

Bill No. SB 256

Barcode 283926

CHAMBER ACTION

Senate

House

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The Committee on Judiciary (Clary) recommended the following amendment:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

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

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

(1) THE JOHN M. MCKAY SCHOLARSHIPS FOR STUDENTS WITH DISABILITIES PROGRAM.--The John M. McKay Scholarships for Students with Disabilities Program is established to provide the option to attend a public school other than the one to which assigned, or to provide a scholarship to a private school of choice, for students with disabilities for whom an individual education plan has been written in accordance with

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1 rules of the State Board of Education. Students with  
 2 disabilities include K-12 students who are documented as  
 3 having mental retardation; a ~~mentally handicapped,~~ speech or  
 4 and language impairment; a ~~impaired, deaf or hard of hearing~~  
 5 impairment, including deafness; a visual impairment, including  
 6 blindness; a ~~visually impaired,~~ dual sensory impairment; a  
 7 physical impairment; a serious emotional disturbance,  
 8 including an emotional handicap; a ~~impaired, physically~~  
 9 impaired, emotionally handicapped, specific learning  
 10 disability, including, but not limited to, dyslexia,  
 11 dyscalculia, or developmental aphasia; a traumatic brain  
 12 injury; disabled, hospitalized or homebound, or autism  
 13 autistic.

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

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

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

31 2. Enrolled and reported by the Florida School for the

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1 Deaf and the Blind during the preceding October and February  
2 student membership surveys in kindergarten through grade 12;  
3 or

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

9  
10 However, ~~this paragraph does not apply to a dependent child of~~  
11 ~~a member of the United States Armed Forces who transfers to a~~  
12 ~~school in this state from out of state or from a foreign~~  
13 ~~country pursuant to a parent's permanent change of station~~  
14 ~~orders is exempt from this paragraph but. A dependent child of~~  
15 ~~a member of the United States Armed Forces who transfers to a~~  
16 ~~school in this state from out of state or from a foreign~~  
17 ~~country pursuant to a parent's permanent change of station~~  
18 ~~orders~~ must meet all other eligibility requirements to  
19 participate in the program.

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

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

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

15       (a) Enrolled in a school operating for the purpose of  
16 providing educational services to youth in Department of  
17 Juvenile Justice commitment programs;

18       (b) Receiving a corporate income tax credit  
19 scholarship under s. 220.187;

20       (c) Receiving an educational scholarship pursuant to  
21 this chapter;

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

24       (e) Participating in a private tutoring program  
25 pursuant to s. 1002.43;

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

31       (g) Enrolled in the Florida School for the Deaf and

1 the Blind; or

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

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

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

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

13 (c) Upon reasonable notice to the department, the  
14 student's parent may move the student from one participating  
15 private school to another participating private school.

16 (5)(3) SCHOOL DISTRICT ~~AND DEPARTMENT OF EDUCATION~~  
17 OBLIGATIONS; PARENTAL OPTIONS.--

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

27 2. The parent is not required to accept ~~the~~ ~~this~~ offer  
28 of enrolling in another public school in lieu of requesting a  
29 John M. McKay Scholarship to a private school. However, if the  
30 parent chooses the public school option, the student may  
31 continue attending a public school chosen by the parent until

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1 the student graduates from high school.

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

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

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

22         b. The school district must complete the matrix of  
23 services for any student who is participating in the John M.  
24 McKay Scholarships for Students with Disabilities Program and  
25 must notify the department ~~of Education~~ of the student's  
26 matrix level within 30 days after receiving notification of a  
27 request ~~by the student's parent of intent~~ to participate in  
28 the scholarship program. The school district must provide the  
29 student's parent with the student's matrix level within 10  
30 school days after its completion.

31         c. The department ~~of Education~~ shall notify the

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

9 d. A school district may change a matrix of services  
10 only if the change is to correct a technical, typographical,  
11 or calculation error. The Department of Education may not  
12 change a matrix of services completed by a school district.

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

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

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

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1 pursuant to the Florida Education Finance Program.

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

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

14 (6) DEPARTMENT OF EDUCATION OBLIGATIONS.--The  
15 department shall:

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

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

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



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

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

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

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

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

1 results and the corrective action taken by the Department of  
2 Education.

3 (7) COMMISSIONER OF EDUCATION AUTHORITY AND  
4 OBLIGATIONS.--

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

17 (b) The commissioner's determination is subject to the  
18 following:

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

27 2. The private school that is adversely affected by  
28 the proposed action shall have 15 days from receipt of the  
29 notice of proposed action to file with the department's agency  
30 clerk a request for a proceeding pursuant to ss. 120.569 and  
31 120.57. If the private school is entitled to a hearing under

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1 s. 120.57(1), the department shall forward the request to the  
2 Division of Administrative Hearings.

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

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

19 1. An imminent threat to the health, safety, or  
20 welfare of the students; or

21 2. Fraudulent activity on the part of the private  
22 school.

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

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1 and must:

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

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

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

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

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

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

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

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

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1 ~~a statement, a surety bond or letter of credit for the amount~~  
2 ~~equal to the scholarship funds for any quarter may be filed~~  
3 ~~with the department.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2 PAYMENT.--

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

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

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

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1 resides at the time of the scholarship request.

2           ~~4.3.~~ Until the school district completes the matrix  
 3 required by paragraph~~(5)(3)~~(b), the calculation shall be  
 4 based on the matrix that assigns the student to support level  
 5 I of service as it existed prior to the 2000-2001 school year.  
 6 When the school district completes the matrix, the amount of  
 7 the payment shall be adjusted as needed.

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

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

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

31           2. For program participants who are eligible under



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1 subparagraph (2)(a)2., the school district that is used as the  
2 basis for the calculation of the scholarship amount as  
3 provided in subparagraph (a)3. shall:

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

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

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

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1 is made for the student. ~~The Department of Education may not~~  
2 ~~make any retroactive payments.~~

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

19 (f) Subsequent to each scholarship payment, the  
20 Department of Financial Services shall randomly review  
21 endorsed warrants to confirm compliance with endorsement  
22 requirements. The Department of Financial Services shall  
23 immediately report inconsistencies or irregularities to the  
24 department.

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

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

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1 additional regulation of private schools beyond those  
2 reasonably necessary to enforce requirements expressly set  
3 forth in this section.

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

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

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

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

31       (a) Encourage private, voluntary contributions to

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1 nonprofit scholarship-funding organizations.

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

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

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

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

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

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

18 1. Is exempt from federal income tax pursuant to s.  
19 501(c)(3) of the Internal Revenue Code.

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

23 3. ~~and that~~ Complies with the provisions of subsection  
24 ~~(6) (4)~~.

25 ~~(d)(c)~~ "Eligible private nonpublic school" means a  
26 private nonpublic school, as defined in s. 1002.01(2), located  
27 in Florida which that offers an education to students in any  
28 grades K-12 and that meets the requirements in subsection(8)  
29 ~~(6)~~.

30 (e) "Owner or operator" includes:

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

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

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

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

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

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

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

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

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

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

30 (a) Enrolled in a school operating for the purpose of  
31 providing educational services to youth in Department of

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1 Juvenile Justice commitment programs;

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

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

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

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

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

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

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

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

28 The credit granted by this section shall be reduced by the  
29 difference between the amount of federal corporate income tax  
30 taking into account the credit granted by this section and the  
31 amount of federal corporate income tax without application of

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1 the credit granted by this section.

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

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

29 (d) Effective for tax years beginning January 1, 2006,  
30 a taxpayer may rescind all or part of its allocated tax credit  
31 under this section. The amount rescinded shall become

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

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

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

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

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



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1 eligible nonprofit scholarship-funding organization or the  
2 owner or operator.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30           ~~2. Five hundred dollars for a scholarship awarded to a~~  
31 ~~student enrolled in a Florida public school that is located~~

1 ~~outside the district in which the student resides.~~

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

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

19 ~~(j) Must maintain separate accounts for scholarship~~  
20 ~~funds and operating funds.~~

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

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1 organization must be separately disclosed in the annual  
2 financial and compliance audit required in this section.

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

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

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

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

15           ~~(7)(5) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM~~  
16 PARTICIPATION OBLIGATIONS.--

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

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

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

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

28           (e) The parent shall ensure that the student  
29 participating in the scholarship program takes the  
30 norm-referenced assessment offered by the private school. The  
31 parent may also choose to have the student participate in the

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1 statewide assessments pursuant to s. 1008.22. If the parent  
 2 requests that the student participating in the scholarship  
 3 program take statewide assessments pursuant to s. 1008.22, the  
 4 parent is responsible for transporting the student to the  
 5 assessment site designated by the school district.

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

19 (8)(6) PRIVATE ELIGIBLE NONPUBLIC SCHOOL ELIGIBILITY  
 20 AND OBLIGATIONS.--An eligible private nonpublic school may be  
 21 sectarian or nonsectarian and must:

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

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

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

31 1. At a minimum, annually providing to the parent a

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1 written explanation of the student's progress.

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

11       3. Cooperating with the scholarship student whose  
12 parent chooses to participate in the statewide assessments  
13 pursuant to s. 1008.32.

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

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

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



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1 ~~with the department.~~

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

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

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

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

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

13 (b) Annually verify the eligibility of nonprofit  
14 scholarship-funding organizations that meet the requirements  
15 of paragraph (2)(c).

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

18 (d) Annually verify the eligibility of expenditures as  
19 provided in paragraph (6)(d) using the audit required by  
20 paragraph (6)(1).

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

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

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

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

11 (h) Cross-check the list of participating scholarship  
12 students with the public school enrollment lists to avoid  
13 duplication.

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

22 (j) Select an independent research organization, which  
23 may be a public or private entity or university, to which  
24 participating private schools must report the scores of  
25 participating students on the nationally norm-referenced tests  
26 administered by the private school. The independent research  
27 organization must annually report to the Department of  
28 Education on the year-to-year improvements of participating  
29 students. The independent research organization must analyze  
30 and report student performance data in a manner that protects  
31 the rights of students and parents as mandated in 20 U.S.C. s.

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

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

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

28 (m) Require quarterly reports by an eligible nonprofit  
29 scholarship-funding organization regarding the number of  
30 students participating in the scholarship program, the private  
31 schools at which the students are enrolled, and other

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1 information deemed necessary by the Department of Education.

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

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

22 (10) COMMISSIONER OF EDUCATION AUTHORITY AND  
23 OBLIGATIONS.--

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

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1 private school with a timeframe within which to provide  
2 evidence of compliance prior to taking action to suspend or  
3 revoke the private school's participation in the scholarship  
4 program.

5 (b) The commissioner's determination is subject to the  
6 following:

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

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

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

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1 order. A final order shall be entered by the agency within 30  
2 days after the entry of a recommended order. The provisions of  
3 this subparagraph may be waived upon stipulation by all  
4 parties.

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

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

10 2. Fraudulent activity on the part of the private  
11 school.

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

17 (11) SCHOLARSHIP AMOUNT AND PAYMENT.--

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

22 1. Three thousand seven hundred fifty dollars for a  
23 scholarship awarded to a student enrolled in an eligible  
24 private school.

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

29 (b) Payment of the scholarship by the eligible  
30 nonprofit scholarship-funding organization shall be by  
31 individual warrant made payable to the student's parent. If

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

10       (c) An eligible nonprofit scholarship-funding  
 11 organization shall obtain verification from the private school  
 12 of a student's continued attendance at the school prior to  
 13 each scholarship payment.

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

17       ~~(12)(7)~~ ADMINISTRATION; RULES.--

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

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1 assets of the taxpayer are conveyed, assigned, or transferred  
2 in the same 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. ~~The Department of Education  
9 shall be responsible for annually submitting, by March 15, to  
10 the department a list of eligible nonprofit  
11 scholarship-funding organizations that meet the requirements  
12 of paragraph (2)(d) and for monitoring eligibility of  
13 nonprofit scholarship-funding organizations that meet the  
14 requirements of paragraph (2)(d), eligibility of nonpublic  
15 schools that meet the requirements of paragraph (2)(c), and  
16 eligibility of expenditures under this section as provided in  
17 subsection (4).~~

18 (d) The department shall adopt rules necessary to  
19 administer this section, including rules establishing  
20 application forms and procedures and governing the allocation  
21 of tax credits and carryforward credits under this section on  
22 a first-come, first-served basis.

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

31 ~~(13)(8)~~ DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--All



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1 eligible contributions received by an eligible nonprofit  
2 scholarship-funding organization shall be deposited in a  
3 manner consistent with s. 17.57(2).

4 Section 3. Section 1002.421, Florida Statutes, is  
5 created to read:

6 1002.421 Rights and obligations of private schools  
7 participating in state school-choice scholarship programs.--

8 (1) A Florida private school participating in the  
9 Corporate Income Tax Credit Scholarship Program established  
10 pursuant to s. 220.187 or an educational scholarship program  
11 established pursuant to this chapter must comply with all  
12 requirements of this section in addition to private school  
13 requirements outlined in s. 1002.42, specific requirements  
14 identified within respective scholarship program laws, and  
15 other provisions of Florida law that apply to private schools.

16 (2) A private school participating in a scholarship  
17 program must be a Florida private school as defined in s.  
18 1002.01(2), must be registered in accordance with s. 1002.42,  
19 and must:

20 (a) Comply with the antidiscrimination provisions of  
21 42 U.S.C. s. 2000d.

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

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

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

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

1 school employees and contracted personnel with direct student  
 2 contact have undergone background screening pursuant to s.  
 3 943.0542.

4 (f) Demonstrate fiscal soundness and accountability  
 5 by:

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

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

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

- 19 1. Firesafety.
- 20 2. Building safety.

21 (h) Employ or contract with teachers who hold  
 22 baccalaureate or higher degrees, have at least 3 years of  
 23 teaching experience in public or private schools, or have  
 24 special skills, knowledge, or expertise that qualifies them to  
 25 provide instruction in subjects taught.

26 (i) Require each employee and contracted personnel  
 27 with direct student contact to undergo a state and national  
 28 background screening, pursuant to s. 943.0542, by  
 29 electronically filing with the Department of Law Enforcement a  
 30 complete set of fingerprints taken by an authorized law  
 31 enforcement agency or an employee of the private school, a

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1 school district, or a private company who is trained to take  
2 fingerprints and deny employment to or terminate an employee  
3 if he or she fails to meet the screening standards under s.  
4 435.04. Results of the screening shall be provided to the  
5 participating private school. For purposes of this paragraph:

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

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

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

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

21 (3)(a) Beginning July 1, 2007, all fingerprints  
22 submitted to the Department of Law Enforcement as required by  
23 this section shall be retained by the Department of Law  
24 Enforcement in a manner provided by rule and entered in the  
25 statewide automated fingerprint identification system  
26 authorized by s. 943.05(2)(b). Such fingerprints shall  
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 (b) 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 paragraph (a). Any arrest record that is identified with the  
5 retained fingerprints of a person subject to the background  
6 screening under this section shall be reported to the  
7 employing school with which the person is affiliated. Each  
8 private school participating in a scholarship program is  
9 required to participate in this search process by informing  
10 the Department of Law Enforcement of any change in the  
11 employment or contractual status of its personnel whose  
12 fingerprints are retained under paragraph (a). The Department  
13 of Law Enforcement shall adopt a rule setting the amount of  
14 the annual fee to be imposed upon each private school for  
15 performing these searches and establishing the procedures for  
16 the retention of private school employee and contracted  
17 personnel fingerprints and the dissemination of search  
18 results. The fee may be borne by the private school or the  
19 person fingerprinted.

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

27 (d) Every 5 years following employment or engagement  
28 to provide services with a private school, employees or  
29 contracted personnel required to be screened under this  
30 section must meet screening standards under s. 435.04, at  
31 which time the private school shall request the Department of

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1 Law Enforcement to forward the fingerprints to the Federal  
 2 Bureau of Investigation for national processing. If the  
 3 fingerprints of employees or contracted personnel are not  
 4 retained by the Department of Law Enforcement under paragraph  
 5 (a), employees and contracted personnel must electronically  
 6 file a complete set of fingerprints with the Department of Law  
 7 Enforcement. Upon submission of fingerprints for this purpose,  
 8 the private school shall request that the Department of Law  
 9 Enforcement forward the fingerprints to the Federal Bureau of  
 10 Investigation for national processing, and the fingerprints  
 11 shall be retained by the Department of Law Enforcement under  
 12 paragraph (a).

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

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

23 (6) The State Board of Education shall adopt rules  
 24 pursuant to ss. 120.536(1) and 120.54 to administer this  
 25 section.

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

27  
 28

29 ===== T I T L E A M E N D M E N T =====

30 And the title is amended as follows:

31 Delete everything before the enacting clause

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1 and insert:

2                                   A bill to be entitled

3           An act relating to scholarship program

4           accountability; amending s. 1002.39, F.S.,

5           relating to the John M. McKay Scholarships for

6           Students with Disabilities Program; revising

7           the definition of the term "students with

8           disabilities"; revising student eligibility

9           requirements for receipt of a scholarship and

10          restricting eligibility therefor; providing for

11          the term of a scholarship; revising and adding

12          school district obligations and clarifying

13          parental options; revising and adding

14          Department of Education obligations, including

15          verification of eligibility of private schools

16          and establishment of a process for notification

17          of violations, subsequent inquiry or

18          investigation, and certification of compliance

19          by private schools; providing Commissioner of

20          Education authority and obligations, including

21          the denial, suspension, or revocation of a

22          private school's participation in the

23          scholarship program and procedures and

24          timelines therefor; revising private school

25          eligibility and obligations, including

26          compliance with specified laws and academic

27          accountability to the parent; revising parent

28          and student responsibilities for scholarship

29          program participation; prohibiting power of

30          attorney for endorsing a scholarship warrant;

31          revising provisions relating to scholarship

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1 funding and payment; providing funding and  
2 payment requirements for former Florida School  
3 for the Deaf and the Blind students and for  
4 students exiting a Department of Juvenile  
5 Justice program; providing Department of  
6 Financial Services obligations; amending s.  
7 220.187, F.S., relating to credits for  
8 contributions to nonprofit scholarship-funding  
9 organizations; revising and providing  
10 definitions; naming the Corporate Income Tax  
11 Credit Scholarship Program; providing student  
12 eligibility requirements for receipt of a  
13 corporate income tax credit scholarship and  
14 restricting eligibility therefor; revising  
15 provisions relating to tax credits for small  
16 businesses; providing for adjustment of the  
17 total amount of tax credits and carryforward of  
18 tax credits; providing for rescindment of tax  
19 credit allocation; revising and adding  
20 obligations of eligible nonprofit  
21 scholarship-funding organizations, including  
22 compliance with requirements for background  
23 checks of owners and operators,  
24 scholarship-funding organization ownership or  
25 operation, carryforward and transfer of funds,  
26 audits, and reports; specifying background  
27 screening requirements and procedures;  
28 requiring that certain information remain  
29 confidential in accordance with s. 213.053,  
30 F.S.; revising and adding parent and student  
31 responsibilities for scholarship program

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1 participation, including compliance with a  
2 private school's published policies,  
3 participation in student academic assessment,  
4 and restrictive endorsement of scholarship  
5 warrants; prohibiting power of attorney for  
6 endorsing a scholarship warrant; revising and  
7 adding private school eligibility requirements  
8 and obligations, including compliance with  
9 specified laws and academic accountability to  
10 parents; revising and adding Department of  
11 Education obligations, including verification  
12 of eligibility of program participants,  
13 establishment of a process for notification of  
14 violations, subsequent inquiry or  
15 investigation, certification of compliance by  
16 private schools, and selection of a research  
17 organization to analyze student performance  
18 data; providing Commissioner of Education  
19 authority and obligations, including the  
20 denial, suspension, or revocation of a private  
21 school's participation in the scholarship  
22 program and procedures and timelines therefor;  
23 revising and adding provisions relating to  
24 scholarship funding and payment, including the  
25 amount of a scholarship and the payment  
26 process; requiring adoption of rules; creating  
27 s. 1002.421, F.S., relating to rights and  
28 obligations of private schools participating in  
29 state school choice scholarship programs;  
30 providing requirements for participation in a  
31 scholarship program, including compliance with



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1 specified state, local, and federal laws and  
2 demonstration of fiscal soundness; requiring  
3 restrictive endorsement of a scholarship  
4 warrant and prohibiting power of attorney for  
5 endorsing a warrant; requiring employment of  
6 qualified teachers and background screening of  
7 employees and contracted personnel having  
8 direct student contact; specifying background  
9 screening requirements and procedures;  
10 providing scope of authority; requiring  
11 adoption of rules; providing an effective date.

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