

1 A bill to be entitled
2 An act relating to scholarship programs;
3 amending s. 1002.39, F.S., relating to the John
4 M. McKay Scholarships for Students with
5 Disabilities Program; revising the definition
6 of an eligible student; revising the
7 eligibility requirements of the program to
8 extend the term of the scholarship; prohibiting
9 certain students from receiving a scholarship;
10 revising the parental notification
11 requirements; authorizing certain scholarship
12 students to participate in a distance learning
13 or correspondence course under certain
14 circumstances; providing a definition of timely
15 parental notification; providing requirements
16 for district school boards with respect to
17 completing and making changes to the matrix of
18 services for scholarship students; requiring
19 school districts to provide parental
20 notification related to reassessments; revising
21 requirements that a participating private
22 school demonstrate fiscal soundness; requiring
23 a surety bond; providing an exception;
24 requiring annual registration of private
25 schools; providing requirements for
26 documentation and notice; providing additional
27 requirements for participating private schools;
28 requiring annual sworn and notarized compliance
29 statements to be filed with the department;
30 requiring specific documentation for
31 participating scholarship students; requiring

1 that the private school maintain a physical
2 location in this state; requiring that
3 information be made available to potential
4 scholarship students and the department;
5 requiring scholarship students to participate
6 in assessments; requiring notification to
7 parents regarding student skill levels;
8 requiring notification to the department
9 regarding changes in information; requiring
10 notification to local health departments;
11 requiring certain individuals to undergo level
12 2 background screening requirements pursuant to
13 s. 435.04, F.S.; providing for the Department
14 of Law Enforcement to retain and search
15 fingerprint records; providing for an annual
16 fee as provided by rule of the Department of
17 Law Enforcement; requiring that costs of
18 background checks be borne by certain parties;
19 prohibiting a private school from acting as an
20 attorney in fact for the parent of a
21 scholarship student or endorsing scholarship
22 warrants on behalf of a parent; prohibiting
23 participating private schools from sending or
24 directing scholarship funds to parents of a
25 scholarship student who receives instruction at
26 home; prohibiting a participating school from
27 being a correspondence or distance learning
28 school; prohibiting a participating school from
29 accepting students pending verification of
30 information; authorizing a participating
31 private school to request, and the department

1 to grant, closed-enrollment status for a
2 school; prohibiting the parent of a scholarship
3 student from designating a participating
4 private school as the parent's attorney in fact
5 to sign a scholarship warrant; clarifying that
6 the school district must report to the
7 department the students who are attending a
8 private school under the program; establishing
9 additional obligations of the Department of
10 Education; requiring the department to review,
11 approve, and verify information and review
12 background checks; requiring the department to
13 determine the eligibility of a private school
14 to participate in the program; requiring the
15 department to publish an on-line list of
16 current eligible private schools; requiring the
17 department to deny or refuse to allow the
18 participation of a private school for failing
19 to meet certain requirements; requiring the
20 department to issue a notice of noncompliance
21 for minor violations; providing for an
22 emergency order revoking the registration of a
23 private school for failing to satisfy the
24 requirements in the notice; requiring the
25 Department of Education to immediately revoke
26 the registration of a private school for
27 certain other violations; requiring the
28 department to revoke the scholarship for a
29 participant for failing to comply with
30 statutory requirements or for engaging in
31 specified practices; requiring the department

1 to conduct investigations of legally sufficient
2 complaints of violations; authorizing the
3 department to require supporting information or
4 documentation; authorizing the Department of
5 Education to change the matrix of services
6 under certain circumstances; providing for
7 audits by the Auditor General; providing
8 requirements for the audits; requiring the
9 State Board of Education to adopt rules;
10 specifying the required rules; requiring the
11 State Board of Education to initiate the
12 adoption of rules by a time certain and report
13 to the Legislature; providing exceptions for
14 certain participating private schools subject
15 to specific conditions; amending s. 220.187,
16 F.S., relating to the Corporate Tax Credit
17 Scholarship Program; providing definitions;
18 prohibiting certain private schools and other
19 entities from participating in the scholarship
20 program; prohibiting certain students from
21 participating in the scholarship program;
22 revising limitations on the allocation of
23 annual credits granted under the program;
24 providing limitations on eligible
25 contributions; requiring the Auditor General to
26 review certain audits, request certain
27 information, and report to the Legislative
28 Auditing Committee any findings of
29 noncompliance; authorizing the Legislative
30 Auditing Committee to conduct hearings and
31 compel the Department of Education to revoke

1 eligibility of certain nonprofit
2 scholarship-funding organizations; providing
3 for audit reports to be submitted to the
4 Department of Education; requiring audits be
5 conducted within 180 days after completion of
6 the nonprofit scholarship-funding
7 organization's fiscal year; requiring a
8 nonprofit scholarship-funding organization to
9 make scholarship payments at least on a
10 quarterly basis; prohibiting commingling of
11 certain scholarship funds; requiring a
12 nonprofit scholarship-funding organization to
13 maintain a separate account for scholarship
14 funds; requiring a nonprofit
15 scholarship-funding organization to verify
16 student attendance at a private school prior to
17 submission of scholarship funds; requiring a
18 nonprofit scholarship-funding organization to
19 verify income eligibility of qualified students
20 at least once a year in accordance with State
21 Board of Education rules; requiring a nonprofit
22 scholarship-funding organization to submit
23 certain reports to the Department of Education;
24 requiring certain individuals to undergo level
25 2 background screening requirements pursuant to
26 s. 435.04, F.S.; providing for the Department
27 of Law Enforcement to retain and search
28 fingerprint records; providing for an annual
29 fee as provided by rule of the Department of
30 Law Enforcement; requiring costs of background
31 checks be borne by certain parties; requiring a

1 nonprofit scholarship-funding organization
2 comply with antidiscrimination provisions of 42
3 U.S.C. s. 2000d; prohibiting an owner or a
4 nonprofit scholarship-funding organization from
5 owning, operating, or administering an eligible
6 private school under the scholarship program;
7 requiring a nonprofit scholarship-funding
8 organization to report any private school not
9 in compliance with scholarship program
10 requirements to the Department of Education;
11 prohibiting provision of scholarship funds to a
12 student to attend a private school not in
13 compliance; authorizing a parent to transfer
14 the scholarship; requiring award of
15 scholarships on a first-come, first-served
16 basis; prohibiting a nonprofit
17 scholarship-funding organization from targeting
18 certain students for scholarships; prohibiting
19 the award of scholarships to a child of an
20 owner of a nonprofit scholarship-funding
21 organization; prohibiting the transfer of an
22 eligible contribution between nonprofit
23 scholarship-funding organizations; prohibiting
24 a nonprofit scholarship-funding organization
25 from securing financing in anticipation of
26 eligible contributions; prohibiting a nonprofit
27 scholarship-funding organization from
28 participating in the program if the
29 organization fails to meet statutory
30 obligations; requiring students to meet certain
31 attendance policies; requiring parents to meet

1 certain parental involvement requirements
2 unless excused; prohibiting a parent from
3 authorizing a power of attorney for endorsement
4 of scholarship warrant; requiring a parent to
5 ensure that a scholarship student participates
6 in testing requirements; prohibiting a student
7 or parent of a student from participating in
8 the scholarship program if the student or
9 parent fails to meet statutory obligations;
10 revising provisions with respect to private
11 schools; revising requirements that a
12 participating private school demonstrate fiscal
13 soundness; requiring a surety bond; providing
14 an exception; requiring a private school to
15 employ or contract with teachers who have
16 regular and direct contact with students at the
17 school's physical location; requiring the
18 private schools to employ or contract with
19 teachers who have at least a baccalaureate
20 degree, 3 years of teaching experience at a
21 public or private school, or other skills that
22 qualify the teacher to provide appropriate
23 instruction; requiring a private school to
24 report to the Department of Education the
25 qualifications of teachers; requiring a private
26 school to annually register with the Department
27 of Education and provide certain information
28 concerning the private school organization,
29 student list, and notice of intent to
30 participate in the scholarship program;
31 requiring certain individuals to undergo level

1 | 2 background screening requirements pursuant to
2 | s. 435.04, F.S.; providing for the Department
3 | of Law Enforcement to retain and search
4 | fingerprint records; providing for an annual
5 | fee as provided by rule of the Department of
6 | Law Enforcement; requiring costs of background
7 | checks be borne by certain parties; requiring a
8 | private school to administer or to make
9 | provision for administering certain tests to
10 | scholarship students; requiring reporting of
11 | scores to the student's parent and to the
12 | independent private research organization
13 | selected by the Department of Education;
14 | requiring a private school to file an
15 | affidavit; requiring a private school to notify
16 | the Department of Education in writing within 7
17 | days if a student is ineligible to participate
18 | in the scholarship program; requiring a private
19 | school to report to the Department of Education
20 | and distribute to scholarship applicants
21 | information concerning accreditation and years
22 | in existence; requiring the Department of
23 | Education to make certain information
24 | concerning private school accreditation
25 | available to the public; prohibiting a private
26 | school from participating in the scholarship
27 | program if the private school fails to meet its
28 | statutory obligations; requiring the Department
29 | of Education to determine the eligibility of
30 | certain nonprofit scholarship-funding
31 | organizations within 90 days after application;

1 requiring a written notice with specific
2 reasons for approval or denial; requiring the
3 Department of Education to annually determine
4 the eligibility of nonprofit
5 scholarship-funding organizations and private
6 schools; requiring the Department of Education
7 to make accessible to the public a list of
8 eligible private schools; requiring the
9 Department of Education to annually verify the
10 eligibility of students; requiring the
11 Department of Education to maintain a student
12 database of program participants and to update
13 the database at least quarterly; requiring the
14 Department of Education to notify a nonprofit
15 scholarship-funding organization of any
16 ineligible student; requiring the Department of
17 Education to annually account for and verify
18 the eligibility of program expenditures;
19 requiring the Department of Education to review
20 audits; requiring the Department of Education
21 to select an independent private research
22 organization for reporting of student scores;
23 providing limitations on reporting; requiring
24 the Department of Education to revoke the
25 eligibility of program participants for failure
26 to comply with statutory obligations; requiring
27 the Department of Education to annually report
28 on accountability activities; requiring the
29 State Board of Education to adopt rules
30 regarding identification of documentation to
31 establish eligibility of nonprofit

1 scholarship-funding organizations, requiring an
2 affidavit, and identification of independent
3 income verification for determining the
4 eligibility of students; authorizing the State
5 Board of Education to delegate its authority to
6 the Commissioner of Education with the
7 exception of rulemaking authority; providing an
8 effective date.
9

10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Subsections (1), (2), (3), (4), and (5) and
13 paragraphs (d) and (e) of subsection (6) of section 1002.39,
14 Florida Statutes, are amended, present subsections (7) and (8)
15 of that section are redesignated as subsections (9) and (10),
16 respectively, and amended, and new subsections (7) and (8) are
17 added to that section, to read:

18 1002.39 The John M. McKay Scholarships for Students
19 with Disabilities Program.--There is established a program
20 that is separate and distinct from the Opportunity Scholarship
21 Program and is named the John M. McKay Scholarships for
22 Students with Disabilities Program, pursuant to this section.

23 (1) THE JOHN M. MCKAY SCHOLARSHIPS FOR STUDENTS WITH
24 DISABILITIES PROGRAM.--The John M. McKay Scholarships for
25 Students with Disabilities Program is established to provide
26 the option to attend a public school other than the one to
27 which assigned, or to provide a scholarship to a private
28 school of choice, for students with disabilities for whom an
29 individual education plan has been written in accordance with
30 rules of the State Board of Education. Students with
31 disabilities include K-12 students who are documented as

1 ~~having mental retardation, a mentally handicapped,~~ speech or
 2 ~~and language~~ impairment, a impaired, deaf or hard of hearing
 3 impairment, including deafness, a visual impairment, including
 4 blindness, a, visually impaired, dual sensory impairment, a
 5 physical impairment, a serious emotional disturbance,
 6 including an emotional handicap, a impaired, physically
 7 ~~impaired, emotionally handicapped,~~ specific learning
 8 disability, including, but not limited to, dyslexia,
 9 dyscalculia, or developmental aphasia, a traumatic brain
 10 injury disabled, hospitalized or homebound, or autism
 11 autistic.

12 (2) SCHOLARSHIP ELIGIBILITY; PROHIBITIONS.--

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

18 1.(a) By assigned school attendance area or by special
 19 assignment, the student has spent the prior school year in
 20 attendance at a Florida public school. Prior school year in
 21 attendance means that the student was enrolled and reported by
 22 a school district for funding during the preceding October and
 23 February Florida Education Finance Program surveys in
 24 kindergarten through grade 12.

25 2.(b) The parent has obtained acceptance for admission
 26 of the student to a private school that is eligible for the
 27 program under subsection (4) and has notified the Department
 28 of Education ~~school district~~ of the request for a scholarship
 29 at least 60 days prior to the date of the first scholarship
 30 payment. The parental notification must be through a
 31 communication directly to the ~~district or through the~~

1 Department of Education ~~to the district~~ in a manner that
2 creates a written or electronic record of the notification and
3 the date of receipt of the notification. The Department of
4 Education must notify the district of the parent's intent,
5 upon receipt of the parent's notification.

6
7 ~~This section does not apply to a student who is enrolled in a~~
8 ~~school operating for the purpose of providing educational~~
9 ~~services to youth in Department of Juvenile Justice commitment~~
10 ~~programs.~~ For purposes of continuity of educational choice,
11 the scholarship shall remain in force until the student
12 returns to a public school or graduates from high school or
13 reaches the age of 22, whichever occurs first. However, at any
14 time, the student's parent may remove the student from the
15 private school and place the student in another private school
16 that is eligible for the program under subsection (4) or in a
17 public school as provided in subsection (3).

18 (b) A student is not eligible to receive a scholarship
19 under this section if he or she:

20 1. Receives a scholarship from an eligible scholarship
21 funding organization under s. 220.187.

22 2. Receives an opportunity scholarship under s.
23 1002.38.

24 3. Participates in a home education program as defined
25 in s. 1002.01(1).

26 4. Receives instruction from a correspondence school
27 or participates in distance learning courses.

28 5. Does not have regular and direct contact with his
29 or her private school teachers at the school's physical
30 location.

31

1 6. Is enrolled in a school operating for the purpose
2 of providing educational services to youth in commitment
3 programs of the Department of Juvenile Justice.

4
5 Notwithstanding the prohibition set forth in subparagraph 4.,
6 a student who receives a John M. McKay Scholarship may
7 participate in a distance learning course or a course offered
8 by a correspondence school, the tuition and other costs of
9 which are not paid by scholarship funds provided under this
10 section.

11 (3) SCHOOL DISTRICT AND DEPARTMENT OF EDUCATION
12 OBLIGATIONS.--

13 (a) The Department of Education ~~A school district~~
14 shall timely notify the parent of each public school ~~the~~
15 student of all options available pursuant to this section and
16 offer that student's parent an opportunity to enroll the
17 student in another public school within the district. The
18 parent is not required to accept this offer in lieu of
19 requesting a John M. McKay Scholarship to a private school.
20 However, if the parent chooses the public school option, the
21 student may continue attending a public school chosen by the
22 parent until the student graduates from high school. If the
23 parent chooses a public school consistent with the district
24 school board's choice plan under s. 1002.31, the school
25 district shall provide transportation to the public school
26 selected by the parent. The parent is responsible to provide
27 transportation to a public school chosen that is not
28 consistent with the district school board's choice plan under
29 s. 1002.31. For purposes of this paragraph, timely
30 notification means notification no later than April 1 of each
31 school year.

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

6 2.a. The school district must complete the matrix of
7 services for any student who is participating in the John M.
8 McKay Scholarships for Students with Disabilities Program and
9 must notify the Department of Education of the student's
10 matrix level within 30 days after receiving notification by
11 the Department of Education of the parent's ~~student's parent~~
12 of intent to participate in the scholarship program. ~~The~~
13 nature and intensity of the services indicated in the matrix
14 must be consistent with the services described in the
15 student's individual education plan.

16 b. A school district may change a matrix of services
17 only if the change is to:

18 (I) Correct a technical, typographical, or calculation
19 error; or

20 (II) Align the matrix of services with the student's
21 individual education plan completed by the public school
22 district for use in the public school prior to the student
23 enrolling in or attending a private school.

24 3. The Department of Education shall notify the
25 private school of the amount of the scholarship within 10 days
26 after receiving the school district's notification of the
27 student's matrix level.

28 4. Within 10 school days after it receives
29 notification of a parent's intent to apply for a McKay
30 Scholarship, a district school board must notify the student's
31 parent if the matrix has not been completed and provide the

1 parent with the date for completion of the matrix required in
2 this paragraph.

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

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

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

25 (f) ~~A school district must notify~~ The Department of
26 Education must notify the school district upon receipt of the
27 ~~within 10 days after it receives~~ notification of a parent's
28 intent to apply for a scholarship for a student with a
29 disability. A school district must provide the student's
30 parent with the student's matrix level within 10 school days
31 after its completion.

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

4 (4) PRIVATE SCHOOL ELIGIBILITY; REGISTRATION;
5 PROHIBITIONS.--

6 (a) To be eligible to participate in the John M. McKay
7 Scholarships for Students with Disabilities Program, a private
8 school must be a Florida private school as defined in s.
9 1002.01(2), may be sectarian or nonsectarian, and must:

10 1. ~~(a)~~ Demonstrate fiscal soundness by filing with
11 ~~being in operation for 1 school year or provide~~ the Department
12 of Education with a surety bond for the amount equal to the
13 scholarship amount for each quarter of the school year. The
14 surety bond must be filed at the time of the private school's
15 initial registration and at each renewal period thereafter for
16 a total of 2 years. This requirement does not apply to an
17 eligible private school that:

18 a. Participates in the program for a total of 2 years
19 or longer; and

20 b. Has had no action taken by the Department of
21 Education against the private school for any violation of this
22 section during the 2-year period.

23
24 However, any private school that was subject to an action
25 taken by the department for any violation of this section
26 shall, following the date on which the action was taken
27 against the private school for a violation of this section,
28 but prior to receiving the next quarterly payment and for 2
29 years thereafter, file a surety bond with the department.

30
31

1 2. Annually register with the Department of Education.
2 Each owner or administrator of a private school must provide
3 the following information:
4 a. The legal business and trade name, mailing address,
5 and business location of the private school;
6 b. The full name, address, and telephone number of
7 each owner or administrator of the private school;
8 c. A notification of the private school's intent to
9 participate in the program under this section. The notice must
10 specify the grade levels and services that the private school
11 has available for students with disabilities who are
12 participating in the scholarship program. ~~statement by a~~
13 ~~certified public accountant confirming that the private school~~
14 ~~desiring to participate is insured and the owner or owners~~
15 ~~have sufficient capital or credit to operate the school for~~
16 ~~the upcoming year serving the number of students anticipated~~
17 ~~with expected revenues from tuition and other sources that may~~
18 ~~be reasonably expected. In lieu of such a statement, a surety~~
19 ~~bond or letter of credit for the amount equal to the~~
20 ~~scholarship funds for any quarter may be filed with the~~
21 ~~department.~~
22 ~~(b) Notify the Department of Education of its intent~~
23 ~~to participate in the program under this section. The notice~~
24 ~~must specify the grade levels and services that the private~~
25 ~~school has available for students with disabilities who are~~
26 ~~participating in the scholarship program.~~
27 3.(e) Comply with the antidiscrimination provisions of
28 42 U.S.C. s. 2000d.
29 4.(d) Meet state and local health and safety laws and
30 codes.
31

1 ~~5.(e)~~ Be academically accountable to the parent for
2 meeting the educational needs of the student.

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

8 ~~7.(g)~~ Comply with all state laws relating to general
9 regulation of private schools, including, but not limited to,
10 s. 1002.42.

11 ~~8.(h)~~ Publish and adhere to the tenets of its adopted
12 ~~published~~ disciplinary procedures prior to the expulsion of a
13 scholarship student.

14 9. Provide the Department of Education with all
15 documentation required for each scholarship student's
16 participation in the scholarship program, including, but not
17 limited to:

18 a. The private school's fee schedule, including, but
19 not limited to, fees for services, tuition, and instructional
20 materials, and each individual scholarship student's schedule
21 of fees and charges, at least 30 days before the first
22 quarterly scholarship payment is made for the student; and

23 b. The enrollment and attendance information,
24 including an on-line attendance verification form, for each
25 scholarship student at the private school, prior to each
26 scholarship payment.

27
28 The on-line attendance form must be documented each quarter by
29 a notarized statement that is signed by the private school and
30 the parents of each McKay scholarship student in attendance at
31 the private school. The private school must maintain the

1 completed notarized statements at the private school for each
2 academic year. The completed notarized statements shall be
3 open to the Department of Education upon request.

4 10. Maintain a physical location in this state where a
5 scholarship student regularly attends classes.

6 11.a. Advertise or notify potential McKay Scholarship
7 students and parents of the specific types of disabilities
8 served by the school, and provide this information to the
9 Department of Education.

10 b. Review with the parent the student's individual
11 education plan.

12 12. Require each McKay Scholarship student to
13 participate at least annually in a student assessment which as
14 determined by the private school, in consultation with the
15 student's parent or guardian, will demonstrate the student's
16 skill level to the student's parents.

17 13. Notify the student's parent at least annually
18 about the student's skill level on a student assessment that
19 is determined by the private school.

20 14. Notify the Department of Education of any change
21 in the school's registered name or location prior to any such
22 change and notify the Department of Education within 15 days
23 after any other change in the registration information
24 submitted to the department.

25 15. Notify each local health department within 15 days
26 after establishing operations at a physical location or
27 address and within 3 days after discovering any ongoing health
28 code violation that has not yet been remedied in full.

29 16. Annually complete and file with the Department of
30 Education a sworn and notarized compliance statement in a form
31

1 and timeline specified in rules adopted by the State Board of
2 Education.

3 (b) A private school participating in the John M.
4 McKay Scholarships for Students with Disabilities Program must
5 ensure that all personnel who are hired, contracted, or
6 engaged to provide services to fill positions requiring direct
7 contact with students in the private school, and all owners of
8 a private school shall, upon employment, entry into the
9 contract, engagement to provide services, or assumption of a
10 position of ownership, a position of decisionmaking authority,
11 or a position having access to scholarship funds, undergo
12 background screening pursuant to s. 435.04 by filing with the
13 Department of Education a complete set of fingerprints taken
14 by an authorized law enforcement agency or an employee of the
15 private school who is trained to take fingerprints. These
16 fingerprints shall be submitted to the Department of Law
17 Enforcement for state processing, which shall in turn submit
18 the fingerprints to the Federal Bureau of Investigation for
19 federal processing. The Department of Education shall screen
20 the background results and report to the private school any
21 person described in this paragraph who fails to meet level 2
22 screening standards pursuant to s. 435.04 or any person
23 described in this paragraph who has been convicted of a crime
24 involving moral turpitude. Employees, contractors, personnel
25 engaged to provide services, or owners found through
26 fingerprint processing to have been convicted of a crime
27 involving moral turpitude or failing to meet level 2 screening
28 standards pursuant to s. 435.04 may not be employed,
29 contracted with, or engaged to provide services in any
30 position in the private school requiring direct contact with
31 students, and may not assume a position of ownership, a

1 position of decisionmaking authority, or a position having
2 access to scholarship funds. The cost of the background
3 screening may be borne by the private school, the employee,
4 the contractor, the person engaged to provide services, or the
5 owner.

6 1. Every 5 years each person described in this
7 paragraph must meet level 2 screening requirements as
8 described in s. 435.04, at which time the Department of
9 Education shall request the Department of Law Enforcement to
10 forward the fingerprints to the Federal Bureau of
11 Investigation for level 2 screening. If the fingerprints of a
12 person described in this paragraph are not retained by the
13 Department of Law Enforcement under subparagraph 2., the
14 person must file a complete set of fingerprints with the
15 Department of Education. Upon submission of fingerprints for
16 this purpose, the Department of Education shall request the
17 Department of Law Enforcement to forward the fingerprints to
18 the Federal Bureau of Investigation for level 2 screening, and
19 the fingerprints shall be retained by the Department of Law
20 Enforcement under subparagraph 2. The cost of the state and
21 federal criminal history check required by level 2 screening
22 may be borne by the private school, the employee, the
23 contractor, the person engaged to provide services, or the
24 owner. Under penalty of perjury, each person described in this
25 paragraph must agree to inform the private school immediately
26 if convicted of any disqualifying offense while in a capacity
27 with the private school as described in this paragraph. If it
28 is found that a person described in this paragraph does not
29 meet the level 2 requirements, the person shall be immediately
30 suspended from working in that capacity and shall remain
31 suspended until final resolution of any appeals.

1 2. Beginning July 1, 2004, all fingerprints submitted
2 to the Department of Law Enforcement as required by this
3 paragraph shall be retained by the Department of Law
4 Enforcement in a manner provided by rule and entered in the
5 statewide automated fingerprint identification system
6 authorized by s. 943.05(2)(b). Such fingerprints shall
7 thereafter be available for all purposes and uses authorized
8 for arrest fingerprint cards entered in the statewide
9 automated fingerprint identification system pursuant to s.
10 943.051.

11 3. Beginning December 15, 2004, the Department of Law
12 Enforcement shall search all arrest fingerprint cards received
13 under s. 943.051 against the fingerprints retained in the
14 statewide automated fingerprint identification system under
15 subparagraph 2. Any arrest record that is identified with the
16 fingerprints of a person described in this paragraph shall be
17 reported to the Department of Education. Each eligible private
18 school shall participate in this search process by paying an
19 annual fee to the Department of Law Enforcement and by
20 informing the Department of Law Enforcement of any change in
21 the status or place of employment, contracting, or engagement
22 of services of its personnel as described in this paragraph
23 whose fingerprints are retained under subparagraph 2. The
24 Department of Law Enforcement shall adopt a rule setting the
25 amount of the annual fee to be imposed upon each private
26 school for performing these searches and establishing the
27 procedures for the retention of private school personnel
28 fingerprints and the dissemination of search results. The fee
29 may be borne by the private school, the employee, the
30 contracted person, the person engaged to provide services, or
31 the owner.

1 (c) A private school participating in the John M.
2 McKay Scholarships for Students with Disabilities Program may
3 not:

4 1. Act as attorney in fact for parents of a
5 scholarship student under the authority of a power of attorney
6 executed by such parents, or under any other authority, to
7 endorse scholarship warrants on behalf of parents.

8 2. Send or direct McKay Scholarship funds to parents
9 of a scholarship student who receives instruction at home.

10 3. Be a correspondence school or distance learning
11 school.

12 4. Accept a McKay scholarship student until the sworn
13 and notarized compliance statement has been completed,
14 submitted to, and independently verified by the Department of
15 Education.

16 (d) A participating private school may request that
17 the school be listed by the Department of Education with a
18 closed-enrollment status in the McKay Scholarship program if
19 the school is no longer accepting new students with McKay
20 Scholarships. As used in this paragraph, the term
21 "closed-enrollment status" means that the private school is no
22 longer accepting any new student with a McKay Scholarship.
23 However, the private school is subject to all the requirements
24 under this section and all applicable rules adopted by the
25 State Board of Education if the private school is serving a
26 student with a McKay Scholarship. The private school must
27 provide a written request for closed-enrollment status to the
28 Department of Education. The Department of Education may grant
29 closed-enrollment status to a participating private school.
30 However, closed-enrollment status may not be granted for
31 longer than 1 school year.

1 (5) OBLIGATION OF PROGRAM PARTICIPANTS.--

2 (a) A parent who applies for a John M. McKay
3 Scholarship is exercising his or her parental option to place
4 his or her child in a private school. The parent must select
5 the private school and apply for the admission of his or her
6 child.

7 (b) The parent must have requested the scholarship at
8 least 60 days prior to the date of the first scholarship
9 payment.

10 (c) Any student participating in the scholarship
11 program must remain in attendance throughout the school year,
12 unless excused by the school for illness or other good cause,
13 and must comply fully with the school's code of conduct.

14 (d) The parent of each student participating in the
15 scholarship program must comply fully with the private
16 school's parental involvement requirements, unless excused by
17 the school for illness or other good cause.

18 (e) If the parent requests that the student
19 participating in the scholarship program take all statewide
20 assessments required pursuant to s. 1008.22, the parent is
21 responsible for transporting the student to the assessment
22 site designated by the school district.

23 (f) Upon receipt of a scholarship warrant, the parent
24 to whom the warrant is made must restrictively endorse the
25 warrant to the private school for deposit into the account of
26 the private school.

27 (g) The parent of a student participating in the
28 scholarship program may not designate any participating
29 private school as the parent's attorney in fact to sign a
30 scholarship warrant.

31

1 ~~(h)(g)~~ A participant who fails to comply with this
2 subsection forfeits the scholarship.

3 (6) SCHOLARSHIP FUNDING AND PAYMENT.--

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

10 (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. When a student enters the
19 scholarship program, the Department of Education must receive
20 all documentation required for the student's participation,
21 including, but not limited to, the private school's and
22 student's fee schedules, at least 30 days before the first
23 quarterly scholarship payment is made for the student. The
24 Department of Education may not make any retroactive payments.

25 (7) OBLIGATIONS OF THE DEPARTMENT OF EDUCATION.--

26 (a) The Department of Education shall perform the
27 following duties:

28 1. Review for compliance all documentation required
29 for each scholarship student's participation, including,
30 without limitation, the private school's schedule and the
31 student's fee schedule.

- 1 2. Verify the admission acceptance of each scholarship
2 student to an eligible private school prior to the initial
3 scholarship payment.
- 4 3. Verify, prior to each scholarship payment, the
5 enrollment and attendance of each scholarship student at the
6 private school and that the scholarship student is not:
- 7 a. Receiving a scholarship under s. 220.187 or s.
8 1002.38.
- 9 b. Participating in a home education program as
10 defined in s. 1002.01(1).
- 11 c. Participating in instruction delivered by a
12 correspondence school or distance learning courses, except as
13 specifically permitted in paragraph (2)(b).
- 14 d. Enrolled in a school operating for the purpose of
15 providing education services to youth in commitment programs
16 of the Department of Juvenile Justice.
- 17 e. Currently enrolled in a public school in the state,
18 if the student has a scholarship to attend a private school.
- 19 4. Administer and prescribe an annual sworn and
20 notarized compliance statement for each participating private
21 school and independently verify the information provided by
22 each participating private school.
- 23 5. Review all results of the background checks
24 performed pursuant to subsection (4).
- 25 6. Determine the eligibility of a private school to
26 accept McKay scholarship students, based upon independent
27 verification that the private school meets all the
28 requirements in this section and all applicable rules adopted
29 by the State Board of Education.
- 30 7. Publish a current, on-line list of eligible private
31 schools.

1 8. Include each eligible private school on the on-line
2 list of eligible private schools within 10 days after the
3 private school is determined as eligible to participate in the
4 McKay scholarship program.

5 9. Remove immediately from the on-line list of
6 eligible private schools any school that is determined by the
7 Department of Education to be an ineligible private school, as
8 provided for in paragraph (b).

9 10. Remove immediately from the on-line list of
10 eligible private schools any school that is determined by the
11 Department of Education to be an ineligible school, as
12 provided for in paragraphs (b) and (c).

13 (b) The Department of Education shall deny or refuse
14 to allow the participation of any private school if it
15 determines that the private school or any of its owners or
16 administrators has failed to meet the requirements for initial
17 application or renewal as provided in this section.

18 (c) The Department of Education shall issue a notice
19 of noncompliance pursuant to s. 120.695 to any participating
20 private school that violates any of the provisions of this
21 section or the rules of the State Board of Education, if the
22 violation is a minor violation as defined in s. 120.695. If a
23 private school fails to satisfy the requirements specified in
24 the notice of noncompliance within 30 days after its receipt
25 by the school, the Department of Education shall issue an
26 emergency order revoking the registration of the participating
27 private school. The Department of Education shall issue an
28 emergency order to immediately revoke the registration of a
29 participating private school for a violation that is not a
30 minor violation as defined in s. 120.695.

31

1 (d) The Department of Education shall revoke the
2 scholarship for a participant who fails to comply with the
3 requirements in subsection (5) or who:

4 1. Receives a scholarship under s. 220.187 or s.
5 1002.38.

6 2. Participates in a home education program as defined
7 in s. 1002.01(1).

8 3. Participates in instruction delivered by a
9 correspondence school or distance learning courses, except as
10 specifically permitted in paragraph (2)(b).

11 4. Does not have regular and direct contact with the
12 student's private school teachers at the school's physical
13 location.

14 5. Enrolls in a school operating for the purpose of
15 providing educational services to youth in commitment programs
16 of the Department of Juvenile Justice.

17 (e) The Department of Education shall conduct an
18 investigation of any written complaint of a violation of this
19 section if the complaint is signed by the complainant and is
20 legally sufficient. A complaint is legally sufficient if it
21 contains ultimate facts that show that a violation of this
22 section or any rule adopted by the State Board of Education
23 has occurred. In order to determine legal sufficiency, the
24 Department of Education may require supporting information or
25 documentation.

26 (f) The Department of Education may not change a
27 matrix of services completed by a school district. However,
28 the department may make the following changes for a matrix for
29 a student if the school district has identified the error but
30 has failed to make a correction in a timely manner:

31

1 1. A correction to a technical, typographical, or
 2 calculation error; or

3 2. A change to align the matrix of services with the
 4 student's individual education plan completed by the school
 5 district for use in the public school prior to the student
 6 enrolling in or attending a private school.

7
 8 The department must report any change made under this
 9 paragraph to the school district and the parent of the
 10 student.

11 (8) OBLIGATIONS OF THE AUDITOR

12 GENERAL.--Notwithstanding any other law to the contrary, the
 13 Auditor General must include in the operational audit of the
 14 Department of Education the John M. McKay Scholarships for
 15 Students with Disabilities Program. The Auditor General must
 16 include in the audit a review of a sample of the warrants used
 17 to pay for the scholarships, as well as random site visits to
 18 private schools participating in the John M. McKay
 19 Scholarships for Students with Disabilities Program, in order
 20 to verify student enrollment and other information reported by
 21 the private schools as required by rules of the State Board of
 22 Education.

23 (9)(7) LIABILITY.--No liability shall arise on the
 24 part of the state based on the award or use of a John M. McKay
 25 Scholarship.

26 (10)(8) RULES.--The State Board of Education shall ~~may~~
 27 adopt rules pursuant to ss. 120.536(1) and 120.54 to
 28 administer this section, including rules for:-

29 (a) Administering the annual sworn and notarized
 30 compliance statement to all participating private schools;

31

1 (b) Establishing procedures for schools to request
2 closed-enrollment and active status;

3 (c) Establishing forms for changes to a matrix by a
4 school district and the department;

5 (d) Implementing the requirement that a private school
6 timely notify the Department of Education of material changes
7 to the school's registration information;

8 (e) Establishing attendance-verification procedures
9 and forms; and

10 (f) Establishing procedures for determining student
11 eligibility and approving scholarships.

12
13 The rules related to the annual sworn and notarized compliance
14 statement shall establish a deadline for the receipt of the
15 initial sworn and notarized compliance statement from the
16 private school and shall enumerate the items to be included in
17 the statement. The rules shall enumerate the items to be
18 included in a subsequent annual sworn and notarized compliance
19 statement that is required in January of each year from the
20 private school. However, the inclusion of eligible private
21 schools within options available to Florida public school
22 students does not expand the regulatory authority of the
23 state, its officers, or any school district to impose any
24 additional regulation of private schools beyond those
25 reasonably necessary to enforce requirements expressly set
26 forth in this section.

27 Section 2. The State Board of Education shall initiate
28 the adoption of rules required by this act 10 days after the
29 effective date of this act. The State Board of Education shall
30 report to the presiding officers of the Legislature by
31

1 December 1, 2004, on the status of the rulemaking required by
2 this act.

3 Section 3. (1) A private school that meets the
4 following requirements on June 1, 2004, is not required to
5 file the surety bond as required in section 1002.39(4)(a)1.,
6 Florida Statutes:

7 (a) The private school is participating in the McKay
8 Scholarship Program under section 1002.39, Florida Statutes;
9 and

10 (b) The private school is determined by the Department
11 of Education to be in compliance with section 1002.39, Florida
12 Statutes.

13 (2) Notwithstanding section 1002.39(4)(b)4., Florida
14 Statutes, a private school that meets the requirements in
15 paragraphs (1)(a) and (b) may accept a McKay scholarship
16 student.

17 (3) Notwithstanding subsections (1) and (2), if the
18 private school becomes, after June 1, 2004, subject to an
19 action taken by the Department of Education for any violation
20 of section 1002.39, Florida Statutes, the private school:

21 (a) Shall file a surety bond with the Department of
22 Education following the date on which the action was taken
23 against the private school for a violation of section 1002.39,
24 Florida Statutes, but prior to receiving the next quarterly
25 payment;

26 (b) Shall file a surety bond with the Department of
27 Education for 2 additional consecutive years thereafter; and

28 (c) May not accept new McKay scholarship students
29 until the private school complies with all the requirements in
30 section 1002.39, Florida Statutes, and all applicable rules of

31

1 the State Board of Education, as determined by the Department
 2 of Education.

3 Section 4. Section 220.187, Florida Statutes, is
 4 amended to read:

5 220.187 Credits for contributions to nonprofit
 6 scholarship-funding organizations.--

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

8 (a) Encourage private, voluntary contributions to
 9 nonprofit scholarship-funding organizations.

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

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

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

15 ~~(a) "Department" means the Department of Revenue.~~

16 ~~(a)(b)~~ (a)(b) "Eligible contribution" means a monetary
 17 contribution from a taxpayer, subject to the restrictions
 18 provided in this section, to an eligible nonprofit
 19 scholarship-funding organization. The taxpayer making the
 20 contribution may not designate a specific child as the
 21 beneficiary of the contribution. The taxpayer may not
 22 contribute more than \$5 million to any single eligible
 23 nonprofit scholarship-funding organization.

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

29 1. Must maintain a physical location in this state
 30 where each scholarship student regularly attends classes.

31

1 2. May not be a correspondence school or distance
2 learning school.

3 3. May not direct or provide scholarship funds to a
4 parent of a scholarship student who receives instruction under
5 the program at home.

6 4. May not be a home education program as defined in
7 s. 1002.01(1).

8 ~~(c)(d)~~ "Eligible nonprofit scholarship-funding
9 organization" means a charitable organization that is exempt
10 from federal income tax pursuant to s. 501(c)(3) of the
11 Internal Revenue Code, incorporated under laws of this state,
12 and that complies with the provisions of subsection (4).

13 (d) "Owner" means the owner, president, chairperson of
14 the board of directors, superintendent, principal, or person
15 with equivalent decisionmaking authority who owns, operates,
16 or administers an eligible nonprofit scholarship-funding
17 organization or eligible private school. In addition, the term
18 "owner" means an individual who has access to or processes
19 scholarship funds or eligible contributions at an eligible
20 nonprofit scholarship-funding organization or eligible private
21 school.

22 (e) "Qualified student" means a student who qualifies
23 for free or reduced-price school lunches under the National
24 School Lunch Act and who:

25 1. Was counted as a full-time equivalent student
26 during the previous state fiscal year for purposes of state
27 per-student funding;

28 2. Received a scholarship from an eligible nonprofit
29 scholarship-funding organization during the previous school
30 year; or

31 3. Is eligible to enter kindergarten or first grade.

1
2 A student is not eligible to receive a scholarship under this
3 section if the student is participating in the Opportunity
4 Scholarship Program under s. 1002.38, the John M. McKay
5 Scholarships for Students with Disabilities Program under s.
6 1002.39, or a home education program as defined in s.
7 1002.01(1). A student is not eligible to receive a scholarship
8 from more than one eligible nonprofit scholarship-funding
9 organization at the same time.

10 (3) AUTHORIZATION TO GRANT SCHOLARSHIP FUNDING TAX
11 CREDITS; LIMITATIONS ON INDIVIDUAL AND TOTAL CREDITS.--

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

26 (b) The total amount of tax credits and carryforward
27 of tax credits ~~that which~~ may be granted each state fiscal
28 year under this section is \$88 million. One percent of the
29 total statewide amount authorized for the tax credit must be
30 reserved for taxpayers who are small businesses as defined in
31 s. 288.703(1) at the time of application.

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

6 (d) A taxpayer may rescind its application for tax
7 credit under this section, and the amount approved in the
8 application for tax credit shall become available for purposes
9 of the cap for that state fiscal year under this section to an
10 eligible taxpayer as approved by the Department of Revenue, if
11 the taxpayer receives notice from the Department of Revenue
12 that the rescindment application has been accepted by the
13 Department of Revenue, the taxpayer has not previously
14 rescinded its application for tax credit under this section
15 more than once in the previous 3 tax years, and the taxpayer
16 has not made a contribution pursuant to its approved
17 application for tax credit under this section. Any amount
18 rescinded under this paragraph shall become available to an
19 eligible taxpayer on a first-come, first-served basis based on
20 tax credit applications received after the date the
21 rescindment is accepted by the Department of Revenue.

22 (4) OBLIGATIONS OF ELIGIBLE NONPROFIT
23 SCHOLARSHIP-FUNDING ORGANIZATIONS.--

24 (a) An eligible nonprofit scholarship-funding
25 organization shall provide scholarships, from eligible
26 contributions, to qualified students for:

27 1. Tuition or textbook expenses for, or transportation
28 to, an eligible private ~~nonpublic~~ school. At least 75 percent
29 of each ~~the~~ scholarship ~~funding~~ must be used to pay tuition
30 expenses; or
31

1 2. Transportation expenses to a Florida public school
2 that is located outside the district in which the student
3 resides.

4 (b) An eligible nonprofit scholarship-funding
5 organization shall give priority to qualified students who
6 received a scholarship from an eligible nonprofit
7 scholarship-funding organization during the previous school
8 year.

9 (c) The amount of a scholarship provided to any child
10 for any single school year by all eligible nonprofit
11 scholarship-funding organizations from eligible contributions
12 shall not exceed the following annual limits:

13 1. Three thousand five hundred dollars for a
14 scholarship awarded to a student enrolled in an eligible
15 private ~~nonpublic~~ school.

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

19 (d) The amount of an eligible contribution ~~that~~ ~~which~~
20 may be accepted by an eligible nonprofit scholarship-funding
21 organization is limited to the amount needed to provide
22 scholarships for qualified students ~~that~~ ~~which~~ the
23 organization has identified and for which vacancies in
24 eligible private ~~nonpublic~~ schools have been identified.

25 (e) An eligible nonprofit scholarship-funding
26 organization that receives an eligible contribution must spend
27 100 percent of the eligible contribution to provide
28 scholarships in the same state fiscal year in which the
29 contribution was received. No portion of eligible
30 contributions may be used for administrative expenses. All
31

1 interest accrued from contributions must be used for
2 scholarships.

3 (f) An eligible nonprofit scholarship-funding
4 organization that receives eligible contributions must provide
5 to the Auditor General and the Department of Education, within
6 180 days after completion of the organization's fiscal year,
7 an annual financial and compliance audit of its accounts and
8 records conducted by an independent certified public
9 accountant and in accordance with rules adopted by the Auditor
10 General. The Auditor General shall review all audit reports
11 submitted pursuant to this section. The Auditor General shall
12 request any significant items that were omitted in violation
13 of a rule adopted by the Auditor General. The items must be
14 provided within 45 days after the date of the request. If the
15 nonprofit scholarship-funding organization does not comply
16 with the Auditor General's request, the Auditor General shall
17 notify the Legislative Auditing Committee. The Legislative
18 Auditing Committee may schedule a hearing. If a hearing is
19 scheduled, the committee shall determine if the nonprofit
20 scholarship-funding organization should be subject to further
21 state action. If the committee determines that the nonprofit
22 scholarship-funding organization should be subject to further
23 state action, the committee shall notify the Department of
24 Education, which shall terminate the eligibility of the
25 nonprofit scholarship-funding organization to participate in
26 the program under this section.

27 (g) An eligible nonprofit scholarship-funding
28 organization shall make payment of the scholarship, at a
29 minimum, on a quarterly basis. Payment of the scholarship by
30 the eligible nonprofit scholarship-funding organization shall
31 be by individual warrant or check made payable to the

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

13 (h) An eligible nonprofit scholarship-funding
14 organization may not commingle scholarship funds with any
15 other funds and must maintain a separate account for
16 scholarship funds.

17 (i) An eligible nonprofit scholarship-funding
18 organization shall obtain verification from a private school
19 of each student's continued attendance at the private school
20 prior to each scholarship payment.

21 (j) An eligible nonprofit scholarship-funding
22 organization must verify the income of all scholarship
23 applicants participating in the program at least once each
24 school year through independent income documentation as
25 provided in rules of the State Board of Education.

26 (k) An eligible nonprofit scholarship-funding
27 organization must prepare and submit quarterly reports to the
28 Department of Education pursuant to subsection (8). In
29 addition, an eligible nonprofit scholarship-funding
30 organization must immediately submit to the Department of
31

1 Education any information requested by the Department of
2 Education relating to the scholarship program.

3 (1) All owners of a nonprofit scholarship-funding
4 organization shall, upon employment, entry into the contract,
5 or engagement to provide services, undergo background
6 screening pursuant to s. 435.04 by filing with the Department
7 of Education a complete set of fingerprints taken by an
8 authorized law enforcement agency or an employee of the
9 scholarship-funding organization who is trained to take
10 fingerprints. These fingerprints shall be submitted to the
11 Department of Law Enforcement for state processing, which
12 shall in turn submit the fingerprints to the Federal Bureau of
13 Investigation for federal processing. The Department of
14 Education shall screen the background results and report to
15 the scholarship-funding organization any owner who fails to
16 meet level 2 screening standards pursuant to s. 435.04 or any
17 owner who has been convicted of a crime involving moral
18 turpitude. Owners found through fingerprint processing to have
19 been convicted of a crime involving moral turpitude or failing
20 to meet level 2 screening standards pursuant to s. 435.04 may
21 not be employed, contracted with, or engaged to provide
22 services in any position with the scholarship-funding
23 organization. The cost of the background screening may be
24 borne by the scholarship-funding organization or the owner.

25 1. Every 5 years following employment, entry into a
26 contract, or engagement to provide services with a
27 scholarship-funding organization, each owner must meet level 2
28 screening requirements as described in s. 435.04, at which
29 time the Department of Education shall request the Department
30 of Law Enforcement to forward the fingerprints to the Federal
31 Bureau of Investigation for level 2 screening. If the

1 fingerprints of an owner are not retained by the Department of
2 Law Enforcement under subparagraph 2., the owner must file a
3 complete set of fingerprints with the Department of Education.
4 Upon submission of fingerprints for this purpose, the
5 Department of Education shall request the Department of Law
6 Enforcement to forward the fingerprints to the Federal Bureau
7 of Investigation for level 2 screening, and the fingerprints
8 shall be retained by the Department of Law Enforcement under
9 subparagraph 2. The cost of the state and federal criminal
10 history check required by level 2 screening may be borne by
11 the scholarship-funding organization or the owner. Under
12 penalty of perjury, each owner must agree to inform the
13 scholarship-funding organization immediately if convicted of
14 any disqualifying offense while he or she is employed, under
15 contract, or engaged to provide services with the
16 scholarship-funding organization. If it is found that an owner
17 does not meet the level 2 requirements, the owner shall be
18 immediately suspended from working in that capacity and shall
19 remain suspended until final resolution of any appeals.

20 2. Beginning July 1, 2004, all fingerprints submitted
21 to the Department of Law Enforcement as required by paragraph
22 (1), shall be retained by the Department of Law Enforcement in
23 a manner provided by rule and entered in the statewide
24 automated fingerprint identification system authorized by s.
25 943.05(2)(b). Such fingerprints shall thereafter be available
26 for all purposes and uses authorized for arrest fingerprint
27 cards entered in the statewide automated fingerprint
28 identification system pursuant to s. 943.051.

29 3. Beginning December 15, 2004, the Department of Law
30 Enforcement shall search all arrest fingerprint cards received
31 under s. 943.051 against the fingerprints retained in the

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

17 (m) An eligible nonprofit scholarship-funding
18 organization must comply with the antidiscrimination
19 provisions of 42 U.S.C. s. 2000d.

20 (n) An eligible nonprofit scholarship-funding
21 organization or an owner of an eligible nonprofit
22 scholarship-funding organization may not own, operate, or
23 administer an eligible private school participating in the
24 program.

25 (o) An eligible nonprofit scholarship-funding
26 organization must report to the Department of Education any
27 private school participating in the scholarship program under
28 this section which does not comply with the requirements of
29 the scholarship program. The eligible nonprofit
30 scholarship-funding organization may not provide additional
31 scholarship funds to a parent for a student to attend a

1 private school until the State Board of Education determines
2 that the school is in compliance with this section.

3 (p) An eligible nonprofit scholarship-funding
4 organization must allow a qualified student to attend any
5 eligible private school and must allow the parent to transfer
6 the scholarship during the school year to another eligible
7 private school of the parent's choice.

8 (q) An eligible nonprofit scholarship-funding
9 organization must provide a scholarship to a qualified student
10 on a first-come, first-served basis unless the student
11 qualifies for priority pursuant to paragraph (4)(b). An
12 eligible nonprofit scholarship-funding organization may not
13 target scholarships to a particular private school or provide
14 scholarships to a child of an owner.

15 (r) An eligible nonprofit scholarship-funding
16 organization may not transfer scholarship funds to another
17 eligible nonprofit scholarship-funding organization.

18 (s) An eligible nonprofit scholarship-funding
19 organization may not secure a promissory note, a line of
20 credit, or other financing to fund a scholarship in
21 anticipation of an eligible contribution. An eligible
22 scholarship-funding organization may only fund scholarships
23 through eligible contributions received under the scholarship
24 program.

25 (t) A nonprofit scholarship-funding organization that
26 fails to comply with this section may not participate in the
27 scholarship program.

28 (5) PARENT OBLIGATIONS.--

29 (a) As a condition for scholarship payment pursuant to
30 paragraph (4)(g), if the parent chooses for his or her child
31 to attend an eligible ~~private~~ nonpublic school, the parent

1 must inform the child's school district within 15 days after
2 such decision.

3 (b) Any student participating in the scholarship
4 program must remain in attendance throughout the school year,
5 unless excused by the school for illness or other good cause,
6 and must comply fully with the school's code of conduct.

7 (c) The parent of each student participating in the
8 scholarship program must comply fully with the eligible
9 private school's parental-involvement requirements unless
10 excused by the school for good cause.

11 (d) Upon receipt of scholarship funds from the
12 eligible nonprofit scholarship-funding organization, the
13 parent to whom the warrant is made must restrictively endorse
14 the warrant to the private school for deposit into the account
15 of the private school. The parent may not authorize the
16 eligible private school, its owners, or employees to act as an
17 attorney in fact for purposes of endorsing scholarship
18 warrants.

19 (e) The parent of each qualified student participating
20 in the scholarship program must ensure that the student
21 participates in the required testing pursuant to this section.

22 (f) A student or parent who fails to comply with this
23 subsection forfeits the scholarship.

24 (6) ELIGIBLE ~~PRIVATE NONPUBLIC~~ SCHOOL OBLIGATIONS.--An
25 eligible ~~private nonpublic~~ school must:

26 (a) Demonstrate fiscal soundness by filing with being
27 in operation for one school year or provide the Department of
28 Education with a surety bond for the amount equal to the
29 scholarship amount for each quarter of the school year. The
30 surety bond must be filed at the time of the private school's
31 initial registration to participate in the program under this

1 section with the Department of Education and at each annual
2 registration period thereafter for a total of 3 consecutive
3 years. This requirement does not apply to an eligible private
4 school that:

5 1. Has participated in the program for 3 consecutive
6 years or longer; and

7 2. Has had no action taken by the Department of
8 Education against the private school for any violation of this
9 section for 3 consecutive years or longer.

10

11 However, any private school that was subject to an action
12 taken by the Department of Education for any violation of this
13 section shall, following the date on which action was taken
14 against the private school for a violation of this section,
15 but prior to receiving the next quarterly payment, and for 2
16 additional consecutive years thereafter, file a surety bond
17 with the Department of Education. ~~statement by a certified~~
18 ~~public accountant confirming that the nonpublic school~~
19 ~~desiring to participate is insured and the owner or owners~~
20 ~~have sufficient capital or credit to operate the school for~~
21 ~~the upcoming year serving the number of students anticipated~~
22 ~~with expected revenues from tuition and other sources that may~~
23 ~~be reasonably expected. In lieu of such a statement, a surety~~
24 ~~bond or letter of credit for the amount equal to the~~
25 ~~scholarship funds for any quarter may be filed with the~~
26 ~~department.~~

27 (b) Comply with the antidiscrimination provisions of
28 42 U.S.C. s. 2000d.

29 (c) Meet state and local health and safety laws and
30 codes.

31

1 (d) Comply with all state laws relating to general
2 regulation of private ~~nonpublic~~ schools.

3 (e) Employ or contract with teachers who have regular
4 and direct contact with each student receiving a scholarship
5 under this section at the school's physical location. All
6 teachers must hold at least a baccalaureate degree or have at
7 least 3 years' teaching experience in public or private
8 schools and have special skills, knowledge, or expertise that
9 qualifies them to provide instruction in subjects taught. As
10 part of the sworn-compliance form authorized under subsection
11 (7), an eligible private school must report to the Department
12 of Education the number of teachers employed or under contract
13 with the private school, along with the manner in which the
14 teacher meets the requirements of this paragraph.

15 (f) Annually register with the Department of
16 Education. Each private school must annually provide the
17 following information to the Department of Education:

18 1. The legal business and trade names, mailing
19 address, and business location of the private school;

20 2. The legal name, mailing address, and telephone
21 numbers of an owner of the private school;

22 3. A list of students at the private school receiving
23 a scholarship under this section; and

24 4. A notification of the private school's intent to
25 participate in the program under this section.

26 (g) Ensure that all personnel who are hired,
27 contracted, or engaged to provide services to fill positions
28 requiring direct contact with students in the private school,
29 and all owners of a private school shall, upon employment,
30 entry into the contract, engagement to provide services, or
31 assumption of a position of ownership, a position of

1 decisionmaking authority, or a position having access to
2 scholarship funds, undergo background screening pursuant to s.
3 435.04 by filing with the Department of Education a complete
4 set of fingerprints taken by an authorized law enforcement
5 agency or an employee of the private school who is trained to
6 take fingerprints. These fingerprints shall be submitted to
7 the Department of Law Enforcement for state processing, which
8 shall in turn submit the fingerprints to the Federal Bureau of
9 Investigation for federal processing. The Department of
10 Education shall screen the background results and report to
11 the private school any person described in this paragraph who
12 fails to meet level 2 screening standards pursuant to s.
13 435.04 or any person described in this paragraph who has been
14 convicted of a crime involving moral turpitude. Employees,
15 contractors, personnel engaged to provide services, or owners
16 found through fingerprint processing to have been convicted of
17 a crime involving moral turpitude or failing to meet level 2
18 screening standards pursuant to s. 435.04 may not be employed,
19 contracted with, or engaged to provide services in any
20 position in the private school requiring direct contact with
21 students, and may not assume a position of ownership, a
22 position of decisionmaking authority, or a position having
23 access to scholarship funds. The cost of the background
24 screening may be borne by the private school, the employee,
25 the contractor, the person engaged to provide services, or the
26 owner.

27 1. Every 5 years each person described in this
28 paragraph must meet level 2 screening requirements as
29 described in s. 435.04, at which time the Department of
30 Education shall request the Department of Law Enforcement to
31 forward the fingerprints to the Federal Bureau of

1 Investigation for level 2 screening. If the fingerprints of a
2 person described in this paragraph are not retained by the
3 Department of Law Enforcement under subparagraph 2., the
4 person must file a complete set of fingerprints with the
5 Department of Education. Upon submission of fingerprints for
6 this purpose, the Department of Education shall request the
7 Department of Law Enforcement to forward the fingerprints to
8 the Federal Bureau of Investigation for level 2 screening, and
9 the fingerprints shall be retained by the Department of Law
10 Enforcement under subparagraph 2. The cost of the state and
11 federal criminal history check required by level 2 screening
12 may be borne by the private school, the employee, the
13 contractor, the person engaged to provide services, or the
14 owner. Under penalty of perjury, each person described in this
15 paragraph must agree to inform the private school immediately
16 if convicted of any disqualifying offense while in a capacity
17 with the private school as described in this paragraph. If it
18 is found that a person described in this paragraph does not
19 meet the level 2 requirements, the person shall be immediately
20 suspended from working in that capacity and shall remain
21 suspended until final resolution of any appeals.

22 2. Beginning July 1, 2004, all fingerprints submitted
23 to the Department of Law Enforcement as required by this
24 paragraph shall be retained by the Department of Law
25 Enforcement in a manner provided by rule and entered in the
26 statewide automated fingerprint identification system
27 authorized by s. 943.05(2)(b). Such fingerprints shall
28 thereafter be available for all purposes and uses authorized
29 for arrest fingerprint cards entered in the statewide
30 automated fingerprint identification system pursuant to s.
31 943.051.

1 3. Beginning December 15, 2004, the Department of Law
2 Enforcement shall search all arrest fingerprint cards received
3 under s. 943.051 against the fingerprints retained in the
4 statewide automated fingerprint identification system under
5 subparagraph 2. Any arrest record that is identified with the
6 fingerprints of a person described in this paragraph shall be
7 reported to the Department of Education. Each eligible private
8 school shall participate in this search process by paying an
9 annual fee to the Department of Law Enforcement and by
10 informing the Department of Law Enforcement of any change in
11 the status or place of employment, contracting, or engagement
12 of services of its personnel as described in this paragraph
13 whose fingerprints are retained under subparagraph 2. The
14 Department of Law Enforcement shall adopt a rule setting the
15 amount of the annual fee to be imposed upon each private
16 school for performing these searches and establishing the
17 procedures for the retention of private school personnel
18 fingerprints and the dissemination of search results. The fee
19 may be borne by the private school, the employee, the
20 contracted person, the person engaged to provide services, or
21 the owner.

22 (h) Annually administer or make provisions for
23 scholarship students to take the Iowa Test of Basic Skills,
24 the Stanford-9, or the Florida Comprehensive Assessment Test,
25 or subsequent versions of these tests. A participating private
26 school must report a student's scores to the parent and to the
27 independent private research organization selected by the
28 Department of Education pursuant to subsection (7).

29 (i) Annually comply with the Department of Education's
30 affidavit requirements as provided in subsection (8).

31

1 (j) Notify in writing the Department of Education and
 2 the nonprofit scholarship-funding organization within 7 days
 3 if a student is ineligible to participate in the scholarship
 4 program.

5 (k) Publish and report annually to the Department of
 6 Education and distribute to the scholarship applicants if the
 7 school has been in existence for 3 years or less.

8 (l) Publish and report annually to the Department of
 9 Education and distribute to the scholarship applicants:

10 1. Whether the private school is accredited by an in
 11 state or regional accrediting association that is validated by
 12 a third-party accreditor at the state or national level which
 13 has been in existence at least 3 years;

14 2. The name of the accrediting association that
 15 accredits the private school; and

16 3. Whether the private school is in the process of
 17 receiving candidate status.

18
 19 The Department of Education shall make the annual list of
 20 accredited and nonaccredited private schools available to the
 21 public and shall make that list available by county.

22 (m) Comply with this section's requirements. A private
 23 school that fails to comply with this section is ineligible to
 24 participate in the scholarship program under this section.

25 (7) DEPARTMENT OF EDUCATION; RESPONSIBILITIES.--The
 26 Department of Education must:

27 (a) Annually submit, by March 15, to the Department of
 28 Revenue a list of eligible nonprofit scholarship-funding
 29 organizations that meet the requirements of this section.

30 (b) Annually determine the eligibility of nonprofit
 31 scholarship-funding organizations that meet the requirements

1 of this section. The Department of Education must determine
2 the eligibility of the nonprofit scholarship-funding
3 organization within 90 days after the nonprofit
4 scholarship-funding organization's application for approval to
5 participate in the program. The Department of Education must
6 provide written notice of approval or denial to participate in
7 the program to the nonprofit scholarship-funding organization.
8 The notice must contain the specific reasons for approval or
9 denial.

10 (c) Annually determine the eligibility of private
11 schools that meet the requirements of this section. The
12 Department of Education must maintain a list of eligible
13 private schools, and that list must be made accessible to the
14 public.

15 (d) Annually verify the eligibility of students that
16 meet the requirements of this section. The Department of
17 Education must maintain a database of students participating
18 in the program. The Department of Education must, at least
19 quarterly, update its database to ensure that a student
20 continues to meet the requirements of this section. The
21 Department of Education must immediately notify an eligible
22 nonprofit scholarship-funding organization of any student that
23 fails to meet the requirements of this section.

24 (e) Annually account for and verify the eligibility of
25 expenditures under this section.

26 (f) Annually review all audit reports of nonprofit
27 scholarship-funding organizations for compliance with this
28 section.

29 (g) Annually submit, administer, and retain records of
30 affidavits from private schools certifying compliance with
31 this section.

1 (h) Select an independent private research
2 organization to which participating private schools must
3 report the scores of participating students on the Iowa Test
4 of Basic Skills, the Stanford-9, or the Florida Comprehensive
5 Assessment Test, or subsequent versions of these tests
6 administered by the private school. The independent private
7 research organization must annually report to the Department
8 of Education on the year-to-year improvements of the
9 participating students. The independent research organization
10 must analyze and report student performance data, including
11 student scores by grade level, in a manner that protects the
12 rights of students and parents as mandated in 20 U.S.C. s.
13 1232g and must not disaggregate data to a level that will
14 disclose the identity of students or of private schools. To
15 the extent possible, the independent private research
16 organization must accumulate historical performance data on
17 students from the Department of Education and private schools
18 to describe baseline performance and to conduct longitudinal
19 studies.

20 (i) Revoke the eligibility of a nonprofit
21 scholarship-funding organization, private school, or student
22 to participate in the program for noncompliance with this
23 section.

24 (j) Annually report, by December 15, to the Governor,
25 the President of the Senate, and the Speaker of the House of
26 Representatives of the Department of Education's actions with
27 respect to implementing accountability in the scholarship
28 program under this section including, but not limited to, any
29 substantiated allegations or violations of law or rule by a
30 nonprofit scholarship-funding organization or private school
31

1 under this program and the corrective action taken by the
2 Department of Education.

3 ~~(8)(7)~~ ADMINISTRATION; RULES.--

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

20 (b) An application for a tax credit pursuant to this
21 section shall be submitted to the Department of Revenue on
22 forms established by rule of the Department of Revenue.

23 (c) The Department of Revenue and the Department of
24 Education shall develop a cooperative agreement to assist in
25 the administration of this section. ~~The Department of~~
26 ~~Education shall be responsible for annually submitting, by~~
27 ~~March 15, to the department a list of eligible nonprofit~~
28 ~~scholarship funding organizations that meet the requirements~~
29 ~~of paragraph (2)(d) and for monitoring eligibility of~~
30 ~~nonprofit scholarship funding organizations that meet the~~
31 ~~requirements of paragraph (2)(d), eligibility of nonpublic~~

1 ~~schools that meet the requirements of paragraph (2)(c), and~~
 2 ~~eligibility of expenditures under this section as provided in~~
 3 ~~subsection (4).~~

4 (d) The Department of Revenue shall adopt rules
 5 necessary to administer this section, including rules
 6 establishing application forms and procedures and governing
 7 the allocation of tax credits and carryforward credits under
 8 this section on a first-come, first-served basis.

9 (e) The State Board of Education ~~Department of~~
 10 ~~Education~~ shall adopt rules pursuant to ss. 120.536(1) and
 11 120.54 to administer this section, including, but not limited
 12 to, rules: necessary to

13 1. Determining ~~determine~~ eligibility of nonprofit
 14 scholarship-funding organizations and private schools; as
 15 ~~defined in paragraph (2)(d) and according to the provisions of~~
 16 ~~subsection (4) and~~

17 2. Identifying ~~identify~~ qualified students; ~~as defined~~
 18 ~~in paragraph (2)(c).~~

19 3. Identifying the documentation required to establish
 20 eligibility for nonprofit scholarship-funding organizations;

21 4. Requiring an affidavit, which comports with this
 22 section's requirements for private schools that participate in
 23 the scholarship program; and

24 5. Identifying the independent income-verification
 25 documentation required to establish student eligibility under
 26 this section.

27 (f) The State Board of Education may delegate its
 28 authority under this section to the Commissioner of Education
 29 with the exception of rulemaking authority.

30 (9)(8) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--All
 31 eligible contributions received by an eligible nonprofit

1 scholarship-funding organization shall be deposited in a
2 manner consistent with s. 17.57(2).
3 Section 5. This act shall take effect upon becoming a
4 law.
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