1 to make adequate progress, for 2 school years in a 4-year  
 2 period to attend a higher performing public school in the same  
 3 district ~~or an adjoining district~~ or be granted a ~~state~~  
 4 ~~opportunity~~ scholarship to transport the student to a public  
 5 school in an adjoining district or a scholarship to attend a  
 6 private school, in conformance with s. 220.187 ~~s. 1002.38~~ and  
 7 State Board of Education rule.

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

10 1002.20 K-12 student and parent rights.--Parents of  
 11 public school students must receive accurate and timely  
 12 information regarding their child's academic progress and must  
 13 be informed of ways they can help their child to succeed in  
 14 school. K-12 students and their parents are afforded numerous  
 15 statutory rights including, but not limited to, the following:

16 (6) EDUCATIONAL CHOICE.--

17 (a) Public school choices.--Parents of public school  
 18 students may seek whatever public school choice options that  
 19 are applicable to their students and are available to students  
 20 in their school districts. These options may include  
 21 controlled open enrollment, lab schools, charter schools,  
 22 charter technical career centers, magnet schools, alternative  
 23 schools, special programs, advanced placement, dual  
 24 enrollment, International Baccalaureate, International General  
 25 Certificate of Secondary Education (pre-AICE), Advanced  
 26 International Certificate of Education, early admissions,  
 27 credit by examination or demonstration of competency, the New  
 28 World School of the Arts, the Florida School for the Deaf and  
 29 the Blind, and the Florida Virtual School. These options may  
 30 also include the public school choice options of the corporate  
 31 income tax credit scholarship programs ~~Opportunity Scholarship~~

1 ~~Program~~ and the McKay Scholarships for Students with  
2 Disabilities Program.

3 (b) Private school choices.--Parents of public school  
4 students may seek private school choice options under certain  
5 programs.

6 1. Under the corporate income tax credit scholarship  
7 program for families of students attending schools failing to  
8 make adequate progress ~~Opportunity Scholarship Program~~, the  
9 parent of a student in a failing public school may seek a  
10 request and receive an opportunity scholarship from an  
11 eligible nonprofit scholarship-funding organization for the  
12 student to attend a private school in accordance with s.  
13 220.187 ~~the provisions of s. 1002.38.~~

14 2. Under the McKay Scholarships for Students with  
15 Disabilities Program, the parent of a public school student  
16 with a disability who is dissatisfied with the student's  
17 progress may request and receive a McKay Scholarship for the  
18 student to attend a private school in accordance with ~~the~~  
19 ~~provisions of s. 1002.39.~~

20 3. Under the corporate income tax credit scholarship  
21 program for families that have limited financial resources,  
22 the parent of a student who qualifies for free or  
23 reduced-price school lunch may seek a scholarship from an  
24 eligible nonprofit scholarship-funding organization for the  
25 student to attend a private school in accordance with ~~the~~  
26 ~~provisions of s. 220.187.~~

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

30 (d) Private tutoring.--The parent of a student may  
31 choose to place the student in a private tutoring program in

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1 accordance with ~~the provisions of~~ s. 1002.43(1).

2 Section 7. Section 1002.38, Florida Statutes, is  
3 repealed.

4 Section 8. Section 1002.39, Florida Statutes, is  
5 amended to read:

6 1002.39 The John M. McKay Scholarships for Students  
7 with Disabilities Program.--There is established a program  
8 that is ~~separate and distinct from the Opportunity Scholarship~~  
9 ~~Program and is~~ named the John M. McKay Scholarships for  
10 Students with Disabilities Program.

11 (1) THE JOHN M. MCKAY SCHOLARSHIPS FOR STUDENTS WITH  
12 DISABILITIES PROGRAM.--The John M. McKay Scholarships for  
13 Students with Disabilities Program is established to provide  
14 the option to attend a public school other than the one to  
15 which assigned, or to provide a scholarship to a private  
16 school of choice, for students with disabilities for whom an  
17 individual education plan has been written in accordance with  
18 rules of the State Board of Education. Students with  
19 disabilities include K-12 students who are documented as  
20 having a mental handicap, including trainable, profound, or  
21 educable; a speech or language impairment; a hearing  
22 impairment, including deafness; a visual impairment, including  
23 blindness; a dual sensory impairment; a physical impairment; a  
24 serious emotional disturbance, including an emotional  
25 handicap; a specific learning disability, including, but not  
26 limited to, dyslexia, dyscalculia, or developmental aphasia; a  
27 traumatic brain injury; or autism.

28 (2) JOHN M. MCKAY SCHOLARSHIP ELIGIBILITY.--The parent  
29 of a public school student with a disability who is  
30 dissatisfied with the student's progress may request and  
31 receive from the state a John M. McKay Scholarship for the

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1 child to enroll in and attend a private school in accordance  
2 with this section if:

3 (a) The student has spent the prior school year in  
4 attendance at a Florida public school or the Florida School  
5 for the Deaf and the Blind. Prior school year in attendance  
6 means that the student was:

7 1. Enrolled and reported by a school district for  
8 funding during the preceding October and February Florida  
9 Education Finance Program surveys in kindergarten through  
10 grade 12, which shall include time spent in a Department of  
11 Juvenile Justice commitment program if funded under the  
12 Florida Education Finance Program;

13 2. Enrolled and reported by the Florida School for the  
14 Deaf and the Blind during the preceding October and February  
15 student membership surveys in kindergarten through grade 12;  
16 or

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

22  
23 However, a dependent child of a member of the United States  
24 Armed Forces who transfers to a school in this state from out  
25 of state or from a foreign country pursuant to a parent's  
26 permanent change of station orders is exempt from this  
27 paragraph but must meet all other eligibility requirements to  
28 participate in the program.

29 (b) The parent has obtained acceptance for admission  
30 of the student to a private school that is eligible for the  
31 program under subsection (8) and has requested from the

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1 department a scholarship at least 60 days prior to the date of  
 2 the first scholarship payment. The request must be through a  
 3 communication directly to the department in a manner that  
 4 creates a written or electronic record of the request and the  
 5 date of receipt of the request. The Department of Education  
 6 must notify the district of the parent's intent upon receipt  
 7 of the parent's request.

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

11 (a) Enrolled in a school operating for the purpose of  
 12 providing educational services to youth in Department of  
 13 Juvenile Justice commitment programs;

14 (b) Receiving a corporate income tax credit  
 15 scholarship under s. 220.187;

16 (c) Receiving an educational scholarship pursuant to  
 17 this chapter;

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

20 (e) Participating in a private tutoring program  
 21 pursuant to s. 1002.43;

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

27 (g) Enrolled in the Florida School for the Deaf and  
 28 the Blind; or

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

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

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

5 (b) Upon reasonable notice to the department and the  
 6 school district, the student's parent may remove the student  
 7 from the private school and place the student in a public  
 8 school in accordance with this section.

9 (c) Upon reasonable notice to the department, the  
 10 student's parent may move the student from one participating  
 11 private school to another participating private school.

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

13 (a)1. By April 1 of each year and within 10 days after  
 14 an individual education plan meeting, a school district shall  
 15 notify the parent of the student of all options available  
 16 pursuant to this section, inform the parent of the  
 17 availability of the department's telephone hotline and  
 18 Internet website for additional information on John M. McKay  
 19 Scholarships, and offer that student's parent an opportunity  
 20 to enroll the student in another public school within the  
 21 district.

22 2. The parent is not required to accept the offer of  
 23 enrolling in another public school in lieu of requesting a  
 24 John M. McKay Scholarship to a private school. However, if the  
 25 parent chooses the public school option, the student may  
 26 continue attending a public school chosen by the parent until  
 27 the student graduates from high school.

28 3. If the parent chooses a public school consistent  
 29 with the district school board's choice plan under s. 1002.31,  
 30 the school district shall provide transportation to the public  
 31 school selected by the parent. The parent is responsible to



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1 provide transportation to a public school chosen that is not  
2 consistent with the district school board's choice plan under  
3 s. 1002.31.

4 (b)1. For a student with disabilities who does not  
5 have a matrix of services under s. 1011.62(1)(e), the school  
6 district must complete a matrix that assigns the student to  
7 one of the levels of service as they existed prior to the  
8 2000-2001 school year.

9 2.a. Within 10 school days after it receives  
10 notification of a parent's request for a John M. McKay  
11 Scholarship, a school district must notify the student's  
12 parent if the matrix of services has not been completed and  
13 inform the parent that the district is required to complete  
14 the matrix within 30 days after receiving notice of the  
15 parent's request for a John M. McKay Scholarship. This notice  
16 should include the required completion date for the matrix.

17 b. The school district must complete the matrix of  
18 services for any student who is participating in the John M.  
19 McKay Scholarships for Students with Disabilities Program and  
20 must notify the department of the student's matrix level  
21 within 30 days after receiving notification of a request to  
22 participate in the scholarship program. The school district  
23 must provide the student's parent with the student's matrix  
24 level within 10 school days after its completion.

25 c. The department shall notify the private school of  
26 the amount of the scholarship within 10 days after receiving  
27 the school district's notification of the student's matrix  
28 level.

29 d. A school district may change a matrix of services  
30 only if the change is to correct a technical, typographical,  
31 or calculation error.

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

5           (d) If the parent chooses the private school option  
 6 and the student is accepted by the private school pending the  
 7 availability of a space for the student, the parent of the  
 8 student must notify the department 60 days prior to the first  
 9 scholarship payment and before entering the private school in  
 10 order to be eligible for the scholarship when a space becomes  
 11 available for the student in the private school.

12           (e) The parent of a student may choose, as an  
 13 alternative, to enroll the student in and transport the  
 14 student to a public school in an adjacent school district  
 15 which has available space and has a program with the services  
 16 agreed to in the student's individual education plan already  
 17 in place, and that school district shall accept the student  
 18 and report the student for purposes of the district's funding  
 19 pursuant to the Florida Education Finance Program.

20           (f) For a student who participates in the John M.  
 21 McKay Scholarships for Students with Disabilities Program  
 22 whose parent requests that the student take the statewide  
 23 assessments under s. 1008.22, the district in which the  
 24 student attends private school shall provide locations and  
 25 times to take all statewide assessments.

26           (6) DEPARTMENT OF EDUCATION OBLIGATIONS.--The  
 27 department shall:

28           (a) Establish a toll-free hotline that provides  
 29 parents and private schools with information on participation  
 30 in the John M. McKay Scholarships for Students with  
 31 Disabilities Program.

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

3 (c) Establish a process by which individuals may  
4 notify the department of any violation by a parent, private  
5 school, or school district of state laws relating to program  
6 participation. The department shall conduct an inquiry of any  
7 written complaint of a violation of this section, or make a  
8 referral to the appropriate agency for an investigation, if  
9 the complaint is signed by the complainant and is legally  
10 sufficient. A complaint is legally sufficient if it contains  
11 ultimate facts that show that a violation of this section or  
12 any rule adopted by the State Board of Education has occurred.  
13 In order to determine legal sufficiency, the department may  
14 require supporting information or documentation from the  
15 complainant. A department inquiry is not subject to the  
16 requirements of chapter 120.

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

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

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

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1 more than three random site visits each year and may not make  
2 more than one random site visit each year to the same private  
3 school.

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

15           (7) COMMISSIONER OF EDUCATION AUTHORITY AND  
16 OBLIGATIONS.--

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

29           (b) The commissioner's determination is subject to the  
30 following:

31           1. If the commissioner intends to deny, suspend, or

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1 revoke a private school's participation in the scholarship  
 2 program, the department shall notify the private school of  
 3 such proposed action in writing by certified mail and regular  
 4 mail to the private school's address of record with the  
 5 department. The notification shall include the reasons for the  
 6 proposed action and notice of the timelines and procedures set  
 7 forth in this paragraph.

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

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

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

31           1. An imminent threat to the health, safety, or

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1 welfare of the students; or

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

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

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

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

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

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

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1 Students with Disabilities Program, a private school may be  
2 sectarian or nonsectarian and must:

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

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

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

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

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

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

20

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

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

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

31 (b) The parent must have requested the scholarship at

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1 | least 60 days prior to the date of the first scholarship  
2 | payment.

3 |           (c) Any student participating in the John M. McKay  
4 | Scholarships for Students with Disabilities Program must  
5 | remain in attendance throughout the school year unless excused  
6 | by the school for illness or other good cause.

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

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

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

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

25 |           (a)1. The maximum scholarship granted for an eligible  
26 | student with disabilities shall be a calculated amount  
27 | equivalent to the base student allocation in the Florida  
28 | Education Finance Program multiplied by the appropriate cost  
29 | factor for the educational program that would have been  
30 | provided for the student in the district school to which he or  
31 | she was assigned, multiplied by the district cost



1 differential.

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

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

23           4. Until the school district completes the matrix  
24 required by paragraph (5)(b), the calculation shall be based  
25 on the matrix that assigns the student to support level I of  
26 service as it existed prior to the 2000-2001 school year. When  
27 the school district completes the matrix, the amount of the  
28 payment shall be adjusted as needed.

29           (b) The amount of the John M. McKay Scholarship shall  
30 be the calculated amount or the amount of the private school's  
31 tuition and fees, whichever is less. The amount of any

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1 assessment fee required by the participating private school  
2 may be paid from the total amount of the scholarship.

3 (c)1. The school district shall report all students  
4 who are attending a private school under this program. The  
5 students with disabilities attending private schools on John  
6 M. McKay Scholarships shall be reported separately from other  
7 students reported for purposes of the Florida Education  
8 Finance Program.

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

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

15 b. Be held harmless for such students from the  
16 weighted enrollment ceiling for group 2 programs in s.  
17 1011.62(1)(d)3.a. during the first school year in which the  
18 students are reported.

19 (d) Following notification on July 1, September 1,  
20 December 1, or February 1 of the number of program  
21 participants, the department shall transfer, from General  
22 Revenue funds only, the amount calculated under paragraph (b)  
23 from the school district's total funding entitlement under the  
24 Florida Education Finance Program and from authorized  
25 categorical accounts to a separate account for the scholarship  
26 program for quarterly disbursement to the parents of  
27 participating students. Funds may not be transferred from any  
28 funding provided to the Florida School for the Deaf and the  
29 Blind for program participants who are eligible under  
30 subparagraph (2)(a)2. For a student exiting a Department of  
31 Juvenile Justice commitment program who chooses to participate

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1 in the scholarship program, the amount of the John M. McKay  
 2 Scholarship calculated pursuant to paragraph (b) shall be  
 3 transferred from the school district in which the student last  
 4 attended a public school prior to commitment to the Department  
 5 of Juvenile Justice. When a student enters the scholarship  
 6 program, the department must receive all documentation  
 7 required for the student's participation, including the  
 8 private school's and student's fee schedules, at least 30 days  
 9 before the first quarterly scholarship payment is made for the  
 10 student.

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

25 (f) Subsequent to each scholarship payment, the  
 26 department shall request from the Department of Financial  
 27 Services a sample of endorsed warrants to review and confirm  
 28 compliance with endorsement requirements.

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

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1           (12) SCOPE OF AUTHORITY.--The inclusion of eligible  
 2 private schools within options available to Florida public  
 3 school students does not expand the regulatory authority of  
 4 the state, its officers, or any school district to impose any  
 5 additional regulation of private schools beyond those  
 6 reasonably necessary to enforce requirements expressly set  
 7 forth in this section.

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

23           Section 9. This act shall take effect July 1, 2007.

24  
25  
26 ===== T I T L E   A M E N D M E N T =====

27 And the title is amended as follows:

28           Delete everything before the enacting clause

29  
30 and insert:

31                                   A bill to be entitled

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1 An act relating to education; creating s.  
2 1008.3455, F.S.; expressing the intent of the  
3 Legislature to create a program to enhance  
4 failing schools; requiring the Commissioner of  
5 Education to develop and submit such a program  
6 to the Legislature; prescribing elements of the  
7 program; requiring the creation of an advisory  
8 committee; requiring consultation with  
9 specified entities; requiring an annual report;  
10 amending s. 220.187, F.S.; providing  
11 legislative findings; revising program  
12 purposes; revising eligibility criteria;  
13 providing for eligibility of siblings of  
14 certain students; revising provisions relating  
15 to authorized uses of scholarship funds and  
16 expenditure of contributions received during  
17 the fiscal year; revising scholarship amounts  
18 and payments; clarifying that the tax credit  
19 program applies to students in families having  
20 limited financial resources; providing  
21 scholarship eligibility to students receiving  
22 opportunity scholarships during the 2006-2007  
23 school year for a limited amount of time;  
24 providing for the preservation of credits under  
25 certain circumstances; amending s. 220.701,  
26 F.S.; directing the Department of Revenue to  
27 deposit moneys received through the corporate  
28 income tax into the Corporate Income Tax Trust  
29 Fund rather than the General Revenue Fund;  
30 providing for unencumbered trust fund balances  
31 to be transferred into the General Revenue

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1 Fund; providing a limitation on how transferred  
2 funds may be expended; amending s. 1001.10,  
3 F.S.; conforming provisions to the repeal of  
4 the Opportunity Scholarship Program;  
5 authorizing the Commissioner of Education to  
6 prepare and publish reports related to  
7 specified tax credit programs; amending ss.  
8 1001.42 and 1002.20, F.S.; conforming  
9 provisions to the repeal of the Opportunity  
10 Scholarship Program; repealing s. 1002.38,  
11 F.S., which authorizes the Opportunity  
12 Scholarship Program; amending s. 1002.39, F.S.,  
13 to conform to the repeal of the Opportunity  
14 Scholarship Program; providing an effective  
15 date.

16  
17 WHEREAS, the Corporate Income Tax Credit Scholarship  
18 Program has produced substantial cost savings by relieving the  
19 state of the expense of educating program participants in  
20 public schools at a cost in foregone tax revenue that is  
21 substantially less than the per-student cost of educating  
22 children in public schools, and

23 WHEREAS, the Corporate Income Tax Credit Scholarship  
24 Program and the John M. McKay Scholarships for Students with  
25 Disabilities Program have relieved public school class size by  
26 creating new classroom spaces in the public schools at no cost  
27 to the taxpayers, and

28 WHEREAS, empirical evidence is clear, overwhelming, and  
29 uncontroverted that expanding educational options produces  
30 improved educational outcomes, both for participating children  
31 and for public schools that are exposed to healthy competition

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1 as a result, and no study has ever documented any harm to  
 2 public schools as a result of expanding educational options  
 3 through programs like the Corporate Income Tax Credit  
 4 Scholarship Program and the John M. McKay Scholarships for  
 5 Students with Disabilities Program, and

6           WHEREAS, education is a fundamental value and a  
 7 paramount duty of the state, and

8           WHEREAS, the State Constitution requires the state to  
 9 provide for the free education of all children residing within  
 10 its borders, and

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

16           WHEREAS, the Florida Supreme Court invalidated the  
 17 Opportunity Scholarship Program because it allowed state funds  
 18 to be disbursed to private schools, and

19           WHEREAS, the Legislature created the Opportunity  
 20 Scholarship Program to ensure that all children have a chance  
 21 to gain the knowledge and skills they need to succeed, and

22           WHEREAS, the state is committed to improving the  
 23 quality of the education provided by the public school system,  
 24 and

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

28           WHEREAS, respecting the constitutional mandate cited by  
 29 the Florida Supreme Court, the Legislature intends for the  
 30 state to develop and implement a comprehensive strategic  
 31 program to facilitate the improvement of schools that are

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1 failing to make adequate progress, and

2           WHEREAS, facilitating the improvement in the  
3 performance of these schools is a multiyear endeavor, and  
4 progress will occur over an extended period of time, and

5           WHEREAS, students assigned to schools that are failing  
6 to make adequate progress should have the choice of attending  
7 a higher-performing school while the state continues to  
8 facilitate the improvement of these schools, and

9           WHEREAS, the Legislature intends to create a program to  
10 provide an educational safety net to students assigned to  
11 these schools, distinct from and without impeding the efforts  
12 to help these schools improve, NOW, THEREFORE,

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