Committee on Education Appropriations

Friday, March 10, 2006
9:00 a.m. - 12:00 p.m.
212 Knott

Allan Bense
Speaker

Representative Pickens
Chair

Florida House of Representatives

Fiscal Council
Education Appropriations Committee

Allan Bense
Speaker

Joe Pickens
Chair

Agenda
Date: Friday, March 10, 2006
Location: 212 Knott Building
Time: 9:00 a.m. – 12:00 p.m.

I. Call to Order

II. Opening Remarks

III. Bright Futures Long Term Projections

   a. Dr. Dan Cohen-Vogel, Senior Analyst, Office of Program Policy Analysis and Government Accountability

IV. Consideration of the following bill(s):

   a. **HB 75** John M. McKay Scholarships for Students with Disabilities Program by Bilirakis
   b. **HJR 213** Authorizing the Division of a County into Two or More School Districts by Brummer
   c. **HB 429** Florida School for the Deaf and the Blind by Proctor
   d. **HB 7041** Scholarship Program Accountability by Choice & Innovation Committee

V. Budget Workshop

   a. Education Appropriations Staff

VI. Closing Remarks

VII. Adjournment

221 The Capitol, 402 South Monroe Street, Tallahassee, Florida 32399-1300 (850) 488-6204

HB 75

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 75 John M. McKay Scholarships for Students with Disabilities Program
SPONSOR(S): Bilirakis
TIED BILLS: **IDEN./SIM. BILLS:** SB 1152

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Choice & Innovation Committee	7 Y, 0 N	Hunker	Kooi
2) Education Appropriations Committee		Eggers	Hamon
3) Education Council			
4)			
5)			

SUMMARY ANALYSIS

HB 75 redefines the term "students with disabilities" using modern terminology and eliminating hospitalized and homebound as a freestanding category of students with disabilities.

The bill revises eligibility for John M. McKay scholarships by allowing students who spent the prior year in the Florida School for the Deaf and the Blind or a Department of Juvenile Justice commitment program to apply for and receive McKay scholarships. The bill also removes the requirement that students have spent the prior school year in an *assigned* Florida public school. With the changes, prior year attendance at any Florida public school will qualify.

The bill eliminates Department of Education (DOE) funding of pre-paid private school tuition for McKay Scholarship recipients.

The bill requires school districts to report to DOE all students who attended the Florida School for the Deaf and the Blind for the prior year, and are now attending a private school under the John M. McKay Scholarship Program.

The bill has an indeterminate fiscal impact. See the FISCAL ANALYSIS section for more information.

The act shall take effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill increases the entitlement to John M. McKay Scholarships by including students, as defined by Federal law, in the categories of students who are eligible to receive the scholarship.

Empower families – This bill increases public and private school choice for eligible disabled children who spent the prior year in the Florida School for the Deaf and the Blind or a Department of Juvenile Justice commitment program.

Safeguard individual liberty – Students with disabilities leaving the Florida School for the Deaf and the Blind and Department of Juvenile Justice commitment programs will have access to public and private school choice options more quickly.

B. EFFECT OF PROPOSED CHANGES:

In 2002, the Florida Legislature authorized by law the statewide implementation of the John M. McKay Scholarships for Students with Disabilities Program. The program currently provides scholarships to attend either a qualifying private school or another public school to students with disabilities whose parents believe that their child's needs are not being met at their assigned public schools.

Students With Disabilities

Currently, the definition of "students with disabilities" found in s. 1002.39(1),F.S., includes K-12 students who are: (1) mentally handicapped; (2) speech and language impaired; (3) deaf or hard of hearing; (4) visually impaired; (5) dual sensory impaired; (6) physically impaired; (7) emotionally handicapped; (8) specific learning disabled; (9) hospitalized or homebound; or (10) autistic.

The bill changes the definition of "students with disabilities" to include K-12 students with the following disabilities: (1) documented mental retardation; (2) speech or language impairment; (3) hearing impairment, including deafness; (4) visual impairment, including blindness; (5) dual sensory impairment; (6) physical impairment; (7) serious emotional disturbance, including emotional handicap; or (9) specific learning disability, including, but not limited to: dyslexia; dyscalculia; developmental aphasia; traumatic brain injury; or autism.

This bill changes the definition of "students with disabilities" to the modern terminology for disabilities used in the federal regulations (*See* 34 C.F.R. § 300.7(c)). The bill eliminates "hospitalized and homebound" as a free-standing category of students with disabilities, but these students may qualify for the McKay Scholarships under any of the other enumerated categories. It is important to note, that a disability in and of itself does not guarantee the right to a McKay scholarship. The disability must be recognized under State Board rules[1] and the student must have a current individual education plan.[2]

Scholarship Eligibility

Currently, a parent of a public school student with a disability who is dissatisfied with the student's progress may request and receive a McKay Scholarship for the child to enroll in and attend a private school if the child attended an assigned Florida public school for the prior year.

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[1] Rules 6A-6.03011 – 6A-60.03031, F.A.C.

[2] s. 1003.01(3)(a), providing that "exceptional student" means any student who has been determined eligible for a special program in accordance with the rules of the State Board of Education.

Section 1002.39(2)(a) currently defines "prior school year in attendance" to mean that the student was 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.
This bill clarifies current law which provides that students enrolled in Department of Juvenile Justice (DJJ) commitment programs are ineligible to receive a McKay scholarship during the period of enrollment in the commitment program. However, current law is unclear as to whether a student that has met the McKay scholarship eligibility requirements is eligible to participate in the program immediately upon dismissal from a DJJ commitment program. According to the Department of Education (DOE), implementation of current law has been that "the time in which a student was enrolled in a DJJ commitment program would not 'count' as the required prior year of enrollment in public schools; therefore, students dismissed from a DJJ commitment program are only eligible for a McKay scholarship after being in attendance and reported for funding in a regular public school for both the October and February surveys."[3]

Under this bill, "prior school year attendance" at any Florida public school will qualify; assignment is not a requirement. Also, this bill clarifies that "prior school year in attendance" includes time spent in a Department of Juvenile Justice (DJJ) commitment program if funded under the Florida Education Finance Program (FEFP). Prior school year attendance at the Florida School for the Deaf and Blind will also qualify.

Scholarship Funding and Payment

The bill clarifies that students enrolled in a school operating for the purpose of providing educational services to youth in Department of Juvenile Justice commitment programs "shall not receive a John M. McKay Scholarship during the period of time that he or she is enrolled in such school."

This bill further provides that the scholarship amount for a student who has spent the prior year in attendance at the Florida School for the Deaf and the Blind will be calculated in the same manner as any other McKay Scholarship, except that the calculation is based on the school district in which the parent resides at the time of the scholarship request.

Some private schools require pre-paid amounts of tuition to reserve seats in the class. This bill eliminates DOE funding of pre-paid tuition for McKay Scholarship recipients prior to the start of the academic year. The scholarship recipients will still receive the full tuition payments, but only during the academic year in which the scholarship is in force.

The bill provides that the funds used to provide scholarships to newly eligible students from the FSDB will come from the school districts where the parent resides at the time of the scholarship request. The bill prohibits the transfer of funds from the FSDB for students to participate in the program.

The bill provides that the funds used to provide scholarships to newly eligible students from a DJJ commitment program will come from the school district in which the student last attended a public school prior to commitment.

Reporting Requirements

The bill requires the school districts to report to DOE the number of former FSDB students attending private schools under this program, and holds the school district harmless for such students from the weighted enrollment ceiling for group 2 programs during the first school year in which the student is reported. Group 2 includes students in exceptional student education programs, English for Speakers of Other Languages programs, and all career education programs in grades 9-12.

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[3] Florida Department of Education, Governmental Relations Office, 2004 Legislative Bill Analysis on HB 1579: John M. McKay Scholarships for Students with Disabilities Program.

C. SECTION DIRECTORY:

Section 1. Amends Fla. Stat. § 1002.39; revising the definition of the term students with disabilities, clarifying and revising the student eligibility requirements; revising the provisions relating to scholarship funding and payment, and provides funding and payment mechanisms.

Section 2. Provides that the act shall take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

   School districts are held harmless under the Florida Education Finance Program's group 2 capping policy for students with McKay scholarships who attended the Florida School for the Dead and Blind during the prior year. Although the fiscal impact is indeterminate, it is expected to be very small.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

   This bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision (Article VII, section 18):

   The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

   The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

   The bill does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

HB 75 does not require any grant or exercise of rule-making authority to implement its provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to the John M. McKay Scholarships for
3 Students with Disabilities Program; amending s. 1002.39,
4 F.S.; revising definition of the term "students with
5 disabilities"; revising student eligibility requirements
6 for receipt of a scholarship; revising provisions relating
7 to scholarship funding and payment; providing funding and
8 payment requirements for former Florida School for the
9 Deaf and the Blind students and for students exiting a
10 Department of Juvenile Justice program; providing an
11 effective date.
12
13 Be It Enacted by the Legislature of the State of Florida:
14
15 Section 1. Subsections (1), (2), and (6) of section
16 1002.39, Florida Statutes, are amended to read:
17 1002.39 The John M. McKay Scholarships for Students with
18 Disabilities Program.--There is established a program that is
19 separate and distinct from the Opportunity Scholarship Program
20 and is named the John M. McKay Scholarships for Students with
21 Disabilities Program, pursuant to this section.
22 (1) THE JOHN M. MCKAY SCHOLARSHIPS FOR STUDENTS WITH
23 DISABILITIES PROGRAM.--The John M. McKay Scholarships for
24 Students with Disabilities Program is established to provide the
25 option to attend a public school other than the one to which
26 assigned, or to provide a scholarship to a private school of
27 choice, for students with disabilities for whom an individual
28 education plan has been written in accordance with rules of the

29 State Board of Education. Students with disabilities include K-
30 12 students who are documented as having mental retardation; a
31 ~~mentally handicapped,~~ speech or ~~and~~ language impairment; a
32 ~~impaired, deaf or hard of~~ hearing impairment, including
33 deafness; a visual impairment, including blindness; a ~~visually~~
34 ~~impaired,~~ dual sensory impairment; a physical impairment; a
35 serious emotional disturbance, including an emotional handicap;
36 a ~~impaired, physically impaired, emotionally handicapped,~~
37 specific learning disability, including, but not limited to,
38 dyslexia, dyscalculia, or developmental aphasia; a traumatic
39 brain injury; ~~disabled, hospitalized or homebound,~~ or autism
40 ~~autistic~~.
41 (2) SCHOLARSHIP ELIGIBILITY.--The parent of a public
42 school student with a disability who is dissatisfied with the
43 student's progress may request and receive from the state a John
44 M. McKay Scholarship for the child to enroll in and attend a
45 private school in accordance with this section if:
46 (a) ~~By assigned school attendance area or by special~~
47 ~~assignment,~~ The student has spent the prior school year in
48 attendance at a Florida public school or the Florida School for
49 the Deaf and the Blind. Prior school year in attendance means
50 that the student was:
51 1. Enrolled and reported by a school district for funding
52 during the preceding October and February Florida Education
53 Finance Program surveys in kindergarten through grade 12, which
54 shall include time spent in a Department of Juvenile Justice
55 commitment program if funded under the Florida Education Finance
56 Program; or

57 2. Enrolled and reported by the Florida School for the
58 Deaf and the Blind during the preceding October and February
59 student membership surveys in kindergarten through grade 12.
60
61 However, ~~this paragraph does not apply to~~ a dependent child of a
62 member of the United States Armed Forces who transfers to a
63 school in this state from out of state or from a foreign country
64 pursuant to a parent's permanent change of station orders is
65 exempt from this paragraph but~~. A dependent child of a member of~~
66 ~~the United States Armed Forces who transfers to a school in this~~
67 ~~state from out of state or from a foreign country pursuant to a~~
68 ~~parent's permanent change of station orders~~ must meet all other
69 eligibility requirements to participate in the program.
70 (b) The parent has obtained acceptance for admission of
71 the student to a private school that is eligible for the program
72 under subsection (4) and has notified the school district of the
73 request for a scholarship at least 60 days prior to the date of
74 the first scholarship payment. The parental notification must be
75 through a communication directly to the district or through the
76 Department of Education to the district in a manner that creates
77 a written or electronic record of the notification and the date
78 of receipt of the notification.
79
80 ~~This section does not apply to~~ A student who is enrolled in a
81 school operating for the purpose of providing educational
82 services to youth in Department of Juvenile Justice commitment
83 programs shall not receive a John M. McKay Scholarship during
84 the period of time that he or she is enrolled in such school.

85 For purposes of continuity of educational choice, the
86 scholarship shall remain in force until the student returns to a
87 public school or graduates from high school. However, at any
88 time, the student's parent may remove the student from the
89 private school and place the student in another private school
90 that is eligible for the program under subsection (4) or in a
91 public school as provided in subsection (3).
92 (6) SCHOLARSHIP FUNDING AND PAYMENT.--
93 (a)1. The maximum scholarship granted for an eligible
94 student with disabilities shall be a calculated amount
95 equivalent to the base student allocation in the Florida
96 Education Finance Program multiplied by the appropriate cost
97 factor for the educational program that would have been provided
98 for the student in the district school to which he or she was
99 assigned, multiplied by the district cost differential.
100 2. In addition, a share of the guaranteed allocation for
101 exceptional students shall be determined and added to the
102 calculated amount. The calculation shall be based on the
103 methodology and the data used to calculate the guaranteed
104 allocation for exceptional students for each district in chapter
105 2000-166, Laws of Florida. Except as provided in subparagraphs
106 ~~subparagraph~~ 3. and 4., the calculation shall be based on the
107 student's grade, matrix level of services, and the difference
108 between the 2000-2001 basic program and the appropriate level of
109 services cost factor, multiplied by the 2000-2001 base student
110 allocation and the 2000-2001 district cost differential for the
111 sending district. Also, the calculated amount shall include the
112 per-student share of supplemental academic instruction funds,

113 instructional materials funds, technology funds, and other
114 categorical funds as provided for such purposes in the General
115 Appropriations Act.
116 3. The calculated scholarship amount for a student who has
117 spent the prior school year in attendance at the Florida School
118 for the Deaf and the Blind shall be calculated as provided in
119 subparagraphs 1. and 2. However, the calculation shall be based
120 on the school district in which the parent resides at the time
121 of the scholarship request.
122 4.~~3.~~ Until the school district completes the matrix
123 required by paragraph (3)(b), the calculation shall be based on
124 the matrix that assigns the student to support level I of
125 service as it existed prior to the 2000-2001 school year. When
126 the school district completes the matrix, the amount of the
127 payment shall be adjusted as needed.
128 (b) The amount of the John M. McKay Scholarship shall be
129 the calculated amount or the amount of the private school's
130 tuition and fees, whichever is less. The amount of any
131 assessment fee required by the participating private school may
132 be paid from the total amount of the scholarship.
133 ~~(c) If the participating private school requires partial~~
134 ~~payment of tuition prior to the start of the academic year to~~
135 ~~reserve space for students admitted to the school, that partial~~
136 ~~payment may be paid by the Department of Education prior to the~~
137 ~~first quarterly payment of the year in which the John M. McKay~~
138 ~~Scholarship is awarded, up to a maximum of $1,000, and deducted~~
139 ~~from subsequent scholarship payments. If a student decides not~~
140 ~~to attend the participating private school, the partial~~

141 ~~reservation payment must be returned to the Department of~~
142 ~~Education by the participating private school. There is a limit~~
143 ~~of one reservation payment per student per year.~~
144 (c) ~~(d)~~1. The school district shall report all students who
145 are attending a private school under this program. The students
146 with disabilities attending private schools on John M. McKay
147 Scholarships shall be reported separately from other students
148 reported for purposes of the Florida Education Finance Program.
149 2. For program participants who are eligible under
150 subparagraph (2)(a)2., the school district that is used as the
151 basis for the calculation of the scholarship amount as provided
152 in subparagraph (a)3. shall:
153 a. Report to the department all such students who are
154 attending a private school under this program.
155 b. Be held harmless for such students from the weighted
156 enrollment ceiling for group 2 programs in s. 1011.62(1)(d)3.a.
157 during the first school year in which the students are reported.
158 (d) ~~(e)~~ Following notification on July 1, September 1,
159 December 1, or February 1 of the number of program participants,
160 the department ~~of Education~~ shall transfer, from General Revenue
161 funds only, the amount calculated under paragraph (b) from the
162 school district's total funding entitlement under the Florida
163 Education Finance Program and from authorized categorical
164 accounts to a separate account for the scholarship program for
165 quarterly disbursement to the parents of participating students.
166 Funds may not be transferred from any funding provided to the
167 Florida School for the Deaf and the Blind for program
168 participants who are eligible under subparagraph (2)(a)2. For a

169 student exiting a Department of Juvenile Justice commitment
170 program who chooses to participate in the scholarship program,
171 the amount of the John M. McKay Scholarship calculated pursuant
172 to paragraph (b) shall be transferred from the school district
173 in which the student last attended a public school prior to
174 commitment to the Department of Juvenile Justice. When a student
175 enters the scholarship program, the department ~~of Education~~ must
176 receive all documentation required for the student's
177 participation, including the private school's and student's fee
178 schedules, at least 30 days before the first quarterly
179 scholarship payment is made for the student. The Department of
180 Education may not make any retroactive payments.
181 (e) ~~(f)~~ Upon proper documentation reviewed and approved by
182 the Department of Education, the Chief Financial Officer shall
183 make scholarship payments in four equal amounts no later than
184 September 1, November 1, February 1, and April 15 of each
185 academic year in which the scholarship is in force. The initial
186 payment shall be made after Department of Education verification
187 of admission acceptance, and subsequent payments shall be made
188 upon verification of continued enrollment and attendance at the
189 private school. Payment must be by individual warrant made
190 payable to the student's parent and mailed by the Department of
191 Education to the private school of the parent's choice, and the
192 parent shall restrictively endorse the warrant to the private
193 school for deposit into the account of the private school.
194 Section 2. This act shall take effect upon becoming a law.

HJR 213

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 213 Authorizing the Division of a County into Two or More School Districts
SPONSOR(S): Brummer
TIED BILLS: **IDEN./SIM. BILLS:** SJR 532 Identical

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) PreK-12 Committee	8 Y, 3 N	Beagle	Mizereck
2) Education Appropriations Committee		Eggers	Hamon
3) Education Council			
4)			
5)			

SUMMARY ANALYSIS

House Joint Resolution 213 proposes an amendment to Section 4 of Article IX of the Florida Constitution, permitting a county with more than 45,000 students to be divided into multiple school districts of no less than 20,000 students. The resolution will be subject to voter approval via a statewide referendum at the November 2006 election or an earlier special election.

In order to divide a county under this provision, the resolution provides that a commission be created by special law to draw school district boundary lines, allocate assets, and provide for the contractual obligations, debts, and bonded indebtedness of the school district. Commission decisions are subject to circuit court review for compliance with state and federal law and voter approval by county referendum.

Funding for operations and capital outlay in school districts divided pursuant to this resolution will be calculated on a county-wide basis and distributed to the school districts on a per student basis as provided by law. Funds raised by voted millage for bonded indebtedness or local option sales taxes shall be levied on a countywide basis and may be distributed per interlocal agreement between the school districts.

The HJR raises fiscal issues that would have to be addressed in subsequent implementing legislation. Please see FISCAL COMMENTS.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government-- The resolution allows voters in counties with large student populations to establish multiple, smaller school districts.

Safeguard Individual Liberty-- The resolution allows voters in counties with large student populations to establish multiple, smaller school districts, thereby increasing local control.

Empower Families-- The resolution allows voters in counties with large student populations to establish multiple, smaller school districts, potentially increasing families' access to school district decision makers.

B. EFFECT OF PROPOSED CHANGES:

Present Situation--

Section 4 of Article IX of the Florida Constitution currently provides that each county constitutes a school district. However, the voters of two or more counties may decide to join together to form one school district. No districts have exercised this option.

Section 4 of Article IX of the Florida Constitution requires each school district to have a board composed of five or more members chosen by vote of the electors. Section 5 of Article IX requires each district to have a superintendent of schools who may be appointed or elected.

Section 1011.62, F.S., governs the Florida Education Finance Program (FEFP) which is designed to provide equitable funding for students across the state. The program combines state dollars and local revenue in a formula to allocate funds to school districts according to student population and cost of educational programs.

Effect of Proposed Changes--

If approved by the electors of the State of Florida at the November 2006 general election or at an earlier special election, House Joint Resolution 213 will amend Section 4 of Article IX of the Florida Constitution to permit school districts with more than 45,000 students to be divided into more than one school district. The voters in eligible school districts may elect to divide into more than one school district, provided that each district created serves no less than 20,000 students.

In order to divide a school district under this provision, the resolution requires that a commission be created by special law to draw school district boundary lines, allocate assets, and provide for the contractual obligations, debts, and bonded indebtedness of the school district. Commission decisions are subject to circuit court review for compliance with state and federal law and voter approval by county referendum.

Funding for operations and capital outlay in school districts divided pursuant to this resolution will be calculated on a county-wide basis and distributed to the school districts on a per student basis as provided by law. Funds raised by voted millage for bonded indebtedness or local option sales taxes shall be levied on a countywide basis and may be distributed per interlocal agreement between the school districts.

If the proposed amendment is approved by the voters, implementing legislation will be needed to establish specific requirements and processes.

According to the most recent estimate of K-12 unweighted full-time equivalent students for the 2006-07 school year, there are fourteen school districts large enough to be affected by the resolution.[1]

Florida School Districts Potentially Affected by HJR 213

School District	Student Population based on 2006-2007 Estimated K-12 Unweighted FTE Students	Number of Potential New Districts (FTE Count divided by 20,000)
Brevard County	75,071	3
Broward County	266,664	13
Duval County	126,865	6
Hillsborough County	195,679	9
Lee County	80,200	4
Miami-Dade County	356,549	17
Orange County	180,318	9
Osceola County	52,894	2
Palm Beach County	175,842	8
Pasco County	64,658	3
Pinellas County	111,038	5
Polk County	92,464	4
Seminole County	68,701	3
Volusia County	66,284	3

Under the provisions of the HJR, 75 additional school districts could potentially be created. Dade could divide into 17 school districts; Broward could divide into 13 districts; Hillsborough and Orange each could divide into 9 districts; Palm Beach could divide into 8 districts; Duval could divide into 6 districts; Pinellas could divide into 5 districts; Lee and Polk each could divide into 4 districts; Brevard, Pasco, Seminole, and Volusia each could divide into 3 districts; and Osceola could divide into 2 districts.

In addition to the 14 districts listed above, 6 more districts are projected to surpass the 45,000 FTE student threshold within 3 years. The districts are Collier, Lake, Manatee, Marion, St. Lucie, and Sarasota.

C. SECTION DIRECTORY:

Not applicable.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

   This bill does not appear to have a fiscal impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

[1]K-12 Public School Student Enrollment Estimating Conference, March 6, 2006.

1. Revenues:

   This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

   This bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a direct fiscal impact on the private sector.

D. FISCAL COMMENTS:

The complexity of financial issues involved with dividing Florida's school districts into smaller districts may pose challenges when implementing the joint resolution. Examples of issues that would need to be addressed are:

- Agreement on the division of existing bond debt service obligations, the distribution of revenue from future bond referendums and voter approved operating millage revenue, and the distribution of current and future capital outlay sales taxes and intra-governmental capital outlay sales taxes.
- Agreement on the specific millage rate for each of the two authorized discretionary operating millage levies and the discretionary two mill capital outlay levy.
- Agreement on the allocation of Public Capital Outlay (PECO) funds. Provision may be made for a divided district with older buildings or a higher rate of student growth.
- The determination of class size reduction compliance.
- The Florida Education Finance Program (FEFP) contains several funding formulas and allocation models which may need to be altered to address new divided districts. For example, distribution formulas at the divided district level, that incorporate student demographics, may have to be developed for certain categorical funding programs, including the Supplemental Academic Instruction categorical, the Exceptional Student Guarantee, the Reading categorical, the Transportation categorical and the Safe Schools categorical. The funds for each of these categorical programs must be spent for specific purposes. To the extent a divided district serves a higher proportion of students requiring these services, the district may require a larger portion of these funds.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The bill does not require a municipality or county to spend funds or to take any action requiring the expenditure of funds.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 House Joint Resolution
2 A joint resolution proposing an amendment to Section 4 of
3 Article IX of the State Constitution relating to school
4 districts.
5
6 Be It Resolved by the Legislature of the State of Florida:
7
8 That the following amendment to Section 4 of Article IX of
9 the State Constitution is agreed to and shall be submitted to
10 the electors of this state for approval or rejection at the next
11 general election or at an earlier special election specifically
12 authorized by law for that purpose:
13 ARTICLE IX
14 EDUCATION
15 SECTION 4. School districts; school boards.--
16 (a) Each county shall constitute a school district;
17 provided, two or more contiguous counties, upon vote of the
18 electors of each county pursuant to law, may be combined into
19 one school district; and provided further that a county with
20 45,000 or more students in the district schools within the
21 county may be divided into two or more school districts, each
22 school district to have no fewer than 20,000 students, as
23 provided by law. In order to divide a county school district
24 under this subsection, and notwithstanding other provisions of
25 this constitution, a commission made up of residents of the
26 county shall be created by special law to draw school district
27 boundary lines, allocate assets, and provide for the contractual
28 obligations, debts, and bonded indebtedness of the school

29 district, all of which shall be subject to review and approval
30 by the circuit court for compliance with state and federal law
31 and subject to approval by a vote of the electors of the county.
32 Funding for operation and capital outlay in school districts
33 divided pursuant to this subsection shall be determined on a
34 countywide basis and distributed to the school districts per
35 student as provided by law, except that funds raised by voted
36 millage for bonded indebtedness or local option sales taxes may
37 be distributed per interlocal agreement between the school
38 districts. Local school taxes in school districts divided
39 pursuant to this subsection, including voted millage for bonded
40 indebtedness, shall be levied on a countywide basis as provided
41 by law.
42 (b) In each school district there shall be a school board
43 composed of five or more members chosen by vote of the electors
44 in a nonpartisan election for appropriately staggered terms of
45 four years, as provided by law.
46 ~~(b)~~ The school board shall operate, control, and supervise
47 all free public schools within the school district and determine
48 the rate of school district taxes within the limits prescribed
49 herein. Two or more school districts may operate and finance
50 joint educational programs.
51 BE IT FURTHER RESOLVED that the following statement be
52 placed on the ballot:
53 CONSTITUTIONAL AMENDMENT
54 ARTICLE IX, SECTION 4
55 AUTHORIZING THE DIVISION OF A COUNTY INTO TWO OR MORE
56 SCHOOL DISTRICTS.--Proposing an amendment to the State

57 Constitution to provide that counties with 45,000 or more
58 students may be divided into two or more school districts as
59 provided by law; to provide for the creation of a commission, by
60 special law, to draw school district boundary lines, allocate
61 assets, and provide for the contractual obligations, debts, and
62 bonded indebtedness of the school district, all of which shall
63 be subject to judicial review and approval and voter approval;
64 to provide that, except for voted millage for bonded
65 indebtedness or local option sales taxes, school district
66 funding shall be determined on a countywide basis and
67 distributed as provided by law; and to provide that local school
68 taxes, including voted millage for bonded indebtedness, shall be
69 levied on a countywide basis as provided by law.

Bill No. 213

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	_____	

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1 Council/Committee hearing bill: Education Appropriations
2 Committee
3 Representative(s) Bendross-Mindingall and Vana offered the
4 following:
5
6 **Amendment (with ballot statement amendment)**
7 Between line(s) 31 and 32, insert the following:
8
9 Upon creation of a new school district, such district shall be
10 permitted to deviate no more than 10 percent from the existing
11 racial and socioeconomic composition of the original school
12 district.
13
14 ======= B A L L O T S T A T E M E N T A M E N D M E N T ======
15 Between line(s) 63 and 64, insert the following:
16
17 to provide that upon creation of a new school district, such
18 district shall be permitted to deviate no more than 10 percent
19 from the existing racial and socioeconomic composition of the
20 original school district;
21
22

Bill No. 213

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: Education Appropriations
2 Committee
3 Representative(s) Brummer offered the following:
4
5 **Amendment (with ballot statement and title amendments)**
6
7 Remove line(s) 15-50 and insert:
8
9 SECTION 4. School districts; school boards.--
10 (a) Each county shall constitute a school district;
11 provided, two or more contiguous counties, upon vote of the one
12 school district in each school district there shall be a school
13 board composed of five or more members chosen by vote of the
14 electors in a nonpartisan election for appropriately staggered
15 terms of four years, as provided by law.
16 (b) The school board shall operate, control, and supervise
17 all free public schools within the school district and determine
18 the rate of school district taxes within the limits prescribed
19 herein. Two or more school districts may operate and finance
20 joint educational programs.
21 (c) Provision may be made by law for the division of a
22 school district into two or more school districts each having no

23 fewer than 25,000 students, when approved by a vote of the
24 county's electors. School district taxes for the school
25 districts created pursuant to this subsection shall be imposed
26 countywide and distributed to the school districts in an
27 equitable and nondiscriminatory manner, as provided by law. The
28 rate of school district taxes shall be determined by a board
29 consisting of an equal number of members from each school
30 district in the county, as provided by law.
31
32
33
34 ======= B A L L O T S T A T E M E N T A M E N D M E N T ======
35 Remove line(s) 57-69 and insert:
36 Constitution to provide that counties may be divided into two or
37 more school districts, each having no fewer than 25,000
38 students, as provided by law; to provide that school district
39 taxes shall be imposed countywide and distributed in an
40 equitable and nondiscriminatory manner, as provided by law; and
41 to provide that the rate of school district taxes shall be
42 determined by a board consisting of an equal number of members
43 from each school district in the county, as provided by law.
44
45
46 ================= T I T L E A M E N D M E N T =================
47 Remove line(s) and insert:
48

HB 429

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 429 Florida School for the Deaf and the Blind
SPONSOR(S): Proctor and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1014

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Choice & Innovation Committee	7 Y, 0 N	Hassell	Kooi
2) Education Appropriations Committee		Eggers	Hamon
3) Education Council			
4)			
5)			

SUMMARY ANALYSIS

The bill aligns the Florida School for the Deaf and the Blind (FSDB) mission statement with No Child Left Behind, the Individuals with Disabilities Education Improvement Act (IDEA 2004), and current State Board of Education (SBE) rules regarding exceptional student education.

The bill authorizes the FSDB to provide outreach education services to hearing-impaired and visually impaired children ages birth through 5 upon request from a school district. This proposed change will serve to increase the district's ability to provide appropriate services to children with sensory impairments. Also, those school districts that may not have been receiving services under the Small and Rural District Initiative will be able to request and receive outreach services from the FSDB for children with sensory impairments.

The bill revises the board of trustees' powers and duties relating to the requirements for expenditure of gifts, donations, or bequests. The bill exempts the FSDB's use of these funds from state purchasing requirements, per diem travel and expenses, and compensation of lobbyists. The bill clarifies that the FSDB projections of facility space needs may exceed the norm space and occupant design criteria established in the State Requirement for Educational Facilities (SREF). Additionally, it adds the FSDB to the required need assessment criteria for district, community college, college and state university plant surveys so that the FSDB will be able to include space needs that deviate from approved standards for determining space needs for approved educational programs.

The bill also authorizes campus police officers to enforce traffic laws within the boundaries of the campus and removes the provision that authorizes the bonding of campus police officers.

The bill should have minimal or no fiscal impact. See the FISCAL COMMENTS section of the analysis.

The act shall take effect on July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill increases the availability and types of outreach education services that a school district may offer families with hearing-impaired and visually impaired children.

Empower families – The bill increases a school district's ability to provide appropriate types of outreach education services to families with hearing-impaired and visually impaired children.

B. EFFECT OF PROPOSED CHANGES:

Background

The Florida School for the Deaf and the Blind (FSDB) is a state-supported residential public school for hearing-impaired and visually impaired students in preschool through 12th grade. As a component of the delivery of public education within Florida's K-20 education system, the FSDB provides educational programs and support services appropriate to meet the education and related evaluation and counseling needs of hearing-impaired and visually impaired students who meet enrollment criteria. As a school of excellence, the FSDB's mission states that it "strives to provide students with an opportunity to maximize their individual potential in a caring, safe, unique learning environment to prepare them to be literate, employable, and independent lifelong learners."[1]

Current law provides that outreach education services may be provided to children ages birth through 5 with sensory impairments and their parents. However, some school districts also provide such services under Part C of the Individuals with Disabilities Education Act (IDEA 2004). According to the Department of Education, the Outreach Services division at the FSDB currently provides services directly to children and families through the Parent-Infant Program (ages birth – 5) and to some small and rural school districts through the Small and Rural District Initiative (ages 3 – 22).[2]

Current law provides for the board of trustees' powers and duties relating to the requirements for expenditure of funds, including moneys received as gifts, donations, or bequests. Currently, the FSDB board of trustees may not compensate those persons who lobby before the House of Representative or the Senate with moneys received as gifts, donations, or bequests. Also, the board of trustees must require all purchases, including those purchases made with moneys received as gifts, donations, or bequests, to be made in accordance with state purchasing requirements and state per diem travel and expenses requirements.[3]

Effects of Proposed Changes

The bill removes the phrase "maximize their individual potential" in the FSDB mission statement and replaces it with "access education services." This change aligns the FSDB mission statement with No Child Left Behind, the IDEA 2004, and current State Board of Education (SBE) rules. Thus, this change makes the law consistent with Federal and state regulations regarding exceptional student education.

The bill authorizes the FSDB to provide outreach education services to hearing-impaired and visually impaired children ages birth through 5 upon request from a school district. This proposed change will

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[1] s. 1002.36(2), F.S.

[2] Florida Department of Education, Governmental Relations Office, 2006 Legislative Bill Analysis on HB 429: The Florida School for the Deaf and the Blind

[3] Chapter 287--Commodities, Insurance, and Contractual Services and s. 112.061, F.S.

serve to increase the district's ability to provide appropriate education services to children with sensory impairments. Also, those school districts that may not have been receiving services under the Small and Rural District Initiative will be able to request and receive outreach services from the FSDB for children with sensory impairments.

The bill clarifies that the FSDB projections of facility space needs may exceed the norm space and occupant design criteria established in the State Requirement for Educational Facilities (SREF). Also, the bill adds the FSDB to the required need assessment criteria for district, community college, college and state university plant surveys so that the school will be able to include space needs that deviate from approved standards for determining space needs for approved educational programs. These are technical changes because the school's current spaces exceed the norm due to the nature and type of school and the school was previously exempted from the physical space requirements within the Florida Administrative Code.

The bill revises the board of trustees' powers and duties relating to the requirements for expenditure of gifts, donations, or bequests. The bill removes the provision relating to the compensation of those persons that lobby before the House of Representatives and the Senate and revises the provisions relating to state purchasing requirements and per diem travel and expenses. These funds, known as Endowment funds, are moneys received as gifts, donations, or bequests, funds raised by or belonging to student clubs or student organizations, or funds held for specific students or in accounts for individual students and are tax exempt. The FSDB would be able to use the Endowment funds for legislative liaison activities, to support programs not supported by state funding, and for program purchases and travel related expenses not covered by state funding.

The bill authorizes campus police officers to enforce traffic laws within the boundaries of the campus, a specific authority that is granted to university, community college, and school district campus police under s.316.640, F.S. It also removes the provision that authorizes the bonding of campus police officers because this requirement has been replaced by accidental death and insurance coverage.

C. SECTION DIRECTORY:

Section 1. Amends s. 1002.36, F.S., relating to the Florida School for the Deaf and the Blind; amending provision related to education services; revising powers and duties of the Board of Trustees; and revising provision related to campus police officers.

Section 2. Amends s. 1013.31, F.S., relating to educational plant surveys.

Section 3. Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill does not appear to have a fiscal impact on state revenues.

2. Expenditures:

   The bill does not appear to have a fiscal impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill exempts the FSDB's use of Endowment funds from state purchasing requirements, per diem travel and expenses, and compensation of lobbyists, thereby increasing the flexibility in which the FSDB may utilize such funds.

D. FISCAL COMMENTS:

School districts are responsible for providing educational services or access to such services for hearing-impaired and visually impaired children ages birth through 5. Thus, a request by a school district for FSDB to provide outreach educational services for sensory impaired students should have minimal or no fiscal effect.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

The bill does not reduce the percentage of state tax shared with counties or municipalities

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill does not grant additional rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to the Florida School for the Deaf and the
3 Blind; amending s. 1002.36, F.S.; authorizing the
4 provision of education services to district school boards
5 upon request; revising powers and duties of the Board of
6 Trustees for the Florida School for the Deaf and the Blind
7 relating to requirements for expenditure of certain funds
8 and submission of capital outlay budget requests;
9 authorizing campus police officers to enforce traffic
10 laws; deleting provisions authorizing bonding of campus
11 police officers; amending s. 1013.31, F.S.; including
12 reference to the Florida School for the Deaf and the Blind
13 in provisions relating to educational plant surveys;
14 providing an effective date.
15
16 Be It Enacted by the Legislature of the State of Florida:
17
18 Section 1. Subsections (1) and (2), paragraphs (e) and (f)
19 of subsection (4), and paragraphs (b) and (d) of subsection (8)
20 of section 1002.36, Florida Statutes, are amended to read:
21 1002.36 Florida School for the Deaf and the Blind. --
22 (1) RESPONSIBILITIES.--The Florida School for the Deaf and
23 the Blind, located in St. Johns County, is a state-supported
24 residential public school for hearing-impaired and visually
25 impaired students in preschool through 12th grade. The school is
26 a component of the delivery of public education within Florida's
27 K-20 education system and shall be funded through the Department
28 of Education. The school shall provide educational programs and

29 support services appropriate to meet the education and related
30 evaluation and counseling needs of hearing-impaired and visually
31 impaired students in the state who meet enrollment criteria.
32 Unless otherwise provided by law, the school shall comply with
33 all laws and rules applicable to state agencies. Education
34 services may be provided on an outreach basis for sensory-
35 impaired children ages 0 through 5 years and to district school
36 boards upon request ~~their parents~~. Graduates of the Florida
37 School for the Deaf and the Blind shall be eligible for the
38 William L. Boyd, IV, Florida Resident Access Grant Program as
39 provided in s. 1009.89.
40 (2) MISSION.--The mission of the Florida School for the
41 Deaf and the Blind is to utilize all available talent, energy,
42 and resources to provide free appropriate public education for
43 eligible sensory-impaired students of Florida. As a school of
44 academic excellence, the school shall strive to provide students
45 an opportunity to access education services ~~maximize their~~
46 ~~individual potential~~ in a caring, safe, unique learning
47 environment to prepare them to be literate, employable, and
48 independent lifelong learners. The school shall provide outreach
49 services that include collaboration with district school boards
50 and shall encourage input from students, staff, parents, and the
51 community. As a diverse organization, the school shall foster
52 respect and understanding for each individual.
53 (4) BOARD OF TRUSTEES.--
54 (e) The board of trustees is invested with full power and
55 authority to:

56 1. Appoint a president, faculty, teachers, and other
57 employees and remove the same as in its judgment may be best and
58 fix their compensation.
59 2. Procure professional services, such as medical, mental
60 health, architectural, and engineering.
61 3. Procure legal services without the prior written
62 approval of the Attorney General.
63 4. Determine eligibility of students and procedure for
64 admission.
65 5. Provide for the students of the school necessary
66 bedding, clothing, food, and medical attendance and such other
67 things as may be proper for the health and comfort of the
68 students without cost to their parents, except that the board of
69 trustees may set tuition and other fees for nonresidents.
70 6. Provide for the proper keeping of accounts and records
71 and for budgeting of funds.
72 7. Enter into contracts.
73 8. Sue and be sued.
74 9. Secure public liability insurance.
75 10. Do and perform every other matter or thing requisite
76 to the proper management, maintenance, support, and control of
77 the school at the highest efficiency economically possible, the
78 board of trustees taking into consideration the purposes of the
79 establishment.
80 11. Receive gifts, donations, and bequests of money or
81 property, real or personal, tangible or intangible, from any
82 person, firm, corporation, or other legal entity. However, the
83 board of trustees may not obligate the state to any expenditure

84 or policy that is not specifically authorized by law. If the
85 bill of sale, will, trust indenture, deed, or other legal
86 conveyance specifies terms and conditions concerning the use of
87 such money or property, the board of trustees shall observe such
88 terms and conditions.
89 12. Deposit outside the State Treasury such moneys as are
90 received as gifts, donations, or bequests and may disburse and
91 expend such moneys, upon its own warrant, for the use and
92 benefit of the Florida School for the Deaf and the Blind and its
93 students, as the board of trustees deems to be in the best
94 interest of the school and its students. Such money or property
95 shall not constitute or be considered a part of any legislative
96 appropriation~~, and such money shall not be used to compensate~~
97 ~~any person for engaging in lobbying activities before the House~~
98 ~~of Representatives or Senate or any committee thereof~~.
99 13. Sell or convey by bill of sale, deed, or other legal
100 instrument any property, real or personal, received as a gift,
101 donation, or bequest, upon such terms and conditions as the
102 board of trustees deems to be in the best interest of the school
103 and its students.
104 14. Invest such moneys in securities enumerated under s.
105 215.47(1), (2)(d), (3), (4), and (9), and in The Common Fund, an
106 Investment Management Fund exclusively for nonprofit educational
107 institutions.
108 (f) The board of trustees shall:
109 1. Prepare and submit legislative budget requests for
110 operations and fixed capital outlay, in accordance with chapter
111 216 and ss. 1011.56 and 1013.60, to the Department of Education

112 for review and approval. The department must analyze the amount
113 requested for fixed capital outlay to determine if the request
114 is consistent with the school's campus master plan, educational
115 plant survey, and facilities master plan. Projections of
116 facility space needs may exceed the norm space and occupant
117 design criteria established in the State Requirements for
118 Educational Facilities.
119 2. Approve and administer an annual operating budget in
120 accordance with ss. 1011.56 and 1011.57.
121 3. Require all funds received other than gifts, donations,
122 bequests, funds raised by or belonging to student clubs or
123 student organizations, and funds held for specific students or
124 in accounts for individual students to be deposited in the State
125 Treasury and expended as authorized in the General
126 Appropriations Act.
127 4. Require all purchases to be in accordance with the
128 provisions of chapter 287 except for purchases made with funds
129 received as gifts, donations, or bequests, funds raised by or
130 belonging to student clubs or student organizations, or funds
131 held for specific students or in accounts for individual
132 students.
133 5. Administer and maintain personnel programs for all
134 employees of the board of trustees and the Florida School for
135 the Deaf and the Blind who shall be state employees, including
136 the personnel classification and pay plan established in
137 accordance with ss. 110.205(2)(d) and 216.251(2)(a)2. for
138 academic and academic administrative personnel, the provisions
139 of chapter 110, and the provisions of law that grant authority

140 to the Department of Management Services over such programs for
141 state employees.
142 6. Give preference in appointment and retention in
143 positions of employment as provided within s. 295.07(1).
144 7. Ensure that the Florida School for the Deaf and the
145 Blind complies with s. 1013.351 concerning the coordination of
146 planning between the Florida School for the Deaf and the Blind
147 and local governing bodies.
148 8. Ensure that the Florida School for the Deaf and the
149 Blind complies with s. 112.061 concerning per diem and travel
150 expenses of public officers, employees, and authorized persons
151 with respect to all funds other than funds received as gifts,
152 donations, or bequests, funds raised by or belonging to student
153 clubs or student organizations, or funds held for specific
154 students or in accounts for individual students.
155 9. Adopt a master plan which specifies the mission and
156 objectives of the Florida School for the Deaf and the Blind. The
157 plan shall include, but not be limited to, procedures for
158 systematically measuring the school's progress toward meeting
159 its objectives, analyzing changes in the student population, and
160 modifying school programs and services to respond to such
161 changes. The plan shall be for a period of 5 years and shall be
162 reviewed for needed modifications every 2 years. The board of
163 trustees shall submit the initial plan and subsequent
164 modifications to the Speaker of the House of Representatives and
165 the President of the Senate.

166 10. Designate a portion of the school as "The Verle Allyn
167 Pope Complex for the Deaf," in tribute to the late Senator Verle
168 Allyn Pope.
169 (8) CAMPUS POLICE.--
170 (b) Each Florida School for the Deaf and the Blind campus
171 police officer is a law enforcement officer of the state and a
172 conservator of the peace who has the authority to arrest, in
173 accordance with the laws of this state, any person for a
174 violation of state law or applicable county or municipal
175 ordinance if that violation occurs on or in any property or
176 facilities of the school. A campus police officer may also
177 arrest a person off campus for a violation committed on campus
178 after a hot pursuit of that person which began on campus. A
179 campus police officer shall have full authority to bear arms in
180 the performance of the officer's duties and carry out a search
181 pursuant to a search warrant on the campus. Florida School for
182 the Deaf and the Blind campus police, upon request of the
183 sheriff or local police authority, may serve subpoenas or other
184 legal process and may make arrests of persons against whom
185 arrest warrants have been issued or against whom charges have
186 been made for violations of federal or state laws or county or
187 municipal ordinances. <u>Campus police officers shall have</u>
188 <u>authority to enforce traffic laws within the boundaries of the</u>
189 <u>campus in accordance with s. 316.640.</u>
190 (d) The campus police must meet the minimum standards
191 established by the Criminal Justice Standards and Training
192 Commission of the Department of Law Enforcement and chapter 943
193 for law enforcement officers. Each campus police officer must,

194 before entering into the performance of the officer's duties,
195 take the oath of office established by the board of trustees.
196 ~~The board of trustees may obtain and approve a bond on each~~
197 ~~campus police officer, conditioned upon the officer's faithful~~
198 ~~performance of the officer's duties, which bond must be payable~~
199 ~~to the Governor. The board of trustees may determine the amount~~
200 ~~of the bond. In determining the amount of the bond, the board~~
201 ~~may consider the amount of money or property likely to be in the~~
202 ~~custody of the officer at any one time.~~ The board of trustees
203 must provide a uniform set of identifying credentials to each
204 campus police officer it employs.
205 Section 2. Paragraph (b) of subsection (1) of section
206 1013.31, Florida Statutes, is amended to read:
207 1013.31 Educational plant survey; localized need
208 assessment; PECO project funding.--
209 (1) At least every 5 years, each board shall arrange for
210 an educational plant survey, to aid in formulating plans for
211 housing the educational program and student population, faculty,
212 administrators, staff, and auxiliary and ancillary services of
213 the district or campus, including consideration of the local
214 comprehensive plan. The Office of Workforce and Economic
215 Development shall document the need for additional career and
216 adult education programs and the continuation of existing
217 programs before facility construction or renovation related to
218 career or adult education may be included in the educational
219 plant survey of a school district or community college that
220 delivers career or adult education programs. Information used by
221 the Office of Workforce and Economic Development to establish

222 facility needs must include, but need not be limited to, labor
223 market data, needs analysis, and information submitted by the
224 school district or community college.
225 (b) Required need assessment criteria for district,
226 community college, college and state university, and Florida
227 School for the Deaf and the Blind plant surveys. --Educational
228 plant surveys must use uniform data sources and criteria
229 specified in this paragraph. Each revised educational plant
230 survey and each new educational plant survey supersedes previous
231 surveys.
232 1. The school district's survey must be submitted as a
233 part of the district educational facilities plan defined in s.
234 1013.35. To ensure that the data reported to the Department of
235 Education as required by this section is correct, the department
236 shall annually conduct an onsite review of 5 percent of the
237 facilities reported for each school district completing a new
238 survey that year. If the department's review finds the data
239 reported by a district is less than 95 percent accurate, within
240 1 year from the time of notification by the department the
241 district must submit revised reports correcting its data. If a
242 district fails to correct its reports, the commissioner may
243 direct that future fixed capital outlay funds be withheld until
244 such time as the district has corrected its reports so that they
245 are not less than 95 percent accurate.
246 2. Each survey of a special facility, joint-use facility,
247 or cooperative career education facility must be based on
248 capital outlay full-time equivalent student enrollment data
249 prepared by the department for school districts, community

250 colleges, colleges, and universities. A survey of space needs of
251 a joint-use facility shall be based upon the respective space
252 needs of the school districts, community colleges, colleges, and
253 universities, as appropriate. Projections of a school district's
254 facility space needs may not exceed the norm space and occupant
255 design criteria established by the State Requirements for
256 Educational Facilities.
257 3. Each community college's survey must reflect the
258 capacity of existing facilities as specified in the inventory
259 maintained by the Department of Education. Projections of
260 facility space needs must comply with standards for determining
261 space needs as specified by rule of the State Board of
262 Education. The 5-year projection of capital outlay student
263 enrollment must be consistent with the annual report of capital
264 outlay full-time student enrollment prepared by the Department
265 of Education.
266 4. Each college and state university's survey must reflect
267 the capacity of existing facilities as specified in the
268 inventory maintained and validated by the Division of Colleges
269 and Universities. Projections of facility space needs must be
270 consistent with standards for determining space needs approved
271 by the Division of Colleges and Universities. The projected
272 capital outlay full-time equivalent student enrollment must be
273 consistent with the 5-year planned enrollment cycle for the
274 State University System approved by the Division of Colleges and
275 Universities.
276 5. The district educational facilities plan of a school
277 district and the educational plant survey of a community

278 college, ~~or~~ college or state university, or the Florida School
279 for the Deaf and the Blind may include space needs that deviate
280 from approved standards for determining space needs if the
281 deviation is justified by the district or institution and
282 approved by the department, as necessary for the delivery of an
283 approved educational program.
284 Section 3. This act shall take effect July 1, 2006.

HB 7041

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7041 PCB CI 06-02 Scholarship Accountability
SPONSOR(S): Choice & Innovation Committee
TIED BILLS: **IDEN./SIM. BILLS:** SB 10

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Choice & Innovation Committee	5 Y, 2 N	Hassell	Kooi
1) Education Appropriations Committee		Eggers	Hamon
2) Education Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

The bill substantially amends provisions relating to the John M. McKay Scholarships for Students with Disabilities Program and the Corporate Income Tax Credit (CITC) Scholarship Program.

The bill adds new fiscal and academic accountability requirements including provisions related to private school eligibility requirements, responsibilities for the Department of Education, responsibilities of parents and students, and responsibilities of eligible nonprofit scholarship funding organizations.

The bill creates a new section of law that provides for the obligations of all private schools participating in state school choice scholarship programs. These requirements include having each employee and contracted personnel with direct student contact, defined as having unsupervised access to a scholarship student for whom the private school is responsible, undergo a state and national background screening.

The bill directs the Florida Department of Law Enforcement to adopt a rule setting the annual fee to be imposed upon participating private schools for participation in the fingerprint search process and to establish procedures for the retention of the fingerprints and the dissemination of the results.

The bill will have a minimal fiscal impact on the Department of Education and private schools. Please see the FISCAL ANALYSIS and the DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR section of this analysis.

The bill shall be effective on becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill increases the Department of Education's regulatory responsibilities related to scholarship programs. The bill also grants the Commissioner of Education the authority to deny, suspend, or revoke a private school's participation in state school choice programs.

Empower families – The bill provides parents of students with disabilities and parents of low-income students who qualify for free or reduced-price school lunches with the opportunity to exercise parental choice by sending their child to a private or public school of choice.

Safeguard individual liberty – The bill maintains parental choice by providing for private and public school options for parents of public school students.

B. EFFECT OF PROPOSED CHANGES:

The Chief Financial Officer (CFO) conducted audits on the McKay and CITC programs in 2003 and found problems with the administration of the programs. The CFO issued a report of his findings on December 10, 2003. The findings include: the lack of program oversight from the DOE; students receiving scholarships from more than one program; the transfer of funds between Scholarship Funding Organizations (SFOs); SFOs not basing the amount of contributions received on the amounts needed to fill identified scholarships; principals of SFOs with no apparent physical location in Florida; and internet schools, home schools, and correspondence schools participating in the program.

In response to the CFO report, in May 2004, the Department of Education announced an action plan that includes requiring all participating private schools to complete an annual scholarship compliance form documenting that private schools are fully compliant with private school and scholarship program law before enrolling students or receiving payments, regularly cross-checking student participation to avoid enrollment and funding duplication, providing information and access to information to parents for decision making, supporting private school and SFO efforts to self-regulate, and adopting rules for operational practices and policies. The DOE has since implemented this plan.

The John M. McKay Scholarship for Children with Disabilities (1002.39, F.S.)

The John M. McKay Scholarships for Students with Disabilities Program (McKay Program) was originally created by the 1999 Legislature as a pilot program for Sarasota County in the A+ Education Plan. The program has since been expanded to cover the entire state. For fiscal year 2005-2006, there are 727 schools participating schools and 16,144 scholarship recipients.[1]

Student Eligibility

Generally

Currently, the McKay Program provides an option for students with disabilities, for whom an individual education plan has been written, to either attend a public school other than the one to which assigned, or to receive a scholarship to attend a private school of choice. Students with disabilities include K-12 students who are mentally handicapped, speech and language impaired, deaf or hard of hearing,

[1] www.floridaschoolchoice.org/Information/McKay?program_statistics.asp

visually impaired, dual sensory impaired, physically impaired, emotionally handicapped, specific learning disabled, hospitalized or homebound, or autistic.

The bill revises the definition of students with disabilities to reflect the terminology for disabilities as they are used in the federal regulations.[2] This bill makes ineligible those students whose only qualifying disability was that they were hospitalized or homebound. It does not affect the eligibility of students who would otherwise qualify for a McKay scholarship under any of the other enumerated categories. It is important to note, that a disability in and of itself does not guarantee the right to a McKay scholarship. The disability must be recognized under State Board rules[3] and the student must have a current individual education plan.[4]

Currently, a public school student with disabilities is eligible to receive a McKay scholarship if the student's parent is dissatisfied with the student's progress, the student has spent the prior school year in attendance at a Florida public school, and the parent has obtained acceptance for the student at an eligible private school.[5] Students enrolled in Department of Juvenile Justice (DJJ) commitment programs are ineligible to receive a McKay scholarship during the period of enrollment in the commitment program.

Current law is unclear as to whether a student that has met the McKay scholarship eligibility requirements is eligible to participate in the program immediately upon dismissal from a DJJ commitment program. According to the Department of Education (DOE), implementation of current law has been that "the time in which a student was enrolled in a DJJ commitment program would not 'count' as the required prior year of enrollment in public schools; therefore students dismissed from a DJJ commitment program are only eligible for a McKay scholarship after being in attendance and reported for funding in a regular public school for both the October and February surveys."[6] Accordingly, under current practice, the DOE does not consider a school in a DJJ commitment program to be a Florida public school for purposes of eligibility for the McKay scholarship.

Under this bill, "prior school year attendance" at any Florida public school will qualify; assignment is not a requirement. This bill clarifies that "prior school year in attendance" includes time spent in a DJJ commitment program if funded under the Florida Education Finance Program (FEFP). Prior school year attendance at the Florida School for the Deaf and Blind (FSDB) and time spent by a 4 year old child with disabilities in an FEFP funded program will also qualify.

Current law provides that for the continuity of educational choice, the scholarship remains in effect until the student returns to a public school or graduates from high school. However, the bill provides that the term of the scholarship may be until the student returns to a public school, graduates from high school, or reaches the age of 22, whichever occurs first. The bill also allows a parent, upon reasonable notice to the DOE and school district, to remove the student from a private school and place the student in a public school and/or transfer the student from one participating private school to another.

It is not prohibited in current law for students to receive funding from more than one scholarship program. The bill revises such eligibility, stating that a student is ineligible for a McKay scholarship while he or she is:

- Enrolled in a DJJ commitment program.

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[2] *See* 34 C.F.R. s. 300.7(c)
[3] Rules 6A-6.03011 – 6A-60.03031, F.A.C.
[4] s. 1003.01(3)(a), providing that "exceptional student" means any student who has been determined eligible for a special program in accordance with the rules of the State Board of Education.
[5] s. 1002.39(2)(a), F.S., defines "prior school year in attendance" to mean that the student was 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.
[6] Florida Department of Education, Governmental Relations Office, 2004 Legislative Bill Analysis on HB 1579: John M. McKay Scholarships for Students with Disabilities Program.

- Receiving a CITC scholarship or a scholarship under chapter 1002, F.S.
- Participating in a home education or a private tutoring program.
- Participating in a virtual school, correspondence school, or distance learning program that receives state funding pursuant to the student's participation unless the student's participation is limited to no more than two courses per school year.
- Enrolled in the Florida School for the Deaf and Blind.

Parent and Student Responsibilities

Current law requires that any student participating in the McKay Program comply with the school's code of conduct and that the parents of scholarship students fully comply with the private school's parental involvement requirements, unless excused by the school for illness or other good cause.

The bill requires each parent and each student to comply with the private school's published policies.

The bill adopts a recommendation by the CFO that requires parents to restrictively endorse the scholarship warrant upon receipt to the private school. It also prohibits a parent from designating any entity or individual associated with the participating private school as the parent's attorney in fact to endorse the warrant.

Private School Eligibility and Obligations

Private schools are not required to participate in the program; however, participation is open to all private schools. The bill provides that failure to meet the following requirements constitutes a basis for the ineligibility of the private school to participate in the McKay Program:

- Comply with the newly created section 1002.421 detailing the rights and obligations of private schools participating in state school choice scholarship programs,[7]
- Annually provide the parent with a written explanation of the student's progress,
- Cooperate with a student whose parent chooses to have the student participate in the statewide assessment pursuant to s. 1008.22, F.S.[8], and
- Submit all documentation to the DOE for a student's participation at least 30 days prior to the first quarterly scholarship payment.

Amount of Award

The amount of the scholarship is unchanged in this bill and is equal to the amount the student would have received under the FEFP in the public school to which the student is assigned or the amount of the private school's tuition and fees, whichever is less. During the 2001-2002 school year, $27.8 million was awarded to 5,019 McKay scholarship recipients for an average award amount of $5,547 per student. During 2002-2003, $53 million was awarded to 9,130 scholarship recipients for an average award amount of $5,840 per student. During the 2003-2004 school year, $81.2 million was awarded to 13,739 scholarship recipients for an average reward amount of $5,951 per student. During the 2004-2005 school year, $101.0 million was awarded to 14,338 scholarship recipients for an average award amount of $7,043.

Funding and Payment

Currently, there are no provisions for the calculation of payment for former students of the FSDB. This bill provides that the scholarship amount for a student who has spent the prior year in attendance at the FSDB will be calculated in the same manner as any other McKay scholarship, except that the calculation is based on the school district in which the parent resides at the time of the scholarship

[7] See "Rights and Obligations" section of the analysis beginning on page 12.
[8] s. 1008.22, F.S., Student Assessment Program for Public Schools

request. The bill requires school districts to report to the DOE the scholarship students that are former students of the FSDB who are attending a private school. Also, the school districts are held harmless for these students from the weighted enrollment ceiling for group 2 programs during the first school year in which the students are reported.[9] The bill prohibits the transfer of funds from the FSDB for students to participate in the program.

The bill also clarifies funding for students exiting a DJJ commitment program. It provides that the funds used to provide scholarships to eligible students exiting a DJJ commitment program will come from the school district in which the student last attended a public school prior to commitment.

The bill clarifies that districts are responsible to report all students attending a private school on a McKay Scholarship within their district each year.

Some private schools require pre-paid amounts of tuition to reserve seats in the class. This bill eliminates DOE funding of pre-paid tuition for McKay scholarship recipients. This bill also changes the payment date for scholarship payments from the CFO from April 15 to April 1. This change makes the April payment consistent with the other three scholarship payments, which are made on the first day of September, November, and February, respectively.

Subsequent to each scholarship payment, the Department of Financial Services (DFS) is required to randomly review endorsed warrants to confirm compliance with endorsement requirements. DFS must immediately report inconsistencies or irregularities to the DOE.

Program Oversight

Currently, the DOE is responsible for verifying the student's initial admission acceptance and continued enrollment and attendance at the private school. The CFO can only make the scholarship payments after proper verification from the DOE. The payment must be made by individual warrant payable to the student's parent and mailed by the DOE to the chosen private school. The parent must restrictively endorse the warrant to the private school.

The bill proposes to make the following changes in program oversight:

School District Obligations

- Requires notification to parents by April 1 of each year and within 10 days of the student's individual education plan meeting of all education choice options, and of the availability of the department's telephone hotline and website for additional information on the McKay Program. This will give parents the time to explore the educational options, including public and private school options, available for their child.

- Provides that a student's matrix of services may only be changed to correct a technical, typographical, or calculation error. This provides parents with a degree of certainty in the level of services and the level of funding their child will receive while participating in the scholarship program.

- Requires notification to parents of students receiving a scholarship of the availability of a reevaluation at least every 3 years. This provision does not require a student to be reevaluated; rather, it provides for reevaluation if the parent chooses to have the student reevaluated.

[9] s. 1011.62(1)(d)3., F.S., provides for the maximum amount of operations funding for special program weighted FTE students.

Department of Education Obligations

- Requiring the DOE to establish a toll-free hotline to provide information to parents and private schools on the McKay Program. This provision would codify current practice.

- Requires the DOE to annually verify that private schools meet the eligibility requirements outlined in statute.

- Requires the DOE to establish a process that allows for individuals to notify the DOE of violations of state laws relating to program participation. This provision also requires the DOE to conduct inquiries of written complaints, or to refer them to the appropriate agency, if the complaint is signed by the complainant and is legally sufficient. These inquiries are not subject to the requirements of ch. 120, F.S.

- Requires the DOE to annually receive from every participating private school a notarized, sworn compliance statement certifying compliance with state laws and to retain such forms. The DOE must ensure that participating private schools submit their sworn compliance forms each year. This is a codification of the sworn compliance form process instituted by the DOE during the summer of 2003 and provided for in State Board of Education rule.

- Requires the DOE, prior to the first scholarship payment, to cross-check the list of participating private scholarship students to the public school enrollment lists. This provision addresses the CFO's finding that students receiving scholarships were also counted as public school students.

Commissioner of Education Authority

- Grants the Commissioner of Education the authority to deny, suspend, or revoke a private school's participation in the scholarship program and to take other action as necessary to ensure compliance with the provisions of statutes. It also provides for procedures and timelines for the Commissioner and the private school to follow in administrative proceedings.

- Provides for authority to immediately suspend payment of scholarship funds if there is probable cause to believe that there is an imminent threat to the health, safety, and welfare of the students or if there is fraudulent activity on the part of the private school. This bill also provides for procedures and timelines for appeal of such action.

Corporate Income Tax Credit Scholarship Program (s. 220.187, F.S.)

The Corporate Income Tax Credit Scholarship Program (CITC Program) provides an income tax credit for corporations that make eligible contributions to nonprofit scholarship-funding organizations (SFOs). SFOs award scholarships to students from families with limited financial resources as demonstrated by the student qualifying for free or reduced-price school lunches. For fiscal year 2005-2006, there are 852 schools participating schools and 13,497 scholarship recipients.[10]

Tax Credits

Current law provides a number of requirements and limitations related to tax credits. For instance, a taxpayer may not designate a specific child as the beneficiary of the contribution and may not contribute more than $5 million to any single eligible SFO. The total statewide amount of the tax credit and the carryforward of tax credits that may be granted each state fiscal year under this program is

[10] www.floridaschoolchoice.org/Information/McKay?program_statistics.asp

limited to $88 million. At least 5% of the total statewide amount authorized for the tax credit must be reserved for small businesses.[11]

The bill modifies the above provisions as follows:

- Allows a taxpayer's eligible contribution to a single SFO to exceed $5 million.
- Limits the total amount of allowable tax credits to $88 million for the 2006-2007 fiscal year.
    - Provides that in each year thereafter the total amount of allowable tax credits and carryforward of tax credits shall be adjusted annually by the percent increase or decrease in total FEFP funds as provided in the General Appropriations Act workpapers, not to exceed 5% in any year. The maximum increase in 2006-07 would be $4.4 million ($88 million x 5.0%).
    - Requires the Commissioner of Education to certify to the Department of Revenue (DOR) and the SFO of the resulting value of tax credits within 30 days after the General Appropriations Act becomes law.
- Reduces the amount of the total tax credit allocation reserved for small business from 5% to 1%.

The bill allows a taxpayer to rescind all or part of his or her tax credit allocation under certain circumstances. This provision also provides that any amount rescinded 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 DOR.

Student Eligibility

Generally

A student is eligible for a scholarship from an eligible SFO through this program if the student qualifies for free or reduced-price school lunch under the National School Lunch Act, and:

- Was counted as a full-time student during the previous state fiscal year for purposes of state per-student funding; or
- Received a scholarship from an eligible SFO or the State of Florida during the previous school year; or
- Is eligible to enter kindergarten or first grade.

Based on available funds, the bill provides that a scholarship student will not lose his or her scholarship due to a change in the economic status of the student's parents unless the parent's economic status exceeds 200% of the Federal poverty guidelines.

It is not prohibited in current law for students to receive funding from more than one scholarship program. The bill revises such eligibility, stating that a student is ineligible for a CITC scholarship while he or she is:

- Enrolled in a DJJ commitment program.
- Receiving a CITC scholarship or a scholarship under chapter 1002, F.S.
- Participating in a home education or a private tutoring program.

[11] According to current law, small businesses are defined as taxpayers who independently own and operate businesses that employ 200 or fewer full-time permanent employees and have a net worth of not more than $5 million at the time of application.

- Participating in a virtual school, correspondence school, or distance learning program that receives state funding pursuant to the student's participation unless the student's participation is limited to no more than two courses per school year.
- Enrolled in the Florida School for the Deaf and Blind.

Parent and Student Responsibilities

As a condition for scholarship payment, current law requires that a parent inform the school district within 15 days after deciding to send his or her child to a nonpublic school; however, current law places few other responsibilities upon parents. The bill provides the following parent and student responsibilities for participation in the CITC Program:

- A parent is required to select an eligible private school, apply for admission, and notify the student's school district upon withdrawal.
- Students are required to attend school throughout the school year unless excused by the school for illness or other good cause. Each parent and each student is required to comply with the private school's published policies.
- Parents are required to ensure scholarship student participation in the norm-referenced assessment offered by the private school. Also, parents are given the option to choose to have their child to participate in the statewide assessments pursuant to s. 1008.22.
- Based on a recommendation by the CFO, parents are required to restrictively endorse the scholarship warrant upon receipt to the private school. This provision prohibits a parent from designating any entity or individual associated with the participating private school as the parent's attorney in fact to endorse the warrant.

Amount of Award

Current law provides that the amount of the scholarship provided to any child for any single school year by all eligible SFOs shall not exceed the following limits:

- $3,500 for a scholarship awarded to a student for enrollment in an eligible nonpublic school.
- $500 for a scholarship awarded to a student for enrollment in a Florida public school that is located outside the district in which the student resides.

The bill maintains current law which requires that the SFO make payment by warrant or check payable to the student's parent. The bill requires that the warrant or check be delivered by the SFO to the private school of the parent's choice, and that the parent restrictively endorse the warrant or check to the private school. SFOs are still required to ensure that the parent to whom the warrant or check is made payable endorse the check to the private school for deposit into the school's account.

The bill revises the scholarship award to $3,750 for enrollment in an eligible private school. It also requires SFOs to obtain verification from the private school the scholarship student's continued attendance prior to each scholarship payment and to make such payments on no less than a quarterly basis.

Scholarship Funding Organization

Currently, there is no requirement that SFOs be Florida corporations and out-of-state corporations are permitted. Upon recommendation by the CFO, the bill requires a SFO to be a Florida entity formed under chapter 607, chapter 608, or chapter 617, whose principal office is located in the state. Additionally, the bill requires that SFOs comply with antidiscrimination provisions of 42 U.S.C. s. 2000d, which prohibit discrimination based on race, color, or national origin.

Current law does not define or address the role of owners and operators of SFOs. The bill defines the term "owner or operator" of a SFO to include an owner, president, directors, officers, or other person

with the equivalent decision making authority over a SFO. Also, it provides that an owner or operator may not own or operate a private school that is participating in the CITC program.

Moreover, owners or operators are required to comply with the following background requirements:

- Submit to a level 2 background screening as provided under chapter 435.[12] The fingerprints are to be submitted to the Florida Department of Law Enforcement (FDLE). The results of the screening are required to be provided to the DOE. An owner or operator that fails the level 2 background screening is ineligible to provide CITC scholarships.

- Submit to background screenings every 5 years and the fingerprints are to be retained by the FDLE as part of the statewide automated fingerprint identification system. Any arrest record of the owner or operator must be reported to the DOE.

- Not have filed for personal bankruptcy or corporate bankruptcy within the last 7 years. In the case of corporate bankruptcy, however, the individual must have owned more than 20% of the corporation.

Determination of Scholarship Recipients

Currently, SFOs give priority to eligible students who received a CITC scholarship during the previous school year; however, there are no statutory provisions pertaining to SFOs directing the scholarship to a particular school, student, or owner.

The bill maintains the current law requiring SFOs to give priority to eligible students who received a CITC scholarship during the previous school year. However, the bill requires that SFOs provide scholarships on a first-come, first-served basis unless the student is a returning student from the previous school year. Also, the bill prohibits SFOs from restricting or reserving a scholarship for use at a particular private school or from providing a scholarship to a child of an owner or operator. Further, students are allowed to attend any eligible private school and transfer to any other eligible private school at any time.

SFO Fiscal Accountability

The bill contains a number of provisions that address fiscal procedures and accountability by SFOs.

Current law provides that SFOs that receive an eligible contribution must spend 100% of the eligible contribution to provide scholarships in the same state fiscal year in which the contribution was received. This bill revises the SFOs use of eligible contributions. The bill requires SFOs to obligate, in the same fiscal year in which the contribution was received, 100% of the contribution to provide scholarships provided that up to 25% of the total contribution may be carried forward for scholarships to be granted in the following state fiscal year. This provision allows for SFOs to commit funds, particularly those received toward the end of the fiscal year, to the next state fiscal year for future scholarships rather than requiring SFOs to spend all of the eligible contributions within the same state fiscal year in which they were received.

The bill requires SFOs to maintain separate accounts for scholarship funds and operating funds, which will prohibit the commingling of scholarship and operating money.

The bill provides for the transfer of funds to another eligible SFO when additional funds are required to meet scholarship demands. However, a transfer is limited to the greater of $500,000 or 20% of the total contributions received by the SFO making the transfer. This provision allows for flexibility in the

[12] *See* s. 435.04, F.S. for level 2 screening standards.

transfer of funds between eligible SFOs and should result in an increased ability to match eligible contributions with eligible students.

Current law requires that all SFOs submit annual audits conducted by an independent certified public accountant to the Auditor General (AG) each year. This bill increases fiscal accountability requirements by imposing a specific time frame, 180 days, for audit submission, requiring submission of the audit to the DOE as well as the AG, and by specifying certain audit procedures.

The bill requires all SFOs to submit quarterly reports to the DOE regarding the number of students participating, the names of the private schools in which they are enrolled, and any other information the DOE may require. No quarterly report requirement exists in current law. This provision will allow the DOE to track scholarship program activity. Also, it clarifies that SFOs are required to comply with all requests for information by the DOE.

The bill provides that confidential information provided to the DOE and the AG pursuant to this section shall remain confidential.

Private School Eligibility and Obligations

Current law provides that a private school is eligible to receive a scholarship student if the school:

- Is located in Florida.
- Offers an education to students in any grades K-12.
- Demonstrates fiscal soundness by being in operation for one school year, providing the DOE with a statement by a certified public accountant confirming that the school is insured and has sufficient capital or credit to operate for the upcoming year, or securing a surety bond or letter of credit equal to the scholarship funds for any quarter to be filed with the DOR.
- Complies with antidiscrimination provisions of 42 U.S.C. s. 2000d.
- Adheres to state and local health and safety laws and codes.
- Complies with all state laws relating to the general regulation of nonpublic schools.

The bill defines the term "owner or operator" of a participating private school to include an owner, operator, superintendent, principal, or person with the equivalent decision making authority, who owns or operates an eligible private school.

Private schools are not required to participate in the program; however, participation is open to all private schools. The bill provides that failure to meet the following requirements constitutes a basis for the ineligibility of the private school to participate in the CITC Program:

- Comply with the newly created section 1002.421 detailing the rights and obligations of private schools participating in state school choice scholarship programs,[13]
- Annually provide the parent with a written explanation of the student's progress,
- Annually administer or make provisions for students to participate in one of the nationally norm-referenced tests identified by the DOE, and report the student's scores to the parent and to an independent private research organization selected by the DOE,
- Cooperate with a student whose parent chooses to have the student participate in the statewide assessment pursuant to s. 1008.22, F.S.[14], and
- Submit all documentation, upon request, to the SFO for a student's participation.

The bill exempts students with disabilities for whom standardized testing is not appropriate from the requirement that private schools administer a nationally norm-referenced test to all CITC scholarship students within their school.

[13] See "Rights and Obligations" section of the analysis beginning on page 12.
[14] s. 1008.22, F.S., Student Assessment Program for Public Schools

Program Oversight

Current law provides that the DOR and the DOE will cooperatively administer the CITC Program. The DOE is responsible for adopting rules necessary to determine the eligibility of SFOs and identifying students eligible to participate in the program. The DOR is responsible for adopting rules to administer the CITC Program such as establishing application forms and procedures and governing the allocation of tax credits and carry-forward credits for this program on a first-come, first-served basis. The DOE is also responsible for submitting annually, by March 15, a list of eligible SFOs to the DOR and monitoring the eligibility of SFOs, nonpublic schools, and expenditures.

Department of Education Obligations

The DOE's obligations can be broken down into those dealing primarily with fiscal oversight and those related to academic oversight; however, some of the oversight requirements do affect both fiscal and academic issues.

Fiscal Oversight

- Requires the DOE to establish a process that allows for individuals to notify the DOE of violations of state laws relating to program participation. This provision also requires the DOE to conduct inquiries of written complaints, or to refer them to the appropriate agency, if the complaint is signed by the complainant and is legally sufficient. These inquiries are not subject to the requirements of ch. 120, F.S.

- Requires the DOE to annually receive from every participating private school a notarized, sworn compliance statement certifying compliance with state laws and to retain such forms. The DOE must ensure that participating private schools submit their sworn compliance forms each year. This is a codification of the sworn compliance form process instituted by the DOE during the summer of 2003 and provided for in State Board of Education rule.

- Requires the DOE to cross-check the list of participating private scholarship students to the public school enrollment lists. This provision addressed the CFO's finding that students receiving scholarships were also counted as public school students.

- Requires the DOE to notify any SFO if one of its recipients is also receiving scholarship monies from an educational scholarship pursuant to chapter 1002, or from another SFO. This provision compliments the provisions elsewhere in the bill that require SFOs and participating private schools to provide notification of any instances of student enrollment in more than one program.

- Requires that the DOE receive from each SFO a quarterly report detailing the number of participating students and the private schools in which they are enrolled, and any other information the DOE deems necessary. The DOE must ensure that all SFOs submit these quarterly reports. This provision will codify current operational practice.

Academic Oversight

- Requires the DOE to annually verify, rather than monitor, that SFOs and private schools meet eligibility requirements and verify the eligibility of expenditures.

- Requires the DOE to establish a toll-free hotline providing information on participation in the CITC Program.

- Requires the DOE to select nationally norm-referenced tests that are comparable to the norm-referenced test portions of the Florida Comprehensive Assessment Test (FCAT). One of the tests selected may be the FCAT. This provision implements part of the nationally norm-

referenced testing program for scholarship recipients found elsewhere in the bill in that it requires DOE to proactively identify which standardized tests will fulfill the requirement for testing.

- Requires the DOE to select an independent research organization to analyze and report annually to the DOE on the year-to-year improvement of participating students. The provision requires that the scores from the nationally norm-referenced tests be forwarded to the independent research organization and that in the course of its analysis the research organization must not disaggregate the data in such a way as to identify the academic level of individuals or individual schools. Independent research organizations are required to accumulate historical performance data and conduct longitudinal studies. This provision provides a mechanism for annually and longitudinally monitoring academic performance of the scholarship program. The independent research organizations are required to analyze and report student data in compliance with the Family Educational Rights and Privacy Act.[15]

- Requires the DOE to conduct analysis of matched students from public school assessment data and calculate control group learning gains using an agreed upon methodology between the third party evaluator and the DOE. The sharing of data must be in accordance with Family Educational Rights and Privacy Act requirements and shall be used solely for the purpose of comparing the progression of scholarship students to their public school counterparts. This provision substantially reduces the cost of the independent research organization's services to the DOE.

Commissioner of Education Authority

- Grants the Commissioner of Education the authority to deny, suspend, or revoke a private school's participation in the scholarship program and to take other action as necessary to ensure compliance with the provisions of statutes. It also provides for procedures and timelines for the Commissioner and the private school to follow in administrative proceedings.

- Provides for authority to immediately suspend payment of scholarship funds if there is probable cause to believe that there is an imminent threat to the health, safety, and welfare of the students or that there is fraudulent activity on the part of the private school. This bill also provides for procedures and timelines for appeal of such action.

State Board of Education

Requires the State Board of Education (SBE) to adopt rules to implement the provisions of the statute relating to the CITC Program, clarifying the SBE's rulemaking authority.

Rights and Obligations of Private Schools in State School Choice Scholarship Programs

The bill creates this new section of law that sets out general guidelines for participation by private schools in the CITC Program, pursuant to s. 220.187, F.S., and in all educational choice scholarship programs provided in chapter 1002. The new section has compiled some of the current statutory requirements for private schools in the various scholarship programs and has added a number of new requirements. The requirements for participating private schools can be grouped as follows:

General Requirements

- Be a Florida private school, as defined in s. 1002.01(2), F.S.
- Be registered as a Florida private school pursuant to s. 1002.42, F.S.

[15] 20 U.S.C s. 1232g

- Comply with the antidiscrimination provisions of 42 U.S.C. s. 2000d.
- Comply with applicable state and local health, safety, and welfare laws, codes, and rules, including fire and building safety, and
- Meet all requirements outlined in this proposed section.

Notifications to the DOE

- Requires notification of its intent to participate in a scholarship program.

- Requires notification within 15 days of any change in the school's name, school director, mailing address, or physical location.

- Requires the annual completion and submission to the DOE of a notarized scholarship compliance statement certifying that all school employees and contracted personnel have undergone background screening pursuant to s. 943.0542.

- Requires the completion of student enrollment and attendance verification requirements, including using an on-line attendance verification form, prior to scholarship payment.

Fiscal Accountability

- Requires demonstration of fiscal soundness and accountability by 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 one quarter and filing the bond or letter of credit with the DOE.

    - This increases the number of years a school must have been in operation to prove fiscal soundness and specifies the means by which scholarship monies are to be secured against unlawful uses when a school has been in operation less than 3 years.
    - The surety bond or letter of credit secures the scholarship monies paid to the school should it be found that the funds were used for improper purposes

- Requires parents to restrictively endorse the scholarship warrant upon receipt to the private school, as recommended by the CFO. It also prohibits a parent from designating any entity or individual associated with the participating private school as the parent's attorney in fact to endorse the warrant.

Educator Eligibility

- Maintains current law requiring private schools to employ or contract with teachers that meet any one of the following criteria: 1) hold a baccalaureate or higher degree, 2) have at least 3 years of teaching experience in public or private schools, or 3) have special skills, knowledge, or expertise in subjects taught. This provision allows for nontraditional teachers to bring their special skills, knowledge, or expertise in certain subjects to the classroom.

Background Screening

- Requires each employee and contracted personnel with direct student contact, defined as having unsupervised access to a scholarship student for whom the private school is responsible, undergo a state and national background screening.[16] Provides for an exemption for persons holding a valid teaching certificate who have been fingerprinted pursuant to s. 1012.32, F.S.

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[16] *See* s. 943.0542, F.S.

- Requires any employee or contracted personnel that fails to meet the screening standards pursuant to s.435.04, F.S. to be denied employment or terminated. Also provides a participating private school that continues the employment of such person is ineligible to participate in a scholarship program.

- Requires the fingerprints to be submitted to the FDLE and the results to be provided to the participating private school. The state is not responsible for the cost of the fingerprinting and background check.

- Beginning July 1, 2007, the bill requires the FDLE to retain all fingerprints submitted as part of the statewide automated fingerprint identification system, and to search all arrest fingerprint cards received under s. 943.021 against all fingerprints retained in the statewide identification system. Requires FDLE to report to the employing school the arrest record of a person that is identified with the retained fingerprints.

- Requires participating private schools to notify the FDLE of any change in the employment status of its personnel whose fingerprints are retained by FDLE. The fee assessed by the FDLE is the responsibility of the private school or the person fingerprinted.

- Provides that the FDLE adopt a rule setting the annual fee that will be imposed upon participating private schools and to establish procedures for the retention of the fingerprints and the dissemination of the results.

- Requires those personnel whose prints are not retained by the FDLE to be reprinted and to meet the background requirements upon reemployment or reengagement to provide services. Requires employees and contracted services personnel to be screened every five years. Provides that the private school request the FDLE to forward the fingerprints to the FBI for processing.

Failure to meet requirements

- Provides that failure to meet these requirements outlined in the bill constitutes a basis for the ineligibility to participate in the scholarship programs as determined by the DOE.

Regulatory authority

- Provides that the inclusion of private schools within options available to Florida public school students does not expand the regulatory authority of the state, its officers, or school districts to impose additional requirements beyond those reasonably necessary to enforce the requirements expressed in the bill.

State Board of Education

- Provides that the SBE adopt rules pursuant to ss. 120.536(1) and 120.54, F.S., to administer the bill.

C. SECTION DIRECTORY:

Section 1. Amends s. 1002.39, F.S., relating to the John M. McKay Scholarship for Students with Disabilities Program.

Section 2. Amends s. 220.187, F.S., relating to the Corporate Income Tax Credit Scholarship Program.

Section 3. Creates s. 1002.421, F.S., relating to the rights and obligations of private schools participating in state school choice scholarship programs.

Section 4. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   Beginning in 2007-08, the total amount of allowable tax credits and carryforward of tax credits shall be adjusted annually by the percent increase or decrease in total FEFP funds as provided in the General Appropriations Act workpapers, not to exceed 5% in any year. The maximum increase in 2006-07 would be $4.4 million ($88 million x 5.0%), which is a direct offset of general fund revenue. For an analysis of the corresponding direct offset in state expenditures caused by the increase in allowable credits, see Expenditures under "FISCAL IMPACT ON STATE GOVERNMENT."

2. Expenditures:

   The increase in allowable tax credits will be used to provide scholarships for students of low income parents, which is a direct offset to the number of public school students funded from state and local operating and capital outlay funds. The most recent calculation of public school operating funding shows a statewide average of $6,153 per FTE.[17] The bill increases the scholarship amount from $3,500 to $3,750 per student.

   This bill requires the DOE to identify nationally norm-referenced tests that are comparable to the norm-referenced test portions of the Florida Comprehensive Assessment Test (FCAT) provided that one of the tests selected may be the FCAT. The DOE is also required to contract with an independent research organization to receive and analyze the results of the nationally norm-referenced tests taken by the CITC Program scholarship recipients. The DOE is required to conduct analysis of matched students from public school assessment data and calculate control group learning gains using an agreed upon methodology between the third party evaluator and the DOE. The costs associated with these requirements are indeterminate at this time.

   School districts reporting transfer students from the FSDB are held harmless from the weighted enrollment ceiling pursuant to s. 1011.62(1)(d)3.a. Therefore, state expenditures to a district for providing instruction to students in special programs could exceed the established ceiling. The amount is indeterminate but presumed small because of the relatively small number of students involved.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The combined affect of raising the authorized credit amount for the CITC Scholarship Program and increasing the per student scholarship amount could result in a maximum of 500 fewer scholarships. The issuance of fewer scholarships would result in a direct increase in public school enrollment and in the revenue associated with the increased enrollment. In the 2005-06 fiscal year, an additional 500 students would result in approximately $3.1 million[18] of additional revenue for public schools.

2. Expenditures:

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[17] Florida Education Finance Program third calculation, dated December 19, 2006.

[18] The statewide per student funding amount is $6,153 as listed in the 2005-06 Florida Education Finance Program third calculation, dated December 19, 2006.

The potential issuance of 500 fewer scholarships could result in a public school enrollment increase of 500 students, for which the public schools would receive approximately $3.1 of revenue to spend on the education of these students. See "Revenues" section above.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill places no requirements upon private schools that choose not to participate in the state school choice scholarship programs. However, private schools that choose to participate in the McKay Program, CITC Program, or any other state school choice scholarship program are eligible to receive state-funded scholarship students and are responsible for complying with the private school requirements contained in this bill. The requirements will result in some compliance costs.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

The bill does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill gives the SBE rulemaking authority pursuant to ss. 120.536(1) and 120.54, F.S., to adopt rules for implementing provisions of the law relating to the CITC Program and to administer the proposed section relating to the rights and obligations of private schools participating in state school choice scholarship programs.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to scholarship program accountability;
3 amending s. 1002.39, F.S., relating to the John M. McKay
4 Scholarships for Students with Disabilities Program;
5 revising definition of the term "students with
6 disabilities"; revising student eligibility requirements
7 for receipt of a scholarship and restricting eligibility
8 therefor; providing for term of a scholarship; revising
9 and adding school district obligations and clarifying
10 parental options; revising and adding Department of
11 Education obligations, including verification of
12 eligibility of private schools and establishment of a
13 process for notification of violations, subsequent inquiry
14 or investigation, and certification of compliance by
15 private schools; providing Commissioner of Education
16 authority and obligations, including the denial,
17 suspension, or revocation of a private school's
18 participation in the scholarship program and procedures
19 and timelines therefor; revising private school
20 eligibility and obligations, including compliance with
21 specified laws and academic accountability to the parent;
22 revising parent and student responsibilities for
23 scholarship program participation; prohibiting power of
24 attorney for endorsing a scholarship warrant; revising
25 provisions relating to scholarship funding and payment;
26 providing funding and payment requirements for former
27 Florida School for the Deaf and the Blind students and for
28 students exiting a Department of Juvenile Justice program;

29 providing Department of Financial Services obligations;
30 amending s. 220.187, F.S., relating to credits for
31 contributions to nonprofit scholarship-funding
32 organizations; revising and providing definitions; naming
33 the Corporate Income Tax Credit Scholarship Program;
34 providing student eligibility requirements for receipt of
35 a corporate income tax credit scholarship and restricting
36 eligibility therefor; revising provisions relating to tax
37 credit for small businesses; providing for adjustment of
38 the total amount of tax credits and carryforward of tax
39 credits; providing for rescindment of tax credit
40 allocation; revising and adding obligations of eligible
41 nonprofit scholarship-funding organizations, including
42 compliance with requirements for background checks of
43 owners and operators, scholarship-funding organization
44 ownership or operation, carryforward and transfer of
45 funds, audits, and reports; specifying background
46 screening requirements and procedures; requiring certain
47 information to remain confidential in accordance with s.
48 213.053, F.S.; revising and adding parent and student
49 responsibilities for scholarship program participation,
50 including compliance with a private school's published
51 policies, participation in student academic assessment,
52 and restrictive endorsement of scholarship warrants;
53 prohibiting power of attorney for endorsing a scholarship
54 warrant; revising and adding private school eligibility
55 requirements and obligations, including compliance with
56 specified laws and academic accountability to the parent;

57 revising and adding Department of Education obligations,
58 including verification of eligibility of program
59 participants, establishment of a process for notification
60 of violations, subsequent inquiry or investigation,
61 certification of compliance by private schools, and
62 selection of a research organization to analyze student
63 performance data; providing Commissioner of Education
64 authority and obligations, including the denial,
65 suspension, or revocation of a private school's
66 participation in the scholarship program and procedures
67 and timelines therefor; revising and adding provisions
68 relating to scholarship funding and payment, including the
69 amount of a scholarship and the payment process; requiring
70 adoption of rules; creating s. 1002.421, F.S., relating to
71 rights and obligations of private schools participating in
72 state school choice scholarship programs; providing
73 requirements for participation in a scholarship program,
74 including compliance with specified state, local, and
75 federal laws and demonstration of fiscal soundness;
76 requiring restrictive endorsement of a scholarship warrant
77 and prohibiting power of attorney for endorsing a warrant;
78 requiring employment of qualified teachers and background
79 screening of employees and contracted personnel with
80 direct student contact; specifying background screening
81 requirements and procedures; providing scope of authority;
82 requiring adoption of rules; providing an effective date.
83
84 Be It Enacted by the Legislature of the State of Florida:

85

86 Section 1. Section 1002.39, Florida Statutes, is amended
87 to read:
88 1002.39 The John M. McKay Scholarships for Students with
89 Disabilities Program.--There is established a program that is
90 separate and distinct from the Opportunity Scholarship Program
91 and is named the John M. McKay Scholarships for Students with
92 Disabilities Program~~, pursuant to this section~~.
93 (1) THE JOHN M. MCKAY SCHOLARSHIPS FOR STUDENTS WITH
94 DISABILITIES PROGRAM.--The John M. McKay Scholarships for
95 Students with Disabilities Program is established to provide the
96 option to attend a public school other than the one to which
97 assigned, or to provide a scholarship to a private school of
98 choice, for students with disabilities for whom an individual
99 education plan has been written in accordance with rules of the
100 State Board of Education. Students with disabilities include K-
101 12 students who are documented as having mental retardation; a
102 ~~mentally handicapped,~~ speech or ~~and~~ language impairment; a
103 ~~impaired, deaf or hard of~~ hearing impairment, including
104 deafness; a visual impairment, including blindness; a ~~visually~~
105 ~~impaired,~~ dual sensory impairment; a physical impairment; a
106 serious emotional disturbance, including an emotional handicap;
107 a ~~impaired, physically impaired, emotionally handicapped,~~
108 specific learning disability, including, but not limited to,
109 dyslexia, dyscalculia, or developmental aphasia; a traumatic
110 brain injury; ~~disabled, hospitalized or homebound,~~ or autism
111 ~~autistic~~.
112 (2) JOHN M. MCKAY SCHOLARSHIP ELIGIBILITY.--The parent of

113 a public school student with a disability who is dissatisfied
114 with the student's progress may request and receive from the
115 state a John M. McKay Scholarship for the child to enroll in and
116 attend a private school in accordance with this section if:
117 (a) ~~By assigned school attendance area or by special~~
118 ~~assignment,~~ The student has spent the prior school year in
119 attendance at a Florida public school or the Florida School for
120 the Deaf and the Blind. Prior school year in attendance means
121 that the student was:
122 1. Enrolled and reported by a school district for funding
123 during the preceding October and February Florida Education
124 Finance Program surveys in kindergarten through grade 12, which
125 shall include time spent in a Department of Juvenile Justice
126 commitment program if funded under the Florida Education Finance
127 Program;
128 2. Enrolled and reported by the Florida School for the
129 Deaf and the Blind during the preceding October and February
130 student membership surveys in kindergarten through grade 12; or
131 3. Enrolled and reported by a school district for funding
132 during the preceding October and February Florida Education
133 Finance Program surveys, at least 4 years old when so enrolled
134 and reported, and eligible for services under s. 1003.21(1)(e).
135
136 However, ~~this paragraph does not apply to~~ a dependent child of a
137 member of the United States Armed Forces who transfers to a
138 school in this state from out of state or from a foreign country
139 pursuant to a parent's permanent change of station orders is
140 exempt from this paragraph but~~. A dependent child of a member of~~

141 ~~the United States Armed Forces who transfers to a school in this~~
142 ~~state from out of state or from a foreign country pursuant to a~~
143 ~~parent's permanent change of station orders~~ must meet all other
144 eligibility requirements to participate in the program.
145 (b) The parent has obtained acceptance for admission of
146 the student to a private school that is eligible for the program
147 under subsection (8) ~~(4)~~ and has requested from the department
148 ~~notified the school district of the request for~~ a scholarship at
149 least 60 days prior to the date of the first scholarship
150 payment. The request ~~parental notification~~ must be through a
151 communication directly to the department ~~district or through the~~
152 ~~Department of Education to the district~~ in a manner that creates
153 a written or electronic record of the request ~~notification~~ and
154 the date of receipt of the request ~~notification~~.
155
156 ~~This section does not apply to a student who is enrolled in a~~
157 ~~school operating for the purpose of providing educational~~
158 ~~services to youth in Department of Juvenile Justice commitment~~
159 ~~programs. For purposes of continuity of educational choice, the~~
160 ~~scholarship shall remain in force until the student returns to a~~
161 ~~public school or graduates from high school. However, at any~~
162 ~~time, the student's parent may remove the student from the~~
163 ~~private school and place the student in another private school~~
164 ~~that is eligible for the program under subsection (4) or in a~~
165 ~~public school as provided in subsection (3).~~
166 (3) JOHN M. MCKAY SCHOLARSHIP PROHIBITIONS.--A student is
167 not eligible for a John M. McKay Scholarship while he or she is:
168 (a) Enrolled in a school operating for the purpose of

169 providing educational services to youth in Department of
170 Juvenile Justice commitment programs;
171 (b) Receiving a corporate income tax credit scholarship
172 under s. 220.187;
173 (c) Receiving an educational scholarship pursuant to this
174 chapter;
175 (d) Participating in a home education program as defined
176 in s. 1002.01(1);
177 (e) Participating in a private tutoring program pursuant
178 to s. 1002.43;
179 (f) Participating in a virtual school, correspondence
180 school, or distance learning program that receives state funding
181 pursuant to the student's participation unless the participation
182 is limited to no more than two courses per school year; or
183 (g) Enrolled in the Florida School for the Deaf and the
184 Blind.
185 (4) TERM OF JOHN M. MCKAY SCHOLARSHIP.--
186 (a) For purposes of continuity of educational choice, a
187 John M. McKay Scholarship shall remain in force until the
188 student returns to a public school, graduates from high school,
189 or reaches the age of 22, whichever occurs first.
190 (b) Upon reasonable notice to the department and the
191 school district, the student's parent may remove the student
192 from the private school and place the student in a public school
193 in accordance with this section.
194 (c) Upon reasonable notice to the department, the
195 student's parent may move the student from one participating
196 private school to another participating private school.

197 (5) ~~(3)~~ SCHOOL DISTRICT ~~AND DEPARTMENT OF EDUCATION~~
198 OBLIGATIONS; PARENTAL OPTIONS.--
199 (a)1. By April 1 of each year and within 10 days after an
200 individual education plan meeting, a school district shall
201 ~~timely~~ notify the parent of the student of all options available
202 pursuant to this section, inform the parent of the availability
203 of the department's telephone hotline and Internet website for
204 additional information on John M. McKay Scholarships, and offer
205 that student's parent an opportunity to enroll the student in
206 another public school within the district.
207 2. The parent is not required to accept the ~~this~~ offer of
208 enrolling in another public school in lieu of requesting a John
209 M. McKay Scholarship to a private school. However, if the parent
210 chooses the public school option, the student may continue
211 attending a public school chosen by the parent until the student
212 graduates from high school.
213 3. If the parent chooses a public school consistent with
214 the district school board's choice plan under s. 1002.31, the
215 school district shall provide transportation to the public
216 school selected by the parent. The parent is responsible to
217 provide transportation to a public school chosen that is not
218 consistent with the district school board's choice plan under s.
219 1002.31.
220 (b)1. For a student with disabilities who does not have a
221 matrix of services under s. 1011.62(1)(e), the school district
222 must complete a matrix that assigns the student to one of the
223 levels of service as they existed prior to the 2000-2001 school
224 year.

225 2.a. Within 10 school days after it receives notification
226 of a parent's request for a John M. McKay Scholarship, a school
227 district must notify the student's parent if the matrix of
228 services has not been completed and inform the parent that the
229 district is required to complete the matrix within 30 days after
230 receiving notice of the parent's request for a John M. McKay
231 Scholarship. This notice should include the required completion
232 date for the matrix.
233 b. The school district must complete the matrix of
234 services for any student who is participating in the John M.
235 McKay Scholarships for Students with Disabilities Program and
236 must notify the department ~~of Education~~ of the student's matrix
237 level within 30 days after receiving notification of a request
238 ~~by the student's parent of intent~~ to participate in the
239 scholarship program. The school district must provide the
240 student's parent with the student's matrix level within 10
241 school days after its completion.
242 c. The department ~~of Education~~ shall notify the private
243 school of the amount of the scholarship within 10 days after
244 receiving the school district's notification of the student's
245 matrix level. ~~Within 10 school days after it receives~~
246 ~~notification of a parent's intent to apply for a McKay~~
247 ~~Scholarship, a district school board must notify the student's~~
248 ~~parent if the matrix has not been completed and provide the~~
249 ~~parent with the date for completion of the matrix required in~~
250 ~~this paragraph.~~
251 d. A school district may change a matrix of services only
252 if the change is to correct a technical, typographical, or

253 calculation error.
254 (c) A school district shall provide notification to
255 parents of the availability of a reevaluation at least every 3
256 years of each student who receives a John M. McKay Scholarship.
257 (d) ~~(c)~~ If the parent chooses the private school option and
258 the student is accepted by the private school pending the
259 availability of a space for the student, the parent of the
260 student must notify the department ~~school district~~ 60 days prior
261 to the first scholarship payment and before entering the private
262 school in order to be eligible for the scholarship when a space
263 becomes available for the student in the private school.
264 (e) ~~(d)~~ The parent of a student may choose, as an
265 alternative, to enroll the student in and transport the student
266 to a public school in an adjacent school district which has
267 available space and has a program with the services agreed to in
268 the student's individual education plan already in place, and
269 that school district shall accept the student and report the
270 student for purposes of the district's funding pursuant to the
271 Florida Education Finance Program.
272 (f) ~~(e)~~ For a student ~~in the district~~ who participates in
273 the John M. McKay Scholarships for Students with Disabilities
274 Program whose parent requests that the student take the
275 statewide assessments under s. 1008.22, the district in which
276 the student attends private school shall provide locations and
277 times to take all statewide assessments.
278 ~~(f) A school district must notify the Department of~~
279 ~~Education within 10 days after it receives notification of a~~
280 ~~parent's intent to apply for a scholarship for a student with a~~

281 ~~disability. A school district must provide the student's parent~~
282 ~~with the student's matrix level within 10 school days after its~~
283 ~~completion.~~
284 (6) DEPARTMENT OF EDUCATION OBLIGATIONS.--The department
285 shall:
286 (a) Establish a toll-free hotline that provides parents
287 and private schools with information on participation in the
288 John M. McKay Scholarships for Students with Disabilities
289 Program.
290 (b) Annually verify the eligibility of private schools
291 that meet the requirements of subsection (8).
292 (c) Establish a process by which individuals may notify
293 the department of any violation by a parent, private school, or
294 school district of state laws relating to program participation.
295 The department shall conduct an inquiry of any written complaint
296 of a violation of this section, or make a referral to the
297 appropriate agency for an investigation, if the complaint is
298 signed by the complainant and is legally sufficient. A complaint
299 is legally sufficient if it contains ultimate facts that show
300 that a violation of this section or any rule adopted by the
301 State Board of Education has occurred. In order to determine
302 legal sufficiency, the department may require supporting
303 information or documentation from the complainant. A department
304 inquiry is not subject to the requirements of chapter 120.
305 (d) Require an annual, notarized, sworn compliance
306 statement by participating private schools certifying compliance
307 with state laws and shall retain such records.
308 (e) Cross-check the list of participating scholarship

309 students with the public school enrollment lists prior to the
310 first scholarship payment to avoid duplication.
311 (7) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.--
312 (a) The Commissioner of Education shall deny, suspend, or
313 revoke a private school's participation in the scholarship
314 program if it is determined that the private school has failed
315 to comply with the provisions of this section. However, in
316 instances in which the noncompliance is correctable within a
317 reasonable amount of time and in which the health, safety, and
318 welfare of the students are not threatened, the commissioner may
319 issue a notice of noncompliance that shall provide the private
320 school with a timeframe within which to provide evidence of
321 compliance prior to taking action to suspend or revoke the
322 private school's participation in the scholarship program.
323 (b) The commissioner's determination is subject to the
324 following:
325 1. If the commissioner intends to deny, suspend, or revoke
326 a private school's participation in the scholarship program, the
327 department shall notify the private school of such proposed
328 action in writing by certified mail and regular mail to the
329 private school's address of record with the department. The
330 notification shall include the reasons for the proposed action
331 and notice of the timelines and procedures set forth in this
332 paragraph.
333 2. The private school that is adversely affected by the
334 proposed action shall have 15 days from receipt of the notice of
335 proposed action to file with the department's agency clerk a
336 request for a proceeding pursuant to ss. 120.569 and 120.57. If

337 the private school is entitled to a hearing under s. 120.57(1),
338 the department shall forward the request to the Division of
339 Administrative Hearings.
340 3. Upon receipt of a request referred pursuant to this
341 paragraph, the director of the Division of Administrative
342 Hearings shall expedite the hearing and assign an administrative
343 law judge who shall commence a hearing within 30 days after the
344 receipt of the formal written request by the division and enter
345 a recommended order within 30 days after the hearing or within
346 30 days after receipt of the hearing transcript, whichever is
347 later. Each party shall be allowed 10 days in which to submit
348 written exceptions to the recommended order. A final order shall
349 be entered by the agency within 30 days after the entry of a
350 recommended order. The provisions of this subparagraph may be
351 waived upon stipulation by all parties.
352 (c) The commissioner may immediately suspend payment of
353 scholarship funds if it is determined that there is probable
354 cause to believe that there is:
355 1. An imminent threat to the health, safety, and welfare
356 of the students; or
357 2. Fraudulent activity on the part of the private school.
358
359 The commissioner's order suspending payment pursuant to this
360 paragraph may be appealed pursuant to the same procedures and
361 timelines as the notice of proposed action set forth in
362 paragraph (b).
363 (8) ~~(4)~~ PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.--To be
364 eligible to participate in the John M. McKay Scholarships for

365 Students with Disabilities Program, a private school ~~must be a~~
366 ~~Florida private school,~~ may be sectarian or nonsectarian~~,~~ and
367 must:
368 (a) Comply with all requirements for private schools
369 participating in state school choice scholarship programs
370 pursuant to s. 1002.421.
371 (b) Provide the department all documentation required for
372 a student's participation, including the private school's and
373 student's fee schedules, at least 30 days before the first
374 quarterly scholarship payment is made for the student.
375 (c) Be academically accountable to the parent for meeting
376 the educational needs of the student by:
377 1. At a minimum, annually providing to the parent a
378 written explanation of the student's progress.
379 2. Cooperating with the scholarship student whose parent
380 chooses to participate in the statewide assessments pursuant to
381 s. 1008.22.
382
383 The inability of a private school to meet the requirements of
384 this subsection shall constitute a basis for the ineligibility
385 of the private school to participate in the scholarship program
386 as determined by the department.
387 ~~(a) Demonstrate fiscal soundness by being in operation for~~
388 ~~1 school year or provide the Department of Education with a~~
389 ~~statement by a certified public accountant confirming that the~~
390 ~~private school desiring to participate is insured and the owner~~
391 ~~or owners have sufficient capital or credit to operate the~~
392 ~~school for the upcoming year serving the number of students~~

393 ~~anticipated with expected revenues from tuition and other~~
394 ~~sources that may be reasonably expected. In lieu of such a~~
395 ~~statement, a surety bond or letter of credit for the amount~~
396 ~~equal to the scholarship funds for any quarter may be filed with~~
397 ~~the department.~~
398 ~~(b) Notify the Department of Education of its intent to~~
399 ~~participate in the program under this section. The notice must~~
400 ~~specify the grade levels and services that the private school~~
401 ~~has available for students with disabilities who are~~
402 ~~participating in the scholarship program.~~
403 ~~(c) Comply with the antidiscrimination provisions of 42~~
404 ~~U.S.C. s. 2000d.~~
405 ~~(d) Meet state and local health and safety laws and codes.~~
406 ~~(e) Be academically accountable to the parent for meeting~~
407 ~~the educational needs of the student.~~
408 ~~(f) Employ or contract with teachers who hold~~
409 ~~baccalaureate or higher degrees, or have at least 3 years of~~
410 ~~teaching experience in public or private schools, or have~~
411 ~~special skills, knowledge, or expertise that qualifies them to~~
412 ~~provide instruction in subjects taught.~~
413 ~~(g) Comply with all state laws relating to general~~
414 ~~regulation of private schools.~~
415 ~~(h) Adhere to the tenets of its published disciplinary~~
416 ~~procedures prior to the expulsion of a scholarship student.~~
417 (9)~~(5)~~ PARENT AND STUDENT RESPONSIBILITIES FOR ~~OBLIGATION~~
418 ~~OF~~ PROGRAM PARTICIPATION ~~PARTICIPANTS~~.--A parent who applies for
419 a John M. McKay Scholarship is exercising his or her parental
420 option to place his or her child in a private school.

421 (a) ~~A parent who applies for a John M. McKay Scholarship~~
422 ~~is exercising his or her parental option to place his or her~~
423 ~~child in a private school.~~ The parent must select the private
424 school and apply for the admission of his or her child.
425 (b) The parent must have requested the scholarship at
426 least 60 days prior to the date of the first scholarship
427 payment.
428 (c) Any student participating in the John M. McKay
429 Scholarships for Students with Disabilities ~~scholarship~~ Program
430 must remain in attendance throughout the school year~~,~~ unless
431 excused by the school for illness or other good cause~~, and must~~
432 ~~comply fully with the school's code of conduct~~.
433 (d) Each ~~The~~ parent and ~~of~~ each student has an obligation
434 to the private school to ~~participating in the scholarship~~
435 ~~program must~~ comply ~~fully~~ with the private school's published
436 policies ~~parental involvement requirements, unless excused by~~
437 ~~the school for illness or other good cause~~.
438 (e) If the parent requests that the student participating
439 in the John M. McKay Scholarships for Students with Disabilities
440 ~~scholarship~~ Program take all statewide assessments required
441 pursuant to s. 1008.22, the parent is responsible for
442 transporting the student to the assessment site designated by
443 the school district.
444 (f) Upon receipt of a scholarship warrant, the parent to
445 whom the warrant is made must restrictively endorse the warrant
446 to the private school for deposit into the account of the
447 private school. The parent may not designate any entity or
448 individual associated with the participating private school as

449 the parent's attorney in fact to endorse a scholarship warrant.
450 A participant who fails to comply with this paragraph forfeits
451 the scholarship.
452 ~~(g) A participant who fails to comply with this subsection~~
453 ~~forfeits the scholarship.~~
454 (10) ~~(6)~~ JOHN M. MCKAY SCHOLARSHIP FUNDING AND PAYMENT.--
455 (a)1. The maximum scholarship granted for an eligible
456 student with disabilities shall be a calculated amount
457 equivalent to the base student allocation in the Florida
458 Education Finance Program multiplied by the appropriate cost
459 factor for the educational program that would have been provided
460 for the student in the district school to which he or she was
461 assigned, multiplied by the district cost differential.
462 2. In addition, a share of the guaranteed allocation for
463 exceptional students shall be determined and added to the
464 calculated amount. The calculation shall be based on the
465 methodology and the data used to calculate the guaranteed
466 allocation for exceptional students for each district in chapter
467 2000-166, Laws of Florida. Except as provided in subparagraphs
468 ~~subparagraph~~ 3. and 4., the calculation shall be based on the
469 student's grade, matrix level of services, and the difference
470 between the 2000-2001 basic program and the appropriate level of
471 services cost factor, multiplied by the 2000-2001 base student
472 allocation and the 2000-2001 district cost differential for the
473 sending district. Also, the calculated amount shall include the
474 per-student share of supplemental academic instruction funds,
475 instructional materials funds, technology funds, and other
476 categorical funds as provided for such purposes in the General

477 Appropriations Act.
478 3. The calculated scholarship amount for a student who is
479 eligible under subparagraph (2)(a)2. shall be calculated as
480 provided in subparagraphs 1. and 2. However, the calculation
481 shall be based on the school district in which the parent
482 resides at the time of the scholarship request.
483 4.~~3.~~ Until the school district completes the matrix
484 required by paragraph (5)~~(3)~~(b), the calculation shall be based
485 on the matrix that assigns the student to support level I of
486 service as it existed prior to the 2000-2001 school year. When
487 the school district completes the matrix, the amount of the
488 payment shall be adjusted as needed.
489 (b) The amount of the John M. McKay Scholarship shall be
490 the calculated amount or the amount of the private school's
491 tuition and fees, whichever is less. The amount of any
492 assessment fee required by the participating private school may
493 be paid from the total amount of the scholarship.
494 ~~(c) If the participating private school requires partial~~
495 ~~payment of tuition prior to the start of the academic year to~~
496 ~~reserve space for students admitted to the school, that partial~~
497 ~~payment may be paid by the Department of Education prior to the~~
498 ~~first quarterly payment of the year in which the John M. McKay~~
499 ~~Scholarship is awarded, up to a maximum of $1,000, and deducted~~
500 ~~from subsequent scholarship payments. If a student decides not~~
501 ~~to attend the participating private school, the partial~~
502 ~~reservation payment must be returned to the Department of~~
503 ~~Education by the participating private school. There is a limit~~
504 ~~of one reservation payment per student per year.~~

505 (c)1.~~(d)~~ The school district shall report all students who
506 are attending a private school in the district under this
507 program. The students with disabilities attending private
508 schools on John M. McKay Scholarships shall be reported
509 separately from other students reported for purposes of the
510 Florida Education Finance Program.
511 2. For program participants who are eligible under
512 subparagraph (2)(a)2., the school district that is used as the
513 basis for the calculation of the scholarship amount as provided
514 in subparagraph (a)3. shall:
515 a. Report to the department all such students who are
516 attending a private school under this program.
517 b. Be held harmless for such students from the weighted
518 enrollment ceiling for group 2 programs in s. 1011.62(1)(d)3.a.
519 during the first school year in which the students are reported.
520 (d)~~(c)~~ Following notification on July 1, September 1,
521 December 1, or February 1 of the number of program participants,
522 the department ~~of Education~~ shall transfer, from General Revenue
523 funds only, the amount calculated under paragraph (b) from the
524 school district's total funding entitlement under the Florida
525 Education Finance Program and from authorized categorical
526 accounts to a separate account for the scholarship program for
527 quarterly disbursement to the parents of participating students.
528 Funds may not be transferred from any funding provided to the
529 Florida School for the Deaf and the Blind for program
530 participants who are eligible under subparagraph (2)(a)2. For a
531 student exiting a Department of Juvenile Justice commitment
532 program who chooses to participate in the scholarship program,

533 the amount of the John M. McKay Scholarship calculated pursuant
534 to paragraph (b) shall be transferred from the school district
535 in which the student last attended a public school prior to
536 commitment to the Department of Juvenile Justice. When a student
537 enters the scholarship program, the department ~~of Education~~ must
538 receive all documentation required for the student's
539 participation, including the private school's and student's fee
540 schedules, at least 30 days before the first quarterly
541 scholarship payment is made for the student. ~~The Department of~~
542 ~~Education may not make any retroactive payments.~~
543 (e) ~~(f)~~ Upon notification ~~proper documentation reviewed and~~
544 ~~approved~~ by the department that it has received the
545 documentation required under paragraph (d) ~~Department of~~
546 ~~Education~~, the Chief Financial Officer shall make scholarship
547 payments in four equal amounts no later than September 1,
548 November 1, February 1, and April 1 ~~15~~ of each academic year in
549 which the scholarship is in force. The initial payment shall be
550 made after department ~~of Education~~ verification of admission
551 acceptance, and subsequent payments shall be made upon
552 verification of continued enrollment and attendance at the
553 private school. Payment must be by individual warrant made
554 payable to the student's parent and mailed by the department ~~of~~
555 ~~Education~~ to the private school of the parent's choice, and the
556 parent shall restrictively endorse the warrant to the private
557 school for deposit into the account of the private school.
558 (f) Subsequent to each scholarship payment, the Department
559 of Financial Services shall randomly review endorsed warrants to
560 confirm compliance with endorsement requirements. The Department

561 of Financial Services shall immediately report inconsistencies
562 or irregularities to the department.
563 (11) ~~(7)~~ LIABILITY.--No liability shall arise on the part
564 of the state based on the award or use of a John M. McKay
565 Scholarship.
566 (12) SCOPE OF AUTHORITY.--The inclusion of eligible
567 private schools within options available to Florida public
568 school students does not expand the regulatory authority of the
569 state, its officers, or any school district to impose any
570 additional regulation of private schools beyond those reasonably
571 necessary to enforce requirements expressly set forth in this
572 section.
573 (13) ~~(8)~~ RULES.--The State Board of Education shall adopt
574 rules pursuant to ss. 120.536(1) and 120.54 to administer this
575 section, including rules that school districts must use to
576 expedite the development of a matrix of services based on an
577 active ~~a current~~ individual education plan from another state or
578 a foreign country for a transferring student with a disability
579 who is a dependent child of a member of the United States Armed
580 Forces. The rules must identify the appropriate school district
581 personnel who must complete the matrix of services. For purposes
582 of these rules, a transferring student with a disability is one
583 who was previously enrolled as a student with a disability in an
584 out-of-state or an out-of-country public or private school or
585 agency program and who is transferring from out of state or from
586 a foreign country pursuant to a parent's permanent change of
587 station orders. ~~However, the inclusion of eligible private~~
588 ~~schools within options available to Florida public school~~

589 ~~students does not expand the regulatory authority of the state,~~
590 ~~its officers, or any school district to impose any additional~~
591 ~~regulation of private schools beyond those reasonably necessary~~
592 ~~to enforce requirements expressly set forth in this section.~~
593 Section 2. Section 220.187, Florida Statutes, is amended
594 to read:
595 220.187 Credits for contributions to nonprofit
596 scholarship-funding organizations.--
597 (1) PURPOSE.--The purpose of this section is to:
598 (a) Encourage private, voluntary contributions to
599 nonprofit scholarship-funding organizations.
600 (b) Expand educational opportunities for children of
601 families that have limited financial resources.
602 (c) Enable children in this state to achieve a greater
603 level of excellence in their education.
604 (2) DEFINITIONS.--As used in this section, the term:
605 (a) "Department" means the Department of Revenue.
606 (b) "Eligible contribution" means a monetary contribution
607 from a taxpayer, subject to the restrictions provided in this
608 section, to an eligible nonprofit scholarship-funding
609 organization. The taxpayer making the contribution may not
610 designate a specific child as the beneficiary of the
611 contribution. ~~The taxpayer may not contribute more than $5~~
612 ~~million to any single eligible nonprofit scholarship-funding~~
613 ~~organization.~~
614 (c) ~~(d)~~ "Eligible nonprofit scholarship-funding
615 organization" means a charitable organization that:
616 1. Is exempt from federal income tax pursuant to s.

617 501(c)(3) of the Internal Revenue Code.
618 2. Is a Florida entity formed under chapter 607, chapter
619 608, or chapter 617 and whose principal office is located in the
620 state.
621 3. ~~and that~~ Complies with the provisions of subsection (6)
622 ~~(4)~~.
623 (d) ~~(c)~~ "Eligible private ~~nonpublic~~ school" means a private
624 ~~nonpublic~~ school, as defined in s. 1002.01(2), located in
625 Florida that offers an education to students in any grades K-12
626 and that meets the requirements in subsection (8) ~~(6)~~.
627 (e) "Owner or operator" includes:
628 1. An owner, president, officer, or director of an
629 eligible nonprofit scholarship-funding organization or a person
630 with equivalent decisionmaking authority over an eligible
631 nonprofit scholarship-funding organization.
632 2. An owner, operator, superintendent, or principal of an
633 eligible private school or a person with equivalent
634 decisionmaking authority over an eligible private school.
635 ~~(e) "Qualified student" means a student who qualifies for~~
636 ~~free or reduced-price school lunches under the National School~~
637 ~~Lunch Act and who:~~
638 (3) PROGRAM; SCHOLARSHIP ELIGIBILITY.--The Corporate
639 Income Tax Credit Scholarship Program is established. A student
640 is eligible for a corporate income tax credit scholarship if the
641 student qualifies for free or reduced-price school lunches under
642 the National School Lunch Act and:
643 (a) ~~1.~~ Was counted as a full-time equivalent student during
644 the previous state fiscal year for purposes of state per-student

645 funding;
646 (b)~~2.~~ Received a scholarship from an eligible nonprofit
647 scholarship-funding organization or from the State of Florida
648 during the previous school year; or
649 (c)~~3.~~ Is eligible to enter kindergarten or first grade.
650
651 Contingent upon available funds, a student may continue in the
652 scholarship program as long as the student's family income level
653 does not exceed 200 percent of the federal poverty level.
654 (4) SCHOLARSHIP PROHIBITIONS.--A student is not eligible
655 for a scholarship while he or she is:
656 (a) Enrolled in a school operating for the purpose of
657 providing educational services to youth in Department of
658 Juvenile Justice commitment programs;
659 (b) Receiving a scholarship from another eligible
660 nonprofit scholarship-funding organization under this section;
661 (c) Receiving an educational scholarship pursuant to
662 chapter 1002;
663 (d) Participating in a home education program as defined
664 in s. 1002.01(1);
665 (e) Participating in a private tutoring program pursuant
666 to s. 1002.43;
667 (f) Participating in a virtual school, correspondence
668 school, or distance learning program that receives state funding
669 pursuant to the student's participation unless the participation
670 is limited to no more than two courses per school year; or
671 (g) Enrolled in the Florida School for the Deaf and the
672 Blind.

673 (5) ~~(3)~~ AUTHORIZATION TO GRANT SCHOLARSHIP FUNDING TAX
674 CREDITS; LIMITATIONS ON INDIVIDUAL AND TOTAL CREDITS.--
675 (a) There is allowed a credit of 100 percent of an
676 eligible contribution against any tax due for a taxable year
677 under this chapter. However, such a credit may not exceed 75
678 percent of the tax due under this chapter for the taxable year,
679 after the application of any other allowable credits by the
680 taxpayer. ~~However, at least 5 percent of the total statewide~~
681 ~~amount authorized for the tax credit shall be reserved for~~
682 ~~taxpayers who meet the definition of a small business provided~~
683 ~~in s. 288.703(1) at the time of application.~~ The credit granted
684 by this section shall be reduced by the difference between the
685 amount of federal corporate income tax taking into account the
686 credit granted by this section and the amount of federal
687 corporate income tax without application of the credit granted
688 by this section.
689 (b) The total amount of tax credits and carryforward of
690 tax credits which may be granted ~~each state fiscal year~~ under
691 this section is $88 million during the 2006-2007 fiscal year.
692 The total amount of tax credits and carryforward of tax credits
693 which may be granted under this section shall be adjusted each
694 year thereafter, should the prior year's total tax credit and
695 carryforward tax credit limits be obtained, by the same
696 percentage as the increase or decrease in total funding,
697 adjusted for Florida Retirement System changes if applicable,
698 under the Florida Education Finance Program as provided in the
699 General Appropriations Act workpapers. However, the total amount
700 of tax credits that may be granted pursuant to this paragraph

701 may not increase by more than 5 percent in any year. The
702 Commissioner of Education shall certify to the department and
703 notify eligible nonprofit scholarship-funding organizations of
704 the resulting value of tax credits that may be granted within 30
705 days after the General Appropriations Act becomes law. However,
706 at least 1 percent of the total statewide amount authorized for
707 the tax credit shall be reserved for taxpayers who meet the
708 definition of a small business provided in s. 288.703(1) at the
709 time of application.
710 (c) A taxpayer who files a Florida consolidated return as
711 a member of an affiliated group pursuant to s. 220.131(1) may be
712 allowed the credit on a consolidated return basis; however, the
713 total credit taken by the affiliated group is subject to the
714 limitation established under paragraph (a).
715 (d) Effective for tax years beginning January 1, 2006, a
716 taxpayer may rescind all or part of its allocated tax credit
717 under this section. The amount rescinded shall become available
718 for purposes of the cap for that state fiscal year under this
719 section to an eligible taxpayer as approved by the department if
720 the taxpayer receives notice from the department that the
721 rescindment has been accepted by the department and the taxpayer
722 has not previously rescinded any or all of its tax credit
723 allocation under this section more than once in the previous 3
724 tax years. Any amount rescinded under this paragraph shall
725 become available to an eligible taxpayer on a first-come, first-
726 served basis based on tax credit applications received after the
727 date the rescindment is accepted by the department.
728 (6) ~~(4)~~ OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-

729 FUNDING ORGANIZATIONS.--An eligible nonprofit scholarship-
730 funding organization:
731 (a) Must comply with the antidiscrimination provisions of
732 42 U.S.C. s. 2000d.
733 (b) Must comply with the following background check
734 requirements:
735 1. All owners and operators as defined in subparagraph
736 (2)(e)1. are subject to level 2 background screening as provided
737 under chapter 435. The fingerprints for the background screening
738 must be electronically submitted to the Department of Law
739 Enforcement and can be taken by an authorized law enforcement
740 agency or by an employee of the eligible nonprofit scholarship-
741 funding organization or a private company who is trained to take
742 fingerprints. However, the complete set of fingerprints of an
743 owner or operator may not be taken by the owner or operator. The
744 results of the state and national criminal history check shall
745 be provided to the Department of Education for screening under
746 chapter 435. The cost of the background screening may be borne
747 by the eligible nonprofit scholarship-funding organization or
748 the owner or operator.
749 2. Every 5 years following employment or engagement to
750 provide services or association with an eligible nonprofit
751 scholarship-funding organization, each owner or operator must
752 meet level 2 screening standards as described in s. 435.04, at
753 which time the nonprofit scholarship-funding organization shall
754 request the Department of Law Enforcement to forward the
755 fingerprints to the Federal Bureau of Investigation for level 2
756 screening. If the fingerprints of an owner or operator are not

757 retained by the Department of Law Enforcement under subparagraph
758 3., the owner or operator must electronically file a complete
759 set of fingerprints with the Department of Law Enforcement. Upon
760 submission of fingerprints for this purpose, the eligible
761 nonprofit scholarship-funding organization shall request that
762 the Department of Law Enforcement forward the fingerprints to
763 the Federal Bureau of Investigation for level 2 screening, and
764 the fingerprints shall be retained by the Department of Law
765 Enforcement under subparagraph 3.
766 3. Beginning July 1, 2007, all fingerprints submitted to
767 the Department of Law Enforcement as required by this paragraph
768 must be retained by the Department of Law Enforcement in a
769 manner approved by rule and entered in the statewide automated
770 fingerprint identification system authorized by s. 943.05(2)(b).
771 The fingerprints must thereafter be available for all purposes
772 and uses authorized for arrest fingerprint cards entered in the
773 statewide automated fingerprint identification system pursuant
774 to s. 943.051.
775 4. Beginning July 1, 2007, the Department of Law
776 Enforcement shall search all arrest fingerprint cards received
777 under s. 943.051 against the fingerprints retained in the
778 statewide automated fingerprint identification system under
779 subparagraph 3. Any arrest record that is identified with an
780 owner's or operator's fingerprints must be reported to the
781 Department of Education. The Department of Education shall
782 participate in this search process by paying an annual fee to
783 the Department of Law Enforcement and by informing the
784 Department of Law Enforcement of any change in the employment,

785 engagement, or association status of the owners or operators
786 whose fingerprints are retained under subparagraph 3. The
787 Department of Law Enforcement shall adopt a rule setting the
788 amount of the annual fee to be imposed upon the Department of
789 Education for performing these services and establishing the
790 procedures for the retention of owner and operator fingerprints
791 and the dissemination of search results. The fee may be borne by
792 the owner or operator of the nonprofit scholarship-funding
793 organization.
794 5. A nonprofit scholarship-funding organization whose
795 owner or operator fails the level 2 background screening shall
796 not be eligible to provide scholarships under this section.
797 6. A nonprofit scholarship-funding organization whose
798 owner or operator in the last 7 years has filed for personal
799 bankruptcy or corporate bankruptcy in a corporation of which he
800 or she owned more than 20 percent shall not be eligible to
801 provide scholarships under this section.
802 (c) Must not have an owner or operator who owns or
803 operates an eligible private school that is participating in the
804 scholarship program.
805 (d) ~~(a)~~ Must ~~An eligible nonprofit scholarship funding~~
806 ~~organization shall~~ provide scholarships, from eligible
807 contributions, to eligible ~~qualified~~ students for:
808 1. Tuition or textbook expenses for, or transportation to,
809 an eligible private ~~nonpublic~~ school. At least 75 percent of the
810 scholarship funding must be used to pay tuition expenses; or
811 2. Transportation expenses to a Florida public school that
812 is located outside the district in which the student resides or

813 to a lab school as defined in s. 1002.32.
814 (e) ~~(b)~~ Must ~~An eligible nonprofit scholarship-funding~~
815 ~~organization shall~~ give priority to eligible ~~qualified~~ students
816 who received a scholarship from an eligible nonprofit
817 scholarship-funding organization or from the State of Florida
818 during the previous school year.
819 (f) Must provide a scholarship to an eligible student on a
820 first-come, first-served basis unless the student qualifies for
821 priority pursuant to paragraph (e).
822 (g) May not restrict or reserve scholarships for use at a
823 particular private school or provide scholarships to a child of
824 an owner or operator.
825 (h) Must allow an eligible student to attend any eligible
826 private school and must allow a parent to transfer a scholarship
827 during a school year to any other eligible private school of the
828 parent's choice.
829 ~~(c) The amount of a scholarship provided to any child for~~
830 ~~any single school year by all eligible nonprofit scholarship-~~
831 ~~funding organizations from eligible contributions shall not~~
832 ~~exceed the following annual limits:~~
833 ~~1. Three thousand five hundred dollars for a scholarship~~
834 ~~awarded to a student enrolled in an eligible nonpublic school.~~
835 ~~2. Five hundred dollars for a scholarship awarded to a~~
836 ~~student enrolled in a Florida public school that is located~~
837 ~~outside the district in which the student resides.~~
838 ~~(d) The amount of an eligible contribution which may be~~
839 ~~accepted by an eligible nonprofit scholarship-funding~~
840 ~~organization is limited to the amount needed to provide~~

841 ~~scholarships for qualified students which the organization has~~
842 ~~identified and for which vacancies in eligible nonpublic schools~~
843 ~~have been identified.~~
844 (i) ~~(e)~~ Must obligate, in the same fiscal year in which the
845 contribution was received, ~~An eligible nonprofit scholarship-~~
846 ~~funding organization that receives an eligible contribution must~~
847 ~~spend~~ 100 percent of the eligible contribution to provide
848 scholarships; however, up to 25 percent of the total
849 contribution may be carried forward for scholarships to be
850 granted in the following ~~same~~ state fiscal year ~~in which the~~
851 ~~contribution was received~~. No portion of eligible contributions
852 may be used for administrative expenses. All interest accrued
853 from contributions must be used for scholarships.
854 (j) Must maintain separate accounts for scholarship funds
855 and operating funds.
856 (k) With the prior approval of the Department of
857 Education, may transfer funds to another eligible nonprofit
858 scholarship-funding organization if additional funds are
859 required to meet scholarship demand at the receiving nonprofit
860 scholarship-funding organization. A transfer shall be limited to
861 the greater of $500,000 or 20 percent of the total contributions
862 received by the nonprofit scholarship-funding organization
863 making the transfer. All transferred funds must be deposited by
864 the receiving nonprofit scholarship-funding organization into
865 its scholarship accounts. All transferred amounts received by
866 any nonprofit scholarship-funding organization must be
867 separately disclosed in the annual financial and compliance
868 audit required in this section.

869 (l) ~~(f) An eligible nonprofit scholarship funding~~
870 ~~organization that receives eligible contributions~~ Must provide
871 to the Auditor General and the Department of Education an annual
872 financial and compliance audit of its accounts and records
873 conducted by an independent certified public accountant and in
874 accordance with rules adopted by the Auditor General. The audit
875 must be conducted in compliance with generally accepted auditing
876 standards and must include a report on financial statements
877 presented in accordance with generally accepted accounting
878 principles set forth by the American Institute of Certified
879 Public Accountants for not-for-profit organizations and a
880 determination of compliance with the statutory eligibility and
881 expenditure requirements set forth in this section. Audits must
882 be provided to the Auditor General and the Department of
883 Education within 180 days after completion of the eligible
884 nonprofit scholarship-funding organization's fiscal year.
885 (m) Must prepare and submit quarterly reports to the
886 Department of Education pursuant to paragraph (9)(m). In
887 addition, an eligible nonprofit scholarship-funding organization
888 must submit in a timely manner any information requested by the
889 Department of Education relating to the scholarship program.
890
891 Any and all information and documentation provided to the
892 Department of Education and the Auditor General relating to the
893 identity of a taxpayer that provides an eligible contribution
894 under this section shall remain confidential at all times in
895 accordance with s. 213.053.
896 ~~(g) Payment of the scholarship by the eligible nonprofit~~

897 ~~scholarship funding organization shall be by individual warrant~~
898 ~~or check made payable to the student's parent. If the parent~~
899 ~~chooses for his or her child to attend an eligible nonpublic~~
900 ~~school, the warrant or check must be mailed by the eligible~~
901 ~~nonprofit scholarship funding organization to the nonpublic~~
902 ~~school of the parent's choice, and the parent shall~~
903 ~~restrictively endorse the warrant or check to the nonpublic~~
904 ~~school. An eligible nonprofit scholarship funding organization~~
905 ~~shall ensure that, upon receipt of a scholarship warrant or~~
906 ~~check, the parent to whom the warrant or check is made~~
907 ~~restrictively endorses the warrant or check to the nonpublic~~
908 ~~school of the parent's choice for deposit into the account of~~
909 ~~the nonpublic school.~~
910 (7) ~~(5)~~ PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
911 PARTICIPATION ~~OBLIGATIONS~~.--
912 (a) The parent must select an eligible private school and
913 apply for the admission of his or her child.
914 (b) The parent must inform the child's school district
915 when the parent withdraws his or her child to attend an eligible
916 private school.
917 (c) Any student participating in the scholarship program
918 must remain in attendance throughout the school year unless
919 excused by the school for illness or other good cause.
920 (d) Each parent and each student has an obligation to the
921 private school to comply with the private school's published
922 policies.
923 (e) The parent shall ensure that the student participating
924 in the scholarship program takes the norm-referenced assessment

925 offered by the private school. The parent may also choose to
926 have the student participate in the statewide assessments
927 pursuant to s. 1008.22. If the parent requests that the student
928 participating in the scholarship program take statewide
929 assessments pursuant to s. 1008.22, the parent is responsible
930 for transporting the student to the assessment site designated
931 by the school district.
932 (f) Upon receipt of a scholarship warrant from the
933 eligible nonprofit scholarship-funding organization, the parent
934 to whom the warrant is made must restrictively endorse the
935 warrant to the private school for deposit into the account of
936 the private school. The parent may not designate any entity or
937 individual associated with the participating private school as
938 the parent's attorney in fact to endorse a scholarship warrant.
939 A participant who fails to comply with this paragraph forfeits
940 the scholarship. ~~As a condition for scholarship payment pursuant~~
941 ~~to paragraph (4)(g), if the parent chooses for his or her child~~
942 ~~to attend an eligible nonpublic school, the parent must inform~~
943 ~~the child's school district within 15 days after such decision.~~
944 (8) ~~(6)~~ PRIVATE ~~ELIGIBLE NONPUBLIC~~ SCHOOL ELIGIBILITY AND
945 OBLIGATIONS.--An eligible private ~~nonpublic~~ school may be
946 sectarian or nonsectarian and must:
947 (a) Comply with all requirements for private schools
948 participating in state school choice scholarship programs
949 pursuant to s. 1002.421.
950 (b) Provide to the eligible nonprofit scholarship-funding
951 organization, upon request, all documentation required for the
952 student's participation, including the private school's and

953 student's fee schedules.
954 (c) Be academically accountable to the parent for meeting
955 the educational needs of the student by:
956 1. At a minimum, annually providing to the parent a
957 written explanation of the student's progress.
958 2. Annually administering or making provision for students
959 participating in the scholarship program to take one of the
960 nationally norm-referenced tests identified by the Department of
961 Education. Students with disabilities for whom standardized
962 testing is not appropriate are exempt from this requirement. A
963 participating private school must report a student's scores to
964 the parent and to the independent research organization selected
965 by the Department of Education as described in paragraph (9)(j).
966 3. Cooperating with the scholarship student whose parent
967 chooses to participate in the statewide assessments pursuant to
968 s. 1008.32.
969
970 The inability of a private school to meet the requirements of
971 this subsection shall constitute a basis for the ineligibility
972 of the private school to participate in the scholarship program
973 as determined by the Department of Education.
974 ~~(a) Demonstrate fiscal soundness by being in operation for~~
975 ~~one school year or provide the Department of Education with a~~
976 ~~statement by a certified public accountant confirming that the~~
977 ~~nonpublic school desiring to participate is insured and the~~
978 ~~owner or owners have sufficient capital or credit to operate the~~
979 ~~school for the upcoming year serving the number of students~~
980 ~~anticipated with expected revenues from tuition and other~~

981 ~~sources that may be reasonably expected. In lieu of such a~~
982 ~~statement, a surety bond or letter of credit for the amount~~
983 ~~equal to the scholarship funds for any quarter may be filed with~~
984 ~~the department.~~
985 ~~(b) Comply with the antidiscrimination provisions of 42~~
986 ~~U.S.C. s. 2000d.~~
987 ~~(c) Meet state and local health and safety laws and codes.~~
988 ~~(d) Comply with all state laws relating to general~~
989 ~~regulation of nonpublic schools.~~
990 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.--The Department
991 of Education shall:
992 (a) Annually submit to the department, by March 15, a list
993 of eligible nonprofit scholarship-funding organizations that
994 meet the requirements of paragraph (2)(c).
995 (b) Annually verify the eligibility of nonprofit
996 scholarship-funding organizations that meet the requirements of
997 paragraph (2)(c).
998 (c) Annually verify the eligibility of private schools
999 that meet the requirements of subsection (8).
1000 (d) Annually verify the eligibility of expenditures as
1001 provided in paragraph (6)(d) using the audit required by
1002 paragraph (6)(l).
1003 (e) Establish a toll-free hotline that provides parents
1004 and private schools with information on participation in the
1005 scholarship program.
1006 (f) Establish a process by which individuals may notify
1007 the Department of Education of any violation by a parent,
1008 private school, or school district of state laws relating to

1009 program participation. The Department of Education shall conduct
1010 an inquiry of any written complaint of a violation of this
1011 section, or make a referral to the appropriate agency for an
1012 investigation, if the complaint is signed by the complainant and
1013 is legally sufficient. A complaint is legally sufficient if it
1014 contains ultimate facts that show that a violation of this
1015 section or any rule adopted by the State Board of Education has
1016 occurred. In order to determine legal sufficiency, the
1017 Department of Education may require supporting information or
1018 documentation from the complainant. A department inquiry is not
1019 subject to the requirements of chapter 120.
1020 (g) Require an annual, notarized, sworn compliance
1021 statement by participating private schools certifying compliance
1022 with state laws and shall retain such records.
1023 (h) Cross-check the list of participating scholarship
1024 students with the public school enrollment lists to avoid
1025 duplication.
1026 (i) In accordance with State Board of Education rule,
1027 identify and select the nationally norm-referenced tests that
1028 are comparable to the norm-referenced provisions of the Florida
1029 Comprehensive Assessment Test (FCAT) provided that the FCAT may
1030 be one of the tests selected. However, the Department of
1031 Education may approve the use of an additional assessment by the
1032 school if the assessment meets industry standards of quality and
1033 comparability.
1034 (j) Select an independent research organization, which may
1035 be a public or private entity or university, to which
1036 participating private schools must report the scores of

1037 participating students on the nationally norm-referenced tests
1038 administered by the private school. The independent research
1039 organization must annually report to the Department of Education
1040 on the year-to-year improvements of participating students. The
1041 independent research organization must analyze and report
1042 student performance data in a manner that protects the rights of
1043 students and parents as mandated in 20 U.S.C. s. 1232g, the
1044 Family Educational Rights and Privacy Act, and must not
1045 disaggregate data to a level that will disclose the academic
1046 level of individual students or of individual schools. To the
1047 extent possible, the independent research organization must
1048 accumulate historical performance data on students from the
1049 Department of Education and private schools to describe baseline
1050 performance and to conduct longitudinal studies. To minimize
1051 costs and reduce time required for third-party analysis and
1052 evaluation, the Department of Education shall conduct analyses
1053 of matched students from public school assessment data and
1054 calculate control group learning gains using an agreed-upon
1055 methodology outlined in the contract with the third-party
1056 evaluator. The sharing of student data must be in accordance
1057 with requirements of 20 U.S.C. s. 1232g, the Family Educational
1058 Rights and Privacy Act, and shall be for the sole purpose of
1059 conducting the evaluation. All parties must preserve the
1060 confidentiality of such information as required by law.
1061 (k) Notify an eligible nonprofit scholarship-funding
1062 organization of any of the organization's identified students
1063 who are receiving educational scholarships pursuant to chapter
1064 1002.

1065 (l) Notify an eligible nonprofit scholarship-funding
1066 organization of any of the organization's identified students
1067 who are receiving corporate income tax credit scholarships from
1068 other eligible nonprofit scholarship-funding organizations.
1069 (m) Require quarterly reports by an eligible nonprofit
1070 scholarship-funding organization regarding the number of
1071 students participating in the scholarship program, the private
1072 schools at which the students are enrolled, and other
1073 information deemed necessary by the Department of Education.
1074 (10) COMMISSIONER OF EDUCATION AUTHORITY AND
1075 OBLIGATIONS.--
1076 (a) The Commissioner of Education shall deny, suspend, or
1077 revoke a private school's participation in the scholarship
1078 program if it is determined that the private school has failed
1079 to comply with the provisions of this section. However, in
1080 instances in which the noncompliance is correctable within a
1081 reasonable amount of time and in which the health, safety, and
1082 welfare of the students are not threatened, the commissioner may
1083 issue a notice of noncompliance that shall provide the private
1084 school with a timeframe within which to provide evidence of
1085 compliance prior to taking action to suspend or revoke the
1086 private school's participation in the scholarship program.
1087 (b) The commissioner's determination is subject to the
1088 following:
1089 1. If the commissioner intends to deny, suspend, or revoke
1090 a private school's participation in the scholarship program, the
1091 Department of Education shall notify the private school of such
1092 proposed action in writing by certified mail and regular mail to

1093 the private school's address of record with the Department of
1094 Education. The notification shall include the reasons for the
1095 proposed action and notice of the timelines and procedures set
1096 forth in this paragraph.
1097 2. The private school that is adversely affected by the
1098 proposed action shall have 15 days from receipt of the notice of
1099 proposed action to file with the Department of Education's
1100 agency clerk a request for a proceeding pursuant to ss. 120.569
1101 and 120.57. If the private school is entitled to a hearing under
1102 s. 120.57(1), the Department of Education shall forward the
1103 request to the Division of Administrative Hearings.
1104 3. Upon receipt of a request referred pursuant to this
1105 paragraph, the director of the Division of Administrative
1106 Hearings shall expedite the hearing and assign an administrative
1107 law judge who shall commence a hearing within 30 days after the
1108 receipt of the formal written request by the division and enter
1109 a recommended order within 30 days after the hearing or within
1110 30 days after receipt of the hearing transcript, whichever is
1111 later. Each party shall be allowed 10 days in which to submit
1112 written exceptions to the recommended order. A final order shall
1113 be entered by the agency within 30 days after the entry of a
1114 recommended order. The provisions of this subparagraph may be
1115 waived upon stipulation by all parties.
1116 (c) The commissioner may immediately suspend payment of
1117 scholarship funds if it is determined that there is probable
1118 cause to believe that there is:
1119 1. An imminent threat to the health, safety, and welfare
1120 of the students; or

1121 2. Fraudulent activity on the part of the private school.
1122
1123 The commissioner's order suspending payment pursuant to this
1124 paragraph may be appealed pursuant to the same procedures and
1125 timelines as the notice of proposed action set forth in
1126 paragraph (b).
1127 (11) SCHOLARSHIP AMOUNT AND PAYMENT.--
1128 (a) The amount of a scholarship provided to any student
1129 for any single school year by an eligible nonprofit scholarship-
1130 funding organization from eligible contributions shall not
1131 exceed the following annual limits:
1132 1. Three thousand seven hundred fifty dollars for a
1133 scholarship awarded to a student enrolled in an eligible private
1134 school.
1135 2. Five hundred dollars for a scholarship awarded to a
1136 student enrolled in a Florida public school that is located
1137 outside the district in which the student resides or in a lab
1138 school as defined in s. 1002.32.
1139 (b) Payment of the scholarship by the eligible nonprofit
1140 scholarship-funding organization shall be by individual warrant
1141 made payable to the student's parent. If the parent chooses for
1142 his or her child to attend an eligible private school, the
1143 warrant must be delivered by the eligible nonprofit scholarship-
1144 funding organization to the private school of the parent's
1145 choice, and the parent shall restrictively endorse the warrant to
1146 the private school. An eligible nonprofit scholarship-funding
1147 organization shall ensure that the parent to whom the warrant is

1148 made restrictively endorsed the warrant to the private school for
1149 deposit into the account of the private school.
1150 (c) An eligible nonprofit scholarship-funding organization
1151 shall obtain verification from the private school of a student's
1152 continued attendance at the school prior to each scholarship
1153 payment.
1154 (d) Payment of the scholarship shall be made by the
1155 eligible nonprofit scholarship-funding organization no less
1156 frequently than on a quarterly basis.
1157 (12) ~~(7)~~ ADMINISTRATION; RULES.--
1158 (a) If the credit granted pursuant to this section is not
1159 fully used in any one year because of insufficient tax liability
1160 on the part of the corporation, the unused amount may be carried
1161 forward for a period not to exceed 3 years; however, any
1162 taxpayer that seeks to carry forward an unused amount of tax
1163 credit must submit an application for allocation of tax credits
1164 or carryforward credits as required in paragraph (d) in the year
1165 that the taxpayer intends to use the carryforward ~~carry forward~~.
1166 ~~The total amount of tax credits and carryforward of tax credits~~
1167 ~~granted each state fiscal year under this section is $88~~
1168 ~~million.~~ This carryforward applies to all approved contributions
1169 made after January 1, 2002. A taxpayer may not convey, assign,
1170 or transfer the credit authorized by this section to another
1171 entity unless all of the assets of the taxpayer are conveyed,
1172 assigned, or transferred in the same transaction.
1173 (b) An application for a tax credit pursuant to this
1174 section shall be submitted to the department on forms
1175 established by rule of the department.

1176 (c) The department and the Department of Education shall
1177 develop a cooperative agreement to assist in the administration
1178 of this section. ~~The Department of Education shall be~~
1179 ~~responsible for annually submitting, by March 15, to the~~
1180 ~~department a list of eligible nonprofit scholarship funding~~
1181 ~~organizations that meet the requirements of paragraph (2)(d) and~~
1182 ~~for monitoring eligibility of nonprofit scholarship funding~~
1183 ~~organizations that meet the requirements of paragraph (2)(d),~~
1184 ~~eligibility of nonpublic schools that meet the requirements of~~
1185 ~~paragraph (2)(c), and eligibility of expenditures under this~~
1186 ~~section as provided in subsection (4).~~
1187 (d) The department shall adopt rules necessary to
1188 administer this section, including rules establishing
1189 application forms and procedures and governing the allocation of
1190 tax credits and carryforward credits under this section on a
1191 first-come, first-served basis.
1192 (e) The State Board ~~Department~~ of Education shall adopt
1193 rules pursuant to ss. 120.536(1) and 120.54 ~~necessary~~ to
1194 administer this section as it relates to the roles of the
1195 Department of Education and the Commissioner of Education
1196 ~~determine eligibility of nonprofit scholarship funding~~
1197 ~~organizations as defined in paragraph (2)(d) and according to~~
1198 ~~the provisions of subsection (4) and identify qualified students~~
1199 ~~as defined in paragraph (2)(c)~~.
1200 (13) ~~(8)~~ DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--All eligible
1201 contributions received by an eligible nonprofit scholarship-
1202 funding organization shall be deposited in a manner consistent
1203 with s. 17.57(2).

1204 Section 3. Section 1002.421, Florida Statutes, is created
1205 to read:
1206 1002.421 Rights and obligations of private schools
1207 participating in state school choice scholarship programs.--
1208 (1) A Florida private school participating in the
1209 Corporate Income Tax Credit Scholarship Program established
1210 pursuant to s. 220.187 or an educational scholarship program
1211 established pursuant to this chapter must comply with all
1212 requirements of this section in addition to private school
1213 requirements outlined in s. 1002.42, specific requirements
1214 identified within respective scholarship program laws, and other
1215 provisions of Florida law that apply to private schools.
1216 (2) A private school participating in a scholarship
1217 program must be a Florida private school as defined in s.
1218 1002.01(2), must be registered in accordance with s. 1002.42,
1219 and must:
1220 (a) Comply with antidiscrimination provisions of 42 U.S.C.
1221 s. 2000d.
1222 (b) Notify the department of its intent to participate in
1223 a scholarship program.
1224 (c) Notify the department of any change in the school's
1225 name, school director, mailing address, or physical location
1226 within 15 days after the change.
1227 (d) Complete student enrollment and attendance
1228 verification requirements, including use of an on-line
1229 attendance verification form, prior to scholarship payment.
1230 (e) Annually complete and submit to the department a
1231 notarized scholarship compliance statement certifying that all

1232 school employees and contracted personnel with direct student
1233 contact have undergone background screening pursuant to s.
1234 943.0542.
1235 (f) Demonstrate fiscal soundness and accountability by:
1236 1. Being in operation for at least 3 school years or
1237 obtaining a surety bond or letter of credit for the amount equal
1238 to the scholarship funds for any quarter and filing the surety
1239 bond or letter of credit with the department.
1240 2. Requiring the parent of each scholarship student to
1241 personally restrictively endorse the scholarship warrant to the
1242 school. The school may not act as attorney in fact for the
1243 parent of a scholarship student under the authority of a power
1244 of attorney executed by such parent, or under any other
1245 authority, to endorse scholarship warrants on behalf of such
1246 parent.
1247 (g) Meet applicable state and local health, safety, and
1248 welfare laws, codes, and rules, including:
1249 1. Fire safety.
1250 2. Building safety.
1251 (h) Employ or contract with teachers who hold
1252 baccalaureate or higher degrees, have at least 3 years of
1253 teaching experience in public or private schools, or have
1254 special skills, knowledge, or expertise that qualifies them to
1255 provide instruction in subjects taught.
1256 (i) Require each employee and contracted personnel with
1257 direct student contact to undergo a state and national
1258 background screening, pursuant to s. 943.0542, by electronically
1259 filing with the Department of Law Enforcement a complete set of

1260 fingerprints taken by an authorized law enforcement agency or an
1261 employee of the private school, a school district, or a private
1262 company who is trained to take fingerprints and to be denied
1263 employment or terminated if he or she fails to meet the
1264 screening standards under s. 435.04. Results of the screening
1265 shall be provided to the participating private school. For
1266 purposes of this paragraph:
1267 1. An "employee or contracted personnel with direct
1268 student contact" means any employee or contracted personnel who
1269 has unsupervised access to a scholarship student for whom the
1270 private school is responsible.
1271 2. The costs of fingerprinting and the background check
1272 shall not be borne by the state.
1273 3. Continued employment of an employee or contracted
1274 personnel after notification that he or she has failed the
1275 background screening under this paragraph shall cause a private
1276 school to be ineligible for participation in a scholarship
1277 program.
1278 4. An employee or contracted personnel holding a valid
1279 Florida teaching certificate who has been fingerprinted pursuant
1280 to s. 1012.32 shall not be required to comply with the
1281 provisions of this paragraph.
1282 (3)(a) Beginning July 1, 2007, all fingerprints submitted
1283 to the Department of Law Enforcement as required by this section
1284 shall be retained by the Department of Law Enforcement in a
1285 manner provided by rule and entered in the statewide automated
1286 fingerprint identification system authorized by s. 943.05(2)(b).
1287 Such fingerprints shall thereafter be available for all purposes

1288 and uses authorized for arrest fingerprint cards entered in the
1289 statewide automated fingerprint identification system pursuant
1290 to s. 943.051.
1291 (b) Beginning July 1, 2007, the Department of Law
1292 Enforcement shall search all arrest fingerprint cards received
1293 under s. 943.051 against the fingerprints retained in the
1294 statewide automated fingerprint identification system under
1295 paragraph (a). Any arrest record that is identified with the
1296 retained fingerprints of a person subject to the background
1297 screening under this section shall be reported to the employing
1298 school with which the person is affiliated. Each private school
1299 participating in a scholarship program is required to
1300 participate in this search process by informing the Department
1301 of Law Enforcement of any change in the employment or
1302 contractual status of its personnel whose fingerprints are
1303 retained under paragraph (a). The Department of Law Enforcement
1304 shall adopt a rule setting the amount of the annual fee to be
1305 imposed upon each private school for performing these searches
1306 and establishing the procedures for the retention of private
1307 school employee and contracted personnel fingerprints and the
1308 dissemination of search results. The fee may be borne by the
1309 private school or the person fingerprinted.
1310 (c) Employees and contracted personnel whose fingerprints
1311 are not retained by the Department of Law Enforcement under
1312 paragraphs (a) and (b) are required to be refingerprinted and
1313 must meet state and national background screening requirements
1314 upon reemployment or reengagement to provide services in order
1315 to comply with the requirements of this section.

1316 (d) Every 5 years following employment or engagement to
1317 provide services with a private school, employees or contracted
1318 personnel required to be screened under this section must meet
1319 screening standards under s. 435.04, at which time the private
1320 school shall request the Department of Law Enforcement to
1321 forward the fingerprints to the Federal Bureau of Investigation
1322 for national processing. If the fingerprints of employees or
1323 contracted personnel are not retained by the Department of Law
1324 Enforcement under paragraph (a), employees and contracted
1325 personnel must electronically file a complete set of
1326 fingerprints with the Department of Law Enforcement. Upon
1327 submission of fingerprints for this purpose, the private school
1328 shall request that the Department of Law Enforcement forward the
1329 fingerprints to the Federal Bureau of Investigation for national
1330 processing, and the fingerprints shall be retained by the
1331 Department of Law Enforcement under paragraph (a).
1332 (4) The inability of a private school to meet the
1333 requirements of this section shall constitute a basis for the
1334 ineligibility of the private school to participate in a
1335 scholarship program as determined by the department.
1336 (5) The inclusion of eligible private schools within
1337 options available to Florida public school students does not
1338 expand the regulatory authority of the state, its officers, or
1339 any school district to impose any additional regulation of
1340 private schools beyond those reasonably necessary to enforce
1341 requirements expressly set forth in this section.
1342 (6) The State Board of Education shall adopt rules
1343 pursuant to ss. 120.536(1) and 120.54 to administer this

1344 section.

1345 Section 4. This act shall take effect July 1, 2006.