

Committee Substitute for  
Committee Substitute for Senate Bill No. 256

An act relating to scholarship program accountability; amending s. 1002.39, F.S., relating to the John M. McKay Scholarships for Students with Disabilities Program; revising the definition of the term “students with disabilities”; revising student eligibility requirements for receipt of a scholarship and restricting eligibility therefor; providing for the term of a scholarship; revising and adding school district obligations and clarifying parental options; revising and adding Department of Education obligations, including verification of eligibility of private schools and establishment of a process for notification of violations, subsequent inquiry or investigation, and certification of compliance by private schools; providing Commissioner of Education authority and obligations, including the denial, suspension, or revocation of a private school’s participation in the scholarship program and procedures and timelines therefor; authorizing the Department of Education’s Office of the Inspector General to release student records under certain conditions; revising private school eligibility and obligations, including compliance with specified laws and academic accountability to the parent; revising parent and student responsibilities for scholarship program participation; prohibiting power of attorney for endorsing a scholarship warrant; revising provisions relating to scholarship funding and payment; providing funding and payment requirements for former Florida School for the Deaf and the Blind students and for students exiting a Department of Juvenile Justice program; providing for the Department of Education to request a sample of endorsed warrants from the Department of Financial Services; amending s. 220.187, F.S., relating to credits for contributions to nonprofit scholarship-funding organizations; revising and providing definitions; naming the Corporate Income Tax Credit Scholarship Program; providing student eligibility requirements for receipt of a corporate income tax credit scholarship and restricting eligibility therefor; revising provisions relating to tax credits for small businesses; providing for rescindment of tax credit allocation; revising and adding obligations of eligible nonprofit scholarship-funding organizations, including compliance with requirements for background checks of owners and operators, scholarship-funding organization ownership or operation, carryforward and transfer of funds, audits, and reports; specifying background screening requirements and procedures; requiring that certain information remain confidential in accordance with s. 213.053, F.S.; revising and adding parent and student responsibilities for scholarship program participation, including compliance with a private school’s published policies, participation in student academic assessment, and restrictive endorsement of scholarship warrants; prohibiting power of attorney for endorsing a scholarship warrant; revising and adding private school eligibility requirements and obligations, including compliance with specified laws and academic accountability to parents; revising and adding Department of

Education obligations, including verification of eligibility of program participants, establishment of a process for notification of violations, subsequent inquiry or investigation, certification of compliance by private schools, and selection of a research organization to analyze student performance data; providing Commissioner of Education authority and obligations, including the denial, suspension, or revocation of a private school's participation in the scholarship program and procedures and timelines therefor; authorizing the Department of Education's Office of the Inspector General to release student records under certain circumstances; revising and adding provisions relating to scholarship funding and payment, including the amount of a scholarship and the payment process; requiring adoption of rules; creating s. 1002.421, F.S., relating to accountability of private schools participating in state school choice scholarship programs; providing requirements for participation in a scholarship program, including compliance with specified state, local, and federal laws and demonstration of fiscal soundness; requiring restrictive endorsement of a scholarship warrant and prohibiting power of attorney for endorsing a warrant; requiring employment of qualified teachers and background screening of employees and contracted personnel having direct student contact; specifying background screening requirements and procedures; providing scope of authority; requiring adoption of rules; providing effective dates.

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

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

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

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

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

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

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

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

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

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

(b) The parent has obtained acceptance for admission of the student to a private school that is eligible for the program under subsection (8) (4) and has requested from the department notified the school district of the request for a scholarship at least 60 days prior to the date of the first scholarship payment. The request parental notification must be through a communication directly to the department district or through the Department of Education to the district in a manner that creates a written or electronic record of the request notification and the date of receipt of the request notification. The Department of Education must notify the district of the parent's intent upon receipt of the parent's request.

~~This section does not apply to a student who is enrolled in a school operating for the purpose of providing educational services to youth in Department of Juvenile Justice commitment programs. For purposes of continuity of educational choice, the scholarship shall remain in force until the student returns to a public school or graduates from high school. However, at any time, the student's parent may remove the student from the private school and place~~

the student in another private school that is eligible for the program under subsection (4) or in a public school as provided in subsection (3).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) DEPARTMENT OF EDUCATION OBLIGATIONS.—The department shall:

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

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

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

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

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

(f)1. Conduct random site visits to private schools participating in the John M. McKay Scholarships for Students with Disabilities Program. The purpose of the site visits is solely to verify the information reported by the

schools concerning the enrollment and attendance of students, the credentials of teachers, background screening of teachers, and teachers' fingerprinting results, which information is required by rules of the State Board of Education, subsection (8), and s. 1002.421. The Department of Education may not make more than three random site visits each year and may not make more than one random site visit each year to the same private school.

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

(7) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.—

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

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

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

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

3. Upon receipt of a request referred pursuant to this paragraph, the director of the Division of Administrative Hearings shall expedite the hearing and assign an administrative law judge who shall commence a hearing within 30 days after the receipt of the formal written request by the division and enter a recommended order within 30 days after the hearing or within 30 days after receipt of the hearing transcript, whichever is later. Each party

shall be allowed 10 days in which to submit written exceptions to the recommended order. A final order shall be entered by the agency within 30 days after the entry of a recommended order. The provisions of this subparagraph may be waived upon stipulation by all parties.

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

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

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

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

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

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

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

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

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

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

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



1. At a minimum, annually providing to the parent a written explanation of the student's progress.
2. Cooperating with the scholarship student whose parent chooses to participate in the statewide assessments pursuant to s. 1008.22.

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

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

~~(a) Demonstrate fiscal soundness by being in operation for 1 school year or provide the Department of Education with a statement by a certified public accountant confirming that the private school desiring to participate is insured and the owner or owners have sufficient capital or credit to operate the school for the upcoming year serving the number of students anticipated with expected revenues from tuition and other sources that may be reasonably expected. In lieu of such a statement, a surety bond or letter of credit for the amount equal to the scholarship funds for any quarter may be filed with the department.~~

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

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

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

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

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

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

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

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

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

parent must select the private school and apply for the admission of his or her child.

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

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

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

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

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

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

#### (10)(6) JOHN M. MCKAY SCHOLARSHIP FUNDING AND PAYMENT.—

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

2. In addition, a share of the guaranteed allocation for exceptional students shall be determined and added to the calculated amount. The calculation shall be based on the methodology and the data used to calculate the guaranteed allocation for exceptional students for each district in chapter 2000-166, Laws of Florida. Except as provided in subparagraphs subparagraph 3. and 4., the calculation shall be based on the student's grade, matrix level of services, and the difference between the 2000-2001 basic program and the appropriate level of services cost factor, multiplied by the 2000-2001 base student allocation and the 2000-2001 district cost differential for the sending district. Also, the calculated amount shall include the per-student share of supplemental academic instruction funds, instructional materials

funds, technology funds, and other categorical funds as provided for such purposes in the General Appropriations Act.

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

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

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

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

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

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

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

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

(d)(e) Following notification on July 1, September 1, December 1, or February 1 of the number of program participants, the department of Education shall transfer, from General Revenue funds only, the amount calculated under paragraph (b) from the school district's total funding entitlement under the Florida Education Finance Program and from authorized categorical accounts to a separate account for the scholarship program for quarterly disbursement to the parents of participating students. Funds may not be

transferred from any funding provided to the Florida School for the Deaf and the Blind for program participants who are eligible under subparagraph (2)(a)2. For a student exiting a Department of Juvenile Justice commitment program who chooses to participate in the scholarship program, the amount of the John M. McKay Scholarship calculated pursuant to paragraph (b) shall be transferred from the school district in which the student last attended a public school prior to commitment to the Department of Juvenile Justice. When a student enters the scholarship program, the department of Education must receive all documentation required for the student's participation, including the private school's and student's fee schedules, at least 30 days before the first quarterly scholarship payment is made for the student. The Department of Education may not make any retroactive payments.

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

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

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

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

(13)(8) RULES.—The State Board of Education shall adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section, including rules that school districts must use to expedite the development of a matrix of services based on an active a-current individual education plan from another state or a foreign country for a transferring student with a disability who is a dependent child of a member of the United States Armed Forces. The rules must identify the appropriate school district personnel who must complete the matrix of services. For purposes of these rules, a transferring student with a disability is one who was previously enrolled as a student with a disability in an out-of-state or an out-of-country public or private school or agency program and who is transferring from out of state or from

a foreign country pursuant to a parent's permanent change of station orders. ~~However, the inclusion of eligible private schools within options available to Florida public school students does not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of private schools beyond those reasonably necessary to enforce requirements expressly set forth in this section.~~

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

220.187 Credits for contributions to nonprofit scholarship-funding organizations.—

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

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

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

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

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

(a) “Department” means the Department of Revenue.

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

~~(c)~~(d) “Eligible nonprofit scholarship-funding organization” means a charitable organization that:

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

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

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

~~(d)~~(e) “Eligible ~~private nonpublic~~ school” means a private nonpublic school, as defined in s. 1002.01(2), located in Florida which that offers an education to students in any grades K-12 and that meets the requirements in subsection ~~(8)~~ (6).

(e) “Owner or operator” includes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(a) There is allowed a credit of 100 percent of an eligible contribution against any tax due for a taxable year under this chapter. However, such a~~

credit may not exceed 75 percent of the tax due under this chapter for the taxable year, after the application of any other allowable credits by the taxpayer. ~~However, at least 5 percent of the total statewide amount authorized for the tax credit shall be reserved for taxpayers who meet the definition of a small business provided in s. 288.703(1) at the time of application.~~ The credit granted by this section shall be reduced by the difference between the amount of federal corporate income tax taking into account the credit granted by this section and the amount of federal corporate income tax without application of the credit granted by this section.

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

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

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

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

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

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

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

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

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

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

4. Beginning July 1, 2007, the Department of Law Enforcement shall search all arrest fingerprint cards received under s. 943.051 against the fingerprints retained in the statewide automated fingerprint identification system under subparagraph 3. Any arrest record that is identified with an owner's or operator's fingerprints must be reported to the Department of Education. The Department of Education shall participate in this search process by paying an annual fee to the Department of Law Enforcement and by informing the Department of Law Enforcement of any change in the employment, engagement, or association status of the owners or operators whose fingerprints are retained under subparagraph 3. The Department of Law Enforcement shall adopt a rule setting the amount of the annual fee to be imposed upon the Department of Education for performing these services and establishing the procedures for the retention of owner and operator fingerprints and the dissemination of search results. The fee may be borne by the owner or operator of the nonprofit scholarship-funding organization.

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

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



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

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

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

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

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

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

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

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

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

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

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

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

(i)(e) Must obligate, in the same fiscal year in which the contribution was received, An eligible nonprofit scholarship-funding organization that receives an eligible contribution must spend 100 percent of the eligible contribution to provide annual or partial-year scholarships; however, up to 25 percent of the total contribution may be carried forward for expenditure in the following same state fiscal year in which the contribution was received.

A scholarship-funding organization must, before granting a scholarship for an academic year, document each scholarship student's eligibility for that academic year. A scholarship-funding organization may not grant multi-year scholarships in one approval process. No portion of eligible contributions may be used for administrative expenses. All interest accrued from contributions must be used for scholarships.

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

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

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

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

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

(g) Payment of the scholarship by the eligible nonprofit scholarship-funding organization shall be by individual warrant or check made payable to the student's parent. If the parent chooses for his or her child to attend an eligible nonpublic school, the warrant or check must be mailed by the eligible nonprofit scholarship-funding organization to the nonpublic school

~~of the parent's choice, and the parent shall restrictively endorse the warrant or check to the nonpublic school. An eligible nonprofit scholarship-funding organization shall ensure that, upon receipt of a scholarship warrant or check, the parent to whom the warrant or check is made restrictively endorses the warrant or check to the nonpublic school of the parent's choice for deposit into the account of the nonpublic school.~~

(7)(5) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM PARTICIPATION OBLIGATIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Annually verify the eligibility of expenditures as provided in paragraph (6)(d) using the audit required by paragraph (6)(l).

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

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

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

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

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

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

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

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

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

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

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

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

(10) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.—

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

to suspend or revoke the private school's participation in the scholarship program.

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

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

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

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

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

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

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

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

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

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

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

(11) SCHOLARSHIP AMOUNT AND PAYMENT.—

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

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

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

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

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

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

(12)(7) ADMINISTRATION; RULES.—

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



transfer the credit authorized by this section to another entity unless all of the assets of the taxpayer are conveyed, assigned, or transferred in the same transaction.

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

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

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

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

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

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

1002.421 Accountability of private schools participating in state school-choice scholarship programs.—

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

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

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

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

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

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

(e) Annually complete and submit to the department a notarized scholarship compliance statement certifying that all school employees and contracted personnel with direct student contact have undergone background screening pursuant to s. 943.0542.

(f) Demonstrate fiscal soundness and accountability by:

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

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

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

1. Firesafety.

2. Building safety.

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

(i) Require each employee and contracted personnel with direct student contact, upon employment or engagement to provide services, to undergo a state and national background screening, pursuant to s. 943.0542, by electronically filing with the Department of Law Enforcement a complete set of fingerprints taken by an authorized law enforcement agency or an employee of the private school, a school district, or a private company who is trained to take fingerprints and deny employment to or terminate an employee if he or she fails to meet the screening standards under s. 435.04. Results of the screening shall be provided to the participating private school. For purposes of this paragraph:

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

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

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

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

(3)(a) Beginning July 1, 2007, all fingerprints submitted to the Department of Law Enforcement as required by this section shall be retained by the Department of Law Enforcement in a manner provided by rule and entered in the statewide automated fingerprint identification system authorized by s. 943.05(2)(b). Such fingerprints shall thereafter be available for all purposes and uses authorized for arrest fingerprint cards entered in the statewide automated fingerprint identification system pursuant to s. 943.051.

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

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

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

fingerprints to the Federal Bureau of Investigation for national processing, and the fingerprints shall be retained by the Department of Law Enforcement under paragraph (a).

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

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

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

Section 4. Except for this section and paragraph 220.187(6)(i), Florida Statutes, as amended by section 2 of this act, which shall take effect June 1, 2006, this act shall take effect July 1, 2006.

Approved by the Governor June 6, 2006.

Filed in Office Secretary of State June 6, 2006.