

Tab 1 CS/SB 80 by CF, Brodeur (CO-INTRODUCERS) Albritton; (Compare to H 01473) Child Welfare

Tab 2 CS/SB 48 by ED, Diaz (CO-INTRODUCERS) Brandes, Garcia, Baxley, Perry; Educational Scholarship Programs

604240	PCS	S		AP, AED		02/19 02:12 PM
118708	PCS:D	S		AP, Diaz	Delete everything after	03/04 08:34 AM
844706	PCS:AA	S		AP, Powell	Delete L.9:	03/04 09:24 AM
482120	PCS:AA	S		AP, Powell	Delete L.1638:	03/04 09:24 AM
395768	PCS:AA	S		AP, Rouson	Delete L.3875:	03/04 09:37 AM
452072	PCS:AA	S		AP, Rouson	Delete L.4018 - 4035.	03/04 09:37 AM
454978	PCS:AA	S L		AP, Farmer	Delete L.2444 - 2447:	03/04 09:47 AM
543738	A	S		AP, Powell	Delete L.179:	03/04 09:22 AM
689780	A	S		AP, Powell	Delete L.1749:	03/04 09:22 AM
435498	A	S		AP, Farmer	Delete L.2551 - 2554:	03/04 09:55 AM
202342	A	S		AP, Rouson	Delete L.4489 - 4506.	03/04 09:31 AM

Tab 3 SPB 7052 by AP; Florida K-12 Education Tax Credit Program Trust Fund/Department of Education

Tab 4 CS/SB 50 by FT, Gruters (CO-INTRODUCERS) Perry, Hooper, Torres, Taddeo, Burgess, Ausley, Albritton, Harrell; (Compare to H 00015) Sales and Use Tax

300242	A	S		AP, Gruters	Delete L.590 - 1024:	03/03 11:23 AM
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Tab 5 SB 58 by Rodriguez; (Identical to H 06087) Hospitals' Community Benefit Reporting

Tab 6 SPB 7054 by AP; Triumph Gulf Coast Trust Fund/Department of Economic Opportunity

Tab 7 SPB 7056 by AP; Trust Funds

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 80

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Brodeur and others

SUBJECT: Child Welfare

DATE: March 3, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Preston</u>	<u>Cox</u>	<u>CF</u>	<u>Fav/CS</u>
2.	<u>Sneed</u>	<u>Sadberry</u>	<u>AP</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 80 amends and creates a number of sections of law related to the child welfare system, making substantial changes, in part, to provisions related to placement decisions and transitions of children in out-of-home care, including specific provisions addressing such complex decisions involving young children and sibling groups. Specifically, the bill:

- Requires the Department of Children and Families (the DCF) and community-based care lead agencies (lead agency) to develop a “FACE sheet”, which must include minimum information related to the child’s case to be kept in the dependency case file as a quick reference resource and require the FACE sheet to be updated at least once a month.
- Provides legislative findings and intent related to priority placements for children in out-of-home care.
- Expands and relocates provisions that list the persons that should be considered as priority placements for children in out-of-home care and requires this priority list apply to the initial placement and any subsequent placements.
- Relocates provisions relating to existing multidisciplinary teams (MDT) and expands those teams to enhance better decisions for the child by engaging with families and other important individuals.
- Provides legislative intent for MDTs, staffings, and assessments and provides a definition for the term “multidisciplinary team”.
- Enumerates circumstances when MDTs must be convened within specified timeframes, including to consider placement decisions, transitions and transition plans, and sibling placements.

- Specifies the participants that must be invited to a MDT staffing and provides authority for the DCF or lead agency to invite other relevant participants and requires the MDT staffing to be led by a facilitator who is a person otherwise required to attend the staffing.
- Requires MDT staffing participants to gather and consider data and information on the child before formulating a decision.
- Requires MDTs to conduct supplemental assessments for children under age 3, including specified additional data to collect and factors to consider when making decision relating to such children.
- Requires that a consensus decision reached by the MDT becomes the official position and that specified parties are bound by such consensus decision, provides procedures for when the MDT does not reach a consensus decision, and requires the facilitator to file a report with the court providing specified information within a certain time frame.
- Requires the lead agency to determine a suitable placement if the MDT cannot come to a consensus decision.
- Authorizes specified parties to discuss confidential information during a MDT staffing in the presence of participating individuals and provides that information collected by any agency or entity that participates in a MDT staffing which is confidential and exempt upon collection remains confidential and exempt when discussed in staffings.
- Provides legislative findings and intent related to changes in placement and defines the terms “educational change”, “emergency situation”, “placement change”, and “school”.
- Requires the DCF and lead agency to convene the MDT to develop transition plans for placement changes and education transitions that focus minimizing the impact on the child within specified time frames for emergency versus nonemergency circumstances.
- Requires the lead agencies to provide services to a caregiver intended to try and prevent a placement disruption prior to convening the MDT to develop a transition plan.
- Provides clarity that a child may be removed from his or her home in an emergency without convening the MDT for transition plan development prior to removal.
- Provides that transition plans must address specialized concerns, including additional specified factors in specified instances such as for children that are younger than 3 years of age.
- Requires the DCF and the lead agency to consider certain factors when determining the best education placement for a child and provides additional considerations for transitions of early education programs or K-12 education schools.
- Requires that prospective caregivers be prepared for accepting the child who is being transitioned to their home, including providing information on the child and the transition plan.
- Requires the DCF to develop a form related to transition plans in collaboration with the Quality Parenting Initiative that must be attached to the FACE sheet.
- Provides legislative findings related to siblings in out-of-home care and defines the terms “multidisciplinary team”, “lead agency”, and “sibling”.
- Specifies how the DCF and the lead agencies must handle changes in placement and educational settings and transitions of sibling groups throughout the dependency process.
- Requires that the DCF must make reasonable efforts to place sibling groups together when they are removed at the same time from the same home, and the initial placement of a child who enters out-of-home care later than his or her siblings, if it won’t disrupt the placement.

- Provides that the DCF and the court are not required to make an initial placement or change of placement to develop a sibling bond that does not exist.
- Requires the DCF or the lead agency to convene a MDT staffing to make a decision regarding placements of sibling groups and establishes specified criteria for the DCF or the lead agency to consider when determining initial placement. It also provides criteria for the court to consider when a change of placement is sought for sibling groups that have certain existing relationships, as well as additional factors for consideration when the siblings may not have an existing relationship.
- Provides specified factors to consider when determining placement of a child who is part of a sibling group and is younger than 3 years of age.
- Requires the DCF, in collaboration with the Quality Parenting Initiative, to develop standard protocols for the DCF and the lead agency to use in making specified decisions about child placement.
- Provides for contact and visitation between siblings who are not placed together in out-of-home care to allow the siblings to continue established relationships or possibly developing a relationship.
- Requires subsequent reviews by the MDT for sibling groups when a child does not adjust to a placement with his or her siblings after certain services are offered or in the event a sibling group is not placed together.
- Creates a rebuttable presumption that in specified cases the best interest of the child is to continue the current placement and requires the court to conduct an evidentiary hearing to determine the best placement.
- Requires the caregiver, in response to receiving written notice of the DCF or the lead agency's intent to change a placement, to file written notice to the court and the DCF requesting the evidentiary hearing.
- Requires the court to hold the initial status hearing and conduct the evidentiary hearing within specified timeframes and prohibits the DCF from moving the child until a court order states to do so.
- Requires the court to appoint an attorney for the child and an expert in attachment and bonding and authorizes the caregiver to retain counsel.

The DCF projects that CS/SB 80 will have a significant negative fiscal impact on state government and the private sector related to the multidisciplinary teams and transition plans. Specifically, the DCF projects that the provisions of the bill will place additional workload requirements on the DCF, resulting in the need for 174 additional FTE positions and annual expenditures of \$17.5 million, plus a one-time cost of \$0.8 million. In addition, the DCF projects that the bill will require additional staff for the community-based care lead agencies and result in additional annual recurring costs of \$7.7 million and nonrecurring costs totaling \$0.4 million. See Section V. Fiscal Impact Statement.

The bill is effective October 1, 2021.

II. Present Situation:

Dependency Case Process - Overview

The Department of Children and Families (DCF) operates the Florida central abuse hotline (hotline), which accepts reports of known or suspected child abuse,¹ abandonment,² or neglect,³ 24 hours a day, seven days a week.⁴ Any person who knows or suspects that a child has been abused, abandoned, or neglected must report such knowledge or suspicion to the hotline.⁵ A child protective investigation begins if the hotline determines the allegations meet the statutory definition of abuse, abandonment, or neglect.⁶ A child protective investigator investigates the situation either immediately or within 24 hours after the report is received, depending on the nature of the allegation.⁷

If, after conducting an investigation in response to receiving a call to the hotline, the child protective investigator determines that the child is in need of protection and supervision that necessitates removal, the investigator may initiate formal proceedings to remove the child from his or her home. The proceeding, known as a shelter hearing, results in a court determining if

¹ Section 39.01(2), F.S., defines “abuse” to mean any willful act or threatened act that results in any physical, mental, or sexual abuse, injury, or harm that causes or is likely to cause the child’s physical, mental, or emotional health to be significantly impaired. Abuse of a child includes the birth of a new child into a family during the course of an open dependency case when the parent or caregiver has been determined to lack the protective capacity to safely care for the children in the home and has not substantially complied with the case plan towards successful reunification or met the conditions for return of the children into the home. Abuse of a child also includes acts or omissions. Corporal discipline of a child by a parent or legal custodian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child.

² See s. 39.01(1), F.S., which defines “abandonment”, in part, to mean a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the caregiver, while being able, has made no significant contribution to the child’s care and maintenance or has failed to establish or maintain a substantial and positive relationship with the child, or both. It further defines, “establish or maintain a substantial and positive relationship” to include, but not be limited to, frequent and regular contact with the child through frequent and regular visitation or frequent and regular communication to or with the child, and the exercise of parental rights and responsibilities. The definition specifically provides that marginal efforts and incidental or token visits or communications are not sufficient to establish or maintain a substantial and positive relationship with a child.

³ Section 39.01(50), F.S., defines “neglect” to mean when a child is deprived of, or is allowed to be deprived of, necessary food, clothing, shelter, or medical treatment or a child is permitted to live in an environment when such deprivation or environment causes the child’s physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired. Circumstances are not to be considered neglect if caused primarily by financial inability unless actual services for relief have been offered to and rejected. Further, a parent or legal custodian legitimately practicing religious beliefs in accordance with a recognized church or religious organization who thereby does not provide specific medical treatment for a child may not, for that reason alone, be considered a negligent parent or legal custodian, unless a court orders the following services to be provided, when the health of the child so requires: medical services from a licensed physician, dentist, optometrist, podiatric physician, or other qualified health care provider; or treatment by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a well-recognized church or religious organization. The definition further provides that neglect of a child includes acts or omissions.

⁴ Section 39.201(5), F.S.

⁵ Section 39.201(a), F.S.

⁶ Section 39.201(2)(a), F.S.

⁷ Section 39.201(5), F.S.

probable cause exists to keep a child in shelter⁸ status pending further investigation of the circumstances leading to the detention of a child.⁹

When the DCF removes a child from the home, a series of dependency court proceedings must occur before a child may be adjudicated dependent.¹⁰ Within 28 days after a child has been sheltered, the court must hold an arraignment hearing on the petition for dependency.¹¹ If a parent or legal guardian denies an allegation in the petition, the court must hold an adjudicatory hearing within 30 days.¹²

Subsequent to a child being found dependent, a court must hold a disposition hearing to determine a course of treatment and services and placement of the child under protective supervision.¹³ The court must first consider placing the child with relatives.¹⁴ If a child cannot safely remain in the original home and no adult relative is available for temporary, legal custody, the child may be placed with an adult willing to care for the child under the protective supervision of the DCF.¹⁵ Placing the child in the temporary, legal custody of the DCF invests the DCF with the rights and responsibilities of a legal custodian.¹⁶

The DCF must develop and refine a case plan¹⁷ for each child receiving services throughout the dependency process with input from all parties to the child's dependency case. The case plan details are required to be tailored to address the abuse, abandonment, or neglect that gave rise to the abuse report, consider any other issues which would support family preservation if appropriate, and identify services to address the child's needs, as those needs are identified during the child protective investigation and throughout the case.¹⁸ Case plan services must focus on clearly defined objectives with the intent of improving conditions in the home and facilitating the child's safe return to the home when reunification is an appropriate goal, ensuring proper care of the child, or advancing the child's permanent placement.¹⁹

⁸ Section 39.01(78), F.S., defines "shelter" to mean a placement with a relative or a nonrelative, or in a licensed home or facility, for the temporary care of a child who is alleged to be or who has been found to be dependent, pending court disposition before or after adjudication.

⁹ Section 39.01(79), F.S.

¹⁰ See s. 39.01(15), F.S., for the definition of "child who is found to be dependent".

¹¹ The purpose of an arraignment hearing is for a parent to admit, deny, or consent to findings of dependency that are alleged in the petition for dependency. If any party has requested a demand for early filing, the court must hold the arraignment hearing within 7 days after the date of filing of the petition. Section 39.506(1), F.S.

¹² Section 39.506(1), F.S.

¹³ Section 39.521(1), F.S.

¹⁴ Section 39.507(7)(c), F.S.

¹⁵ Section 39.521(3)(c), F.S.

¹⁶ Section 39.521(3)(d), F.S.

¹⁷ Section 39.01(11), F.S., defines "case plan" to mean a document, as described in s. 39.6011, F.S., related to case plan development, prepared by the DCF with input from all parties. The case plan follows the child from the provision of voluntary services through any dependency, foster care, or termination of parental rights proceeding or related activity or process.

¹⁸ Sections 39.6011 and 39.6012, F.S. Case plans must be developed in a face-to-face conference with the child's parent, any court-appointed Guardian ad Litem, and the child's temporary custodian and, if appropriate, the child.

¹⁹ Section 39.6012(1)(a), F.S.

Once the court approves a case plan, the dependency case continues with judicial review hearings,²⁰ custody or placement changes, and permanency planning. The goal is for the dependency court and all parties involved in the child’s case to ensure the child remains safe.²¹

In determining the specific permanency goal for the child and whether requirements for that goal have been achieved, or if other actions need to be taken to protect the child, the court considers information about the parent’s behavior and other relevant details provided by parties to the case, including written reports submitted to the court and witness testimony at hearings. If an attorney for the DCF decides that a termination of parental rights is appropriate, the DCF must allege in a petition for a termination of parental rights that one of a specified grounds supports the petition.²² The DCF must file a petition to terminate parental rights within 60 days after any of the specified factors has occurred.²³

The dependency court process is summarized in the table below.²⁴

The Dependency Court Process

Dependency Proceeding	Description of Process	Controlling Statute
Removal	A child protective investigation determines the child’s home is unsafe, and the child is removed.	s. 39.401, F.S.
Shelter Hearing	A shelter hearing occurs within 24 hours after removal. The judge determines whether to keep the child out-of-home.	s. 39.401, F.S.
Petition for Dependency	A petition for dependency occurs within 21 days of the shelter hearing. This petition seeks to find the child dependent.	s. 39.501, F.S.
Arrestment Hearing and Shelter Review	An arrestment and shelter review occurs within 28 days of the shelter hearing. This allows the parent to admit, deny, or consent to the allegations within the petition for dependency and allows the court to review any shelter placement.	s. 39.506, F.S.
Adjudicatory Trial	An adjudicatory trial is held within 30 days of arrestment. The judge determines whether a child is dependent during trial.	s. 39.507, F.S.

²⁰ These hearings are in accordance with s. 39.701, F.S.

²¹ Section 39.001(1)(a), F.S.

²² Section 39.806(1), F.S. A few examples in support of a termination of parental rights petition include that the parent or parents voluntarily executed a written surrender of the child to the DCF for adoption; the parent or parents have abandoned the child; or the parent or parents through their conduct demonstrate that continuing involvement threatens the child’s life, safety, or well-being irrespective of the provision of services.

²³ Section 39.8055(1), F.S. Exceptions to the requirement to file a termination of parental rights include the following: the child is being cared for by a qualifying relative or that the DCF provides a compelling reason that filing such a petition is not in the best interests of the child. Compelling reasons include that: adoption is not the appropriate permanency goal for the child; no grounds to file a petition to terminate parental rights exist; the child is an unaccompanied refugee minor; international legal obligations or compelling foreign-policy reasons preclude terminating parental rights; or the DCF has not provided to the family, consistent with the time period in the case plan, services that the DCF deems necessary for the safe return of the child to the home. Section 39.8055(2), F.S.

²⁴ For example, a social study report is submitted prior to judicial review hearings and it includes information on the child’s placement, the child’s safety in the placement, efforts of the parents to comply with case plan tasks, services provided to the foster family or legal custodian to address the child’s needs, information on the visitation between the parent and child, and other information related to the child and the parent.

Dependency Proceeding	Description of Process	Controlling Statute
Disposition Hearing	If the child is found dependent, disposition occurs within 15 days of arraignment or 30 days of adjudication. The judge reviews the case plan and placement of the child. The judge orders the case plan for the family and the appropriate placement of the child.	s. 39.506, F.S. s. 39.521, F.S.
Postdisposition hearing	The court may change temporary placement at a postdisposition hearing any time after disposition but before the child is residing in the permanent placement approved at a permanency hearing.	s. 39.522, F.S.
Judicial Review Hearings	The court must review the case plan and placement every 6 months, or upon motion of a party.	s. 39.701, F.S.
Petition for Termination of Parental Rights	Once the child has been out-of-home for 12 months, if DCF determines that reunification is no longer a viable goal, termination of parental rights is in the best interest of the child, and other requirements are met, a petition for termination of parental rights is filed.	s. 39.802, F.S. s. 39.8055, F.S. s. 39.806, F.S. s. 39.810, F.S.
Advisory Hearing	This hearing is set as soon as possible after all parties have been served with the petition for termination of parental rights. The hearing allows the parent to admit, deny, or consent to the allegations within the petition for termination of parental rights.	s. 39.808, F.S.
Adjudicatory Hearing	An adjudicatory trial shall be set within 45 days after the advisory hearing. The judge determines whether to terminate parental rights to the child at this trial.	s. 39.809, F.S.

Initial Removal and Placement in Out-of-Home Care

Detention or Shelter Determination of a Child

A shelter hearing is a proceeding in which a court determines whether probable cause exists to keep a child in shelter status pending further investigation of the circumstances leading to the detention of a child.²⁵ The circumstances in which a child may be detained or taken into custody by the DCF are limited.

A hospital administrator or licensed health care professional may detain a child without parental consent if returning the child to the parent or caregiver presents an imminent danger to the child. If the child is detained, the medical provider must immediately notify the DCF. Upon receiving notification, the DCF must immediately notify the parents or legal custodians that their child is being detained and begin a child protective investigation.²⁶

Additionally, a law enforcement officer may take a child into custody, if probable cause exists that:

²⁵ Section 39.01(79), F.S.

²⁶ Section 39.395, F.S.

- The child has been abused, neglected, or abandoned, or suffers from, or is in imminent danger of, illness or injury due to abuse, neglect, or abandonment;
- The parent or legal custodian of the child has materially violated a condition of placement ordered by the court; or
- The child has no parent, legal custodian, or responsible adult relative immediately known and able to provide care.²⁷

If a child is taken into custody, the attorney representing the DCF must request a hearing within 24 hours after the removal of the child.²⁸ A child may not be held in a shelter for more than 24 hours unless a court orders the child to remain in the shelter after a shelter hearing.²⁹ Prior to the shelter hearing, the parents or legal custodians must be given written notice that they:

- Will be given an opportunity to be heard and to present evidence at the shelter hearing; and
- Have the right to be represented by counsel, and, if indigent, have counsel appointed at the shelter hearing and at each subsequent hearing or proceeding.³⁰

Further, the shelter hearing can be continued for specified period of time under certain circumstances. If granted by the court, the child continues in shelter care for the length of the continuance.³¹

A child may not be removed from the home or continued in out-of-home care pending disposition if he or she could safely remain at home with the provision of appropriate and available early intervention or preventive services. However, if the child's safety and well-being are in danger, the child must be removed and continue to be removed until the danger has been eliminated. If the child has been removed from the home and the reasons for his or her removal have been remedied, the child may be returned to the home. If the court finds that the prevention or reunification efforts of the DCF will allow the child to remain safely at home, the court shall allow the child to remain in the home.³²

Placement in Out-of-Home Care

In 2001 and 2002, the Florida Legislature expanded the ability of community-based care lead agencies to place children in residential group care until additional foster homes could be recruited.³³ The 2001 legislation made it easier to put children in group care by requiring that any child 11 years of age or older who has been in licensed family foster care for 6 months or longer and who is then moved more than once must be assessed for placement in licensed residential group care. It also created s. 409.1676, F.S., which allows comprehensive residential services, including residential care, case management, and other services to be provided to children in the child protection system who have extraordinary needs, such as serious behavioral problems, or who have been determined to not have the options of either reunification with family or

²⁷ Section 39.401(1)(b), F.S.

²⁸ Section 39.401(3)(b), F.S.

²⁹ Section 39.402(8)(a), F.S.

³⁰ Section 39.402(5)(b), F.S. The appointment of counsel is made pursuant s. 39.013, F.S.

³¹ *Id.*

³² Section 39.402(7), F.S.

³³ Chapter 2001-68, ss. 3, 5, and 6, Laws of Fla. (creating ss. 39.521(5), 409.1676, and 409.1677, F.S., effective July 1, 2001); and ch. 2002-219, ss. 1, 2, 3, and 5, Laws of Fla. (repealing s. 39.521(5), F.S., creating s. 39.523, F.S., and amending ss. 39.407(5) and 409.1676, F.S., effective July 1, 2002).

adoption. The 2002 legislation moved the language in 39.521, F.S., enacted in 2001 to newly created s. 39.523, F.S. The legislation also provided that children in the custody of the DCF may be placed in certain residential settings without prior approval of the court.

At the same time, national research was showing an association between frequent placement disruptions and outcomes that are adverse to the child.³⁴ Some of the adverse outcomes included poor academic performance and social or emotional adjustment difficulties such as aggression, withdrawal, and poor social interaction with peers and teachers. Despite this evidence, child welfare systems made limited efforts to intervene and reduce placement instability as a mechanism for improving outcomes for children.³⁵ Mismatching placements to children's needs has been identified as a factor that negatively impacts placement stability. Identifying the right placement requires effective assessment.³⁶

In response to trends in research, the Fostering Connections to Success and Increasing Adoptions Act (Fostering Connections Act), enacted in 2008, shifted policies to increase federal support to states so they can place more children permanently with relative guardians or adoptive parents, and enhance aid to foster youth.³⁷ The Fostering Connections Act, in part, increased kinship guardianship assistance payments and increased grants to specified entities who included kinship navigator programs. These reflected the changes that:

- A child must be placed in the least restrictive, most family-like setting available in close proximity to the home of his or her parents;
- The placement must meet the needs of the child; and
- A child must be placed in a permanent home in a timely manner.³⁸

In 2017, the Florida Legislature recognized the above-mentioned shift in federal policy by amending s. 39.523, F.S., to require a comprehensive placement assessment process to be conducted when any child is removed from a home and placed into out-of-home care to determine the level of care needed by the child and match the child with the most appropriate placement.³⁹ Section 39.523(2), F.S., currently provides that when any child is removed from a home and placed into out-of-home care, a comprehensive placement assessment process must be completed to determine the level of care needed by the child, and match the child with the most appropriate placement.⁴⁰ The lead agency or subcontracted agency must coordinate a multidisciplinary team (MDT) staffing, described in detail below, with any individual who is

³⁴ See The Imprint, A Look Back at the Impact of Research on Child Welfare Policy, available at <https://imprintnews.org/analysis/look-back-impact-research-child-welfare-policy/28350> (last visited Feb. 17, 2021).

³⁵ Noonan, K. and Rubin, D., et al., The Children's Hospital of Philadelphia Research Institute, *Securing Child Safety, Well-being, and Permanency Through Placement Stability in Foster Care*, Fall 2009, p. 2, available at https://policylab.chop.edu/sites/default/files/pdf/publications/PolicyLab_EtoA_CSAW_Fall_2009.pdf (last visited February 17, 2021).

³⁶ Teija Sudol, *Placement Stability Information Packet*, National Resource Center for Permanency and Family Connections, December 2009, available at http://www.hunter.cuny.edu/socwork/nrcfcpp/info_services/Placement_Stability_Info_Pack.htm (last visited Feb. 17, 2021).

³⁷ See Fostering Connections to Success and Increasing Adoptions Act; Pub. L. 110-351; See also the National Conference of State Legislatures, *Fostering Connections to Success and Increasing Adoptions Act of 2008*, available at <https://www.ncsl.org/documents/cyf/FosteringConnectionsSummary.pdf> (last visited Feb. 17, 2021).

³⁸ See Adoption Assistance and Child Welfare Act of 1980; Pub.L. 96-272.

³⁹ Chapter 2017-151, Laws of Fla.

⁴⁰ Section 39.523(2), F.S.

available to attend the staffing and is currently involved with the child.⁴¹ The participants for the MDT assessments include, but are not limited to:

- A representative from the DCF and the case manager for the child;
- A therapist;
- Attorney ad litem;
- Guardian ad litem;
- Teachers;
- Coaches;
- Children's Medical Services; and
- Other community providers of services to the child or stakeholders, as applicable.
- Clergy, relatives, and fictive kin, if appropriate.⁴²

Further, team participants must gather and consider data and information on the child that is known at the time of the staffing including, but not limited, to:

- Mental, medical, behavioral health, and medication history.
- Community ties and school placement.
- Current placement decisions relating to any siblings.
- Alleged type of abuse or neglect, including sexual abuse and trafficking history.
- The child's age, maturity, strengths, hobbies or activities, and the child's preference for placement.⁴³

The most appropriate available out-of-home placement must be chosen after all members of the MDT consider all of the information and data gathered, including the results and recommendations of any evaluations conducted.⁴⁴ Placement decisions for each child in out-of-home placement must be reviewed as often as necessary to ensure permanency for that child and to address special issues related to this population of children.⁴⁵ The DCF, a sheriff's office acting under s. 39.3065, F.S., a lead agency, or a case management organization must document all placement assessments and placement decisions in the Florida Safe Families Network (FSFN).^{46, 47}

⁴¹ Section 39.523(2)(a), F.S.

⁴² *Id.*

⁴³ *Id.* The comprehensive placement assessment process may also include the use of an assessment instrument or tool that is best suited for the individual child.

⁴⁴ Section 39.523(2)(c), F.S.

⁴⁵ Section 39.523(2)(d), F.S. Further, s. 39.523(2)(f), F.S., provides that if it is determined during the comprehensive placement assessment process that residential treatment as defined in s. 39.407, F.S., would be suitable for the child, the procedures in that section must be followed.

⁴⁶ Section 39.523(2)(e), F.S.

⁴⁷ The FSFN system is Florida's implementation of the Statewide and Tribal Automated Child Welfare Information Systems (SACWIS/TACWIS), which is a federally funded data collection system. All states were required to collect and report particular information to the federal government. States had the option of creating a SACWIS model in order to comply with these federal reporting requirements or they may implement an alternative data collection model. This information was then compiled into the Adoption and Foster Care Analysis and Reporting System (AFCARS) and the National Child Abuse and Neglect Data System (NCANDS). Both systems are made publicly available on the Children's Bureau's Child Welfare Outcomes Report Data website. See the National Conference of State Legislatures, *Child Welfare Information Systems*, June 25, 2020, available at <https://www.ncsl.org/research/human-services/child-welfare-information-systems.aspx> (last visited Feb. 17, 2021).

At each judicial review required under s. 39.701, F.S., the court is required to consider the results of the assessment, the placement decision made for the child, and the services provided to the child.

Special Considerations for Placement of Siblings

An important consideration when placing children into out-of-home care involves the placement of sibling groups. Children may experience anxiety or pain when they are separated from their siblings. However, child welfare agencies can experience obstacles in trying to place siblings together when they enter out-of-home care including, but not limited to:

- Children in sibling groups often have diverse and special needs that may require one-on-one attention;
- Foster and adoptive parents are often unwilling to take in sibling groups;
- Resources to find and maintain placements for sibling groups are often challenged by agencies with excessive caseloads and limited resources; and
- Children may enter care through different agencies, possibly in different jurisdictions.⁴⁸

There is limited research on the importance of the sibling bond which has only recently been accepted by research scientists and policymakers, sparking a flurry of attention to research, policy making, litigation, and development of innovative programs.⁴⁹

Child welfare laws have evolved in many states to address this issue. The Fostering Connections Act made federal funding contingent on complying with the law, which requires:

- Reasonable efforts to place siblings together in out-of-home care unless the state documents that it would be contrary to their safety or well-being; and
- Frequent visitation if siblings are not placed together, unless the state documents that it would be contrary to the children's safety or well-being.⁵⁰

In general, child protection agencies understand the importance of maintaining sibling connections and have embraced approaches that support sibling placements. Thirty-seven states and the District of Columbia have statutes requiring agencies to make reasonable efforts to place siblings together unless a joint placement would not be in the best interests of one of the siblings, such as when one sibling poses a risk to the other. Additionally, 35 states and Puerto Rico have statutes requiring agencies to make provisions for siblings who cannot be placed together, including opportunities for visits and/or other forms of contact or communication.⁵¹

A number of strategies can be encouraged to mitigate the barriers to joint placements for siblings, including:

- Prioritizing placement with kin.

⁴⁸ The National Center for Youth Law, *Keeping Siblings together: Past, Present, and Future*, available at <https://youthlaw.org/publication/keeping-siblings-together-past-present-and-future/> (last visited Feb. 17, 2021).

⁴⁹ *Id.*

⁵⁰ The Children's Bureau, Child Welfare Information Gateway, *Sibling Issues in Foster Care and Adoption*, available at <https://www.childwelfare.gov/pubPDFs/siblingissues.pdf>; the U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, Child and Family Services Reviews, available at <https://www.acf.hhs.gov/cb/monitoring/child-family-services-reviews> (all sites last visited Feb. 17, 2021).

⁵¹ The Casey Family Programs, *How are child protection agencies promoting and supporting joint sibling placements and adoptions?*, available at <https://www.casey.org/joint-sibling-placements/> (last visited Feb. 17, 2021).

- Establishing clear policies and training for caseworkers and foster or adoptive parents about the importance of preserving sibling connections, and ensuring that siblings are assigned to the same caseworker, regardless of when they enter care.
- Involving children in placement decisions for the sibling group.
- Utilizing targeted foster or adoptive parent recruitment and retention strategies that aim to recruit foster and adoptive homes specifically for sibling groups, and homes that are reflective of the racial and ethnic diversity of children in care.⁵²

Florida law currently addresses sibling placement and visitation in a number of sections of statute, but there is no single consolidated section specifically dealing with sibling related issues. For example:

- Section 409.996(19)(b), F.S., requires the DCF and each lead agency to monitor and document any reasons that siblings are not placed together in out-of-home care; sibling placement information must be incorporated into the results-oriented accountability system and into the evaluation of the outcome and made available to the Florida Institute for Child Welfare for use in assessing the performance of child welfare services.
- Section 39.522(1)(a)8., F.S., requires the court, when determining whether a change of placement is in the best interests of the child, to consider the child's previous and current relationship with a sibling, if the change of legal custody or placement will separate or reunite siblings.
- Section 39.6012(3)(b), F.S., requires that the case plan include a description of the parent's visitation rights and obligations and the plan for sibling visitation if the child has siblings with whom he or she is separated.

Postdisposition Change of Custody

Currently, the court may change the temporary legal custody or the conditions of protective supervision at a postdisposition hearing when a child is already under the jurisdiction of the court, without the necessity of another adjudicatory hearing.

At any time before a child is residing in the permanent placement approved at the permanency hearing, a motion alleging a need for a change in the conditions of protective supervision or the placement may be filed by the DCF or by any other interested person in the case of a child who has been placed in:

- The child's own home under the protective supervision of an authorized agent of the DCF;
- The home of a relative;
- The home of a legal custodian; or
- Some other place.⁵³

If the parents or other legal custodians deny the need for a change, the court must hear all parties in person or by counsel, or both. Upon the admission of a need for a change or after the hearing, the court must enter an order changing the placement, modifying the conditions of protective supervision, or continuing the conditions of protective supervision as ordered.⁵⁴

⁵² *Id.*

⁵³ Section 39.522(1)(a), F.S.

⁵⁴ *Id.*

The standard for changing custody of the child must be the best interests of the child.⁵⁵ When determining whether a change of legal custody or placement is in the best interests of the child, the court must consider all of the following:

- The child’s age.
- The physical, mental, and emotional health benefits to the child by remaining in his or her current placement or moving to the proposed placement.
- The stability and longevity of the child’s current placement.
- The established bonded relationship between the child and the current or proposed caregiver.
- The reasonable preference of the child, if the court has found that the child is of sufficient intelligence, understanding, and experience to express a preference.
- The recommendation of the child’s current caregiver.
- The recommendation of the child’s guardian ad litem, if one has been appointed.
- The child’s previous and current relationship with a sibling, if the change of legal custody or placement will separate or reunite siblings.
- The likelihood of the child attaining permanency in the current or proposed placement.
- Any other relevant factors.⁵⁶

If the child is not placed in foster care, the new placement for the child must meet the home study criteria and court approval under ch. 39, F.S.⁵⁷

When the court is determining reunification, the court is required to review the conditions for return and determine whether the circumstances that caused the out-of-home placement and issues subsequently identified have been remedied to the extent that the child may be returned to the home, with an in-home safety plan prepared and in place. Alternatively, if the reunification is approved by the DCF, the court must determine that reunification will not be detrimental to the child’s safety, well-being, and physical, mental, and emotional health.⁵⁸

A court considering whether a child who is placed in the custody of a non-offending parent should be reunited with the other parent, upon a finding that the circumstances that caused the out-of-home placement and issues subsequently identified have been remedied, to the extent that the return of the child to the home of the other parent with an in-home safety plan prepared or approved by the DCF will not be detrimental to the child, must find that the safety, well-being, and physical, mental, and emotional health of the child would not be endangered by reunification and that reunification would be in the best interest of the child.⁵⁹

⁵⁵ United Nations, Office of the High Commissioner for Human Rights, Convention on the Rights of the Child, available at <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx> (last visited Feb. 2, 2021). The term “best interests” or “best interests of the child” is a child rights principle, which derives from Article 3 of the UN Convention on the Rights of the Child, which says that all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration. The Convention on the Rights of the Child is the most rapidly and widely ratified human rights treaty in history—with 196 countries as “states parties.” The United States is the only signatory country that has not ratified the Convention.

⁵⁶ Section 39.522(1)(a), F.S.

⁵⁷ Section 39.522(1)(b), F.S.

⁵⁸ Section 39.522(2), F.S.

⁵⁹ Section 39.522(3), F.S.

A court must consider additional factors when deciding whether to place a child in out-of-home care after the child was placed in the child's own home with an in-home safety plan or the child was reunified with a parent or caregiver with an in-home safety plan to determine whether to place the child in out-of-home care. The factors include, at a minimum:

- The circumstances that caused the child's dependency and other subsequently identified issues.
- The length of time the child has been placed in the home with an in-home safety plan.
- The parent's or caregiver's current level of protective capacities.
- The level of increase, if any, in the parent's or caregiver's protective capacities since the child's placement in the home based on the length of time the child has been placed in the home.⁶⁰

In addition, the court is required to evaluate the child's permanency goal and change the permanency goal as needed if doing so would be in the best interests of the child. If the court changes the permanency goal, the case plan must be amended pursuant to s. 39.6013(5), F.S.⁶¹

Transitions

Placement Transitions

Transition planning and practice may be used for any move of any child from one caregiver to another caregiver, including to or from a biological parent. It is important to minimize the number of out-of-home care placements in every child's case. However, in some situations, a change in out-of-home care placement might be considered necessary.⁶²

Once the child establishes a bond with a caregiver who becomes the psychological parent, transition planning from one caregiver's home to another must be as emotionally protective as possible.⁶³ Poorly executed or improperly timed transitions may adversely affect a child's healthy development and capacity to attach to others.⁶⁴

Any change in primary caregiver may be very traumatic and this trauma can be minimized by implementing a caring transition plan. Visitation with a future caregiver does not establish the same bond that develops when a child bonds with a caregiver who provides day-to-day care. This includes visitation with a biological parent relative who has been visiting consistently and appropriately, which suggests there will inevitably be trauma when the child is moved to a different day-to-day caregiver when the child has formed an attachment to a current caregiver.⁶⁵

Transition planning and visiting must be tailored to the individual child's circumstances and consideration must be given to certain factors such as the child's age and attachment to his or her current caregiver. Special consideration should be given to transitioning infants and toddlers who are removed from their placement during developmental phases that may be adverse to such

⁶⁰ Section 39.522(4), F.S.

⁶¹ Section 39.522, F.S.

⁶² Advokids, *Transition Planning*, available at <https://advokids.org/childhood-mental-health/transitions/> (last visited Feb. 17, 2021).

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

change, given they may lack verbal skills or developmental ability and maturity to understand what is happening to them.⁶⁶

The fundamental task in early childhood is the formation of attachment. Attachment is an emotional bond with another person. It is believed that the earliest bonds formed by children with their caregivers have a tremendous impact that continues throughout life. Typical attachment stages are:

- At 0-8 weeks of age, the stage for developing secure attachment is being set. During this pre-attachment period the mother will 'warm up' the emotional bond with her sensitive and consistent responses. The infant may distinguish between caregivers but in general displays little preference. Baby separation anxiety in relation to the mother has not kicked in yet.
- At 2-6 months, the child starts to distinguish more clearly between known and unknown figures. The child starts to get a sense of how his or her mother will react when they are anxious or distressed.
- At 6-11 months and stage of child development, the baby has developed a clear understanding as to who his or her primary caregiver is (typically the mother). This awareness often makes the mother the preferred caregiver.
- At 18-24 months, the child's attachment behavior is very clear. The child is very conscious of good strategies for reaching the desired proximity of his or her mother.⁶⁷

Infants and toddlers who are removed from their home and placed in out-of-home care need special consideration and guidance through the grieving process, in their relationships, and through transitions from one caregiver to another. Because they may be non-verbal or lack the developmental ability and maturity to understand what is happening to them, let alone articulate it, their feelings are easily overlooked or misinterpreted. Young children in out-of-home care suffer the same grief and loss and doubts that older children do, without the ability to express how he or she is feeling.⁶⁸

Florida law addresses out-of-home care transitions and educational stability in a number of circumstances, including, but not limited to:

- Section 39.6035(1), F.S., requires, within 180 days after a child reaches 17 years old, the DCF and lead agency to collaborate with the caregiver and other individuals identified by the child to assist the child with developing a transition plan to prepare for when the child ages out of care.⁶⁹
- Section 39.604(5), F.S., provides for transition plans when it is not in a child's best interest to remain in the child care or early education setting that he or she attended prior to being placed into out-of-home care and requires the caregiver to collaborate with specified individuals to determine the best setting for the child.

⁶⁶ Child Advocates, *Smooth Transitions for Young Children in Foster Care*, available at <https://www.childadvocates.net/smooth-transitions-young-children-foster-care/> (last visited Feb. 17, 2021).

⁶⁷ Positive Parenting Ally, Psychology Attachment Behavior, available at <https://www.positive-parenting-ally.com/psychology-attachment.html> (last visited Feb. 17, 2021).

⁶⁸ Child Advocates, *Smooth Transitions for Young Children in Foster Care*, available at: <https://www.childadvocates.net/smooth-transitions-young-children-foster-care/> (last visited Feb, 17, 2021).

⁶⁹ Section 39.6035(1), F.S. The plan must address housing, health insurance, education, and workforce support and employment services.

- Section 39.701(3)(d), F.S., which provides at the last review hearing before the child reaches 18 years of age, the court must:
 - Address whether the child plans to remain in foster care, and, if so, ensure that the child’s transition plan includes a plan for meeting one or more of the criteria and a supervised living arrangement under s. 39.6251, F.S.;
 - Ensure the child has been informed of the:
 - Right to continued support and services from the DCF and the lead agency;
 - Right to request termination of dependency jurisdiction and be discharged from foster care;
 - Opportunity to reenter foster care pursuant to s. 39.6251, F.S.;
 - Ensure that the young adult, if he or she requests termination of dependency jurisdiction and discharge from foster care, has been informed of:
 - Services or benefits for which the young adult may be eligible based on his or her former placement in foster care;
 - Services or benefits that may be lost through termination of dependency jurisdiction; and
 - Other federal, state, local, or community-based services or supports available to him or her.

Florida rules require two weeks’ notice prior to a change of placement except in an emergency situation, and requires a transition plan to a new placement if the child’s current placement is unable to be stabilized and is not in the child’s best interest.⁷⁰ The DCF also has operating procedures for transition planning for youth to ensure that children develop necessary life skills and to prepare children to transition to adulthood.⁷¹

Education Transitions

State and federal law contain requirements that must be adhered to in order to ensure educational stability for a child in out-of-home care. A child’s educational setting should only be changed when maintaining the educational setting is not in the best interest of the child.

The Every Student Succeeds Act (ESSA)⁷² was signed into law on December 10, 2015. ESSA reauthorized the Elementary and Secondary Education Act and includes new provisions that promote educational stability for children in foster care so they can continue their education without disruption, maintain important relationships, and have the opportunity to achieve college and career readiness. The law also emphasizes the importance of collaboration and joint decision-making between child welfare agencies and educational agencies.

Specific protections related to children in out-of-home care include:

- Being able to remain in the same school when in the child’s best interest;
- Immediate enrollment in school and transfer of school records;

⁷⁰ Rule 65C-28.005, F.A.C.

⁷¹ The DCF, *CFOP 170-17 Transitioning Youth and Young Adult*, ch. 2 (July 29, 2019) available at <https://myflfamilies.com/admin/publications/cfops/CFOP%20170-xx%20Child%20Welfare/CFOP%20170-17%20Services%20for%20Transitioning%20Youth%20and%20Young%20Adults/CFOP%20170-17,%20%20Chapter%20002,%20Transition%20Planning%20for%20Youth.pdf> (last visited Feb. 17, 2021).

⁷² The Every Student Succeeds Act, Public Law 114-95.

- School transportation when changing schools;
- Point of contact designated within state educational agency;
- Local educational agency point of contact; and
- Required data collection and reporting.

For the first time, state educational agencies will be required to report annually on student achievement and graduation rates for students in out-of-home care.⁷³

The Fostering Connections Act also places requirements on child welfare agencies to work with schools to support the education needs of children in foster care. Since its passage in 2008, the Fostering Connections Act has brought much-needed attention to the critical importance of education stability for children in out-of-home care.⁷⁴ The Fostering Connections Act helps children and in out-of-home care, guardianship and adoption achieve their educational goals by requiring that states ensure that they attend school and, when placed in out-of-home care, they remain in their same school where appropriate, or, when a move is necessary, get help transferring promptly to a new school. It also provides increased federal support to assist with school-related transportation costs.

Florida law provides for transition plans when it is not in a child's best interest to remain in the child care or early education setting that he or she attended prior to being placed into out-of-home care and requires the caregiver to collaborate with specified individuals to determine the best setting for the child.⁷⁵

Multidisciplinary Teams

The use of a MDT team in child welfare settings is a concept that has been an established practice for over the past 60 years through the use of hospital-based child protection teams and, more recently, child advocacy centers.^{76, 77} Because of the complex nature of child abuse and neglect investigations and family assessments and interventions, MDT teams are often used to enhance and improve investigations and responses necessary for children and families to recover and succeed. The MDT teams are becoming more widely used today to include a variety of individuals, both professional and non-professional, that interact and coordinate their efforts to plan for children and families receiving child welfare services. The MDT may also be referred to as an "interdisciplinary team," or a "case consultation team."⁷⁸

Utilizing a MDT approach builds upon existing family-centered approaches to care. The use of a strengths-based, family-centered multidisciplinary process is key to engaging children, youth,

⁷³ *Id.*

⁷⁴ See Fostering Connections to Success and Increasing Adoptions Act, Pub.L. 110-351.

⁷⁵ Section 39.604, F.S.

⁷⁶ The Kempe Foundation, *Child Protection Team Celebrates 60 Years*, available at <http://www.kempe.org/child-protection-team-celebrates-60-years/> (last visited Feb. 17, 2021).

⁷⁷ The National Children's Alliance, *History of NCA*, available at <https://www.nationalchildrensalliance.org/history-of-nca/#:~:text=The%20history%20of%20National%20Children's,system%20to%20help%20abused%20children> (last visited Feb. 17, 2021).

⁷⁸ The Child Welfare Information Gateway, *Multidisciplinary Teams*, available at <https://www.childwelfare.gov/topics/responding/iaa/investigation/multidisciplinary/> (last visited Feb. 17, 2021).

and families in the development and implementation of their individual case or treatment plans or other related services designed to meet their needs. By sharing decision-making and working together, it is more likely that positive and lasting outcomes will be achieved.⁷⁹

The MDTs can help eliminate, or at least reduce, many barriers to effective action, including a lack of understanding by the members of one profession of the objectives, standards, conceptual bases, and ethics of the others; lack of effective communication; confusion over roles and responsibilities; interagency competition; mutual distrust; and institutional relationships that limit interprofessional contact.⁸⁰ As a result, a number of states⁸¹ are using a MDT team model, also known as a “Child and Family Team”, that is key to the well-being of children and families served by child welfare agencies and their partners. This model is premised on the notion that children and families have the capacity to resolve their problems if given sufficient support and resources to help them do so.⁸²

In California, for example, the process begins when a child enters out-of-home care, and a child welfare social worker engages with a child and his or her family, and then uses a variety of strategies to identify other team members and factors to develop a plan to help achieve positive outcomes for a child’s safety, permanency, and well-being.⁸³ This strengths-based approach to child welfare recognizes that families are experts in their own lives, and they can achieve success when they have an active role in creating and implementing solutions.⁸⁴

Currently, Florida law provides for the use of MDTs in a number of circumstances, including, in part:

- Child Protection Teams under s. 39.303, F.S.;
- Child advocacy center multidisciplinary case review teams under s. 39.3035, F.S.;
- MDT staffing’s under s. 39.523, F.S.; and
- MDT staffings under ss. 39.524 and 409.1754, F.S.

Additionally, the DCF reports that it or lead agencies currently coordinate MDT staffings for a number of purposes, including, in part:

- Adoption related staffings;

⁷⁹ The Kinship Center, *The Importance of the Child and Family Team*, available at <http://www.kinshipcenter.org/about-kinship-center/news-and-events/breaking-news/the-importance-of-the-child-and-family-team-cft.html> (last visited Feb. 17, 2021).

⁸⁰ National Center on Child Abuse and Neglect, U.S. Children's Bureau, Administration for Children, Youth and Families, Office of Human Development Services, U.S. Department of Health, Education, and Welfare, *Multidisciplinary Teams In Child Abuse And Neglect Programs*, 1978, available at <https://www.ojp.gov/pdffiles1/Digitization/51625NCJRS.pdf> (last visited Feb. 17, 2021).

⁸¹ See Clark County Department of Family Services, *Child and Family Team Meetings Nevada Case Planning and Assessment Policies*, available at https://www.childwelfare.gov/pubPDFs/NV_CaseManagementTrainingFacilitator.pdf; State of Tennessee Department of Children’s Services, *Administrative Policies and Procedures: 31.7*, available at <https://files.dcs.tn.gov/policies/chap31/31.7.pdf>; Indiana Department of Child Services, *Child Welfare Policy* (January 1, 2020) available at <https://www.in.gov/dcs/files/5.07%20Child%20and%20Family%20Team%20Meetings.pdf> (all sites last visited Feb. 17, 2021).

⁸² California Department of Social Services, *About Child and Family Teams*, available at <https://www.cdss.ca.gov/inforesources/foster-care/child-and-family-teams/about> (last visited Feb. 17, 2021).

⁸³ *Id.*

⁸⁴ *Id.*

- Baker Act staffings;
- Case plan conferences;
- Case staffings;
- Case transfer staffings;
- Close the loop staffings;
- Comprehensive Medical Assessment Team staffings;
- Comprehensive Placement Assessment Team staffings;
- Human Trafficking staffings;
- The Department of Juvenile Justice staffings;
- High risk staffing or critical case staffings;
- Independent living staffings;
- Institutional staffings;
- Legal, medical, or mental health staffings;
- New child staffings;
- Permanency staffing;
- Safety management staffing;
- Separated sibling staffings;
- Service staffings; and
- Transfer staffings.⁸⁵

Case Record Face Sheet

A case record face sheet is generally defined as any cover sheet to a multipage document that contains the relevant points covered in the document itself. They are commonly used in the medical or healthcare arenas and typically provides a patient's information at a quick glance. Face sheets can include contact details, a brief medical history and the patient's level of functioning, along with patient preferences and wishes.⁸⁶

A number of states also use similar face sheets to record pertinent information about a child welfare case, including most notably Iowa and Illinois.⁸⁷

Currently, Florida law does not require a face sheet to be included in the case file for child welfare cases.

⁸⁵ The DCF, Electronic mail from John Paul Fiore, Legislative Specialist, *RE: Follow up on data request from last week*, February 12, 2021 (on file with the Senate Committee on Children, Families, and Elder Affairs) (noting several other meetings and conferences that are held for other purposes throughout dependency cases) (hereinafter cited as “The DCF Supplemental Information”).

⁸⁶ Caring.com, *What is a Face Sheet*, available at <https://www.caring.com/articles/what-is-a-face-sheet/>; the Medical Dictionary, available at <https://medical-dictionary.thefreedictionary.com/face+sheet> (all sites last visited Feb. 17, 2021).

⁸⁷ Iowa Department of Human Services, *Child Welfare Services Referral Face Sheet*, available at <https://dhs.iowa.gov/sites/default/files/470-5150.pdf?102920201715>; State of Illinois, Department of Children and Family Service, *Help Unit Face Sheet*, available at https://www2.illinois.gov/dcfs/aboutus/notices/Documents/cfs399_2.pdf#search=face%20sheet (all sites last visited Feb. 17, 2021).

Rebuttable Presumptions

A rebuttable presumption is defined as a legal assumption the court is required to make if certain facts are established and no contradictory evidence is produced. There are various rebuttable presumptions found in Florida law. Two examples found in ch. 39, F.S., include:

- Section 39.0139, F.S., relating to visitation and contact with children who have been sexually abused, provides for the creation of a rebuttable presumption of detriment to a child when specified conditions are met.
- Section 39.203, F.S., relating to immunity from liability in cases of child abuse, abandonment or neglect, provides a rebuttable presumption that specified actions are retaliatory if the specified actions are committed within a prescribed period of time against a person who reports child abuse, abandonment, or neglect under ch. 39, F.S.

III. Effect of Proposed Changes:

The bill codifies, consolidates, and amends, in part, current law in new sections regarding priority placement under s. 39.4021, F.S., multidisciplinary team staffings to make placement, education and other important life decisions of the child under s. 39.4022, F.S., transition plans under s. 39.4023, F.S., and sibling placements under s. 39.4024, F.S. These new sections are created in Part V, titled Taking Children into Custody and Shelter Hearings, to ensure that these issues are addressed at the time a child is removed from his or her home due to abuse, abandonment, or neglect and applied throughout dependency proceedings as current law is silent on how to deal with placement issues between the time of shelter and the disposition hearing. Current law in other sections that relate to these placement or education issues have been amended to cross-reference the new sections.

The bill also amends ss. 39.522 and 39.523, F.S., relocating factors related to postdisposition changes and placement in out-of-home care into s. 39.4022, F.S., creating the new MDTs. Section 39.522, F.S., is also amended to create a rebuttable presumption in certain cases.

Placement in Out-of-Home Care

Section 39.4021, F.S., is created to set out the following list of priority placements of which the DCF must attempt to place a child when he or she is being placed in out-of-home care:

- Non-offending parent;
- Relative;
- Adoptive parent of a child's sibling;
- Fictive kin, with a close existing relationship to the child;
- Licensed foster care; and
- Group or congregate care.

This list slightly amends the list under current law in s. 39.401, F.S., by clarifying that the child may be released to a non-offending parent, fictive kin with a close existing relationship to the child, or group or congregate care, in the order of priority set out above.

Section 39.4021, F.S., also confirms the requirement under current law to place sibling groups together whenever possible unless it is not in the children's best interest when applying the

criteria and factors as set out under s. 39.4022, F.S., and 39.4024, F.S. Placement decisions after shelter must be made in compliance with s. 39.4021, F.S., unless otherwise provide in ch. 39, F.S.

The bill also amends ss. 39.401 and 39.402, F.S., to cross-reference s. 39.4021, F.S., which codifies current law and clarifies the priority of placement which the DCF is required to apply when determining where to release a child who is removed due to abuse, abandonment, or neglect while awaiting a shelter hearing and to require the court to make written findings in shelter orders that the DCF has made reasonable efforts to place the child in order of priority unless it is not an option or in the best interest of the child, respectively.

Multidisciplinary Teams

The DCF reports that MDTs are presently being convened for many purposes throughout a dependency case, and current law makes reference to requirements to convene these staffings, for instance in s. 39.523, F.S., in relation to postdisposition change of placement decisions. Section 39.4022, however, codifies the creation of these teams, defines them, provide for stated goals, an expanded list of mandatory reasons when staffings must be convened, and specified factors that must be considered when making decisions about what is in the child's best interest.

The bill provides legislative findings including that:

- There is an increasing body of evidence showing that services for children and families are most effective when delivered in the context of a single, integrated multidisciplinary team that includes the child, his or her family, natural and community supports, and professionals who join together to empower, motivate, and strengthen a family and collaboratively develop a plan of care and protection to achieve child safety, child permanency, and child and family well-being.
- Effective assessment through an integrated MDT is particularly important for children who are vulnerable due to existing histories of trauma that led to the child's entrance into the child welfare system. This assessment is especially important for young children who are 3 years of age or younger, as a result of the enhanced need for such children to have healthy and stable attachments to assist with necessary brain development. Stable and nurturing relationships in the first years of life, as well as the quality of such relationships, are integral to healthy brain development, providing a foundation for lifelong mental health and determining well-being as an adult.

The bill provides definitions for the following terms:

- "Change in physical custody," which is defined to mean a change by the DCF or the lead agency to the child's physical residential address, even when such change does not require a court order changing the legal custody of the child.
- "Multidisciplinary team," which is defined to mean an integrated group of individuals which meets to collaboratively develop and attempt to reach a consensus decision on the most suitable out-of-home placement, educational placement, or other specified important life decision that is in the best interest of the child.

The bill sets out MDT goals that are child and family focused with an emphasis of having them involved in important life changing decisions, securing a child's safety, minimizing any potential

trauma, and monitoring their strengths and needs throughout the case. The MDTs are required to adhere to the following goals:

- Secure a child's safety in the least restrictive and intrusive placement that can meet his or her needs;
- Minimize the trauma associated with separation from the child's family and help the child to maintain meaningful connections with family members and others who are important to him or her;
- Provide input into the placement decision made by the community-based care lead agency and the services to be provided in order to support the child;
- Provide input into the decision to preserve or maintain the placement, including necessary placement preservation strategies;
- Contribute to an ongoing assessment of the child and the family's strengths and needs;
- Ensure that plans are monitored for progress and that such plans are revised or updated as the child's or family's circumstances change; and
- Ensure that the child and family always remain the primary focus of each MDT staffing.

The bill provides for collaboration among diverse, qualified individuals who are part of the child's network to make the most informed decisions possible for a child. The MDT participants necessary to achieve an appropriately diverse team for a child may vary by child, but must consist of the following members:

- The child, unless he or she is not of an age or capacity to participate in the team;
- The child's family members and other individuals identified by the family as being important;
- The current caregiver;
- A representative from the DCF; and
- The case manager for the child.

The DCF or lead agency may invite additional participants depending on the stated purpose of the staffing, including, but not limited to:

- A representative from Children's Medical Services;
- A guardian ad litem, if one is appointed;
- A school personnel representative who has direct contact with the child;
- A therapist or other behavioral health professional, if applicable.
- A mental health professional with expertise in sibling bonding, if applicable; or
- Other community providers of services to the child or stakeholders, when applicable.

The bill provides that each MDT staffing must be led by a facilitator who is a trained professional who is otherwise required to attend the staffing in his or her official capacity and whose main responsibility is to help team participants use the strengths within the family to develop a safe plan for the child. The facilitator does not need to be the same person for each staffing convened in a child's case or in the service area of the designated lead agency handling a child's case.

The bill provides that the MDT staffings must be held as soon as possible before all of the following events occur or within 72 hours after an emergency situation arises as defined in s. 39.4023(2), F.S., and in accordance with s. 39.4023, F.S.:

- Initial out-of-home placement decisions;
- Changes in physical custody and appropriate mandatory transition plans in accordance with s. 39.4023, F.S.;
- Changes in a child's educational placement and mandatory transition plans in accordance with s. 39.4023, F.S.;
- Placement decisions for a child which involve sibling groups in accordance with s. 39.4024, F.S.; and
- Any other important decisions in the child's life which are so complex that the DCF or appropriate lead agency determines that it must be addressed by convening a MDT staffing to ensure the best interest of the child is maintained.

The bill codifies current law, which provides that an assessment conducted by the MDT may also use an evidence-based assessment instrument, or tool that is best suited for the child and clarifies that the instrument or tool used should be best suited for determining the specific decision of the staffing and the needs of that individual child and family. The bill requires that MDT staffing participants must, before formulating a decision, gather and consider data and information on the child which is known at the time, including, but not limited to:

- The child's age, maturity, and strengths;
- Mental, medical, behavioral health, and medication history;
- Community ties and school placement;
- The stability and longevity of the child's current placement;
- The established bonded relationship between the child and the current or proposed caregiver;
- The child's previous and current relationship with a sibling, if the change in physical custody or placement will separate or reunite siblings, evaluated in accordance with s. 39.4024, F.S.;
- The physical, mental, and emotional health benefits to the child by remaining in his or her current placement or moving to the proposed placement;
- The reasonable preference of the child, if the court has found that the child is of sufficient intelligence, understanding, and experience to express a preference;
- The recommendation of the child's current caregiver, if applicable;
- The recommendation of the child's guardian ad litem, if one has been appointed;
- The likelihood of the child attaining permanency in the current or proposed placement;
- The likelihood that the child will have to change schools or day care placement, the impact of such a change, and the parties' recommendations as to the timing of the change including an education transition plan required under s. 39.4023, F.S.;
- The disruption of continuity of care with medical, mental health, behavioral health, dental, or other treatment services the child is receiving at the time of the change of custody decision;
- The allegations of any abuse, abandonment, or neglect, including sexual abuse and trafficking history, which caused the child to be placed in out-of-home care and any history of additional allegations of abuse, abandonment, or neglect;
- The impact on activities that are important to the child, including the ability of the child to continue in such activities;
- The impact on the child's future access to education, Medicaid, and independent living benefits; and

- Any other relevant factors.⁸⁸

These factors are a consolidation of factors that are set out in current law under ss. 39.522(1)(a) and 39.523(2)(a), F.S., with one new factor and amendments to two current factors as follows:

- The factor relating to the child's previous and current relationship with a sibling, if the change in physical custody or placement will separate or reunite siblings, is amended to require that any issues regarding siblings must be evaluated in accordance with s. 39.4024, F.S.;
- A new factor is added which states the team must consider the likelihood that the child will have to change schools or day care placement, the impact of such a change, and the parties' recommendations as to the timing of the change including an education transition plan required under s. 39.4023, F.S.; and
- The factor relating to allegations of any abuse, abandonment, or neglect, including sexual abuse and trafficking history, which caused the child to be placed in out-of-home care is amended to include consideration of any history of additional allegations of abuse, abandonment, or neglect.

The bill lists specified information that must be gathered and considered by the MDTs for a decision related to a child 3 years of age or younger, and reviewed as often as necessary to ensure permanency, including:

- Identified kin and relatives who express interest in caring for the child, including strategies to overcome potential delays in placing the child with such persons if they are suitable.
- The likelihood that the child can remain with the prospective caregiver past the point of initial removal and placement with, or subsequent transition to, the caregiver and the willingness of the caregiver to provide care for any duration deemed necessary if placement is made.
- The prospective caregiver's ability and willingness to:
 - Accept supports related to early childhood development and services addressing any possible developmental delays;
 - Address the emotional needs of the child and accept infant mental health supports, if needed;
 - Help nurture the child during the transition into out-of-home care;
 - Work with the parent to build or maintain the attachment relationship between parent and child;
 - Effectively co-parent with the parent; and
 - Ensure frequent family visits and sibling visits.

The bill provides that if the staffing participants reach a consensus decision, it becomes the official position of the lead agency regarding the decision for which the MDT convened and binds all DCF and lead agency participants, who are obligated to support it. If the participants cannot reach a consensus decision, the trained professional acting as the facilitator is required to attempt to bring at least the lead agency's staff to a decision that all participants can support.

⁸⁸ Further, the bill requires that MDT staffings may not be delayed to accommodate pending behavioral health screenings or assessments or pending referrals for services.

However, if there is disagreement even among lead agency staff, the MDT may request a review of the decision from a designated, high-level administrator within the lead agency and that decision becomes the official position for the decision for which the team was convened. If the MDT cannot agree on the placement, the lead agency must determine the most appropriate placement for the child in order to achieve the goals of child safety, permanency, and well-being.

The bill provides that if a MDT staffing fails to reach a consensus decision, the facilitator must prepare and submit a written report to the court within five business days after the conclusion of the staffing that details the decision made and the positions of the MDT's participants.

The bill permits the DCF to discuss confidential information during MDT staffings in the presence of those participating. The bill requires any individuals who participate in MDT staffings to maintain the confidentiality of all information shared during the staffing.

The bill also provides that these provisions may not be construed to mean that MDT staffings coordinated by the DCF or the appropriate lead agency for purposes other than those specifically enumerated in the bill before October 1, 2021, are no longer required to be conducted or are required to be conducted in accordance with the above-mentioned criteria. The bill also requires the DCF to adopt rules.

Transitions

The bill creates s. 39.4023, F.S., establishing specific provisions for transitioning a child who is in the dependency system and specifically addressing placement transitions and education transitions. The bill provides legislative findings and intent, including, specifically:

- The Legislature finds that many children in out-of-home care have experienced multiple changes in placement, and those transitions often result in trauma not only for the child, but also for caregivers, families, siblings, and all professionals involved.
- The Legislature further finds that poorly planned and executed or improperly timed transitions may adversely impact a child's healthy development as well as the child's continuing capacity to trust, attach to others, and build relationships in the future.
- The Legislature finds that the best child welfare practices recognize the need to prioritize the minimization of the number of placements for every child in out-of-home care. Further, the Legislature finds that efforts must be made to support caregivers in order to promote stability. When placement changes are necessary, they must be thoughtfully planned.
- The Legislature finds that transition plans are critical when moving all children, including infants, toddlers, school-age children, adolescents, and young adults.
- It is the intent of the Legislature that a placement change or an educational change for a child in out-of-home care be achieved ideally through a period of transition that is unique to each child, provides support for all individuals affected by the change, and has flexible planning to allow for changes necessary to meet the needs of the child.

The bill also provides definitions for the following terms:

- "Educational change," which is defined to mean any time a child is moved between schools which is not the result of the natural transition from elementary school to middle school or middle school to high school. The term also includes changes in child care or early education programs for infants and toddlers.

- “Emergency situation,” which is defined to mean that there is an imminent risk to the health or safety of the child, other children, or others in the home or facility if the child remains in the placement.
- “Placement change,” which is defined to mean any time a child is moved from one caregiver to another, including moves to a foster home, a group home, relatives, prospective guardians, prospective adoptive parents, and reunification with parents. The term also includes moves between rooms and buildings operated by a group home provider.
- “School,” which is defined to mean any child care, early education, elementary, secondary, or postsecondary educational setting.

Placement Transitions

The bill requires the DCF or lead agency to create and implement an individualized transition plan for each child before each placement change. In order to minimize changes in placement, once a caregiver accepts responsibility of caring for a child, the child may be removed from the home of the caregiver only if:

- The caregiver is unwilling or unable to safely or legally care for the child;
- The child is reunified with the parent or legal guardian;
- The child is being placed in a legally permanent home in accordance with a case plan or court order; or
- The removal is demonstrably in the best interests of the child.

The bill requires the lead agency to provide a caregiver and a child with any necessary supportive services to stabilize the child’s current out-of-home placement if there is in danger of it needing modification. If the child is required to be removed notwithstanding the preventative services provided, the DCF or the lead agency must convene a MDT staffing before the child’s placement is changed or within 72 hours of moving the child in an emergency situation to develop an appropriate transition plan.

The bill requires the DCF or lead agency to provide notice at least 14 days before moving a child from one out-of-home placement to another, which must include the reason a placement change is necessary. It must be filed with the court, and a copy must be provided to the:

- Child, unless he or she, due to age or capacity, is unable to comprehend the written notice, which will necessitate the DCF or lead agency to provide notice in an age- and capacity-appropriate alternative manner;
- Child’s parents, unless prohibited by court order;
- Child’s out-of-home caregivers;
- Guardian ad litem, if appointed to the child; and
- Attorney for the DCF.

The bill also provides that the transition plan must be developed by the individuals required to receive notice of intent to move a child, and any relevant information must be shared and considered to ensure that the transition plan does all of the following:

- Respects the child’s developmental stage and psychological needs;
- Ensures the child has all of his or her belongings and is allowed to help pack those belongings when appropriate;

- Allows for a gradual transition from the current caregiver's home with substantial overlap between the two caregivers and provides time for the child to have a final visitation with everyone important to him or her;
- Allows, when possible, for continued contact with the previous caregiver and others in the home; and
- Prohibits a change in placement that occurs between 7 p.m. and 8 a.m.

The bill requires the DCF or the lead agency to file the transition plan with the court within 48 hours after the creation of the plan and provide a copy of the plan to the specified persons who receive notice of intent to move the child.

The bill provides for additional considerations for transitions of infants and children under school age. Placement decisions for infants and children under 5 years of age in out-of-home care must focus on promoting security and continuity. Transition plans for infants and young children must describe the facts that were considered when each of the following were discussed and specify what decision was made as to how each of the following applies to the child:

- The age of the child and the child's current ability to accomplish developmental tasks, with consideration made for whether the child is:
 - Six months of age or younger; or
 - One year to 2 years of age.
- The length of time the child has lived with the current caregiver, the strength of attachment to the current caregiver, and the harm of disrupting a healthy attachment compared to the possible advantage of a change in placement.
- The relationship, if any, the child has with the new caregiver and whether a reciprocal agreement exists between the current caregiver and the prospective caregiver to maintain the relationship with both caregivers.
- The pace of the transition and whether flexibility exists to accelerate or slow down the transition based on the needs and reactions of the child.

The bill requires the lead agency to fully inform prospective caregivers of the child's needs and circumstances and ensure that he or she is willing and able to accept responsibility for providing high-quality care for such needs and circumstances before the child is placed. The bill requires the lead agency to review the caregivers' roles and responsibilities according to the parenting partnerships plan for children in out-of-home care pursuant to s. 409.1415, F.S., the case manager must sign a copy of it, and obtain the signature of the prospective caregiver acknowledging explanation of the requirements before placement of the child.

Education Transitions

In addition to placement changes, the bill also establishes a number of provisions related to education transitions, which often occur in conjunction with a placement change, but may also be considered independently. The bill provides legislative findings, including that:

- Children in out-of-home care frequently changing child care, early education programs, and schools. These changes can occur when the child first enters out-of-home care, when the child must move from one caregiver to another, or when the child returns home upon reunification. Research shows that children who change schools frequently make less academic progress than their peers and fall further behind with each school change.

Additionally, educational instability at any level makes it difficult for children to develop supportive relationships with teachers or peers. State and federal law contain requirements that must be adhered to in order to ensure educational stability for a child in out-of-home care. A child's educational setting should only be changed when maintaining the educational setting is not in the best interest of the child.

The bill requires that the DCF and lead agency must make every effort to keep a child in his or her school of origin and that any placement decision must include thoughtful consideration of which school a child will attend if a school change is necessary. The DCF and lead agency must consult with the child, parents, caregiver, child welfare professional, guardian ad litem, and other specified individual, including but not limited to, certain school staff, to determine which school is in the child's best interest to attend. The bill requires the DCF or the lead agency to create and implement an individualized education transition plan each time a child experiences a school change.

If it is not in the child's best interest to remain in the school or program of origin, the specified individuals must consider the following relevant factors when determining the school the child will attend, including, but not limited to:

- The child's desire to remain in the school or program of origin;
- The child's parents or legal guardians' school preference;
- The child's relationship with other students or mentors the school or program of origin;
- The child's cultural and community connections in the school or program of origin;
- Whether the child is suspected of having a disability under the Individuals with Disabilities Education Act (IDEA) or s. 504 of the Rehabilitation Act of 1973, or has begun receiving interventions under this state's multi-tiered system of supports;
- Whether the child has an evaluation pending for special education and related services under IDEA or s. 504 of the Rehabilitation Act of 1973;
- Whether the child is a student with a disability under IDEA who is receiving special education and related services or a student with a disability under s. 504 of the Rehabilitation Act of 1973 who is receiving accommodations and services and, if so, whether those required services are available in a school or program other than the school or program of origin;
- Whether the child is an English Language Learner student and is receiving language services, and, if so, whether those required services are available in the proposed new school or program;
- The impact a change to the school or program of origin would have on academic credits and progress toward promotion;
- The availability of extracurricular activities important to the child;
- The child's known individualized educational plan or other medical and behavioral health needs and whether such plan or needs are able to be met at the proposed new school or program;
- The child's permanency goal and timeframe for achieving permanency;
- The child's history of school transfers and how such transfers have impacted the child academically, emotionally, and behaviorally;
- The length of the commute to the school or program and how it would impact the child; and
- The length of time the child has attended the school or program of origin.

The bill specifically provides that the cost of transportation cannot be a factor in making the best interest determination.

Transitions between Child Care and Early Education Programs.

The child must, if possible, remain with the familiar child care provider or early education program when their placement changes unless there is an opportunity to transition to a higher quality program. When this is not possible, however, the child's education transition plan must be made with the participation of the child's current and future school or program, and the plan must give the child an opportunity to say goodbye to important figures in the educational environment.

Transitions between K-12 Schools.

The bill requires that a transition plan for a school change between K-12 schools must include all of the following:

- The decision and any related details of all factors considered to change the child's school in accordance with reasons allowed for removal;
- Evidence that the DCF or lead agency has coordinated with local educational agencies to provide immediate and appropriate enrollment in a new school, including transfer of educational records, record of a school entry health examination, and arrangements for transportation to the new school;
- Discussion of the timing of the proposed school change which addresses the potential impact on the child's education and extracurricular activities;⁸⁹ and
- Information regarding transportation of the child to school.

Transition Plan Documentation

The bill requires the DCF, in collaboration with the Quality Parenting Initiative,⁹⁰ to develop a form to be completed and updated each time a child experiences a change of placement covered under s. 39.4023, F.S. The updated form must be attached to the case record face sheet required to be included in the case file pursuant to s. 39.00146(b), F.S. The form must be used statewide and, at a minimum, must include the following information:

- The membership of the MDT convened to develop a transition plan for the change in placement and the dates the team met;
- The identity of the MDT professional facilitator;
- The topics considered by the MDT; and

⁸⁹ The bill provides that education plans for this level must include, at a minimum, grading periods, exam schedules, credit acquisitions, sports eligibility, and extracurricular participation.

⁹⁰ The Quality Parenting Initiative (QPI) is a national movement for foster care change, which focusing on creating a system that gives parents the tools to provide excellent parenting every day. The QPI system requires the support and involvement of birth families, relative caregivers, foster families, young people, and others in the child welfare system. It consists of a network of states, including Florida, as well as counties and private agencies that are committed to ensuring all children in care have excellent parenting and lasting relationships so they can thrive and grow. Florida implemented this program as a pilot in 2008.

- The MDT's recommendations and the name of each individual or entity responsible for carrying out each recommendation.

The bill requires the DCF or the lead agency to document all MDT staffings and placement transition decisions in the Florida Safe Families Network (FSFN). This information must be included in the social study report for judicial review.⁹¹ The bill also provides the DCF with rulemaking authority to implement the provisions of the bill related to placement and education transitions.

Placement of Siblings

The bill creates s. 39.4024, F.S., relating to the placement of siblings and providing clarity to provisions that address placement decision of sibling groups. These provisions expand current law to highlight the importance of providing clear guidance for these children that enter out-of-home care. The bill provides legislative findings related to sibling relationships including that:

- Sibling relationships can provide a significant source of continuity throughout a child's life, are likely to be the longest relationships that individuals experience, and that healthy connections with siblings can serve as a protective factor for children who have been placed in out-of-home care.
- It is beneficial for a child who is placed in out-of-home care to be able to continue existing relationships with his or her siblings, regardless of age, so that they may share their strengths and association in their everyday and often common experiences.
- Healthy connections with siblings can serve as a protective factor for children who have been placed in out-of-home care. The Legislature finds that child protective investigators and caseworkers should be aware of the variety of demographic and external situational factors that may present challenges to placement in order to identify such factors relevant to a particular group of siblings and ensure that these factors are not the sole reason that siblings are not placed together.
- It is the responsibility of all entities and adults involved in a child's life to seek opportunities to foster existing sibling relationships to promote continuity and help to sustain family connections, including, but not limited to, the DCF, lead agencies, parents, foster parents, guardians ad litem, next of kin, and other persons important to the child.
- While there is a presumption in law and policy that it is in the best interest of a child going into foster care to be placed with any siblings the Legislature finds that overall well-being of the child and family improves when the person or team responsible for placement decisions evaluates the child's sibling and family bonds and prioritizes the bonds that are unique drivers of the child's ability to maintain and develop healthy relationships. The person or team with an understanding of the need to balance all attachment bonds of a child and the potential need to prioritize existing and healthy sibling relationships differently than a potential or unhealthy sibling relationship over a healthy existing bond with a caregiver will result in more stable and healthier placements for all children in out-of-home care.

The bill provides the following definitions that apply to the provision related to the placement of siblings:

⁹¹ The judicial review referenced is as required under s. 39.701, F.S.

- “Lead agency,” which is defined to mean a community-based care lead agency under contract with the DCF to provide care to children in foster care under ch. 409, F.S.
- “Multidisciplinary team,” which is defined to have the same meaning as provided in s. 39.4022, F.S.
- “Sibling,” which is defined to mean:
 - A child who shares a birth parent or legal parent with one or more other children;
 - A child who has lived together in a family with one or more other children whom he or she identifies as siblings.

Placement Decisions

The bill provides that the DCF is required to make reasonable efforts to place siblings who have been removed from their home and have an existing relationship in the same foster, kinship, adoptive, or guardianship home, when it is in the best interest of each sibling and when an appropriate, capable, and willing joint placement for the sibling group is available. Further, the bill provides that if a child is removed from his or her home after his or her sibling, the DCF or lead agency and the MDT must make reasonable efforts to initially place the child who has entered out-of-home care with his or her siblings in the sibling’s existing placement, provided it would not jeopardize the stability of such placement and it is in the best interest for each child.

When determining whether to move a child from a current placement to a new placement when such change is instigated by a sibling relationship, all relevant factors must be considered by the MDT to ensure that the child is best served by the decision.

The bill clarifies that the DCF and the court are not required to make an initial placement or change in placement to develop a relationship between siblings which did not exist at the time a child is placed in out-of-home care.

The bill provides a number of considerations when determining how to place a child who is a part of a sibling group. To ensure that the placement decision is appropriate as early as possible, the bill provides that the DCF or lead agency must convene a MDT staffing in accordance with s. 39.4022, F.S., at the time a child who is a part of a sibling group is removed from the home to determine and assess the sibling relationships from the perspective of each child to ensure the best placement of each child in the sibling group. The MDT must consider all relevant factors included in ss. 39.4022 and 39.4024, F.S., including, but not limited to, the existing emotional ties between and among the siblings, the degree of harm each child is likely to experience as a result of separation, and the standard protocols established by the Quality Parenting Initiative.

The bill provides provisions that detail how the DCF or lead agency must place a child in a sibling group that has an existing relationship, including:

- Requiring that if the DCF or the appropriate lead agency is able to locate a caregiver that will accept the sibling group and the MDT determines that the placement is suitable for each child, the sibling group must be placed together.
- Requiring the DCF or lead agency to make all reasonable efforts to ensure contact and visitation between siblings placed in separate out-of-home care placements and provide reviews of the placements when the DCF or appropriate lead agency is not able to locate a

caregiver or placement option that allows the sibling group to be placed together in an initial placement.

Further, if all the siblings are unable to be placed in an existing placement and the siblings do not have an existing relationship, when determining whether to move any child who is part of the sibling group from his or her current placement to a new placement that will unite the sibling group, the DCF or lead agency must consider all of the following additional factors:

- The presence and quality of current attachment relationships, including:
 - The quality and length of the attachment of the child to both the current and prospective caregiver;
 - The age of the child at placement with the current caregiver and the child's current age as well as the ages of any siblings;
 - The ease with which the child formed an attachment to the current family;
 - Any indications of attachment difficulty in the child's history; and
 - The number of moves and number of caregivers the child has experienced.
- The potential of the new caregiver to be a primary attachment figure to the sibling group by ensuring care for each child's physical needs and the willingness and availability to meet the each child's emotional needs.
- The quality of existing sibling relationships and the potential quality of sibling relationships that can be formed between the children.
- The consideration of any costs and benefits of disrupting existing emotional attachments to a primary caregiver to place children in a new placement with siblings, including:
 - The length and quality of the established and current primary attachment relationships between the siblings and between the siblings and their current caregivers; and
 - Relationships between any other siblings and whether such relationships appear adequate and not stressful or harmful.
- The ability to establish and maintain sibling visitation and contact pursuant to this section in a manner and schedule that makes sense for an infant or young child if it is determined that the infant or young child is to remain with his or her primary caregivers rather than be placed with his or her siblings.
- The ability to establish and maintain contact with the sibling and new caregiver as part of a transition plan developed in accordance with s. 39.4023, F.S., before changing the child's placement to allow the child, his or her siblings, and new caregiver to adjust and form bonds.

The bill requires that if, after considering the required provisions and factors described above, the determination is that the child would benefit from being placed with his or her siblings, the transition of the child to the new home must be carried out gradually in accordance with s. 39.4023, F.S.

The bill requires the DCF, in collaboration with the Quality Parenting Initiative, to develop standard protocols that incorporate the required provisions and factors and any other factors deemed relevant for use in making decisions about when placing siblings together would be contrary to a child's well-being or safety or decisions providing for frequent visitation and contact. These protocols will be used by the DCF and lead agency.

The Legislature finds that regular contact among a sibling group that cannot be placed together, especially among siblings with existing attachments to each other, is critical for the siblings to

maintain their existing bonds and relationships or to develop such bonds and attachments, if appropriate. The bill requires the following practices to be considered in helping to maintain or strengthen the relationships of separated siblings:

- Respect and support the child's ties to his or her birth or legal family, including parents, siblings, and extended family members, must be provided by the caregiver, and he or she must assist the child in maintaining allowable visitation and other forms of communication. The DCF and lead agency must provide a caregiver with the information, guidance, training, and support necessary for fulfilling this responsibility.
- Provide adequate support to address any caregiver concerns and to enhance the caregiver's ability to facilitate contact between siblings who are not in the same out-of-home placement and promote the benefits of sibling contact.
- Prioritize placements with kinship caregivers who have an established personal relationship with each child so that even when siblings cannot be placed together in the same home, kinship caregivers are more likely to facilitate contact.
- Prioritize placement of siblings geographically near each other, such as in the same neighborhood or school district, to make it easier for the siblings to see each other regularly.
- Encourage frequent and regular visitation, if the siblings choose to do so, to allow the children to be actively involved in each other's lives and to participate in celebrations, including, but not limited to, birthdays, graduations, holidays, school and extracurricular activities, cultural customs, and other milestones.
- Provide other forms of contact when regular in-person meetings are not possible or are not sufficient to meet the needs or desires of the siblings, such as maintaining frequent contact through letters, e-mail, social media, cards, or telephone calls.
- Coordinate, when possible, joint outings or summer or weekend camp experiences to facilitate time together, including, but not limited to, activities or camps specifically designed for siblings in out-of-home care.
- Encourage joint respite care to assist the caregivers who are caring for separated siblings to have needed breaks while also facilitating contact among the siblings, including, but not limited to, providing babysitting or respite care for each other.
- Prohibit the withholding communication or visitation among the siblings as a form of punishment.

The bill authorizes the court to limit or restrict communication or visitation upon a finding by clear and convincing evidence that the communication or visitation is harmful to the child. If the court makes such a finding, it must direct the DCF or lead agency to immediately provide services to ameliorate the harm so that communication and visitation may be restored as soon as possible.

The bill requires the DCF and the lead agency to periodically, but at least once every 6 months, reassess sibling placement, visitation, and other sibling contact decisions in cases where siblings are separated, not visiting, or not maintaining contact to determine if a change in placement is warranted unless the decision to not place a child with his or her sibling group was made due to such placement being inappropriate, unhealthy, or unsafe for the child.

Further, the bill requires the lead agency to provide services to the caregiver and sibling group in accordance with s. 39.4023(3), F.S., to try to prevent the disruption of a placement if a child in a

sibling group who has been placed in an out-of-home care placement with his or her siblings does not adjust to the placement. However, if after reasonable efforts are made under s. 39.4023(3), F.S., the child still has not adjusted to the out-of-home placement, a MDT staffing must be convened to determine what is best for all of the children. The MDT is required to review the current placement of the sibling group and choose a plan that will be least detrimental to each child. The MDT must develop a transition plan in accordance with ss. 39.4022 and 39.4023, F.S., if the decision is to move the child to ensure the opportunity for the siblings to maintain contact.

The DCF or lead agency must convene a MDT staffing within a reasonable amount of time after the discovery of such sibling to decide if the current placement or permanency plan requires modification if it becomes known that a child in out-of-home care has a sibling of whom the child, DCF, or lead agency was previously unaware.

The bill provides a number of other provisions related to a child and his or her siblings including:

- Requiring the DCF to promptly provide a child with the location of and contact information for his or her siblings and must make reasonable efforts to ascertain such information if the existence or location of or contact information for a child's siblings is not known.
- Providing that a child has a right to continued communication with his or her sibling if the child's sibling is also in out-of-home care and such sibling leaves out-of-home care for any reason, including, but not limited to, emancipation, adoption, or reunification with his or her parent or guardian.
- Requiring the DCF or the lead agency to document in writing any decision to separate siblings in the case file as required in s. 39.00146, F.S., and document the decision in the FSFN, including any efforts made to keep the siblings together, an assessment of the short-term and long-term effects of separation on each child and the sibling group as a whole, and a description of the plan for communication or contact between the children if separation is approved.

The bill requires the DCF to adopt rules to implement this section of the bill.

Postdisposition Change of Custody

A MDT staffing must be convened to try to reach a consensus on a postdisposition change of placement under s. 39.522, F.S. If any party or the caregiver denies the change of physical custody, the court must have an evidentiary hearing and consider the factors listed in s. 39.4022, F.S.;⁹² the report filed by the MDT team, if applicable; and the priority of placements established under s. 39.4021, F.S., discussed above.

The bill creates a rebuttable presumption that it is in the child's best interest to remain permanently in his or her current physical placement if:

- The child has been in the same safe and stable placement for 9 consecutive months or more;
- Reunification is not a permanency option for the child;
- The caregiver is able, willing, and eligible for consideration as an adoptive parent or permanent custodian for the child;

⁹² This is an expanded list of factors that includes, in part, those currently listed in s. 39.523, F.S.

- The caregiver is not requesting the change in physical placement; and
- The change in physical placement being sought is not to reunify the child with his or her parent or sibling or transition the child from a safe and stable nonrelative caregiver to a safe and stable relative caregiver.

The bill defines “change of physical custody” to mean a change by the DCF or lead agency to the child’s physical residential address even when such change does not require a court order to change the legal custody of the child.

The court must consider competent and substantial evidence and testimony at an evidentiary hearing, related to the factors enumerated in s. 39.4022, F.S., expert evidence in the science and research of child-parent bonding and attachment, and any other evidence deemed relevant to a determination of placement. The presumption may not be rebutted solely by the expressed wishes of a biological parent, a biological relative, or a caregiver of a sibling of the child.

The bill also provides that a current caregiver who has had physical custody of a child for at least 9 consecutive months and who meets all the required criteria in the section is required to be notified by the DCF or lead agency of an intent to change the physical custody of the child at least 21 days before the desired date for transitioning the child to the new physical custody placement. A caregiver may notify the court and the DCF or lead agency of any objection to the change in physical custody and the intent to request an evidentiary hearing in writing as soon as possible after receiving notice from the DCF or the lead agency, but no later than 5 days before the desired date for transitioning the child to the new physical custody placement.

The child’s placement must not be changed without a court order once the DCF or the lead agency receives written notice of the caregiver’s objection.

The court must conduct an initial case status hearing within 7 days after receiving written notice from the caregiver, at which time the court must:

- Grant party status to the current caregiver who is seeking permanent custody and has maintained physical custody of that child for at least 9 continuous months;
- Appoint a lawyer for the child who is the subject of the permanent custody proceeding;
- Advise the caregiver of his or her right to retain counsel for purposes of the evidentiary hearing; and
- Appoint a court-selected neutral and independent expert in the science and research of child-parent bonding and attachment.

The bill requires that no later than 90 days from the date the caregiver provides written notice of objection to the court, it must conduct an evidentiary hearing and provide a written order of its findings regarding the placement that is in the best interest of the child. A copy of the order must be provided to all parties and the current caregiver and prospective caregiver. If the court decides that the child’s placement will be modified from his or her current caregiver after an evidentiary hearing, the DCF or lead agency must provide an appropriate transition plan in accordance with s. 39.4023, F.S.

As noted above, the bill amends s. 39.523, F.S., removing the list of factors that the MDT must gather and consider at staffings to assess postdisposition change of placement, and cross-

references s. 39.4022, F.S., which is one of the new sections which consolidated these factors with other factors in s. 39.522, F.S., to create one comprehensive list to consider when determining what is in a child's best interest.

Case Record Face Sheet

The bill creates s. 39.00146, F.S., implementing the use of a case record sheet with all child welfare cases in Florida. To achieve this goal, the bill provides definitions for the following terms: "multidisciplinary team," "placement change," "school," and "sibling".

The bill requires that the case record of every child under the supervision or in the custody of the DCF, the DCF's agents, or providers contracting with the DCF, including lead agencies and their subcontracted providers, must include a face sheet containing relevant information about the child and his or her case, including at least all of the following:

- General case information, including, but not limited to:
 - The child's name and date of birth;
 - The current county of residence and the county of residence at the time of the referral;
 - The reason for the referral and any family safety concerns;
 - The personal identifying information of the parents or legal custodians who had custody of the child at the time of the referral, including name, date of birth, and county of residence;
 - The date of removal from the home; and
 - The name and contact information of the attorney or attorneys assigned to the case in all capacities, including the attorney or attorneys that represent the DCF and the parents, and the guardian ad litem, if appointed to the child.
- The name and contact information for any employees of the DCF, the DCF's authorized agents, or providers contracting with the DCF, including lead agencies and their subcontracted providers, who have worked with the child, including the child's current and previous case managers, and the supervisor information for such employees.
- The personal information of relevant family members and other fictive kin, including, but not limited to, the name and contact information of:
 - The child's parents;
 - The child's siblings, including the location of the current out-of-home placement, if applicable;
 - The child's current caregivers and any previous out-of-home placements;
 - Any other caretaking adults; and
 - All children in the out-of-home placement, if applicable.
- A description of any threats of danger placing the child at imminent risk of removal.
- A description of individual parent or caregiver concerns for the child.
- Any concerns that exist regarding the parent or the current caregiver's ability to:
 - Engage or bond with the child if the child is an infant;
 - Structure daily activities that stimulate the child;
 - Manage the child's behavior;
 - Maintain a safe home; or
 - Make good health decisions for the child.
- Any transitions in placement the child has experienced since the child's initial placement and a description of how such transitions were accomplished in accordance with s. 39.4023, F.S.

- If the child has any siblings and they are not placed in the same out-of-home placement, the reasons the children are not in joint placement and the reasonable efforts that the DCF or appropriate lead agency will make to provide frequent visitation or other ongoing interaction between the siblings, unless the court determines that the interaction would be contrary to a sibling's safety or well-being in accordance s. 39.4024, F.S.
- Information pertaining to recent and upcoming court hearings, including, but not limited to, the date, subject matter, and county of court jurisdiction of the most recent and next scheduled court hearing.
- Any other relevant information.

The bill requires the DCF, the DCF's authorized agents, or providers contracting with the DCF, including lead agencies and their subcontracted providers, to ensure that the face sheet for each case is updated at least once per month. The DCF must obtain updated information from any case service providers working on the case.

The bill provides the DCF with rulemaking authority to implement provisions relating to case record face sheets.

The bill is effective October 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill requires the DCF or lead agency to develop a transition plan for each placement change that occurs. The DCF states that this requirement will impact the lead agencies. The DCF states that, according to the Florida Safe Families Network (FSFN) data, there were 22,705 placement changes in FY 2019-2020 where a child moved from one caregiver to another, including moves to a relative, nonrelative, foster home, group home, and reunification with a parent. The data currently collected in FSFN does not include moves between rooms or buildings operated by group homes for which the DCF would also be required to develop a transition plan. The DCF states that it typically requires a case manager on average 8 hours to develop a transition plan that includes the components and consultation with the interested persons outlined in the bill. The DCF further provides that this provision will require at least 98 new case management positions, with a total need for salary, expenses, and travel anticipated to be \$8,093,428 (\$7,657,524 in recurring and \$435,904 in nonrecurring funds).⁹³

C. Government Sector Impact:

The DCF states in the agency analysis dated February 19, 2021, that CS/SB 80 will have a significant negative fiscal impact on state government and the private sector related to the multidisciplinary teams and transition plans. Specifically, the DCF states that to fulfill the requirements of the teams, it needs at least 174 FTEs to serve as a team facilitator to lead a meeting each time there is a placement change and on an annual basis in conjunction with the child's permanency hearing. The total cost for the anticipated FTEs cited in that analysis is \$14,313,442 (\$13,539,490 in recurring and \$773,952 in nonrecurring funds).⁹⁴ Further, the DCF stated that the bill would require a mental health professional with expertise in sibling bonding to be included in a team meeting convened to decide the placement of a sibling group. The DCF estimates that this requirement would result in additional expenditures to the DCF of \$1,653,000 for staffings and court testimony.⁹⁵ However, CS/SB 80 removed the requirement for mental health expertise and made it permissive, which should alter the department's fiscal analysis.

Although CS/SB 80 substantially amended several provisions, including, in part, to clarify that the MDTs are intended to operate in a substantially similar manner as is provided for under current law, the DCF contends that the bill will have a significant negative fiscal impact on state government and the private sector.

Further, it should be noted that the DCF has provided supplemental information to Senate professional staff that there are a number of MDT staffings currently being conducted by the DCF or lead agency that involve a similar structure for the participant members and provide for a similar purpose. In light of this supplemental information, additional

⁹³ Department of Children and Families (DCF), *CS/SB 80 Fiscal Analysis* (February. 19, 2021) (on file with the Senate Appropriations Committee).

⁹⁴ *Id.*

⁹⁵ *Id.*

information will need to be gathered from the DCF to ensure that FTE and expenditure needs provided by the DCF are appropriate to implement the bill requirements.⁹⁶

Lastly, the DCF provides that the bill is expected to require significant changes to the FSFN system to support data currently not in FSFN and the development of web services to provide the data required for the case record face sheet. The DCF also anticipates a recurring cost to use an external provider solution to maintain the Face Sheet program capability. The DCF contends that the estimated cost for the FSFN changes, web services, and external provider solution will range between \$1,430,500 and \$2,284,000. The DCF also notes that additional portal functionality requirements may affect costs.⁹⁷

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 39.401, 39.402, 39.522, 39.523, and 39.806.

This bill creates the following sections of the Florida Statutes: 39.00146, 39.4021, 39.4022, 39.4023, and 39.4024.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Children, Families, and Elder Affairs on February 16, 2021:

The committee substitute:

- Requires the DCF and lead agencies to develop a “FACE sheet”, which must include minimum information related to the child’s case to be kept in the dependency case file as a quick reference resource.
- Requires the DCF and the lead agencies to update the FACE sheet at least once a month.
- Provides legislative findings and intent related to priority placements for children in out-of-home care.
- Expands and relocates the list of persons that should be considered as priority placements for these children and ensure this priority list applies to initial and for all subsequent removals.

⁹⁶ See The DCF Supplemental Information.

⁹⁷ DCF, *CS/SB 80 Fiscal Analysis*, p. 18-20.

- Relocates and expands existing MDT teams to ensure better decisions for the child through engaging with families and other important individuals.
- Provides legislative intent for MDT, staffings, and assessments and provide a definition for the term “multidisciplinary team”.
- Enumerates circumstances when the MDT must be convened within specified timeframes, including to consider placement decisions, transitions and transition plans, and sibling placements.
- Specifies the participants that must be invited and provide authority for the DCF or lead agency to invite other relevant participants and requires the MDT staffing to be led by a facilitator who is a person otherwise required to attend the staffing.
- Requires MDT staffing participants to gather and consider data and information on the child before formulating a decision.
- Requires MDTs to conduct supplemental assessments for children under age 3, including specified additional data to collect and factors to consider when making decision relating to such children.
- Requires that a consensus decision reached by the MDT becomes the official position and that specified parties are bound by such consensus decision, provides procedures for when the MDT does not reach a consensus decision, and requires the facilitator to file a report with the court providing specified information within a certain time frame.
- Requires the lead agency to determine a suitable placement if the MDT cannot come to a consensus decision.
- Authorizes specified parties to discuss confidential information during a team staffing in the presence of participating individuals and provides that information collected by any agency or entity that participates in a MDT staffing which is confidential and exempt upon collection remains confidential and exempt when discussed in staffings.
- Provides legislative findings and intent related to changes in placement and defines the terms “educational change”, “emergency situation”, “placement change”, and “school”.
- Requires the DCF and lead agency to convene the MDT to develop transition plans for placement changes and education transitions that focus minimizing the impact on the child within specified time frames for emergency versus nonemergency circumstances.
- Requires the lead agencies to provide services to a caregiver intended to try and prevents a placement disruption prior to convening the MDT to develop a transition plan.
- Clarifies that a child may be removed from his or her home in an emergency without convening the MDT for transition plan development prior to removal.
- Provides that the transition plans address specialized concerns, including additional specified factors, which include consideration of additional specified factors for children that are younger than 3 years of age.
- Requires the DCF and lead agency to consider certain factors when determining the best education placement for a child and provides additional considerations for transitions of early education or programs versus K-12 education schools.

- Requires that prospective caregivers are prepared for accepting the child who is being transitioned to their home, including providing information on the child and the transition plan.
- Requires the DCF to develop a form related to transition plans in collaboration with the Quality Parenting Initiative (QPI) to be attached to the FACE sheet.
- Provides legislative findings related to siblings in out-of-home care and define the terms “multidisciplinary team”, “lead agency”, and “sibling”.
- Specifies how the DCF and the lead agencies must handle changes in placement and educational settings and transitions of sibling groups throughout the dependency process.
- Requires that the DCF must make reasonable efforts to place sibling groups together when they are removed at the same time from the same home and on an initial placement of a child who enters out-of-home care later than his or her siblings if it won’t disrupt the placement and provides that the DCF and the court are not required to make an initial placement or change of placement to develop a sibling bond that does not exist.
- Requires the DCF or lead agency to convene a MDT staffing to make a decision regarding placements of sibling groups and establishes specified criteria for the DCF or lead agency to consider when determining initial placement and for the court to consider when a change of placement is sought for sibling groups that have certain existing relationships as well as additional factors for consideration when the siblings may not have an existing relationship.
- Provides specified factors to consider when determining placement of a child who is part of a sibling group and is younger than 3 years of age.
- Requires the DCF, in collaboration with the Quality Parenting Initiative, to develop standard protocols for the DCF and lead agency for use in making specified decisions about child placement.
- Provides for the contact and visitation between siblings who are not placed together in out-of-home care that will assist the siblings with continuing established relationships or possibly developing a relationship.
- Requires subsequent reviews by the MDT for sibling groups when a child does not adjust to a placement with his or her siblings after certain services are offered or in the event a sibling group is not placed together.
- Creates a rebuttable presumption that in specified cases the best interest of the child is to continue the current placement and require the court to conduct an evidentiary hearing to determine the best placement.
- Requires the caregiver, in response to receiving written notice of the DCF or lead agency’s intent to change a placement, to file written notice to the court and the DCF requesting the evidentiary hearing.
- Requires the court to hold the initial status hearing and conduct the evidentiary hearing within specified timeframes and prohibits the DCF from moving the child until a court order states to do so.
- Requires the court to appoint an attorney for the child and an expert in attachment and bonding and authorizes the caregiver to retain counsel.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By the Committee on Children, Families, and Elder Affairs; and
Senators Brodeur and Albritton

586-02155-21

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1 A bill to be entitled
2 An act relating to child welfare; creating s.
3 39.00146, F.S.; defining terms; requiring the case
4 record of every child under the supervision or in the
5 custody of the Department of Children and Families,
6 the department's agents, or providers contracting with
7 the department to include a case record face sheet;
8 specifying information required to be included in the
9 case record face sheet; requiring the department, the
10 department's agents, and providers contracting with
11 the department to update the case record face sheet
12 monthly; requiring the department to adopt rules;
13 amending s. 39.401, F.S.; requiring the department to
14 determine out-of-home placement based on priority of
15 placements and other factors; amending s. 39.402,
16 F.S.; requiring the department to make reasonable
17 efforts to place a child in out-of-home care based on
18 priority of placements; providing exceptions and other
19 criteria; creating s. 39.4021, F.S.; providing
20 legislative findings; establishing certain placement
21 priorities for out-of-home placements; requiring the
22 department or lead agency to place sibling groups
23 together when possible if in the best interest of each
24 child after considering specified factors; providing
25 construction; creating s. 39.4022, F.S.; providing
26 legislative intent; defining terms; requiring that
27 multidisciplinary teams be established for certain
28 purposes; providing goals for such teams; providing
29 for membership of multidisciplinary team staffings;

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30 authorizing the department or lead agency to invite
31 other participants to attend a team staffing under
32 certain circumstances; providing requirements for
33 multidisciplinary team staffings; requiring that team
34 staffings be held when specified decisions regarding a
35 child must be made; requiring team staffing
36 participants to gather and consider data and
37 information on the child before formulating a
38 decision; providing for the use of an evidence-based
39 assessment instrument or tool; requiring
40 multidisciplinary teams to conduct supplemental
41 assessments for certain children; requiring team
42 participants to gather certain information related to
43 the child for such supplemental assessments; requiring
44 that a consensus decision reached by the team becomes
45 the official position and that specified parties are
46 bound by such consensus decision; providing procedures
47 for when the team does not reach a consensus decision;
48 requiring that the lead agency determine a suitable
49 placement if the team cannot come to a consensus
50 decision; requiring the formation of a team within
51 specified timeframes; requiring the facilitator to
52 file a report with the court within a specified
53 timeframe if the team does not reach a consensus
54 decision; providing requirements for the report;
55 authorizing specified parties to discuss confidential
56 information during a team staffing in the presence of
57 participating individuals; providing that information
58 collected by any agency or entity that participates in

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59 a staffing which is confidential and exempt upon
60 collection remains confidential and exempt when
61 discussed in staffings; requiring individuals who
62 participate in a staffing to maintain the
63 confidentiality of all information shared; providing
64 construction; requiring the department to adopt rules;
65 creating s. 39.4023, F.S.; providing legislative
66 findings and intent; defining terms; providing for the
67 creation of transition plans for specified changes in
68 placement; providing conditions under which a child
69 may be removed from a caregiver's home; requiring
70 community-based care lead agencies to provide services
71 to prevent a change in placement; requiring the
72 department and a community-based care lead agency to
73 convene a multidisciplinary team staffing to develop a
74 transition plan under certain circumstances; requiring
75 the department or community-based care lead agency to
76 provide written notice of a planned placement change;
77 providing requirements for the notice; requiring
78 additional considerations for placement changes for
79 infants and young children; providing findings;
80 providing for determinations to be made to minimize
81 changes in school placements; specifying factors that
82 must be considered when selecting a new school for a
83 child; requiring children who enter out-of-home care
84 or undergo changes in placement to remain with
85 familiar child care providers or early education
86 programs, if possible; providing requirements for
87 transition plans for transitions between K-12 schools;

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88 requiring the department, in collaboration with the
89 Quality Parenting Initiative, to develop a form for a
90 specified purpose; specifying requirements for the
91 form; requiring the department and community-based
92 care lead agencies to document multidisciplinary team
93 staffings and placement transition decisions in the
94 Florida Safe Families Network and include such
95 information in the social study report for judicial
96 review; requiring the department to adopt rules;
97 creating s. 39.4024, F.S.; providing legislative
98 findings; defining terms; requiring the department or
99 lead agency to make reasonable efforts to place
100 siblings in the same foster, kinship, adoptive, or
101 guardianship home when certain conditions are met;
102 requiring the department or lead agency and
103 multidisciplinary team to take certain actions when
104 siblings are not placed together; specifying that the
105 department and court are not required to make a
106 placement or change in placement to develop certain
107 sibling relationships; requiring the department or the
108 lead agency to convene a multidisciplinary team
109 staffing to determine and assess sibling relationships
110 when a child is removed from a home; providing for the
111 placement of sibling groups in certain circumstances;
112 specifying factors for the multidisciplinary team to
113 consider when determining placement or change of
114 placement for children in sibling groups who do not
115 have an existing relationship with siblings; requiring
116 that a child's transition to a new home be carried out

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117 gradually when it is determined that the child would
 118 benefit from being placed with siblings; requiring the
 119 department, in collaboration with the Quality
 120 Parenting Initiative, to develop standard protocols
 121 for the department and lead agency for use in making
 122 specified decisions about child placement; providing
 123 considerations for maintaining contact between
 124 siblings when separated; providing duties for
 125 caregivers; authorizing the court to limit and
 126 restrict communication and visitation upon a finding
 127 of clear and convincing evidence that such
 128 communication or visitation is harmful to the child;
 129 requiring the department and community-based care lead
 130 agencies to periodically reassess certain sibling
 131 placements in certain instances; requiring the
 132 department to provide certain services to prevent
 133 disruption in a placement when a child does not adjust
 134 to such placement; requiring that a multidisciplinary
 135 team staffing is convened when one child does not
 136 adjust to placement as a sibling group under certain
 137 conditions; requiring the team to review such
 138 placement and choose a plan least detrimental to each
 139 child; requiring that a multidisciplinary team be
 140 convened in certain circumstances where the department
 141 or child subsequently identify a sibling; requiring
 142 the department to provide children with specified
 143 information relating to their siblings; requiring the
 144 department to make reasonable efforts to ascertain
 145 such information if it is not known; providing that a

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146 child has a right to continued communication with a
 147 sibling when the child's sibling is also in out-of-
 148 home care and such sibling leaves out-of-home care for
 149 any reason; requiring the department and lead agencies
 150 to document in writing decisions to separate siblings
 151 in case files and the Florida Safe Families Network;
 152 specifying requirements for such documentation;
 153 requiring the department to adopt rules; amending s.
 154 39.522, F.S.; deleting and relocating criteria for the
 155 court to consider when determining whether a legal
 156 change of custody is in the best interest of the
 157 child; defining the term "change in physical custody";
 158 providing a rebuttable presumption that the best
 159 interest of a child is to remain in a current
 160 placement; providing applicability for such
 161 presumption; establishing the manner in which to rebut
 162 the presumption; requiring the department or lead
 163 agency to notify a caregiver within a specified
 164 timeframe of the intent to move a child; requiring the
 165 caregiver to provide written notice of objection to
 166 such move within a specified time frame; requiring the
 167 court to conduct an initial status hearing within a
 168 specified timeframe upon receiving specified written
 169 notice from a caregiver; prohibiting the department or
 170 lead agency from moving a child upon receiving
 171 specified written notice from a caregiver; providing
 172 for the appointment of an attorney for a child;
 173 providing for the appointment of an expert; providing
 174 deadlines for an evidentiary hearing; amending s.

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175 39.523, F.S.; requiring the department or lead agency
 176 to coordinate a multidisciplinary team staffing for
 177 specified purposes; requiring, rather than
 178 authorizing, the department to create rules; amending
 179 s. 39.806, F.S.; conforming a cross-reference;
 180 providing an effective date.

181
 182 Be It Enacted by the Legislature of the State of Florida:

183

184 Section 1. Section 39.00146, Florida Statutes, is created
 185 to read:

186 39.00146 Case record face sheet.-

187 (1) As used in this section, the term:

188 (a) "Multidisciplinary team" has the same meaning as
 189 provided in s. 39.4022(2).

190 (b) "Placement change" has the same meaning as provided in
 191 s. 39.4023(2).

192 (c) "School" has the same meaning as in s. 39.4023(2).

193 (d) "Sibling" has the same meaning as in s. 39.4024(2).

194 (2) The case record of every child under the supervision or
 195 in the custody of the department or the department's authorized
 196 agents, including community-based care lead agencies and their
 197 subcontracted providers, must include a face sheet containing
 198 relevant information about the child and his or her case,
 199 including at least all of the following:

200 (a) General case information, including, but not limited
 201 to:

202 1. The child's name and date of birth;

203 2. The current county of residence and the county of

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204 residence at the time of the referral;

205 3. The reason for the referral and any family safety
 206 concerns;

207 4. The personal identifying information of the parents or
 208 legal custodians who had custody of the child at the time of the
 209 referral, including name, date of birth, and county of
 210 residence;

211 5. The date of removal from the home; and

212 6. The name and contact information of the attorney or
 213 attorneys assigned to the case in all capacities, including the
 214 attorney or attorneys that represent the department and the
 215 parents, and the guardian ad litem, if one has been appointed.

216 (b) The name and contact information for any employees of
 217 the department, the department's authorized agents, or providers
 218 contracting with the department, including community-based care
 219 lead agencies and their subcontracted service providers, who
 220 have worked with the child, including the child's current and
 221 previous case managers, and the supervisor information for such
 222 employees.

223 (c) The personal information of relevant family members and
 224 other fictive kin, including, but not limited to, the name and
 225 contact information of:

226 1. The child's parents;

227 2. The child's siblings, including the location of their
 228 current out-of-home placement, if applicable;

229 3. The child's current caregivers and any previous out-of-
 230 home placements;

231 4. Any other caretaking adults; and

232 5. All children in the out-of-home placement, if

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233 applicable.234 (d) A description of any threats of danger placing the
235 child at imminent risk of removal.236 (e) A description of individual parent or caregiver
237 concerns for the child.238 (f) Any concerns that exist regarding the parent or the
239 current caregiver's ability to:240 1. Maintain a safe home;241 2. Engage or bond with the child if the child is an infant;242 3. Structure daily activities that stimulate the child;243 4. Manage the child's behavior; or244 5. Make good health decisions for the child.245 (g) Any transitions in placement the child has experienced
246 since the child's initial placement and a description of how
247 such transitions were accomplished in accordance with s.
248 39.4023.249 (h) If the child has any siblings and they are not placed
250 in the same out-of-home placement, the reasons the children are
251 not in joint placement and the reasonable efforts that the
252 department or appropriate lead agency will make to provide
253 frequent visitation or other ongoing interaction between the
254 siblings, unless the court determines that the interaction would
255 be contrary to a sibling's safety or well-being in accordance s.
256 39.4024.257 (i) Information pertaining to recent and upcoming court
258 hearings, including, but not limited to, the date, subject
259 matter, and county of court jurisdiction of the most recent and
260 next scheduled court hearing.261 (j) Any other information the department, the department's

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262 authorized agents, or providers contracting with the department,
263 including community-based care lead agencies deem relevant.264 (3) The department, the department's authorized agents, or
265 providers contracting with the department, including community-
266 based care lead agencies, must ensure that the face sheet for
267 each case is updated at least once per month. This requirement
268 includes ensuring that the department, its authorized agents, or
269 providers contracting with the department gather any relevant
270 information from any subcontracted providers who provide
271 services for the case record information required to be included
272 under this section.273 (4) The department shall adopt rules to implement this
274 section.275 Section 2. Subsection (3) of section 39.401, Florida
276 Statutes, is amended to read:277 39.401 Taking a child alleged to be dependent into custody;
278 law enforcement officers and authorized agents of the
279 department.—280 (3) If the child is taken into custody by, or is delivered
281 to, an authorized agent of the department, the agent shall
282 review the facts supporting the removal with an attorney
283 representing the department. The purpose of the review is to
284 determine whether there is probable cause for the filing of a
285 shelter petition.286 (a) If the facts are not sufficient, the child shall
287 immediately be returned to the custody of the parent or legal
288 custodian.289 (b) If the facts are sufficient and the child has not been
290 returned to the custody of the parent or legal custodian, the

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291 department shall file the petition and schedule a hearing, and
 292 the attorney representing the department shall request that a
 293 shelter hearing be held within 24 hours after the removal of the
 294 child.

295 (c) While awaiting the shelter hearing, the authorized
 296 agent of the department may place the child in out-of-home care,
 297 and placement shall be determined based on priority of
 298 placements as provided in s. 39.4021 and what is in the child's
 299 best interest based on the criteria and factors set out in s.
 300 39.4022 licensed shelter care or may release the child to a
 301 parent or legal custodian or responsible adult relative or the
 302 adoptive parent of the child's sibling who shall be given
 303 priority consideration over a licensed placement, or a
 304 responsible adult approved by the department if this is in the
 305 best interests of the child.

306 (d) Placement of a child which is not in a licensed shelter
 307 must be preceded by a criminal history records check as required
 308 under s. 39.0138.

309 (e) In addition, the department may authorize placement of
 310 a housekeeper/homemaker in the home of a child alleged to be
 311 dependent until the parent or legal custodian assumes care of
 312 the child.

313 Section 3. Paragraph (h) of subsection (8) of section
 314 39.402, Florida Statutes, is amended to read:

315 39.402 Placement in a shelter.—

316 (8)

317 (h) The order for placement of a child in shelter care must
 318 identify the parties present at the hearing and must contain
 319 written findings:

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320 1. That placement in shelter care is necessary based on the
 321 criteria in subsections (1) and (2).

322 2. That placement in shelter care is in the best interest
 323 of the child.

324 3. That continuation of the child in the home is contrary
 325 to the welfare of the child because the home situation presents
 326 a substantial and immediate danger to the child's physical,
 327 mental, or emotional health or safety which cannot be mitigated
 328 by the provision of preventive services.

329 4. That based upon the allegations of the petition for
 330 placement in shelter care, there is probable cause to believe
 331 that the child is dependent or that the court needs additional
 332 time, which may not exceed 72 hours, in which to obtain and
 333 review documents pertaining to the family in order to
 334 appropriately determine the risk to the child.

335 5. That the department has made reasonable efforts to
 336 prevent or eliminate the need for removal of the child from the
 337 home. A finding of reasonable effort by the department to
 338 prevent or eliminate the need for removal may be made and the
 339 department is deemed to have made reasonable efforts to prevent
 340 or eliminate the need for removal if:

341 a. The first contact of the department with the family
 342 occurs during an emergency;

343 b. The appraisal of the home situation by the department
 344 indicates that the home situation presents a substantial and
 345 immediate danger to the child's physical, mental, or emotional
 346 health or safety which cannot be mitigated by the provision of
 347 preventive services;

348 c. The child cannot safely remain at home, either because

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349 there are no preventive services that can ensure the health and
350 safety of the child or because, even with appropriate and
351 available services being provided, the health and safety of the
352 child cannot be ensured; or

353 d. The parent or legal custodian is alleged to have
354 committed any of the acts listed as grounds for expedited
355 termination of parental rights in s. 39.806(1)(f)-(i).

356 6. That the department has made reasonable efforts to place
357 the child in order of priority as provided in s. 39.4021 unless
358 such priority placement is not a placement option or in the best
359 interest of the child based on the criteria and factors set out
360 in s. 39.4022.

361 7. That the department has made reasonable efforts to keep
362 siblings together if they are removed and placed in out-of-home
363 care unless such placement is not in the best interest of each
364 child. It is preferred that siblings be kept together in a
365 foster home, if available. Other reasonable efforts shall
366 include short-term placement in a group home with the ability to
367 accommodate sibling groups if such a placement is available. The
368 department shall report to the court its efforts to place
369 siblings together unless the court finds that such placement is
370 not in the best interest of a child or his or her sibling.

371 ~~8.7.~~ That the court notified the parents, relatives that
372 are providing out-of-home care for the child, or legal
373 custodians of the time, date, and location of the next
374 dependency hearing and of the importance of the active
375 participation of the parents, relatives that are providing out-
376 of-home care for the child, or legal custodians in all
377 proceedings and hearings.

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378 ~~9.8.~~ That the court notified the parents or legal
379 custodians of their right to counsel to represent them at the
380 shelter hearing and at each subsequent hearing or proceeding,
381 and the right of the parents to appointed counsel, pursuant to
382 the procedures set forth in s. 39.013.

383 ~~10.9.~~ That the court notified relatives who are providing
384 out-of-home care for a child as a result of the shelter petition
385 being granted that they have the right to attend all subsequent
386 hearings, to submit reports to the court, and to speak to the
387 court regarding the child, if they so desire.

388 ~~11.10.~~ That the department has placement and care
389 responsibility for any child who is not placed in the care of a
390 parent at the conclusion of the shelter hearing.

391 Section 4. Section 39.4021, Florida Statutes, is created to
392 read:

393 39.4021 Priority placement for out-of-home placements.—

394 (1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds
395 that it is a basic tenet of child welfare practice and the law
396 that a child be placed in the least restrictive, most family-
397 like setting available in close proximity to the home of his or
398 her parents which meets the needs of the child, and that a child
399 be placed in a permanent home in a timely manner.

400 (2) PLACEMENT PRIORITY.—

401 (a) When a child cannot safely remain at home with a
402 parent, out-of-home placement options must be considered in the
403 following order:

404 1. Non-offending parent.

405 2. Relative caregiver.

406 3. Adoptive parent of the child's sibling.

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407 4. Fictive kin, with a close existing relationship to the
 408 child.

409 5. Licensed foster care.

410 6. Group or congregate care.

411 (b) Sibling groups must be placed in the same placement
 412 whenever possible and if placement together is in the best
 413 interest of each of child in the sibling group. Placement
 414 decisions for sibling groups must be made pursuant to ss.
 415 39.4022 and 39.4024.

416 (c) Except as otherwise provided for in this chapter, a
 417 change to a child's physical or legal placement after the child
 418 has been sheltered but before the child has achieved permanency
 419 must be made in compliance with this section.

420 Section 5. Section 39.4022, Florida Statutes, is created to
 421 read:

422 39.4022 Multidisciplinary teams; staffings; assessments;
 423 report.—

424 (1) LEGISLATIVE INTENT.—

425 (a) The Legislature finds that services for children and
 426 families are most effective when delivered in the context of a
 427 single integrated multidisciplinary team staffing that includes
 428 the child, his or her family, natural and community supports,
 429 and professionals who join together to empower, motivate, and
 430 strengthen a family and collaboratively develop a plan of care
 431 and protection to achieve child safety, child permanency, and
 432 child and family well-being.

433 (b) The Legislature also finds that effective assessment
 434 through an integrated multidisciplinary team is particularly
 435 important for children who are vulnerable due to existing

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436 histories of trauma which led to the child's entrance into the
 437 child welfare system. This assessment is especially important
 438 for young children who are 3 years of age or younger, as a
 439 result of the enhanced need for such children to have healthy
 440 and stable attachments to assist with necessary brain
 441 development. Stable and nurturing relationships in the first
 442 years of life, as well as the quality of such relationships, are
 443 integral to healthy brain development, providing a foundation
 444 for lifelong mental health and determining well-being as an
 445 adult.

446 (2) DEFINITIONS.—For purposes of this section, the term:

447 (a) "Change in physical custody" means a change by the
 448 department or the community-based care lead agency to the
 449 child's physical residential address, even when such change does
 450 not require a court order changing the legal custody of the
 451 child.

452 (b) "Multidisciplinary team" means an integrated group of
 453 individuals which meets to collaboratively develop and attempt
 454 to reach a consensus decision on the most suitable out-of-home
 455 placement, educational placement, or other specified important
 456 life decision that is in the best interest of the child.

457 (3) CREATION AND GOALS.—

458 (a) Multidisciplinary teams must be established for the
 459 purpose of allowing better engagement with families and a shared
 460 commitment and accountability from the family and their circle
 461 of support.

462 (b) The multidisciplinary teams must adhere to the
 463 following goals:

464 1. Secure a child's safety in the least restrictive and

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465 intrusive placement that can meet his or her needs;
 466 2. Minimize the trauma associated with separation from the
 467 child's family and help the child to maintain meaningful
 468 connections with family members and others who are important to
 469 him or her;
 470 3. Provide input into the placement decision made by the
 471 community-based care lead agency and the services to be provided
 472 in order to support the child;
 473 4. Provide input into the decision to preserve or maintain
 474 the placement, including necessary placement preservation
 475 strategies;
 476 5. Contribute to an ongoing assessment of the child and the
 477 family's strengths and needs;
 478 6. Ensure that plans are monitored for progress and that
 479 such plans are revised or updated as the child's or family's
 480 circumstances change; and
 481 7. Ensure that the child and family always remain the
 482 primary focus of each multidisciplinary team meeting.
 483 (4) PARTICIPANTS.—
 484 (a) Collaboration among diverse individuals who are part of
 485 the child's network is necessary to make the most informed
 486 decisions possible for the child. A diverse team is preferable
 487 to ensure that the necessary combination of technical skills,
 488 cultural knowledge, community resources, and personal
 489 relationships is developed and maintained for the child and
 490 family. The participants necessary to achieve an appropriately
 491 diverse team for a child may vary by child and may include
 492 extended family, friends, neighbors, coaches, clergy, coworkers,
 493 or others the family identifies as potential sources of support.

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494 Each multidisciplinary team staffing must consist of the
 495 following members:
 496 1. The child, unless he or she is not of an age or capacity
 497 to participate in the team;
 498 2. The child's family members and other individuals
 499 identified by the family as being important;
 500 3. The current caregiver;
 501 4. A representative from the department; and
 502 5. The case manager for the child.
 503 (b) Based on the particular goal the multidisciplinary team
 504 staffing identifies as the purpose of convening the staffing as
 505 provided under subsection (5), the department or lead agency may
 506 also invite to the meeting other professionals, including, but
 507 not limited to:
 508 1. A representative from Children's Medical Services;
 509 2. A guardian ad litem, if one is appointed;
 510 3. A school personnel representative who has direct contact
 511 with the child;
 512 4. A therapist or other behavioral health professional, if
 513 applicable.
 514 5. A mental health professional with expertise in sibling
 515 bonding, if applicable; or
 516 6. Other community providers of services to the child or
 517 stakeholders, when applicable.
 518 (c) Each multidisciplinary team staffing must be led by a
 519 person who serves as a facilitator and whose main responsibility
 520 is to help team participants use the strengths within the family
 521 to develop a safe plan for the child. The person serving as the
 522 facilitator must be a trained professional who is otherwise

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523 required to attend the multidisciplinary team staffing under
 524 this section in his or her official capacity. Further, the
 525 trained professional serving as the facilitator does not need to
 526 be the same person for each meeting convened in a child's case
 527 under this section or in the service area of the designated lead
 528 agency handling a child's case.

529 (5) SCOPE OF MULTIDISCIPLINARY TEAM.—A multidisciplinary
 530 team staffing must be held when an important decision is
 531 required to be made about a child's life, including all of the
 532 following:

533 (a) Initial placement decisions for a child who is placed
 534 in out-of-home care.

535 (b) Changes in physical custody after the child is placed
 536 in out-of-home care by a court and, if necessary, determination
 537 of an appropriate mandatory transition plan in accordance with
 538 s. 39.4023.

539 (c) Changes in a child's educational placement and, if
 540 necessary, determination of an appropriate mandatory transition
 541 plan in accordance with s. 39.4023.

542 (d) Placement decisions for a child as required by
 543 paragraphs (a), (b), or (c) which involve sibling groups that
 544 require placement in accordance with s. 39.4024.

545 (e) Any other important decisions in the child's life which
 546 are so complex that the department or appropriate community-
 547 based lead agency determines convening a multidisciplinary team
 548 staffing is necessary to ensure the best interest of the child
 549 is maintained.

550 (6) ASSESSMENTS.—

551 (a)1. The multidisciplinary team staffing participants

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552 must, before formulating a decision under this section, gather
 553 and consider data and information on the child which is known at
 554 the time, including, but not limited to:

555 a. The child's age, maturity, and strengths;

556 b. Mental, medical, behavioral health, and medication
 557 history;

558 c. Community ties and school placement;

559 d. The stability and longevity of the child's current
 560 placement;

561 e. The established bonded relationship between the child
 562 and the current or proposed caregiver;

563 f. The child's previous and current relationship with a
 564 sibling, if the change in physical custody or placement will
 565 separate or reunite siblings, evaluated in accordance with s.
 566 39.4024;

567 g. The physical, mental, and emotional health benefits to
 568 the child by remaining in his or her current placement or moving
 569 to the proposed placement;

570 h. The reasonable preference of the child, if the court has
 571 found that the child is of sufficient intelligence,
 572 understanding, and experience to express a preference;

573 i. The recommendation of the child's current caregiver, if
 574 applicable;

575 j. The recommendation of the child's guardian ad litem, if
 576 one has been appointed;

577 k. The likelihood of the child attaining permanency in the
 578 current or proposed placement;

579 l. The likelihood that the child will have to change
 580 schools or day care placement, the impact of such a change, and

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581 the parties' recommendations as to the timing of the change
 582 including an education transition plan required under s.
 583 39.4023;
 584 m. The disruption of continuity of care with medical,
 585 mental health, behavioral health, dental, or other treatment
 586 services the child is receiving at the time of the change of
 587 custody decision;
 588 n. The allegations of any abuse, abandonment, or neglect,
 589 including sexual abuse and trafficking history, which caused the
 590 child to be placed in out-of-home care and any history of
 591 additional allegations of abuse, abandonment, or neglect;
 592 o. The impact on activities that are important to the
 593 child, including the ability of the child to continue in such
 594 activities;
 595 p. The impact on the child's future access to education,
 596 Medicaid, and independent living benefits; and
 597 q. Any other relevant factors.
 598 2. Multidisciplinary team staffings may not be delayed to
 599 accommodate pending behavioral health screenings or assessments
 600 or pending referrals for services.
 601 (b) The assessment conducted by the multidisciplinary team
 602 may also use an evidence-based assessment instrument or tool
 603 that is best suited for determining the specific decision of the
 604 staffing and the needs of that individual child and family.
 605 (c) To adequately prepare for a multidisciplinary staffing
 606 team meeting to consider a decision related to a child 3 years
 607 of age or younger, all of the following information on the child
 608 which is known at the time must be gathered and considered by
 609 the team:

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610 1. Identified kin and relatives who express interest in
 611 caring for the child, including strategies to overcome potential
 612 delays in placing the child with such persons if they are
 613 suitable.
 614 2. The likelihood that the child can remain with the
 615 prospective caregiver past the point of initial removal and
 616 placement with, or subsequent transition to, the caregiver and
 617 the willingness of the caregiver to provide care for any
 618 duration deemed necessary if placement is made.
 619 3. The prospective caregiver's ability and willingness to:
 620 a. Accept supports related to early childhood development
 621 and services addressing any possible developmental delays;
 622 b. Address the emotional needs of the child and accept
 623 infant mental health supports, if needed;
 624 c. Help nurture the child during the transition into out-
 625 of-home care;
 626 d. Work with the parent to build or maintain the attachment
 627 relationship between parent and child;
 628 e. Effectively co-parent with the parent; and
 629 f. Ensure frequent family visits and sibling visits.
 630 4. Placement decisions for each child in out-of-home
 631 placement which are made under this paragraph must be reviewed
 632 as often as necessary to ensure permanency for that child and to
 633 address special issues that may arise which are unique to
 634 younger children.
 635 (d)1. If the participants of a multidisciplinary team
 636 staffing reach a consensus decision, it becomes the official
 637 position of the community-based care lead agency regarding the
 638 decision under subsection (5) for which the team convened. Such

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639 decision is binding upon all department and lead agency
 640 participants, who are obligated to support it.

641 2. If the participants of a multidisciplinary team staffing
 642 cannot reach a consensus decision, the trained professional
 643 acting as the facilitator must attempt to bring at least the
 644 lead agency's staff to a decision that all participants can
 645 support. If there is disagreement even among lead agency staff,
 646 the multidisciplinary team may request a review of the decision
 647 from a designated, high level administrator within the
 648 community-based care lead agency and such person's decision
 649 becomes the official position for the decision under subsection
 650 (5) for which the team was convened.

651 3. If the multidisciplinary team cannot agree on the
 652 placement, it is the responsibility of the placing lead agency
 653 to determine the most appropriate placement for the child in
 654 order to achieve the goals of child safety, permanency, and
 655 well-being.

656 (7) CONVENING A TEAM UPON REMOVAL.—The formation of a
 657 multidisciplinary team staffing must begin as soon as possible
 658 when a child is removed from a home. The multidisciplinary team
 659 must convene a staffing no later than 72 hours from the date of
 660 a subsequent removal in an emergency situation as that term is
 661 defined in s. 39.4023(2) and in accordance with s. 39.4023.

662 (8) REPORT.—If a multidisciplinary team staffing fails to
 663 reach a consensus decision, the facilitator must prepare and
 664 submit a written report to the court within 5 business days
 665 after the conclusion of the staffing which details the decision
 666 made at the conclusion of the multidisciplinary team staffing
 667 under subsection (6) and the positions of the staffing's

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668 participants.

669 (9) CONFIDENTIALITY.—Notwithstanding any other provision of
 670 law, participants representing the department and the community-
 671 based care lead agency may discuss confidential information
 672 during a multidisciplinary team staffing in the presence of
 673 individuals who participate in the staffing. Information
 674 collected by any agency or entity that participates in the
 675 multidisciplinary team staffing which is confidential and exempt
 676 upon collection remains confidential and exempt when discussed
 677 in a staffing required under this section. All individuals who
 678 participate in the staffing shall maintain the confidentiality
 679 of any information shared during the staffing.

680 (10) CONSTRUCTION.—This section may not be construed to
 681 mean that multidisciplinary team staffings coordinated by the
 682 department or the appropriate lead agency for purposes other
 683 than those provided for in subsection (5) before October 1,
 684 2021, are no longer required to be conducted or are required to
 685 be conducted in accordance with this section.

686 (11) RULEMAKING.—The department shall adopt rules to
 687 implement this section.

688 Section 6. Section 39.4023, Florida Statutes, is created to
 689 read:

690 39.4023 Placement and education transitions; transition
 691 plans.—

692 (1) LEGISLATIVE FINDINGS AND INTENT.—

693 (a) The Legislature finds that many children in out-of-home
 694 care experience multiple changes in placement, and those
 695 transitions often result in trauma not only for the child but
 696 also for caregivers, families, siblings, and all professionals

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697 involved.

698 (b) The Legislature further finds that poorly planned and
 699 executed or improperly timed transitions may adversely impact a
 700 child's healthy development as well as the child's continuing
 701 capacity to trust, attach to others, and build relationships in
 702 the future.

703 (c) The Legislature finds that the best child welfare
 704 practices recognize the need to prioritize the minimization of
 705 the number of placements for every child in out-of-home care.
 706 Further, the Legislature finds that efforts must be made to
 707 support caregivers in order to promote stability. When placement
 708 changes are necessary, they must be thoughtfully planned.

709 (d) The Legislature finds that transition plans are
 710 critical when moving all children, including infants, toddlers,
 711 school-age children, adolescents, and young adults.

712 (e) It is the intent of the Legislature that a placement
 713 change or an educational change for a child in out-of-home care
 714 be achieved ideally through a period of transition that is
 715 unique to each child, provides support for all individuals
 716 affected by the change, and has flexible planning to allow for
 717 changes necessary to meet the needs of the child.

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

719 (a) "Educational change" means any time a child is moved
 720 between schools when such move is not the result of the natural
 721 transition from elementary school to middle school or middle
 722 school to high school. The term also includes changes in child
 723 care or early education programs for infants and toddlers.

724 (b) "Emergency situation" means that there is an imminent
 725 risk to the health or safety of the child, other children, or

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726 others in the home or facility if the child remains in the
 727 placement.

728 (c) "Placement change" means any time a child is moved from
 729 one caregiver to another, including moves to a foster home, a
 730 group home, relatives, prospective guardians, prospective
 731 adoptive parents, and reunification with parents. The term also
 732 includes moves between rooms and buildings operated by a group
 733 home provider.

734 (d) "School" means any child care, early education,
 735 elementary, secondary, or postsecondary educational setting.

736 (3) PLACEMENT TRANSITIONS.—

737 (a) Mandatory transition plans.—Except as otherwise
 738 provided, the department or the community-based lead agency
 739 shall create and implement an individualized transition plan
 740 before each placement change experienced by a child.

741 (b) Minimizing placement transitions.—Once a caregiver
 742 accepts the responsibility of caring for a child, the child may
 743 be removed from the home of the caregiver only if:

744 1. The caregiver is unwilling or unable to safely or
 745 legally care for the child;

746 2. The child and the birth or legal parent are reunified;

747 3. The child is being placed in a legally permanent home in
 748 accordance with a case plan or court order; or

749 4. The removal is demonstrably in the best interest of the
 750 child.

751 (c) Services to prevent disruption.—The community-based
 752 care lead agency shall provide any supportive services deemed
 753 necessary to a caregiver and a child if the child's current out-
 754 of-home placement with the caregiver is in danger of needing

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755 modification. The supportive services must be offered in an
 756 effort to remedy the factors contributing to the placement being
 757 considered unsuitable and therefore contributing to the need for
 758 a change in placement.

759 (d) Transition planning.—

760 1. If the supportive services provided pursuant to
 761 paragraph (c) have not been successful to make the maintenance
 762 of the placement suitable or if there are other circumstances
 763 that require the child to be moved, the department or the
 764 community-based care lead agency must convene a
 765 multidisciplinary team staffing as required under s. 39.4022
 766 before the child's placement is changed, or within 72 hours of
 767 moving the child in an emergency situation, for the purpose of
 768 developing an appropriate transition plan.

769 2. A placement change may occur immediately in an emergency
 770 situation without a convening a multidisciplinary team staffing.
 771 However, a multidisciplinary team staffing must be held within
 772 72 hours after the emergency situation arises.

773 3. At least 14 days before moving a child from one out-of-
 774 home placement to another or within 72 hours after an emergency
 775 situation, the department or the community-based care lead
 776 agency must provide written notice of the planned move and must
 777 include in the notice the reason a placement change is
 778 necessary. A copy of the notice must be filed with the court and
 779 be provided to:

780 a. The child, unless he or she, due to age or capacity, is
 781 unable to comprehend the written notice, which will necessitate
 782 the department or lead agency to provide notice in an age- and
 783 capacity-appropriate alternative manner;

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784 b. The child's parents, unless prohibited by court order;
 785 c. The child's out-of-home caregiver;
 786 d. The guardian ad litem, if one is appointed; and
 787 e. The attorney for the department.

788 4. The transition plan must be developed through
 789 cooperation among the persons included in subparagraph 3., and
 790 such persons must share any relevant information necessary to
 791 ensure that the transition plan does all of the following:

792 a. Respects the child's developmental stage and
 793 psychological needs.
 794 b. Ensures the child has all of his or her belongings and
 795 is allowed to help pack those belongings when appropriate.
 796 c. Allows for a gradual transition from the current
 797 caregiver's home with substantial overlap between the two
 798 caregivers and provides time for the child to have a final
 799 visitation with everyone important to the child from the current
 800 placement, including pets.

801 d. Allows, when possible, for continued contact with the
 802 previous caregiver and others in the home after the child
 803 leaves.

804 e. Prohibits a placement change which occurs between 7 p.m.
 805 and 8 a.m.

806 5. The department or the community-based care lead agency
 807 shall file the transition plan with the court within 48 hours
 808 after the creation of such plan and provide a copy of the plan
 809 to the persons included in subparagraph 3.

810 (e) Additional considerations for transitions of infants
 811 and children under school age.—Relationship patterns over the
 812 first year of life are important predictors of future

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813 relationships. Research demonstrates that babies begin to form a
 814 strong attachment to a caregiver at approximately 7 months of
 815 age. From that period of time through age 2, moving a child from
 816 a caregiver who is the psychological parent is considerably more
 817 damaging. Placement decisions must focus on promoting security
 818 and continuity for infants and children under 5 years of age in
 819 out-of-home care. Transition plans for infants and young
 820 children must describe the facts that were considered when each
 821 of the following were discussed and must specify what decision
 822 was made as to how each of the following applies to the child:

823 1. The age of the child and the child's current ability to
 824 accomplish developmental tasks, with consideration made for
 825 whether the child is:

826 a. Six months of age or younger, thereby indicating that it
 827 may be in the child's best interest to move the child sooner
 828 rather than later; or

829 b. One year to 2 years of age, thereby indicating it may
 830 not be a healthy time to move the child.

831 2. The length of time the child has lived with the current
 832 caregiver, the strength of attachment to the current caregiver,
 833 and the harm of disrupting a healthy attachment compared to the
 834 possible advantage of a change in placement.

835 3. The relationship, if any, the child has with the new
 836 caregiver and whether a reciprocal agreement exists between the
 837 current caregiver and the prospective caregiver to maintain the
 838 child's relationship with both caregivers.

839 4. The pace of the transition and whether flexibility
 840 exists to accelerate or slow down the transition based on the
 841 child's needs and reactions.

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842 (f) Preparation of prospective caregivers before
 843 placement.-

844 1. Prospective caregivers must be fully informed of the
 845 child's needs and circumstances and be willing and able to
 846 accept responsibility for providing high-quality care for such
 847 needs and circumstances before placement.

848 2. The community-based care lead agency shall review with
 849 the prospective caregiver the caregiver's roles and
 850 responsibilities according to the parenting partnerships plan
 851 for children in out-of-home care pursuant to s. 409.1415. The
 852 case manager shall sign a copy of the parenting partnerships
 853 plan and obtain the signature of the prospective caregiver
 854 acknowledging explanation of the requirements before placement.

855 (4) EDUCATION TRANSITIONS.-

856 (a) Findings.-Children in out-of-home care frequently
 857 change child care, early education programs, and schools. These
 858 changes can occur when the child first enters out-of-home care,
 859 when the child must move from one caregiver to another, or when
 860 the child returns home upon reunification. Research shows that
 861 children who change schools frequently make less academic
 862 progress than their peers and fall further behind with each
 863 school change. Additionally, educational instability at any
 864 level makes it difficult for children to develop supportive
 865 relationships with teachers or peers. State and federal law
 866 contain requirements that must be adhered to in order to ensure
 867 educational stability for a child in out-of-home care. A child's
 868 educational setting should only be changed when maintaining the
 869 educational setting is not in the best interest of the child.

870 (b) Mandatory educational transition plans.-The department

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871 or the community-based care lead agency shall create and
 872 implement an individualized transition plan each time a child
 873 experiences a school change.

874 (c) Minimizing school changes.—

875 1. Every effort must be made to keep a child in the school
 876 of origin. Any placement decision must include thoughtful
 877 consideration of which school a child will attend if a school
 878 change is necessary.

879 2. A determination that it is not the child's best interest
 880 to remain in the school of origin and which school the child
 881 will attend in the future must be made in consultation with the
 882 child; the parents; the caregiver; the child welfare
 883 professional; the guardian ad litem, the educational surrogate
 884 child care and educational staff, including teachers and
 885 guidance counselors; and the school district representative or
 886 foster care liaison.

887 3. If a determination is made that remaining in the school
 888 or program of origin is not in the child's best interest,
 889 selection of a new school or program must consider relevant
 890 factors, including, but not limited to:

891 a. The child's desire to remain in the school or program of
 892 origin.

893 b. The preference of the child's parents or legal
 894 guardians.

895 c. Whether the child has siblings, close friends, or
 896 mentors at the school or program of origin.

897 d. The child's cultural and community connections in the
 898 school or program of origin.

899 e. Whether the child is suspected of having a disability

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900 under the Individuals with Disabilities Education Act (IDEA) or
 901 s. 504 of the Rehabilitation Act of 1973, or has begun receiving
 902 interventions under this state's multitiered system of supports.

903 f. Whether the child has an evaluation pending for special
 904 education and related services under IDEA or s. 504 of the
 905 Rehabilitation Act of 1973.

906 g. Whether the child is a student with a disability under
 907 IDEA who is receiving special education and related services or
 908 a student with a disability under s. 504 of the Rehabilitation
 909 Act of 1973 who is receiving accommodations and services and, if
 910 so, whether those required services are available in a school or
 911 program other than the school or program of origin.

912 h. Whether the child is an English Language Learner student
 913 and is receiving language services, and if so, whether those
 914 required services are available in a school or program other
 915 than the school or program of origin.

916 i. The impact a change to the school or program of origin
 917 would have on academic credits and progress toward promotion.

918 j. The availability of extracurricular activities important
 919 to the child.

920 k. The child's known individualized educational plan or
 921 other medical and behavioral health needs and whether such plan
 922 or needs are able to be met at a school or program other than
 923 the school or program of origin.

924 l. The child's permanency goal and timeframe for achieving
 925 permanency.

926 m. The child's history of school transfers and how such
 927 transfers have impacted the child academically, emotionally, and
 928 behaviorally.

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929 n. The length of the commute to the school or program from
 930 the child's home or placement and how such commute would impact
 931 the child.

932 o. The length of time the child has attended the school or
 933 program of origin.

934 4. The cost of transportation cannot be a factor in making
 935 a best interest determination.

936 (d) Transitions between child care and early education
 937 programs.—When a child enters out-of-home care or undergoes a
 938 placement change, the child shall, if possible, remain with a
 939 familiar child care provider or early education program unless
 940 there is an opportunity to transition to a higher quality
 941 program. If it is not possible for the child to remain with the
 942 familiar child care provider or early education program or
 943 transition to a higher quality program, the child's transition
 944 plan must be made with the participation of the child's current
 945 and future school or program. The plan must give the child an
 946 opportunity to say goodbye to important figures in the
 947 educational environment.

948 (e) Transitions between K-12 schools.—The transition plan
 949 for a transition between K-12 schools must include all of the
 950 following:

951 1. Documentation that the department or community-based
 952 care lead agency has made the decision to change the child's
 953 school in accordance with paragraph (c). The plan must include a
 954 detailed discussion of all factors considered in reaching the
 955 decision to change the child's school.

956 2. Documentation that the department or community-based
 957 care lead agency has coordinated with local educational agencies

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958 to provide immediate and appropriate enrollment in a new school,
 959 including transfer of educational records, any record of a
 960 school-entry health examination, and arrangements for
 961 transportation to the new school.

962 3. Discussion of the timing of the proposed school change
 963 which addresses the potential impact on the child's education
 964 and extracurricular activities. This section must include, at a
 965 minimum, grading periods, exam schedules, credit acquisitions,
 966 sports eligibility, and extracurricular participation.

967 4. Details concerning the transportation of the child to
 968 school.

969 (5) TRANSITION PLAN AND DOCUMENTATION.—

970 (a) The department, in collaboration with the Quality
 971 Parenting Initiative, shall develop a form to be completed and
 972 updated each time a child in out-of-home care is moved from one
 973 placement to another.

974 (b) A completed form must be attached to the case record
 975 face sheet required to be included in the case file pursuant to
 976 s. 39.00146. The form must be used statewide and, at a minimum,
 977 must include all of the following information:

978 1. The membership of the multidisciplinary team staffing
 979 convened under s. 39.4022 to develop a transition plan for the
 980 change in placement and the dates on which the team met.

981 2. The name of the person who served as the facilitator in
 982 that specific multidisciplinary team staffing.

983 3. The topics considered by the multidisciplinary team
 984 staffing in order to ensure an appropriate transition.

985 4. The recommendations of the multidisciplinary team and
 986 the name of each individual or entity responsible for carrying

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987 out each recommendation.

988 (c) The department or the community-based care lead agency
 989 shall document all multidisciplinary team staffings and
 990 placement transition decisions in the Florida Safe Families
 991 Network and must include the information in the social study
 992 report for judicial review, as required under s. 39.701.

993 (6) RULEMAKING.—The department shall adopt rules to
 994 implement this section.

995 Section 7. Section 39.4024, Florida Statutes, is created to
 996 read:

997 39.4024 Placement of siblings; visitation; continuing
 998 contact.—

999 (1) LEGISLATIVE FINDINGS.—

1000 (a) The Legislature finds that sibling relationships can
 1001 provide a significant source of continuity throughout a child’s
 1002 life and are likely to be the longest relationships that most
 1003 individuals experience. Further, the placement of siblings
 1004 together can increase the likelihood of achieving permanency and
 1005 is associated with a significantly higher rate of family
 1006 reunification.

1007 (b) The Legislature finds that it is beneficial for a child
 1008 who is placed in out-of-home care to be able to continue
 1009 existing relationships with his or her siblings, regardless of
 1010 age, so that they may share their strengths and association in
 1011 their everyday and often common experiences.

1012 (c) The Legislature also finds that healthy connections
 1013 with siblings can serve as a protective factor for children who
 1014 have been placed in out-of-home care. The Legislature finds that
 1015 child protective investigators and caseworkers should be aware

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1016 of the variety of demographic and external situational factors
 1017 that may present challenges to placement in order to identify
 1018 such factors relevant to a particular group of siblings and
 1019 ensure that these factors are not the sole reasons that siblings
 1020 are not placed together.

1021 (d) The Legislature also finds that it is the
 1022 responsibility of all entities and adults involved in a child’s
 1023 life, including, but not limited to, the department, community-
 1024 based lead agencies, parents, foster parents, guardians ad
 1025 litem, next of kin, and other persons important to the child to
 1026 seek opportunities to foster sibling relationships to promote
 1027 continuity and help sustain family connections.

1028 (e) While there is a presumption in law and policy that it
 1029 is in the best interest of a child going into out-of-home care
 1030 to be placed with any siblings, the Legislature finds that
 1031 overall well-being of the child and family improves when the
 1032 person or team responsible for placement decisions evaluates the
 1033 child’s sibling and family bonds and prioritizes the bonds that
 1034 are unique drivers of the child’s ability to maintain and
 1035 develop healthy relationships. The person or team with an
 1036 understanding of the need to balance all attachment bonds of a
 1037 child and the potential need to prioritize existing and healthy
 1038 sibling relationships differently than a potential or unhealthy
 1039 sibling relationship over a healthy existing bond with a
 1040 caregiver will result in more stable and healthier placements
 1041 for all children in out-of-home care.

1042 (2) DEFINITIONS.—As used in this section, the term:

1043 (a) “Multidisciplinary team” has the same meaning as
 1044 provided in s. 39.4022.

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1045 (b) "Lead agency" means a community-based care lead agency
 1046 under contract with the department to provide care to children
 1047 in foster care under chapter 409.

1048 (c) "Sibling" means:

1049 1. A child who shares a birth parent or legal parent with
 1050 one or more other children; or

1051 2. A child who has lived together in a family with one or
 1052 more other children whom he or she identifies as siblings.

1053 (3) PLACEMENT OF SIBLINGS IN OUT-OF-HOME CARE.-

1054 (a) General provisions.-

1055 1. The department or lead agency shall make reasonable
 1056 efforts to place sibling groups that are removed from their home
 1057 in the same foster, kinship, adoptive, or guardianship home when
 1058 it is in the best interest of each sibling and when an
 1059 appropriate, capable, and willing joint placement for the
 1060 sibling group is available.

1061 2. If a child enters out-of-home care after his or her
 1062 sibling, the department or lead agency and the multidisciplinary
 1063 team shall make reasonable efforts to initially place the child
 1064 who has entered out-of-home care with his or her siblings in the
 1065 sibling's existing placement, provided it would not jeopardize
 1066 the stability of such placement and it is in the best interest
 1067 for each child.

1068 3. When determining whether to move a child from a current
 1069 placement to a new placement when such change is initiated by a
 1070 sibling relationship, all relevant factors must be considered by
 1071 the multidisciplinary team to ensure that the child is best
 1072 served by the decision. A uniform policy that does not consider
 1073 and apply a balancing test to ensure all existing attachment

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1074 bonds for a child and his or her siblings are honored and
 1075 evaluated holistically may result in placement decisions or
 1076 changes of placement decisions that may result in additional
 1077 trauma.

1078 4. The department and the court are not required to make an
 1079 initial placement or change in placement to develop a
 1080 relationship between siblings which did not exist at the time a
 1081 child is placed in out-of-home care.

1082 (b) Factors to consider when placing sibling groups.-

1083 1. At the time a child who is a part of a sibling group is
 1084 removed from the home, the department or lead agency shall
 1085 convene a multidisciplinary team staffing in accordance with s.
 1086 39.4022 to determine and assess the sibling relationships from
 1087 the perspective of each child to ensure the best placement of
 1088 each child in the sibling group. The multidisciplinary team
 1089 shall consider all relevant factors included in s. 39.4022 and
 1090 this section, including, but not limited to, the existing
 1091 emotional ties between and among the siblings, the degree of
 1092 harm each child is likely to experience as a result of
 1093 separation, and the standard protocols established by the
 1094 Quality Parenting Initiative under paragraph (d).

1095 2.a. If the department or the appropriate lead agency is
 1096 able to locate a caregiver that will accept the sibling group
 1097 and the multidisciplinary team determines that the placement is
 1098 suitable for each child, the sibling group must be placed
 1099 together.

1100 b. If the department or appropriate lead agency is not able
 1101 to locate a caregiver or placement option that allows the
 1102 sibling group to be placed together in an initial placement, the

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1103 department or lead agency must make all reasonable efforts to
 1104 ensure contact and visitation between siblings placed in
 1105 separate out-of-home care placements and provide reviews of the
 1106 placements in accordance with this section.

1107 3. If all the siblings are unable to be placed in an
 1108 existing placement and the siblings do not have an existing
 1109 relationship, when determining whether to move any child who is
 1110 part of the sibling group from his or her current placement to a
 1111 new placement that will unite the sibling group, the department
 1112 or lead agency must consider all of the following additional
 1113 factors:

1114 a. The presence and quality of current attachment
 1115 relationships, including:

1116 (I) The quality and length of the attachment of the child
 1117 to both the current and prospective caregiver;

1118 (II) The age of the child at placement with the current
 1119 caregiver and the child's current age as well as the ages of any
 1120 siblings;

1121 (III) The ease with which the child formed an attachment to
 1122 the current family;

1123 (IV) Any indications of attachment difficulty in the
 1124 child's history; and

1125 (V) The number of moves and number of caregivers the child
 1126 has experienced.

1127 b. The potential of the new caregiver to be a primary
 1128 attachment figure to the sibling group by ensuring care for each
 1129 child's physical needs and the willingness and availability to
 1130 meet the each child's emotional needs.

1131 c. The quality of existing sibling relationships and the

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1132 potential quality of sibling relationships that can be formed
 1133 between the children.

1134 d. The consideration of any costs and benefits of
 1135 disrupting existing emotional attachments to a primary caregiver
 1136 to place children in a new placement with siblings, including:

1137 (I) The length and quality of the established and current
 1138 primary attachment relationships between the siblings and
 1139 between the siblings and their current caregivers; and

1140 (II) Relationships between any other siblings and whether
 1141 such relationships appear adequate and not stressful or harmful.

1142 e. The ability to establish and maintain sibling visitation
 1143 and contact pursuant to this section in a manner and schedule
 1144 that makes sense for an infant or young child if it is
 1145 determined that the infant or young child is to remain with his
 1146 or her primary caregivers rather than be placed with his or her
 1147 siblings.

1148 f. The ability to establish and maintain contact with the
 1149 sibling and new caregiver as part of a transition plan developed
 1150 in accordance with paragraph (c) and s. 39.4023 before changing
 1151 the child's placement to allow the child, his or her siblings,
 1152 and new caregiver to adjust and form bonds.

1153 (c) Transitioning a child after a determination.—If after
 1154 considering the provisions and factors described in paragraphs
 1155 (a) and (b) it is determined that the child would benefit from
 1156 being placed with his or her siblings, the transition of the
 1157 child to the new home must be carried out gradually in
 1158 accordance with s. 39.4023.

1159 (d) Standards for evaluating sibling placements.—The
 1160 department, in collaboration with the Quality Parenting

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1161 Initiative, must develop standard protocols for the department
 1162 and lead agency which incorporate the provisions and factors
 1163 described in paragraphs (a), (b), and (c) and any other factors
 1164 deemed relevant for use in making decisions about when placing
 1165 siblings together would be contrary to a child's well-being or
 1166 safety or decisions providing for frequent visitation and
 1167 contact under subsection (4).

1168 (4) MAINTAINING CONTACT WHEN SIBLINGS ARE SEPARATED.—

1169 (a) Regular contact among a sibling group that cannot be
 1170 placed together, especially among siblings with existing
 1171 attachments to each other, is critical for the siblings to
 1172 maintain their existing bonds and relationships or to develop
 1173 such bonds and attachments, if appropriate. The following
 1174 practices must be considered in helping to maintain or
 1175 strengthen the relationships of separated siblings:

1176 1. Respect and support the child's ties to his or her birth
 1177 or legal family, including parents, siblings, and extended
 1178 family members, must be provided by the caregiver, and he or she
 1179 must assist the child in maintaining allowable visitation and
 1180 other forms of communication. The department and lead agency
 1181 shall provide a caregiver with the information, guidance,
 1182 training, and support necessary for fulfilling this
 1183 responsibility.

1184 2. Provide adequate support to address any caregiver
 1185 concerns and to enhance the caregiver's ability to facilitate
 1186 contact between siblings who are not in the same out-of-home
 1187 placement and promote the benefits of sibling contact.

1188 3. Prioritize placements with kinship caregivers who have
 1189 an established personal relationship with each child so that

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1190 even when siblings cannot be placed together in the same home,
 1191 kinship caregivers are more likely to facilitate contact.

1192 4. Prioritize placement of siblings geographically near
 1193 each other, such as in the same neighborhood or school district,
 1194 to make it easier for the siblings to see each other regularly.

1195 5. Encourage frequent and regular visitation, if the
 1196 siblings choose to do so, to allow the children to be actively
 1197 involved in each other's lives and to participate in
 1198 celebrations, including, but not limited to, birthdays,
 1199 graduations, holidays, school and extracurricular activities,
 1200 cultural customs, and other milestones.

1201 6. Provide other forms of contact when regular in-person
 1202 meetings are not possible or are not sufficient to meet the
 1203 needs or desires of the siblings, such as maintaining frequent
 1204 contact through letters, e-mail, social media, cards, or
 1205 telephone calls.

1206 7. Coordinate, when possible, joint outings or summer or
 1207 weekend camp experiences to facilitate time together, including,
 1208 but not limited to, activities or camps specifically designed
 1209 for siblings in out-of-home care.

1210 8. Encourage joint respite care to assist the caregivers
 1211 who are caring for separated siblings to have needed breaks
 1212 while also facilitating contact among the siblings, including,
 1213 but not limited to, providing babysitting or respite care for
 1214 each other.

1215 9. Prohibit the withholding communication or visitation
 1216 among the siblings as a form of punishment.

1217 (b) The court may limit or restrict communication or
 1218 visitation under this subsection only upon a finding by clear

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1219 and convincing evidence that the communication or visitation is
 1220 harmful to the child. If the court makes such a finding, it must
 1221 direct the department or lead agency to immediately provide
 1222 services to ameliorate the harm so that communication and
 1223 visitation may be restored as soon as possible.

1224 (5) SUBSEQUENT REVIEWS.—

1225 (a) The department and the lead agency shall periodically,
 1226 but at least once every 6 months, reassess sibling placement,
 1227 visitation, and other sibling contact decisions in cases where
 1228 siblings are separated, not visiting, or not maintaining contact
 1229 to determine if a change in placement is warranted unless the
 1230 decision to not place a child with his or her sibling group was
 1231 made due to such placement being inappropriate, unhealthy, or
 1232 unsafe for the child.

1233 (b) If a child in a sibling group who has been placed in an
 1234 out-of-home care placement with his or her siblings does not
 1235 adjust to the placement, the lead agency must provide services
 1236 to the caregiver and sibling group in accordance with s.
 1237 39.4023(3) to try to prevent the disruption of the placement. If
 1238 after reasonable efforts are made under s. 39.4023(3), the child
 1239 still has not adjusted to the out-of-home placement, a
 1240 multidisciplinary team staffing must be convened to determine
 1241 what is best for all of the children. The multidisciplinary team
 1242 shall review the current placement of the sibling group and
 1243 choose a plan that will be least detrimental to each child. If
 1244 the team determines that the best decision is to move the child
 1245 who has not adjusted to a new out-of-home placement, the team
 1246 must develop a transition plan in accordance with ss. 39.4022
 1247 and 39.4023 which ensures the opportunity for the siblings to

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1248 maintain contact in accordance with subsection (4) of this
 1249 section.

1250 (c) If it becomes known that a child in out-of-home care
 1251 has a sibling of whom the child, department, or lead agency was
 1252 previously unaware, the department or lead agency must convene a
 1253 multidisciplinary team staffing within a reasonable amount of
 1254 time after the discovery of such sibling to decide if the
 1255 current placement or permanency plan requires modification.

1256 (6) ADDITIONAL REQUIREMENTS AND CONSIDERATIONS.—

1257 (a) The department shall promptly provide a child with the
 1258 location of and contact information for his or her siblings. If
 1259 the existence or location of or contact information for a
 1260 child's siblings is not known, the department must make
 1261 reasonable efforts to ascertain such information.

1262 (b) If a child's sibling is also in out-of-home care and
 1263 such sibling leaves out-of-home care for any reason, including,
 1264 but not limited to, emancipation, adoption, or reunification
 1265 with his or her parent or guardian, the child has a right to
 1266 continued communication with his or her sibling as provided
 1267 under subsection (4).

1268 (c) The department or the lead agency must document in
 1269 writing any decision to separate siblings in the case file as
 1270 required in s. 39.00146 and document the decision in the Florida
 1271 Safe Families Network. The documentation must include any
 1272 efforts made to keep the siblings together, an assessment of the
 1273 short-term and long-term effects of separation on each child and
 1274 the sibling group as a whole, and a description of the plan for
 1275 communication or contact between the children if separation is
 1276 approved.

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1277 (7) RULEMAKING AUTHORITY.—The department shall adopt rules
 1278 to implement this section.

1279 Section 8. Section 39.522, Florida Statutes, is amended to
 1280 read:

1281 39.522 Postdisposition change of custody.—

1282 (1) The court may change the temporary legal custody or the
 1283 conditions of protective supervision at a postdisposition
 1284 hearing, without the necessity of another adjudicatory hearing.

1285 (2) (a) ~~(1) (a)~~ At any time before a child is residing in the
 1286 permanent placement approved at the permanency hearing, a child
 1287 who has been placed in the child's own home under the protective
 1288 supervision of an authorized agent of the department, in the
 1289 home of a relative, in the home of a legal custodian, or in some
 1290 other place may be brought before the court by the department or
 1291 by any other interested person, upon the filing of a motion
 1292 alleging a need for a change in the conditions of protective
 1293 supervision or the placement. If any party or the current
 1294 caregiver denies the parents or other legal custodians deny the
 1295 need for a change, the court shall hear all parties in person or
 1296 by counsel, or both.

1297 (b) Upon the admission of a need for a change or after such
 1298 hearing, the court shall enter an order changing the placement,
 1299 modifying the conditions of protective supervision, or
 1300 continuing the conditions of protective supervision as ordered.
 1301 The standard for changing custody of the child shall be the best
 1302 interests of the child. When determining whether a change of
 1303 legal custody or placement is in the best interests of the
 1304 child, the court shall consider the factors listed in s. 39.4022
 1305 and the report filed by the multidisciplinary team, if

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1306 applicable. The court shall also consider the priority of
 1307 placements established under s. 39.4021 when making a decision
 1308 regarding the best interest of the child in out-of-home care.†

1309 ~~1. The child's age.~~

1310 ~~2. The physical, mental, and emotional health benefits to~~
 1311 ~~the child by remaining in his or her current placement or moving~~
 1312 ~~to the proposed placement.~~

1313 ~~3. The stability and longevity of the child's current~~
 1314 ~~placement.~~

1315 ~~4. The established bonded relationship between the child~~
 1316 ~~and the current or proposed caregiver.~~

1317 ~~5. The reasonable preference of the child, if the court has~~
 1318 ~~found that the child is of sufficient intelligence,~~
 1319 ~~understanding, and experience to express a preference.~~

1320 ~~6. The recommendation of the child's current caregiver.~~

1321 ~~7. The recommendation of the child's guardian ad litem, if~~
 1322 ~~one has been appointed.~~

1323 ~~8. The child's previous and current relationship with a~~
 1324 ~~sibling, if the change of legal custody or placement will~~
 1325 ~~separate or reunite siblings.~~

1326 ~~9. The likelihood of the child attaining permanency in the~~
 1327 ~~current or proposed placement.~~

1328 ~~10. Any other relevant factors.~~

1329 (c) (b) If the child is not placed in foster care, the new
 1330 placement for the child must meet the home study criteria and
 1331 court approval under this chapter.

1332 (3) (a) For purposes of this subsection, the term "change in
 1333 physical custody" means a change by the department or community-
 1334 based care lead agency to the child's physical residential

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1335 address even when such change does not require a court order to
 1336 change the legal custody of the child.
 1337 (b)1. In a hearing on the change of physical custody under
 1338 this section, there shall be a rebuttable presumption that it is
 1339 in the child's best interest to remain permanently in his or her
 1340 current physical placement if:
 1341 a. The child has been in the same safe and stable placement
 1342 for 9 consecutive months or more;
 1343 b. Reunification is not a permanency option for the child;
 1344 c. The caregiver is able, willing, and eligible for
 1345 consideration as an adoptive parent or permanent custodian for
 1346 the child;
 1347 d. The caregiver is not requesting the change in physical
 1348 placement; and
 1349 e. The change in physical placement being sought is not to
 1350 reunify the child with his or her parent or sibling or
 1351 transition the child from a safe and stable nonrelative
 1352 caregiver to a safe and stable relative caregiver.
 1353 2. In order to rebut the presumption established in this
 1354 paragraph, the court shall hold an evidentiary hearing on the
 1355 change in physical custody to determine if the change in
 1356 placement is in the best interest of the child. As part of the
 1357 evidentiary hearing, the court must consider competent and
 1358 substantial evidence and testimony related to the factors
 1359 enumerated in s. 39.4022 and any other evidence deemed relevant
 1360 to a determination of placement, including evidence from a
 1361 court-selected neutral and independent expert in the science and
 1362 research of child-parent bonding and attachment.
 1363 3. This presumption may not be rebutted solely by the

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1364 expressed wishes of a biological parent, a biological relative,
 1365 or a caregiver of a sibling of the child.
 1366 (c)1. A current caregiver who has been the physical custody
 1367 placement for at least 9 consecutive months and who meets all
 1368 the established criteria in paragraph (b) shall be notified by
 1369 the department or community-based care lead agency of an intent
 1370 to change the physical custody of the child at least 21 days
 1371 before the desired date for transitioning the child to the new
 1372 physical custody placement.
 1373 2. A caregiver who objects to the change in physical
 1374 custody must notify the court and the department or lead agency
 1375 of his or her objection and the intent to request an evidentiary
 1376 hearing in writing in accordance with this subsection as soon as
 1377 possible after receiving notice under subparagraph 1., but no
 1378 later than 5 days before the desired date for transitioning the
 1379 child to the new physical custody placement.
 1380 3. Upon the department or community-based care lead agency
 1381 receiving written notice of the caregiver's objection, the
 1382 change to the child's physical custody must be placed in
 1383 abeyance and the child may not be transitioned to a new physical
 1384 placement without a court order.
 1385 4. Within 7 days after receiving written notice from the
 1386 caregiver, the court must conduct an initial case status
 1387 hearing, at which time the court must:
 1388 a. Grant party status to the current caregiver who is
 1389 seeking permanent custody and has maintained physical custody of
 1390 that child for at least 9 continuous months;
 1391 b. Appoint a lawyer for the child who is the subject of the
 1392 permanent custody proceeding;

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1393 c. Advise the caregiver of his or her right to retain
 1394 counsel for purposes of the evidentiary hearing; and
 1395 d. Appoint a court-selected neutral and independent expert
 1396 in the science and research of child-parent bonding and
 1397 attachment.
 1398 (d) The court must conduct the evidentiary hearing and
 1399 provide a written order of its findings regarding the placement
 1400 that is in the best interest of the child no later than 90 days
 1401 from the date the caregiver provided written notice to the court
 1402 under this subsection. The court must provide its written order
 1403 to the department or lead agency, the caregiver, and the
 1404 prospective caregiver.
 1405 (e) If the court orders that the physical custody of the
 1406 child change from the current caregiver after the evidentiary
 1407 hearing, the department or lead agency must provide an
 1408 appropriate transition plan in accordance with s. 39.4023.
 1409 (4)(2) In cases where the issue before the court is whether
 1410 a child should be reunited with a parent, the court shall review
 1411 the conditions for return and determine whether the
 1412 circumstances that caused the out-of-home placement and issues
 1413 subsequently identified have been remedied to the extent that
 1414 the return of the child to the home with an in-home safety plan
 1415 prepared or approved by the department will not be detrimental
 1416 to the child's safety, well-being, and physical, mental, and
 1417 emotional health.
 1418 (5)(3) In cases where the issue before the court is whether
 1419 a child who is placed in the custody of a parent should be
 1420 reunited with the other parent upon a finding that the
 1421 circumstances that caused the out-of-home placement and issues

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1422 subsequently identified have been remedied to the extent that
 1423 the return of the child to the home of the other parent with an
 1424 in-home safety plan prepared or approved by the department will
 1425 not be detrimental to the child, the standard shall be that the
 1426 safety, well-being, and physical, mental, and emotional health
 1427 of the child would not be endangered by reunification and that
 1428 reunification would be in the best interest of the child.
 1429 (6)(4) In cases in which the issue before the court is
 1430 whether to place a child in out-of-home care after the child was
 1431 placed in the child's own home with an in-home safety plan or
 1432 the child was reunified with a parent or caregiver with an in-
 1433 home safety plan, the court must consider, at a minimum, the
 1434 following factors in making its determination whether to place
 1435 the child in out-of-home care:
 1436 (a) The circumstances that caused the child's dependency
 1437 and other subsequently identified issues.
 1438 (b) The length of time the child has been placed in the
 1439 home with an in-home safety plan.
 1440 (c) The parent's or caregiver's current level of protective
 1441 capacities.
 1442 (d) The level of increase, if any, in the parent's or
 1443 caregiver's protective capacities since the child's placement in
 1444 the home based on the length of time the child has been placed
 1445 in the home.
 1446
 1447 The court shall additionally evaluate the child's permanency
 1448 goal and change the permanency goal as needed if doing so would
 1449 be in the best interests of the child. If the court changes the
 1450 permanency goal, the case plan must be amended pursuant to s.

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1451 39.6013(5).

1452 Section 9. Subsections (2) and (5) of section 39.523,
1453 Florida Statutes, are amended to read:

1454 39.523 Placement in out-of-home care.—

1455 (2) ASSESSMENT AND PLACEMENT.—When any child is removed
1456 from a home and placed ~~in into~~ out-of-home care, a comprehensive
1457 placement assessment process shall be completed in accordance
1458 with s. 39.4022 to determine the level of care needed by the
1459 child and match the child with the most appropriate placement.

1460 (a) The community-based care lead agency or subcontracted
1461 agency with the responsibility for assessment and placement must
1462 coordinate a multidisciplinary team staffing as established in
1463 s. 39.4022 with the necessary participants for the stated
1464 purpose of the staffing with any available individual currently
1465 involved with the child including, but not limited to, a
1466 representative from the department and the case manager for the
1467 child, a therapist, attorney ad litem, guardian ad litem,
1468 teachers, coaches, Children's Medical Services, and other
1469 community providers of services to the child or stakeholders as
1470 applicable. The team may also include clergy, relatives, and
1471 fictive kin if appropriate. Team participants must gather data
1472 and information on the child which is known at the time
1473 including, but not limited to:

1474 1. ~~Mental, medical, behavioral health, and medication~~
1475 ~~history;~~

1476 2. ~~Community ties and school placement;~~

1477 3. ~~Current placement decisions relating to any siblings;~~

1478 4. ~~Alleged type of abuse or neglect including sexual abuse~~
1479 ~~and trafficking history; and~~

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1480 5. ~~The child's age, maturity, strengths, hobbies or~~
1481 ~~activities, and the child's preference for placement.~~

1482 (b) The comprehensive placement assessment process may also
1483 include the use of an assessment instrument or tool that is best
1484 suited for the individual child.

1485 (c) The most appropriate available out-of-home placement
1486 shall be chosen after consideration by all members of the
1487 multidisciplinary team of all of the information and data
1488 gathered, including the results and recommendations of any
1489 evaluations conducted.

1490 (d) Placement decisions for each child in out-of-home
1491 placement shall be reviewed as often as necessary to ensure
1492 permanency for that child and address special issues related to
1493 this population of children.

1494 (e) The department, a sheriff's office acting under s.
1495 39.3065, a community-based care lead agency, or a case
1496 management organization must document all placement assessments
1497 and placement decisions in the Florida Safe Families Network.

1498 (f) If it is determined during the comprehensive placement
1499 assessment process that residential treatment as defined in s.
1500 39.407 would be suitable for the child, the procedures in that
1501 section must be followed.

1502 (5) RULEMAKING.—The department shall ~~may~~ adopt rules to
1503 implement this section.

1504 Section 10. Paragraph (e) of subsection (1) of section
1505 39.806, Florida Statutes, is amended to read:

1506 39.806 Grounds for termination of parental rights.—

1507 (1) Grounds for the termination of parental rights may be
1508 established under any of the following circumstances:

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1509 (e) When a child has been adjudicated dependent, a case
 1510 plan has been filed with the court, and:

1511 1. The child continues to be abused, neglected, or
 1512 abandoned by the parent or parents. The failure of the parent or
 1513 parents to substantially comply with the case plan for a period
 1514 of 12 months after an adjudication of the child as a dependent
 1515 child or the child's placement into shelter care, whichever
 1516 occurs first, constitutes evidence of continuing abuse, neglect,
 1517 or abandonment unless the failure to substantially comply with
 1518 the case plan was due to the parent's lack of financial
 1519 resources or to the failure of the department to make reasonable
 1520 efforts to reunify the parent and child. The 12-month period
 1521 begins to run only after the child's placement into shelter care
 1522 or the entry of a disposition order placing the custody of the
 1523 child with the department or a person other than the parent and
 1524 the court's approval of a case plan having the goal of
 1525 reunification with the parent, whichever occurs first; or

1526 2. The parent or parents have materially breached the case
 1527 plan by their action or inaction. Time is of the essence for
 1528 permanency of children in the dependency system. In order to
 1529 prove the parent or parents have materially breached the case
 1530 plan, the court must find by clear and convincing evidence that
 1531 the parent or parents are unlikely or unable to substantially
 1532 comply with the case plan before time to comply with the case
 1533 plan expires.

1534 3. The child has been in care for any 12 of the last 22
 1535 months and the parents have not substantially complied with the
 1536 case plan so as to permit reunification under s. 39.522(4) ~~s.~~
 1537 ~~39.522(2)~~ unless the failure to substantially comply with the

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1538 case plan was due to the parent's lack of financial resources or
 1539 to the failure of the department to make reasonable efforts to
 1540 reunify the parent and child.

1541 Section 11. This act shall take effect October 1, 2021.

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: PCS/CS/SB 48 (604240)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Education); Education Committee; and Senator Diaz and others

SUBJECT: Educational Scholarship Programs

DATE: March 3, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Sagues</u>	<u>Bouck</u>	<u>ED</u>	<u>Fav/CS</u>
2.	<u>Underhill</u>	<u>Elwell</u>	<u>AED</u>	<u>Recommend: Fav/CS</u>
3.	<u>Underhill</u>	<u>Sadberry</u>	<u>AP</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 48 consolidates student scholarship programs and provides parents with more flexibility to meet the educational needs of their child. The bill merges the John M. McKay Scholarship Program for Students with Disabilities (McKay program) with the Gardiner Scholarship Program (Gardiner program) and creates a new scholarship program, the McKay-Gardiner Scholarship Program (McKay-Gardiner program). The bill incorporates the Florida Tax Credit Scholarship Program (FTC program) and Hope Scholarship Program (Hope) into the Family Empowerment Scholarship Program (FES program). In addition, the bill:

- Establishes both scholarship programs as education savings accounts.
- Provides that eligible families may receive an award for students enrolled in a public school, a private school, or a home education program.
- Specifies that recipients of a scholarship during the 2020-2021 school year are eligible for a scholarship under the appropriate consolidated program for the 2021-2022 school year.
- Increases the scholarship awards to 97.5 percent of the per-student-funding calculation and authorizes up to 2.5 percent for administrative costs incurred by nonprofit scholarship funding organizations (SFOs).
- Combines eligibility requirements from the McKay and Gardiner scholarship programs to establish the McKay-Gardiner program student eligibility requirements and award priorities.
- Modifies the FES program student eligibility requirements and award priorities to incorporate provisions of the FTC program and Hope program.

- Establishes the maximum number of McKay-Gardiner program awards at 50,000 full-time equivalent (FTE) students with an annual scholarship growth rate of one percent of the total exceptional student education student FTE, not including gifted.
- Establishes the maximum number of FES program awards at 175,000 full-time equivalent (FTE) students to incorporate the FTC program and Hope students and maintains the current FES program annual growth rate of one percent of the state's total public school student FTE enrollment.
- Establishes common accountability criteria across scholarship programs.
- Requires the Auditor General to conduct an operational audit of each nonprofit SFO at least once every three years.

The impact on state funding is indeterminate. The state funding will depend on an official estimate of student FTE participating in the scholarship programs for the 2021-2022 school year, an official estimate of the amount of revenue that will be transferred to the Florida Education Finance Program (FEFP), and the amount of state funds allocated to the FEFP during the appropriation process. See Section V.

The bill takes effect on July 1, 2021.

II. Present Situation:

The present situation for the relevant portions of the bill is discussed under the Effect of Proposed Changes of this bill analysis.

III. Effect of Proposed Changes:

Scholarships for Students with Disabilities

Present Situation

The John M. McKay Scholarship for Students with Disabilities Program

The McKay program was established in 1999 and provides public school students with a defined disability¹ and an Individual Education Plan (IEP)² or a 504 accommodation plan issued under s.

¹ Students with disabilities include K-12 students who are documented as having an intellectual disability; a speech impairment; a language impairment; a hearing impairment, including deafness; a visual impairment, including blindness; a dual sensory impairment; an orthopedic impairment; another health impairment; an emotional or behavioral disability; a specific learning disability, including, but not limited to, dyslexia, dyscalculia, or developmental aphasia; a traumatic brain injury; a developmental delay; or autism spectrum disorder. Section 1002.39(1), F.S.

² All students who are between the ages of three to 21 and have a disability have the right to a free, appropriate public education. Section 1003.5716, F.S. The IEP is the primary vehicle for communicating the school district's commitment to addressing the unique educational needs of a student with a disability. Florida Department of Education, *Developing Quality Individual Education Plans* (2015), available at <http://www.fldoe.org/core/fileparse.php/7690/urlt/0070122-qualityieps.pdf>, at 9.

504 of the Rehabilitation Act of 1973³ the option to attend a different public school or attend a private school using a state funded school voucher scholarship.⁴

Student Eligibility

A student is eligible for an award under the McKay program if:

- The student has an Individual Education Plan (IEP), or a 504 accommodation plan;
- The student has spent the prior school year in attendance at a Florida public school or the Florida School for the Deaf and Blind; and
- The parent has obtained acceptance for admission of their child to a private school that is eligible to participate in the McKay Scholarship program.⁵

Program Prohibitions

A student is not eligible for an award under the McKay program if the student:

- Is enrolled in a Department of Juvenile Justice (DJJ) program or the Florida School for the Deaf and Blind;
- Participates in a home education or private tutoring program, or a virtual school that receives state funding unless the student is enrolled in no more than two courses per year;
- Does not have regular or direct contact with teachers;
- Is issued a temporary 504 accommodation plan valid for 6 months or less; or
- Receives any other educational scholarship pursuant to law.⁶

Eligibility Term

The term of the scholarship continues until the student returns to public school, graduates from high school, or reaches 22 years of age.⁷

School District Obligations

School districts are required to comply with multiple obligations, including all of the following:

- Notifying parents of the scholarship.
- Providing IEP evaluation and student assessment services.
- Allowing the parent to enroll their child in a public school other than the one assigned and provide transportation if the school chosen is consistent with the district school board's choice plan.
- Allowing the parent to enroll their child in a public school in an adjacent school district.⁸

³ U.S. Department of Labor, Section 504, Rehabilitation Act of 1973 *available at* <https://www.dol.gov/agencies/oasam/centers-offices/civil-rights-center/statutes/section-504-rehabilitation-act-of-1973> (last visited Jan. 28, 2021). The Section 504 plan identifies the services and accommodations necessary for a student to access instruction and may include accommodations in the classroom and for local and state assessments. Florida Department of Education, *Accommodations, Assisting Students with Disabilities* (2018), *available at* <http://www.fldoe.org/core/fileparse.php/7567/urlt/0070069-accomm-educator.pdf>. at 3.

⁴ Section 1002.39(1), F.S.

⁵ Section 1002.39(2), F.S.

⁶ Section 1002.39(3), F.S.

⁷ Section 1002.39(4), F.S.

⁸ Section 1002.39(5), F.S.

In addition, the school district is required to report all students to the Department of Education (DOE) who are attending a private school using a McKay Scholarship.⁹

Department of Education Obligations

The DOE is responsible for administering the program, including:

- Cross-checking the list of participating students against the public school enrollment prior to each scholarship payment to avoid duplication; and¹⁰
- Making quarterly scholarship payments to the private school of the parent's choice.¹¹

Private School Obligations

Private schools participating in the scholarship program must comply with the general laws governing private schools, pursuant to s. 1002.421, F.S., and must provide all documentation required for a student's participation, including the student fee schedule.¹²

Parent and Student Obligations

A parent is exercising his or her parental choice to enroll his or her child in a private school, and is responsible for:

- Applying for admission to a private school;
- Remaining in attendance at the private school throughout the school year unless excused for illness or other good cause; and
- Restrictively endorsing the warrant to the private school.¹³

Transition-to-work Program

Students who are between the ages of 17 and 22 may participate in a transition-to-work program offered through their private school. The transition-to-work program includes academic instruction, work skills training, and a volunteer or paid work experience.¹⁴

Scholarship Funding and Payment

The McKay program is funded through the Florida Education Finance Program (FEFP) and administered by the DOE.¹⁵ The calculation of the awards are based on the base student allocation, the student's grade level, matrix level of services cost factors, and district cost differential for the school district to which the student was assigned, and funding from selected categorical programs.

⁹ Section 1002.39(10)(c), F.S.

¹⁰ Section 1002.39(6), F.S.

¹¹ Section 1002.39(10)(e), F.S.

¹² Section 1002.39(7), F.S.

¹³ Section 1002.39(8), F.S.

¹⁴ Section 1002.39(9), F.S.

¹⁵ The Florida Education Finance Program (FEFP) is the mechanism that allocates the state appropriation to each school district throughout the year based on reported student enrollments.

During the 2019-2020 school year, \$221.5 million in scholarship payments were distributed to 1,547 private schools serving 30,185 students. The average scholarship for a student with an IEP was \$8,473. The average scholarship for a student with a 504 accommodation plan was \$4,676.¹⁶

The Gardiner Scholarship Program

The Gardiner program was established in 2014 to provide eligible students with a disability¹⁷ a scholarship to meet the individual educational needs of the student through an education savings account.

Student Eligibility

In order to be eligible for a scholarship a student must:

- Be a Florida resident;
- Be at least three years of age before September 1 or eligible to enroll in kindergarten through grade 12,
- Have a defined disability; and
- Have an IEP written in accordance the rules of the State Board of Education (SBE)¹⁸ or the rules of another state; or
- Have the diagnosis of a specified disability from a physician or psychologist who holds an active license.¹⁹

Program Prohibitions

A student is not eligible for an award under the Gardiner program if the student is:²⁰

- Enrolled in a public school, including the Florida Virtual School;
- Enrolled in a DJJ program or the Florida School for the Deaf and Blind; or
- Receiving any other educational scholarship pursuant to law.²¹

A parent may not transfer any prepaid college plan or college savings account that contains funds contributed from the Gardiner Scholarship to another beneficiary. In addition, a parent may not receive a payment, refund or rebate from an approved provider of any services under the program.²²

¹⁶ Florida Department of Education, Office of Independent Education and Parental Choice, *McKay Scholarship Program* (2020), available at <https://www.fldoe.org/core/fileparse.php/5606/urlt/McKay-Aug.pdf>.

¹⁷ Disability means, for a 3- or 4-year-old child or for a student in kindergarten to grade 12, autism spectrum disorder, as defined in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, published by the American Psychiatric Association; cerebral palsy; Down syndrome; an intellectual disability; Phelan-McDermid syndrome; Prader-Willi syndrome; spina bifida; being a high-risk child; muscular dystrophy; Williams syndrome; rare diseases which affect patient populations of fewer than 200,000 individuals in the United States, as defined by the National Organization for Rare Disorders; anaphylaxis; deaf; visually impaired; traumatic brain injured; hospital or homebound; or identification as dual sensory impaired. The term “hospital or homebound” includes a student who has a medically diagnosed physical or psychiatric condition or illness and who is confined to the home or hospital for more than 6 months. Section 1002.385(2), F.S.

¹⁸ Rule 6A-6.0961, F.A.C. See also Rules 6A-6.03028, 6A-6.030281, 6A-6.03029, and 6A-6.03311, F.A.C.

¹⁹ Florida Department of Education, Office of Independent Education and Parental Choice, *Gardiner Scholarship Program* (2020), available at <http://www.fldoe.org/core/fileparse.php/5606/urlt/Gardiner.pdf>. See s. 1002.385(3), F.S.

²⁰ Section 1002.385(4), F.S.

²¹ Section 1002.385(4), F.S.

²² Section 1002.385(11), F.S.

Authorized Uses of Funds

Scholarship funds provided through an education savings account must be used to meet the individual needs of an eligible student and may include:²³

- Instructional materials;
- Curriculum;
- Specialized services, programs, and courses;²⁴
- Tuition and fees;²⁵
- Transition services provided by job coaches;²⁶ and
- Contributions to a college prepaid account.

Eligibility Term

The term of the scholarship continues until one of the following occurs:

- The parent does not renew scholarship eligibility;
- The nonprofit SFO determines that the student is ineligible;
- The Commissioner of Education (commissioner) suspends or revokes scholarship participation or use of funds;
- The student's parent fails to comply with parent and student responsibilities for scholarship participation;
- The student enrolls in a public school; or
- The student graduates from high school or attains 22 years of age.²⁷

Any remaining funds revert to the state after denial or revocation of scholarship eligibility by the commissioner for fraud or abuse, or after three consecutive fiscal years in which an account has been inactive or three consecutive years after high school completion or graduation during which the student is not enrolled in an eligible postsecondary educational institution or a program offered by the institution.²⁸

School District Obligations

Upon request, school districts are required to develop an IEP and a matrix of services evaluation, and provide student assessment services.²⁹

²³ Section 1002.385(5), F.S.

²⁴ *Id.* Specialized services may include applied behavior analysis, services provided by speech-language pathologists, occupational therapy services, services provided by physical therapists, and services provided by listening and spoken language specialists. Specialized programs and courses include summer and after-school education programs and music and art therapy.

²⁵ Tuition or fees may include full-time or part-time enrollment in a home education program, an eligible private school, an eligible postsecondary educational institution or a program offered by the postsecondary institution, a private tutoring program, a virtual program, part-time tutoring, assessments, specialized programs including Voluntary Prekindergarten Education programs. Section 1002.385(5), F.S.

²⁶ "Transition services" means a coordinated set of activities for a student, designed within an outcome-oriented process, that promote movement from school to post-school activities, including postsecondary education; vocational training; integrated employment; supported employment; continuing and adult education; adult services; independent living, or community participation. Section 413.20(26), F.S.

²⁷ Section 1002.385(6), F.S.

²⁸ *Id.*

²⁹ Section 1002.385(7), F.S.

Private School Obligations

Private schools participating in the scholarship program must comply with the general laws governing private schools, pursuant to s. 1002.421, F.S., and must make provisions for students to take a nationally norm-referenced test and report the scores to the parent.³⁰

Department of Education Obligations

The DOE has multiple obligations, including all of the following:

- Maintaining a list of approved providers on the DOE website.
- Requiring each nonprofit SFO to verify eligible expenditures.
- Investigating any written complaint.
- Requiring quarterly reports by nonprofit SFOs that would include information related to participants, awards, expenditures, and types of providers.
- Compare the list of participating students against the public school enrollment lists, Voluntary Prekindergarten Education (VPK) enrollment lists, and the list of students participating in school choice scholarship programs prior to each scholarship payment to avoid duplication.³¹

Commissioner of Education Obligations

The commissioner may suspend or revoke the participation in the Gardiner program of students, parents, nonprofit SFOs, and approved providers.³²

Parent and Student Obligations

Parents must meet participation requirements for the Gardiner program, which include annually submitting a notarized, sworn compliance statement affirming:

- The student is enrolled in a program meeting attendance requirements;
- Funds are used as authorized;
- The parent is responsible for the child's education by meeting specified requirements; and
- The student remains in good standing with the provider or school.³³

In addition, the parent is responsible for all of the following:

- Filing an application for initial program participation.
- Notifying the school district that the student is participating in the Gardiner program.
- Enrolling his or her child in an eligible VPK program or private school, if choosing this option.
- Renewing participation in the program annually.
- Procuring the services necessary to educate the student.
- Paying expenses in excess of the amount of the Gardiner Scholarship.³⁴

³⁰ Section 1002.39(8), F.S.

³¹ Section 1002.39(9), F.S.

³² Section 1002.39(10), F.S.

³³ Section 1002.385(11), F.S.

³⁴ Section 1002.385(11), F.S.

Scholarship-funding Organization Obligations

The scholarship is directly administered by state-approved nonprofit scholarship funding organizations (SFOs), which have multiple obligations, including all of the following:

- Reviewing applications to determine student eligibility.
- Notifying parents of their receipt of a scholarship.
- Establishing deadlines for parents to confirm participation.
- Awarding scholarships based on established priorities.
- Maintaining separate accounts for each eligible student.
- Verifying qualifying educational expenditures.
- Returning any remaining program funds to the DOE.
- Notifying parents about the availability of requesting an IEP.
- Documenting each student's eligibility for a scholarship.³⁵

The nonprofit SFO is required to award scholarship funds in the following priority order:

1. Renewing students from the previous school year.
2. Students retained on the previous school year's wait list.
3. Newly approved applicants.
4. Late-filed applicant.

Auditor General Obligations

The Auditor General is required to conduct an annual operational audit of accounts and records of each nonprofit SFO that participates in the program.³⁶

Scholarship Funding and Payment

The funding amount is based on the student's matrix level of services. For a student without a matrix of services, the funding is calculated based on the amount to support Level III services. The amount of the scholarship award is equal to 90 percent of the calculated funding amount.³⁷ Once the scholarship has been verified and approved, the full amount of the award is deposited into the student's account. The nonprofit SFO may use up to three percent of the total amount of all program scholarships awarded for administrative expenses. The funds used for administrative expenses must originate from eligible tax credit contributions authorized under the FTC program and Hope program.³⁸

The Gardiner program has grown significantly over the seven years since it was established. For the 2014-2015 school year, scholarships totaling \$15 million were awarded to 1,559 students.³⁹ For the 2020-2021 school year, \$184.1 million has been awarded to 17,508 students through scholarships. The average scholarship amount is approximately \$10,464 per student.⁴⁰

³⁵ See s. 1002.385(12), F.S.

³⁶ Section 1002.385(14), F.S.

³⁷ Section 1002.385(13), F.S.

³⁸ Section 1002.395(6)(j), F.S.

³⁹ Florida Department of Education, Office of Independent Education and Parental Choice, *Gardiner Scholarship Program* (2020), available at <https://www.fldoe.org/core/fileparse.php/5606/urlt/Gardiner.pdf>.

⁴⁰ *Id.* Data for 2020-2021 is current as of Nov. 16, 2020.

Effect of Proposed Changes

The bill repeals s. 1002.385, F.S., relating to the Gardiner Scholarship Program, and s. 1002.39, F.S., relating to the John M. McKay Scholarships for Students with Disabilities Program, and creates a new education savings account scholarship program: s. 1002.381, F.S., relating to the McKay-Gardiner Scholarship Program (McKay-Gardiner).

McKay-Gardiner Scholarship Program

The bill merges the McKay and the Gardiner scholarship programs into a single scholarship program, the McKay-Gardiner Scholarship Program, with a common set of eligibility requirements and scholarship award funding structure.

Student Eligibility

To be eligible for receipt of a scholarship, a student must be a Florida resident, be three or four years of age or eligible to enroll in kindergarten through grade 12, and have a disability as specified in law that is documented through one of the following:

- An IEP⁴¹ written in accordance to the rules of the SBE⁴² or the rules of another state;
- A diagnosis of a defined disability from a physician or psychologist who holds an active license; or
- A 504 accommodation plan issued under s. 504 of the Rehabilitation Act of 1973.⁴³

The bill specifies the following priority order for awarding scholarships:

- A student who received a McKay or Gardiner program scholarship in the prior year;
- A student retained on the previous school year's wait list; and
- Other eligible students.

Program Prohibitions

Similar to the Gardiner program,⁴⁴ the bill specifies that a student is not eligible for an award under the McKay-Gardiner program if he or she is enrolled in a public school or DJJ program, issued a temporary 504 accommodation plan, does not have regular or direct contact with teachers unless enrolled in a transition-to-work program, or is receiving any other educational scholarship pursuant to state law.

Authorized Uses of Funds

The bill maintains that the scholarship is directly administered by state-approved nonprofit SFOs. Similar to the Gardiner program,⁴⁵ scholarship funds can be used to meet the education needs of students, which in addition to all authorized uses under the Gardiner program, include:

- School equipment and supplies
- Digital devices and internet access.
- Teacher's manuals.

⁴¹ *Supra* note 20.

⁴² Rule 6A-6.0961, F.A.C. *See also* Rules 6A-6.03028, 6A-6.030281, 6A-6.03029, and 6A-6.03311, F.A.C.

⁴³ *Supra* note 21.

⁴⁴ *See* Section 1002.385(4), F.S.

⁴⁵ *See* Section 1002.385(5), F.S.

- Tuition and fees for a private virtual school.
- A part-time tutor approved by the DOE.
- Classes related to art, music, or theater.
- Fees for summer and after-school programs.
- Transition services provided by private schools or job coaches.
- Transportation expenses not to exceed \$750 per year.

Eligibility Term

The term of the scholarship under the bill remains similar to the conditions for termination under the Gardiner program.⁴⁶

School District Obligations

School districts must also continue to notify parents about the scholarship and provide IEP evaluation and assessment services, upon request. In addition, school districts are required to accept the diagnosis from a licensed professional and consider the service plan recommended for a student requesting an IEP evaluation. The bill requires school districts to notify parents about the scholarship and removes the requirement for school districts to report scholarship students for funding.

Private School Obligations

Private schools participating in the scholarship program must continue to comply with current law,⁴⁷ and under the bill may discount tuition if the private school deems it necessary.

Department of Education Obligations

The bill requires the DOE to distribute scholarship funds on a quarterly basis, and adds requirements from the FES program and the FTC program to maintain and publish a list of nationally norm-referenced tests identified for purposes of satisfying assessment requirements, verify nonprofit SFO eligibility, and maintain scholarship information on the DOE website. Additionally, the bill maintains DOE obligations from the Gardiner program, including:

- Maintaining a list of approved providers.
- Requiring nonprofit SFOs to verify eligible educational expenses.
- Requiring quarterly reports of nonprofit SFOs.
- Cross-checking student participation to avoid duplicate payments to nonprofit SFOs.
- Investigating written complaints by a parent, student, private school, public school, school district, nonprofit SFO, provider, or other party.

Commissioner of Education Obligations

The bill maintains that the commissioner may suspend or revoke the participation in the program of students, parents, nonprofit SFOs, and approved providers.

⁴⁶ See Section 1002.385(6), F.S.

⁴⁷ Section 1002.421, F.S.

Parent and Student Obligations

The bill requires parents to meet a number of requirements similar to the Gardiner program,⁴⁸ which include annually submitting a sworn compliance statement that affirms:

- The student is enrolled in a program meeting attendance requirements.
- Funds are used as authorized.
- The parent is responsible for the child's education by meeting specified requirements.
- The student remains in good standing with the provider or school.

In addition, the parent is responsible for the following:

- Filing an application for initial program participation.
- Notifying the school district that the student is participating in the program.
- Enrolling his or her child in an eligible VPK program or private school, if choosing this option.
- Renewing participation in the program annually by a date set and in a format determined by the SFO.
- Procuring the services necessary to educate the student.
- Paying expenses in excess of the amount of the scholarship.

Scholarship-funding Organization Obligations

Under the bill, nonprofit SFOs participating in the McKay-Gardiner program may use up to 2.5 percent of the student generated funding for administrative purposes and must comply with a number of requirements to administer the program:

- From the FTC program:
 - Complying with federal antidiscrimination provisions.⁴⁹
 - Complying with background check requirements.
 - Prohibiting an owner or operator from participating in the program or restricting scholarships.
 - Providing an annual financial audit conducted by an independent certified public accountant to the Auditor General.
 - Monitoring compliance of private schools.
 - Notifying the DOE of any violations of law.
 - Having operated for at least three years without any material audit finding in order to use specified funds for administrative purposes.
 - Maintaining a single surety bond.⁵⁰
- From the Gardiner program:
 - Maintaining separate accounts for students.
 - Receiving applications, determining eligibility, and awarding scholarships.
 - Verifying qualifying educational expenditures.
 - Returning program funds as required.
 - Notifying parents of IEP evaluations and reevaluations.
 - Submitting timely reports to the DOE and Auditor General.⁵¹

⁴⁸ See Section 1002.385(11), F.S.

⁴⁹ 42 U.S.C. s. 2000d.

⁵⁰ Section 1002.395(4), F.S.

⁵¹ Section 1002.385(12), F.S.

The bill clarifies that the SFO is a renewing organization if it was approved by the State Board of Education for the 2021-2022 fiscal year. In addition, the bill retains the nonprofit SFO application process from the FTC program,⁵² and allows a child of a private school owner or operator to apply for a scholarship if he or she meets the eligibility requirements.

Auditor General Obligations

Similar to public school districts, the bill requires the Auditor General to conduct an operational audit on an approved nonprofit SFO at least once every three years,⁵³ rather than annually as currently required under the Gardiner program.

Transition-to-work Program

The bill maintains the opportunity from the McKay program for students who are between the ages of 17 and 22 to participate in a transition-to-work program offered through their private school or job coach. The transition-to-work program includes academic instruction, work skills training, and a volunteer or paid work experience.

Scholarship Funding and Payment

The bill establishes the McKay-Gardiner program for up to 50,000 full-time equivalent (FTE) students with an increase equal to one percent of the total public school exceptional student education FTE, not including gifted students. The funding is calculated based on the FEFP grade level, the school district to which the student would have been assigned, and the matrix level of services generated by the students. The scholarship award is 97.5 percent of the calculated amount. However, unlike the Gardiner program where a student's full scholarship award is distributed at the beginning of the school year or upon program enrollment, scholarship awards under the new McKay-Gardiner program will be disbursed on a quarterly basis. The bill clarifies the responsibilities of both the SFO and the DOE in the eligibility verification process prior to the DOE releasing the scholarship funds to the SFO to be deposited in the student's account in four equal amounts by the established deadlines.

Similar to the Gardiner program, any remaining funds revert to the state after denial or revocation of scholarship eligibility by the commissioner for fraud or abuse, or after two consecutive fiscal years in which an account has been inactive or three consecutive years after high school completion or graduation during which the student is not enrolled in an eligible postsecondary educational institution or a program offered by the institution.

⁵² See Section 1002.395(15), F.S.

⁵³ Since 2015, the Auditor General has conducted annual operational audits of the accounts and records of eligible nonprofit scholarship-funding organizations. As recent audits have not disclosed significant control deficiencies or noncompliance, the Legislature should consider amending ss. 11.45(2)(l), 1002.385(14)(a), and 1002.40(12)(a), F.S., to require the Auditor General to conduct operational audits at least once every 3 years of the accounts and records of eligible nonprofit scholarship-funding organizations. Auditor General, *Auditor General Annual Report 2020 November 1, 2019, Through October 31, 2020* (2020) available at https://flauditor.gov/pages/pdf_files/annual%20report%202020.pdf at 7.. Section 11.45(2)(f), F.S.

Other K-12 Education Scholarship Programs

Present Situation

Florida Tax Credit (FTC) Scholarship Program

The FTC program was established in 2001⁵⁴ to authorize private, voluntary contributions from corporate donors to eligible nonprofit SFOs that award tax credit scholarships to eligible children from low-income families.⁵⁵ State law requires the nonprofit SFOs to use the contributions received to provide scholarships to eligible students for the cost of private school tuition or transportation to a public school that is different from the school to which the student was assigned.

Student Eligibility

To be eligible for an award under the FTC program, a student must meet at least one of the following criteria:

- The student is on the direct certification list⁵⁶ or the student's household income level does not exceed 260 percent of the federal poverty level; or
- The student is currently placed, or during the previous state fiscal year was placed, in foster care or in out-of-home care as defined in law.⁵⁷

Priority is given to a student whose household income level does not exceed 185 percent of the federal poverty level or who is in foster care or out-of-home care.

A sibling of a student who is participating in the scholarship program is eligible for a scholarship if the student resides in the same household as the sibling.

Program Prohibitions

A student is not eligible for a scholarship while he or she is enrolled in a public school or DJJ program; receiving another state educational scholarship pursuant to Florida law; enrolled in a home education or private tutoring program, or enrolled in the Florida School for the Deaf and the Blind. The student is also limited to participating in no more than two state-funded virtual courses per year.⁵⁸

⁵⁴ Section 5, ch. 2001-225, L.O.F.

⁵⁵ The program allows a corporation to receive a dollar-for-dollar tax credit up to 100% of its state income tax liability. The program also includes credits against the insurance premium tax for contributions to eligible nonprofit SFOs, credits against severance taxes on oil and gas production, self-accrued sales tax liabilities of direct pay permit holders, and alcoholic beverage taxes on beer, wine, and spirits. The maximum amount the state may award is \$873 million in credits for the 2020-21 fiscal year. Department of Education, *Florida Tax Credit Scholarship Program September 2020 Quarterly Report* (2020), available at: <http://www.fldoe.org/core/fileparse.php/7558/urlt/FTC-Sept-2020-Q-Report.pdf>

⁵⁶ Direct certification list means the certified list of children who qualify for the food assistance program, the Temporary Assistance to Needy Families Program, or the Food Distribution Program on Indian Reservations provided to the Department of Education by the Department of Children and Families. Section 1002.395(2)(c), F.S.

⁵⁷ Section 1002.395(3), F.S.

⁵⁸ Section 1002.395(4), F.S.

Eligibility Term

A student who initially receives a scholarship remains eligible to participate until the student graduates from high school or attains the age of 21 years, whichever occurs first, regardless of the student's household income level.⁵⁹

Scholarship Funding Tax Credits

A taxpayer may submit an application for a tax credit toward one or more contributions to an eligible nonprofit SFO that administers an educational scholarship program.⁶⁰

Scholarship-funding Organization Obligations

Nonprofit SFOs must comply with requirements relating to administration of the program, which include federal antidiscrimination laws, background checks, and private school choice. In addition, nonprofit SFOs must:

- Give first priority to eligible students who received an FTC program scholarship during the previous school year;
- Apply all funds available under the FTC program and the Hope program for renewal scholarship awards before awarding any initial scholarships;
- Provide a scholarship to an eligible student on a first-come, first-served basis unless the student qualifies for priority established in law;
- Refer any student eligible for an FTC program scholarship who did not receive a renewal or initial scholarship based solely on the lack of available funds through the FTC program or Hope program to another eligible nonprofit SFO that may have funds available;
- Not restrict or reserve scholarships for use at a particular private school or provide scholarships to a child of an owner or operator;
- Allow a student in foster care or out-of-home care or a dependent child of a parent who is a member of the United States Armed forces to apply for a scholarship at any time;
- Allow a student to attend any private school and transfer school during the school year;
- Maintain separate accounts for scholarship funds and operating funds;
- Provide the annual financial audit report to the Auditor General and the DOE.
- Submit quarterly reports to the DOE; and
- Maintain a surety bond.⁶¹

The nonprofit SFO may use up to three percent of the total amount of all scholarships awarded for administrative expenses. No more than 25 percent of the eligible contributions can be carried forward to the following state fiscal year. Prior to granting a scholarship, the nonprofit SFO must document the student's eligibility each year.

An organization that intends to participate in the program must annually submit an application to the Office of Independent Education and Parental Choice. Within 30 days of receipt of the application, the commissioner shall recommend approval to the State Board of Education. If an

⁵⁹ Section 1002.395(3), F.S.

⁶⁰ Section 1002.395(5), F.S.

⁶¹ Section 1002.395(6), F.S.

existing nonprofit SFO is disapproved for renewal, all remaining funds held by the SFO must be transferred to other eligible nonprofit SFOs to provide scholarships for eligible students.⁶²

Parent and Student Obligations

Parents must meet participation requirements for the FTC program, which include all of the following:⁶³

- Selecting an eligible private school.
- Informing the child's school district when withdrawing their child to attend a private school.
- Remaining in attendance at the private school throughout the school year.
- Ensuring the student takes the norm-referenced assessment.
- Restrictively endorsing the warrant to the private school.

Private School Obligations

Private schools participating in the scholarship program must comply with the general laws governing private schools, pursuant to s. 1002.421, F.S., and must make provisions for students to take a nationally norm-referenced test and report the scores to the parent.⁶⁴

Department of Education Obligations

The DOE has multiple obligations, including all of the following:

- Verifying the eligibility of each nonprofit SFO.
- Verifying the eligibility of expenditures.
- Cross-checking the list of participating students against the public school enrollment to avoid duplication.
- Maintaining a list of nationally norm-referenced tests.
- Issuing a project grant award every two years to a state university to which private schools must report the scores from the nationally norm-referenced tests.
- Notifying the nonprofit SFO of their eligible students and eligible students associated with other nonprofit SFOs.
- Requiring quarterly reports by nonprofit SFOs that would include information related to the scholarship participants and the private schools they attend.
- Providing a process to match the direct-certification list with the scholarship application data.⁶⁵

School District Obligations

School districts are required to comply with multiple obligations, including:

- Notifying households that receive a free or reduced-price meal of the scholarship, upon request of the nonprofit SFO; and
- Implementing test administration of statewide assessments at private schools.⁶⁶

⁶² Section 1002.395(15), F.S.

⁶³ Section 1002.395(7), F.S.

⁶⁴ Section 1002.395(8), F.S.

⁶⁵ Section 1002.395(9), F.S.

⁶⁶ Section 1002.395(10), F.S.

Scholarship Funding and Payment

During the 2019-20 school year, FTC program scholarships in the amount of \$670 million were awarded to a total of 111,219 students enrolled in 1,870 participating Florida private schools. The maximum scholarship amount per student in the 2019-2020 school year was \$7,408.⁶⁷ As of January 2021, 100,008 scholarships were awarded to students for the 2020-2021 school year.⁶⁸

Family Empowerment Scholarship (FES) Program

The FES program was established in 2019⁶⁹ to provide educational options to eligible children of families with limited financial resources through a state funded school voucher scholarship. Similar to the McKay program,⁷⁰ the FES program is based on the FEFP allocation formula.

Student Eligibility

To be eligible for an award under the FES program, a student must meet the following criteria:⁷¹

- The student is:
 - On the direct certification list pursuant to law or the student's household income level does not exceed 300 percent of the federal poverty level; or
 - Currently placed, or during the previous fiscal year was placed, in foster care or in out-of-home care as defined in law.
- The student is eligible to enroll in kindergarten or has spent the prior school year in attendance at a Florida public school. However, a dependent child of a member of the United States Armed Forces who transfers to a school in this state from out of state or from a foreign country due to a parent's permanent change of station orders or a foster child is exempt from the prior public school attendance requirement.
- The parent has obtained acceptance for admission of the student to a private school that is eligible for the program and the parent has requested a scholarship from the DOE at least 60 days before the date of the first scholarship payment.

A sibling of a student who is participating in the FES program is eligible for a scholarship if the student resides in the same household as the sibling.

The law specifies the following priority order for awarding FES scholarships:

1. An eligible student who received a FES program scholarship in the prior year.
2. An eligible student who is a renewal student from a different nonprofit SFO.
3. An eligible student who attended a public school the prior year and was on the direct certification list or the student was placed in foster care.
4. An eligible student who is eligible to enroll in kindergarten and was on the direct certification list or the student was placed in foster care.

⁶⁷ Florida Department of Education, *Fact Sheet, Florida Tax Credit Scholarship Program (2020)*, available at <https://www.fldoe.org/core/fileparse.php/5606/urlt/FTC-Sept-2020-line.pdf>.

⁶⁸ Florida Department of Education, *K-12 Scholarships*, Presentation to the Committee on Education, The Florida Senate (January 12, 2021), available at https://www.flsenate.gov/Committees/Show/ED/MeetingPacket/4961/8839_MeetingPacket_4961.pdf.

⁶⁹ Section 6, ch. 2019-21, L.O.F.

⁷⁰ See Section 1002.39(10), F.S.

⁷¹ Section 1002.394(3), F.S.

5. An eligible student whose household income level does not exceed 300 percent of the federal poverty level and who attended a public school the prior year or is a renewal student from a different nonprofit SFO.⁷²

The qualifying household income level of 300 percent may increase by 25 percent in any fiscal year in which more than five percent of the available scholarships authorized have not been awarded.

Eligibility Term

A student who receives a scholarship remains eligible to participate until the student graduates from high school or attains the age of 21 years, whichever occurs first, regardless of the student's household income level.⁷³

Program Prohibitions

A student is not eligible for a scholarship while he or she is enrolled in a public school or DJJ program; receiving another state educational scholarship pursuant to Florida law; enrolled in a home education or private tutoring program, a virtual program that receives state funding pursuant to the student's participation, or enrolled in the Florida School for the Deaf and the Blind.⁷⁴

School District Obligations

School districts must provide information on the district's website and inform all households within the district receiving free or reduced priced meals under the National School Lunch Act⁷⁵ of their eligibility to apply for the scholarship. School districts must also notify the student and parent about, and provide services for, statewide assessment participation.⁷⁶

Department of Education Obligations

The DOE is required to:

- Publish information on the DOE website about the FES program, including student eligibility criteria, parental responsibilities, and relevant data;
- Cross-check the list of participating scholarship students with the public school enrollment lists before each scholarship payment is made to avoid duplication;
- Maintain and publish a list of nationally norm-referenced tests identified for purposes of satisfying the FES program testing requirement; and
- Establish and notify nonprofit SFO's of specified deadlines.⁷⁷

⁷² Section 1002.394(3), F.S.

⁷³ Section 1002.394(4), F.S.

⁷⁴ Section 1002.394(5), F.S.

⁷⁵ 42 U.S.C s. 1751, et seq. The National School Lunch Program (NSLP) is a federally assisted meal program operating in public and nonprofit private schools and residential child care institutions. It provides nutritionally balanced, low-cost or free lunches to children each school day. The program was established under the National School Lunch Act, signed by President Harry Truman in 1946. USDA Food and Nutrition Service, *National School Lunch Program*, <https://www.fns.usda.gov/nslp> (last visited Jan. 29, 2021).

⁷⁶ Section 1002.394(6), F.S.

⁷⁷ Section 1002.394(7), F.S.

Private School Obligations

Private schools participating in the scholarship program must comply with the general laws governing private schools, pursuant to s. 1002.421, F.S., and must provide all documentation required for a student's participation, including the student fee schedule. In addition, the private school must annually administer or make provision for participating students in grades three through ten to take one of the nationally norm-referenced tests identified by the DOE or take the statewide standardized assessments. A participating private school must report a student's scores to his or her parent and to a state university for the purpose of annual performance data reporting.⁷⁸

Parent and Student Obligations

Parents must meet participation requirements for the FTC program, which include all of the following:

- Selecting an eligible private school.
- Requesting a scholarship at least 60 days prior to first scholarship payment.
- Informing the child's school district when withdrawing child to attend a private school.
- Remaining in attendance at the private school throughout the school year.
- Reviewing the private school's policies with the school principal or designee.
- Ensuring the student takes the norm-referenced assessment.
- Restrictively endorsing the warrant to the private school.⁷⁹

Scholarship-funding Organization Obligations

An eligible nonprofit SFO:

- Must verify the household income level of students and submit the verified list of students and related documentation to the DOE;
- Must award scholarships in priority order as specified in law;
- May use up to one percent of the total amount of all FES program scholarships awarded for administrative expenses. The funds used for administrative expenses must originate from eligible tax credit contributions authorized under the FTC program and Hope program;⁸⁰
- Must, in a timely manner, submit any information requested by the DOE relating to the scholarship; and
- Must notify the DOE of any violation by a parent or private school of FES program requirements.⁸¹

Scholarship Funding and Payment

The funding amount is based on the student's grade level and school district in which the student was assigned plus a share of most categorical programs.⁸² The amount of the scholarship award

⁷⁸ Section 1002.394(8), F.S.

⁷⁹ Section 1002.394(9), F.S.

⁸⁰ Section 1002.395(6)(j), F.S.

⁸¹ Section 1002.394(10), F.S.

⁸² In addition to the basic amount for current operations for the FEFP specified in law, the Legislature may appropriate categorical funding for specified programs, activities, or purposes. Section 1011.62(6), F.S.

is equal to 95 percent of the calculated amount. The amount of the award is deposited quarterly in the student's account once the scholarship has been verified and approved.⁸³

The FES program was initially established for up to 18,000 eligible students annually beginning with the 2019-2020 school year, and served 17,823.⁸⁴ Beginning in the 2020-2021 school year, the number of students participating in the FES annually increases by one percent of the state's total public school student enrollment.⁸⁵ As of January 2021, 36,384 scholarships were awarded to students for the 2020-2021 school year.⁸⁶

Hope Scholarship Program (Hope)

The Hope program was established in 2018⁸⁷ as a tax credit scholarship program to provide the parent of a public school student in kindergarten through grade 12 an opportunity to transfer the student to another public school or to request a scholarship for the student to enroll in and attend an eligible private school if that student has been subjected to battery; harassment; hazing; bullying; kidnapping; physical attack; robbery; sexual offenses; threat or intimidation; or fighting at school.⁸⁸

Once a parent or child submits a report of an incident, the school principal must provide a copy of the report to the parent and investigate the incident. Once the investigation is complete, or within 15 days after the incident was reported, whichever occurs first, the principal must notify the parent about the Hope program.⁸⁹

Program Prohibitions

A student is not eligible for a scholarship while he or she is enrolled in a public school or DJJ program; receiving another state educational scholarship pursuant to Florida law; enrolled in a home education or private tutoring program, or enrolled in the Florida School for the Deaf and the Blind. The student is also limited to participating in no more than two state-funded virtual courses per year.⁹⁰

Eligibility Term

The term of the scholarship continues until the student returns to public school or graduates from high school.⁹¹

⁸³ Section 1002.394(11), F.S.

⁸⁴ Florida Department of Education, *K-12 Scholarships*, Presentation to the Committee on Education, The Florida Senate (January 12, 2021), available at https://www.flsenate.gov/Committees/Show/ED/MeetingPacket/4961/8839_MeetingPacket_4961.pdf.

⁸⁵ Section 1002.394(11)(a), F.S.

⁸⁶ Florida Department of Education, *K-12 Scholarships*, Presentation to the Committee on Education, The Florida Senate (January 12, 2021), available at https://www.flsenate.gov/Committees/Show/ED/MeetingPacket/4961/8839_MeetingPacket_4961.pdf.

⁸⁷ Section 16, ch. 2018-6, L.O.F.

⁸⁸ Section 1002.40(1) and (6), F.S.

⁸⁹ Section 1002.40(6), F.S.

⁹⁰ Section 1002.40(4), F.S.

⁹¹ Section 1002.40(5), F.S.

School District Obligations

A school district is required to notify parents of the scholarship upon conclusion of the investigation about the opportunity to enroll in a different public school or attend an eligible private school.⁹²

Private School Obligations

Private schools participating in the scholarship program must comply with the general laws governing private schools, pursuant to s. 1002.421, F.S. and must annually administer or make provision for participating students in grades three through ten to take one of the nationally norm-referenced tests identified by the DOE or take the statewide standardized assessments.⁹³

Department of Education Obligations

The DOE is required to:

- Cross-check the list of participating scholarship students with the public school enrollment lists to avoid duplication;
- Maintain a list of nationally norm-referenced;
- Require quarterly reports by the nonprofit SFOs regarding the number of students and private schools enrolled; and
- Contract with an independent entity to annually evaluate the program.⁹⁴

Parent and Student Obligations

Parents must meet participation requirements for the Hope program, which include all of the following:⁹⁵

- Selecting an eligible private school.
- Informing the child's school district when withdrawing child to attend a private school.
- Remaining in attendance at the private school throughout the school year.
- Ensuring the student takes the norm-referenced assessment.
- Restrictively endorsing the warrant to the private school.

Scholarship-funding Organization Obligations

The scholarship is directly administered by state-approved nonprofit SFOs, which have multiple obligations, including.

- Reviewing applications to determine student eligibility.
- Notifying parents of their receipt of a scholarship.
- Establishing deadlines for parents to confirm participation.
- Awarding scholarships and giving priority to renewing students.
- Preparing quarterly reports to the DOE.
- Notifying the DOE of any violation.⁹⁶

⁹² Section 1002.40(6), F.S.

⁹³ Section 1002.40(7), F.S.

⁹⁴ Section 1002.40(8), F.S.

⁹⁵ Section 1002.40(9), F.S.

⁹⁶ Section 1002.40(10), F.S.

Auditor General Obligations

The Auditor General is required to conduct an annual operational audit of accounts and records of each organization that participates in the program.⁹⁷

Scholarship Funding Tax Credit

A tax credit⁹⁸ is available for use by a person who makes an eligible contribution.⁹⁹ Eligible contributions used to fund the Hope program may be used to fund FTC scholarships, with conditions. A nonprofit SFO may carry forward to the next state fiscal year no more than five percent of net eligible contributions to the Hope program.¹⁰⁰

Scholarship Funding and Payment

The Hope program served 388 students in the 2019-2020 school year. As of January 2021, 476 scholarships were awarded to students for the 2020-2021 school year.¹⁰¹

Effect of Proposed Changes

The bill modifies s. 1002.394, F.S., relating to the Family Empowerment Scholarship Program, s. 1002.395, F.S., relating to the Florida Tax Credit Scholarship Program, s. 1002.40, F.S., relating to the Hope Program, and related statutes.

Family Empowerment Scholarship Program

The bill incorporates the FTC program and Hope program into the FES program with a common set of eligibility requirements and scholarship award funding structure, expands the option under which a student may qualify for the FES program, and changes the program from a state funded school voucher program to an education savings account program. In addition, the bill modifies the purpose of the FES program to offer educational options to more families in addition to those with limited financial resources.

Student Eligibility

A student is eligible for an award under the FES program if the student is eligible to enroll in kindergarten through grade 12 and is:

- On the direct certification list or the student's household income does not exceed 300 percent of poverty; which is a higher maximum income level than the FTC program, which is 260% of the poverty level;
- Currently placed or placed during the previous fiscal year in foster or out-of-home care;

⁹⁷ Section 1002.40(12), F.S.

⁹⁸ The purchaser of a motor vehicle is granted a credit of 100 percent of an eligible contribution made to an eligible nonprofit scholarship-funding organization for the Hope Scholarship Program against any tax imposed by the state and collected from the purchaser by a dealer, designated agent, or private tag agent as a result of the purchase or acquisition of a motor vehicle, except that a credit may not exceed the tax that would otherwise be collected from the purchaser by a dealer, designated agent, or private tag agent. Section 212.1832(1), F.S.

⁹⁹ Section 1002.40(13), F.S.

¹⁰⁰ Section 1002.40(11)(i), F.S.

¹⁰¹ Florida Department of Education, *K-12 Scholarships*, Presentation to the Committee on Education, The Florida Senate (January 12, 2021), available at

https://www.flsenate.gov/Committees/Show/ED/MeetingPacket/4961/8839_MeetingPacket_4961.pdf.

- A sibling of a participating student residing in the same household;
- Enrolled in a public school and reported an incident of being subjected to battery; harassment; hazing; bullying; kidnapping; physical attack; robbery; sexual offenses, threat or intimidation; or fighting at school; or
- A sibling of a McKay-Gardiner scholarship recipient if the student resides in the same household and attends the same school as the qualifying sibling.

The bill removes the requirement that a student must spend the prior year in attendance at a Florida public school. Therefore, under the bill students participating in a home education or private tutoring program may be eligible to apply for a scholarship, which may likely increase the number of families eligible for an award under the FES program.

The bill establishes scholarship award priorities in the following order:

- A student who received an FTC, Hope, or FES program award in the 2020-2021 school year.
- A student who was retained on the previous school year's wait list.
- A student placed in foster care, a sibling of a participating student, or a student who reported an incident of being subjected to battery; harassment; hazing; bullying; kidnapping; physical attack; robbery; sexual offenses; threat or intimidation; or fighting at school.
- A student whose household income does not exceed 185 percent of the federal poverty level.
- A student whose household income does not exceed 300 percent of the federal poverty level.
- A student who is a sibling of a McKay-Gardiner scholarship recipient, who resides in the same household and attends the same school.

Eligibility Term

The bill adds to the FES program similar policies from the Gardiner program relating to scholarship terms.

Commissioner of Education Obligations

The bill adds to the FES program similar policies from the Gardiner program relating to commissioner responsibilities. The bill specifies that any remaining funds revert to the state after denial or revocation of scholarship eligibility by the commissioner for fraud or abuse, or after two consecutive fiscal years in which an account has been inactive or two consecutive years after high school completion or graduation during which the student is not enrolled in an eligible postsecondary educational institution or a program offered by the institution.

Program Prohibitions

The bill removes the restriction that a student is ineligible if he or she is enrolled in a home education program or participate in a private tutoring program.

Authorized Use of Funds

The bill modifies the FES program from an award that covers tuition only for enrollment in a private school to an education savings account program and authorizes parents to use scholarship funds to meet the educational needs of their children. These authorized uses include all of the following:

- Instructional materials including school equipment and supplies, and digital devices and internet access.
- Curriculum including teacher's manuals.
- Tuition and fees, including tuition and fees for a private virtual school meeting certain requirements, fees for summer and after-school programs, a part-time tutor approved by DOE, and annual assessments and evaluations.
- Transportation expenses not to exceed \$750 per year.

School District Obligations

The bill maintains current FES requirements and adds that the district must notify the parents of the scholarship upon conclusion of the investigation for a student who was a victim of bullying or other qualified incident. The bill requires school districts to notify parents about the scholarship and removes the requirement for school districts to report scholarship students for funding.

Department of Education Obligations

The bill maintains the current FES requirements for the DOE and adds the following provisions:

- Contracting with an independent entity to annually evaluate the program.
- Verifying the eligibility of expenditures.
- Distributing scholarship funds to nonprofit SFOs on a quarterly basis.
- Maintaining a list of approved providers.
- Issuing a project grant award every two years to a state university to which private schools must report the scores from the nationally norm-referenced tests.
- Notifying the SFO of its eligible students and the eligible students associated with other nonprofit SFOs.
- Requiring quarterly reports by nonprofit SFOs that would include information related to the scholarship participants and the private schools they attend.
- Providing a process to match the direct-certification list with the scholarship application data.
- Investigating any written complaint of a violation.

Parent and Student Obligations

The bill includes provisions that parents must meet to maintain eligibility, including annually submitting a sworn compliance statement similar to the McKay-Gardiner program. Additionally, parents must renew the scholarship by a date set and in a format determined by the nonprofit SFO. The bill modifies specific parent responsibilities relating to private schools by removing provisions requiring that the student must attend a private school, and modifying assessment provisions for parents who choose to send their child to a private school.

Scholarship-funding Organization Obligations

The bill specifies that nonprofit SFOs must comply with a number of requirements similar to the McKay-Gardiner program to administer the FES program, and allows for nonprofit SFOs to use up to 2.5 percent of the calculated funding for administrative purposes if the nonprofit SFO has operated as a nonprofit SFO for at least the preceding three fiscal years without any findings in its most recent annual financial audit. In addition, the bill maintains that nonprofit SFOs must:

- Verify household income;
- Allow specified eligible students to apply for a scholarship at any time; and
- Have an annual financial audit conducted by an independent certified public accountant.

The bill clarifies that the nonprofit SFO is a renewing organization if it was approved by the State Board of Education for the 2021-2022 fiscal year. In addition, the bill also retains the nonprofit SFO application process from the FTC program.¹⁰²

Scholarship Funding and Payment

The bill establishes a new enrollment cap, for the 2021-2022 school year, of 175,000 student FTE, which includes the prior year FES, FTC, and Hope program recipients and maintains the current annual growth of one percent of the public school student enrollment. The scholarship funding is calculated based on the FEFP and includes the grade level and the district school to which the student would have been assigned. The bill increases the scholarship award from 95 percent to 97.5 percent of the calculated amount. An eligible student may alternatively choose a transportation award of \$750 to attend a public school outside of their assigned school district. Students who receive a transportation awards are not counted against the 175,000 enrollment cap. The bill requires nonprofit SFOs to report student enrollment to the DOE at the time of each student membership survey and specifies that an FTE shall be equal to four quarterly scholarship payments. The bill clarifies the responsibilities of both the SFO and the DOE for the student eligibility verification process prior to the DOE releasing the scholarship funds to the SFO to be deposited in the student's account in four equal amounts by the established deadlines.

Private School Obligations

In addition, the bill:

- Requires private schools participating in the scholarship program to comply with current law,¹⁰³ and allows a private school to discount tuition if the private school deems it necessary; and

Auditor General Obligations

Similar to public school districts, the bill requires the Auditor General to conduct an operational audit on an approved nonprofit SFO at least once every three years,¹⁰⁴ rather than annually as currently required under the Gardiner program.

Florida Tax Credit Scholarship Program

The bill modifies the catchline of s. 1002.395, F.S. from the Florida Tax Credit Scholarship Program to the Florida K-12 Education Funding Tax Credit Program. The bill enables taxpayers

¹⁰² See Section 1002.395(15), F.S.

¹⁰³ Section 1002.421, F.S.

¹⁰⁴ Since 2015, the Auditor General has conducted annual operational audits of the accounts and records of eligible nonprofit scholarship-funding organizations. As recent audits have not disclosed significant control deficiencies or noncompliance, the Legislature should consider amending ss. 11.45(2)(l), 1002.385(14)(a), and 1002.40(12)(a), F.S., to require the Auditor General to conduct operational audits at least once every 3 years of the accounts and records of eligible nonprofit scholarship-funding organizations. Auditor General, *Auditor General Annual Report 2020 November 1, 2019, Through October 31, 2020* (2020) available at https://flauditor.gov/pages/pdf_files/annual%20report%202020.pdf at 7.. Section 11.45(2)(f), F.S.

to designate portions of certain tax payments as contributions to K-12 education funding. The bill also requires that contributions be deposited into a designated student fund and used for K-12 education funding.

The bill removes other substantive provisions and incorporates certain provisions into the FES program, including:

- Obligations of eligible nonprofit SFO's;
- Obligations of the DOE; and
- Nonprofit SFO application requirements.

Hope Scholarship Program

The bill modifies the catchline of s. 1002.40, F.S., from the Hope Scholarship Program to the Florida K-12 Education Funding Tax Credit Program. The bill enables taxpayers to designate portions of certain tax payments as contributions to K-12 education funding. The bill also requires that eligible contributions be deposited into a designated student fund and used for K-12 education funding.¹⁰⁵

The bill removes other substantive provisions and incorporates certain provisions into the FES program, including:

- Eligibility requirements; and
- Requiring an annual evaluation of public schools with ten or more students transferring to another public school or private school due to bullying or other qualifying incident.

Other Bill Provisions

The bill also:

- Modifies other tax credit-related statutes to conform to the bill.
- Requires tax credit contributions held by the SFO to be deposited into the designated fund for K-12 funding.
- Requiring a dealer who claims the tax credit to file returns and pay taxes by electronic means.
- Authorizes any unused tax credits approved before July 1, 2021 to continue in effect, but the remittance must be made to the designated fund for K-12 funding.
- Modifies controlled open enrollment preferential treatment¹⁰⁶ to include McKay-Gardiner program award recipients for students choosing to attend a public school other than the one assigned.
- Allows for a private virtual school with a least one administrative office located in the state to meet the physical location requirement for a private school participating in the state school

¹⁰⁵ Under current law, a taxpayer makes an eligible contribution to a nonprofit SFO and receives a credit against any tax due as a result of buying a motor vehicle. Because the contribution is made directly to the nonprofit SFO, which also distributes scholarship funds, the law prohibits the taxpayer from designating funds to a particular student as a beneficiary of the contribution. However, under the bill contributions are no longer made directly to the nonprofit SFO. The taxpayer may designate a portion of the taxes paid to K-12 education funding, to be deposited into a specified state fund. Because contributions under the bill are not made directly to a nonprofit SFO this prohibition specified in law is no longer necessary.

¹⁰⁶ Section 1002.31(2)(c), F.S.

scholarship program and requires specified communication requirements to be posted on the private virtual school's website.

- Includes the teacher salary allocation in the per student scholarship amount calculation, which is currently excluded under s. 1011.62(18), F.S.
- Creates s. 1011.687, F.S., to provide a funding allocation to implement the McKay-Gardiner Scholarship and the Family Empowerment Scholarship, and defines an FTE for the purpose of the allocation to be equivalent to four quarterly scholarship payments.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The tax impact for PCS/CS/SB 48 is indeterminate. The effect on taxes and tax credits will be determined by an impact conference conducted by the Revenue Estimating Conference.

B. Private Sector Impact:

Additional eligible families may have the opportunity to use scholarship funds for private school and educational services to meet the educational needs of their children. There may also be increased usage of private educational services as authorized in the bill. In addition, certain taxpayers may designate funding for education through authorized tax credits.

C. Government Sector Impact:

The impact on state funding is indeterminate. The state funding will depend on an official estimate of student full-time equivalent (FTE) participation in the scholarship programs for the 2021-2022 school year, an official estimate of the amount of revenue that will be transferred into the Florida Education Finance Program (FEFP), and the amount of state funds allocated to the FEFP through the General Appropriations Act and implementing legislation.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 11.45, 211.0251, 212.099, 212.1831, 212.1832, 213.053, 220.1105, 220.13, 220.186, 220.1875, 561.1211, 624.51055, 1002.20, 1002.23, 1002.31, 1002.394, 1002.395, 1002.40, 1002.411, 1002.421, 1009.971, 1009.98, 1009.981, 1011.61, and 1011.62.

This bill creates the following sections of the Florida Statutes: 1002.381 and 1011.687.

This bill repeals the following sections of the Florida Statutes: 1002.385 and 1002.39.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended CS/CS by the Appropriations Subcommittee on Education on February 17, 2021:

The CS/CS makes the following changes to the bill:

- Adds that the nonprofit scholarship funding organization (SFO) determines the format for annual scholarship renewal and clarifies that an SFO is only required to secure a single surety bond.
- Incorporates into the Family Empowerment Scholarship SFO qualifying language currently in the Florida Tax Credit Scholarship Program (FTC) requiring the SFO to have operated for at least 3 years and not have any material findings in order for the SFO to use specified funds for administrative purposes.
- Clarifies that an SFO is a renewing organization if it was approved by the State Board of Education for the 2021-2022 fiscal year or after.
- Adds teacher-parent and teacher-student communication requirements a private virtual school must post online.

- Establishes the Education Scholarship Program Allocation in statute to provide funds to implement the McKay-Gardiner and Family Empowerment Scholarship (FES) programs and specifies that scholarship amounts may not be revised during the fiscal year.
- Requires eligible tax credit contributions held by an SFO to be deposited into a designated fund for K-12 funding.
- Authorizes that any unused tax credit approved before July 1, 2021, continues in effect, but the remittance must be made to the designated fund for K-12 funding.
- Clarifies that instructional materials include school equipment and supplies.
- Adds that funds may be used to pay for tuition and fees at a private virtual school that meets specified requirements.
- Does not restrict a child of private school owner or operator from applying for a scholarship if he or she meets the eligibility requirements.
- Allows the DOE to approve a private tutor for part-time instruction.
- Removes the prior scholarship growth rate of 7% for McKay-Gardiner and revises it to a 1% increase of the state's total public school exceptional student education student enrollment, not including gifted students.
- Requires school districts to accept the diagnosis from a licensed professional and consider the service plan recommended for a McKay-Gardiner scholarship recipient requesting an IEP evaluation.
- Establishes a new cap for the 2021-2022 school year of 175,000 student FTE for FES which includes 2020-2021 FES, FTC and Hope scholarship recipients.
- Adds that a sibling of a McKay-Gardiner scholarship may receive an FES scholarship if the student resides in the same household and attends the same school as the sibling. Such students must be considered last in award priorities.
- Modifies the transportation award, limiting the award to only students traveling to a school outside of their zoned school district, and requires that a student who receives the transportation award does not count against the cap.

CS by Education on February 3, 2021:

The committee substitute makes a technical change to redesignate paragraphs in s. 1002.395, F.S.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Diaz) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (1) of subsection (2) and subsection
(8) of section 11.45, Florida Statutes, are amended to read:

11.45 Definitions; duties; authorities; reports; rules.—

(2) DUTIES.—The Auditor General shall:

(1) At least every 3 years, ~~Annually~~ conduct operational
audits of the accounts and records of eligible nonprofit



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11 scholarship-funding organizations ~~receiving eligible~~
12 ~~contributions~~ under ss. 1002.381 and 1002.394 ~~s. 1002.395~~,
13 including any contracts for services with related entities, to
14 determine compliance with the provisions of those sections ~~that~~
15 ~~section~~. Such audits must ~~shall~~ include, but need not be limited
16 to, a determination of the eligible nonprofit scholarship-
17 funding organization's compliance with ss. 1002.381(13)(f) and
18 1002.394(11)(k) ~~s. 1002.395(6)(j)~~. The Auditor General shall
19 provide its report on the results of the audits to the Governor,
20 the President of the Senate, the Speaker of the House of
21 Representatives, the Chief Financial Officer, and the
22 Legislative Auditing Committee, within 30 days of completion of
23 the audit.

24
25 The Auditor General shall perform his or her duties
26 independently but under the general policies established by the
27 Legislative Auditing Committee. This subsection does not limit
28 the Auditor General's discretionary authority to conduct other
29 audits or engagements of governmental entities as authorized in
30 subsection (3).

31 (8) RULES OF THE AUDITOR GENERAL.—The Auditor General, in
32 consultation with the Board of Accountancy, shall adopt rules
33 for the form and conduct of all financial audits performed by
34 independent certified public accountants pursuant to ss.
35 215.981, 218.39, 1001.453, 1002.381, 1002.394 ~~1002.395~~, 1004.28,
36 and 1004.70. The rules for audits of local governmental
37 entities, charter schools, charter technical career centers, and
38 district school boards must include, but are not limited to,
39 requirements for the reporting of information necessary to carry



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40 out the purposes of the Local Governmental Entity, Charter
41 School, Charter Technical Career Center, and District School
42 Board Financial Emergencies Act as stated in s. 218.501.

43 Section 2. Section 211.0251, Florida Statutes, is amended
44 to read:

45 211.0251 Credit for contributions for K-12 education ~~to~~
46 ~~eligible nonprofit scholarship funding organizations.~~—There is
47 allowed a credit of 100 percent of an eligible contribution
48 directed made to K-12 education ~~an eligible nonprofit~~
49 ~~scholarship funding organization~~ under s. 1002.395 for ~~against~~
50 any tax due under s. 211.02 or s. 211.025. ~~However, a credit~~
51 ~~allowed under this section may not exceed 50 percent of the tax~~
52 ~~due on the return the credit is taken.~~ For purposes of the
53 distributions of tax revenue under s. 211.06, the department
54 shall disregard any tax credits allowed under this section to
55 ensure that any reduction in tax revenue received which is
56 attributable to the tax credits results only in a reduction in
57 distributions to the General Revenue Fund. The provisions of s.
58 1002.395 apply to the credit authorized by this section.

59 Section 3. Section 212.099, Florida Statutes, is amended to
60 read:

61 212.099 Credit for contributions for K-12 education ~~to~~
62 ~~eligible nonprofit scholarship funding organizations.~~—

63 (1) As used in this section, the term:

64 (a) "Eligible business" means a tenant or person actually
65 occupying, using, or entitled to the use of any property from
66 which the rental or license fee is subject to taxation under s.
67 212.031.

68 (b) "Eligible contribution" or "contribution" means the



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69 amount of tax, or portion thereof, designated for K-12 education
70 by an eligible business and paid by a monetary contribution from
71 an eligible business to, for the period of July 1, 2021, through
72 December 31, 2021, the department or as otherwise directed by
73 the department, and thereafter, to a collecting dealer to an
74 eligible nonprofit scholarship funding organization to be used
75 pursuant to s. 1002.395. The eligible business making the
76 contribution may not designate a specific student as the
77 beneficiary of the contribution.

78 ~~(c) "Eligible nonprofit scholarship funding organization"~~
79 ~~or "organization" has the same meaning as provided in s.~~
80 ~~1002.395(2)(f).~~

81 (2) An eligible business shall be granted a credit against
82 the state portion of the tax imposed under s. 212.031 and
83 collected from the eligible business by a dealer. The credit
84 shall be in an amount equal to 100 percent of an eligible
85 contribution made to an organization.

86 (3) A dealer shall take a credit ~~against the tax imposed~~
87 ~~under s. 212.031~~ in an amount equal to the credit taken by the
88 eligible business under subsection (2). The dealer shall also
89 remit to the department any contributions of designated amounts
90 it receives from an eligible business.

91 (4) (a) An eligible business must apply to the department
92 for an allocation of tax credits under this section. The
93 eligible business must specify in the application the state
94 fiscal year during which the contribution will be made, ~~the~~
95 ~~organization that will receive the contribution,~~ the planned
96 amount of the contribution, the address of the property from
97 which the rental or license fee is subject to taxation under s.



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98 212.031, and the federal employer identification number of the
99 dealer who collects the tax imposed under s. 212.031 from the
100 eligible business and who will, during the period of July 1,
101 2021, through December 31, 2021, reduce collection of taxes from
102 the eligible business if the eligible business provides the
103 dealer with a receipt of contribution as described in paragraph
104 (b) pursuant to this section. The department shall approve
105 allocations of tax credits on a first-come, first-served basis
106 and shall provide to the eligible business a separate approval
107 or denial letter for each dealer for which the eligible business
108 applied for an allocation of tax credits. ~~Within 10 days after~~
109 ~~approving or denying an application, the department shall~~
110 ~~provide a copy of its approval or denial letter to the~~
111 ~~organization specified by the eligible business in the~~
112 ~~application.~~ An approval letter must include the name and
113 federal employer identification number of the dealer from whom a
114 credit under this section can be taken and the amount of tax
115 credits approved for use with that dealer.

116 (b) For the period of July 1, 2021, through December 31,
117 2021, upon receipt of an eligible contribution from an eligible
118 business, the department ~~organization~~ shall provide the eligible
119 business that made the contribution with a receipt ~~separate~~
120 ~~certificate~~ of contribution for each dealer from whom a credit
121 can be taken as approved under paragraph (a). A receipt
122 ~~certificate~~ of contribution must include the contributor's name
123 and, if available, federal employer identification number, the
124 amount contributed, the date of contribution, ~~the name of the~~
125 ~~organization,~~ and the name and federal employer identification
126 number of the dealer.



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127 (5) Each dealer that receives from an eligible business a
128 copy of the department's approval letter, and until December 31,
129 2021, the receipt and a certificate of contribution, both of
130 which identify the dealer as the dealer who collects the tax
131 imposed under s. 212.031 from the eligible business and who will
132 reduce collection of taxes from the eligible business pursuant
133 to this section, shall identify on the dealer's return the
134 amount of the eligible contribution by ~~reduce the tax collected~~
135 ~~from the eligible business, which amount~~ under s. 212.031 by the
136 ~~total amount of contributions indicated in the certificate of~~
137 ~~contribution. The reduction may not exceed the amount of credit~~
138 allocation approved by the department and may not exceed the
139 amount of tax that would otherwise be collected from the
140 eligible business by a dealer when a payment is made under the
141 rental or license fee arrangement. The dealer shall also remit
142 to the department any contributions of designated amounts for K-
143 12 education it receives from an eligible business on the
144 dealer's return ~~However, payments by an eligible business to a~~
145 ~~dealer may not be reduced before October 1, 2018.~~

146 (a) If the total amount of credits an eligible business may
147 take cannot be fully used within any period that a payment is
148 due under the rental or license fee arrangement because of an
149 insufficient amount of tax that the dealer would collect from
150 the eligible business during that period, the unused amount may
151 be carried forward for a period not to exceed 10 years.

152 (b) A tax credit may not be claimed on an amended return or
153 through a refund.

154 (c) A dealer that claims a tax credit must file returns and
155 pay taxes by electronic means under s. 213.755.



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156 (d) An eligible business may not convey, assign, or
157 transfer an approved tax credit or a carryforward tax credit to
158 another entity unless all of the assets of the eligible business
159 are conveyed, assigned, or transferred in the same transaction
160 and the successor business continues the same lease with the
161 dealer.

162 (e) Within any state fiscal year, an eligible business may
163 rescind all or part of a tax credit allocation approved under
164 this section. The amount rescinded shall become available for
165 that state fiscal year to another eligible business as approved
166 by the department if the business receives notice from the
167 department that the rescindment has been accepted by the
168 department. Any amount rescinded under this subsection shall
169 become available to an eligible business on a first-come, first-
170 served basis based on tax credit applications received after the
171 date the rescindment is accepted by the department.

172 ~~(f) Within 10 days after the rescindment of a tax credit~~
173 ~~under paragraph (e) is accepted by the department, the~~
174 ~~department shall notify the eligible nonprofit scholarship~~
175 ~~funding organization specified by the eligible business. The~~
176 ~~department shall also include the eligible nonprofit~~
177 ~~scholarship funding organization specified by the eligible~~
178 ~~business on all letters or correspondence of acknowledgment for~~
179 ~~tax credits under this section.~~

180 ~~(6) An organization shall report to the department, on or~~
181 ~~before the 20th day of each month, the total amount of~~
182 ~~contributions received pursuant to subsection (4) in the~~
183 ~~preceding calendar month on a form provided by the department.~~
184 ~~Such report shall include the amount of contributions received~~



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185 ~~during that reporting period and the federal employer~~
186 ~~identification number of each dealer associated with the~~
187 ~~contribution.~~
188 ~~(7)(a) Eligible contributions may be used to fund the~~
189 ~~program established under s. 1002.395.~~
190 ~~(b) The organization shall separately account for each~~
191 ~~scholarship funded pursuant to this section.~~
192 ~~(c) The organization may, subject to the limitations of s.~~
193 ~~1002.395(6)(j)1., use eligible contributions received during the~~
194 ~~state fiscal year in which such contributions are collected for~~
195 ~~administrative expenses.~~
196 ~~(8) The sum of tax credits that may be approved by the~~
197 ~~department in any state fiscal year is \$57.5 million.~~
198 (7)(9) The department shall ensure that receipts designated
199 by a remitting dealer as eligible contributions under this
200 section and eligible contributions transferred to the state by
201 an organization are deposited into the Florida K-12 Education
202 Tax Credit Program Trust Fund and used in accordance with s.
203 1010.88. For purposes of the distributions of tax revenue under
204 s. 212.20, the department shall disregard any tax credits
205 allowed under this section to ensure that any reduction in tax
206 revenue received that is attributable to the tax credits results
207 only in a reduction in distributions to the General Revenue
208 Fund.
209 ~~(8)(10) The department may adopt rules to administer this~~
210 ~~section.~~
211 Section 4. Section 212.1831, Florida Statutes, is amended
212 to read:
213 212.1831 Credit for contributions for K-12 education ~~to~~



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214 ~~eligible nonprofit scholarship funding organizations.~~—There is
215 allowed a credit of 100 percent of an eligible contribution made
216 ~~to an eligible nonprofit scholarship funding organization~~ under
217 s. 1002.395 against the state portion of the tax ~~any tax imposed~~
218 ~~by the state and due under this chapter~~ from a direct pay permit
219 holder as a result of the direct pay permit held pursuant to s.
220 212.183. For purposes of the dealer's credit granted for keeping
221 prescribed records, filing timely tax returns, and properly
222 accounting and remitting taxes under s. 212.12, the amount of
223 tax due used to calculate the credit shall include any eligible
224 ~~contribution made to an eligible nonprofit scholarship funding~~
225 ~~organization~~ from a direct pay permit holder. For purposes of
226 the distributions of tax revenue under s. 212.20, the department
227 shall disregard any tax credits allowed under this section to
228 ensure that any reduction in tax revenue received that is
229 attributable to the tax credits results only in a reduction in
230 distributions to the General Revenue Fund. The provisions of s.
231 1002.395 apply to the credit authorized by this section.

232 Section 5. Section 212.1832, Florida Statutes, is amended
233 to read:

234 212.1832 Credit for contributions for K-12 education ~~to~~
235 ~~eligible nonprofit scholarship funding organizations.~~—

236 (1) As used in this section, the term:

237 (a) "Dealer" has the same meaning as provided in s. 212.06.

238 (b) "Designated agent" has the same meaning as provided in
239 s. 212.06(10).

240 (c) "Eligible contribution" or "contribution" means the
241 amount of tax paid by a person purchasing a motor vehicle,
242 subject to the restrictions provided in this section and s.



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243 1002.395, and designated by the purchaser to be used for K-12
244 education.

245 (d) "Motor vehicle" has the same meaning as provided in s.
246 320.01(1)(a), but does not include a heavy truck, truck tractor,
247 trailer, or motorcycle.

248 (2) The purchaser of a motor vehicle shall be granted a
249 credit of 100 percent of an eligible contribution ~~made to an~~
250 ~~eligible nonprofit scholarship-funding organization~~ under s.
251 ~~1002.395 s. 1002.40~~ against any tax imposed by the state under
252 ~~this chapter and collected from the purchaser by a dealer,~~
253 ~~designated agent, or private tag agent~~ as a result of the
254 purchase or acquisition of a motor vehicle, except that a credit
255 may not exceed the tax that would otherwise be collected from
256 the purchaser by a dealer, designated agent, or private tag
257 agent. For purposes of this subsection, the term "purchase" does
258 not include the lease or rental of a motor vehicle.

259 (3)~~(2)~~ A dealer shall take a credit against any tax imposed
260 by the state under this chapter on the purchase of a motor
261 vehicle in an amount equal to the credit granted to the
262 purchaser under subsection (2) ~~(1)~~. A dealer that claims a tax
263 ~~credit must file returns and pay taxes by electronic means under~~
264 ~~s. 213.755.~~

265 (4)~~(3)~~ For purposes of the distributions of tax revenue
266 under s. 212.20, the department shall disregard any tax credits
267 allowed under this section to ensure that any reduction in tax
268 revenue received that is attributable to the tax credits results
269 only in a reduction in distributions to the General Revenue
270 Fund. The provisions of s. 1002.395 ~~s. 1002.40~~ apply to the
271 credit authorized by this section.



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272 (5) (a) A dealer, designated agent, or private tag agent
273 shall report to the department on each return filed pursuant to
274 s. 212.11 the total amount of credits granted under s. 212.1832
275 for the preceding reporting period.

276 (b) For eligible contributions made between July 1, 2021,
277 and December 31, 2021, a dealer, designated agent, or private
278 tag agent shall remit eligible contributions to the department
279 as a payment separate from the tax due with the return filed
280 pursuant to s. 212.11, or as otherwise directed by the
281 department. This paragraph expires July 1, 2022.

282 (6) The department shall adopt rules to administer this
283 section.

284 Section 6. Paragraph (s) of subsection (8) and subsections
285 (21) and (22) of section 213.053, Florida Statutes, are amended
286 to read:

287 213.053 Confidentiality and information sharing.—

288 (8) Notwithstanding any other provision of this section,
289 the department may provide:

290 ~~(s) Information relative to ss. 211.0251, 212.1831,~~
291 ~~220.1875, 561.1211, 624.51055, and 1002.395 to the Department of~~
292 ~~Education and the Division of Alcoholic Beverages and Tobacco in~~
293 ~~the conduct of official business.~~

294
295 Disclosure of information under this subsection shall be
296 pursuant to a written agreement between the executive director
297 and the agency. Such agencies, governmental or nongovernmental,
298 shall be bound by the same requirements of confidentiality as
299 the Department of Revenue. Breach of confidentiality is a
300 misdemeanor of the first degree, punishable as provided by s.



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301 775.082 or s. 775.083.

302 ~~(21) (a) For purposes of this subsection, the term:~~

303 ~~1. "Eligible nonprofit scholarship funding organization"~~

304 ~~means an eligible nonprofit scholarship funding organization as~~

305 ~~defined in s. 1002.395(2) that meets the criteria in s.~~

306 ~~1002.395(6) to use up to 3 percent of eligible contributions for~~

307 ~~administrative expenses.~~

308 ~~2. "Taxpayer" has the same meaning as in s. 220.03, unless~~

309 ~~disclosure of the taxpayer's name and address would violate any~~

310 ~~term of an information-sharing agreement between the department~~

311 ~~and an agency of the Federal Government.~~

312 ~~(b) The department, upon request, shall provide to an~~

313 ~~eligible nonprofit scholarship funding organization that~~

314 ~~provides scholarships under s. 1002.395 a list of the 200~~

315 ~~taxpayers with the greatest total corporate income or franchise~~

316 ~~tax due as reported on the taxpayer's return filed pursuant to~~

317 ~~s. 220.22 during the previous calendar year. The list must be in~~

318 ~~alphabetical order based on the taxpayer's name and shall~~

319 ~~contain the taxpayer's address. The list may not disclose the~~

320 ~~amount of tax owed by any taxpayer.~~

321 ~~(c) An eligible nonprofit scholarship funding organization~~

322 ~~may request the list once each calendar year. The department~~

323 ~~shall provide the list within 45 days after the request is made.~~

324 ~~(d) Any taxpayer information contained in the list may be~~

325 ~~used by the eligible nonprofit scholarship funding organization~~

326 ~~only to notify the taxpayer of the opportunity to make an~~

327 ~~eligible contribution to the Florida Tax Credit Scholarship~~

328 ~~Program under s. 1002.395. Any information furnished to an~~

329 ~~eligible nonprofit scholarship funding organization under this~~



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330 ~~subsection may not be further disclosed by the organization~~
331 ~~except as provided in this paragraph.~~

332 ~~(c) An eligible nonprofit scholarship funding organization,~~
333 ~~its officers, and employees are subject to the same requirements~~
334 ~~of confidentiality and the same penalties for violating~~
335 ~~confidentiality as the department and its employees. Breach of~~
336 ~~confidentiality is a misdemeanor of the first degree, punishable~~
337 ~~as provided by s. 775.082 or s. 775.083.~~

338 ~~(22) (a) The department may provide to an eligible nonprofit~~
339 ~~scholarship funding organization, as defined in s. 1002.40, a~~
340 ~~dealer's name, address, federal employer identification number,~~
341 ~~and information related to differences between credits taken by~~
342 ~~the dealer pursuant to s. 212.1832(2) and amounts remitted to~~
343 ~~the eligible nonprofit scholarship funding organization under s.~~
344 ~~1002.40(13)(b)3. The eligible nonprofit scholarship funding~~
345 ~~organization may use the information for purposes of recovering~~
346 ~~eligible contributions designated for that organization that~~
347 ~~were collected by the dealer but never remitted to the~~
348 ~~organization.~~

349 ~~(b) Nothing in this subsection authorizes the disclosure of~~
350 ~~information if such disclosure is prohibited by federal law. An~~
351 ~~eligible nonprofit scholarship funding organization is bound by~~
352 ~~the same requirements of confidentiality and the same penalties~~
353 ~~for a violation of the requirements as the department.~~

354 Section 7. Paragraph (a) of subsection (4) of section
355 220.1105, Florida Statutes, is amended to read:

356 220.1105 Tax imposed; automatic refunds and downward
357 adjustments to tax rates.—

358 (4) For fiscal years 2018-2019 through 2020-2021, any



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359 amount by which net collections for a fiscal year exceed
360 adjusted forecasted collections for that fiscal year shall only
361 be used to provide refunds to corporate income tax payers as
362 follows:

363 (a) For purposes of this subsection, the term:

364 1. "Eligible taxpayer" means:

365 a. For fiscal year 2018-2019, a taxpayer whose taxable year
366 begins between April 1, 2017, and March 31, 2018, and whose
367 final tax liability for such taxable year is greater than zero;

368 b. For fiscal year 2019-2020, a taxpayer whose taxable year
369 begins between April 1, 2018, and March 31, 2019, and whose
370 final tax liability for such taxable year is greater than zero;

371 or

372 c. For fiscal year 2020-2021, a taxpayer whose taxable year
373 begins between April 1, 2019, and March 31, 2020, and whose
374 final tax liability for such taxable year is greater than zero.

375 2. "Excess collections" for a fiscal year means the amount
376 by which net collections for a fiscal year exceeds adjusted
377 forecasted collections for that fiscal year.

378 3. "Final tax liability" means the taxpayer's amount of tax
379 due under this chapter for a taxable year, reported on a return
380 filed with the department, ~~plus the amount of any credit taken~~
381 ~~on such return under s. 220.1875.~~

382 4. "Total eligible tax liability" for a fiscal year means
383 the sum of final tax liabilities of all eligible taxpayers for a
384 fiscal year as such liabilities are shown on the latest return
385 filed with the department as of February 1 immediately following
386 that fiscal year.

387 5. "Taxpayer refund share" for a fiscal year means an



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388 eligible taxpayer's final tax liability as a percentage of the
389 total eligible tax liability for that fiscal year.

390 6. "Taxpayer refund" for a fiscal year means the taxpayer
391 refund share for a fiscal year multiplied by the excess
392 collections for a fiscal year.

393 Section 8. Paragraph (a) of subsection (1) of section
394 220.13, Florida Statutes, is amended to read:

395 220.13 "Adjusted federal income" defined.—

396 (1) The term "adjusted federal income" means an amount
397 equal to the taxpayer's taxable income as defined in subsection
398 (2), or such taxable income of more than one taxpayer as
399 provided in s. 220.131, for the taxable year, adjusted as
400 follows:

401 (a) *Additions*.—There shall be added to such taxable income:

402 1.~~a~~. The amount of any tax upon or measured by income,
403 excluding taxes based on gross receipts or revenues, paid or
404 accrued as a liability to the District of Columbia or any state
405 of the United States which is deductible from gross income in
406 the computation of taxable income for the taxable year.

407 ~~b. Notwithstanding sub-subparagraph a., if a credit taken~~
408 ~~under s. 220.1875 is added to taxable income in a previous~~
409 ~~taxable year under subparagraph 11. and is taken as a deduction~~
410 ~~for federal tax purposes in the current taxable year, the amount~~
411 ~~of the deduction allowed shall not be added to taxable income in~~
412 ~~the current year. The exception in this sub-subparagraph is~~
413 ~~intended to ensure that the credit under s. 220.1875 is added in~~
414 ~~the applicable taxable year and does not result in a duplicate~~
415 ~~addition in a subsequent year.~~

416 2. The amount of interest which is excluded from taxable



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417 income under s. 103(a) of the Internal Revenue Code or any other
418 federal law, less the associated expenses disallowed in the
419 computation of taxable income under s. 265 of the Internal
420 Revenue Code or any other law, excluding 60 percent of any
421 amounts included in alternative minimum taxable income, as
422 defined in s. 55(b)(2) of the Internal Revenue Code, if the
423 taxpayer pays tax under s. 220.11(3).

424 3. In the case of a regulated investment company or real
425 estate investment trust, an amount equal to the excess of the
426 net long-term capital gain for the taxable year over the amount
427 of the capital gain dividends attributable to the taxable year.

428 4. That portion of the wages or salaries paid or incurred
429 for the taxable year which is equal to the amount of the credit
430 allowable for the taxable year under s. 220.181. This
431 subparagraph shall expire on the date specified in s. 290.016
432 for the expiration of the Florida Enterprise Zone Act.

433 5. That portion of the ad valorem school taxes paid or
434 incurred for the taxable year which is equal to the amount of
435 the credit allowable for the taxable year under s. 220.182. This
436 subparagraph shall expire on the date specified in s. 290.016
437 for the expiration of the Florida Enterprise Zone Act.

438 6. The amount taken as a credit under s. 220.195 which is
439 deductible from gross income in the computation of taxable
440 income for the taxable year.

441 7. That portion of assessments to fund a guaranty
442 association incurred for the taxable year which is equal to the
443 amount of the credit allowable for the taxable year.

444 8. In the case of a nonprofit corporation which holds a
445 pari-mutuel permit and which is exempt from federal income tax



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446 as a farmers' cooperative, an amount equal to the excess of the
447 gross income attributable to the pari-mutuel operations over the
448 attributable expenses for the taxable year.

449 9. The amount taken as a credit for the taxable year under
450 s. 220.1895.

451 10. Up to nine percent of the eligible basis of any
452 designated project which is equal to the credit allowable for
453 the taxable year under s. 220.185.

454 ~~11. The amount taken as a credit for the taxable year under~~
455 ~~s. 220.1875. The addition in this subparagraph is intended to~~
456 ~~ensure that the same amount is not allowed for the tax purposes~~
457 ~~of this state as both a deduction from income and a credit~~
458 ~~against the tax. This addition is not intended to result in~~
459 ~~adding the same expense back to income more than once.~~

460 ~~12.~~ The amount taken as a credit for the taxable year under
461 s. 220.193.

462 ~~12.13.~~ Any portion of a qualified investment, as defined in
463 s. 288.9913, which is claimed as a deduction by the taxpayer and
464 taken as a credit against income tax pursuant to s. 288.9916.

465 ~~13.14.~~ The costs to acquire a tax credit pursuant to s.
466 288.1254(5) that are deducted from or otherwise reduce federal
467 taxable income for the taxable year.

468 ~~14.15.~~ The amount taken as a credit for the taxable year
469 pursuant to s. 220.194.

470 ~~15.16.~~ The amount taken as a credit for the taxable year
471 under s. 220.196. The addition in this subparagraph is intended
472 to ensure that the same amount is not allowed for the tax
473 purposes of this state as both a deduction from income and a
474 credit against the tax. The addition is not intended to result



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475 in adding the same expense back to income more than once.

476 Section 9. Subsection (2) of section 220.186, Florida
477 Statutes, is amended to read:

478 220.186 Credit for Florida alternative minimum tax.—

479 (2) The credit pursuant to this section shall be the amount
480 of the excess, if any, of the tax paid based upon taxable income
481 determined pursuant to s. 220.13(2)(k) over the amount of tax
482 which would have been due based upon taxable income without
483 application of s. 220.13(2)(k), before application of this
484 credit ~~without application of any credit under s. 220.1875.~~

485 Section 10. Section 220.1875, Florida Statutes, is amended
486 to read:

487 220.1875 Credit for contributions for K-12 education ~~to~~
488 ~~eligible nonprofit scholarship-funding organizations.—~~

489 (1) There is allowed a credit of 100 percent of an eligible
490 contribution made ~~to an eligible nonprofit scholarship-funding~~
491 ~~organization~~ under s. 1002.395 ~~against any tax due for a taxable~~
492 ~~year under this chapter after the application of any other~~
493 ~~allowable credits by the taxpayer.~~ An eligible contribution must
494 be made when the taxpayer makes an estimated payment ~~to an~~
495 ~~eligible nonprofit scholarship-funding organization on or before~~
496 ~~the date the taxpayer is required to file a return pursuant to~~
497 ~~s. 220.222. The credit granted by this section shall be reduced~~
498 ~~by the difference between the amount of federal corporate income~~
499 ~~tax taking into account the credit granted by this section and~~
500 ~~the amount of federal corporate income tax without application~~
501 ~~of the credit granted by this section.~~

502 (2) A taxpayer who files a Florida consolidated return as a
503 member of an affiliated group pursuant to s. 220.131(1) may be



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504 allowed the credit on a consolidated return basis; however, the
505 total credit taken by the affiliated group is subject to the
506 limitation established under subsection (1).

507 (3) The provisions of s. 1002.395 apply to the credit
508 authorized by this section.

509 ~~(4) If a taxpayer applies and is approved for a credit~~
510 ~~under s. 1002.395 after timely requesting an extension to file~~
511 ~~under s. 220.222(2):~~

512 ~~(a) The credit does not reduce the amount of tax due for~~
513 ~~purposes of the department's determination as to whether the~~
514 ~~taxpayer was in compliance with the requirement to pay tentative~~
515 ~~taxes under ss. 220.222 and 220.32.~~

516 ~~(b) The taxpayer's noncompliance with the requirement to~~
517 ~~pay tentative taxes shall result in the revocation and~~
518 ~~rescindment of any such credit.~~

519 ~~(c) The taxpayer shall be assessed for any taxes,~~
520 ~~penalties, or interest due from the taxpayer's noncompliance~~
521 ~~with the requirement to pay tentative taxes.~~

522 Section 11. Section 561.1211, Florida Statutes, is amended
523 to read:

524 561.1211 Credit for contributions for K-12 education ~~to~~
525 ~~eligible nonprofit scholarship funding organizations.~~—There is
526 allowed a credit of 100 percent of an eligible contribution made
527 ~~to an eligible nonprofit scholarship funding organization~~ under
528 s. 1002.395 against any tax due under s. 563.05, s. 564.06, or
529 s. 565.12, except excise taxes imposed on wine produced by
530 manufacturers in this state from products grown in this state.
531 ~~However, a credit allowed under this section may not exceed 90~~
532 ~~percent of the tax due on the return the credit is taken. For~~



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533 purposes of the distributions of tax revenue under ss. 561.121
534 and 564.06(10), the division shall disregard any tax credits
535 allowed under this section to ensure that any reduction in tax
536 revenue received that is attributable to the tax credits results
537 only in a reduction in distributions to the General Revenue
538 Fund. The provisions of s. 1002.395 apply to the credit
539 authorized by this section.

540 Section 12. Section 624.51055, Florida Statutes, is amended
541 to read:

542 624.51055 Credit for contributions for K-12 education ~~to~~
543 ~~eligible nonprofit scholarship-funding organizations.-~~

544 (1) There is allowed a credit of 100 percent of an eligible
545 contribution made ~~to an eligible nonprofit scholarship-funding~~
546 ~~organization~~ under s. 1002.395 ~~against any tax due for a taxable~~
547 ~~year under s. 624.509(1) after deducting from such tax~~
548 ~~deductions for assessments made pursuant to s. 440.51; credits~~
549 ~~for taxes paid under ss. 175.101 and 185.08; credits for income~~
550 ~~taxes paid under chapter 220; and the credit allowed under s.~~
551 ~~624.509(5), as such credit is limited by s. 624.509(6). An~~
552 ~~eligible contribution must be made to an eligible nonprofit~~
553 ~~scholarship-funding organization on or before the date the~~
554 ~~taxpayer is required to file a return pursuant to ss. 624.509~~
555 ~~and 624.5092. An insurer claiming a credit against premium tax~~
556 liability under this section shall not be required to pay any
557 additional retaliatory tax levied pursuant to s. 624.5091 as a
558 result of claiming such credit. Section 624.5091 does not limit
559 such credit in any manner.

560 (2) The provisions of s. 1002.395 apply to the credit
561 authorized by this section.



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562 Section 13. Paragraph (a) of subsection (6) of section
563 1002.20, Florida Statutes, is amended to read:

564 1002.20 K-12 student and parent rights.—Parents of public
565 school students must receive accurate and timely information
566 regarding their child’s academic progress and must be informed
567 of ways they can help their child to succeed in school. K-12
568 students and their parents are afforded numerous statutory
569 rights including, but not limited to, the following:

570 (6) EDUCATIONAL CHOICE.—

571 (a) *Public educational school choices*.—Parents of public
572 school students may seek any public educational school choice
573 options that are applicable and available to students throughout
574 the state. These options may include controlled open enrollment,
575 single-gender programs, lab schools, virtual instruction
576 programs, charter schools, charter technical career centers,
577 magnet schools, alternative schools, special programs, auditory-
578 oral education programs, advanced placement, dual enrollment,
579 International Baccalaureate, International General Certificate
580 of Secondary Education (pre-AICE), CAPE digital tools, CAPE
581 industry certifications, collegiate high school programs,
582 Advanced International Certificate of Education, early
583 admissions, credit by examination or demonstration of
584 competency, the New World School of the Arts, the Florida School
585 for the Deaf and the Blind, and the Florida Virtual School.
586 These options may also include the public educational choice
587 options of the Opportunity Scholarship Program and the Family
588 Empowerment Scholarship McKay Scholarships for Students with
589 Disabilities Program.

590 Section 14. Subsection (2) of section 1002.23, Florida



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591 Statutes, is amended to read:

592 1002.23 Family and School Partnership for Student
593 Achievement Act.—

594 (2) To facilitate meaningful parent and family involvement,
595 the Department of Education shall develop guidelines for a
596 parent guide to successful student achievement which describes
597 what parents need to know about their child's educational
598 progress and how they can help their child to succeed in school.
599 The guidelines shall include, but need not be limited to:

600 (a) Parental information regarding:

601 1. Requirements for their child to be promoted to the next
602 grade, as provided for in s. 1008.25;

603 2. Progress of their child toward achieving state and
604 district expectations for academic proficiency;

605 3. Assessment results, including report cards and progress
606 reports;

607 4. Qualifications of their child's teachers; and

608 5. School entry requirements, including required
609 immunizations and the recommended immunization schedule;

610 (b) Services available for parents and their children, such
611 as family literacy services; mentoring, tutorial, and other
612 academic reinforcement programs; college planning, academic
613 advisement, and student counseling services; and after-school
614 programs;

615 (c) Opportunities for parental participation, such as
616 parenting classes, adult education, school advisory councils,
617 and school volunteer programs;

618 (d) Opportunities for parents to learn about rigorous
619 academic programs that may be available for their child, such as



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620 honors programs, dual enrollment, advanced placement,
621 International Baccalaureate, International General Certificate
622 of Secondary Education (pre-AICE), Advanced International
623 Certificate of Education, Florida Virtual High School courses,
624 and accelerated access to postsecondary education;

625 (e) Educational choices, as provided for in s. 1002.20(6),
626 ~~and Florida tax credit scholarships, as provided for in s.~~
627 ~~1002.395;~~

628 (f) Classroom and test accommodations available for
629 students with disabilities;

630 (g) School board rules, policies, and procedures for
631 student promotion and retention, academic standards, student
632 assessment, courses of study, instructional materials, and
633 contact information for school and district offices; and

634 (h) Resources for information on student health and other
635 available resources for parents.

636 Section 15. Paragraph (c) of subsection (2) of section
637 1002.31, Florida Statutes, is amended to read:

638 1002.31 Controlled open enrollment; Public school parental
639 choice.—

640 (2)

641 (c) Each district school board must provide preferential
642 treatment in its controlled open enrollment process to all of
643 the following:

644 1. Dependent children of active duty military personnel
645 whose move resulted from military orders.

646 2. Children who have been relocated due to a foster care
647 placement in a different school zone.

648 3. Children who move due to a court-ordered change in



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649 custody due to separation or divorce, or the serious illness or
650 death of a custodial parent.

651 4. Students with an individual education plan or a 504
652 accommodation plan under s. 504 of the Rehabilitation Act of
653 1973 who are eligible for a McKay-Gardiner Scholarship pursuant
654 to s. 1002.381.

655 5. Students residing in the school district.

656 Section 16. Section 1002.381, Florida Statutes, is created
657 to read:

658 1002.381 The McKay-Gardiner Scholarship Program.—

659 (1) ESTABLISHMENT OF PROGRAM.—Beginning with the 2021-2022
660 school year, the McKay-Gardiner Scholarship Program is
661 established to provide the option for a parent to better meet
662 the individual educational needs of his or her eligible child.
663 All written explanatory materials, including state websites,
664 scholarship organization materials, letters to parents,
665 scholarship agreements, and any other written information
666 describing the program to the public, must refer to a
667 scholarship granted under this program as a “McKay-Gardiner
668 Scholarship.”

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

670 (a) “Approved provider” means a provider approved by the
671 Agency for Persons with Disabilities, a health care practitioner
672 as defined in s. 456.001, or a provider approved by the
673 department pursuant to s. 1002.66.

674 (b) “Curriculum” has the same meaning as provided in s.
675 1002.394.

676 (c) “Department” means the Department of Education.

677 (d) “Disability” means:



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678 1. For a 3-year-old or 4-year-old child or for a student in
679 kindergarten through grade 12, that the child has been diagnosed
680 with any of the following: autism spectrum disorder; cerebral
681 palsy; Down syndrome; an intellectual disability; Phelan-
682 McDermid syndrome; Prader-Willi syndrome; spina bifida; being a
683 high-risk child, as defined in s. 393.063(23) (a); muscular
684 dystrophy; Williams syndrome; rare diseases which affect patient
685 populations of fewer than 200,000 individuals in the United
686 States, as defined by the National Organization for Rare
687 Disorders; anaphylaxis; deaf; visually impaired; traumatic
688 brain-injured; hospital or homebound; or dual sensory impaired,
689 as defined by rules of the State Board of Education and
690 evidenced by reports from local school districts. As used in
691 this subparagraph, the term "hospital or homebound" includes a
692 student who has a medically diagnosed physical or psychiatric
693 condition or illness, as defined by state board rule, and who is
694 confined to the home or hospital for more than 6 months.

695 2. For a student in kindergarten through grade 12, that the
696 child has been diagnosed with any of the following: a speech
697 impairment; a language impairment; a hearing impairment; an
698 orthopedic impairment; an emotional or behavioral disability; a
699 specific learning disability, including, but not limited to,
700 dyslexia, dyscalculia, or developmental aphasia; or a
701 developmental delay.

702 (e) "Eligible nonprofit scholarship-funding organization"
703 or "organization" means a state university; an independent
704 college or university eligible to participate in the William L.
705 Boyd, IV, Effective Access to Student Education Grant Program
706 located and chartered in this state which is not for profit and



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707 is accredited by the Commission on Colleges of the Southern
708 Association of Colleges and Schools; or a charitable
709 organization that:

710 1. Is exempt from federal income tax pursuant to s.
711 501(c)(3) of the Internal Revenue Code;

712 2. Is a Florida entity formed under chapter 605, chapter
713 607, or chapter 617 and whose principal office is located in
714 this state; and

715 3. Complies with subsections (12) and (13).

716 (f) "Eligible postsecondary educational institution" has
717 the same meaning as provided in s. 1002.394.

718 (g) "Eligible private school" has the same meaning as
719 provided in s. 1002.394.

720 (h) "IEP" means an individual education plan, regardless of
721 whether the plan has been reviewed or revised within the last 12
722 months.

723 (i) "Inactive" means that no eligible expenditures have
724 been made from a student scholarship account funded pursuant to
725 this section.

726 (j) "Job coach" means an individual employed to help people
727 with disabilities learn, accommodate to, and perform their work
728 duties.

729 (k) "Parent" means a resident of this state who is a
730 parent, as defined in s. 1000.21(5).

731 (l) "Program" means the McKay-Gardiner Scholarship Program
732 established in this section.

733 (3) PROGRAM ELIGIBILITY.—A parent of a student with a
734 disability may request and receive from the state a McKay-
735 Gardiner Scholarship for the purposes specified in subsection



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736 (5) if:
737 (a) The student:
738 1. Is a resident of this state;
739 2. Is 3 or 4 years of age on or before September 1 of the
740 year in which the student applies for program participation or
741 is eligible to enroll in kindergarten through grade 12 in a
742 public school in this state; and
743 3. Meets at least one of the following criteria:
744 a. Has a diagnosis of a disability from a physician who is
745 licensed under chapter 458 or chapter 459, a psychologist who is
746 licensed under chapter 490, or a physician who holds an active
747 license issued by another state or territory of the United
748 States, the District of Columbia, or the Commonwealth of Puerto
749 Rico;
750 b. Has an individual education plan that has been written
751 in accordance with the rules of the State Board of Education; or
752 c. Has a 504 accommodation plan issued under s. 504 of the
753 Rehabilitation Act of 1973.
754
755 A student with a disability who meets the requirements of
756 subparagraph 1. and sub-subparagraph 3.a., but who turns 3 years
757 of age after September 1, may be determined to be eligible on or
758 after his or her third birthday and may be awarded a scholarship
759 if program funds are available.
760 (b) The parent has applied to an eligible nonprofit
761 scholarship-funding organization to participate in the program
762 by a date as set by the organization for any vacant slots. The
763 request must be communicated directly to the organization in a
764 manner that creates a written or electronic record of the



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765 request and the date of receipt of the request.

766 (4) PROGRAM PROHIBITIONS.—A student is not eligible for the
767 program if he or she is:

768 (a) Enrolled in a public school, including, but not limited
769 to, the Florida School for the Deaf and the Blind, the College-
770 Preparatory Boarding Academy, a developmental research school
771 authorized under s. 1002.32, or a charter school authorized
772 under this chapter. For purposes of this paragraph, a 3- or 4-
773 year-old child who receives services funded through the Florida
774 Education Finance Program is considered to be a student enrolled
775 in a public school.

776 (b) Enrolled in a school operating for the purpose of
777 providing educational services to youth in Department of
778 Juvenile Justice commitment programs.

779 (c) Issued a temporary 504 accommodation plan under s. 504
780 of the Rehabilitation Act of 1973 which is valid for 6 months or
781 less.

782 (d) Receiving any other educational scholarship pursuant to
783 this chapter.

784 (e) Not having regular and direct contact with his or her
785 private school teachers pursuant to s. 1002.421(1)(i), unless he
786 or she is enrolled in the private school's transition-to-work
787 program pursuant to subsection (14) or a home education program
788 pursuant to s. 1002.41.

789 (f) Participating in a virtual school, correspondence
790 school, or distance learning program that receives state funding
791 pursuant to the student's participation.

792 (5) AUTHORIZED USES OF PROGRAM FUNDS.—Program funds must be
793 used to meet the individual educational needs of an eligible



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794 student and may be spent only for the following purposes:
795 (a) Instructional materials, including school equipment and
796 supplies, and digital devices, digital periphery devices, and
797 assistive technology devices that allow a student to access
798 instruction or instructional content; training on the use of
799 these devices and related maintenance agreements; and Internet
800 access to digital instructional materials.
801 (b) Curriculum.
802 (c) Specialized services by approved providers or by a
803 hospital in this state which are selected by the parent. These
804 specialized services may include, but are not limited to:
805 1. Applied behavior analysis services as provided in ss.
806 627.6686 and 641.31098.
807 2. Services provided by a speech-language pathologist as
808 defined in s. 468.1125(8).
809 3. Occupational therapy services as specified in s.
810 468.203.
811 4. Services provided by a physical therapist as defined in
812 s. 486.021(5).
813 5. Services provided by listening and spoken language
814 specialists and an appropriate acoustical environment for a
815 child who is deaf or hard of hearing and who has received an
816 implant or assistive hearing device.
817 (d) Tuition or fees associated with full-time or part-time
818 enrollment in any of the following:
819 1. A home education program, an eligible private school, an
820 eligible postsecondary educational institution, or a program
821 offered by the postsecondary institution;
822 2. A private tutoring program authorized under s. 1002.43,



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823 a virtual program offered by a department-approved private
824 online provider that meets the provider qualifications specified
825 in s. 1002.45(2)(a), or a program offered by the Florida Virtual
826 School to a private paying student; or

827 3. An approved online course offered pursuant to s.
828 1003.499 or s. 1004.0961 or a private virtual school that meets
829 the requirements of s. 1002.421.

830 (e) Fees for nationally standardized, norm-referenced
831 achievement tests, Advanced Placement examinations, industry
832 certification examinations, assessments related to postsecondary
833 education, or other such assessments.

834 (f) Contributions to the Stanley G. Tate Florida Prepaid
835 College Program pursuant to s. 1009.98 or the Florida College
836 Savings Program pursuant to s. 1009.981, for the benefit of the
837 eligible student.

838 (g) Contracted services provided by a public school or a
839 school district, including classes. A student who receives
840 services under this paragraph is not considered enrolled in a
841 public school for the purpose of eligibility as provided in
842 subsection (4).

843 (h) Tuition and fees for part-time tutoring services
844 provided by a person who holds a valid Florida educator's
845 certificate issued pursuant to s. 1012.56; a person who holds an
846 adjunct teaching certificate issued pursuant to s. 1012.57; a
847 person who has a bachelor's degree or a graduate degree in the
848 subject area in which instruction is given; or a person who has
849 demonstrated a mastery of subject area knowledge as provided in
850 s. 1012.56(5) or approved by the department. Any part-time
851 tutoring undertaken pursuant to this paragraph does not qualify



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852 as regular school attendance as defined in s. 1003.01(13)(e).
853 (i) Fees for summer education programs.
854 (j) Fees for after-school education programs.
855 (k) Transition services, including a coordinated set of
856 activities focused on improving the academic and functional
857 achievement of the student to facilitate his or her movement
858 from school to post-school activities and based on the
859 individual student's needs. Transition services may be provided
860 by job coaches or pursuant to subsection (14).
861 (l) Fees for an annual evaluation of educational progress
862 by a state-certified teacher under s. 1002.41(1)(f), if this
863 option is chosen for a home education student.
864 (m) Tuition and fees associated with programs offered by
865 Voluntary Prekindergarten Education Program providers approved
866 pursuant to s. 1002.55 and school readiness providers approved
867 pursuant to s. 1002.88.
868 (n) Fees for services provided at a center that is a member
869 of the Professional Association of Therapeutic Horsemanship
870 International.
871 (o) Fees for services provided by a therapist who is
872 certified by the Certification Board for Music Therapists or
873 credentialed by the Art Therapy Credentials Board, Inc.
874 (p) Tuition and fees associated with enrollment in a
875 nationally or internationally recognized research-based training
876 program, for a child with a neurological disorder or brain
877 damage.
878 (q) Tuition and fees associated with a student's
879 participation in classes or lessons relating to art, music, or
880 theater. The instructor of the classes or lessons must:



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881 1. Hold a valid or expired Florida educator's certificate
882 issued under s. 1012.56 in art, music, or drama;

883 2. Have 3 years of employment experience in art, music, or
884 theater, as demonstrated by employment records;

885 3. Hold a baccalaureate degree or higher from a
886 postsecondary educational institution with a major in music,
887 art, theater, or drama or a related field; or

888 4. Hold a certification or national accreditation in music,
889 art, theater, or drama.

890 (r) Transportation expenses that may not exceed \$750
891 annually necessary to meet the student's educational needs under
892 this section.

893
894 A service provider who receives payments pursuant to this
895 subsection may not share or refund any moneys from the McKay-
896 Gardiner Scholarship with the parent or participating student
897 and may not issue rebates to such persons. A parent, student, or
898 service provider may not bill an insurance company, Medicaid, or
899 any other agency for the same services that are paid for with
900 McKay-Gardiner Scholarship funds. Funding provided pursuant to
901 this subsection for a child eligible for enrollment in the
902 Voluntary Prekindergarten Education Program constitutes funding
903 for the child under part V of this chapter, and no additional
904 funding may be provided for the child under part V.

905 (6) TERMS OF THE PROGRAM.—For purposes of continuity of
906 educational choice and program integrity:

907 (a)1. Program payments made by the state to an organization
908 for a McKay-Gardiner Scholarship under this section must
909 continue until:



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910 a. A student's parent does not renew program eligibility;
911 b. The organization determines that a student is not
912 eligible for program renewal;
913 c. The Commissioner of Education suspends or revokes
914 program participation or use of funds pursuant to subparagraph
915 (b)1.;
916 d. A student's parent has forfeited participation in the
917 program for failure to comply with subsection (11);
918 e. A student enrolls in a public school, except that a
919 student who enters a Department of Juvenile Justice detention
920 center for a period of no more than 21 days is not considered to
921 have returned to a public school for that purpose; or
922 f. A student graduates from high school or attains 22 years
923 of age, whichever occurs first.
924 2. Reimbursements for program expenditures may continue
925 until the account balance is expended or the account is closed
926 pursuant to paragraph (b).
927 (b)1. The commissioner must close a student's scholarship
928 account, and any remaining funds, including, but not limited to,
929 contributions made to the Stanley G. Tate Florida Prepaid
930 College Program or earnings from or contributions made to the
931 Florida College Savings Program using program funds pursuant to
932 paragraph (5) (f), revert to the state after:
933 a. Denial or revocation of program eligibility by the
934 commissioner for fraud or abuse, including, but not limited to,
935 the student or student's parent accepting any payment, refund,
936 or rebate from a provider of services received pursuant to
937 subsection (5); however, a private school may discount tuition
938 if the private school deems it necessary;



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939 b. Any period of 3 consecutive years after high school
940 completion or graduation during which the student has not been
941 enrolled in an eligible postsecondary educational institution or
942 a program offered by such an institution; or

943 c. Two consecutive fiscal years in which an account has
944 been inactive.

945 2. The commissioner must notify the parent and the
946 organization when a McKay-Gardiner Scholarship account is closed
947 and program funds revert to the state.

948 (7) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.—

949 (a) By each April 1 and within 10 days after an individual
950 education plan meeting or a 504 accommodation plan is issued
951 under s. 504 of the Rehabilitation Act of 1973, a school
952 district shall notify the parent of the student of all options
953 available pursuant to this section and shall inform the parent
954 of the availability of the department's website for additional
955 information on McKay-Gardiner Scholarships.

956 (b)1. The parent of a student with a disability who does
957 not have an IEP or who seeks a reevaluation of an existing IEP
958 may request an IEP meeting and evaluation from the school
959 district in order to obtain or revise a matrix of services. The
960 district must accept the diagnosis, and consider the service
961 plan of the licensed professional providing the diagnosis
962 pursuant to sub-subparagraph (3) (a)3.a., during the development
963 of the IEP or provide in writing reasons for any changes or
964 disagreement with the licensed professional's diagnosis and
965 service plan. The school district shall notify a parent who has
966 made a request for an IEP that the district is required to
967 complete the IEP and matrix of services within 30 days after



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968 receiving notice of the parent's request. The school district
969 shall conduct a meeting and develop an IEP and matrix of
970 services within 30 days after receipt of the parent's request in
971 accordance with State Board of Education rule.

972 2.a. The school district must provide the student's parent
973 and the department with the student's matrix level within 10
974 calendar days after its completion.

975 b. A school district may change a matrix of services only
976 if the change is a result of an IEP reevaluation or to correct a
977 technical, typographical, or calculation error.

978 (c) For each student participating in the program who
979 chooses to participate in statewide, standardized assessments
980 under s. 1008.22 or the Florida Alternate Assessment, the school
981 district in which the student resides must notify the student
982 and his or her parent about the locations and times of all
983 statewide, standardized assessments.

984 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—An eligible
985 private school may be sectarian or nonsectarian and shall:

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

989 (b)1. Annually administer or make provision for students
990 participating in the program in grades 3 through 10 to take one
991 of the nationally norm-referenced tests identified by the
992 Department of Education or the statewide assessments
993 administered pursuant to s. 1008.22. This subparagraph does not
994 apply to students with disabilities for whom standardized
995 testing is not appropriate. A participating private school shall
996 report a student's scores to the parent.



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997 2. Administer the statewide assessments pursuant to s.
998 1008.22 if a private school chooses to offer the statewide
999 assessments. A participating private school may choose to offer
1000 and administer the statewide assessments to all students who
1001 attend the private school in grades 3 through 10 and must submit
1002 a request in writing to the Department of Education by March 1
1003 of each year in order to administer the statewide assessments in
1004 the subsequent school year.

1005 (c) Provide to the organization all documentation for a
1006 student's participation by a date established by the
1007 organization.

1008
1009 If a private school fails to meet the requirements of this
1010 subsection or s. 1002.421, the commissioner may determine that
1011 the private school is ineligible to participate in the
1012 scholarship program.

1013 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The department
1014 shall:

1015 (a) Comply with s. 1002.394 (8) (a)-(g).

1016 (b) Maintain on its website a list of approved providers as
1017 required by s. 1002.66, eligible postsecondary educational
1018 institutions, eligible private schools, and eligible
1019 organizations and may identify or provide links to lists of
1020 other approved providers.

1021 (c) Require each organization to verify eligible
1022 expenditures before the distribution of funds for any
1023 expenditures made pursuant to paragraphs (5) (a) and (b). Review
1024 of expenditures made for services specified in paragraphs
1025 (5) (c)-(r) may be completed after the purchase is made.



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1026 (d) Investigate any written complaint of a violation of
1027 this section by a parent, a student, a private school, a public
1028 school, a school district, an organization, a provider, or
1029 another appropriate party in accordance with the process
1030 established under s. 1002.421.

1031 (e) Require quarterly reports by an organization, which
1032 must include, at a minimum, the number of students participating
1033 in the program; the demographics of program participants; the
1034 disability category of program participants; the matrix level of
1035 services, if known; the program award amount per student; the
1036 total expenditures for the purposes specified in subsection (5);
1037 the types of providers of services to students; and any other
1038 information deemed necessary by the department.

1039 (f) Compare the list of students participating in the
1040 program with the public school student enrollment lists,
1041 Voluntary Prekindergarten Education Program enrollment lists,
1042 and the list of students participating in school choice
1043 scholarship programs established pursuant to this chapter before
1044 each scholarship award is provided to the organization, and
1045 subsequently throughout the school year, to avoid duplicate
1046 payments and confirm program eligibility.

1047 (g) Distribute each student's scholarship funds on a
1048 quarterly basis to the eligible nonprofit scholarship-funding
1049 organization, to be deposited into the student's account.

1050 (h) Establish and coordinate with the eligible nonprofit
1051 scholarship-funding organizations an FTE reporting process to
1052 provide FTE by county by FEFP program and by matrix level of
1053 services to be used to revise and update the K-12 Education
1054 Scholarship Program allocation pursuant to s. 1011.687, for



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1055 inclusion in the FEFP calculations beginning with the FEFP
1056 calculation following the October student membership survey.
1057 (10) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.—
1058 (a) The Commissioner of Education:
1059 1. May suspend or revoke program participation or use of
1060 program funds by the student or participation or eligibility of
1061 an organization, eligible postsecondary educational institution,
1062 approved provider, or other party for a violation of this
1063 section.
1064 2. May determine the length of, and conditions for lifting,
1065 a suspension or revocation specified in this subsection.
1066 3. May recover unexpended program funds or withhold payment
1067 of an equal amount of program funds to recover program funds
1068 that were not authorized for use.
1069 4. Shall deny or terminate program participation upon a
1070 parent's forfeiture of a McKay-Gardiner Scholarship pursuant to
1071 subsection (11).
1072 (b) In determining whether to suspend or revoke
1073 participation or lift a suspension or revocation in accordance
1074 with this subsection, the commissioner may consider factors that
1075 include, but are not limited to, acts or omissions that led to a
1076 previous suspension or revocation of participation in a state or
1077 federal program or an education scholarship program; failure to
1078 reimburse the organization for funds improperly received or
1079 retained; failure to reimburse government funds improperly
1080 received or retained; imposition of a prior criminal sanction
1081 related to the person or entity or its officers or employees;
1082 imposition of a civil or administrative fine, license revocation
1083 or suspension, or program eligibility suspension, termination,



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1084 or revocation related to a person's or an entity's management or
1085 operation; or other types of criminal proceedings in which the
1086 person or entity or its officers or employees were found guilty
1087 of, regardless of adjudication, or entered a plea of nolo
1088 contendere or guilty to, any offense involving fraud, deceit,
1089 dishonesty, or moral turpitude.

1090 (11) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
1091 PARTICIPATION.—A parent who applies for program participation
1092 under this section is exercising his or her parental option to
1093 determine the appropriate placement or services that best meet
1094 the needs of his or her child.

1095 (a) To satisfy or maintain program eligibility, including
1096 eligibility to receive and spend program payments, the parent
1097 must sign an agreement with the organization and annually submit
1098 a sworn compliance statement to the organization to:

1099 1. Affirm that the student is enrolled in a program that
1100 meets regular school attendance requirements as provided in s.
1101 1003.01(13)(b), (c), or (d).

1102 2. Affirm that the program funds are used only for
1103 authorized purposes serving the student's educational needs, as
1104 described in subsection (5).

1105 3. Affirm that the parent is responsible for the education
1106 of his or her student by, as applicable:

1107 a. Requiring the student to take an assessment in
1108 accordance with paragraph (8)(b);

1109 b. Providing an annual evaluation in accordance with s.
1110 1002.41(1)(f); or

1111 c. Requiring the child to take any preassessments and
1112 postassessments selected by the provider if the child is 4 years



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1113 of age and is enrolled in a program provided by an eligible
1114 Voluntary Prekindergarten Education Program provider. This sub-
1115 subparagraph does not apply to a student with disabilities for
1116 whom a preassessment and postassessment are not appropriate. A
1117 participating provider shall report a student's scores to the
1118 parent.

1119 4. Affirm that the student remains in good standing with
1120 the provider or school if one of those options is selected by
1121 the parent.

1122 (b) The parent must file an application for initial program
1123 participation with an organization by a date established by the
1124 organization.

1125 (c) The parent must enroll his or her child in a program
1126 from a Voluntary Prekindergarten Education Program provider
1127 authorized under s. 1002.55, a school readiness provider
1128 authorized under s. 1002.88, or an eligible private school if
1129 either option is selected by the parent.

1130 (d) The parent must annually renew participation in the
1131 program by a date set and format determined by the nonprofit
1132 scholarship-funding organization in order for a student to be
1133 eligible to receive funding. A student whose participation in
1134 the program is not renewed may continue to spend scholarship
1135 funds that are in his or her account from prior years unless the
1136 account is closed pursuant to paragraph (6) (b). Notwithstanding
1137 any changes to the student's IEP, a student who was previously
1138 eligible for participation in the program remains eligible to
1139 apply for renewal. However, for a high-risk child to continue to
1140 participate in the program in the school year after he or she
1141 reaches 6 years of age, the child's application for renewal of



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1142 program participation must contain documentation that the child
1143 has a disability, other than high-risk status.

1144 (e) The parent is responsible for procuring the services
1145 necessary to educate the student. If a parent does not procure
1146 the necessary educational services for the student and the
1147 student's account has been inactive for 2 consecutive fiscal
1148 years, the student's account must be closed pursuant to
1149 paragraph (6) (b). When the student receives a McKay-Gardiner
1150 Scholarship, the district school board is not obligated to
1151 provide the student with a free, appropriate public education.
1152 For purposes of s. 1003.57 and the Individuals with Disabilities
1153 in Education Act, a participating student has only those rights
1154 that apply to all other unilaterally, parentally placed
1155 students, except that, when requested by the parent, school
1156 district personnel must develop an individual education plan or
1157 matrix level of services.

1158 (f) The parent is responsible for all eligible expenses in
1159 excess of the amount of the McKay-Gardiner Scholarship.

1160 (g) The parent may not transfer any prepaid college plan or
1161 college savings plan funds contributed pursuant to paragraph
1162 (5) (f) to another beneficiary while the plan contains funds
1163 contributed pursuant to this section.

1164 (h) The parent may not receive a payment, refund, or rebate
1165 from an approved provider of any services under this program.

1166
1167 A participant who fails to comply with this subsection forfeits
1168 the McKay-Gardiner Scholarship.

1169 (12) NONPROFIT SCHOLARSHIP-FUNDING ORGANIZATIONS;
1170 APPLICATION.-In order to participate in the scholarship program



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1171 created under this section, a charitable organization that seeks
1172 to be a eligible nonprofit scholarship-funding organization must
1173 submit an application for initial approval or renewal to the
1174 Office of Independent Education and Parental Choice no later
1175 than September 1 of each year before the school year for which
1176 the organization intends to offer scholarships.

1177 (a) An application for initial approval must include all of
1178 the following:

1179 1. A copy of the organization's incorporation documents and
1180 registration with the Division of Corporations of the Department
1181 of State.

1182 2. A copy of the organization's Internal Revenue Service
1183 determination letter as a s. 501(c)(3) not-for-profit
1184 organization.

1185 3. A description of the organization's financial plan which
1186 demonstrates sufficient funds to operate throughout the school
1187 year.

1188 4. A description of the geographic region that the
1189 organization intends to serve and an analysis of the demand and
1190 unmet need for eligible students in that area.

1191 5. The organization's organizational chart.

1192 6. A description of the criteria and methodology that the
1193 organization will use to evaluate scholarship eligibility.

1194 7. A description of the application process, including
1195 deadlines and any associated fees.

1196 8. A description of the deadlines for attendance
1197 verification and scholarship payments.

1198 9. A copy of the organization's policies on conflict of
1199 interest and whistleblowers.



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1200 10. A copy of a surety bond or letter of credit to secure
1201 the faithful performance of the obligations of the eligible
1202 nonprofit scholarship-funding organization in accordance with
1203 this section in an amount equal to 25 percent of the scholarship
1204 funds anticipated for each school year or \$100,000, whichever is
1205 greater. The surety bond or letter of credit must specify that
1206 any claim against the bond or letter of credit may be made only
1207 by an eligible nonprofit scholarship-funding organization to
1208 provide scholarships to and on behalf of students who would have
1209 had scholarships funded if it were not for the diversion of
1210 funds giving rise to the claim against the bond or letter of
1211 credit.

1212 (b) In addition to the information required under paragraph
1213 (a), an application for renewal must include all of the
1214 following:

1215 1. A single surety bond or letter of credit to secure the
1216 faithful performance of the obligations of the eligible
1217 nonprofit scholarship-funding organization in accordance with
1218 this chapter equal to the amount of undisbursed funds held by
1219 the organization based on the annual report submitted pursuant
1220 to paragraph (13) (a). The amount of the surety bond or letter of
1221 credit must be at least \$100,000, but not more than \$25 million.

1222 The surety bond or letter of credit must specify that any claim
1223 against the bond or letter of credit may be made only by an
1224 eligible nonprofit scholarship-funding organization to provide
1225 scholarships to and on behalf of students who would have had
1226 scholarships funded if it were not for the diversion of funds
1227 giving rise to the claim against the bond or letter of credit.

1228 2. The organization's completed Internal Revenue Service



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1229 Form 990 submitted no later than November 30 of the year before
1230 the school year for which the organization intends to offer the
1231 scholarships, notwithstanding the September 1 application
1232 deadline.

1233 3. A copy of any statutorily required audit that the
1234 organization must provide to the Department of Education and
1235 Auditor General.

1236 4. An annual report that includes all of the following:

1237 a. The number of students who completed applications, by
1238 county and by grade.

1239 b. The number of students who were approved for
1240 scholarships, by county and by grade.

1241 c. The number of students who received funding for
1242 scholarships within each funding category, by county and by
1243 grade.

1244 d. The amount of funds received, the amount of funds
1245 distributed in scholarships, and an accounting of remaining
1246 funds and the obligation of those funds.

1247 e. A detailed accounting of how the organization spent the
1248 administrative funds allowable under paragraph (13)(f).

1249 (c) In consultation with the Chief Financial Officer, the
1250 Office of Independent Education and Parental Choice shall review
1251 the application. The Department of Education shall notify the
1252 organization in writing of any deficiencies within 30 days after
1253 receipt of the application and allow the organization 30 days to
1254 correct any deficiencies.

1255 (d) Within 30 days after receipt of the finalized
1256 application by the Office of Independent Education and Parental
1257 Choice, the Commissioner of Education shall recommend approval



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1258 or disapproval of the application to the State Board of
1259 Education. The State Board of Education shall consider the
1260 application and recommendation at the next scheduled meeting,
1261 adhering to appropriate meeting notice requirements. If the
1262 State Board of Education disapproves the organization's
1263 application, it must provide the organization with a written
1264 explanation of that determination. The State Board of
1265 Education's action is not subject to chapter 120.

1266 (e) If the State Board of Education disapproves the renewal
1267 of a nonprofit scholarship-funding organization, the
1268 organization must notify the affected eligible students and
1269 parents of the decision within 15 days after disapproval. An
1270 eligible student affected by the disapproval of an
1271 organization's participation remains eligible under this section
1272 until the end of the school year in which the organization was
1273 disapproved. The student must apply to and be accepted by
1274 another eligible nonprofit scholarship-funding organization for
1275 the upcoming school year. The student must be given priority
1276 under paragraph (13) (e).

1277 (f) All remaining student accounts with funds held by a
1278 nonprofit scholarship-funding organization that is disapproved
1279 for participation must be transferred to the student's account
1280 established with the eligible nonprofit scholarship-funding
1281 organization that accepts the student. All transferred funds
1282 must be deposited by the eligible nonprofit scholarship-funding
1283 organization receiving such funds into the student's scholarship
1284 account. All other remaining funds must be transferred to the
1285 department. All transferred amounts received by any eligible
1286 nonprofit scholarship-funding organization must be separately



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1287 disclosed in the annual audit required under subsection (16).

1288 (g) A nonprofit scholarship-funding organization is a
1289 renewing organization if it was approved by the State Board of
1290 Education for the 2021-2022 fiscal year or after and maintains
1291 continuous approval and participation in the program. An
1292 organization that chooses not to participate for 1 year or more
1293 or is disapproved to participate for 1 year or more must submit
1294 an application for initial approval in order to participate in
1295 the program again.

1296 (h) The State Board of Education shall adopt rules
1297 providing guidelines for receiving, reviewing, and approving
1298 applications for new and renewing nonprofit scholarship-funding
1299 organizations. The rules must include a process for compiling
1300 input and recommendations from the Chief Financial Officer and
1301 the Department of Education. The rules also must require that
1302 the nonprofit scholarship-funding organization make a brief
1303 presentation to assist the State Board of Education in its
1304 decision.

1305 (i) A state university; or an independent nonprofit college
1306 chartered in this state or independent nonprofit university
1307 chartered in this state that are eligible to participate in the
1308 William L. Boyd, IV, Effective Access to Student Education Grant
1309 Program and are accredited by the Commission on Colleges of the
1310 Southern Association of Colleges and Schools is exempt from the
1311 initial or renewal application process, but must file a
1312 registration notice with the Department of Education to be an
1313 eligible nonprofit scholarship-funding organization. The State
1314 Board of Education shall adopt rules that identify the procedure
1315 for filing the registration notice with the department. The



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1316 rules must identify appropriate reporting requirements for
1317 fiscal, programmatic, and performance accountability purposes
1318 consistent with this section, but may not exceed the
1319 requirements for eligible nonprofit scholarship-funding
1320 organizations for charitable organizations.

1321 (13) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING
1322 ORGANIZATIONS.—An organization may establish McKay-Gardiner
1323 Scholarships for eligible students by:

1324 (a) Complying with the requirements of s. 1002.394(11)(a)-
1325 (h), including, but not limited to, the annual report on the
1326 results of the annual financial audit.

1327 (b) Receiving applications and determining student
1328 eligibility in accordance with the requirements of this section.
1329 When an application is approved, the organization must provide
1330 the department with information on the student to enable the
1331 department to determine student funding in accordance with
1332 subsection (15).

1333 (c) Providing scholarships on a first-come, first-served
1334 basis, based upon the funds provided, and notifying parents of
1335 their respective student's receipt of a scholarship.

1336 (d) Establishing a date by which a parent must confirm
1337 initial or continuing participation in the program.

1338 (e) Reviewing applications and awarding scholarship funds
1339 to approved applicants using the following order of priority:

1340 1.a. For the 2021-2022 school year, a student who received
1341 a John M. McKay Scholarship for Students with Disabilities or a
1342 Gardiner Scholarship in the 2020-2021 school year and meets the
1343 eligibility requirements in subsection (3) is eligible for a
1344 McKay-Gardiner Scholarship in the 2021-2022 school year.



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1345 b. For the 2022-2023 school year and thereafter, renewing
1346 students from the previous school year under this section.

1347 2. Students retained on the previous school year's wait
1348 list.

1349 3. An eligible student who meets the criteria for an
1350 initial award pursuant to subsection (3).

1351
1352 An approved student who does not receive a scholarship must be
1353 placed on the wait list in the order in which his or her
1354 application is approved. An eligible student who does not
1355 receive a scholarship within the fiscal year shall be retained
1356 on the wait list for the subsequent year.

1357 (f) Using an amount not to exceed 2.5 percent of the total
1358 calculated amount of all scholarships awarded under this section
1359 for administrative expenses associated with performing functions
1360 authorized under this section, if the organization has operated
1361 as an eligible nonprofit scholarship-funding organization for at
1362 least the preceding 3 fiscal years and did not have any material
1363 weakness or material noncompliance in its most recent audit
1364 performed pursuant to s. 1002.394(11) (f).

1365 (g) Verifying qualifying educational expenditures pursuant
1366 to paragraph (9) (c) and requesting the return of any funds used
1367 for unauthorized purposes.

1368 (h) Returning any remaining program funds to the department
1369 pursuant to paragraph (6) (b).

1370 (i) Notifying the parent about the availability of, and the
1371 requirements associated with requesting, an initial IEP or IEP
1372 reevaluation every 3 years for each student participating in the
1373 program.



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1374 (j) Documenting each student's eligibility for a fiscal
1375 year before granting a scholarship for that fiscal year pursuant
1376 to paragraph (3) (b). A student is ineligible for a scholarship
1377 if the student's account has been inactive for 2 consecutive
1378 fiscal years and the student's account has been closed pursuant
1379 to paragraph (6) (b).

1380 (k) Submitting in a timely fashion any information
1381 requested by the department relating to the program.

1382 (l) Preparing and submitting quarterly reports to the
1383 department pursuant to paragraph (9) (e).

1384 (m) Notifying the department of any violation of this
1385 section.

1386 (14) TRANSITION-TO-WORK PROGRAM.—A student participating in
1387 the McKay-Gardiner Scholarship Program who is at least 17 years
1388 of age, but not older than 22 years of age, and who has not
1389 received a high school diploma or certificate of completion is
1390 eligible for enrollment in a transition-to-work program provided
1391 by a private school or job coach. A transition-to-work program
1392 must consist of academic instruction, work skills training, and
1393 a volunteer or paid work experience.

1394 (a) To offer a transition-to-work program, a participating
1395 private school or job coach must:

1396 1. Develop a transition-to-work program plan, which must
1397 include a written description of the academic instruction and
1398 work skills training students will receive and the goals for
1399 students in the program.

1400 2. Submit the transition-to-work program plan to the Office
1401 of Independent Education and Parental Choice.

1402 3. Develop a personalized transition-to-work program plan



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1403 for each student enrolled in the program. The student's parent,
1404 the student, and the school principal or job coach must sign the
1405 personalized plan. The personalized plan must be submitted to
1406 the Office of Independent Education and Parental Choice upon
1407 request by the office.

1408 4. Provide a release of liability form that must be signed
1409 by the student's parent, the student, and a representative of
1410 the business offering the volunteer or paid work experience.

1411 5. Assign a case manager or job coach to visit the
1412 student's job site on a weekly basis to observe the student and,
1413 if necessary, provide support and guidance to the student.

1414 6. Provide to the parent and student a quarterly report
1415 that documents and explains the student's progress and
1416 performance in the program.

1417 7. Maintain accurate attendance and performance records for
1418 the student.

1419 (b) A student enrolled in a transition-to-work program
1420 must, at a minimum:

1421 1. Receive 15 instructional hours that must include
1422 academic instruction and work skills training.

1423 2. Participate in 10 hours of work at the student's
1424 volunteer or paid work experience.

1425 (c) To participate in a transition-to-work program, a
1426 business must:

1427 1. Maintain an accurate record of the student's performance
1428 and hours worked and provide the information to the private
1429 school.

1430 2. Comply with all state and federal child labor laws.

1431 (15) FUNDING AND PAYMENT.—For the purposes of this



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1432 subsection, the term "student FTE" refers to how participating
1433 students are calculated for the purposes of the scholarship
1434 program allocation, which is equal to four quarterly scholarship
1435 payments.

1436 (a) The McKay-Gardiner scholarship is established for up to
1437 50,000 student FTE for the 2021-2022 school year. For the 2022-
1438 2023 school year, and each year thereafter, the maximum number
1439 of student FTE shall increase by 1.0 percent of the state's
1440 total public school exceptional student education student
1441 enrollment, not including gifted students.

1442 1. For a student who has a Level I to Level III matrix of
1443 services or a doctor's diagnosis, the calculated scholarship
1444 amount for a student participating in the program must be based
1445 upon the grade level and school district in which the student
1446 would have been enrolled as 97.5 percent of the funds per
1447 unweighted full-time equivalent in the Florida Education Finance
1448 Program for a student in the basic exceptional student education
1449 program pursuant to s. 1011.62(1)(c)1. and (e)1.c., plus a per-
1450 full-time equivalent share of funds for all categorical
1451 programs, as funded in the General Appropriations Act, except
1452 that for the exceptional student education guaranteed allocation
1453 as provided in s. 1011.62(1)(e)1.c. and 2., the funds must be
1454 allocated based on the school district's average exceptional
1455 student education guaranteed allocation funds per exceptional
1456 student education full-time equivalent student.

1457 2. For a student with a Level IV or Level V matrix of
1458 services, the calculated scholarship amount must be based upon
1459 the school district to which the student would have been
1460 assigned as 97.5 percent of the funds per full-time equivalent



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1461 for the Level IV or Level V Exceptional Student Education
1462 program pursuant to s. 1011.62(1)(c)2.a. or b., plus a per-full-
1463 time equivalent share of funds for all categorical programs, as
1464 funded in the General Appropriations Act.

1465 3. For a student with a 504 plan, the calculated
1466 scholarship amount must be based upon the grade level and school
1467 district to which the student would have been assigned as 97.5
1468 percent of the funds per unweighted full-time equivalent in the
1469 Florida Education Finance Program for a student in the basic
1470 education program established pursuant to s. 1011.62(1)(c)1.,
1471 plus a per-full-time equivalent share of funds for all
1472 categorical programs, as funded in the General Appropriations
1473 Act.

1474 (b) At the time of each Florida Education Finance Program
1475 student membership survey, the scholarship-funding organization
1476 shall report to the department student enrollment, student FTE,
1477 and total award amounts by county, delineated by FEFP program,
1478 and grade and matrix level for all students who are
1479 participating in the McKay-Gardiner Scholarship Program.
1480 Students with a 504 plan must be separately identified.

1481 (c) Upon notification from an organization on July 1,
1482 September 1, December 1, and February 1 that an application has
1483 been approved for the program, the department shall verify that
1484 the student is not prohibited from receiving a scholarship
1485 pursuant to subsection (4). The organization must provide the
1486 department with the documentation necessary to verify the
1487 student's participation.

1488 (d) Upon verification, the department shall release the
1489 student's scholarship funds to the organization, to be deposited



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1490 into the student's account in four equal amounts no later than
1491 September 1, November 1, February 1, and April 1 of each school
1492 year in which the scholarship is in force.

1493 (e) Accrued interest in the student's account is in
1494 addition to, and not part of, the awarded funds. Program funds
1495 include both the awarded funds and accrued interest.

1496 (f) The organization may develop a system for payment of
1497 benefits by funds transfer, including, but not limited to, debit
1498 cards, electronic payment cards, or any other means of payment
1499 which the department deems to be commercially viable or cost-
1500 effective. A student's scholarship award may not be reduced for
1501 debit card or electronic payment fees. Commodities or services
1502 related to the development of such a system must be procured by
1503 competitive solicitation unless they are purchased from a state
1504 term contract pursuant to s. 287.056.

1505 (g) Moneys received pursuant to this section do not
1506 constitute taxable income to the qualified student or the parent
1507 of the qualified student.

1508 (16) OBLIGATIONS OF THE AUDITOR GENERAL.—

1509 (a) The Auditor General shall review all audit reports
1510 submitted pursuant to subsection (13). The Auditor General shall
1511 request any significant items that were omitted in violation of
1512 a rule adopted by the Auditor General. The organization shall
1513 provide such items within 45 days after the date of the request.
1514 If the scholarship-funding organization does not comply with the
1515 Auditor General's request, the Auditor General must notify the
1516 Legislative Auditing Committee.

1517 (b) At least once every 3 years, the Auditor General shall
1518 conduct an operational audit of accounts and records of each



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1519 organization that participates in the program. As part of this
1520 audit, the Auditor General, at a minimum, shall verify the total
1521 number of students served and the eligibility of reimbursements
1522 made by the organization and transmit that information to the
1523 department. The Auditor General shall provide the commissioner
1524 with a copy of each annual operational audit performed pursuant
1525 to this subsection within 10 days after the audit is finalized.

1526 (c) The Auditor General shall notify the department of any
1527 organization that fails to comply with a request for
1528 information.

1529 (17) OBLIGATIONS RELATED TO APPROVED PROVIDERS.—The
1530 Department of Health, the Agency for Persons with Disabilities,
1531 and the Department of Education shall coordinate with an
1532 organization to provide easy or automated access to lists of
1533 licensed providers of services specified in paragraph (5)(c) to
1534 ensure efficient administration of the program.

1535 (18) LIABILITY.—The state is not liable for the awarding of
1536 funds or for any use of funds awarded under this section.

1537 (19) SCOPE OF AUTHORITY.—This section does not expand the
1538 authority of the state, its officers, or any school district to
1539 impose additional regulation on participating private schools,
1540 independent postsecondary educational institutions, and private
1541 providers beyond that reasonably necessary to enforce
1542 requirements expressly set forth in this section.

1543 (20) RULES.—The State Board of Education shall adopt rules
1544 pursuant to ss. 120.536(1) and 120.54 to administer this
1545 section.

1546 Section 17. Section 1002.385, Florida Statutes, is
1547 repealed.



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1548 Section 18. Section 1002.39, Florida Statutes, is repealed.

1549 Section 19. Section 1002.394, Florida Statutes, is amended
1550 to read:

1551 1002.394 The Family Empowerment Scholarship Program.—

1552 (1) PURPOSE.—The Family Empowerment Scholarship Program is
1553 established to provide children of families in this state,
1554 including those with which have limited financial resources,
1555 with educational options to achieve success in their education.

1556 (2) DEFINITIONS.—As used in this section, the term:

1557 (a) “Approved provider” means a provider approved by the
1558 department ~~“Department” means the Department of Education.~~

1559 (b) “Curriculum” means a complete course of study for a
1560 particular content area or grade level, including any required
1561 supplemental materials, teachers’ manuals, and associated online
1562 instruction.

1563 (c) “Department” means the Department of Education.

1564 (d) “Direct certification list” means the certified list of
1565 children who qualify for the food assistance program, the
1566 Temporary Assistance for Needy Families Program, or the Food
1567 Distribution Program on Indian Reservations provided to the
1568 Department of Education by the Department of Children and
1569 Families.

1570 (e) “Eligible nonprofit scholarship-funding organization”
1571 or “organization” means a state university, an independent
1572 college or university that is eligible to participate in the
1573 William L. Boyd, IV, Effective Access to Student Education Grant
1574 Program located and chartered in this state which is not for
1575 profit and is accredited by the Commission on Colleges of the
1576 Southern Association of Colleges and Schools, or is a charitable



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1577 organization that: has the same meaning as provided in s.
1578 1002.395(2)(f).

1579 1. Is exempt from federal income tax pursuant to s.
1580 501(c)(3) of the Internal Revenue Code;

1581 2. Is a Florida entity formed under chapter 605, chapter
1582 607, or chapter 617 and whose principal office is located in
1583 this state; and

1584 3. Complies with subsections (11) and (14).

1585 (f) "Eligible postsecondary educational institution" means
1586 a Florida College System institution; a state university; a
1587 school district technical center; a school district adult
1588 general education center; an independent college or university
1589 that is eligible to participate in the William L. Boyd, IV,
1590 Effective Access to Student Education Grant Program under s.
1591 1009.89; or an accredited independent postsecondary educational
1592 institution, as defined in s. 1005.02, which is licensed to
1593 operate in this state under part III of chapter 1005.

1594 (g)(e) "Eligible private school" means a private school as
1595 defined in s. 1002.01 located in this state which offers an
1596 education to students in any grade from Kindergarten through
1597 grade 12 and:

1598 1. Meets the requirements of ss. 1002.42 and 1002.421; and

1599 2. Meets the applicable requirements imposed under this
1600 chapter, if the private school participates in a scholarship
1601 program under this chapter has the same meaning as provided in
1602 s. 1002.395(2)(g).

1603 (h) "Household income" has the same meaning as the term
1604 "income" as defined in the Income Eligibility Guidelines for
1605 free and reduced price meals under the National School Lunch



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1606 Program in 7 C.F.R. part 210 as published in the Federal
1607 Register by the United States Department of Agriculture.
1608 (i) "Inactive" means that no eligible expenditures have
1609 been made from a student scholarship account funded pursuant to
1610 this section.
1611 (j) "Incident" means battery; harassment; hazing; bullying;
1612 kidnapping; physical attack; robbery; sexual offenses,
1613 harassment, assault, or battery; threat or intimidation; or
1614 fighting at school, as defined by the department in accordance
1615 with s. 1006.147(4).
1616 (k) "Owner or operator" includes:
1617 1. An owner, president, officer, or director of an eligible
1618 nonprofit scholarship-funding organization or a person with
1619 equivalent decisionmaking authority over an eligible nonprofit
1620 scholarship-funding organization.
1621 2. An owner, operator, superintendent, or principal of an
1622 eligible private school or a person with equivalent
1623 decisionmaking authority over an eligible private school.
1624 (l) ~~(d)~~ "Parent" means a resident of this state who is a
1625 parent, as defined in s. 1000.21.
1626 (m) ~~(e)~~ "Program" means the Family Empowerment Scholarship
1627 Program.
1628 (n) "School" means any educational program or activity
1629 conducted by a public K-12 educational institution, any school-
1630 related or school-sponsored program or activity, and riding on a
1631 school bus as defined in s. 1006.25(1), including waiting at a
1632 school bus stop.
1633 (3) INITIAL SCHOLARSHIP ELIGIBILITY.—A student is eligible
1634 for a Family Empowerment Scholarship under this section if the



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1635 student meets the following criteria:

1636 (a)1. The student is on the direct certification list
1637 ~~pursuant to s. 1002.395(2)(c)~~ or the student's household income
1638 level does not exceed 300 ~~185~~ percent of the federal poverty
1639 level or an adjusted maximum percent of the federal poverty
1640 level established pursuant to paragraph (e); or

1641 2. The student is:

1642 a. Currently placed, or during the previous state fiscal
1643 year was placed, in foster care or in out-of-home care as
1644 defined in s. 39.01;

1645 b. A sibling of a student who is participating in the
1646 scholarship program under this subsection, if the student
1647 resides in the same household as the sibling;

1648 c. A sibling of a student who is participating in the
1649 scholarship program under s. 1002.381, if the student resides in
1650 the same household as the sibling and attends the same school;

1651 or

1652 d. Enrolled in a Florida public school in kindergarten
1653 through grade 12 and reported an incident in accordance with
1654 paragraph (7) (b)

1655 ~~3. The student's household income level does not exceed 300~~
1656 ~~percent of the federal poverty level or an adjusted maximum~~
1657 ~~percent of the federal poverty level as established pursuant to~~
1658 ~~paragraph (c).~~

1659
1660 A student who initially receives a scholarship based on
1661 eligibility under this paragraph ~~subparagraph 2.~~ remains
1662 eligible to participate until the student graduates from high
1663 school or attains the age of 21 years, whichever occurs first,



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1664 regardless of the student's household income level. ~~A sibling of~~
1665 ~~a student who is participating in the scholarship program under~~
1666 ~~this subsection is eligible for a scholarship if the student~~
1667 ~~resides in the same household as the sibling.~~

1668 (b)~~1.~~ The student is eligible to enroll in kindergarten
1669 ~~through grade 12 in a public school in this state;~~

1670 ~~2. The student has spent the prior school year in~~
1671 ~~attendance at a Florida public school; or~~

1672 ~~3. Beginning with the 2020-2021 school year, the student~~
1673 ~~received a scholarship pursuant to s. 1002.395 during the~~
1674 ~~previous school year but did not receive a renewal scholarship~~
1675 ~~based solely on the eligible nonprofit scholarship funding~~
1676 ~~organization's lack of available funds after the organization~~
1677 ~~fully exhausts its efforts to use funds available for awards~~
1678 ~~under ss. 1002.395 and 1002.40(11)(i). Eligible nonprofit~~
1679 ~~scholarship funding organizations with students who meet the~~
1680 ~~eligibility criterion of this subparagraph must annually notify~~
1681 ~~the department in a format and by a date established by the~~
1682 ~~department.~~

1683
1684 ~~For purposes of this paragraph, the term "prior school year in~~
1685 ~~attendance" means that the student was enrolled full time and~~
1686 ~~reported by a school district for funding during the preceding~~
1687 ~~October and February Florida Education Finance Program surveys~~
1688 ~~in kindergarten through grade 12, which includes time spent in a~~
1689 ~~Department of Juvenile Justice commitment program if funded~~
1690 ~~under the Florida Education Finance Program. However, a~~
1691 ~~dependent child of a member of the United States Armed Forces~~
1692 ~~who transfers to a school in this state from out of state or~~



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1693 ~~from a foreign country due to a parent's permanent change of~~
1694 ~~station orders or a foster child is exempt from the prior public~~
1695 ~~school attendance requirement under this paragraph, but must~~
1696 ~~meet the other eligibility requirements specified under this~~
1697 ~~section to participate in the program.~~

1698 (c) The parent has applied to an eligible nonprofit
1699 scholarship-funding organization to participate in the program
1700 by a date set by the organization ~~obtained acceptance for~~
1701 ~~admission of the student to a private school that is eligible~~
1702 ~~for the program under subsection (8), and the parent has~~
1703 ~~requested a scholarship from the Department of Education by a~~
1704 ~~date established by the department pursuant to paragraph (7)(c),~~
1705 ~~but no later than at least 60 days before the date of the first~~
1706 ~~scholarship payment. The application request must be~~
1707 ~~communicated directly to the organization ~~department~~ in a manner~~
1708 ~~that creates a written or electronic record of the application~~
1709 ~~request and the date of receipt of the application request. The~~
1710 ~~department must notify the school district of the parent's~~
1711 ~~intent upon receipt of the parent's request.~~

1712 (d) The student is awarded a scholarship in accordance with
1713 the following priority order:

1714 1. An eligible student who received a Family Empowerment
1715 Scholarship during the previous school year, or a Florida Tax
1716 Credit Scholarship or Hope Scholarship during the 2020-2021
1717 school year, and requested a renewal scholarship award.

1718 2. An eligible student who meets the criteria for an
1719 initial award under both paragraphs ~~paragraph~~ (a) and (b) and
1720 was retained on the previous school year's wait list
1721 ~~subparagraph (b)3.~~



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1722 3. An eligible student who meets the criteria for an
1723 initial award under sub-subparagraph (a)2.a., or sub-
1724 subparagraph (a)2.b., or sub-subparagraph (a)2.d., and paragraph
1725 (b) subparagraph (b)2. and either subparagraph (a)1. or
1726 subparagraph (a)2.

1727 4. An eligible student who meets the criteria for an
1728 initial award under subparagraph (a)1. ~~(b)1.~~ and paragraph (b),
1729 and the student's household income level does not exceed 185
1730 percent of the federal poverty level either subparagraph (a)1.
1731 or subparagraph (a)2.

1732 5. An eligible student who meets the criteria for an
1733 initial award under subparagraph (a)1. ~~(a)3.~~ and, paragraph (b)
1734 in priority order, either subparagraph (b)2. or subparagraph
1735 ~~(b)1.~~

1736 6. An eligible student who meets the criteria for an
1737 initial award under sub-subparagraph (a)2.c. and paragraph (b).

1738
1739 An approved student who does not receive a scholarship must be
1740 placed on the wait list in the order in which his or her
1741 application is approved. An eligible student who does not
1742 receive a scholarship within the fiscal year must be retained on
1743 the wait list for the subsequent year.

1744 (e) The student's household income level does not exceed an
1745 adjusted maximum percent of the federal poverty level that is
1746 increased by 25 percent in the fiscal year following any fiscal
1747 year in which more than 5 percent of the available scholarships
1748 authorized under subsection (12)~~(11)~~ have not been awarded.

1749 (4) TERM OF SCHOLARSHIP.—For purposes of continuity of
1750 educational choice and program integrity:



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1751 (a)1. Program payments made by the state to an organization
1752 for a Family Empowerment Scholarship under this section must
1753 continue until:

1754 a. The parent does not renew program eligibility;

1755 b. The organization determines that the student is not
1756 eligible for program renewal;

1757 c. The Commissioner of Education suspends or revokes
1758 program participation or use of funds pursuant to subparagraph
1759 (b) (1);

1760 d. The student's parent has forfeited participation in the
1761 program for failure to comply with subsection (10);

1762 e. The student enrolls in a public school, except that a
1763 student who enters a Department of Juvenile Justice detention
1764 center for a period of no more than 21 days is not considered to
1765 have returned to a public school for that purpose; or

1766 f. The student graduates from high school or attains 21
1767 years of age, whichever occurs first.

1768 2. Reimbursements for program expenditures may continue
1769 until the account balance is expended or the account is closed
1770 pursuant to paragraph (b) ~~For purposes of continuity of~~
1771 educational choice, a Family Empowerment Scholarship shall
1772 remain in force until the student returns to a public school,
1773 graduates from high school, or reaches the age of 21, whichever
1774 occurs first. A scholarship student who enrolls in a public
1775 school or public school program is considered to have returned
1776 to a public school for the purpose of determining the end of the
1777 scholarship's term. However, if a student enters a Department of
1778 Juvenile Justice detention center for a period of no more than
1779 21 days, the student is not considered to have returned to a



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1780 ~~public school for that purpose.~~

1781 (b)1. The commissioner shall close a student's scholarship
1782 account, and any remaining funds, including, but not limited to,
1783 contributions made to the Stanley G. Tate Florida Prepaid
1784 College Program or earnings from or contributions made to the
1785 Florida College Savings Program using program funds pursuant to
1786 paragraph (6) (e), revert to the state after:

1787 a. Denial or revocation of program eligibility by the
1788 commissioner for fraud or abuse, including, but not limited to,
1789 the student or the student's parent accepting any payment,
1790 refund, or rebate in any manner from a provider of any services
1791 received pursuant to subsection (6); however, a private school
1792 may discount tuition if the private school deems it necessary;

1793 b. Any period of 2 consecutive years after high school
1794 completion or graduation during which the student has not been
1795 enrolled in an eligible postsecondary educational institution or
1796 a program offered by the institution; or

1797 c. The account has been inactive for 2 consecutive fiscal
1798 years ~~Upon reasonable notice to the department and the school~~
1799 ~~district, the student's parent may remove the student from the~~
1800 ~~private school and place the student in a public school in~~
1801 ~~accordance with this section.~~

1802 2. The commissioner must notify the parent and the
1803 organization when a Family Empowerment Scholarship account is
1804 closed and program funds revert to the state

1805 ~~(c) Upon reasonable notice to the department, the student's~~
1806 ~~parent may move the student from one participating private~~
1807 ~~school to another participating private school.~~

1808 (5) SCHOLARSHIP PROHIBITIONS.—A student is not eligible for



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- 1809 a Family Empowerment Scholarship while he or she is:
- 1810 (a) Enrolled in a public school, including, but not limited
- 1811 to, the Florida School for the Deaf and the Blind, the College-
- 1812 Preparatory Boarding Academy, a developmental research school
- 1813 authorized under s. 1002.32, or a charter school authorized
- 1814 under this chapter;
- 1815 (b) Enrolled in a school operating for the purpose of
- 1816 providing educational services to youth in a Department of
- 1817 Juvenile Justice commitment program;
- 1818 (c) Receiving any other educational scholarship pursuant to
- 1819 this chapter;
- 1820 (d) Not having regular and direct contact with his or her
- 1821 private school teachers pursuant to s. 1002.421(1)(i), unless he
- 1822 or she is enrolled in a home education program pursuant to s.
- 1823 1002.41 Participating in a home education program as defined in
- 1824 s. 1002.01(1);
- 1825 ~~(e) Participating in a private tutoring program pursuant to~~
- 1826 ~~s. 1002.43; or~~
- 1827 (e) ~~(f)~~ Participating in a virtual school, correspondence
- 1828 school, or distance learning program that receives state funding
- 1829 pursuant to the student's participation.
- 1830 (6) AUTHORIZED USES OF PROGRAM FUNDS.-Program funds must be
- 1831 used to meet the individual educational needs of an eligible
- 1832 student and may be spent for the following purposes:
- 1833 (a) Instructional materials, including school equipment and
- 1834 supplies, and digital devices and Internet access to access
- 1835 digital instructional materials.
- 1836 (b) Curriculum.
- 1837 (c) Tuition or fees associated with full-time or part-time



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1838 enrollment in any of the following:

1839 1. A home education program, an eligible private school, an
1840 eligible postsecondary educational institution, or a program
1841 offered by the postsecondary institution;

1842 2. A private tutoring program authorized under s. 1002.43,
1843 a virtual program offered by a department-approved private
1844 online provider that meets the provider qualifications specified
1845 in s. 1002.45(2) (a), or a program offered by the Florida Virtual
1846 School to a private paying student; or

1847 3. An approved online course offered pursuant to s.
1848 1003.499 or s. 1004.0961 or a private virtual school that meets
1849 the requirements of s. 1002.421.

1850 (d) Fees for nationally standardized, norm-referenced
1851 achievement tests, Advanced Placement examinations, industry
1852 certification examinations, assessments related to postsecondary
1853 education, or other assessments.

1854 (e) Contributions to the Stanley G. Tate Florida Prepaid
1855 College Program pursuant to s. 1009.98 or the Florida College
1856 Savings Program pursuant to s. 1009.981, for the benefit of the
1857 eligible student.

1858 (f) Contracted services provided by a public school or
1859 school district, including classes. A student who receives
1860 services under a contract under this paragraph is not considered
1861 enrolled in a public school for eligibility purposes as
1862 specified in subsection (5).

1863 (g) Tuition and fees for part-time tutoring services
1864 provided by a person who holds a valid Florida educator's
1865 certificate pursuant to s. 1012.56; a person who holds an
1866 adjunct teaching certificate pursuant to s. 1012.57; a person



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1867 who has a bachelor's degree or a graduate degree in the subject
1868 area in which instruction is given; or a person who has
1869 demonstrated a mastery of subject area knowledge pursuant to s.
1870 1012.56(5) or as approved by the department. As used in this
1871 paragraph, the term "part-time tutoring services" does not
1872 qualify as regular school attendance as defined in s.
1873 1003.01(13) (e).

1874 (h) Fees for summer education programs.

1875 (i) Fees for after-school education programs.

1876 (j) Fees for an annual evaluation of educational progress

1877 by a state-certified teacher under s. 1002.41(1) (f), if this

1878 option is chosen for a home education student.

1879 (k) Transportation expenses that may not exceed \$750

1880 annually necessary to meet the student's educational needs under

1881 this section.

1882

1883 A provider of any services receiving payments pursuant to this

1884 subsection may not share, refund, or rebate any moneys from the

1885 Family Empowerment Scholarship with the parent or participating

1886 student in any manner.

1887 (7)~~(6)~~ SCHOOL DISTRICT OBLIGATIONS.—

1888 (a) By July 15, 2019, and by April 1 of each year

1889 thereafter, a school district shall inform all households within

1890 the district receiving free or reduced-priced meals under the

1891 National School Lunch Act of their eligibility to apply ~~to the~~

1892 ~~department~~ for a Family Empowerment Scholarship. The form of

1893 such notice shall be provided by the department, and the school

1894 district shall include the provided form in any normal

1895 correspondence with eligible households. Such notice is limited



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1896 to once a year.

1897 (b) Upon receipt of a report of an incident, the school
1898 principal, or his or her designee, shall provide a copy of the
1899 report to the parent and investigate the incident to determine
1900 if the incident must be reported as required by s. 1006.147(4).
1901 Within 24 hours after receipt of the report, the principal or
1902 his or her designee shall provide a copy of the report to the
1903 parent of the alleged offender and to the superintendent. Upon
1904 conclusion of the investigation or within 15 days after the
1905 incident was reported, whichever occurs first, the school
1906 district shall notify the parent of the program and offer the
1907 parent an opportunity to request and receive a Family
1908 Empowerment Scholarship.

1909 (c) The school district in which a participating student
1910 resides must notify the student and his or her parent about the
1911 locations and times to take all statewide assessments under s.
1912 1008.22 if the student chooses to participate in such
1913 assessments. Upon the request of the department, a school
1914 district shall coordinate with the department to provide to a
1915 participating private school the statewide assessments
1916 administered under s. 1008.22 and any related materials for
1917 administering the assessments. For a student who participates in
1918 the Family Empowerment Scholarship Program whose parent requests
1919 that the student take the statewide assessments under s.
1920 1008.22, the district in which the student attends a private
1921 school shall provide locations and times to take all statewide
1922 assessments. A school district is responsible for implementing
1923 test administrations at a participating private school,
1924 including the:



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- 1925 1. Provision of training for private school staff on test
1926 security and assessment administration procedures;
1927 2. Distribution of testing materials to a private school;
1928 3. Retrieval of testing materials from a private school;
1929 4. Provision of the required format for a private school to
1930 submit information to the district for test administration and
1931 enrollment purposes; and
1932 5. Provision of any required assistance, monitoring, or
1933 investigation at a private school.

1934 (d)(e) Each school district must publish information about
1935 the Family Empowerment Scholarship Program on the district's
1936 website homepage, which, at a minimum, ~~the published~~
1937 ~~information~~ must include a website link to the Family
1938 Empowerment Scholarship Program published on the Department of
1939 Education website ~~as well as a telephone number and e-mail that~~
1940 ~~students and parents may use to contact relevant personnel in~~
1941 ~~the school district to obtain information about the scholarship.~~

1942 (8)(7) DEPARTMENT OF EDUCATION OBLIGATIONS.—The department
1943 shall:

1944 (a) Annually verify the eligibility of nonprofit
1945 scholarship-funding organizations that meet the requirements of
1946 paragraph (2)(e).

1947 (b)(a) Publish and update, as necessary, information on the
1948 department website about the scholarship programs under this
1949 chapter Family Empowerment Scholarship Program, including, but
1950 not limited to, student eligibility criteria, parental
1951 responsibilities, and relevant data.

1952 (c)(b) Cross-check prior to each distribution of funds the
1953 list of participating scholarship students with the public



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1954 school enrollment lists before each scholarship payment to avoid
1955 duplication.

1956 (d)~~(e)~~ Maintain and publish a list of nationally norm-
1957 referenced tests identified for purposes of satisfying the
1958 testing requirement in subparagraph (9)(c)1. ~~(8)(e)1.~~ The tests
1959 must meet industry standards of quality in accordance with state
1960 board rule.

1961 (e)~~(d)~~ Notify eligible nonprofit scholarship-funding
1962 organizations of the deadlines for submitting the verified list
1963 of students determined to be eligible for an initial or renewal
1964 scholarship.

1965 (f)~~(e)~~ Distribute each student's scholarship funds on a
1966 quarterly basis to the eligible nonprofit scholarship-funding
1967 organization, to be deposited into the student's account
1968 ~~Establish deadlines for the receipt of initial applications and~~
1969 ~~renewal notifications in order to implement the priority order~~
1970 ~~for scholarship awards pursuant to paragraph (3)(d).~~

1971 (g) Notify an eligible nonprofit scholarship-funding
1972 organization of any of the organization's or other eligible
1973 nonprofit scholarship-funding organization's identified students
1974 who are receiving educational scholarships under this chapter.

1975 (h) Issue a project grant award to a state university, to
1976 which participating private schools must report the scores of
1977 participating students on the nationally norm-referenced tests
1978 or the statewide assessments administered by the private school
1979 in grades 3 through 10. The project term is 2 years, and the
1980 amount of the project is up to \$250,000 per year. The project
1981 grant award must be reissued in 2-year intervals in accordance
1982 with this paragraph.



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1983 1. The state university must annually report to the
1984 Department of Education on the student performance of
1985 participating students:
1986 a. On a statewide basis. The report shall also include, to
1987 the extent possible, a comparison of scholarship students'
1988 performance to the statewide student performance of public
1989 school students with socioeconomic backgrounds similar to those
1990 of students participating in the scholarship program. To
1991 minimize costs and reduce time required for the state
1992 university's analysis and evaluation, the Department of
1993 Education shall coordinate with the state university to provide
1994 data in order to conduct analyses of matched students from
1995 public school assessment data and calculate control group
1996 student performance using an agreed-upon methodology; and
1997 b. On an individual school basis. For the 2020-2021 school
1998 year, the annual report must include student performance for
1999 each participating private school in which at least 51 percent
2000 of the total enrolled students in the private school
2001 participated in the Florida Tax Credit Scholarship Program or
2002 the Family Empowerment Scholarship Program. Beginning with the
2003 2021-2022 school year, the annual report must include student
2004 performance for each participating private school in which at
2005 least 51 percent of the total enrolled students in the private
2006 school participated in the Family Empowerment Scholarship
2007 Program. The report shall be according to each participating
2008 private school, and for participating students, in which there
2009 are at least 30 participating students who have scores for tests
2010 administered. If the state university determines that the 30-
2011 participating-student cell size may be reduced without



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2012 disclosing personally identifiable information, as described in
2013 34 C.F.R. s. 99.12, of a participating student, the state
2014 university may reduce the participating-student cell size, but
2015 the cell size may not be reduced to less than 10 participating
2016 students. The department shall provide each private school's
2017 prior school year student enrollment information to the state
2018 university no later than June 15 of each year, or as requested
2019 by the state university.

2020 2. The sharing and reporting of student performance data
2021 under this paragraph must be in accordance with the requirements
2022 of ss. 1002.22 and 1002.221 and 20 U.S.C. s. 1232g, the Family
2023 Educational Rights and Privacy Act, and the applicable rules and
2024 regulations issued pursuant thereto, and must be for the sole
2025 purpose of creating the annual report required by subparagraph
2026 1. All parties must preserve the confidentiality of such
2027 information as required by law. The annual report may not
2028 disaggregate data to a level that will identify individual
2029 participating schools, except as required under sub-subparagraph
2030 1.b., or disclose the academic level of individual students.

2031 3. The annual report required by subparagraph 1. must be
2032 published by the Department of Education on its website.

2033 (i) Maintain on its website a list of approved providers,
2034 including eligible postsecondary educational institutions,
2035 eligible private schools, and organizations. The department may
2036 identify or provide links to lists of other approved providers.

2037 (j) Require each organization to verify eligible
2038 expenditures before the distribution of funds for any
2039 expenditures made pursuant to paragraphs (6)(a) and (b). Review
2040 of expenditures made for services specified in paragraphs



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2041 (6) (c)-(k) may be completed after the purchase is made.
2042 (k) Require quarterly reports by an eligible nonprofit
2043 scholarship-funding organization regarding the overall number of
2044 students participating in the scholarship program, the number of
2045 home education students participating in the scholarship
2046 program, the number of students attending a private school
2047 participating in the scholarship program, the private schools at
2048 which the students are enrolled, and other information the
2049 department deems necessary.
2050 (l) Provide a process to match the direct certification
2051 list with the scholarship application data submitted by any
2052 nonprofit scholarship-funding organization eligible to receive
2053 the 2.5 percent administrative allowance under paragraph
2054 (11) (k) .
2055 (m) Contract with an independent entity to provide an
2056 annual evaluation of the program by:
2057 1. Reviewing the school bullying prevention education
2058 program, school climate, and code of student conduct of each
2059 public school from which 10 or more students transferred to
2060 another public school or private school using the Hope
2061 Scholarship or Family Empowerment Scholarship to determine areas
2062 in the school or school district procedures involving reporting,
2063 investigating, and communicating a parent's and student's rights
2064 which are in need of improvement. At a minimum, the review must
2065 include:
2066 a. An assessment of the investigation time and quality of
2067 the response of the school and the school district.
2068 b. An assessment of the effectiveness of communication
2069 procedures with the students involved in an incident, the



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2070 students' parents, and the school and school district personnel.

2071 c. An analysis of school incident and discipline data.

2072 d. The challenges and obstacles relating to implementing
2073 recommendations from the review.

2074 2. Reviewing the school bullying prevention education
2075 program, school climate, and code of student conduct of each
2076 public school to which a student transferred if the student was
2077 from a school identified in subparagraph 1. in order to identify
2078 best practices and make recommendations to the public school at
2079 which the incidents occurred.

2080 3. Surveying the parents of participating students to
2081 determine academic, safety, and school climate satisfaction and
2082 to identify any challenges to or obstacles in addressing an
2083 incident or relating to the use of the scholarship.

2084 (n) Investigate any written complaint of a violation of
2085 this section by a parent, a student, a private school, a public
2086 school, a school district, an organization, a provider, or
2087 another appropriate party in accordance with the process
2088 established under s. 1002.421.

2089 (o) Establish and coordinate with the eligible nonprofit
2090 scholarship-funding organizations an FTE reporting process to
2091 provide FTE by county by FEFP program and by matrix level of
2092 services to be used to revise and update the K-12 Education
2093 Scholarship Program Allocation pursuant to s. 1011.687, for
2094 inclusion in the FEFP calculations beginning with the FEFP
2095 calculation following the October student membership survey.

2096 (9) ~~(8)~~ PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—To be
2097 eligible to participate in the Family Empowerment Scholarship
2098 Program, a private school may be sectarian or nonsectarian and



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2099 must:

2100 (a) Comply with all requirements for private schools
2101 participating in state school choice scholarship programs
2102 pursuant to s. 1002.421.

2103 (b) Provide to the organization ~~department~~ all
2104 documentation required for a student's participation by a date
2105 established by the organization, ~~including the private school's~~
2106 ~~and student's fee schedules, at least 30 days before any~~
2107 ~~quarterly scholarship payment is made for the student pursuant~~
2108 ~~to paragraph (11)(f). A student is not eligible to receive a~~
2109 ~~quarterly scholarship payment if the private school fails to~~
2110 ~~meet this deadline.~~

2111 (c)1. Annually administer or make provision for students
2112 participating in the program in grades 3 through 10 to take one
2113 of the nationally norm-referenced tests that are identified by
2114 the department pursuant to paragraph (8)(d) ~~(7)(e)~~ or to take
2115 the statewide assessments pursuant to s. 1008.22. Students with
2116 disabilities for whom standardized testing is not appropriate
2117 are exempt from this requirement. A participating private school
2118 shall report a student's scores to his or her parent. By August
2119 15 of each year, a participating private school must report the
2120 scores of all participating students to a state university as
2121 described in paragraph (8)(h) ~~s. 1002.395(9)(f)~~.

2122 2. Administer the statewide assessments pursuant to s.
2123 1008.22 if the private school chooses to offer the statewide
2124 assessments. A participating private school may choose to offer
2125 and administer the statewide assessments to all students who
2126 attend the private school in grades 3 through 10 and must submit
2127 a request in writing to the department by March 1 of each year



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2128 in order to administer the statewide assessments in the
2129 subsequent school year.

2130
2131 If a private school fails to meet the requirements of this
2132 subsection or s. 1002.421, the commissioner may determine that
2133 the private school is ineligible to participate in the
2134 scholarship program.

2135 (10) ~~(9)~~ PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
2136 PARTICIPATION.—A parent who applies for a Family Empowerment
2137 Scholarship is exercising his or her parental option to
2138 determine the appropriate placement or the services that best
2139 meets the needs of his or her child ~~place his or her child in a~~
2140 ~~private school.~~

2141 (a) To satisfy or maintain program eligibility, including
2142 eligibility to receive and spend program payments, the parent
2143 must sign an agreement with the organization and annually submit
2144 a sworn compliance statement to the organization to:

2145 1. Affirm that the student is enrolled in a program that
2146 meets regular school attendance requirements as provided in s.
2147 1003.01(13)(b)-(e).

2148 2. Affirm that the program funds are used only for
2149 authorized purposes serving the student's educational needs, as
2150 described in subsection (6).

2151 3. Affirm that the parent is responsible for the education
2152 of his or her student by, as applicable:

2153 a. Requiring the student to take an assessment in
2154 accordance with paragraph (9)(c); or

2155 b. Providing an annual evaluation in accordance with s.
2156 1002.41(1)(f).



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2157 4. Affirm that the student remains in good standing with
2158 the provider or school if those options are selected by the
2159 parent ~~The parent must select the private school and apply for~~
2160 ~~the admission of his or her student.~~

2161 ~~(b) The parent must request the scholarship at least 60~~
2162 ~~days before the date of the first scholarship payment.~~

2163 ~~(c) The parent must inform the applicable school district~~
2164 ~~when the parent withdraws his or her student from a public~~
2165 ~~school to attend an eligible private school.~~

2166 ~~(d)~~ Any student participating in the program must remain in
2167 attendance throughout the school year unless excused ~~by the~~
2168 ~~school~~ for illness or other good cause.

2169 ~~(c)-(e)~~ If Before enrolling in a private school, a student
2170 and his or her parent or guardian must meet with the private
2171 school's principal or the principal's designee to review the
2172 school's academic programs and policies, customized educational
2173 programs, code of student conduct, and attendance policies.

2174 ~~(d)-(f)~~ The parent shall ensure that a the student
2175 participating in the scholarship program and enrolled in a
2176 private school takes the norm-referenced assessment offered by
2177 the private school. The parent may also choose to have the
2178 student participate in the statewide assessments pursuant to
2179 paragraph (9) (c) ~~(6) (b)~~.

2180 ~~(e)-(g)~~ If the parent requests that the student
2181 participating in the program take all statewide assessments
2182 required pursuant to s. 1008.22, the parent is responsible for
2183 transporting the student to the assessment site designated by
2184 the school district.

2185 ~~(h) Upon receipt of a scholarship warrant, the parent to~~



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2186 ~~whom the warrant is issued must restrictively endorse the~~
2187 ~~warrant to the private school for deposit into the private~~
2188 ~~school's account. The parent may not designate any entity or~~
2189 ~~individual associated with the participating private school as~~
2190 ~~the parent's attorney in fact to endorse a scholarship warrant.~~
2191 ~~A participant who fails to comply with this paragraph forfeits~~
2192 ~~the scholarship.~~

2193 (f) (i) The parent must annually renew participation in the
2194 program by the date established and in a format determined by
2195 the organization department pursuant to paragraph (7) (e). A
2196 student whose participation in the program is not renewed may
2197 continue to spend scholarship funds that are in his or her
2198 account from prior years unless the account must be closed
2199 pursuant to paragraph (4) (b) .

2200 (g) The parent is responsible for procuring the services
2201 necessary to educate the student. If a parent does not procure
2202 the necessary educational services for the student and the
2203 student's account has been inactive for 2 consecutive fiscal
2204 years, the student is ineligible and the student's account must
2205 be closed pursuant to paragraph (4) (b) .

2206 (h) The parent is responsible for all eligible expenses in
2207 excess of the Family Empowerment Scholarship.

2208 (i) The parent may not transfer any prepaid college plan or
2209 college savings plan funds contributed pursuant to paragraph
2210 (6) (e) to another beneficiary while the plan contains funds
2211 contributed pursuant to this section.

2212 (j) The parent may not receive a payment, refund, or rebate
2213 from an approved provider of any services under this program.
2214



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2215 A participant who fails to comply with this subsection forfeits
2216 the Family Empowerment Scholarship.

2217 (11)~~(10)~~ OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-
2218 FUNDING ORGANIZATIONS.-An eligible nonprofit scholarship-funding
2219 organization:

2220 (a) Must comply with the antidiscrimination provisions of
2221 42 U.S.C. s. 2000d.

2222 (b) Must comply with the following background check
2223 requirements:

2224 1. All owners and operators as defined in subparagraph
2225 (2) (k)1., before employment or engagement to provide services,
2226 are subject to a level 2 background screening as provided under
2227 chapter 435. The fingerprints for the background screening must
2228 be electronically submitted to the Department of Law Enforcement
2229 and can be taken by an authorized law enforcement agency or by
2230 an employee of the eligible nonprofit scholarship-funding
2231 organization or a private company who is trained to take
2232 fingerprints. However, the complete set of fingerprints of an
2233 owner or operator may not be taken by the owner or operator. The
2234 results of the state and national criminal history check must be
2235 provided to the Department of Education for screening under
2236 chapter 435. The cost of the background screening may be borne
2237 by the eligible nonprofit scholarship-funding organization or
2238 the owner or operator.

2239 2. Every 5 years following employment or engagement to
2240 provide services or association with an eligible nonprofit
2241 scholarship-funding organization, each owner or operator must
2242 meet level 2 screening standards as described in s. 435.04, at
2243 which time the nonprofit scholarship-funding organization shall



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2244 request the Department of Law Enforcement to forward the
2245 fingerprints to the Federal Bureau of Investigation for level 2
2246 screening. If the fingerprints of an owner or operator are not
2247 retained by the Department of Law Enforcement under subparagraph
2248 3., the owner or operator must electronically file a complete
2249 set of fingerprints with the Department of Law Enforcement. Upon
2250 submission of fingerprints for this purpose, the eligible
2251 nonprofit scholarship-funding organization shall request that
2252 the Department of Law Enforcement forward the fingerprints to
2253 the Federal Bureau of Investigation for level 2 screening, and
2254 the fingerprints must be retained by the Department of Law
2255 Enforcement under subparagraph 3.

2256 3. Fingerprints submitted to the Department of Law
2257 Enforcement as required by this paragraph must be retained by
2258 the Department of Law Enforcement in a manner approved by rule
2259 and entered in the statewide automated biometric identification
2260 system authorized by s. 943.05(2)(b). The fingerprints must
2261 continue to be available for all purposes and uses authorized
2262 for arrest fingerprints entered in the statewide automated
2263 biometric identification system pursuant to s. 943.051.

2264 4. The Department of Law Enforcement shall search all
2265 arrest fingerprints received under s. 943.051 against the
2266 fingerprints retained in the statewide automated biometric
2267 identification system under subparagraph 3. Any arrest record
2268 that is identified with an owner's or operator's fingerprints
2269 must be reported to the Department of Education. The Department
2270 of Education shall participate in this search process by paying
2271 an annual fee to the Department of Law Enforcement and by
2272 informing the Department of Law Enforcement of any change in the



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2273 employment, engagement, or association status of the owners or
2274 operators whose fingerprints are retained under subparagraph 3.
2275 The Department of Law Enforcement shall adopt a rule setting the
2276 amount of the annual fee to be imposed upon the Department of
2277 Education for performing these services and establishing the
2278 procedures for the retention of owner or operator fingerprints
2279 and the dissemination of search results. The fee may be borne by
2280 the owner or operator of the nonprofit scholarship-funding
2281 organization.

2282 5. A nonprofit scholarship-funding organization whose owner
2283 or operator fails the level 2 background screening is not
2284 eligible to provide scholarships under this section.

2285 6. A nonprofit scholarship-funding organization whose owner
2286 or operator in the last 7 years has filed for personal
2287 bankruptcy or corporate bankruptcy in a corporation of which he
2288 or she owned more than 20 percent is not eligible to provide
2289 scholarships under this section.

2290 7. In addition to the offenses listed in s. 435.04, a
2291 person required to undergo background screening pursuant to this
2292 part or authorizing statutes may not have an arrest awaiting
2293 final disposition for, must not have been found guilty of, or
2294 entered a plea of nolo contendere to, regardless of
2295 adjudication, and must not have been adjudicated delinquent, and
2296 the record must not have been sealed or expunged for, any of the
2297 following offenses or any similar offense of another
2298 jurisdiction:

2299 a. Any authorizing statutes, if the offense was a felony.

2300 b. This chapter, if the offense was a felony.

2301 c. Section 409.920, relating to Medicaid provider fraud.



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- 2302 d. Section 409.9201, relating to Medicaid fraud.
- 2303 e. Section 741.28, relating to domestic violence.
- 2304 f. Section 817.034, relating to fraudulent acts through
- 2305 mail, wire, radio, electromagnetic, photoelectronic, or
- 2306 photooptical systems.
- 2307 g. Section 817.234, relating to false and fraudulent
- 2308 insurance claims.
- 2309 h. Section 817.505, relating to patient brokering.
- 2310 i. Section 817.568, relating to criminal use of personal
- 2311 identification information.
- 2312 j. Section 817.60, relating to obtaining a credit card
- 2313 through fraudulent means.
- 2314 k. Section 817.61, relating to fraudulent use of credit
- 2315 cards, if the offense was a felony.
- 2316 l. Section 831.01, relating to forgery.
- 2317 m. Section 831.02, relating to uttering forged instruments.
- 2318 n. Section 831.07, relating to forging bank bills, checks,
- 2319 drafts, or promissory notes.
- 2320 o. Section 831.09, relating to uttering forged bank bills,
- 2321 checks, drafts, or promissory notes.
- 2322 p. Section 831.30, relating to fraud in obtaining medicinal
- 2323 drugs.
- 2324 q. Section 831.31, relating to the sale, manufacture,
- 2325 delivery, or possession with the intent to sell, manufacture, or
- 2326 deliver any counterfeit controlled substance, if the offense was
- 2327 a felony.
- 2328 (c) May not have an owner or operator who owns or operates
- 2329 an eligible private school that is participating in the
- 2330 scholarship program.



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2331 (d) Shall establish and maintain separate accounts for each
2332 eligible student. For each account, the organization must
2333 maintain a record of accrued interest that is retained in the
2334 student's account and available only for authorized program
2335 expenditures.

2336 (e) May not restrict or reserve scholarships for use at a
2337 particular private school.

2338 (f) Must provide to the Auditor General and the Department
2339 of Education a report on the results of an annual financial
2340 audit of its accounts and records conducted by an independent
2341 certified public accountant in accordance with auditing
2342 standards generally accepted in the United States, government
2343 auditing standards, and rules promulgated by the Auditor
2344 General. The audit report must include a report on financial
2345 statements presented in accordance with generally accepted
2346 accounting principles. Audit reports must be provided to the
2347 Auditor General and the Department of Education within 180 days
2348 after completion of the eligible nonprofit scholarship-funding
2349 organization's fiscal year.

2350 (g)1.a. Must use agreed-upon procedures that uniformly
2351 apply to all private schools and determine, at a minimum,
2352 whether the private school has been verified as eligible by the
2353 Department of Education under s. 1002.421; has an adequate
2354 accounting system, system of financial controls, and process for
2355 deposit and classification of scholarship funds; and has
2356 properly expended scholarship funds for education-related
2357 expenses.

2358 b. Must participate in a joint review of the agreed-upon
2359 procedures and guidelines under sub-subparagraph a., by February



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2360 of each biennium, if the scholarship-funding organization
2361 provided more than \$250,000 in scholarship funds to an eligible
2362 private school under this chapter during the state fiscal year
2363 preceding the biennial review. If the procedures and guidelines
2364 are revised, the revisions must be provided to private schools
2365 and the Commissioner of Education by March 15 of the year in
2366 which the revisions were completed. The revised agreed-upon
2367 procedures take effect the subsequent school year.

2368 c. Must monitor the compliance of a private school with s.
2369 1002.421(1)(q) if the scholarship-funding organization provided
2370 the majority of the scholarship funding to the school. For each
2371 private school subject to s. 1002.421(1)(q), the appropriate
2372 scholarship-funding organization shall annually notify the
2373 Commissioner of Education by October 30 of:

2374 (I) A private school's failure to submit a report required
2375 under s. 1002.421(1)(q); or

2376 (II) Any material exceptions set forth in the report
2377 required under s. 1002.421(1)(q).

2378 2. Must seek input from the accrediting associations that
2379 are members of the Florida Association of Academic Nonpublic
2380 Schools and the Department of Education when conducting a joint
2381 review of the procedures and guidelines under sub-subparagraph
2382 1.b.

2383 (h) Must establish a date by which the parent of a
2384 participating student must confirm continuing participation in
2385 the program.

2386 (i) ~~(a)~~ Shall verify the household income level of students
2387 pursuant to subparagraph (3)(a)1. and submit the verified list
2388 of students and related documentation to the department.



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2389 (j)~~(b)~~ Shall award initial and renewal scholarships to
2390 eligible students in priority order pursuant to subsection (3)
2391 and notify parents of their receipt of a scholarship paragraph
2392 ~~(3) (d)~~. The eligible nonprofit scholarship-funding organization
2393 shall implement the deadlines established by the department
2394 pursuant to paragraphs (7) (d) and (e).

2395 (k)~~(e)~~ May, ~~from eligible contributions received pursuant~~
2396 ~~to s. 1002.395(6) (j)1.~~, use an amount not to exceed 2.5 ±
2397 percent of the total amount of all scholarships awarded under
2398 this section for administrative expenses associated with
2399 performing functions under this section, if the organization has
2400 operated as an eligible nonprofit scholarship-funding
2401 organization for at least the preceding 3 fiscal years and did
2402 not have any findings of material weakness or material
2403 noncompliance in its most recent audit performed pursuant to
2404 paragraph (f). ~~Such administrative expense amount is considered~~
2405 ~~within the 3 percent limit on the total amount an organization~~
2406 ~~may use to administer scholarships under this chapter.~~

2407 (l) Must verify qualifying educational expenditures
2408 pursuant to the requirement of paragraph (8) (j) and must request
2409 the return of any funds used for unauthorized purposes.

2410 (m) Must return any remaining program funds to the
2411 department pursuant to paragraph (4) (b).

2412 (n) Must document each scholarship student's eligibility
2413 pursuant to subsection (3) for a fiscal year before granting a
2414 scholarship for that fiscal year. A student is ineligible for a
2415 scholarship if the student's account has been inactive for 2
2416 fiscal years and the student's account has been closed pursuant
2417 to paragraph (4) (b).



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2418 (o) Must allow a student who meets the requirements of
2419 subparagraph (3) (a)2. or a dependent child of a parent who is a
2420 member of the United States Armed Forces to apply for a
2421 scholarship at any time.

2422 (p) ~~(d)~~ Must, in a timely manner, submit any information
2423 requested by the department relating to the scholarship under
2424 this section.

2425 (q) Must establish a date by which the parent of a
2426 participating student must confirm continuing participation in
2427 the program.

2428 (r) Must prepare and submit quarterly reports to the
2429 department pursuant to paragraph (8) (k).

2430 (s) ~~(e)~~ Must notify the department about any violation of
2431 this section by a parent or a private school.

2432 (12) ~~(11)~~ SCHOLARSHIP FUNDING AND PAYMENT. ~~For the purposes~~
2433 of this subsection, the term "student FTE" refers to how
2434 participating students are calculated for the purposes of the
2435 scholarship program allocation, which is equal to four quarterly
2436 scholarship payments.

2437 (a) The scholarship is established for up to ~~18,000~~ 175,000
2438 student FTE for ~~students annually beginning in the 2021-2022~~
2439 ~~2019-2020~~ school year. A student who received a Florida Tax
2440 Credit Scholarship or a Hope Scholarship in the 2020-2021 school
2441 year and who meets the eligibility requirements in subsection
2442 (3) for the 2021-2022 school year is eligible for a Family
2443 Empowerment Scholarship in the 2021-2022 school year. Beginning
2444 in the ~~2020-2021~~ 2022-2023 school year, and each year
2445 thereafter, the maximum number of student FTE ~~students~~
2446 participating in the scholarship program under this section



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2447 shall annually increase by 1.0 percent of the state's total
2448 public school student enrollment.

2449 ~~(b) The scholarship amount provided to a student for any~~
2450 ~~single school year shall be for tuition and fees for an eligible~~
2451 ~~private school, not to exceed annual limits, which shall be~~
2452 ~~determined in accordance with this paragraph.~~ The calculated
2453 scholarship amount for a student participating in the program
2454 must to attend an eligible private school shall be based upon
2455 the grade level and school district in which the student was
2456 assigned as 97.5 ~~95~~ percent of the funds per unweighted full-
2457 time equivalent in the Florida Education Finance Program for a
2458 student in the basic program established pursuant to s.
2459 1011.62(1)(c)1., plus a per-full-time equivalent share of funds
2460 for all categorical programs, as provided in the General
2461 Appropriations Act ~~except for the Exceptional Student Education~~
2462 ~~Guaranteed Allocation.~~

2463 (c) As an alternative, a student who is eligible for a
2464 Family Empowerment Scholarship is eligible for a transportation
2465 award limited to \$750 annually necessary to meet the student's
2466 educational needs under this section, if the student enrolls in
2467 a Florida public school that is outside the school district in
2468 which the student resides or is enrolled in a lab school as
2469 defined in s. 1002.32. These students do not count against the
2470 175,000 student FTE cap established in paragraph (a) ~~The amount~~
2471 ~~of the Family Empowerment Scholarship shall be the calculated~~
2472 ~~amount or the amount of the private school's tuition and fees,~~
2473 ~~whichever is less. The amount of any assessment fee required by~~
2474 ~~the participating private school may be paid from the total~~
2475 ~~amount of the scholarship.~~



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2476 (d) At the time of each Florida Education Finance Program
2477 student membership survey, the scholarship-funding organization
2478 shall report to the department student enrollment, student FTE,
2479 and total award amounts by county, delineated by the FEFP
2480 program, and grade for ~~The school district shall report all~~
2481 ~~students who are participating in attending a private school~~
2482 ~~under this program. The students attending private schools on~~
2483 ~~Family Empowerment Scholarships shall be reported separately~~
2484 ~~from other students reported for purposes of the Florida~~
2485 ~~Education Finance Program.~~

2486 (e) Upon ~~Following~~ notification from the organization on
2487 July 1, September 1, December 1, and ~~or~~ February 1 that an
2488 application has been approved for the program ~~of the number of~~
2489 ~~program participants, the department shall~~ verify that the
2490 student is not prohibited from receiving a scholarship pursuant
2491 to subsection (5). The organization must provide the department
2492 with the documentation necessary to verify the student's
2493 participation ~~transfer, from general revenue funds only, the~~
2494 ~~amount calculated pursuant to paragraph (b) to a separate~~
2495 ~~account for the scholarship program for quarterly disbursement~~
2496 ~~to parents of participating students. For a student exiting a~~
2497 ~~Department of Juvenile Justice commitment program who chooses to~~
2498 ~~participate in the scholarship program, the amount of the Family~~
2499 ~~Empowerment Scholarship calculated pursuant to paragraph (b)~~
2500 ~~must be transferred from the school district in which the~~
2501 ~~student last attended a public school before commitment to the~~
2502 ~~Department of Juvenile Justice. When a student enters the~~
2503 ~~scholarship program, the department must receive all~~
2504 ~~documentation required for the student's participation,~~



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2505 ~~including the private school's and the student's fee schedules,~~
2506 ~~at least 30 days before the first quarterly scholarship payment~~
2507 ~~is made for the student.~~

2508 (f) Upon verification, the department shall release the
2509 student's scholarship funds to the organization, to be deposited
2510 into the student's account ~~notification by the department that~~
2511 ~~it has received the documentation required under paragraph (e),~~
2512 ~~the Chief Financial Officer shall make scholarship payments in~~
2513 ~~four equal amounts no later than September 1, November 1,~~
2514 ~~February 1, and April 1 of each school year in which the~~
2515 ~~scholarship is in force. The initial payment shall be made after~~
2516 ~~department verification of admission acceptance, and subsequent~~
2517 ~~payments shall be made upon verification of continued enrollment~~
2518 ~~and attendance at the private school. Payment must be by~~
2519 ~~individual warrant made payable to the student's parent and~~
2520 ~~mailed by the department to the private school of the parent's~~
2521 ~~choice, and the parent shall restrictively endorse the warrant~~
2522 ~~to the private school for deposit into the account of the~~
2523 ~~private school.~~

2524 (g) Accrued interest in the student's account is in
2525 addition to, and not part of, the awarded funds. Program funds
2526 include both the awarded funds and accrued interest ~~Subsequent~~
2527 ~~to each scholarship payment, the department shall request from~~
2528 ~~the Department of Financial Services a sample of endorsed~~
2529 ~~warrants to review and confirm compliance with endorsement~~
2530 ~~requirements.~~

2531 (h) The organization may develop a system for payment of
2532 benefits by funds transfer, including, but not limited to, debit
2533 cards, electronic payment cards, or any other means of payment



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2534 that the department deems to be commercially viable or cost-
2535 effective. A student's scholarship award may not be reduced for
2536 debit card or electronic payment fees. Commodities or services
2537 related to the development of such a system must be procured by
2538 competitive solicitation unless they are purchased from a state
2539 term contract pursuant to s. 287.056.

2540 (i) Moneys received pursuant to this section do not
2541 constitute taxable income to the qualified student or parent of
2542 the qualified student.

2543 (13) OBLIGATIONS OF THE AUDITOR GENERAL.—

2544 (a) The Auditor General shall review all audit reports
2545 submitted pursuant to subsection (11). The Auditor General shall
2546 request any significant items that were omitted in violation of
2547 a rule adopted by the Auditor General. The organization shall
2548 provide such items within 45 days after the date of the request.
2549 If the organization does not comply with the Auditor General's
2550 request, the Auditor General shall notify the Legislative
2551 Auditing Committee.

2552 (b) At least once every 3 years, the Auditor General shall
2553 conduct an operational audit of accounts and records of each
2554 organization that participates in the program. As part of this
2555 audit, the Auditor General, at a minimum, must verify the total
2556 number of students served and the eligibility of reimbursements
2557 made by the organization and transmit that information to the
2558 department. The Auditor General must provide the commissioner
2559 with a copy of each annual operational audit performed pursuant
2560 to this subsection within 10 days after the audit is finalized.

2561 (c) The Auditor General shall notify the department of any
2562 organization that fails to comply with a request for



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2563 information.

2564 (14) NONPROFIT SCHOLARSHIP-FUNDING ORGANIZATIONS;
2565 APPLICATION.—In order to participate in the scholarship program
2566 created under this section, a charitable organization that seeks
2567 to be a nonprofit scholarship-funding organization shall submit
2568 an application for initial approval or renewal to the Office of
2569 Independent Education and Parental Choice no later than
2570 September 1 of each year before the school year for which the
2571 organization intends to offer scholarships.

2572 (a) An application for initial approval must include:

2573 1. A copy of the organization's incorporation documents and
2574 registration with the Division of Corporations of the Department
2575 of State.

2576 2. A copy of the organization's Internal Revenue Service
2577 determination letter as an s. 501(c) (3) not-for-profit
2578 organization.

2579 3. A description of the organization's financial plan that
2580 demonstrates sufficient funds to operate throughout the school
2581 year.

2582 4. A description of the geographic region that the
2583 organization intends to serve and an analysis of the demand and
2584 unmet need for eligible students in that area.

2585 5. The organization's organizational chart.

2586 6. A description of the criteria and methodology that the
2587 organization will use to evaluate scholarship eligibility.

2588 7. A description of the application process, including
2589 deadlines and any associated fees.

2590 8. A description of the deadlines for attendance
2591 verification and scholarship payments.



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2592 9. A copy of the organization's policies on conflict of
2593 interest and whistleblowers.

2594 10. A copy of a surety bond or letter of credit to secure
2595 the faithful performance of the obligations of the eligible
2596 nonprofit scholarship-funding organization in accordance with
2597 this section in an amount equal to 25 percent of the scholarship
2598 funds anticipated for each school year or \$100,000, whichever is
2599 greater. The surety bond or letter of credit must specify that
2600 any claim against the bond or letter of credit may be made only
2601 by an eligible nonprofit scholarship-funding organization to
2602 provide scholarships to and on behalf of students who would have
2603 had scholarships funded if it were not for the diversion of
2604 funds giving rise to the claim against the bond or letter of
2605 credit.

2606 (b) In addition to the information required by
2607 subparagraphs (a)1.-10., an application for renewal must
2608 include:

2609 1. A single surety bond or letter of credit to secure the
2610 faithful performance of the obligations of the eligible
2611 nonprofit scholarship-funding organization in accordance with
2612 this chapter equal to the amount of undisbursed funds held by
2613 the organization based on the annual report submitted pursuant
2614 to paragraph (11) (f). The amount of the surety bond or letter of
2615 credit must be at least \$100,000, but not more than \$25 million.
2616 The surety bond or letter of credit must specify that any claim
2617 against the bond or letter of credit may be made only by an
2618 eligible nonprofit scholarship-funding organization to provide
2619 scholarships to and on behalf of students who would have had
2620 scholarships funded if it were not for the diversion of funds



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2621 giving rise to the claim against the bond or letter of credit.
2622 2. The organization's completed Internal Revenue Service
2623 Form 990 submitted no later than November 30 of the year before
2624 the school year that the organization intends to offer the
2625 scholarships, notwithstanding the September 1 application
2626 deadline.
2627 3. A copy of the statutorily required audit to the
2628 Department of Education and Auditor General.
2629 4. An annual report that includes:
2630 a. The number of students who completed applications, by
2631 county and by grade.
2632 b. The number of students who were approved for
2633 scholarships, by county and by grade.
2634 c. The number of students who received funding for
2635 scholarships within each funding category, by county and by
2636 grade.
2637 d. The amount of funds received, the amount of funds
2638 distributed in scholarships, and an accounting of remaining
2639 funds and the obligation of those funds.
2640 e. A detailed accounting of how the organization spent the
2641 administrative funds allowable under paragraph (11)(k).
2642 (c) In consultation with the Chief Financial Officer, the
2643 Office of Independent Education and Parental Choice shall review
2644 the application. The Department of Education shall notify the
2645 organization in writing of any deficiencies within 30 days after
2646 receipt of the application and allow the organization 30 days to
2647 correct any deficiencies.
2648 (d) Within 30 days after receipt of the finalized
2649 application by the Office of Independent Education and Parental



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2650 Choice, the Commissioner of Education shall recommend approval
2651 or disapproval of the application to the State Board of
2652 Education. The State Board of Education shall consider the
2653 application and recommendation at the next scheduled meeting,
2654 adhering to appropriate meeting notice requirements. If the
2655 State Board of Education disapproves the organization's
2656 application, it shall provide the organization with a written
2657 explanation of that determination. The State Board of
2658 Education's action is not subject to chapter 120.

2659 (e) If the State Board of Education disapproves the renewal
2660 of a nonprofit scholarship-funding organization, the
2661 organization must notify the affected eligible students and
2662 parents of the decision within 15 days after disapproval. An
2663 eligible student affected by the disapproval of an
2664 organization's participation remains eligible under this section
2665 until the end of the school year in which the organization was
2666 disapproved. The student must apply and be accepted by another
2667 eligible nonprofit scholarship-funding organization for the
2668 upcoming school year. The student must be given priority in
2669 accordance with paragraph (3) (d).

2670 (f) All remaining eligible student accounts with funds held
2671 by a nonprofit scholarship-funding organization that is
2672 disapproved for participation must be transferred to the
2673 student's account established at the eligible nonprofit
2674 scholarship-funding organization accepting the student. All
2675 transferred funds must be deposited by each eligible nonprofit
2676 scholarship-funding organization receiving such funds into the
2677 student's scholarship account. All other remaining funds must be
2678 transferred to the department. All transferred amounts received



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2679 by any eligible nonprofit scholarship-funding organization must
2680 be separately disclosed in the annual financial audit required
2681 under subsection (11).

2682 (g) A nonprofit scholarship-funding organization is a
2683 renewing organization if it was approved by the State Board of
2684 Education for the 2021-2022 fiscal year or after and maintains
2685 continuous approval and participation in the program. An
2686 organization that chooses not to participate for 1 year or more
2687 or is disapproved to participate for 1 year or more must submit
2688 an application for initial approval in order to participate in
2689 the program again.

2690 (h) The State Board of Education shall adopt rules
2691 providing guidelines for receiving, reviewing, and approving
2692 applications for new and renewing nonprofit scholarship-funding
2693 organizations. The rules must include a process for compiling
2694 input and recommendations from the Chief Financial Officer and
2695 the Department of Education. The rules must also require that
2696 the nonprofit scholarship-funding organization make a brief
2697 presentation to assist the State Board of Education in its
2698 decision.

2699 (i) A state university or an independent college or
2700 university that is eligible to participate in the William L.
2701 Boyd, IV, Effective Access to Student Education Grant Program,
2702 is located and chartered in this state, is not for profit, and
2703 is accredited by the Commission on Colleges of the Southern
2704 Association of Colleges and Schools is exempt from the initial
2705 or renewal application process, but must file a registration
2706 notice with the Department of Education to be an eligible
2707 nonprofit scholarship-funding organization. The State Board of



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2708 Education shall adopt rules that identify the procedure for
2709 filing the registration notice with the department. The rules
2710 must identify appropriate reporting requirements for fiscal,
2711 programmatic, and performance accountability purposes consistent
2712 with this section, but may not exceed the requirements for
2713 eligible nonprofit scholarship-funding organizations for
2714 charitable organizations.

2715 (15) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.-

2716 (a) The Commissioner of Education:

2717 1. May suspend or revoke program participation or use of
2718 program funds by the student or participation or eligibility of
2719 an organization, eligible postsecondary educational institution,
2720 approved provider, or other party for a violation of this
2721 section.

2722 2. May determine the length of, and conditions for lifting,
2723 a suspension or revocation specified in this subsection.

2724 3. May recover unexpended program funds or withhold payment
2725 of an equal amount of program funds to recover program funds
2726 that were not authorized for use.

2727 4. Shall deny or terminate program participation upon a
2728 parent's forfeiture of a Family Empowerment Scholarship pursuant
2729 to subsection (10).

2730 (b) In determining whether to suspend or revoke
2731 participation or lift a suspension or revocation in accordance
2732 with this subsection, the commissioner may consider factors that
2733 include, but are not limited to, acts or omissions that led to a
2734 previous suspension or revocation of participation in a state or
2735 federal program or an education scholarship program; failure to
2736 reimburse the organization for funds improperly received or



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2737 retained; failure to reimburse government funds improperly
2738 received or retained; imposition of a prior criminal sanction
2739 related to the person or entity or its officers or employees;
2740 imposition of a civil fine or administrative fine, license
2741 revocation or suspension, or program eligibility suspension,
2742 termination, or revocation related to a person's or entity's
2743 management or operation; or other types of criminal proceedings
2744 in which the person or entity or its officers or employees were
2745 found guilty of, regardless of adjudication, or entered a plea
2746 of nolo contendere or guilty to, any offense involving fraud,
2747 deceit, dishonesty, or moral turpitude.

2748 (16) ~~(12)~~ LIABILITY.—No liability shall arise on the part of
2749 the state based on the award or use of a Family Empowerment
2750 Scholarship.

2751 (17) ~~(13)~~ SCOPE OF AUTHORITY.—The inclusion of eligible
2752 private schools and private providers within the options
2753 available to Florida public school students does not expand the
2754 regulatory authority of the state, its officers, or any school
2755 district to impose any additional regulation of private schools
2756 beyond those reasonably necessary to enforce requirements
2757 expressly set forth in this section.

2758 (18) ~~(14)~~ RULES.—The State Board of Education shall adopt
2759 rules pursuant to ss. 120.536(1) and 120.54 to administer this
2760 section. The state board rules must include a requirement that
2761 the department work collaboratively with an approved
2762 scholarship-funding organization to expedite the process for the
2763 verification and reporting obligations specified under
2764 subsection (11) ~~(10)~~.

2765 ~~(15) IMPLEMENTATION SCHEDULE FOR THE 2019-2020 SCHOOL~~



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2766 ~~YEAR. Notwithstanding the provisions of this section related to~~
2767 ~~notification requirements and eligibility timelines, for the~~
2768 ~~2019-2020 school year:~~

2769 ~~(a) A student is eligible for a Family Empowerment~~
2770 ~~Scholarship under this section if the student's parent has~~
2771 ~~obtained acceptance of the student's admission to a private~~
2772 ~~school that is eligible for the program under subsection (8),~~
2773 ~~and the parent has requested a scholarship from the Department~~
2774 ~~of Education no later than August 15, 2019. The request must be~~
2775 ~~communicated directly to the department in a manner that creates~~
2776 ~~a written or electronic record of the request and the date of~~
2777 ~~receipt of the request.~~

2778 ~~(b) The department shall expedite the publication of~~
2779 ~~information relevant to the Family Empowerment Scholarship~~
2780 ~~Program on the department's website, including, but not limited~~
2781 ~~to, the eligibility criteria for students to qualify for the~~
2782 ~~scholarship under this section and how parents may request the~~
2783 ~~scholarship. The department must immediately notify the school~~
2784 ~~district of the parent's intent upon receipt of the parent's~~
2785 ~~request.~~

2786 ~~(c) Upon notification by the department that it has~~
2787 ~~received the documentation required under paragraph (10)(a), the~~
2788 ~~Chief Financial Officer shall make the first quarter payment of~~
2789 ~~scholarships no later than October 1, 2019.~~

2790
2791 ~~This subsection shall expire June 30, 2020.~~

2792 Section 20. Section 1002.395, Florida Statutes, is amended
2793 to read:

2794 1002.395 Florida K-12 Education Tax Credit ~~Scholarship~~



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2795 Program.—

2796 (1) FINDINGS AND PURPOSE.—

2797 (a) The Legislature finds that:

2798 1. It has the inherent power to determine subjects of
2799 taxation for general or particular public purposes.

2800 2. Expanding educational opportunities and improving the
2801 quality of educational services within the state are valid
2802 public purposes that the Legislature may promote using its
2803 sovereign power to determine subjects of taxation and exemptions
2804 from taxation.

2805 3. Ensuring that all parents, regardless of means, may
2806 exercise and enjoy their basic right to educate their children
2807 as they see fit is a valid public purpose that the Legislature
2808 may promote using its sovereign power to determine subjects of
2809 taxation and exemptions from taxation.

2810 4. Expanding educational opportunities and the healthy
2811 competition they promote are critical to improving the quality
2812 of education in the state and to ensuring that all children
2813 receive the high-quality education to which they are entitled.

2814 (b) The purpose of this section is to:

2815 1. Enable taxpayers to designate portions of certain tax
2816 payments as ~~make private, voluntary~~ contributions for K-12
2817 education to nonprofit scholarship-funding organizations in
2818 order to promote the general welfare.

2819 2. ~~Provide taxpayers who wish to help parents with limited~~
2820 ~~resources exercise their basic right to educate their children~~
2821 ~~as they see fit with a means to do so.~~

2822 3. ~~Promote the general welfare by expanding educational~~
2823 ~~opportunities for children of families that have limited~~



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2824 ~~financial resources.~~

2825 4. Enable children in this state to achieve a greater level
2826 of excellence in their education.

2827 ~~3.5.~~ Improve the quality of education in this state, both
2828 by expanding educational opportunities for children and by
2829 creating incentives for schools to achieve excellence.

2830 ~~(c) The purpose of this section is not to prescribe the~~
2831 ~~standards or curriculum for private schools. A private school~~
2832 ~~retains the authority to determine its own standards and~~
2833 ~~curriculum.~~

2834 (2) DEFINITIONS.—As used in this section, the term:

2835 (a) ~~“Annual tax credit amount” means, for any state fiscal~~
2836 ~~year, the sum of the amount of tax credits approved under~~
2837 ~~paragraph (5) (b), including tax credits to be taken under s.~~
2838 ~~220.1875 or s. 624.51055, which are approved for a taxpayer~~
2839 ~~whose taxable year begins on or after January 1 of the calendar~~
2840 ~~year preceding the start of the applicable state fiscal year.~~

2841 ~~(b) “Department” means the Department of Revenue.~~

2842 ~~(c) “Direct certification list” means the certified list of~~
2843 ~~children who qualify for the food assistance program, the~~
2844 ~~Temporary Assistance to Needy Families Program, or the Food~~
2845 ~~Distribution Program on Indian Reservations provided to the~~
2846 ~~Department of Education by the Department of Children and~~
2847 ~~Families.~~

2848 ~~(b) (d)~~ “Division” means the Division of Alcoholic Beverages
2849 and Tobacco of the Department of Business and Professional
2850 Regulation.

2851 ~~(c) (e)~~ “Eligible contribution” means the taxes, or a
2852 portion thereof, remitted by the taxpayer to the department or



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2853 the division which the taxpayer elects to designate for K-12
2854 education a monetary contribution from a taxpayer, subject to
2855 the restrictions provided in this section, ~~to an eligible~~
2856 ~~nonprofit scholarship funding organization. The taxpayer making~~
2857 ~~the contribution may not designate a specific child as the~~
2858 ~~beneficiary of the contribution. Once made, such election is~~
2859 irrevocable.

2860 ~~(f) "Eligible nonprofit scholarship funding organization"~~
2861 ~~means a state university; or an independent college or~~
2862 ~~university that is eligible to participate in the William L.~~
2863 ~~Boyd, IV, Effective Access to Student Education Grant Program,~~
2864 ~~located and chartered in this state, is not for profit, and is~~
2865 ~~accredited by the Commission on Colleges of the Southern~~
2866 ~~Association of Colleges and Schools; or is a charitable~~
2867 ~~organization that:~~

2868 ~~1. Is exempt from federal income tax pursuant to s.~~
2869 ~~501(c)(3) of the Internal Revenue Code;~~

2870 ~~2. Is a Florida entity formed under chapter 605, chapter~~
2871 ~~607, or chapter 617 and whose principal office is located in the~~
2872 ~~state; and~~

2873 ~~3. Complies with subsections (6) and (15).~~

2874 ~~(g) "Eligible private school" means a private school, as~~
2875 ~~defined in s. 1002.01(2), located in Florida which offers an~~
2876 ~~education to students in any grades K-12 and that meets the~~
2877 ~~requirements in subsection (8).~~

2878 ~~(h) "Household income" has the same meaning as the term~~
2879 ~~"income" as defined in the Income Eligibility Guidelines for~~
2880 ~~free and reduced price meals under the National School Lunch~~
2881 ~~Program in 7 C.F.R. part 210 as published in the Federal~~



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2882 ~~Register by the United States Department of Agriculture.~~
2883 ~~(i) "Owner or operator" includes:~~
2884 ~~1. An owner, president, officer, or director of an eligible~~
2885 ~~nonprofit scholarship funding organization or a person with~~
2886 ~~equivalent decisionmaking authority over an eligible nonprofit~~
2887 ~~scholarship funding organization.~~
2888 ~~2. An owner, operator, superintendent, or principal of an~~
2889 ~~eligible private school or a person with equivalent~~
2890 ~~decisionmaking authority over an eligible private school.~~
2891 ~~(j) "Tax credit cap amount" means the maximum annual tax~~
2892 ~~credit amount that the department may approve for a state fiscal~~
2893 ~~year.~~
2894 ~~(k) "Unweighted FTE funding amount" means the statewide~~
2895 ~~average total funds per unweighted full-time equivalent funding~~
2896 ~~amount that is incorporated by reference in the General~~
2897 ~~Appropriations Act, or any subsequent special appropriations~~
2898 ~~act, for the applicable state fiscal year.~~
2899 ~~(3) PROGRAM; INITIAL SCHOLARSHIP ELIGIBILITY.—~~
2900 ~~(a) The Florida Tax Credit Scholarship Program is~~
2901 ~~established.~~
2902 ~~(b) A student is eligible for a Florida tax credit~~
2903 ~~scholarship under this section if the student meets one or more~~
2904 ~~of the following criteria:~~
2905 ~~1. The student is on the direct certification list or the~~
2906 ~~student's household income level does not exceed 260 percent of~~
2907 ~~the federal poverty level; or~~
2908 ~~2. The student is currently placed, or during the previous~~
2909 ~~state fiscal year was placed, in foster care or in out-of-home~~
2910 ~~care as defined in s. 39.01.~~



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2911
2912 ~~Priority must be given to a student whose household income level~~
2913 ~~does not exceed 185 percent of the federal poverty level or who~~
2914 ~~is in foster care or out-of-home care. A student who initially~~
2915 ~~receives a scholarship based on eligibility under this paragraph~~
2916 ~~remains eligible to participate until he or she graduates from~~
2917 ~~high school or attains the age of 21 years, whichever occurs~~
2918 ~~first, regardless of the student's household income level. A~~
2919 ~~sibling of a student who is participating in the scholarship~~
2920 ~~program under this subsection is eligible for a scholarship if~~
2921 ~~the student resides in the same household as the sibling.~~

2922 ~~(4) SCHOLARSHIP PROHIBITIONS. A student is not eligible for~~
2923 ~~a scholarship while he or she is:~~

2924 ~~(a) Enrolled in a school operating for the purpose of~~
2925 ~~providing educational services to youth in Department of~~
2926 ~~Juvenile Justice commitment programs;~~

2927 ~~(b) Receiving a scholarship from another eligible nonprofit~~
2928 ~~scholarship-funding organization under this section;~~

2929 ~~(c) Receiving an educational scholarship pursuant to~~
2930 ~~chapter 1002;~~

2931 ~~(d) Participating in a home education program as defined in~~
2932 ~~s. 1002.01(1);~~

2933 ~~(e) Participating in a private tutoring program pursuant to~~
2934 ~~s. 1002.43;~~

2935 ~~(f) Participating in a virtual school, correspondence~~
2936 ~~school, or distance learning program that receives state funding~~
2937 ~~pursuant to the student's participation unless the participation~~
2938 ~~is limited to no more than two courses per school year; or~~

2939 ~~(g) Enrolled in the Florida School for the Deaf and the~~



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2940 ~~Blind.~~
2941 ~~(5) K-12 EDUCATION SCHOLARSHIP FUNDING TAX CREDITS;~~
2942 ~~LIMITATIONS.—~~
2943 ~~(a)1. The tax credit cap amount is \$229 million in the~~
2944 ~~2012-2013 state fiscal year.~~
2945 ~~2. In the 2013-2014 state fiscal year and each state fiscal~~
2946 ~~year thereafter, the tax credit cap amount is the tax credit cap~~
2947 ~~amount in the prior state fiscal year. However, in any state~~
2948 ~~fiscal year when the annual tax credit amount for the prior~~
2949 ~~state fiscal year is equal to or greater than 90 percent of the~~
2950 ~~tax credit cap amount applicable to that state fiscal year, the~~
2951 ~~tax credit cap amount shall increase by 25 percent. The~~
2952 ~~Department of Education and Department of Revenue shall publish~~
2953 ~~on their websites information identifying the tax credit cap~~
2954 ~~amount when it is increased pursuant to this subparagraph.~~
2955 ~~(a)(b) A taxpayer may elect to make eligible contributions~~
2956 ~~submit an application to the department or the division for a~~
2957 ~~tax credit or credits under one or more of s. 211.0251, s.~~
2958 ~~212.1831, s. 212.1832, s. 220.1875, s. 561.1211, or s.~~
2959 ~~624.51055. For elections related to taxes imposed under chapter~~
2960 ~~211, chapter 212, or chapter 561, the taxpayer shall make the~~
2961 ~~election on a return filed with the department or the division.~~
2962 ~~For elections related to taxes imposed under chapter 220 or~~
2963 ~~chapter 624, the taxpayer shall make the election when making~~
2964 ~~the estimated payment.~~
2965 ~~(b) The taxpayer shall specify the amount of the eligible~~
2966 ~~contribution, which amount may not exceed:~~
2967 ~~1. For elections under s. 211.0251, 50 percent of the tax~~
2968 ~~due on the return on which the election is made.~~



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2969 2. For elections under s. 212.1831, 100 percent of the tax
2970 due on the return on which the election is made.

2971 3. For elections under s. 212.1832, each eligible
2972 contribution is limited to a single designation of \$105 per
2973 motor vehicle made at the time of purchase of a motor vehicle or
2974 a single designation of \$105 per motor vehicle made at the time
2975 registration of a motor vehicle that was not purchased from a
2976 dealer, except that a contribution may not exceed the state tax
2977 imposed under chapter 212 which would otherwise be collected
2978 from the purchaser by a dealer, designated agent, or private tag
2979 agent.

2980 4. For elections under s. 220.1875, 25 percent of the final
2981 tax liability shown on the taxpayer's Florida Corporate
2982 Income/Franchise Tax Return for the taxable year immediately
2983 preceding the most recent completed taxable year. This
2984 limitation applies to each estimated payment made. However, a
2985 taxpayer may not designate an eligible contribution on more than
2986 4 estimated payments in any taxable year.

2987 5. For elections under s. 561.1211, 90 percent of the tax
2988 due on the return on which the election is made.

2989 6. For elections under s. 624.51055, 33 percent of the tax
2990 due for the prior taxable year under s. 624.509(1) after
2991 deducting from such tax the prior year's deductions for
2992 assessments made pursuant to s. 440.51; credits for taxes paid
2993 under ss. 175.101 and 185.08; credits for income taxes paid
2994 under chapter 220; and the credit allowed under s. 624.509(5),
2995 as such credit is limited by s. 624.509(6). This limitation
2996 applies to each installment payment made. However, a taxpayer
2997 may not designate an eligible contribution on more than 3



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2998 installment payments in any taxable year.

2999 ~~1. The taxpayer shall specify in the application each tax~~
3000 ~~for which the taxpayer requests a credit and the applicable~~
3001 ~~taxable year for a credit under s. 220.1875 or s. 624.51055 or~~
3002 ~~the applicable state fiscal year for a credit under s. 211.0251,~~
3003 ~~s. 212.1831, or s. 561.1211. For purposes of s. 220.1875, a~~
3004 ~~taxpayer may apply for a credit to be used for a prior taxable~~
3005 ~~year before the date the taxpayer is required to file a return~~
3006 ~~for that year pursuant to s. 220.222. For purposes of s.~~
3007 ~~624.51055, a taxpayer may apply for a credit to be used for a~~
3008 ~~prior taxable year before the date the taxpayer is required to~~
3009 ~~file a return for that prior taxable year pursuant to ss.~~
3010 ~~624.509 and 624.5092. The department shall approve tax credits~~
3011 ~~on a first-come, first-served basis and must obtain the~~
3012 ~~division's approval before approving a tax credit under s.~~
3013 ~~561.1211.~~

3014 ~~2. Within 10 days after approving or denying an~~
3015 ~~application, the department shall provide a copy of its approval~~
3016 ~~or denial letter to the eligible nonprofit scholarship funding~~
3017 ~~organization specified by the taxpayer in the application.~~

3018 ~~(c) If a tax credit approved under paragraph (b) is not~~
3019 ~~fully used within the specified state fiscal year for credits~~
3020 ~~under s. 211.0251, s. 212.1831, or s. 561.1211, or against taxes~~
3021 ~~due for the specified taxable year for credits under s.~~
3022 ~~220.1875, or s. 624.51055 is not fully used because of~~
3023 ~~insufficient tax liability on the part of the taxpayer, the~~
3024 ~~unused amount shall be carried forward for a period not to~~
3025 ~~exceed 10 years. For purposes of s. 220.1875, a credit carried~~
3026 ~~forward may be used in a subsequent year after applying the~~



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3027 other credits and unused carryovers in the order provided in s.
3028 220.02(8).

3029 (d) Subsequent to the limitations in s. 215.26(2), the
3030 unused amount of a tax credit, or any portion thereof, which is
3031 carried forward as provided in paragraph (c) may be refunded to
3032 the taxpayer upon written request, or as otherwise directed by
3033 the department. Refunded amounts are no longer designations for
3034 K-12 funding ~~A taxpayer may not convey, assign, or transfer an~~
3035 ~~approved tax credit or a carryforward tax credit to another~~
3036 ~~entity unless all of the assets of the taxpayer are conveyed,~~
3037 ~~assigned, or transferred in the same transaction. The department~~
3038 may offset incoming contributions designated for K-12 education
3039 with requests for refunds. Funds from the Florida K-12 Education
3040 Tax Credit Program Trust Fund may be used to pay refunds
3041 ~~However, a tax credit under s. 211.0251, s. 212.1831, s.~~
3042 ~~220.1875, s. 561.1211, or s. 624.51055 may be conveyed,~~
3043 ~~transferred, or assigned between members of an affiliated group~~
3044 ~~of corporations if the type of tax credit under s. 211.0251, s.~~
3045 ~~212.1831, s. 220.1875, s. 561.1211, or s. 624.51055 remains the~~
3046 ~~same. A taxpayer shall notify the department of its intent to~~
3047 ~~convey, transfer, or assign a tax credit to another member~~
3048 ~~within an affiliated group of corporations. The amount conveyed,~~
3049 ~~transferred, or assigned is available to another member of the~~
3050 ~~affiliated group of corporations upon approval by the~~
3051 ~~department. The department shall obtain the division's approval~~
3052 ~~before approving a conveyance, transfer, or assignment of a tax~~
3053 ~~credit under s. 561.1211.~~

3054 (e) For elections made between July 1, 2021, and December
3055 31, 2021, for tax credits under ss. 211.0251, 212.1831,



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3056 220.1875, and 624.51055, an eligible contribution must be
3057 remitted by electronically submitting a separate designation or
3058 contribution payment to the department. The department shall
3059 provide the taxpayer with a receipt for the contribution. This
3060 paragraph expires July 1, 2022 ~~Within any state fiscal year, a~~
3061 ~~taxpayer may rescind all or part of a tax credit approved under~~
3062 ~~paragraph (b). The amount rescinded shall become available for~~
3063 ~~that state fiscal year to another eligible taxpayer as approved~~
3064 ~~by the department if the taxpayer receives notice from the~~
3065 ~~department that the rescindment has been accepted by the~~
3066 ~~department. The department must obtain the division's approval~~
3067 ~~prior to accepting the rescindment of a tax credit under s.~~
3068 ~~561.1211. Any amount rescinded under this paragraph shall become~~
3069 ~~available to an eligible taxpayer on a first-come, first-served~~
3070 ~~basis based on tax credit applications received after the date~~
3071 ~~the rescindment is accepted by the department.~~

3072 ~~(f) Within 10 days after approving or denying the~~
3073 ~~conveyance, transfer, or assignment of a tax credit under~~
3074 ~~paragraph (d), or the rescindment of a tax credit under~~
3075 ~~paragraph (e), the department shall provide a copy of its~~
3076 ~~approval or denial letter to the eligible nonprofit scholarship-~~
3077 ~~funding organization specified by the taxpayer. The department~~
3078 ~~shall also include the eligible nonprofit scholarship-funding~~
3079 ~~organization specified by the taxpayer on all letters or~~
3080 ~~correspondence of acknowledgment for tax credits under s.~~
3081 ~~212.1831.~~

3082 ~~(g) For purposes of calculating the underpayment of~~
3083 ~~estimated corporate income taxes pursuant to s. 220.34 and tax~~
3084 ~~installment payments for taxes on insurance premiums or~~



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3085 ~~assessments under s. 624.5092, the final amount due is the~~
3086 ~~amount after credits earned under s. 220.1875 or s. 624.51055~~
3087 ~~for contributions to eligible nonprofit scholarship funding~~
3088 ~~organizations are deducted.~~

3089 ~~1. For purposes of determining if a penalty or interest~~
3090 ~~shall be imposed for underpayment of estimated corporate income~~
3091 ~~tax pursuant to s. 220.34(2)(d)1., a taxpayer may, after earning~~
3092 ~~a credit under s. 220.1875, reduce any estimated payment in that~~
3093 ~~taxable year by the amount of the credit. This subparagraph~~
3094 ~~applies to contributions made on or after July 1, 2014.~~

3095 ~~2. For purposes of determining if a penalty under s.~~
3096 ~~624.5092 shall be imposed, an insurer, after earning a credit~~
3097 ~~under s. 624.51055 for a taxable year, may reduce any~~
3098 ~~installment payment for such taxable year of 27 percent of the~~
3099 ~~amount of the net tax due as reported on the return for the~~
3100 ~~preceding year under s. 624.5092(2)(b) by the amount of the~~
3101 ~~credit. This subparagraph applies to contributions made on or~~
3102 ~~after July 1, 2014.~~

3103 ~~(6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP FUNDING~~
3104 ~~ORGANIZATIONS. An eligible nonprofit scholarship funding~~
3105 ~~organization:~~

3106 ~~(a) Must comply with the antidiscrimination provisions of~~
3107 ~~42 U.S.C. s. 2000d.~~

3108 ~~(b) Must comply with the following background check~~
3109 ~~requirements:~~

3110 ~~1. All owners and operators as defined in subparagraph~~
3111 ~~(2)(i)1. are, before employment or engagement to provide~~
3112 ~~services, subject to level 2 background screening as provided~~
3113 ~~under chapter 435. The fingerprints for the background screening~~



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3114 ~~must be electronically submitted to the Department of Law~~
3115 ~~Enforcement and can be taken by an authorized law enforcement~~
3116 ~~agency or by an employee of the eligible nonprofit scholarship-~~
3117 ~~funding organization or a private company who is trained to take~~
3118 ~~fingerprints. However, the complete set of fingerprints of an~~
3119 ~~owner or operator may not be taken by the owner or operator. The~~
3120 ~~results of the state and national criminal history check shall~~
3121 ~~be provided to the Department of Education for screening under~~
3122 ~~chapter 435. The cost of the background screening may be borne~~
3123 ~~by the eligible nonprofit scholarship-funding organization or~~
3124 ~~the owner or operator.~~

3125 ~~2. Every 5 years following employment or engagement to~~
3126 ~~provide services or association with an eligible nonprofit~~
3127 ~~scholarship-funding organization, each owner or operator must~~
3128 ~~meet level 2 screening standards as described in s. 435.04, at~~
3129 ~~which time the nonprofit scholarship-funding organization shall~~
3130 ~~request the Department of Law Enforcement to forward the~~
3131 ~~fingerprints to the Federal Bureau of Investigation for level 2~~
3132 ~~screening. If the fingerprints of an owner or operator are not~~
3133 ~~retained by the Department of Law Enforcement under subparagraph~~
3134 ~~3., the owner or operator must electronically file a complete~~
3135 ~~set of fingerprints with the Department of Law Enforcement. Upon~~
3136 ~~submission of fingerprints for this purpose, the eligible~~
3137 ~~nonprofit scholarship-funding organization shall request that~~
3138 ~~the Department of Law Enforcement forward the fingerprints to~~
3139 ~~the Federal Bureau of Investigation for level 2 screening, and~~
3140 ~~the fingerprints shall be retained by the Department of Law~~
3141 ~~Enforcement under subparagraph 3.~~

3142 ~~3. Fingerprints submitted to the Department of Law~~



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3143 ~~Enforcement as required by this paragraph must be retained by~~
3144 ~~the Department of Law Enforcement in a manner approved by rule~~
3145 ~~and entered in the statewide automated biometric identification~~
3146 ~~system authorized by s. 943.05(2)(b). The fingerprints must~~
3147 ~~thereafter be available for all purposes and uses authorized for~~
3148 ~~arrest fingerprints entered in the statewide automated biometric~~
3149 ~~identification system pursuant to s. 943.051.~~

3150 ~~4. The Department of Law Enforcement shall search all~~
3151 ~~arrest fingerprints received under s. 943.051 against the~~
3152 ~~fingerprints retained in the statewide automated biometric~~
3153 ~~identification system under subparagraph 3. Any arrest record~~
3154 ~~that is identified with an owner's or operator's fingerprints~~
3155 ~~must be reported to the Department of Education. The Department~~
3156 ~~of Education shall participate in this search process by paying~~
3157 ~~an annual fee to the Department of Law Enforcement and by~~
3158 ~~informing the Department of Law Enforcement of any change in the~~
3159 ~~employment, engagement, or association status of the owners or~~
3160 ~~operators whose fingerprints are retained under subparagraph 3.~~
3161 ~~The Department of Law Enforcement shall adopt a rule setting the~~
3162 ~~amount of the annual fee to be imposed upon the Department of~~
3163 ~~Education for performing these services and establishing the~~
3164 ~~procedures for the retention of owner and operator fingerprints~~
3165 ~~and the dissemination of search results. The fee may be borne by~~
3166 ~~the owner or operator of the nonprofit scholarship-funding~~
3167 ~~organization.~~

3168 ~~5. A nonprofit scholarship-funding organization whose owner~~
3169 ~~or operator fails the level 2 background screening is not~~
3170 ~~eligible to provide scholarships under this section.~~

3171 ~~6. A nonprofit scholarship-funding organization whose owner~~



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3172 ~~or operator in the last 7 years has filed for personal~~
3173 ~~bankruptcy or corporate bankruptcy in a corporation of which he~~
3174 ~~or she owned more than 20 percent shall not be eligible to~~
3175 ~~provide scholarships under this section.~~

3176 ~~7. In addition to the offenses listed in s. 435.04, a~~
3177 ~~person required to undergo background screening pursuant to this~~
3178 ~~part or authorizing statutes must not have an arrest awaiting~~
3179 ~~final disposition for, must not have been found guilty of, or~~
3180 ~~entered a plea of nolo contendere to, regardless of~~
3181 ~~adjudication, and must not have been adjudicated delinquent, and~~
3182 ~~the record must not have been sealed or expunged for, any of the~~
3183 ~~following offenses or any similar offense of another~~
3184 ~~jurisdiction:~~

3185 ~~a. Any authorizing statutes, if the offense was a felony.~~

3186 ~~b. This chapter, if the offense was a felony.~~

3187 ~~c. Section 409.920, relating to Medicaid provider fraud.~~

3188 ~~d. Section 409.9201, relating to Medicaid fraud.~~

3189 ~~e. Section 741.28, relating to domestic violence.~~

3190 ~~f. Section 817.034, relating to fraudulent acts through~~
3191 ~~mail, wire, radio, electromagnetic, photoelectronic, or~~
3192 ~~photooptical systems.~~

3193 ~~g. Section 817.234, relating to false and fraudulent~~
3194 ~~insurance claims.~~

3195 ~~h. Section 817.505, relating to patient brokering.~~

3196 ~~i. Section 817.568, relating to criminal use of personal~~
3197 ~~identification information.~~

3198 ~~j. Section 817.60, relating to obtaining a credit card~~
3199 ~~through fraudulent means.~~

3200 ~~k. Section 817.61, relating to fraudulent use of credit~~



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3201 ~~cards, if the offense was a felony.~~
3202 ~~l. Section 831.01, relating to forgery.~~
3203 ~~m. Section 831.02, relating to uttering forged instruments.~~
3204 ~~n. Section 831.07, relating to forging bank bills, checks,~~
3205 ~~drafts, or promissory notes.~~
3206 ~~o. Section 831.09, relating to uttering forged bank bills,~~
3207 ~~checks, drafts, or promissory notes.~~
3208 ~~p. Section 831.30, relating to fraud in obtaining medicinal~~
3209 ~~drugs.~~
3210 ~~q. Section 831.31, relating to the sale, manufacture,~~
3211 ~~delivery, or possession with the intent to sell, manufacture, or~~
3212 ~~deliver any counterfeit controlled substance, if the offense was~~
3213 ~~a felony.~~
3214 ~~(c) Must not have an owner or operator who owns or operates~~
3215 ~~an eligible private school that is participating in the~~
3216 ~~scholarship program.~~
3217 ~~(d) Must provide scholarships, from eligible contributions,~~
3218 ~~to eligible students for the cost of:~~
3219 ~~1. Tuition and fees for an eligible private school; or~~
3220 ~~2. Transportation to a Florida public school in which a~~
3221 ~~student is enrolled and that is different from the school to~~
3222 ~~which the student was assigned or to a lab school as defined in~~
3223 ~~s. 1002.32.~~
3224 ~~(e) Must give first priority to eligible renewal students~~
3225 ~~who received a scholarship from an eligible nonprofit~~
3226 ~~scholarship-funding organization or from the State of Florida~~
3227 ~~during the previous school year. The eligible nonprofit~~
3228 ~~scholarship-funding organization must fully apply and exhaust~~
3229 ~~all funds available under this section and s. 1002.40(11)(i) for~~



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3230 ~~renewal scholarship awards before awarding any initial~~
3231 ~~scholarships.~~

3232 ~~(f) Must provide a renewal or initial scholarship to an~~
3233 ~~eligible student on a first-come, first-served basis unless the~~
3234 ~~student qualifies for priority pursuant to paragraph (e). Each~~
3235 ~~eligible nonprofit scholarship-funding organization must refer~~
3236 ~~any student eligible for a scholarship pursuant to this section~~
3237 ~~who did not receive a renewal or initial scholarship based~~
3238 ~~solely on the lack of available funds under this section and s.~~
3239 ~~1002.40(11)(i) to another eligible nonprofit scholarship-funding~~
3240 ~~organization that may have funds available.~~

3241 ~~(g) May not restrict or reserve scholarships for use at a~~
3242 ~~particular private school or provide scholarships to a child of~~
3243 ~~an owner or operator.~~

3244 ~~(h) Must allow a student in foster care or out-of-home care~~
3245 ~~or a dependent child of a parent who is a member of the United~~
3246 ~~States Armed Forces to apply for a scholarship at any time.~~

3247 ~~(i) Must allow an eligible student to attend any eligible~~
3248 ~~private school and must allow a parent to transfer a scholarship~~
3249 ~~during a school year to any other eligible private school of the~~
3250 ~~parent's choice.~~

3251 ~~(j)1. May use eligible contributions received pursuant to~~
3252 ~~this section and ss. 212.099, 212.1832, and 1002.40 during the~~
3253 ~~state fiscal year in which such contributions are collected for~~
3254 ~~administrative expenses if the organization has operated as an~~
3255 ~~eligible nonprofit scholarship-funding organization for at least~~
3256 ~~the preceding 3 fiscal years and did not have any findings of~~
3257 ~~material weakness or material noncompliance in its most recent~~
3258 ~~audit under paragraph (m). Administrative expenses from eligible~~



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3259 ~~contributions may not exceed 3 percent of the total amount of~~
3260 ~~all scholarships awarded by an eligible scholarship-funding~~
3261 ~~organization under this chapter. Such administrative expenses~~
3262 ~~must be reasonable and necessary for the organization's~~
3263 ~~management and distribution of scholarships awarded under this~~
3264 ~~chapter. No funds authorized under this subparagraph shall be~~
3265 ~~used for lobbying or political activity or expenses related to~~
3266 ~~lobbying or political activity. Up to one-third of the funds~~
3267 ~~authorized for administrative expenses under this subparagraph~~
3268 ~~may be used for expenses related to the recruitment of~~
3269 ~~contributions from taxpayers. An eligible nonprofit scholarship-~~
3270 ~~funding organization may not charge an application fee.~~

3271 ~~2. Must expend for annual or partial-year scholarships an~~
3272 ~~amount equal to or greater than 75 percent of the net eligible~~
3273 ~~contributions remaining after administrative expenses during the~~
3274 ~~state fiscal year in which such contributions are collected. No~~
3275 ~~more than 25 percent of such net eligible contributions may be~~
3276 ~~carried forward to the following state fiscal year. All amounts~~
3277 ~~carried forward, for audit purposes, must be specifically~~
3278 ~~identified for particular students, by student name and the name~~
3279 ~~of the school to which the student is admitted, subject to the~~
3280 ~~requirements of ss. 1002.22 and 1002.221 and 20 U.S.C. s. 1232g,~~
3281 ~~and the applicable rules and regulations issued pursuant~~
3282 ~~thereto. Any amounts carried forward shall be expended for~~
3283 ~~annual or partial-year scholarships in the following state~~
3284 ~~fiscal year. No later than September 30 of each year, net~~
3285 ~~eligible contributions remaining on June 30 of each year that~~
3286 ~~are in excess of the 25 percent that may be carried forward~~
3287 ~~shall be used to provide scholarships to eligible students or~~



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3288 ~~transferred to other eligible nonprofit scholarship funding~~
3289 ~~organizations to provide scholarships for eligible students. All~~
3290 ~~transferred funds must be deposited by each eligible nonprofit~~
3291 ~~scholarship funding organization receiving such funds into its~~
3292 ~~scholarship account. All transferred amounts received by any~~
3293 ~~eligible nonprofit scholarship funding organization must be~~
3294 ~~separately disclosed in the annual financial audit required~~
3295 ~~under paragraph (m).~~

3296 ~~3. Must, before granting a scholarship for an academic~~
3297 ~~year, document each scholarship student's eligibility for that~~
3298 ~~academic year. A scholarship funding organization may not grant~~
3299 ~~multiyear scholarships in one approval process.~~

3300 ~~(k) Must maintain separate accounts for scholarship funds~~
3301 ~~and operating funds.~~

3302 ~~(l) With the prior approval of the Department of Education,~~
3303 ~~may transfer funds to another eligible nonprofit scholarship~~
3304 ~~funding organization if additional funds are required to meet~~
3305 ~~scholarship demand at the receiving nonprofit scholarship~~
3306 ~~funding organization. A transfer is limited to the greater of~~
3307 ~~\$500,000 or 20 percent of the total contributions received by~~
3308 ~~the nonprofit scholarship funding organization making the~~
3309 ~~transfer. All transferred funds must be deposited by the~~
3310 ~~receiving nonprofit scholarship funding organization into its~~
3311 ~~scholarship accounts. All transferred amounts received by any~~
3312 ~~nonprofit scholarship funding organization must be separately~~
3313 ~~disclosed in the annual financial and compliance audit required~~
3314 ~~in this section.~~

3315 ~~(m) Must provide to the Auditor General and the Department~~
3316 ~~of Education a report on the results of an annual financial~~



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3317 ~~audit of its accounts and records conducted by an independent~~
3318 ~~certified public accountant in accordance with auditing~~
3319 ~~standards generally accepted in the United States, government~~
3320 ~~auditing standards, and rules promulgated by the Auditor~~
3321 ~~General. The audit report must include a report on financial~~
3322 ~~statements presented in accordance with generally accepted~~
3323 ~~accounting principles. Audit reports must be provided to the~~
3324 ~~Auditor General and the Department of Education within 180 days~~
3325 ~~after completion of the eligible nonprofit scholarship-funding~~
3326 ~~organization's fiscal year. The Auditor General shall review all~~
3327 ~~audit reports submitted pursuant to this paragraph. The Auditor~~
3328 ~~General shall request any significant items that were omitted in~~
3329 ~~violation of a rule adopted by the Auditor General. The items~~
3330 ~~must be provided within 45 days after the date of the request.~~
3331 ~~If the scholarship-funding organization does not comply with the~~
3332 ~~Auditor General's request, the Auditor General shall notify the~~
3333 ~~Legislative Auditing Committee.~~

3334 ~~(n) Must prepare and submit quarterly reports to the~~
3335 ~~Department of Education pursuant to paragraph (9)(i). In~~
3336 ~~addition, an eligible nonprofit scholarship-funding organization~~
3337 ~~must submit in a timely manner any information requested by the~~
3338 ~~Department of Education relating to the scholarship program.~~

3339 ~~(o)1.a. Must participate in the joint development of~~
3340 ~~agreed-upon procedures during the 2009-2010 state fiscal year.~~
3341 ~~The agreed-upon procedures must uniformly apply to all private~~
3342 ~~schools and must determine, at a minimum, whether the private~~
3343 ~~school has been verified as eligible by the Department of~~
3344 ~~Education under s. 1002.421; has an adequate accounting system,~~
3345 ~~system of financial controls, and process for deposit and~~



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3346 ~~classification of scholarship funds; and has properly expended~~
3347 ~~scholarship funds for education-related expenses. During the~~
3348 ~~development of the procedures, the participating scholarship-~~
3349 ~~funding organizations shall specify guidelines governing the~~
3350 ~~materiality of exceptions that may be found during the~~
3351 ~~accountant's performance of the procedures. The procedures and~~
3352 ~~guidelines shall be provided to private schools and the~~
3353 ~~Commissioner of Education by March 15, 2011.~~

3354 ~~b. Must participate in a joint review of the agreed-upon~~
3355 ~~procedures and guidelines developed under sub-subparagraph a.,~~
3356 ~~by February of each biennium, if the scholarship-funding~~
3357 ~~organization provided more than \$250,000 in scholarship funds to~~
3358 ~~an eligible private school under this chapter during the state~~
3359 ~~fiscal year preceding the biennial review. If the procedures and~~
3360 ~~guidelines are revised, the revisions must be provided to~~
3361 ~~private schools and the Commissioner of Education by March 15 of~~
3362 ~~the year in which the revisions were completed. The revised~~
3363 ~~agreed-upon procedures shall take effect the subsequent school~~
3364 ~~year. For the 2018-2019 school year only, the joint review of~~
3365 ~~the agreed-upon procedures must be completed and the revisions~~
3366 ~~submitted to the commissioner no later than September 15, 2018.~~
3367 ~~The revised procedures are applicable to the 2018-2019 school~~
3368 ~~year.~~

3369 ~~e. Must monitor the compliance of a private school with s.~~
3370 ~~1002.421(1)(q) if the scholarship-funding organization provided~~
3371 ~~the majority of the scholarship funding to the school. For each~~
3372 ~~private school subject to s. 1002.421(1)(q), the appropriate~~
3373 ~~scholarship-funding organization shall annually notify the~~
3374 ~~Commissioner of Education by October 30 of:~~



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3375 ~~(I) A private school's failure to submit a report required~~
3376 ~~under s. 1002.421(1)(q); or~~
3377 ~~(II) Any material exceptions set forth in the report~~
3378 ~~required under s. 1002.421(1)(q).~~
3379 ~~2. Must seek input from the accrediting associations that~~
3380 ~~are members of the Florida Association of Academic Nonpublic~~
3381 ~~Schools and the Department of Education when jointly developing~~
3382 ~~the agreed-upon procedures and guidelines under sub-subparagraph~~
3383 ~~1.a. and conducting a review of those procedures and guidelines~~
3384 ~~under sub-subparagraph 1.b.~~
3385 ~~(p) Must maintain the surety bond or letter of credit~~
3386 ~~required by subsection (15). The amount of the surety bond or~~
3387 ~~letter of credit may be adjusted quarterly to equal the actual~~
3388 ~~amount of undisbursed funds based upon submission by the~~
3389 ~~organization of a statement from a certified public accountant~~
3390 ~~verifying the amount of undisbursed funds. The requirements of~~
3391 ~~this paragraph are waived if the cost of acquiring a surety bond~~
3392 ~~or letter of credit exceeds the average 10-year cost of~~
3393 ~~acquiring a surety bond or letter of credit by 200 percent. The~~
3394 ~~requirements of this paragraph are waived for a state~~
3395 ~~university; or an independent college or university which is~~
3396 ~~eligible to participate in the William L. Boyd, IV, Effective~~
3397 ~~Access to Student Education Grant Program, located and chartered~~
3398 ~~in this state, is not for profit, and is accredited by the~~
3399 ~~Commission on Colleges of the Southern Association of Colleges~~
3400 ~~and Schools.~~
3401 ~~(q) Must provide to the Auditor General any information or~~
3402 ~~documentation requested in connection with an operational audit~~
3403 ~~of a scholarship funding organization conducted pursuant to s.~~



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3404 ~~11.45.~~

3405

3406 ~~Information and documentation provided to the Department of~~
3407 ~~Education and the Auditor General relating to the identity of a~~
3408 ~~taxpayer that provides an eligible contribution under this~~
3409 ~~section shall remain confidential at all times in accordance~~
3410 ~~with s. 213.053.~~

3411 ~~(7) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM~~
3412 ~~PARTICIPATION.—~~

3413 ~~(a) The parent must select an eligible private school and~~
3414 ~~apply for the admission of his or her child.~~

3415 ~~(b) The parent must inform the child's school district when~~
3416 ~~the parent withdraws his or her child to attend an eligible~~
3417 ~~private school.~~

3418 ~~(c) Any student participating in the scholarship program~~
3419 ~~must remain in attendance throughout the school year unless~~
3420 ~~excused by the school for illness or other good cause.~~

3421 ~~(d) Each parent and each student has an obligation to the~~
3422 ~~private school to comply with the private school's published~~
3423 ~~policies.~~

3424 ~~(e) The parent shall ensure that the student participating~~
3425 ~~in the scholarship program takes the norm-referenced assessment~~
3426 ~~offered by the private school. The parent may also choose to~~
3427 ~~have the student participate in the statewide assessments~~
3428 ~~pursuant to s. 1008.22. If the parent requests that the student~~
3429 ~~participating in the scholarship program take statewide~~
3430 ~~assessments pursuant to s. 1008.22 and the private school has~~
3431 ~~not chosen to offer and administer the statewide assessments,~~
3432 ~~the parent is responsible for transporting the student to the~~



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3433 ~~assessment site designated by the school district.~~

3434 ~~(f) Upon receipt of a scholarship warrant from the eligible~~
3435 ~~nonprofit scholarship funding organization, the parent to whom~~
3436 ~~the warrant is made must restrictively endorse the warrant to~~
3437 ~~the private school for deposit into the account of the private~~
3438 ~~school. If payments are made by funds transfer, the parent must~~
3439 ~~approve each payment before the scholarship funds may be~~
3440 ~~deposited. The parent may not designate any entity or individual~~
3441 ~~associated with the participating private school as the parent's~~
3442 ~~attorney in fact to endorse a scholarship warrant or approve a~~
3443 ~~funds transfer. A participant who fails to comply with this~~
3444 ~~paragraph forfeits the scholarship.~~

3445 ~~(g) The parent shall authorize the nonprofit scholarship~~
3446 ~~funding organization to access information needed for income~~
3447 ~~eligibility determination and verification held by other state~~
3448 ~~or federal agencies, including the Department of Revenue, the~~
3449 ~~Department of Children and Families, the Department of~~
3450 ~~Education, the Department of Economic Opportunity, and the~~
3451 ~~Agency for Health Care Administration.~~

3452 ~~(8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—An eligible~~
3453 ~~private school may be sectarian or nonsectarian and must:~~

3454 ~~(a) Comply with all requirements for private schools~~
3455 ~~participating in state school choice scholarship programs~~
3456 ~~pursuant to s. 1002.421.~~

3457 ~~(b)1. Annually administer or make provision for students~~
3458 ~~participating in the scholarship program in grades 3 through 10~~
3459 ~~to take one of the nationally norm-referenced tests identified~~
3460 ~~by the Department of Education or the statewide assessments~~
3461 ~~pursuant to s. 1008.22. Students with disabilities for whom~~



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3462 ~~standardized testing is not appropriate are exempt from this~~
3463 ~~requirement. A participating private school must report a~~
3464 ~~student's scores to the parent. A participating private school~~
3465 ~~must annually report by August 15 the scores of all~~
3466 ~~participating students to a state university described in~~
3467 ~~paragraph (9) (f).~~

3468 ~~2. Administer the statewide assessments pursuant to s.~~
3469 ~~1008.22 if a private school chooses to offer the statewide~~
3470 ~~assessments. A participating private school may choose to offer~~
3471 ~~and administer the statewide assessments to all students who~~
3472 ~~attend the private school in grades 3 through 10 and must submit~~
3473 ~~a request in writing to the Department of Education by March 1~~
3474 ~~of each year in order to administer the statewide assessments in~~
3475 ~~the subsequent school year.~~

3476
3477 ~~If a private school fails to meet the requirements of this~~
3478 ~~subsection or s. 1002.421, the commissioner may determine that~~
3479 ~~the private school is ineligible to participate in the~~
3480 ~~scholarship program.~~

3481 ~~(9) DEPARTMENT OF EDUCATION OBLIGATIONS. The Department of~~
3482 ~~Education shall:~~

3483 ~~(a) Annually submit to the department and division, by~~
3484 ~~March 15, a list of eligible nonprofit scholarship funding~~
3485 ~~organizations that meet the requirements of paragraph (2) (f).~~

3486 ~~(b) Annually verify the eligibility of nonprofit~~
3487 ~~scholarship funding organizations that meet the requirements of~~
3488 ~~paragraph (2) (f).~~

3489 ~~(c) Annually verify the eligibility of expenditures as~~
3490 ~~provided in paragraph (6) (d) using the audit required by~~



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3491 ~~paragraph (6) (m) and s. 11.45(2) (1).~~

3492 ~~(d) Cross-check the list of participating scholarship~~
3493 ~~students with the public school enrollment lists to avoid~~
3494 ~~duplication.~~

3495 ~~(e) Maintain a list of nationally norm-referenced tests~~
3496 ~~identified for purposes of satisfying the testing requirement in~~
3497 ~~subparagraph (8) (b)1. The tests must meet industry standards of~~
3498 ~~quality in accordance with State Board of Education rule.~~

3499 ~~(f) Issue a project grant award to a state university, to~~
3500 ~~which participating private schools must report the scores of~~
3501 ~~participating students on the nationally norm-referenced tests~~
3502 ~~or the statewide assessments administered by the private school~~
3503 ~~in grades 3 through 10. The project term is 2 years, and the~~
3504 ~~amount of the project is up to \$250,000 per year. The project~~
3505 ~~grant award must be reissued in 2-year intervals in accordance~~
3506 ~~with this paragraph.~~

3507 ~~1. The state university must annually report to the~~
3508 ~~Department of Education on the student performance of~~
3509 ~~participating students:~~

3510 ~~a. On a statewide basis. The report shall also include, to~~
3511 ~~the extent possible, a comparison of scholarship students'~~
3512 ~~performance to the statewide student performance of public~~
3513 ~~school students with socioeconomic backgrounds similar to those~~
3514 ~~of students participating in the scholarship program. To~~
3515 ~~minimize costs and reduce time required for the state~~
3516 ~~university's analysis and evaluation, the Department of~~
3517 ~~Education shall coordinate with the state university to provide~~
3518 ~~data to the state university in order to conduct analyses of~~
3519 ~~matched students from public school assessment data and~~



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3520 ~~calculate control group student performance using an agreed upon~~
3521 ~~methodology with the state university; and~~

3522 ~~b. On an individual school basis. The annual report must~~
3523 ~~include student performance for each participating private~~
3524 ~~school in which at least 51 percent of the total enrolled~~
3525 ~~students in the private school participated in the Florida Tax~~
3526 ~~Credit Scholarship Program in the prior school year. The report~~
3527 ~~shall be according to each participating private school, and for~~
3528 ~~participating students, in which there are at least 30~~
3529 ~~participating students who have scores for tests administered.~~
3530 ~~If the state university determines that the 30-participating-~~
3531 ~~student cell size may be reduced without disclosing personally~~
3532 ~~identifiable information, as described in 34 C.F.R. s. 99.12, of~~
3533 ~~a participating student, the state university may reduce the~~
3534 ~~participating-student cell size, but the cell size must not be~~
3535 ~~reduced to less than 10 participating students. The department~~
3536 ~~shall provide each private school's prior school year's student~~
3537 ~~enrollment information to the state university no later than~~
3538 ~~June 15 of each year, or as requested by the state university.~~

3539 ~~2. The sharing and reporting of student performance data~~
3540 ~~under this paragraph must be in accordance with requirements of~~
3541 ~~ss. 1002.22 and 1002.221 and 20 U.S.C. s. 1232g, the Family~~
3542 ~~Educational Rights and Privacy Act, and the applicable rules and~~
3543 ~~regulations issued pursuant thereto, and shall be for the sole~~
3544 ~~purpose of creating the annual report required by subparagraph~~
3545 ~~1. All parties must preserve the confidentiality of such~~
3546 ~~information as required by law. The annual report must not~~
3547 ~~disaggregate data to a level that will identify individual~~
3548 ~~participating schools, except as required under sub-subparagraph~~



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3549 ~~1.b., or disclose the academic level of individual students.~~
3550 ~~3. The annual report required by subparagraph 1. shall be~~
3551 ~~published by the Department of Education on its website.~~
3552 ~~(g) Notify an eligible nonprofit scholarship funding~~
3553 ~~organization of any of the organization's identified students~~
3554 ~~who are receiving educational scholarships pursuant to chapter~~
3555 ~~1002.~~
3556 ~~(h) Notify an eligible nonprofit scholarship funding~~
3557 ~~organization of any of the organization's identified students~~
3558 ~~who are receiving tax credit scholarships from other eligible~~
3559 ~~nonprofit scholarship funding organizations.~~
3560 ~~(i) Require quarterly reports by an eligible nonprofit~~
3561 ~~scholarship funding organization regarding the number of~~
3562 ~~students participating in the scholarship program, the private~~
3563 ~~schools at which the students are enrolled, and other~~
3564 ~~information deemed necessary by the Department of Education.~~
3565 ~~(j) Provide a process to match the direct certification~~
3566 ~~list with the scholarship application data submitted by any~~
3567 ~~nonprofit scholarship funding organization eligible to receive~~
3568 ~~the 3-percent administrative allowance under paragraph (6) (j).~~
3569 ~~(10) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.—~~
3570 ~~(a) Upon the request of any eligible nonprofit scholarship~~
3571 ~~funding organization, a school district shall inform all~~
3572 ~~households within the district receiving free or reduced-priced~~
3573 ~~meals under the National School Lunch Act of their eligibility~~
3574 ~~to apply for a tax credit scholarship. The form of such notice~~
3575 ~~shall be provided by the eligible nonprofit scholarship funding~~
3576 ~~organization, and the district shall include the provided form,~~
3577 ~~if requested by the organization, in any normal correspondence~~



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3578 ~~with eligible households. If an eligible nonprofit scholarship-~~
3579 ~~funding organization requests a special communication to be~~
3580 ~~issued to households within the district receiving free or~~
3581 ~~reduced-price meals under the National School Lunch Act, the~~
3582 ~~organization shall reimburse the district for the cost of~~
3583 ~~postage. Such notice is limited to once a year.~~

3584 ~~(b) Upon the request of the Department of Education, a~~
3585 ~~school district shall coordinate with the department to provide~~
3586 ~~to a participating private school the statewide assessments~~
3587 ~~administered under s. 1008.22 and any related materials for~~
3588 ~~administering the assessments. A school district is responsible~~
3589 ~~for implementing test administrations at a participating private~~
3590 ~~school, including the:~~

3591 ~~1. Provision of training for private school staff on test~~
3592 ~~security and assessment administration procedures;~~

3593 ~~2. Distribution of testing materials to a private school;~~

3594 ~~3. Retrieval of testing materials from a private school;~~

3595 ~~4. Provision of the required format for a private school to~~
3596 ~~submit information to the district for test administration and~~
3597 ~~enrollment purposes; and~~

3598 ~~5. Provision of any required assistance, monitoring, or~~
3599 ~~investigation at a private school.~~

3600 ~~(11) SCHOLARSHIP AMOUNT AND PAYMENT.—~~

3601 ~~(a) The scholarship amount provided to any student for any~~
3602 ~~single school year by an eligible nonprofit scholarship funding~~
3603 ~~organization from eligible contributions shall be for total~~
3604 ~~costs authorized under paragraph (6) (d), not to exceed annual~~
3605 ~~limits, which shall be determined as follows:~~

3606 ~~1. For a student who received a scholarship in the 2018-~~



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3607 ~~2019 school year, who remains eligible, and who is enrolled in~~
3608 ~~an eligible private school, the amount shall be the greater~~
3609 ~~amount calculated pursuant to subparagraph 2. or a percentage of~~
3610 ~~the unweighted FTE funding amount for the 2018-2019 state fiscal~~
3611 ~~year and thereafter as follows:~~

3612 ~~a. Eighty-eight percent for a student enrolled in~~
3613 ~~kindergarten through grade 5.~~

3614 ~~b. Ninety-two percent for a student enrolled in grade 6~~
3615 ~~through grade 8.~~

3616 ~~c. Ninety-six percent for a student enrolled in grade 9~~
3617 ~~through grade 12.~~

3618 ~~2. For students initially eligible in the 2019-2020 school~~
3619 ~~year or thereafter, the calculated amount for a student to~~
3620 ~~attend an eligible private school shall be based upon the grade~~
3621 ~~level and school district in which the student resides as 95~~
3622 ~~percent of the funds per unweighted full-time equivalent in the~~
3623 ~~Florida Education Finance Program for a student in the basic~~
3624 ~~program established pursuant to s. 1011.62(1)(c)1., plus a per-~~
3625 ~~full-time equivalent share of funds for all categorical~~
3626 ~~programs, except for the Exceptional Student Education~~
3627 ~~Guaranteed Allocation.~~

3628 ~~3. The scholarship amount awarded to a student enrolled in~~
3629 ~~a Florida public school in which a student is enrolled and that~~
3630 ~~is different from the school to which the student was assigned~~
3631 ~~or in a lab school as defined in s. 1002.32, is limited to \$750.~~

3632 ~~(b) Payment of the scholarship by the eligible nonprofit~~
3633 ~~scholarship-funding organization shall be by individual warrant~~
3634 ~~made payable to the student's parent or by funds transfer,~~
3635 ~~including, but not limited to, debit cards, electronic payment~~



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3636 ~~cards, or any other means of payment that the department deems~~
3637 ~~to be commercially viable or cost-effective. If the payment is~~
3638 ~~made by warrant, the warrant must be delivered by the eligible~~
3639 ~~nonprofit scholarship funding organization to the private school~~
3640 ~~of the parent's choice, and the parent shall restrictively~~
3641 ~~endorse the warrant to the private school. An eligible nonprofit~~
3642 ~~scholarship funding organization shall ensure that the parent to~~
3643 ~~whom the warrant is made restrictively endorsed the warrant to~~
3644 ~~the private school for deposit into the account of the private~~
3645 ~~school or that the parent has approved a funds transfer before~~
3646 ~~any scholarship funds are deposited.~~

3647 ~~(c) An eligible nonprofit scholarship funding organization~~
3648 ~~shall obtain verification from the private school of a student's~~
3649 ~~continued attendance at the school for each period covered by a~~
3650 ~~scholarship payment.~~

3651 ~~(d) Payment of the scholarship shall be made by the~~
3652 ~~eligible nonprofit scholarship funding organization no less~~
3653 ~~frequently than on a quarterly basis.~~

3654 ~~(12) ADMINISTRATION; RULES.—~~

3655 ~~(a) The department, the division, and the Department of~~
3656 ~~Education shall develop a cooperative agreement to assist in the~~
3657 ~~administration of this section.~~

3658 ~~(b) The department shall adopt rules necessary to~~
3659 ~~administer this section and ss. 211.0251, 212.1831, 220.1875,~~
3660 ~~561.1211, and 624.51055, including rules establishing~~
3661 ~~application forms, procedures governing the approval of tax~~
3662 ~~credits and carryforward tax credits under subsection (5), and~~
3663 ~~procedures to be followed by taxpayers when claiming approved~~
3664 ~~tax credits on their returns.~~



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3665 ~~(c) The division shall adopt rules necessary to administer~~
3666 ~~its responsibilities under this section and s. 561.1211.~~

3667 ~~(d) The State Board of Education shall adopt rules to~~
3668 ~~administer the responsibilities of the Department of Education~~
3669 ~~and the Commissioner of Education under this section.~~

3670 (4) ~~(13)~~ DEPOSITS OF ELIGIBLE CONTRIBUTIONS.—All eligible
3671 contributions received by the department or the division or
3672 transferred by an eligible nonprofit scholarship-funding
3673 organization shall be deposited into the Florida K-12 Education
3674 Tax Credit Program Trust Fund as created in s. 1010.88 in a
3675 manner consistent with s. 17.57(2). By August 1, 2021, an
3676 eligible nonprofit scholarship-funding organization must
3677 transfer any funds, including eligible contributions, which were
3678 received pursuant to the former Florida Tax Credit Scholarship
3679 Program or the former Hope Scholarship Program to the department
3680 for deposit into the Florida K-12 Education Tax Credit Program
3681 Trust Fund.

3682 (5) RULES.—

3683 (a) The department shall adopt rules necessary to
3684 administer this section and ss. 211.0251, 212.1831, 220.1875,
3685 and 624.51055.

3686 (b) The division may adopt rules necessary to administer
3687 this section and s. 561.1211.

3688 ~~(14) PRESERVATION OF CREDIT.—If any provision or portion of~~
3689 ~~this section, s. 211.0251, s. 212.1831, s. 220.1875, s.~~
3690 ~~561.1211, or s. 624.51055 or the application thereof to any~~
3691 ~~person or circumstance is held unconstitutional by any court or~~
3692 ~~is otherwise declared invalid, the unconstitutionality or~~
3693 ~~invalidity shall not affect any credit earned under s. 211.0251,~~



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3694 ~~s. 212.1831, s. 220.1875, s. 561.1211, or s. 624.51055 by any~~
3695 ~~taxpayer with respect to any contribution paid to an eligible~~
3696 ~~nonprofit scholarship funding organization before the date of a~~
3697 ~~determination of unconstitutionality or invalidity. Such credit~~
3698 ~~shall be allowed at such time and in such a manner as if a~~
3699 ~~determination of unconstitutionality or invalidity had not been~~
3700 ~~made, provided that nothing in this subsection by itself or in~~
3701 ~~combination with any other provision of law shall result in the~~
3702 ~~allowance of any credit to any taxpayer in excess of one dollar~~
3703 ~~of credit for each dollar paid to an eligible nonprofit~~
3704 ~~scholarship funding organization.~~

3705 ~~(15) NONPROFIT SCHOLARSHIP FUNDING ORGANIZATIONS;~~
3706 ~~APPLICATION. In order to participate in the scholarship program~~
3707 ~~created under this section, a charitable organization that seeks~~
3708 ~~to be a nonprofit scholarship funding organization must submit~~
3709 ~~an application for initial approval or renewal to the Office of~~
3710 ~~Independent Education and Parental Choice no later than~~
3711 ~~September 1 of each year before the school year for which the~~
3712 ~~organization intends to offer scholarships.~~

3713 ~~(a) An application for initial approval must include:~~

3714 ~~1. A copy of the organization's incorporation documents and~~
3715 ~~registration with the Division of Corporations of the Department~~
3716 ~~of State.~~

3717 ~~2. A copy of the organization's Internal Revenue Service~~
3718 ~~determination letter as a s. 501(c)(3) not for profit~~
3719 ~~organization.~~

3720 ~~3. A description of the organization's financial plan that~~
3721 ~~demonstrates sufficient funds to operate throughout the school~~
3722 ~~year.~~



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3723 ~~4. A description of the geographic region that the~~
3724 ~~organization intends to serve and an analysis of the demand and~~
3725 ~~unmet need for eligible students in that area.~~
3726 ~~5. The organization's organizational chart.~~
3727 ~~6. A description of the criteria and methodology that the~~
3728 ~~organization will use to evaluate scholarship eligibility.~~
3729 ~~7. A description of the application process, including~~
3730 ~~deadlines and any associated fees.~~
3731 ~~8. A description of the deadlines for attendance~~
3732 ~~verification and scholarship payments.~~
3733 ~~9. A copy of the organization's policies on conflict of~~
3734 ~~interest and whistleblowers.~~
3735 ~~10. A copy of a surety bond or letter of credit to secure~~
3736 ~~the faithful performance of the obligations of the eligible~~
3737 ~~nonprofit scholarship-funding organization in accordance with~~
3738 ~~this section in an amount equal to 25 percent of the scholarship~~
3739 ~~funds anticipated for each school year or \$100,000, whichever is~~
3740 ~~greater. The surety bond or letter of credit must specify that~~
3741 ~~any claim against the bond or letter of credit may be made only~~
3742 ~~by an eligible nonprofit scholarship-funding organization to~~
3743 ~~provide scholarships to and on behalf of students who would have~~
3744 ~~had scholarships funded if it were not for the diversion of~~
3745 ~~funds giving rise to the claim against the bond or letter of~~
3746 ~~credit.~~
3747 ~~(b) In addition to the information required by~~
3748 ~~subparagraphs (a)1.-9., an application for renewal must include:~~
3749 ~~1. A surety bond or letter of credit to secure the faithful~~
3750 ~~performance of the obligations of the eligible nonprofit~~
3751 ~~scholarship-funding organization in accordance with this section~~



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3752 ~~equal to the amount of undisbursed donations held by the~~
3753 ~~organization based on the annual report submitted pursuant to~~
3754 ~~paragraph (6)(m). The amount of the surety bond or letter of~~
3755 ~~credit must be at least \$100,000, but not more than \$25 million.~~
3756 ~~The surety bond or letter of credit must specify that any claim~~
3757 ~~against the bond or letter of credit may be made only by an~~
3758 ~~eligible nonprofit scholarship funding organization to provide~~
3759 ~~scholarships to and on behalf of students who would have had~~
3760 ~~scholarships funded if it were not for the diversion of funds~~
3761 ~~giving rise to the claim against the bond or letter of credit.~~

3762 ~~2. The organization's completed Internal Revenue Service~~
3763 ~~Form 990 submitted no later than November 30 of the year before~~
3764 ~~the school year that the organization intends to offer the~~
3765 ~~scholarships, notwithstanding the September 1 application~~
3766 ~~deadline.~~

3767 ~~3. A copy of the statutorily required audit to the~~
3768 ~~Department of Education and Auditor General.~~

3769 ~~4. An annual report that includes:~~

3770 ~~a. The number of students who completed applications, by~~
3771 ~~county and by grade.~~

3772 ~~b. The number of students who were approved for~~
3773 ~~scholarships, by county and by grade.~~

3774 ~~c. The number of students who received funding for~~
3775 ~~scholarships within each funding category, by county and by~~
3776 ~~grade.~~

3777 ~~d. The amount of funds received, the amount of funds~~
3778 ~~distributed in scholarships, and an accounting of remaining~~
3779 ~~funds and the obligation of those funds.~~

3780 ~~e. A detailed accounting of how the organization spent the~~



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3781 ~~administrative funds allowable under paragraph (6) (j).~~

3782 ~~(c) In consultation with the Department of Revenue and the~~
3783 ~~Chief Financial Officer, the Office of Independent Education and~~
3784 ~~Parental Choice shall review the application. The Department of~~
3785 ~~Education shall notify the organization in writing of any~~
3786 ~~deficiencies within 30 days after receipt of the application and~~
3787 ~~allow the organization 30 days to correct any deficiencies.~~

3788 ~~(d) Within 30 days after receipt of the finalized~~
3789 ~~application by the Office of Independent Education and Parental~~
3790 ~~Choice, the Commissioner of Education shall recommend approval~~
3791 ~~or disapproval of the application to the State Board of~~
3792 ~~Education. The State Board of Education shall consider the~~
3793 ~~application and recommendation at the next scheduled meeting,~~
3794 ~~adhering to appropriate meeting notice requirements. If the~~
3795 ~~State Board of Education disapproves the organization's~~
3796 ~~application, it shall provide the organization with a written~~
3797 ~~explanation of that determination. The State Board of~~
3798 ~~Education's action is not subject to chapter 120.~~

3799 ~~(e) If the State Board of Education disapproves the renewal~~
3800 ~~of a nonprofit scholarship-funding organization, the~~
3801 ~~organization must notify the affected eligible students and~~
3802 ~~parents of the decision within 15 days after disapproval. An~~
3803 ~~eligible student affected by the disapproval of an~~
3804 ~~organization's participation remains eligible under this section~~
3805 ~~until the end of the school year in which the organization was~~
3806 ~~disapproved. The student must apply and be accepted by another~~
3807 ~~eligible nonprofit scholarship-funding organization for the~~
3808 ~~upcoming school year. The student shall be given priority in~~
3809 ~~accordance with paragraph (6) (f).~~



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3810 ~~(f) All remaining funds held by a nonprofit scholarship-~~
3811 ~~funding organization that is disapproved for participation must~~
3812 ~~be transferred to other eligible nonprofit scholarship funding~~
3813 ~~organizations to provide scholarships for eligible students. All~~
3814 ~~transferred funds must be deposited by each eligible nonprofit~~
3815 ~~scholarship funding organization receiving such funds into its~~
3816 ~~scholarship account. All transferred amounts received by any~~
3817 ~~eligible nonprofit scholarship funding organization must be~~
3818 ~~separately disclosed in the annual financial audit required~~
3819 ~~under subsection (6).~~

3820 ~~(g) A nonprofit scholarship funding organization is a~~
3821 ~~renewing organization if it maintains continuous approval and~~
3822 ~~participation in the program. An organization that chooses not~~
3823 ~~to participate for 1 year or more or is disapproved to~~
3824 ~~participate for 1 year or more must submit an application for~~
3825 ~~initial approval in order to participate in the program again.~~

3826 ~~(h) The State Board of Education shall adopt rules~~
3827 ~~providing guidelines for receiving, reviewing, and approving~~
3828 ~~applications for new and renewing nonprofit scholarship funding~~
3829 ~~organizations. The rules must include a process for compiling~~
3830 ~~input and recommendations from the Chief Financial Officer, the~~
3831 ~~Department of Revenue, and the Department of Education. The~~
3832 ~~rules must also require that the nonprofit scholarship funding~~
3833 ~~organization make a brief presentation to assist the State Board~~
3834 ~~of Education in its decision.~~

3835 ~~(i) A state university; or an independent college or~~
3836 ~~university which is eligible to participate in the William L.~~
3837 ~~Boyd, IV, Effective Access to Student Education Grant Program,~~
3838 ~~located and chartered in this state, is not for profit, and is~~



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3839 ~~accredited by the Commission on Colleges of the Southern~~
3840 ~~Association of Colleges and Schools, is exempt from the initial~~
3841 ~~or renewal application process, but must file a registration~~
3842 ~~notice with the Department of Education to be an eligible~~
3843 ~~nonprofit scholarship-funding organization. The State Board of~~
3844 ~~Education shall adopt rules that identify the procedure for~~
3845 ~~filing the registration notice with the department. The rules~~
3846 ~~must identify appropriate reporting requirements for fiscal,~~
3847 ~~programmatic, and performance accountability purposes consistent~~
3848 ~~with this section, but shall not exceed the requirements for~~
3849 ~~eligible nonprofit scholarship-funding organizations for~~
3850 ~~charitable organizations.~~

3851 Section 21. Section 1002.40, Florida Statutes, is repealed.

3852 Section 22. Subsection (4) of section 1002.411, Florida
3853 Statutes, is amended to read:

3854 1002.411 Reading scholarship accounts.—

3855 (4) ADMINISTRATION.—An eligible nonprofit scholarship-
3856 funding organization participating in a scholarship program
3857 under this chapter ~~the Florida Tax Credit Scholarship Program~~
3858 ~~established by s. 1002.395~~ may establish reading scholarship
3859 accounts for eligible students in accordance with the
3860 requirements of eligible nonprofit scholarship-funding
3861 organizations under this chapter.

3862 Section 23. Paragraphs (i) and (q) of subsection (1) of
3863 section 1002.421, Florida Statutes, are amended, and paragraph
3864 (r) is added to that subsection, to read:

3865 1002.421 State school choice scholarship program
3866 accountability and oversight.—

3867 (1) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—A private



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3868 school participating in an educational scholarship program
3869 established pursuant to this chapter must be a private school as
3870 defined in s. 1002.01(2) in this state, be registered, and be in
3871 compliance with all requirements of this section in addition to
3872 private school requirements outlined in s. 1002.42, specific
3873 requirements identified within respective scholarship program
3874 laws, and other provisions of Florida law that apply to private
3875 schools, and must:

3876 (i) 1. Maintain a physical location in the state at which
3877 each student has regular and direct contact with teachers; or
3878 2. If the private school is a private virtual school, have
3879 at least one administrative office located in this state at
3880 which all of its administrative staff are Florida residents.

3881 (q) Provide a report from an independent certified public
3882 accountant who performs the agreed-upon procedures ~~developed~~
3883 pursuant to s. 1002.394(11)(g) ~~s. 1002.395(6)(e)~~ if the private
3884 school receives more than \$250,000 in funds from scholarships
3885 awarded under this chapter in a state fiscal year. A private
3886 school subject to this subsection must annually submit the
3887 report by September 15 to the scholarship-funding organization
3888 that awarded the majority of the school's scholarship funds.
3889 However, for the 2020-2021 school year only, a school that
3890 receives more than \$250,000 in scholarship funds only through
3891 the John M. McKay Scholarship for Students with Disabilities
3892 Program pursuant to s. 1002.39 must submit the annual report by
3893 September 15 to the department. The agreed-upon procedures must
3894 be conducted in accordance with attestation standards
3895 established by the American Institute of Certified Public
3896 Accountants.



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3897 (r) Provide to parents and students enrolled in a private
3898 virtual school specific information posted and accessible online
3899 which includes, but is not limited to, all of the following
3900 teacher-parent and teacher-student contact information for each
3901 course:

3902 1. How to contact the instructor, technical support staff,
3903 and the administration office by phone, e-mail, or online
3904 messaging tools.

3905 2. Requirements for regular contact with the instructor for
3906 the course and clear expectations for meeting such requirements.

3907 3. Requirements that the instructor of each course must, at
3908 a minimum, conduct one contact with the parent and student each
3909 month.

3910
3911 The department shall suspend the payment of funds to a private
3912 school that knowingly fails to comply with this subsection, and
3913 shall prohibit the school from enrolling new scholarship
3914 students, for 1 fiscal year and until the school complies. If a
3915 private school fails to meet the requirements of this subsection
3916 or has consecutive years of material exceptions listed in the
3917 report required under paragraph (q), the commissioner may
3918 determine that the private school is ineligible to participate
3919 in a scholarship program.

3920 Section 24. Paragraph (aa) of subsection (4) of section
3921 1009.971, Florida Statutes, is amended to read:

3922 1009.971 Florida Prepaid College Board.—

3923 (4) FLORIDA PREPAID COLLEGE BOARD; POWERS AND DUTIES.—The
3924 board shall have the powers and duties necessary or proper to
3925 carry out the provisions of ss. 1009.97-1009.988, including, but



118708

3926 not limited to, the power and duty to:

3927 (aa) Adopt rules relating to the purchase and use of a
3928 prepaid college plan authorized under s. 1009.98 or a college
3929 savings plan authorized under s. 1009.981 for the McKay-Gardiner
3930 ~~Gardiner~~ Scholarship Program pursuant to s. 1002.381 or the
3931 Family Empowerment Scholarship Program pursuant to s. 1002.394
3932 ~~s. 1002.385~~, which may include, but need not be limited to:

3933 1. The use of such funds for postsecondary education
3934 programs for students with disabilities;

3935 2. Effective procedures that allow program funds to be used
3936 in conjunction with other funds used by a parent in the purchase
3937 of a prepaid college plan or a college savings plan;

3938 3. The tracking and accounting of program funds separately
3939 from other funds contributed to a prepaid college plan or a
3940 college savings plan;

3941 4. The reversion of program funds, including, but not
3942 limited to, earnings from contributions to the Florida College
3943 Savings Plan;

3944 5. The use of program funds only after private payments
3945 have been used for prepaid college plan or college savings plan
3946 expenditures;

3947 6. Contracting with each eligible nonprofit scholarship-
3948 funding organization to establish mechanisms to implement ss.
3949 1002.381 and 1002.394 ~~s. 1002.385~~, including, but not limited
3950 to, identifying the source of funds being deposited in the
3951 plans; and

3952 7. The development of a written agreement that defines the
3953 owner and beneficiary of an account and outlines
3954 responsibilities for the use of the advance payment contract



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3955 funds or savings program funds.

3956 Section 25. Subsection (11) of section 1009.98, Florida
3957 Statutes, is amended to read:

3958 1009.98 Stanley G. Tate Florida Prepaid College Program.—

3959 (11) IMPLEMENTATION PROCEDURES.—

3960 (a) A prepaid college plan may be purchased, accounted for,
3961 used, and terminated as provided in ss. 1002.381 and 1002.394 ~~s.~~
3962 ~~1002.385~~.

3963 (b) A qualified beneficiary may apply the benefits of an
3964 advance payment contract toward the program fees of a program
3965 designed for students with disabilities conducted by a state
3966 postsecondary institution. A transfer authorized under this
3967 subsection may not exceed the redemption value of the advance
3968 payment contract at a state postsecondary institution or the
3969 number of semester credit hours contracted on behalf of a
3970 qualified beneficiary. A qualified beneficiary may not be
3971 changed while a prepaid college plan contains funds contributed
3972 under ss. 1002.381 and 1002.394 ~~s. 1002.385~~.

3973 Section 26. Subsection (10) of section 1009.981, Florida
3974 Statutes, is amended to read:

3975 1009.981 Florida College Savings Program.—

3976 (10) IMPLEMENTATION PROCEDURES.—

3977 (a) A college savings plan may be purchased, accounted for,
3978 used, and terminated as provided in ss. 1002.381 and 1002.394 ~~s.~~
3979 ~~1002.385~~.

3980 (b) A designated beneficiary may apply the benefits of a
3981 participation agreement toward the program fees of a program
3982 designed for students with disabilities conducted by a state
3983 postsecondary institution. A designated beneficiary may not be



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3984 changed while a college savings plan contains funds contributed
3985 under ss. 1002.381 and 1002.394 ~~s. 1002.385~~.

3986 Section 27. Subsection (4) of section 1011.61, Florida
3987 Statutes, is amended to read:

3988 1011.61 Definitions.—Notwithstanding the provisions of s.
3989 1000.21, the following terms are defined as follows for the
3990 purposes of the Florida Education Finance Program:

3991 (4) The maximum value for funding a student in kindergarten
3992 through grade 12 or in a prekindergarten program for exceptional
3993 children as provided in s. 1003.21(1)(e) shall be the sum of the
3994 calculations in paragraphs (a), (b), and (c) as calculated by
3995 the department.

3996 (a) The sum of the student's full-time equivalent student
3997 membership value for the school year or the equivalent derived
3998 from paragraphs (1)(a) and (b), subparagraph (1)(c)1., sub-
3999 subparagraphs (1)(c)2.b. and c., ~~subparagraph (1)(c)3.~~ and
4000 subsection (2). If the sum is greater than 1.0, the full-time
4001 equivalent student membership value for each program or course
4002 shall be reduced by an equal proportion so that the student's
4003 total full-time equivalent student membership value is equal to
4004 1.0.

4005 (b) If the result in paragraph (a) is less than 1.0 full-
4006 time equivalent student and the student has full-time equivalent
4007 student enrollment pursuant to sub-sub-subparagraph
4008 (1)(c)1.b.(VIII), calculate an amount that is the lesser of the
4009 value in sub-sub-subparagraph (1)(c)1.b.(VIII) or the value of
4010 1.0 less the value in paragraph (a).

4011 (c) The full-time equivalent student enrollment value in
4012 sub-subparagraph (1)(c)2.a.



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4013
4014 ~~A scholarship award provided to a student enrolled in the John~~
4015 ~~M. McKay Scholarships for Students with Disabilities Program~~
4016 ~~pursuant to s. 1002.39 is not subject to the maximum value for~~
4017 ~~funding a student under this subsection.~~

4018 Section 28. Paragraph (f) of subsection (18) of section
4019 1011.62, Florida Statutes, is amended to read:

4020 1011.62 Funds for operation of schools.—If the annual
4021 allocation from the Florida Education Finance Program to each
4022 district for operation of schools is not determined in the
4023 annual appropriations act or the substantive bill implementing
4024 the annual appropriations act, it shall be determined as
4025 follows:

4026 (18) TEACHER SALARY INCREASE ALLOCATION.—The Legislature
4027 may annually provide in the Florida Education Finance Program a
4028 teacher salary increase allocation to assist school districts in
4029 their recruitment and retention of classroom teachers and other
4030 instructional personnel. The amount of the allocation shall be
4031 specified in the General Appropriations Act.

4032 ~~(f) Notwithstanding any other provision of law, funds~~
4033 ~~allocated under this subsection shall not be included in the~~
4034 ~~calculated amount for any scholarship awarded under chapter~~
4035 ~~1002.~~

4036 Section 29. Section 1011.687, Florida Statutes, is created
4037 to read:

4038 1011.687 K-12 Education Scholarship Program Allocation.—The
4039 K-12 Education Scholarship Program Allocation is established to
4040 provide funds to implement the McKay-Gardiner Scholarship
4041 Program provided in s. 1002.381 and the Family Empowerment



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4042 Scholarship Program provided in 1002.394. A student FTE
4043 scholarship amount shall be calculated as provided in ss.
4044 1002.381(15) and 1002.394(12) (b), based on funds calculated for
4045 a similarly situated public school student full-time equivalent
4046 in the Florida Education Finance Program. For purposes of this
4047 allocation, one student FTE is equivalent to four quarterly
4048 scholarship payments. A student who receives funding for the
4049 program for less than four quarters shall be a fraction of an
4050 FTE. Funds for the scholarship allocation shall be provided for
4051 student FTE in each county in the amount prescribed in the
4052 General Appropriations Act. The calculated student scholarship
4053 amounts provided may not be revised during the fiscal year.

4054 Section 30. (1) Any allocation of tax credit made by the
4055 Department of Revenue in response to a taxpayer request for
4056 allocation of credit received before July 1, 2021, under former
4057 s. 212.099, Florida Statutes 2020, shall remain in effect,
4058 subject to the carryforward, conveyance, assignment, transfer,
4059 and rescindment provisions of former s. 212.099(5), Florida
4060 Statutes 2020. However, contributions made on or after July 1,
4061 2021, shall be paid by electronic means to the Department of
4062 Revenue instead of to a nonprofit scholarship-funding
4063 organization.

4064 (2) (a) Any allocation of tax credit made by the Department
4065 of Revenue in response to a taxpayer request for allocation of
4066 credit received before July 1, 2021, for credits under ss.
4067 211.0251, 212.1831, 220.1875, and 624.51055, Florida Statutes,
4068 shall remain in effect under former s. 1002.395, Florida
4069 Statutes 2020. However, contributions made on or after July 1,
4070 2021, shall be paid by electronic means to the Department of



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4071 Revenue instead of to an eligible nonprofit scholarship-funding
4072 organization.

4073 (b) All credits under ss. 211.0251, 212.1831, 220.1875, and
4074 624.51055, Florida Statutes, earned by a taxpayer under former
4075 s. 1002.395, Florida Statutes 2020, including those under
4076 paragraph (a), continue in effect, subject to the carryforward,
4077 conveyance, assignment, transfer, and rescindment, corporate
4078 income tax estimated payment, and insurance premium tax
4079 installment payment provisions of former s. 1002.395, Florida
4080 Statutes 2020.

4081 (3) Eligible contributions received by a dealer, designated
4082 agent, or private tag agent under former s. 212.1832, Florida
4083 Statutes 2020, before July 1, 2021, shall be remitted to the
4084 designated eligible nonprofit scholarship-funding organizations
4085 by July 21, 2021.

4086 Section 31. (1) Notwithstanding s. 287.057, Florida
4087 Statutes, the Department of Revenue is authorized to contract
4088 with a qualified vendor to provide services necessary to
4089 administer this act, without using a competitive solicitation
4090 process.

4091 (2) The authority granted to the Department of Revenue by
4092 this section applies solely to the implementation and
4093 administration of this act and shall not be used for any other
4094 purpose. Such authority ends, and any contract entered into
4095 pursuant to this section still in force becomes void, upon the
4096 expiration of this section.

4097 (3) This section shall take effect upon this act becoming a
4098 law and expires July 1, 2022.

4099 Section 32. For the 2021-2022 fiscal year, the sum of



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4100 \$264,687 in nonrecurring funds is appropriated from the General
4101 Revenue Fund to the Department of Revenue for the purpose of
4102 implementing this act. Funds remaining unexpended from this
4103 appropriation as of July 1, 2022, shall revert to the General
4104 Revenue Fund.

4105 Section 33. (1) The Department of Revenue is authorized,
4106 and all conditions are deemed met, to adopt emergency rules
4107 pursuant to s. 120.54(4), Florida Statutes, for the purpose of
4108 administering this act.

4109 (2) Notwithstanding any other law, emergency rules adopted
4110 pursuant to this section are effective for 6 months after
4111 adoption and may be renewed during the pendency of procedures to
4112 adopt permanent rules addressing the subject of the emergency
4113 rules.

4114 (3) This section shall take effect upon this act becoming a
4115 law and expires July 1, 2023.

4116 Section 34. Except as otherwise expressly provided for in
4117 this act and except for this section, which shall take effect
4118 upon this act becoming a law, this act shall take effect July 1,
4119 2021.

4121 ===== T I T L E A M E N D M E N T =====

4122 And the title is amended as follows:

4123 Delete everything before the enacting clause
4124 and insert:

4125 A bill to be entitled
4126 An act relating to educational scholarship programs;
4127 amending s. 11.45, F.S.; requiring the Auditor General
4128 to conduct certain audits at least every 3 years



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4129 instead of annually; conforming provisions to changes
4130 made by the act; amending s. 211.0251, F.S.;

4131 conforming provisions to changes made by the act;
4132 deleting a provision limiting a certain tax credit to
4133 no more than 50 percent of the tax due on the return
4134 the credit is taken; amending s. 212.099, F.S.;

4135 revising the definition of the term "eligible
4136 contribution"; deleting the definition of the term
4137 "eligible nonprofit scholarship-funding organization";
4138 granting a credit against the state portion of certain
4139 taxes to eligible businesses; requiring dealers to
4140 remit any contributions of designated amounts from an
4141 eligible business; revising the circumstances under
4142 which dealers reduce the collection of taxes from
4143 certain businesses; requiring the Department of
4144 Revenue to provide eligible businesses that make a
4145 contribution with a receipt during a certain
4146 timeframe; requiring a dealer to identify on the
4147 dealer's return the amount of an eligible
4148 contribution; requiring dealers to remit to the
4149 Department of Revenue specified contributions;
4150 requiring the Department of Revenue to ensure that
4151 certain receipts are deposited into a specified fund;
4152 conforming provisions to changes made by the act;
4153 amending s. 212.1831, F.S.; conforming provisions to
4154 changes made by the act; amending s. 212.1832, F.S.;

4155 defining terms; requiring dealers claiming certain tax
4156 credits to file and pay returns electronically;
4157 requiring specified persons to report to the



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4158 Department of Revenue on certain returns the amount of
4159 credits granted for the preceding reporting period;
4160 requiring such persons to remit eligible contributions
4161 to the Department of Revenue during a certain
4162 timeframe; requiring the Department of Revenue to
4163 adopt rules; conforming provisions to changes made by
4164 the act; amending s. 213.053, F.S.; deleting
4165 authorization for the Department of Revenue to provide
4166 specified information to certain entities; deleting
4167 definitions; amending ss. 220.1105, 220.13, 220.186,
4168 220.1875, 561.1211, 624.51055, and 1002.20, F.S.;
4169 conforming provisions to changes made by the act;
4170 amending s. 1002.23, F.S.; correcting a reference to
4171 the Florida Virtual School; conforming a provision to
4172 changes made by the act; amending s. 1002.31, F.S.;
4173 adding certain students to those whom district school
4174 boards must provide preferential treatment in the
4175 controlled open enrollment process; creating s.
4176 1002.381, F.S.; establishing the McKay-Gardiner
4177 Scholarship Program; providing the purpose of the
4178 program; defining terms; specifying eligibility
4179 requirements; providing criteria for authorized uses
4180 of program funds; providing the terms of a program
4181 scholarship; requiring certain scholarship accounts to
4182 be closed and for specified funds to revert to the
4183 state under specified circumstances; providing school
4184 district obligations under the program; specifying
4185 obligations for eligible private schools; providing
4186 Department of Education obligations relating to the



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4187 program; specifying Commissioner of Education
4188 authority and obligations; providing parent and
4189 student responsibilities for program participation;
4190 providing an application approval and renewal process
4191 for charitable organizations seeking to participate or
4192 remain in the program; establishing a procedure for
4193 when an organization is disapproved; providing that an
4194 organization is a renewing organization if it was
4195 approved by the State Board of Education for a certain
4196 fiscal year or after and maintains continuous approval
4197 and participation in the program; requiring the state
4198 board to adopt specified rules; exempting specified
4199 entities from the initial or renewal application
4200 process; providing obligations for organizations
4201 relating to establishing program scholarships;
4202 providing eligibility and obligations for transition-
4203 to-work programs; specifying requirements for
4204 scholarship funding and payment; specifying the
4205 initial maximum number of students; providing for the
4206 annual increase of the maximum number of students;
4207 requiring the department to transfer certain funds to
4208 organizations in a specified manner; clarifying that
4209 accrued interest in student accounts is in addition
4210 to, and not part of, awarded funds; authorizing
4211 organizations to develop systems for payment of
4212 benefits by funds transfer; prohibiting organizations
4213 that develop such systems from reducing scholarship
4214 awards through certain fees; clarifying that
4215 scholarship funds do not constitute taxable income to



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4216 the qualified student or to his or her parent;
4217 requiring the Auditor General to conduct certain
4218 audits at least once every 3 years; specifying
4219 obligations related to approved providers; providing
4220 that the state is not liable for the award or use of
4221 program funds; providing construction; requiring the
4222 State Board of Education to adopt rules; repealing ss.
4223 1002.385 and 1002.39, F.S., relating to the Gardiner
4224 Scholarship and the John M. McKay Scholarships for
4225 Students with Disabilities Program, respectively;
4226 amending s. 1002.394, F.S.; revising the Family
4227 Empowerment Scholarship Program; providing and
4228 revising definitions; specifying and revising
4229 eligibility requirements; revising the priority order
4230 for awarding scholarships; providing and revising
4231 terms for scholarship payments to organizations;
4232 providing circumstances under which a student's
4233 account must be closed and remaining funds revert to
4234 the state; specifying the purposes for which such
4235 funds may be used; providing and revising school
4236 district obligations; providing and revising
4237 department obligations relating to participating
4238 students; requiring the department to verify eligible
4239 expenditures before distributing funds; requiring the
4240 department to issue a project grant award to a state
4241 university for a certain purpose; specifying the
4242 duration of the grant and the maximum dollar amount;
4243 requiring the university to annually report data on
4244 student performance to the department; requiring the



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4245 department to publish the report on its website;
4246 specifying other department requirements pertaining to
4247 approved providers, verification of certain
4248 expenditures, reports from eligible nonprofit
4249 scholarship-funding organizations, and contracting
4250 with an independent entity to evaluate the program
4251 annually; requiring the department to investigate
4252 certain complaints; requiring the department to
4253 establish and coordinate an FTE reporting process;
4254 providing and revising obligations for eligible
4255 private schools; providing and revising parent and
4256 student obligations for initial and continued
4257 participation in the program; specifying Auditor
4258 General obligations; providing and revising nonprofit
4259 scholarship-funding organization obligations relating
4260 to participating in the program; expanding eligibility
4261 to specified students who received certain
4262 scholarships in a specified school year; clarifying
4263 that certain scholarships do not count toward the
4264 maximum number of eligible students; providing the
4265 manner in which funds will be allocated; requiring the
4266 department to verify that a student is not prohibited
4267 from receiving a scholarship upon notification from an
4268 organization that an application has been approved;
4269 requiring the organization to provide the department
4270 with the documentation necessary to verify the
4271 student's participation; requiring the department to
4272 release the student's scholarship funds to the
4273 organization to be deposited into the student's



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4274 account upon verification; clarifying that accrued
4275 interest is in addition to, and not part of, awarded
4276 funds; authorizing organizations to develop a system
4277 for payment of benefits by funds transfer; prohibiting
4278 scholarship awards from being reduced by certain fees;
4279 clarifying that scholarship funds do not constitute
4280 taxable income to the qualified student or to his or
4281 her parent; requiring the Auditor General to conduct
4282 certain audits at least once every 3 years; providing
4283 an application approval and renewal process for
4284 charitable organizations seeking to participate or
4285 remain in the program; establishing a procedure for
4286 when an organization is disapproved; providing that an
4287 organization is a renewing organization if it was
4288 approved by the state board for a certain fiscal year
4289 or after and maintains continuous approval and
4290 participation in the program; requiring the state
4291 board to adopt rules; exempting specified entities
4292 from the initial or renewal application process;
4293 providing certain authority and obligations of the
4294 Commissioner of Education; deleting an obsolete
4295 implementation schedule; amending s. 1002.395, F.S.;
4296 renaming the Florida Tax Credit Scholarship Program;
4297 revising and deleting terms; deleting provisions made
4298 obsolete by the act; retaining the tax credits
4299 available under the former scholarship program;
4300 specifying the manner in which a taxpayer may elect to
4301 make eligible contributions; requiring all eligible
4302 contributions received by the department and the



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4303 division to be deposited into a specified fund;
4304 requiring the Department of Revenue to adopt rules;
4305 authorizing the Division of Alcoholic Beverages and
4306 Tobacco to adopt rules; repealing s. 1002.40, F.S.,
4307 relating to the Hope Scholarship Program; amending s.
4308 1002.411, F.S.; conforming a provision to changes made
4309 by the act; amending s. 1002.421, F.S.; providing that
4310 private virtual schools meet the requirement to
4311 maintain a physical location in this state if such
4312 virtual schools maintain at least one administrative
4313 office in a specified manner; requiring certain
4314 private schools to provide reports from a specified
4315 public accountant; providing requirements for such
4316 reports; requiring the schools to provide parents and
4317 students with specified information; amending ss.
4318 1009.971, 1009.98, 1009.981, and 1011.61, F.S.;
4319 conforming provisions to changes made by the act;
4320 amending s. 1011.62, F.S.; deleting a provision
4321 requiring that certain funds not be included in the
4322 calculated amount for certain scholarship awards;
4323 creating s. 1011.687, F.S.; establishing an allocation
4324 within the Florida Education Finance Program for
4325 certain scholarship programs; providing requirements
4326 for certain allocations of tax credits; clarifying
4327 that certain requirements apply to allocations of
4328 credit received before a certain date; authorizing the
4329 Department of Revenue to contract with a qualified
4330 vendor without using a competitive solicitation
4331 process; providing an appropriation; providing the



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department with emergency rulemaking authority;
providing effective dates.



844706

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Powell) recommended the following:

1 **Senate Amendment to Amendment (118708) (with title**
2 **amendment)**

3
4 Delete line 9

5 and insert:

6 (1) Annually conduct operational

7 Delete line 1517

8 and insert:

9 (b) The Auditor General shall annually

10 Delete line 2552



844706

11 and insert:

12 (b) The Auditor General shall annually

13

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

15 And the title is amended as follows:

16 Delete lines 4127 - 4129

17 and insert:

18 amending s. 11.45, F.S.; conforming provisions to
19 changes

20 Delete line 4218

21 and insert:

22 audits annually; specifying

23 Delete line 4282

24 and insert:

25 certain audits annually; providing



482120

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Powell) recommended the following:

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Senate Amendment to Amendment (118708)

Delete line 1638
and insert:
level does not exceed 185 percent of the federal poverty



395768

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Rouson) recommended the following:

Senate Amendment to Amendment (118708) (with title amendment)

Delete line 3875

and insert:

schools, may not deny enrollment to a student based on the student's race, ethnicity, national origin, sex, disability, religion, sexual orientation, or gender identity, and must:

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



395768

11 And the title is amended as follows:

12 Delete line 4309

13 and insert:

14 by the act; amending s. 1002.421, F.S.; prohibiting
15 certain private schools from denying enrollment to a
16 student based on the student's race, ethnicity,
17 national origin, sex, disability, religion, sexual
18 orientation, or gender identity; providing that



452072

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Rouson) recommended the following:

1 **Senate Amendment to Amendment (118708) (with title**
2 **amendment)**

3
4 Delete lines 4018 - 4035.

5
6 ===== T I T L E A M E N D M E N T =====

7 And the title is amended as follows:

8 Delete lines 4320 - 4322.



454978

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Farmer) recommended the following:

1 **Senate Amendment to Amendment (118708) (with title**
2 **amendment)**

3
4 Delete lines 2444 - 2447

5 and insert:

6 in the 2023-2024 ~~2020-2021~~ school year, and each year
7 thereafter, the maximum number of student FTE ~~students~~
8 ~~participating~~ in the scholarship program under this section
9 shall annually increase by 0.5 ~~1.0~~ percent of the state's total

10



454978

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

12 And the title is amended as follows:

13 Delete line 4265

14 and insert:

15 manner in which funds will be allocated; specifying an
16 annual increase in the maximum number of student FTE,
17 beginning with a certain school year; requiring the



543738

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Powell) recommended the following:

Senate Amendment (with title amendment)

Delete line 179

and insert:

(1) Annually conduct operational

Delete line 1628

and insert:

(b) The Auditor General shall annually

Delete line 2651

and insert:



543738

11 (a) The Auditor General shall annually

12

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

14 And the title is amended as follows:

15 Delete lines 3 - 5

16 and insert:

17 amending s. 11.45, F.S.; conforming provisions to
18 changes

19 Delete line 77

20 and insert:

21 audits annually; providing that the

22 Delete line 123

23 and insert:

24 certain audits annually; providing



689780

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Powell) recommended the following:

Senate Amendment

Delete line 1749
and insert:
level does not exceed 185 percent of the federal poverty



435498

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Farmer) recommended the following:

Senate Amendment (with title amendment)

Delete lines 2551 - 2554

and insert:

in the 2023-2024 ~~2020-2021~~ school year, and each year thereafter, the maximum number of student FTE ~~students participating~~ in the scholarship program under this section shall annually increase by 0.5 ~~1.0~~ percent of the state's total

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



435498

11 And the title is amended as follows:

12 Delete line 106

13 and insert:

14 will be allocated; specifying an annual increase in
15 the maximum number of student FTE, beginning with a
16 certain school year; requiring the department to
17 verify



202342

LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Rouson) recommended the following:

Senate Amendment (with title amendment)

Delete lines 4489 - 4506.

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

And the title is amended as follows:

Delete lines 162 - 165

and insert:

provisions to changes made by the act; creating s.
1011.687,



576-02188-21

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Education)

A bill to be entitled

An act relating to educational scholarship programs;
amending s. 11.45, F.S.; requiring the Auditor General
to conduct certain audits at least every 3 years
instead of annually; conforming provisions to changes
made by the act; amending s. 211.0251, F.S.;
conforming provisions to changes made by the act;
deleting a provision limiting a certain tax credit to
no more than 50 percent of the tax due on the return
the credit is taken; amending s. 212.099, F.S.;
revising the definition of the term "eligible
contribution"; deleting the definition of the term
"eligible nonprofit scholarship-funding organization";
requiring a dealer to identify on the dealer's return
the amount of an eligible contribution; requiring the
Department of Revenue to ensure that certain receipts
are deposited into a specified fund; conforming
provisions to changes made by the act; amending s.
212.1831, F.S.; conforming provisions to changes made
by the act; amending s. 212.1832, F.S.; requiring
dealers claiming certain tax credits to file and pay
returns electronically; conforming provisions to
changes made by the act; amending s. 213.053, F.S.;
deleting authorization for the Department of Revenue
to provide specified information to certain entities;
deleting definitions; amending ss. 220.1105, 220.13,
220.186, 220.1875, 561.1211, 624.51055, and 1002.20,



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F.S.; conforming provisions to changes made by the
act; amending s. 1002.23, F.S.; correcting a reference
to the Florida Virtual School; conforming a provision
to changes made by the act; amending s. 1002.31, F.S.;
adding certain students to those whom district school
boards must provide preferential treatment in the
controlled open enrollment process; creating s.
1002.381, F.S.; establishing the McKay-Gardiner
Scholarship Program; providing the purpose of the
program; defining terms; specifying eligibility
requirements; providing criteria for authorized uses
of program funds; providing the terms of a program
scholarship; requiring certain scholarship accounts to
be closed and for specified funds to revert to the
state under specified circumstances; providing school
district obligations under the program; specifying
obligations for eligible private schools; providing
Department of Education obligations relating to the
program; specifying Commissioner of Education
authority and obligations; providing parent and
student responsibilities for program participation;
providing an application approval and renewal process
for charitable organizations seeking to participate or
remain in the program; establishing a procedure for
when an organization is disapproved; providing that an
organization is a renewing organization if it was
approved by the state board for a certain fiscal year
or after and maintains continuous approval and
participation in the program; requiring the state



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57 board to adopt specified rules; exempting specified
58 entities from the initial or renewal application
59 process; providing obligations for organizations
60 relating to establishing program scholarships;
61 providing eligibility and obligations for transition-
62 to-work programs; specifying requirements for
63 scholarship funding and payment; specifying the
64 initial maximum number of students; providing for the
65 annual increase of the maximum number of students;
66 requiring the department to transfer certain funds to
67 organizations in a specified manner; clarifying that
68 accrued interest in student accounts is in addition
69 to, and not part of, awarded funds; authorizing
70 organizations to develop systems for payment of
71 benefits by funds transfer; prohibiting organizations
72 that develop such systems from reducing scholarship
73 awards through certain fees; clarifying that
74 scholarship funds do not constitute taxable income to
75 the qualified student or to his or her parent;
76 requiring the Auditor General to conduct certain
77 audits at least once every 3 years; providing that the
78 state is not liable for the award or use of program
79 funds; requiring the State Board of Education to adopt
80 rules; repealing ss. 1002.385 and 1002.39, F.S.,
81 relating to the Gardiner Scholarship and the John M.
82 McKay Scholarships for Students with Disabilities
83 Program, respectively; amending s. 1002.394, F.S.;
84 revising the Family Empowerment Scholarship Program;
85 providing and revising definitions; specifying and



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86 revising eligibility requirements; revising the
87 priority order for awarding scholarships; providing
88 and revising terms for scholarship payments to
89 organizations; providing circumstances under which a
90 student's account must be closed and remaining funds
91 revert to the state; specifying the purposes for which
92 such funds may be used; providing and revising
93 department obligations relating to participating
94 students; requiring the department to verify eligible
95 expenditures before distributing funds; providing and
96 revising obligations for eligible private schools;
97 providing and revising parent and student obligations
98 for initial and continued participation in the
99 program; providing and revising nonprofit scholarship-
100 funding organization obligations relating to
101 participating in the program; expanding eligibility to
102 specified students who received certain scholarships
103 in a specified school year; clarifying that certain
104 scholarships do not count toward the maximum number of
105 eligible students; providing the manner in which funds
106 will be allocated; requiring the department to verify
107 that a student is not prohibited from receiving a
108 scholarship upon notification from an organization
109 that an application has been approved; requiring the
110 organization to provide the department with the
111 documentation necessary to verify the student's
112 participation; requiring the department to release the
113 student's scholarship funds to the organization to be
114 deposited into the student's account upon



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115 verification; clarifying that accrued interest is in
116 addition to, and not part of, awarded funds;
117 authorizing organizations to develop a system for
118 payment of benefits by funds transfer; prohibiting
119 scholarship awards from being reduced by certain fees;
120 clarifying that scholarship funds do not constitute
121 taxable income to the qualified student or to his or
122 her parent; requiring the Auditor General to conduct
123 certain audits at least once every 3 years; providing
124 an application approval and renewal process for
125 charitable organizations seeking to participate or
126 remain in the program; establishing a procedure for
127 when an organization is disapproved; providing that an
128 organization is a renewing organization if it was
129 approved by the state board for a certain fiscal year
130 or after and maintains continuous approval and
131 participation in the program; requiring the state
132 board to adopt rules; exempting specified entities
133 from the initial or renewal application process;
134 deleting an obsolete implementation schedule; amending
135 s. 1002.395, F.S.; repealing the Florida Tax Credit
136 Scholarship Program; revising and deleting terms;
137 deleting provisions made obsolete by the act;
138 retaining the tax credits available under the former
139 scholarship program; specifying the manner in which a
140 taxpayer may elect to make eligible contributions;
141 requiring all eligible contributions received by the
142 department and the division to be deposited into a
143 specified fund; amending s. 1002.40, F.S.; repealing



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144 the Hope Scholarship Program; deleting provisions made
145 obsolete by the act; revising and deleting terms;
146 retaining the tax credits available under the former
147 scholarship program; authorizing eligible
148 contributions to be used for K-12 education funding;
149 requiring the Department of Revenue to deposit all
150 receipts of eligible contributions into a specified
151 fund; requiring the Department of Revenue to adopt
152 rules; amending s. 1002.411, F.S.; conforming a
153 provision to changes made by the act; amending s.
154 1002.421, F.S.; providing that private virtual schools
155 meet the requirement to maintain a physical location
156 in this state if such virtual schools maintain at
157 least one administrative office in a specified manner;
158 requiring certain private schools to provide reports
159 from a specified public accountant; providing
160 requirements for such reports; amending ss. 1009.971,
161 1009.98, 1009.981, and 1011.61, F.S.; conforming
162 provisions to changes made by the act; amending s.
163 1011.62, F.S.; deleting a provision requiring that
164 certain funds not be included in the calculated amount
165 for certain scholarship awards; creating s. 1011.687,
166 F.S.; establishing an allocation within the Florida
167 Education Finance Program for certain scholarship
168 programs; providing requirements for certain unused
169 tax credits; clarifying that certain requirements
170 apply to taxpayers who received tax credits before a
171 certain date; providing an effective date.
172



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

174
175 Section 1. Paragraph (1) of subsection (2) and subsection
176 (8) of section 11.45, Florida Statutes, are amended to read:

177 11.45 Definitions; duties; authorities; reports; rules.—

178 (2) DUTIES.—The Auditor General shall:

179 (1) At least every 3 years, Annually conduct operational
180 audits of the accounts and records of eligible nonprofit
181 scholarship-funding organizations ~~receiving eligible~~
182 ~~contributions~~ under ss. 1002.381 and 1002.394 ~~s. 1002.395,~~
183 including any contracts for services with related entities, to
184 determine compliance with the provisions of those sections ~~that~~
185 ~~section~~. Such audits must ~~shall~~ include, but not be limited to,
186 a determination of the eligible nonprofit scholarship-funding
187 organization's compliance with ss. 1002.381(13) (f) and
188 1002.394(11) (k) ~~s. 1002.395(6) (j)~~. The Auditor General shall
189 provide its report on the results of the audits to the Governor,
190 the President of the Senate, the Speaker of the House of
191 Representatives, the Chief Financial Officer, and the
192 Legislative Auditing Committee, within 30 days of completion of
193 the audit.

194
195 The Auditor General shall perform his or her duties
196 independently but under the general policies established by the
197 Legislative Auditing Committee. This subsection does not limit
198 the Auditor General's discretionary authority to conduct other
199 audits or engagements of governmental entities as authorized in
200 subsection (3).

201 (8) RULES OF THE AUDITOR GENERAL.—The Auditor General, in



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202 consultation with the Board of Accountancy, shall adopt rules
203 for the form and conduct of all financial audits performed by
204 independent certified public accountants pursuant to ss.
205 215.981, 218.39, 1001.453, 1002.381, 1002.394 ~~1002.395,~~ 1004.28,
206 and 1004.70. The rules for audits of local governmental
207 entities, charter schools, charter technical career centers, and
208 district school boards must include, but are not limited to,
209 requirements for the reporting of information necessary to carry
210 out the purposes of the Local Governmental Entity, Charter
211 School, Charter Technical Career Center, and District School
212 Board Financial Emergencies Act as stated in s. 218.501.

213 Section 2. Section 211.0251, Florida Statutes, is amended
214 to read:

215 211.0251 Credit for contributions to K-12 education funding
216 ~~eligible nonprofit scholarship-funding organizations~~.—There is
217 allowed a credit of 100 percent of an eligible contribution
218 directed made to K-12 education funding ~~an eligible nonprofit~~
219 ~~scholarship-funding organization~~ under s. 1002.395 for ~~against~~
220 any tax due under s. 211.02 or s. 211.025. ~~However, a credit~~
221 ~~allowed under this section may not exceed 50 percent of the tax~~
222 ~~due on the return the credit is taken~~. For purposes of the
223 distributions of tax revenue under s. 211.06, the department
224 shall disregard any tax credits allowed under this section to
225 ensure that any reduction in tax revenue received which is
226 attributable to the tax credits results only in a reduction in
227 distributions to the General Revenue Fund. The provisions of s.
228 1002.395 apply to the credit authorized by this section.

229 Section 3. Section 212.099, Florida Statutes, is amended to
230 read:



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231 212.099 Credit for contributions to K-12 education funding
232 ~~eligible nonprofit scholarship funding organizations.-~~

233 (1) As used in this section, the term:

234 (a) "Eligible business" means a tenant or person actually
235 occupying, using, or entitled to the use of any property from
236 which the rental or license fee is subject to taxation under s.
237 212.031.

238 (b) "Eligible contribution" or "contribution" means the
239 amount of tax, or portion thereof, paid by a monetary
240 contribution from an eligible business to a collecting dealer
241 and designated for K-12 education funding by the eligible
242 business an eligible nonprofit scholarship funding organization
243 to be used pursuant to s. 1002.395. The eligible business making
244 the contribution may not designate a specific student as the
245 beneficiary of the contribution.

246 (c) ~~"Eligible nonprofit scholarship funding organization"~~
247 ~~or "organization" has the same meaning as provided in s.~~
248 ~~1002.395(2)(f).~~

249 (2) An eligible business shall be granted a credit against
250 ~~the tax imposed under s. 212.031 and collected from the eligible~~
251 ~~business by a dealer. The credit shall be in an amount equal to~~
252 ~~100 percent of an eligible contribution made to an organization.~~

253 (3) A dealer shall take a credit ~~against the tax imposed~~
254 ~~under s. 212.031~~ in an amount equal to the credit taken by the
255 eligible business under subsection (2).

256 (4)~~(a)~~ An eligible business must apply to the department
257 for an allocation of tax credits under this section. The
258 eligible business must specify in the application the state
259 fiscal year during which the contribution will be made, ~~the~~



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260 ~~organization that will receive the contribution,~~ the planned
261 amount of the contribution, the address of the property from
262 which the rental or license fee is subject to taxation under s.
263 212.031, and the federal employer identification number of the
264 dealer who collects the tax imposed under s. 212.031 from the
265 eligible business ~~and who will reduce collection of taxes from~~
266 ~~the eligible business pursuant to this section.~~ The department
267 shall approve allocations of tax credits on a first-come, first-
268 served basis and shall provide to the eligible business a
269 separate approval or denial letter for each dealer for which the
270 eligible business applied for an allocation of tax credits.
271 ~~Within 10 days after approving or denying an application, the~~
272 ~~department shall provide a copy of its approval or denial letter~~
273 ~~to the organization specified by the eligible business in the~~
274 ~~application.~~ An approval letter must include the name and
275 federal employer identification number of the dealer from whom a
276 credit under this section can be taken and the amount of tax
277 credits approved for use with that dealer.

278 ~~(b) Upon receipt of an eligible contribution, the~~
279 ~~organization shall provide the eligible business that made the~~
280 ~~contribution with a separate certificate of contribution for~~
281 ~~each dealer from whom a credit can be taken as approved under~~
282 ~~paragraph (a). A certificate of contribution must include the~~
283 ~~contributor's name and, if available, federal employer~~
284 ~~identification number, the amount contributed, the date of~~
285 ~~contribution, the name of the organization, and the name and~~
286 ~~federal employer identification number of the dealer.~~

287 (5) Each dealer that receives from an eligible business a
288 copy of the department's approval letter ~~and a certificate of~~



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289 ~~contribution, both of which identify the dealer as the dealer~~
290 ~~who collects the tax imposed under s. 212.031 from the eligible~~
291 ~~business and who will reduce collection of taxes from the~~
292 ~~eligible business pursuant to this section, shall identify on~~
293 ~~the dealer's return the amount of the eligible contribution by~~
294 ~~reduce the tax collected from the eligible business, which~~
295 ~~amount under s. 212.031 by the total amount of contributions~~
296 ~~indicated in the certificate of contribution. The reduction may~~
297 not exceed the amount of credit allocation approved by the
298 department and may not exceed the amount of tax that would
299 otherwise be collected from the eligible business by a dealer
300 when a payment is made under the rental or license fee
301 arrangement. However, payments by an eligible business to a
302 dealer may not be reduced before October 1, 2019.

303 (a) If the total amount of credits an eligible business may
304 take cannot be fully used within any period that a payment is
305 due under the rental or license fee arrangement because of an
306 insufficient amount of tax that the dealer would collect from
307 the eligible business during that period, the unused amount may
308 be carried forward for a period not to exceed 10 years.

309 (b) A tax credit may not be claimed on an amended return or
310 through a refund.

311 (c) A dealer that claims a tax credit must file returns and
312 pay taxes by electronic means under s. 213.755.

313 (d) An eligible business may not convey, assign, or
314 transfer an approved tax credit or a carryforward tax credit to
315 another entity unless all of the assets of the eligible business
316 are conveyed, assigned, or transferred in the same transaction
317 and the successor business continues the same lease with the



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318 dealer.

319 (e) Within any state fiscal year, an eligible business may
320 rescind all or part of a tax credit approved under this section.
321 The amount rescinded shall become available for that state
322 fiscal year to another eligible business as approved by the
323 department if the business receives notice from the department
324 that the rescindment has been accepted by the department. Any
325 amount rescinded under this subsection shall become available to
326 an eligible business on a first-come, first-served basis based
327 on tax credit applications received after the date the
328 rescindment is accepted by the department.

329 ~~(f) Within 10 days after the rescindment of a tax credit~~
330 ~~under paragraph (e) is accepted by the department, the~~
331 ~~department shall notify the eligible nonprofit scholarship-~~
332 ~~funding organization specified by the eligible business. The~~
333 ~~department shall also include the eligible nonprofit~~
334 ~~scholarship-funding organization specified by the eligible~~
335 ~~business on all letters or correspondence of acknowledgment for~~
336 ~~tax credits under this section.~~

337 (6) ~~An organization shall report to the department, on or~~
338 ~~before the 20th day of each month, the total amount of~~
339 ~~contributions received pursuant to subsection (4) in the~~
340 ~~preceding calendar month on a form provided by the department.~~
341 ~~Such report shall include the amount of contributions received~~
342 ~~during that reporting period and the federal employer~~
343 ~~identification number of each dealer associated with the~~
344 ~~contribution.~~

345 ~~(7)(a) Eligible contributions may be used to fund the~~
346 ~~purposes program established under s. 1002.395.~~



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347 ~~(b) The organization shall separately account for each~~
348 ~~scholarship funded pursuant to this section.~~

349 ~~(c) The organization may, subject to the limitations of s.~~
350 ~~1002.395(6)(j)1., use eligible contributions received during the~~
351 ~~state fiscal year in which such contributions are collected for~~
352 ~~administrative expenses.~~

353 ~~(7)(8)~~ The sum of tax credits that may be approved by the
354 department in any state fiscal year is \$57.5 million.

355 ~~(8)(9)~~ The department shall ensure that receipts designated
356 by a remitting dealer as eligible contributions under this
357 section and eligible contributions transferred to the state by
358 an organization are deposited into a designated student fund.

359 For purposes of the distributions of tax revenue under s.
360 212.20, the department shall disregard any tax credits allowed
361 under this section to ensure that any reduction in tax revenue
362 received that is attributable to the tax credits results only in
363 a reduction in distributions to the General Revenue Fund.

364 ~~(9)(10)~~ The department may adopt rules to administer this
365 section.

366 Section 4. Section 212.1831, Florida Statutes, is amended
367 to read:

368 212.1831 Credit for contributions to K-12 education funding
369 ~~eligible nonprofit scholarship funding organizations.~~—There is
370 allowed a credit of 100 percent of an eligible contribution made
371 ~~to an eligible nonprofit scholarship funding organization~~ under
372 s. 1002.395 ~~against any tax imposed by the state and due under~~
373 ~~this chapter~~ from a direct pay permit holder as a result of the
374 direct pay permit held pursuant to s. 212.183. For purposes of
375 the dealer's credit granted for keeping prescribed records,



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376 filing timely tax returns, and properly accounting and remitting
377 taxes under s. 212.12, the amount of tax due used to calculate
378 the credit shall include any eligible contribution ~~made to an~~
379 ~~eligible nonprofit scholarship funding organization~~ from a
380 direct pay permit holder. For purposes of the distributions of
381 tax revenue under s. 212.20, the department shall disregard any
382 tax credits allowed under this section to ensure that any
383 reduction in tax revenue received that is attributable to the
384 tax credits results only in a reduction in distributions to the
385 General Revenue Fund. The provisions of s. 1002.395 apply to the
386 credit authorized by this section.

387 Section 5. Section 212.1832, Florida Statutes, is amended
388 to read:

389 212.1832 Credit for contributions to K-12 education funding
390 ~~eligible nonprofit scholarship funding organizations.~~—

391 (1) The purchaser of a motor vehicle shall be granted a
392 credit of 100 percent of an eligible contribution ~~made to an~~
393 ~~eligible nonprofit scholarship funding organization~~ under s.
394 1002.40 ~~against any tax imposed by the state under this chapter~~
395 ~~and collected from the purchaser by a dealer, designated agent,~~
396 ~~or private tag agent~~ as a result of the purchase or acquisition
397 of a motor vehicle, except that a credit may not exceed the tax
398 that would otherwise be collected from the purchaser by a
399 dealer, designated agent, or private tag agent. For purposes of
400 this subsection, the term "purchase" does not include the lease
401 or rental of a motor vehicle.

402 (2) A dealer shall take a credit against any tax imposed by
403 the state under this chapter on the purchase of a motor vehicle
404 in an amount equal to the credit granted to the purchaser under



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405 subsection (1). A dealer that claims a tax credit must file
406 returns and pay taxes by electronic means under s. 213.755.

407 (3) For purposes of the distributions of tax revenue under
408 s. 212.20, the department shall disregard any tax credits
409 allowed under this section to ensure that any reduction in tax
410 revenue received that is attributable to the tax credits results
411 only in a reduction in distributions to the General Revenue
412 Fund. The provisions of s. 1002.40 apply to the credit
413 authorized by this section.

414 Section 6. Paragraph (s) of subsection (8) and subsections
415 (21) and (22) of section 213.053, Florida Statutes, are amended
416 to read:

417 213.053 Confidentiality and information sharing.-

418 (8) Notwithstanding any other provision of this section,
419 the department may provide:

420 ~~(s) Information relative to ss. 211.0251, 212.1831,~~
421 ~~220.1875, 561.1211, 624.51055, and 1002.395 to the Department of~~
422 ~~Education and the Division of Alcoholic Beverages and Tobacco in~~
423 ~~the conduct of official business.~~

424
425 Disclosure of information under this subsection shall be
426 pursuant to a written agreement between the executive director
427 and the agency. Such agencies, governmental or nongovernmental,
428 shall be bound by the same requirements of confidentiality as
429 the Department of Revenue. Breach of confidentiality is a
430 misdemeanor of the first degree, punishable as provided by s.
431 775.082 or s. 775.083.

432 ~~(21) (a) For purposes of this subsection, the term:~~

433 ~~1. "Eligible nonprofit scholarship-funding organization"~~



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434 ~~means an eligible nonprofit scholarship-funding organization as~~
435 ~~defined in s. 1002.395(2) that meets the criteria in s.~~
436 ~~1002.395(6) to use up to 3 percent of eligible contributions for~~
437 ~~administrative expenses.~~

438 ~~2. "Taxpayer" has the same meaning as in s. 220.03, unless~~
439 ~~disclosure of the taxpayer's name and address would violate any~~
440 ~~term of an information-sharing agreement between the department~~
441 ~~and an agency of the Federal Government.~~

442 ~~(b) The department, upon request, shall provide to an~~
443 ~~eligible nonprofit scholarship-funding organization that~~
444 ~~provides scholarships under s. 1002.395 a list of the 200~~
445 ~~taxpayers with the greatest total corporate income or franchise~~
446 ~~tax due as reported on the taxpayer's return filed pursuant to~~
447 ~~s. 220.22 during the previous calendar year. The list must be in~~
448 ~~alphabetical order based on the taxpayer's name and shall~~
449 ~~contain the taxpayer's address. The list may not disclose the~~
450 ~~amount of tax owed by any taxpayer.~~

451 ~~(c) An eligible nonprofit scholarship-funding organization~~
452 ~~may request the list once each calendar year. The department~~
453 ~~shall provide the list within 45 days after the request is made.~~

454 ~~(d) Any taxpayer information contained in the list may be~~
455 ~~used by the eligible nonprofit scholarship-funding organization~~
456 ~~only to notify the taxpayer of the opportunity to make an~~
457 ~~eligible contribution to the Florida Tax Credit Scholarship~~
458 ~~Program under s. 1002.395. Any information furnished to an~~
459 ~~eligible nonprofit scholarship-funding organization under this~~
460 ~~subsection may not be further disclosed by the organization~~
461 ~~except as provided in this paragraph.~~

462 ~~(e) An eligible nonprofit scholarship-funding organization,~~



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463 ~~its officers, and employees are subject to the same requirements~~
464 ~~of confidentiality and the same penalties for violating~~
465 ~~confidentiality as the department and its employees. Breach of~~
466 ~~confidentiality is a misdemeanor of the first degree, punishable~~
467 ~~as provided by s. 775.082 or s. 775.083.~~

468 ~~(22)(a) The department may provide to an eligible nonprofit~~
469 ~~scholarship funding organization, as defined in s. 1002.40, a~~
470 ~~dealer's name, address, federal employer identification number,~~
471 ~~and information related to differences between credits taken by~~
472 ~~the dealer pursuant to s. 212.1832(2) and amounts remitted to~~
473 ~~the eligible nonprofit scholarship funding organization under s.~~
474 ~~1002.40(13)(b)3. The eligible nonprofit scholarship funding~~
475 ~~organization may use the information for purposes of recovering~~
476 ~~eligible contributions designated for that organization that~~
477 ~~were collected by the dealer but never remitted to the~~
478 ~~organization.~~

479 ~~(b) Nothing in this subsection authorizes the disclosure of~~
480 ~~information if such disclosure is prohibited by federal law. An~~
481 ~~eligible nonprofit scholarship funding organization is bound by~~
482 ~~the same requirements of confidentiality and the same penalties~~
483 ~~for a violation of the requirements as the department.~~

484 Section 7. Paragraph (a) of subsection (4) of section
485 220.1105, Florida Statutes, is amended to read:

486 220.1105 Tax imposed; automatic refunds and downward
487 adjustments to tax rates.—

488 (4) For fiscal years 2018-2019 through 2020-2021, any
489 amount by which net collections for a fiscal year exceed
490 adjusted forecasted collections for that fiscal year shall only
491 be used to provide refunds to corporate income tax payers as



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492 follows:

493 (a) For purposes of this subsection, the term:

494 1. "Eligible taxpayer" means:

495 a. For fiscal year 2018-2019, a taxpayer whose taxable year
496 begins between April 1, 2017, and March 31, 2018, and whose
497 final tax liability for such taxable year is greater than zero;

498 b. For fiscal year 2019-2020, a taxpayer whose taxable year
499 begins between April 1, 2018, and March 31, 2019, and whose
500 final tax liability for such taxable year is greater than zero;

501 or

502 c. For fiscal year 2020-2021, a taxpayer whose taxable year
503 begins between April 1, 2019, and March 31, 2020, and whose
504 final tax liability for such taxable year is greater than zero.

505 2. "Excess collections" for a fiscal year means the amount
506 by which net collections for a fiscal year exceeds adjusted
507 forecasted collections for that fiscal year.

508 3. "Final tax liability" means the taxpayer's amount of tax
509 due under this chapter for a taxable year, reported on a return
510 filed with the department, ~~plus the amount of any credit taken~~
511 ~~on such return under s. 220.1875.~~

512 4. "Total eligible tax liability" for a fiscal year means
513 the sum of final tax liabilities of all eligible taxpayers for a
514 fiscal year as such liabilities are shown on the latest return
515 filed with the department as of February 1 immediately following
516 that fiscal year.

517 5. "Taxpayer refund share" for a fiscal year means an
518 eligible taxpayer's final tax liability as a percentage of the
519 total eligible tax liability for that fiscal year.

520 6. "Taxpayer refund" for a fiscal year means the taxpayer



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521 refund share for a fiscal year multiplied by the excess
522 collections for a fiscal year.

523 Section 8. Paragraph (a) of subsection (1) of section
524 220.13, Florida Statutes, is amended to read:

525 220.13 "Adjusted federal income" defined.—

526 (1) The term "adjusted federal income" means an amount
527 equal to the taxpayer's taxable income as defined in subsection
528 (2), or such taxable income of more than one taxpayer as
529 provided in s. 220.131, for the taxable year, adjusted as
530 follows:

531 (a) *Additions.*—There shall be added to such taxable income:

532 1. ~~a.~~ The amount of any tax upon or measured by income,
533 excluding taxes based on gross receipts or revenues, paid or
534 accrued as a liability to the District of Columbia or any state
535 of the United States which is deductible from gross income in
536 the computation of taxable income for the taxable year.

537 ~~b. Notwithstanding sub-subparagraph a., if a credit taken~~
538 ~~under s. 220.1875 is added to taxable income in a previous~~
539 ~~taxable year under subparagraph 11. and is taken as a deduction~~
540 ~~for federal tax purposes in the current taxable year, the amount~~
541 ~~of the deduction allowed shall not be added to taxable income in~~
542 ~~the current year. The exception in this sub-subparagraph is~~
543 ~~intended to ensure that the credit under s. 220.1875 is added in~~
544 ~~the applicable taxable year and does not result in a duplicate~~
545 ~~addition in a subsequent year.~~

546 2. The amount of interest which is excluded from taxable
547 income under s. 103(a) of the Internal Revenue Code or any other
548 federal law, less the associated expenses disallowed in the
549 computation of taxable income under s. 265 of the Internal



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550 Revenue Code or any other law, excluding 60 percent of any
551 amounts included in alternative minimum taxable income, as
552 defined in s. 55(b)(2) of the Internal Revenue Code, if the
553 taxpayer pays tax under s. 220.11(3).

554 3. In the case of a regulated investment company or real
555 estate investment trust, an amount equal to the excess of the
556 net long-term capital gain for the taxable year over the amount
557 of the capital gain dividends attributable to the taxable year.

558 4. That portion of the wages or salaries paid or incurred
559 for the taxable year which is equal to the amount of the credit
560 allowable for the taxable year under s. 220.181. This
561 subparagraph shall expire on the date specified in s. 290.016
562 for the expiration of the Florida Enterprise Zone Act.

563 5. That portion of the ad valorem school taxes paid or
564 incurred for the taxable year which is equal to the amount of
565 the credit allowable for the taxable year under s. 220.182. This
566 subparagraph shall expire on the date specified in s. 290.016
567 for the expiration of the Florida Enterprise Zone Act.

568 6. The amount taken as a credit under s. 220.195 which is
569 deductible from gross income in the computation of taxable
570 income for the taxable year.

571 7. That portion of assessments to fund a guaranty
572 association incurred for the taxable year which is equal to the
573 amount of the credit allowable for the taxable year.

574 8. In the case of a nonprofit corporation which holds a
575 pari-mutuel permit and which is exempt from federal income tax
576 as a farmers' cooperative, an amount equal to the excess of the
577 gross income attributable to the pari-mutuel operations over the
578 attributable expenses for the taxable year.



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579 9. The amount taken as a credit for the taxable year under
580 s. 220.1895.

581 10. Up to nine percent of the eligible basis of any
582 designated project which is equal to the credit allowable for
583 the taxable year under s. 220.185.

584 ~~11. The amount taken as a credit for the taxable year under~~
585 ~~s. 220.1875. The addition in this subparagraph is intended to~~
586 ~~ensure that the same amount is not allowed for the tax purposes~~
587 ~~of this state as both a deduction from income and a credit~~
588 ~~against the tax. This addition is not intended to result in~~
589 ~~adding the same expense back to income more than once.~~

590 ~~12.~~ The amount taken as a credit for the taxable year under
591 s. 220.193.

592 ~~12.13.~~ Any portion of a qualified investment, as defined in
593 s. 288.9913, which is claimed as a deduction by the taxpayer and
594 taken as a credit against income tax pursuant to s. 288.9916.

595 ~~13.14.~~ The costs to acquire a tax credit pursuant to s.
596 288.1254(5) that are deducted from or otherwise reduce federal
597 taxable income for the taxable year.

598 ~~14.15.~~ The amount taken as a credit for the taxable year
599 pursuant to s. 220.194.

600 ~~15.16.~~ The amount taken as a credit for the taxable year
601 under s. 220.196. The addition in this subparagraph is intended
602 to ensure that the same amount is not allowed for the tax
603 purposes of this state as both a deduction from income and a
604 credit against the tax. The addition is not intended to result
605 in adding the same expense back to income more than once.

606 Section 9. Subsection (2) of section 220.186, Florida
607 Statutes, is amended to read:



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608 220.186 Credit for Florida alternative minimum tax.—

609 (2) The credit pursuant to this section shall be the amount
610 of the excess, if any, of the tax paid based upon taxable income
611 determined pursuant to s. 220.13(2)(k) over the amount of tax
612 which would have been due based upon taxable income without
613 application of s. 220.13(2)(k), before application of this
614 credit without application of any credit under s. 220.1875.

615 Section 10. Section 220.1875, Florida Statutes, is amended
616 to read:

617 220.1875 Credit for contributions to K-12 education funding
618 eligible nonprofit scholarship funding organizations.—

619 (1) There is allowed a credit of 100 percent of an eligible
620 contribution made to an eligible nonprofit scholarship funding
621 organization under s. 1002.395 against any tax due for a taxable
622 year under this chapter after the application of any other
623 allowable credits by the taxpayer. An eligible contribution must
624 be made when the taxpayer makes an estimated payment to an
625 eligible nonprofit scholarship funding organization on or before
626 the date the taxpayer is required to file a return pursuant to
627 s. 220.222. The credit granted by this section shall be reduced
628 by the difference between the amount of federal corporate income
629 tax taking into account the credit granted by this section and
630 the amount of federal corporate income tax without application
631 of the credit granted by this section.

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



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637 (3) The provisions of s. 1002.395 apply to the credit
638 authorized by this section.

639 ~~(4) If a taxpayer applies and is approved for a credit~~
640 ~~under s. 1002.395 after timely requesting an extension to file~~
641 ~~under s. 220.222(2).~~

642 ~~(a) The credit does not reduce the amount of tax due for~~
643 ~~purposes of the department's determination as to whether the~~
644 ~~taxpayer was in compliance with the requirement to pay tentative~~
645 ~~taxes under ss. 220.222 and 220.32.~~

646 ~~(b) The taxpayer's noncompliance with the requirement to~~
647 ~~pay tentative taxes shall result in the revocation and~~
648 ~~rescindment of any such credit.~~

649 ~~(c) The taxpayer shall be assessed for any taxes,~~
650 ~~penalties, or interest due from the taxpayer's noncompliance~~
651 ~~with the requirement to pay tentative taxes.~~

652 Section 11. Section 561.1211, Florida Statutes, is amended
653 to read:

654 561.1211 Credit for contributions to K-12 education funding
655 ~~eligible nonprofit scholarship funding organizations.~~—There is
656 allowed a credit of 100 percent of an eligible contribution made
657 ~~to an eligible nonprofit scholarship funding organization~~ under
658 s. 1002.395 against any tax due under s. 563.05, s. 564.06, or
659 s. 565.12, except excise taxes imposed on wine produced by
660 manufacturers in this state from products grown in this state.
661 ~~However, a credit allowed under this section may not exceed 90~~
662 ~~percent of the tax due on the return the credit is taken. For~~
663 purposes of the distributions of tax revenue under ss. 561.121
664 and 564.06(10), the division shall disregard any tax credits
665 allowed under this section to ensure that any reduction in tax



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666 revenue received that is attributable to the tax credits results
667 only in a reduction in distributions to the General Revenue
668 Fund. The provisions of s. 1002.395 apply to the credit
669 authorized by this section.

670 Section 12. Section 624.51055, Florida Statutes, is amended
671 to read:

672 624.51055 Credit for contributions to K-12 education
673 funding eligible nonprofit scholarship funding organizations.—

674 (1) There is allowed a credit of 100 percent of an eligible
675 contribution made to an eligible nonprofit scholarship funding
676 organization under s. 1002.395 ~~against any tax due for a taxable~~
677 ~~year under s. 624.509(1) after deducting from such tax~~
678 ~~deductions for assessments made pursuant to s. 440.51; credits~~
679 ~~for taxes paid under ss. 175.101 and 185.08; credits for income~~
680 ~~taxes paid under chapter 220; and the credit allowed under s.~~
681 ~~624.509(5), as such credit is limited by s. 624.509(6). An~~
682 ~~eligible contribution must be made to an eligible nonprofit~~
683 ~~scholarship funding organization on or before the date the~~
684 ~~taxpayer is required to file a return pursuant to ss. 624.509~~
685 ~~and 624.5092. An insurer claiming a credit against premium tax~~
686 liability under this section shall not be required to pay any
687 additional retaliatory tax levied pursuant to s. 624.5091 as a
688 result of claiming such credit. Section 624.5091 does not limit
689 such credit in any manner.

690 (2) The provisions of s. 1002.395 apply to the credit
691 authorized by this section.

692 Section 13. Paragraph (a) of subsection (6) of section
693 1002.20, Florida Statutes, is amended to read:

694 1002.20 K-12 student and parent rights.—Parents of public



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695 school students must receive accurate and timely information
696 regarding their child's academic progress and must be informed
697 of ways they can help their child to succeed in school. K-12
698 students and their parents are afforded numerous statutory
699 rights including, but not limited to, the following:

700 (6) EDUCATIONAL CHOICE.—

701 (a) *Public educational school choices.*—Parents of public
702 school students may seek any public educational school choice
703 options that are applicable and available to students throughout
704 the state. These options may include controlled open enrollment,
705 single-gender programs, lab schools, virtual instruction
706 programs, charter schools, charter technical career centers,
707 magnet schools, alternative schools, special programs, auditory-
708 oral education programs, advanced placement, dual enrollment,
709 International Baccalaureate, International General Certificate
710 of Secondary Education (pre-AICE), CAPE digital tools, CAPE
711 industry certifications, collegiate high school programs,
712 Advanced International Certificate of Education, early
713 admissions, credit by examination or demonstration of
714 competency, the New World School of the Arts, the Florida School
715 for the Deaf and the Blind, and the Florida Virtual School.
716 These options may also include the public educational choice
717 options of the Opportunity Scholarship Program and the Family
718 Empowerment Scholarship McKay Scholarships for Students with
719 Disabilities Program.

720 Section 14. Subsection (2) of section 1002.23, Florida
721 Statutes, is amended to read:

722 1002.23 Family and School Partnership for Student
723 Achievement Act.—



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724 (2) To facilitate meaningful parent and family involvement,
725 the Department of Education shall develop guidelines for a
726 parent guide to successful student achievement which describes
727 what parents need to know about their child's educational
728 progress and how they can help their child to succeed in school.
729 The guidelines shall include, but need not be limited to:

730 (a) Parental information regarding:

- 731 1. Requirements for their child to be promoted to the next
732 grade, as provided for in s. 1008.25;
- 733 2. Progress of their child toward achieving state and
734 district expectations for academic proficiency;
- 735 3. Assessment results, including report cards and progress
736 reports;
- 737 4. Qualifications of their child's teachers; and
- 738 5. School entry requirements, including required
739 immunizations and the recommended immunization schedule;

740 (b) Services available for parents and their children, such
741 as family literacy services; mentoring, tutorial, and other
742 academic reinforcement programs; college planning, academic
743 advisement, and student counseling services; and after-school
744 programs;

745 (c) Opportunities for parental participation, such as
746 parenting classes, adult education, school advisory councils,
747 and school volunteer programs;

748 (d) Opportunities for parents to learn about rigorous
749 academic programs that may be available for their child, such as
750 honors programs, dual enrollment, advanced placement,
751 International Baccalaureate, International General Certificate
752 of Secondary Education (pre-AICE), Advanced International



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753 Certificate of Education, Florida Virtual ~~High~~ School courses,
754 and accelerated access to postsecondary education;

755 (e) Educational choices, as provided for in s. 1002.20(6),
756 ~~and Florida tax credit scholarships, as provided for in s.~~
757 ~~1002.395;~~

758 (f) Classroom and test accommodations available for
759 students with disabilities;

760 (g) School board rules, policies, and procedures for
761 student promotion and retention, academic standards, student
762 assessment, courses of study, instructional materials, and
763 contact information for school and district offices; and

764 (h) Resources for information on student health and other
765 available resources for parents.

766 Section 15. Paragraph (c) of subsection (2) of section
767 1002.31, Florida Statutes, is amended to read:

768 1002.31 Controlled open enrollment; Public school parental
769 choice.—

770 (2)

771 (c) Each district school board must provide preferential
772 treatment in its controlled open enrollment process to all of
773 the following:

774 1. Dependent children of active duty military personnel
775 whose move resulted from military orders.

776 2. Children who have been relocated due to a foster care
777 placement in a different school zone.

778 3. Children who move due to a court-ordered change in
779 custody due to separation or divorce, or the serious illness or
780 death of a custodial parent.

781 4. Students with an individual education plan or a 504



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782 accommodation plan under s. 504 of the Rehabilitation Act of
783 1973 who are eligible for a McKay-Gardiner Scholarship pursuant
784 to s. 1002.381.

785 5. Students residing in the school district.

786 Section 16. Section 1002.381, Florida Statutes, is created
787 to read:

788 1002.381 The McKay-Gardiner Scholarship Program.—

789 (1) ESTABLISHMENT OF PROGRAM.—Beginning with the 2021-2022
790 school year, the McKay-Gardiner Scholarship Program is
791 established to provide the option for a parent to better meet
792 the individual educational needs of his or her eligible child.
793 All written explanatory materials, including state websites,
794 scholarship organization materials, letters to parents,
795 scholarship agreements, and any other written information
796 describing the program to the public, must refer to a
797 scholarship granted under this program as a “McKay-Gardiner
798 Scholarship.”

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

800 (a) “Approved provider” means a provider approved by the
801 Agency for Persons with Disabilities, a health care practitioner
802 as defined in s. 456.001(4), or a provider approved by the
803 department pursuant to s. 1002.66.

804 (b) “Curriculum” has the same meaning as provided in s.
805 1002.394(2)(b).

806 (c) “Department” means the Department of Education.

807 (d) “Disability” means:

808 1. For a 3-year-old or 4-year-old child or for a student in
809 kindergarten through grade 12, that the child has been diagnosed
810 with any of the following: autism spectrum disorder; cerebral



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811 palsy; Down syndrome; an intellectual disability; Phelan-
812 McDermid syndrome; Prader-Willi syndrome; spina bifida; being a
813 high-risk child, as defined in s. 393.063(23)(a); muscular
814 dystrophy; Williams syndrome; rare diseases which affect patient
815 populations of fewer than 200,000 individuals in the United
816 States, as defined by the National Organization for Rare
817 Disorders; anaphylaxis; deaf; visually impaired; traumatic
818 brain-injured; hospital or homebound; or dual sensory impaired,
819 as defined by rules of the State Board of Education and
820 evidenced by reports from local school districts. As used in
821 this subparagraph, the term "hospital or homebound" includes a
822 student who has a medically diagnosed physical or psychiatric
823 condition or illness, as defined by state board rule, and who is
824 confined to the home or hospital for more than 6 months.

825 2. For a student in kindergarten through grade 12, that the
826 child has been diagnosed with any of the following: a speech
827 impairment; a language impairment; a hearing impairment; an
828 orthopedic impairment; an emotional or behavioral disability; a
829 specific learning disability, including, but not limited to,
830 dyslexia, dyscalculia, or developmental aphasia; or a
831 developmental delay.

832 (e) "Eligible nonprofit scholarship-funding organization"
833 or "organization" means a state university; or an independent
834 college or university that is eligible to participate in the
835 William L. Boyd, IV, Effective Access to Student Education Grant
836 Program located and chartered in this state which is not for
837 profit and is accredited by the Commission on Colleges of the
838 Southern Association of Colleges and Schools; or is a charitable
839 organization that:



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840 1. Is exempt from federal income tax pursuant to s.
841 501(c)(3) of the Internal Revenue Code;
842 2. Is a Florida entity formed under chapter 605, chapter
843 607, or chapter 617 and whose principal office is located in
844 this state; and
845 3. Complies with subsections (12) and (13).
846 (f) "Eligible postsecondary educational institution" has
847 the same meaning as s. 1002.394(2)(f).
848 (g) "Eligible private school" has the same meaning as s.
849 1002.394(2)(g).
850 (h) "IEP" means an individual education plan, regardless of
851 whether the plan has been reviewed or revised within the last 12
852 months.
853 (i) "Inactive" means that no eligible expenditures have
854 been made from a student scholarship account funded pursuant to
855 this section.
856 (j) "Job coach" means an individual employed to help people
857 with disabilities learn, accommodate, and perform their work
858 duties.
859 (k) "Parent" means a resident of this state who is a
860 parent, as defined in s. 1000.21(5).
861 (l) "Program" means the McKay-Gardiner Scholarship Program
862 established in this section.
863 (3) PROGRAM ELIGIBILITY.-A parent of a student with a
864 disability may request and receive from the state a McKay-
865 Gardiner Scholarship for the purposes specified in subsection
866 (5) if:
867 (a) The student:
868 1. Is a resident of this state;



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869 2. Is 3 or 4 years of age on or before September 1 of the
870 year in which the student applies for program participation, or
871 is eligible to enroll in kindergarten through grade 12 in a
872 public school in this state; and
873 3. Meets at least one of the following criteria:
874 a. Has a diagnosis of a disability from a physician who is
875 licensed under chapter 458 or chapter 459, a psychologist who is
876 licensed under chapter 490, or a physician who holds an active
877 license issued by another state or territory of the United
878 States, the District of Columbia, or the Commonwealth of Puerto
879 Rico;
880 b. Has an individual education plan that has been written
881 in accordance with the rules of the State Board of Education; or
882 c. Has a 504 accommodation plan issued under s. 504 of the
883 Rehabilitation Act of 1973.
884
885 A student with a disability who meets the requirements of
886 subparagraph 1. and sub-subparagraph 3.a., but who turns 3 years
887 of age after September 1, may be determined to be eligible on or
888 after his or her third birthday and may be awarded a scholarship
889 if program funds are available.
890 (b) The parent has applied to an eligible nonprofit
891 scholarship-funding organization to participate in the program
892 by a date as set by the organization for any vacant slots. The
893 request must be communicated directly to the organization in a
894 manner that creates a written or electronic record of the
895 request and the date of receipt of the request.
896 (4) PROGRAM PROHIBITIONS.—A student is not eligible for the
897 program if he or she is:



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898 (a) Enrolled in a public school, including, but not limited
899 to, the Florida School for the Deaf and the Blind, the College-
900 Preparatory Boarding Academy, a developmental research school
901 authorized under s. 1002.32, or a charter school authorized
902 under this chapter. For purposes of this paragraph, a 3- or 4-
903 year-old child who receives services funded through the Florida
904 Education Finance Program is considered to be a student enrolled
905 in a public school.
906 (b) Enrolled in a school operating for the purpose of
907 providing educational services to youth in Department of
908 Juvenile Justice commitment programs.
909 (c) Issued a temporary 504 accommodation plan under s. 504
910 of the Rehabilitation Act of 1973 which is valid for 6 months or
911 less.
912 (d) Receiving any other educational scholarship pursuant to
913 this chapter.
914 (e) Not having regular and direct contact with his or her
915 private school teachers pursuant to s. 1002.421(1)(i), unless he
916 or she is enrolled in the private school's transition-to-work
917 program pursuant to subsection (14) or a home education program
918 pursuant to s. 1002.41.
919 (f) Participating in a virtual school, correspondence
920 school, or distance learning program that receives state funding
921 pursuant to the student's participation.
922 (5) AUTHORIZED USES OF PROGRAM FUNDS.—Program funds must be
923 used to meet the individual educational needs of an eligible
924 student and may be spent only for the following purposes:
925 (a) Instructional materials, including school equipment and
926 supplies, and digital devices, digital periphery devices, and



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927 assistive technology devices that allow a student to access
928 instruction or instructional content; training on the use of
929 these devices and related maintenance agreements; and Internet
930 access to digital instructional materials.

931 (b) Curriculum.

932 (c) Specialized services by approved providers or by a
933 hospital in this state which are selected by the parent. These
934 specialized services may include, but are not limited to:

935 1. Applied behavior analysis services as provided in ss.
936 627.6686 and 641.31098.

937 2. Services provided by a speech-language pathologist as
938 defined in s. 468.1125(8).

939 3. Occupational therapy services as specified in s.
940 468.203.

941 4. Services provided by a physical therapist as defined in
942 s. 486.021(5).

943 5. Services provided by listening and spoken language
944 specialists and an appropriate acoustical environment for a
945 child who is deaf or hard of hearing and who has received an
946 implant or assistive hearing device.

947 (d) Tuition or fees associated with full-time or part-time
948 enrollment in any of the following:

949 1. A home education program, an eligible private school, an
950 eligible postsecondary educational institution, or a program
951 offered by the postsecondary institution;

952 2. A private tutoring program authorized under s. 1002.43,
953 a virtual program offered by a department-approved private
954 online provider that meets the provider qualifications specified
955 in s. 1002.45(2)(a), or a program offered by the Florida Virtual



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956 School to a private paying student; or

957 3. An approved online course offered pursuant to s.
958 1003.499 or s. 1004.0961 or a private virtual school that meets
959 the requirements of s. 1002.421.

960 (e) Fees for nationally standardized, norm-referenced
961 achievement tests, Advanced Placement examinations, industry
962 certification examinations, assessments related to postsecondary
963 education, or other such assessments.

964 (f) Contributions to the Stanley G. Tate Florida Prepaid
965 College Program pursuant to s. 1009.98 or the Florida College
966 Savings Program pursuant to s. 1009.981, for the benefit of the
967 eligible student.

968 (g) Contracted services provided by a public school or a
969 school district, including classes. A student who receives
970 services under this paragraph is not considered enrolled in a
971 public school for the purpose of eligibility as provided in
972 subsection (4).

973 (h) Tuition and fees for part-time tutoring services
974 provided by a person who holds a valid Florida educator's
975 certificate issued pursuant to s. 1012.56; a person who holds an
976 adjunct teaching certificate issued pursuant to s. 1012.57; a
977 person who has a bachelor's degree or a graduate degree in the
978 subject area in which instruction is given; or a person who has
979 demonstrated a mastery of subject area knowledge as provided in
980 s. 1012.56(5) or approved by the department. Any part-time
981 tutoring undertaken pursuant to this paragraph does not qualify
982 as regular school attendance as defined in s. 1003.01(13)(e).

983 (i) Fees for summer education programs.

984 (j) Fees for after-school education programs.



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985 (k) Transition services, including a coordinated set of
986 activities focused on improving the academic and functional
987 achievement of the student to facilitate his or her movement
988 from school to post-school activities and based on the
989 individual student's needs. Transition services may be provided
990 by job coaches or pursuant to subsection (14).

991 (l) Fees for an annual evaluation of educational progress
992 by a state-certified teacher under s. 1002.41(1)(f), if this
993 option is chosen for a home education student.

994 (m) Tuition and fees associated with programs offered by
995 Voluntary Prekindergarten Education Program providers approved
996 pursuant to s. 1002.55 and school readiness providers approved
997 pursuant to s. 1002.88.

998 (n) Fees for services provided at a center that is a member
999 of the Professional Association of Therapeutic Horsemanship
1000 International.

1001 (o) Fees for services provided by a therapist who is
1002 certified by the Certification Board for Music Therapists or
1003 credentialed by the Art Therapy Credentials Board, Inc.

1004 (p) Tuition and fees associated with enrollment in a
1005 nationally or internationally recognized research-based training
1006 program, for a child with a neurological disorder or brain
1007 damage.

1008 (q) Tuition and fees associated with a student's
1009 participation in classes or lessons relating to art, music, or
1010 theater. The instructor of the classes or lessons must:

1011 1. Hold a valid or expired Florida educator's certificate
1012 issued under s. 1012.56 in art, music, or drama;

1013 2. Have 3 years of employment experience in art, music, or



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1014 theater, as demonstrated by employment records;

1015 3. Hold a baccalaureate degree or higher from a
1016 postsecondary educational institution with a major in music,
1017 art, theater, or drama or related field; or

1018 4. Hold a certification or national accreditation in music,
1019 art, theater, or drama.

1020 (r) Transportation expenses that may not exceed \$750
1021 annually necessary to meet the student's educational needs under
1022 this section.

1023
1024 A service provider who receives payments pursuant to this
1025 subsection may not share or refund any moneys from the McKay-
1026 Gardiner Scholarship with the parent or participating student
1027 and may not issue rebates to such persons. A parent, student, or
1028 service provider may not bill an insurance company, Medicaid, or
1029 any other agency for the same services that are paid for with
1030 McKay-Gardiner Scholarship funds. Funding provided pursuant to
1031 this subsection for a child eligible for enrollment in the
1032 Voluntary Prekindergarten Education Program constitutes funding
1033 for the child under part V of this chapter, and no additional
1034 funding may be provided for the child under part V.

1035 (6) TERMS OF THE PROGRAM.—For purposes of continuity of
1036 educational choice and program integrity:

1037 (a)1. Program payments made by the state to an organization
1038 for a McKay-Gardiner Scholarship under this section must
1039 continue until:

1040 a. A student's parent does not renew program eligibility;

1041 b. The organization determines that a student is not
1042 eligible for program renewal;



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1043 c. The Commissioner of Education suspends or revokes
1044 program participation or use of funds pursuant to subparagraph
1045 (b) (1);

1046 d. A student's parent has forfeited participation in the
1047 program for failure to comply with subsection (11);

1048 e. A student enrolls in a public school; or

1049 f. A student graduates from high school or attains 22 years
1050 of age, whichever occurs first.

1051 2. Reimbursements for program expenditures may continue
1052 until the account balance is expended or the account is closed
1053 pursuant to paragraph (b).

1054 (b)1. The commissioner must close a student's scholarship
1055 account, and any remaining funds, including, but not limited to,
1056 contributions made to the Stanley G. Tate Florida Prepaid
1057 College Program or earnings from or contributions made to the
1058 Florida College Savings Program using program funds pursuant to
1059 paragraph (5) (f), revert to the state after:

1060 a. Denial or revocation of program eligibility by the
1061 commissioner for fraud or abuse, including, but not limited to,
1062 the student or student's parent accepting any payment, refund,
1063 or rebate from a provider of services received pursuant to
1064 subsection (5); however, a private school may discount tuition
1065 if the private school deems it necessary;

1066 b. Any period of 3 consecutive years after high school
1067 completion or graduation during which the student has not been
1068 enrolled in an eligible postsecondary educational institution or
1069 a program offered by such an institution; or

1070 c. Two consecutive fiscal years in which an account has
1071 been inactive.



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1072 2. The commissioner must notify the parent and the
1073 organization when a McKay-Gardiner Scholarship account is closed
1074 and program funds revert to the state.

1075 (7) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.-

1076 (a) By each April 1 and within 10 days after an individual
1077 education plan meeting or a 504 accommodation plan is issued
1078 under s. 504 of the Rehabilitation Act of 1973, a school
1079 district shall notify the parent of the student of all options
1080 available pursuant to this section, and shall inform the parent
1081 of the availability of the department's website for additional
1082 information on McKay-Gardiner Scholarships.

1083 (b)1. The parent of a student with a disability who does
1084 not have an IEP or who seeks a reevaluation of an existing IEP
1085 may request an IEP meeting and evaluation from the school
1086 district in order to obtain or revise a matrix of services. The
1087 district must accept the diagnosis, and consider the service
1088 plan of the licensed professional providing the diagnosis
1089 pursuant to sub-subparagraph (3) (a)3.a., during the development
1090 of the IEP or provide in writing reasons for any changes or
1091 disagreement with the licensed professional's diagnosis and
1092 service plan. The school district shall notify a parent who has
1093 made a request for an IEP that the district is required to
1094 complete the IEP and matrix of services within 30 days after
1095 receiving notice of the parent's request. The school district
1096 shall conduct a meeting and develop an IEP and matrix of
1097 services within 30 days after receipt of the parent's request in
1098 accordance with State Board of Education rule.

1099 2.a. The school district must provide the student's parent
1100 and the department with the student's matrix level within 10



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1101 calendar days after its completion.

1102 b. A school district may change a matrix of services only
1103 if the change is a result of an IEP reevaluation or to correct a
1104 technical, typographical, or calculation error.

1105 (c) For each student participating in the program who
1106 chooses to participate in statewide, standardized assessments
1107 under s. 1008.22 or the Florida Alternate Assessment, the school
1108 district in which the student resides must notify the student
1109 and his or her parent about the locations and times of all
1110 statewide, standardized assessments.

1111 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—An eligible
1112 private school may be sectarian or nonsectarian and shall:

1113 (a) Comply with all requirements for private schools
1114 participating in state school choice scholarship programs
1115 pursuant to s. 1002.421.

1116 (b)1. Annually administer or make provision for students
1117 participating in the program in grades 3 through 10 to take one
1118 of the nationally norm-referenced tests identified by the
1119 Department of Education or the statewide assessments
1120 administered pursuant to s. 1008.22. This subparagraph does not
1121 apply to students with disabilities for whom standardized
1122 testing is not appropriate. A participating private school shall
1123 report a student's scores to the parent.

1124 2. Administer the statewide assessments pursuant to s.
1125 1008.22 if a private school chooses to offer the statewide
1126 assessments. A participating private school may choose to offer
1127 and administer the statewide assessments to all students who
1128 attend the private school in grades 3 through 10 and must submit
1129 a request in writing to the Department of Education by March 1



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1130 of each year in order to administer the statewide assessments in
1131 the subsequent school year.

1132
1133 If a private school fails to meet the requirements of this
1134 subsection or s. 1002.421, the commissioner may determine that
1135 the private school is ineligible to participate in the
1136 scholarship program.

1137 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The department
1138 shall:

1139 (a) Comply with s. 1002.394(8)(a)-(g).

1140 (b) Maintain on its website a list of approved providers as
1141 required by s. 1002.66, eligible postsecondary educational
1142 institutions, eligible private schools, and eligible
1143 organizations and may identify or provide links to lists of
1144 other approved providers.

1145 (c) Require each organization to verify eligible
1146 expenditures before the distribution of funds for any
1147 expenditures made pursuant to paragraphs (5)(a) and (b). Review
1148 of expenditures made for services specified in paragraphs
1149 (5)(c)-(r) may be completed after the purchase is made.

1150 (d) Investigate any written complaint of a violation of
1151 this section by a parent, a student, a private school, a public
1152 school, a school district, an organization, a provider, or
1153 another appropriate party in accordance with the process
1154 established under s. 1002.421.

1155 (e) Require quarterly reports by an organization, which
1156 must include, at a minimum, the number of students participating
1157 in the program; the demographics of program participants; the
1158 disability category of program participants; the matrix level of



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1159 services, if known; the program award amount per student; the
1160 total expenditures for the purposes specified in subsection (5);
1161 the types of providers of services to students; and any other
1162 information deemed necessary by the department.

1163 (f) Compare the list of students participating in the
1164 program with the public school student enrollment lists,
1165 Voluntary Prekindergarten Education Program enrollment lists,
1166 and the list of students participating in school choice
1167 scholarship programs established pursuant to this chapter before
1168 each scholarship award is provided to the organization, and
1169 subsequently throughout the school year, to avoid duplicate
1170 payments and confirm program eligibility.

1171 (g) Distribute each student's scholarship funds on a
1172 quarterly basis to the eligible nonprofit scholarship-funding
1173 organization, to be deposited into the student's account.

1174 (10) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.-

1175 (a) The Commissioner of Education:

1176 1. May suspend or revoke program participation or use of
1177 program funds by the student or participation or eligibility of
1178 an organization, eligible postsecondary educational institution,
1179 approved provider, or other party for a violation of this
1180 section.

1181 2. May determine the length of, and conditions for lifting,
1182 a suspension or revocation specified in this subsection.

1183 3. May recover unexpended program funds or withhold payment
1184 of an equal amount of program funds to recover program funds
1185 that were not authorized for use.

1186 4. Shall deny or terminate program participation upon a
1187 parent's forfeiture of a McKay-Gardiner Scholarship pursuant to



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1188 subsection (11).

1189 (b) In determining whether to suspend or revoke
1190 participation or lift a suspension or revocation in accordance
1191 with this subsection, the commissioner may consider factors that
1192 include, but are not limited to, acts or omissions that led to a
1193 previous suspension or revocation of participation in a state or
1194 federal program or an education scholarship program; failure to
1195 reimburse the organization for funds improperly received or
1196 retained; failure to reimburse government funds improperly
1197 received or retained; imposition of a prior criminal sanction
1198 related to the person or entity or its officers or employees;
1199 imposition of a civil fine or administrative fine, license
1200 revocation or suspension, or program eligibility suspension,
1201 termination, or revocation related to a person's or entity's
1202 management or operation; or other types of criminal proceedings
1203 in which the person or entity or its officers or employees were
1204 found guilty of, regardless of adjudication, or entered a plea
1205 of nolo contendere or guilty to, any offense involving fraud,
1206 deceit, dishonesty, or moral turpitude.

1207 (11) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
1208 PARTICIPATION.-A parent who applies for program participation
1209 under this section is exercising his or her parental option to
1210 determine the appropriate placement or services that best meet
1211 the needs of his or her child.

1212 (a) To satisfy or maintain program eligibility, including
1213 eligibility to receive and spend program payments, the parent
1214 must sign an agreement with the organization and annually submit
1215 a sworn compliance statement to the organization to:

1216 1. Affirm that the student is enrolled in a program that



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1217 meets regular school attendance requirements as provided in s.
1218 1003.01(13)(b), (c), or (d).

1219 2. Affirm that the program funds are used only for
1220 authorized purposes serving the student's educational needs, as
1221 described in subsection (5).

1222 3. Affirm that the parent is responsible for the education
1223 of his or her student by, as applicable:

1224 a. Requiring the student to take an assessment in
1225 accordance with paragraph (8)(b);

1226 b. Providing an annual evaluation in accordance with s.
1227 1002.41(1)(f); or

1228 c. Requiring the child to take any preassessments and
1229 postassessments selected by the provider if the child is 4 years
1230 of age and is enrolled in a program provided by an eligible
1231 Voluntary Prekindergarten Education Program provider. This sub-
1232 paragraph does not apply to a student with disabilities for
1233 whom a preassessment and postassessment are not appropriate. A
1234 participating provider shall report a student's scores to the
1235 parent.

1236 4. Affirm that the student remains in good standing with
1237 the provider or school if one of those options is selected by
1238 the parent.

1239 (b) The parent must file an application for initial program
1240 participation with an organization by a date established by the
1241 organization.

1242 (c) The parent must enroll his or her child in a program
1243 from a Voluntary Prekindergarten Education Program provider
1244 authorized under s. 1002.55, a school readiness provider
1245 authorized under s. 1002.88, or an eligible private school if



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1246 either option is selected by the parent.

1247 (d) The parent must annually renew participation in the
1248 program by a date set and format determined by the nonprofit
1249 scholarship-funding organization in order for a student to be
1250 eligible to receive funding. A student whose participation in
1251 the program is not renewed may continue to spend scholarship
1252 funds that are in his or her account from prior years unless the
1253 account is closed pursuant to paragraph (6)(b). Notwithstanding
1254 any changes to the student's IEP, a student who was previously
1255 eligible for participation in the program remains eligible to
1256 apply for renewal. However, for a high-risk child to continue to
1257 participate in the program in the school year after he or she
1258 reaches 6 years of age, the child's application for renewal of
1259 program participation must contain documentation that the child
1260 has a disability, other than high-risk status.

1261 (e) The parent is responsible for procuring the services
1262 necessary to educate the student. If a parent does not procure
1263 the necessary educational services for the student and the
1264 student's account has been inactive for 2 consecutive fiscal
1265 years, the student's account must be closed pursuant to
1266 paragraph (6)(b). When the student receives a McKay-Gardiner
1267 Scholarship, the district school board is not obligated to
1268 provide the student with a free, appropriate public education.
1269 For purposes of s. 1003.57 and the Individuals with Disabilities
1270 in Education Act, a participating student has only those rights
1271 that apply to all other unilaterally, parentally placed
1272 students, except that, when requested by the parent, school
1273 district personnel must develop an individual education plan or
1274 matrix level of services.



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1275 (f) The parent is responsible for all eligible expenses in
1276 excess of the amount of the McKay-Gardiner Scholarship.

1277 (g) The parent may not transfer any prepaid college plan or
1278 college savings plan funds contributed pursuant to paragraph
1279 (5) (f) to another beneficiary while the plan contains funds
1280 contributed pursuant to this section.

1281 (h) The parent may not receive a payment, refund, or rebate
1282 from an approved provider of any services under this program.

1283
1284 A participant who fails to comply with this subsection forfeits
1285 the McKay-Gardiner Scholarship.

1286 (12) NONPROFIT SCHOLARSHIP-FUNDING ORGANIZATIONS;
1287 APPLICATION.—In order to participate in the scholarship program
1288 created under this section, a charitable organization that seeks
1289 to be a nonprofit scholarship-funding organization must submit
1290 an application for initial approval or renewal to the Office of
1291 Independent Education and Parental Choice no later than
1292 September 1 of each year before the school year for which the
1293 organization intends to offer scholarships.

1294 (a) An application for initial approval must include:
1295 1. A copy of the organization's incorporation documents and
1296 registration with the Division of Corporations of the Department
1297 of State.

1298 2. A copy of the organization's Internal Revenue Service
1299 determination letter as a s. 501(c) (3) not-for-profit
1300 organization.

1301 3. A description of the organization's financial plan which
1302 demonstrates sufficient funds to operate throughout the school
1303 year.



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1304 4. A description of the geographic region that the
1305 organization intends to serve and an analysis of the demand and
1306 unmet need for eligible students in that area.

1307 5. The organization's organizational chart.

1308 6. A description of the criteria and methodology that the
1309 organization will use to evaluate scholarship eligibility.

1310 7. A description of the application process, including
1311 deadlines and any associated fees.

1312 8. A description of the deadlines for attendance
1313 verification and scholarship payments.

1314 9. A copy of the organization's policies on conflict of
1315 interest and whistleblowers.

1316 10. A copy of a surety bond or letter of credit to secure
1317 the faithful performance of the obligations of the eligible
1318 nonprofit scholarship-funding organization in accordance with
1319 this section in an amount equal to 25 percent of the scholarship
1320 funds anticipated for each school year or \$100,000, whichever is
1321 greater. The surety bond or letter of credit must specify that
1322 any claim against the bond or letter of credit may be made only
1323 by an eligible nonprofit scholarship-funding organization to
1324 provide scholarships to and on behalf of students who would have
1325 had scholarships funded if it were not for the diversion of
1326 funds giving rise to the claim against the bond or letter of
1327 credit.

1328 (b) In addition to the information required under paragraph
1329 (a), an application for renewal must include:

1330 1. A single surety bond or letter of credit to secure the
1331 faithful performance of the obligations of the eligible
1332 nonprofit scholarship-funding organization in accordance with



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1333 this chapter equal to the amount of undisbursed funds held by
1334 the organization based on the annual report submitted pursuant
1335 to paragraph (13)(l). The amount of the surety bond or letter of
1336 credit must be at least \$100,000, but not more than \$25 million.
1337 The surety bond or letter of credit must specify that any claim
1338 against the bond or letter of credit may be made only by an
1339 eligible nonprofit scholarship-funding organization to provide
1340 scholarships to and on behalf of students who would have had
1341 scholarships funded if it were not for the diversion of funds
1342 giving rise to the claim against the bond or letter of credit.

1343 2. The organization's completed Internal Revenue Service
1344 Form 990 submitted no later than November 30 of the year before
1345 the school year for which the organization intends to offer the
1346 scholarships, notwithstanding the September 1 application
1347 deadline.

1348 3. A copy of any statutorily required audit which the
1349 organization must provide to the Department of Education and
1350 Auditor General.

1351 4. An annual report that includes:

1352 a. The number of students who completed applications, by
1353 county and by grade.

1354 b. The number of students who were approved for
1355 scholarships, by county and by grade.

1356 c. The number of students who received funding for
1357 scholarships within each funding category, by county and by
1358 grade.

1359 d. The amount of funds received, the amount of funds
1360 distributed in scholarships, and an accounting of remaining
1361 funds and the obligation of those funds.



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1362 e. A detailed accounting of how the organization spent the
1363 administrative funds allowable under paragraph (13)(f).

1364 (c) In consultation with the Department of Revenue and the
1365 Chief Financial Officer, the Office of Independent Education and
1366 Parental Choice shall review the application. The Department of
1367 Education shall notify the organization in writing of any
1368 deficiencies within 30 days after receipt of the application and
1369 allow the organization 30 days to correct any deficiencies.

1370 (d) Within 30 days after receipt of the finalized
1371 application by the Office of Independent Education and Parental
1372 Choice, the Commissioner of Education shall recommend approval
1373 or disapproval of the application to the State Board of
1374 Education. The State Board of Education shall consider the
1375 application and recommendation at the next scheduled meeting,
1376 adhering to appropriate meeting notice requirements. If the
1377 State Board of Education disapproves the organization's
1378 application, it must provide the organization with a written
1379 explanation of that determination. The State Board of
1380 Education's action is not subject to chapter 120.

1381 (e) If the State Board of Education disapproves the renewal
1382 of a nonprofit scholarship-funding organization, the
1383 organization must notify the affected eligible students and
1384 parents of the decision within 15 days after disapproval. An
1385 eligible student affected by the disapproval of an
1386 organization's participation remains eligible under this section
1387 until the end of the school year in which the organization was
1388 disapproved. The student must apply and be accepted by another
1389 eligible nonprofit scholarship-funding organization for the
1390 upcoming school year. The student must be given priority under



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1391 paragraph (13) (e).

1392 (f) All remaining student accounts with funds held by a
1393 nonprofit scholarship-funding organization that is disapproved
1394 for participation must be transferred to the student's account
1395 established with the eligible nonprofit scholarship-funding
1396 organization that accepts the student. All transferred funds
1397 must be deposited by the eligible nonprofit scholarship-funding
1398 organization receiving such funds into the student's scholarship
1399 account. All other remaining funds must be transferred to the
1400 department. All transferred amounts received by any eligible
1401 nonprofit scholarship-funding organization must be separately
1402 disclosed in the annual financial audit required under
1403 subsection (13).

1404 (g) A nonprofit scholarship-funding organization is a
1405 renewing organization if it was approved by the State Board of
1406 Education for the 2021-2022 fiscal year or after and maintains
1407 continuous approval and participation in the program. An
1408 organization that chooses not to participate for 1 year or more
1409 or is disapproved to participate for 1 year or more must submit
1410 an application for initial approval in order to participate in
1411 the program again.

1412 (h) The State Board of Education shall adopt rules
1413 providing guidelines for receiving, reviewing, and approving
1414 applications for new and renewing nonprofit scholarship-funding
1415 organizations. The rules must include a process for compiling
1416 input and recommendations from the Chief Financial Officer, the
1417 Department of Revenue, and the Department of Education. The
1418 rules also must require that the nonprofit scholarship-funding
1419 organization make a brief presentation to assist the State Board



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1420 of Education in its decision.

1421 (i) A state university; or an independent nonprofit college
1422 chartered in this state or independent nonprofit university
1423 chartered in this state that are eligible to participate in the
1424 William L. Boyd, IV, Effective Access to Student Education Grant
1425 Program and are accredited by the Commission on Colleges of the
1426 Southern Association of Colleges and Schools is exempt from the
1427 initial or renewal application process, but must file a
1428 registration notice with the Department of Education to be an
1429 eligible nonprofit scholarship-funding organization. The State
1430 Board of Education shall adopt rules that identify the procedure
1431 for filing the registration notice with the department. The
1432 rules must identify appropriate reporting requirements for
1433 fiscal, programmatic, and performance accountability purposes
1434 consistent with this section, but may not exceed the
1435 requirements for eligible nonprofit scholarship-funding
1436 organizations for charitable organizations.

1437 (13) OBLIGATIONS OF ELIGIBLE SCHOLARSHIP-FUNDING
1438 ORGANIZATIONS.—An organization may establish McKay-Gardiner
1439 Scholarships for eligible students by:

1440 (a) Complying with the requirements of s. 1002.394(11) (a)–

1441 (h).

1442 (b) Receiving applications and determining student
1443 eligibility in accordance with the requirements of this section.
1444 When an application is approved, the organization must provide
1445 the department with information on the student to enable the
1446 department to determine student funding in accordance with
1447 subsection (15).

1448 (c) Providing scholarships on a first-come, first-served



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1449 basis, based upon the funds provided, and notifying parents of
1450 their respective student's receipt of a scholarship.

1451 (d) Establishing a date by which a parent must confirm
1452 initial or continuing participation in the program.

1453 (e) Reviewing applications and awarding scholarship funds
1454 to approved applicants using the following order of priority:

1455 1.a. For the 2021-2022 school year, a student who received
1456 a John M. McKay Scholarship for Students with Disabilities or a
1457 Gardiner Scholarship in the 2020-2021 school year and meets the
1458 eligibility requirements in subsection (3) is eligible for a
1459 McKay-Gardiner Scholarship in the 2021-2022 school year.

1460 b. For the 2022-2023 school year and thereafter, renewing
1461 students from the previous school year under this section.

1462 2. Students retained on the previous school year's wait
1463 list.

1464 3. An eligible student who meets the criteria for an
1465 initial award pursuant to subsection (3).

1466 An approved student who does not receive a scholarship must be
1467 placed on the wait list in the order in which his or her
1468 application is approved. An eligible student who does not
1469 receive a scholarship within the fiscal year shall be retained
1470 on the wait list for the subsequent year.

1471 (f) Using an amount not to exceed 2.5 percent of the total
1472 calculated amount of all scholarships awarded under this section
1473 for administrative expenses associated with performing functions
1474 authorized under this section.

1475 (g) Verifying qualifying educational expenditures pursuant
1476 to paragraph (9) (c) and requesting the return of any funds used
1477



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1478 for unauthorized purposes.

1479 (h) Returning any remaining program funds to the department
1480 pursuant to paragraph (6) (b).

1481 (i) Notifying the parent about the availability of, and the
1482 requirements associated with requesting, an initial IEP or IEP
1483 reevaluation every 3 years for each student participating in the
1484 program.

1485 (j) Documenting each student's eligibility for a fiscal
1486 year before granting a scholarship for that fiscal year pursuant
1487 to paragraph (3) (b). A student is ineligible for a scholarship
1488 if the student's account has been inactive for 2 consecutive
1489 fiscal years and the student's account has been closed pursuant
1490 to paragraph (6) (b).

1491 (k) Submitting in a timely fashion any information
1492 requested by the department relating to the program.

1493 (l) Preparing and submitting quarterly reports to the
1494 department pursuant to paragraph (9) (e).

1495 (m) Notifying the department of any violation of this
1496 section.

1497 (14) TRANSITION-TO-WORK PROGRAM.—A student participating in
1498 the McKay-Gardiner Scholarship Program who is at least 17 years
1499 of age, but not older than 22 years of age, and who has not
1500 received a high school diploma or certificate of completion is
1501 eligible for enrollment in a transition-to-work program provided
1502 by a private school or job coach. A transition-to-work program
1503 must consist of academic instruction, work skills training, and
1504 a volunteer or paid work experience.

1505 (a) To offer a transition-to-work program, a participating
1506 private school or job coach must:



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- 1507 1. Develop a transition-to-work program plan, which must
1508 include a written description of the academic instruction and
1509 work skills training students will receive and the goals for
1510 students in the program.
- 1511 2. Submit the transition-to-work program plan to the Office
1512 of Independent Education and Parental Choice.
- 1513 3. Develop a personalized transition-to-work program plan
1514 for each student enrolled in the program. The student's parent,
1515 the student, and the school principal or job coach must sign the
1516 personalized plan. The personalized plan must be submitted to
1517 the Office of Independent Education and Parental Choice upon
1518 request by the office.
- 1519 4. Provide a release of liability form that must be signed
1520 by the student's parent, the student, and a representative of
1521 the business offering the volunteer or paid work experience.
- 1522 5. Assign a case manager or job coach to visit the
1523 student's job site on a weekly basis to observe the student and,
1524 if necessary, provide support and guidance to the student.
- 1525 6. Provide to the parent and student a quarterly report
1526 that documents and explains the student's progress and
1527 performance in the program.
- 1528 7. Maintain accurate attendance and performance records for
1529 the student.
- 1530 (b) A student enrolled in a transition-to-work program
1531 must, at a minimum:
- 1532 1. Receive 15 instructional hours that must include
1533 academic instruction and work skills training.
- 1534 2. Participate in 10 hours of work at the student's
1535 volunteer or paid work experience.



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- 1536 (c) To participate in a transition-to-work program, a
1537 business must:
- 1538 1. Maintain an accurate record of the student's performance
1539 and hours worked and provide the information to the private
1540 school.
- 1541 2. Comply with all state and federal child labor laws.
- 1542 (15) FUNDING AND PAYMENT.—For the purposes of this
1543 subsection, the term "student FTE" refers to how participating
1544 students are calculated for the purposes of the scholarship
1545 program allocation, which is equal to four quarterly scholarship
1546 payments.
- 1547 (a) The McKay-Gardiner scholarship is established for up to
1548 50,000 student FTE for the 2021-2022 school year. For the 2022-
1549 2023 school year, and each year thereafter, the maximum number
1550 of student FTE shall increase by 1.0 percent of the state's
1551 total public school exceptional student education student
1552 enrollment, not including gifted students.
- 1553 1. For a student who has a Level I to Level III matrix of
1554 services or a doctor's diagnosis, the calculated scholarship
1555 amount for a student participating in the program must be based
1556 upon the grade level and school district in which the student
1557 would have been enrolled as 97.5 percent of the funds per
1558 unweighted full-time equivalent in the Florida Education Finance
1559 Program for a student in the basic exceptional student education
1560 program pursuant to s. 1011.62(1)(c)1. and (e)1.c., plus a per-
1561 full-time equivalent share of funds for all categorical
1562 programs, as funded in the General Appropriations Act, except
1563 that for the exceptional student education guaranteed allocation
1564 as provided in s. 1011.62(1)(e)1.c. and 2., the funds must be



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1565 allocated based on the school district's average exceptional
1566 student education guaranteed allocation funds per exceptional
1567 student education full-time equivalent student.

1568 2. For a student with a Level IV or Level V matrix of
1569 services, the calculated scholarship amount must be based upon
1570 the school district to which the student would have been
1571 assigned as 97.5 percent of the funds per full-time equivalent
1572 for the Level IV or Level V Exceptional Student Education
1573 program pursuant to s. 1011.62(1)(c)2.a. or b., plus a per-full-
1574 time equivalent share of funds for all categorical programs, as
1575 funded in the General Appropriations Act.

1576 3. For a student with a 504 plan, the calculated
1577 scholarship amount must be based upon the grade level and school
1578 district to which the student would have been assigned as 97.5
1579 percent of the funds per unweighted full-time equivalent in the
1580 Florida Education Finance Program for a student in the basic
1581 education program established pursuant to s. 1011.62(1)(c)1.,
1582 plus a per-full-time equivalent share of funds for all
1583 categorical programs, as funded in the General Appropriations
1584 Act.

1585 (b) At the time of each Florida Education Finance Program
1586 student membership survey, the scholarship funding organization
1587 shall report to the department student enrollment, student FTE,
1588 and total award amounts by county, delineated by FEFP program,
1589 and grade and matrix level for all students who are
1590 participating in the McKay-Gardiner Scholarship Program.
1591 Students with a 504 plan must be separately identified.

1592 (c) Upon notification from an organization on July 1,
1593 September 1, December 1, and February 1 that an application has



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1594 been approved for the program, the department shall verify that
1595 the student is not prohibited from receiving a scholarship
1596 pursuant to subsection (4). The organization must provide the
1597 department with the documentation necessary to verify the
1598 student's participation.

1599 (d) Upon verification, the department shall release the
1600 student's scholarship funds to the organization, to be deposited
1601 into the student's account in four equal amounts no later than
1602 September 1, November 1, February 1, and April 1 of each school
1603 year in which the scholarship is in force.

1604 (e) Accrued interest in the student's account is in
1605 addition to, and not part of, the awarded funds. Program funds
1606 include both the awarded funds and accrued interest.

1607 (f) The organization may develop a system for payment of
1608 benefits by funds transfer, including, but not limited to, debit
1609 cards, electronic payment cards, or any other means of payment
1610 which the department deems to be commercially viable or cost-
1611 effective. A student's scholarship award may not be reduced for
1612 debit card or electronic payment fees. Commodities or services
1613 related to the development of such a system must be procured by
1614 competitive solicitation unless they are purchased from a state
1615 term contract pursuant to s. 287.056.

1616 (g) Moneys received pursuant to this section do not
1617 constitute taxable income to the qualified student or the parent
1618 of the qualified student.

1619 (16) OBLIGATIONS OF THE AUDITOR GENERAL.-

1620 (a) The Auditor General shall review all audit reports
1621 submitted pursuant to subsection (13). The Auditor General shall
1622 request any significant items that were omitted in violation of



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1623 a rule adopted by the Auditor General. The organization shall
1624 provide such items within 45 days after the date of the request.
1625 If the scholarship-funding organization does not comply with the
1626 Auditor General's request, the Auditor General must notify the
1627 Legislative Auditing Committee.

1628 (b) At least once every 3 years, the Auditor General shall
1629 conduct an operational audit of accounts and records of each
1630 organization that participates in the program. As part of this
1631 audit, the Auditor General, at a minimum, shall verify the total
1632 number of students served and the eligibility of reimbursements
1633 made by the organization and transmit that information to the
1634 department. The Auditor General shall provide the commissioner
1635 with a copy of each annual operational audit performed pursuant
1636 to this subsection within 10 days after the audit is finalized.

1637 (c) The Auditor General shall notify the department of any
1638 organization that fails to comply with a request for
1639 information.

1640 (17) OBLIGATIONS RELATED TO APPROVED PROVIDERS.—The
1641 Department of Health, the Agency for Persons with Disabilities,
1642 and the Department of Education shall coordinate with an
1643 organization to provide easy or automated access to lists of
1644 licensed providers of services specified in paragraph (5)(c) to
1645 ensure efficient administration of the program.

1646 (18) LIABILITY.—The state is not liable for the awarding of
1647 funds or for any use of funds awarded under this section.

1648 (19) SCOPE OF AUTHORITY.—This section does not expand the
1649 authority of the state, its officers, or any school district to
1650 impose additional regulation on participating private schools,
1651 independent postsecondary educational institutions, and private



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1652 providers beyond that reasonably necessary to enforce
1653 requirements expressly set forth in this section.

1654 (20) RULES.—The State Board of Education shall adopt rules
1655 pursuant to ss. 120.536(1) and 120.54 to administer this
1656 section.

1657 Section 17. Section 1002.385, Florida Statutes, is
1658 repealed.

1659 Section 18. Section 1002.39, Florida Statutes, is repealed.

1660 Section 19. Section 1002.394, Florida Statutes, is amended
1661 to read:

1662 1002.394 The Family Empowerment Scholarship Program.—

1663 (1) PURPOSE.—The Family Empowerment Scholarship Program is
1664 established to provide children of families in this state,
1665 including those with ~~which have~~ limited financial resources,
1666 with educational options to achieve success in their education.

1667 (2) DEFINITIONS.—As used in this section, the term:

1668 (a) "Approved provider" means a provider approved by the
1669 department ~~"Department" means the Department of Education.~~

1670 (b) "Curriculum" means a complete course of study for a
1671 particular content area or grade level, including any required
1672 supplemental materials, teachers' manuals, and associated online
1673 instruction.

1674 (c) "Department" means the Department of Education.

1675 (d) "Direct certification list" means the certified list of
1676 children who qualify for the food assistance program, the
1677 Temporary Assistance for Needy Families Program, or the Food
1678 Distribution Program on Indian Reservations provided to the
1679 Department of Education by the Department of Children and
1680 Families.



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1681 (e) "Eligible nonprofit scholarship-funding organization"
1682 or "organization" means a state university, an independent
1683 college or university that is eligible to participate in the
1684 William L. Boyd, IV, Effective Access to Student Education Grant
1685 Program located and chartered in this state which is not for
1686 profit and is accredited by the Commission on Colleges of the
1687 Southern Association of Colleges and Schools, or is a charitable
1688 organization that: has the same meaning as provided in s.
1689 1002.395(2) (f).

1690 1. Is exempt from federal income tax pursuant to s.
1691 501(c)(3) of the Internal Revenue Code;

1692 2. Is a Florida entity formed under chapter 605, chapter
1693 607, or chapter 617 and whose principal office is located in
1694 this state; and

1695 3. Complies with subsections (11) and (14).

1696 (f) "Eligible postsecondary educational institution" means
1697 a Florida College System institution; a state university; a
1698 school district technical center; a school district adult
1699 general education center; an independent college or university
1700 that is eligible to participate in the William L. Boyd, IV,
1701 Effective Access to Student Education Grant Program under s.
1702 1009.89; or an accredited independent postsecondary educational
1703 institution, as defined in s. 1005.02, which is licensed to
1704 operate in this state under part III of chapter 1005.

1705 (g)(e) "Eligible private school" means a private school as
1706 defined in s. 1002.01 located in this state which offers an
1707 education to students in any grade from Kindergarten through
1708 grade 12 and:

1709 1. Meets the requirements of ss. 1002.42 and 1002.421; and



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1710 2. Meets the applicable requirements imposed under this
1711 chapter, if the private school participates in a scholarship
1712 program under this chapter ~~has the same meaning as provided in~~
1713 s. 1002.395(2) (g).

1714 (h) "Household income" has the same meaning as the term
1715 "income" as defined in the Income Eligibility Guidelines for
1716 free and reduced price meals under the National School Lunch
1717 Program in 7 C.F.R. part 210 as published in the Federal
1718 Register by the United States Department of Agriculture.

1719 (i) "Inactive" means that no eligible expenditures have
1720 been made from a student scholarship account funded pursuant to
1721 this section.

1722 (j) "Incident" means battery; harassment; hazing; bullying;
1723 kidnapping; physical attack; robbery; sexual offenses,
1724 harassment, assault, or battery; threat or intimidation; or
1725 fighting at school, as defined by the department in accordance
1726 with s. 1006.147(4).

1727 (k) "Owner or operator" includes:

1728 1. An owner, president, officer, or director of an eligible
1729 nonprofit scholarship-funding organization or a person with
1730 equivalent decisionmaking authority over an eligible nonprofit
1731 scholarship-funding organization.

1732 2. An owner, operator, superintendent, or principal of an
1733 eligible private school or a person with equivalent
1734 decisionmaking authority over an eligible private school.

1735 (l)(d) "Parent" means a resident of this state who is a
1736 parent, as defined in s. 1000.21.

1737 (m)(e) "Program" means the Family Empowerment Scholarship
1738 Program.



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1739 (n) "School" means any educational program or activity
1740 conducted by a public K-12 educational institution, any school-
1741 related or school-sponsored program or activity, and riding on a
1742 school bus as defined in s. 1006.25(1), including waiting at a
1743 school bus stop.

1744 (3) INITIAL SCHOLARSHIP ELIGIBILITY.—A student is eligible
1745 for a Family Empowerment Scholarship under this section if the
1746 student meets the following criteria:

1747 (a)1. The student is on the direct certification list
1748 pursuant to s. 1002.395(2)(e) or the student's household income
1749 level does not exceed 300 ~~185~~ percent of the federal poverty
1750 level or an adjusted maximum percent of the federal poverty
1751 level established pursuant to paragraph (e); or

1752 2. The student is:

1753 a. Currently placed, or during the previous state fiscal
1754 year was placed, in foster care or in out-of-home care as
1755 defined in s. 39.01;

1756 b. A sibling of a student who is participating in the
1757 scholarship program under this subsection, if the student
1758 resides in the same household as the sibling;

1759 c. A sibling of a student who is participating in the
1760 scholarship program under s. 1002.381, if the student resides in
1761 the same household as the sibling and attends the same school;

1762 or

1763 d. Enrolled in a Florida public school in kindergarten
1764 through grade 12 and reported an incident in accordance with
1765 paragraph (7) (b).

1766 3. ~~The student's household income level does not exceed 300~~
1767 ~~percent of the federal poverty level or an adjusted maximum~~



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1768 ~~percent of the federal poverty level as established pursuant to~~
1769 ~~paragraph (e).~~

1770
1771 A student who initially receives a scholarship based on
1772 eligibility under this paragraph ~~subparagraph 2~~, remains
1773 eligible to participate until the student graduates from high
1774 school or attains the age of 21 years, whichever occurs first,
1775 regardless of the student's household income level. ~~A sibling of~~
1776 ~~a student who is participating in the scholarship program under~~
1777 ~~this subsection is eligible for a scholarship if the student~~
1778 ~~resides in the same household as the sibling.~~

1779 (b)1. The student is eligible to enroll in kindergarten
1780 through grade 12 in a public school in this state;

1781 2. ~~The student has spent the prior school year in~~
1782 ~~attendance at a Florida public school; or~~

1783 3. ~~Beginning with the 2020-2021 school year, the student~~
1784 ~~received a scholarship pursuant to s. 1002.395 during the~~
1785 ~~previous school year but did not receive a renewal scholarship~~
1786 ~~based solely on the eligible nonprofit scholarship funding~~
1787 ~~organization's lack of available funds after the organization~~
1788 ~~fully exhausts its efforts to use funds available for awards~~
1789 ~~under ss. 1002.395 and 1002.40(11)(i). Eligible nonprofit~~
1790 ~~scholarship funding organizations with students who meet the~~
1791 ~~eligibility criterion of this subparagraph must annually notify~~
1792 ~~the department in a format and by a date established by the~~
1793 ~~department.~~

1794
1795 For purposes of this paragraph, the term "prior school year in
1796 attendance" means that the student was enrolled full time and



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1797 ~~reported by a school district for funding during the preceding~~
1798 ~~October and February Florida Education Finance Program surveys~~
1799 ~~in kindergarten through grade 12, which includes time spent in a~~
1800 ~~Department of Juvenile Justice commitment program if funded~~
1801 ~~under the Florida Education Finance Program. However, a~~
1802 ~~dependent child of a member of the United States Armed Forces~~
1803 ~~who transfers to a school in this state from out of state or~~
1804 ~~from a foreign country due to a parent's permanent change of~~
1805 ~~station orders or a foster child is exempt from the prior public~~
1806 ~~school attendance requirement under this paragraph, but must~~
1807 ~~meet the other eligibility requirements specified under this~~
1808 ~~section to participate in the program.~~

1809 (c) The parent has applied to an eligible nonprofit
1810 scholarship-funding organization to participate in the program
1811 by a date set by the organization obtained acceptance for
1812 admission of the student to a private school that is eligible
1813 for the program under subsection (8), and the parent has
1814 requested a scholarship from the Department of Education by a
1815 date established by the department pursuant to paragraph (7)(c),
1816 but no later than at least 60 days before the date of the first
1817 scholarship payment. The application request must be
1818 communicated directly to the organization department in a manner
1819 that creates a written or electronic record of the application
1820 request and the date of receipt of the application request. The
1821 department must notify the school district of the parent's
1822 intent upon receipt of the parent's request.

1823 (d) The student is awarded a scholarship in accordance with
1824 the following priority order:

1825 1. An eligible student who received a Family Empowerment



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1826 Scholarship during the previous school year, or a Florida Tax
1827 Credit Scholarship or Hope Scholarship during the 2020-2021
1828 school year, and requested a renewal scholarship award.

1829 2. An eligible student who meets the criteria for an
1830 initial award under both ~~paragraphs~~ paragraph (a) and (b) and
1831 was retained on the previous school year's wait list
1832 subparagraph (b)3.

1833 3. An eligible student who meets the criteria for an
1834 initial award under sub-subparagraph (a)2.a., sub-subparagraph
1835 (a)2.b., sub-subparagraph (a)2.d., or paragraph (b) subparagraph
1836 (b)2. and either subparagraph (a)1. or subparagraph (a)2.

1837 4. An eligible student who meets the criteria for an
1838 initial award under subparagraph (a)1. ~~(b)1.~~ and paragraph (b),
1839 and the student's household income level does not exceed 185
1840 percent of the federal poverty level either subparagraph (a)1.
1841 or subparagraph (a)2.

1842 5. An eligible student who meets the criteria for an
1843 initial award under subparagraph (a)1. ~~(a)3.~~ and, paragraph (b)
1844 in priority order, either subparagraph (b)2. or subparagraph
1845 (b)1.

1846 6. An eligible student who meets the criteria for an
1847 initial award under sub-subparagraph (a)2.c. and paragraph (b).

1848
1849 An approved student who does not receive a scholarship must be
1850 placed on the wait list in the order in which his or her
1851 application is approved. An eligible student who does not
1852 receive a scholarship within the fiscal year must be retained on
1853 the wait list for the subsequent year.

1854 (e) The student's household income level does not exceed an



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1855 adjusted maximum percent of the federal poverty level that is
1856 increased by 25 percent in the fiscal year following any fiscal
1857 year in which more than 5 percent of the available scholarships
1858 authorized under subsection (12)(11) have not been awarded.

1859 (4) TERM OF SCHOLARSHIP. ~~For purposes of continuity of~~
1860 educational choice and program integrity:

1861 (a) 1. Program payments made by the state to an organization
1862 for a Family Empowerment Scholarship under this section must
1863 continue until:

1864 a. The parent does not renew program eligibility;

1865 b. The organization determines that the student is not
1866 eligible for program renewal;

1867 c. The Commissioner of Education suspends or revokes
1868 program participation or use of funds pursuant to subparagraph

1869 (b) (1);

1870 d. The student's parent has forfeited participation in the
1871 program for failure to comply with subsection (10);

1872 e. The student enrolls in a public school; or

1873 f. The student graduates from high school or attains 21
1874 years of age, whichever occurs first. However, if a student
1875 enters a Department of Juvenile Justice detention center for a
1876 period of no more than 21 days, the student is not considered to
1877 have returned to a public school for that purpose.

1878 2. Reimbursements for program expenditures may continue
1879 until the account balance is expended or the account is closed
1880 pursuant to paragraph (b) For purposes of continuity of
1881 educational choice, a Family Empowerment Scholarship shall
1882 remain in force until the student returns to a public school,
1883 graduates from high school, or reaches the age of 21, whichever



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1884 ~~occurs first. A scholarship student who enrolls in a public~~
1885 ~~school or public school program is considered to have returned~~
1886 ~~to a public school for the purpose of determining the end of the~~
1887 ~~scholarship's term. However, if a student enters a Department of~~
1888 ~~Juvenile Justice detention center for a period of no more than~~
1889 ~~21 days, the student is not considered to have returned to a~~
1890 ~~public school for that purpose.~~

1891 (b) 1. The commissioner shall close a student's scholarship
1892 account, and any remaining funds, including, but not limited to,
1893 contributions made to the Stanley G. Tate Florida Prepaid
1894 College Program or earnings from or contributions made to the
1895 Florida College Savings Program using program funds pursuant to
1896 paragraph (6) (e), revert to the state after:

1897 a. Denial or revocation of program eligibility by the
1898 commissioner for fraud or abuse, including, but not limited to,
1899 the student or the student's parent accepting any payment,
1900 refund, or rebate in any manner from a provider of any services
1901 received pursuant to subsection (6); however, a private school
1902 may discount tuition if the private school deems it necessary;

1903 b. Any period of 2 consecutive years after high school
1904 completion or graduation during which the student has not been
1905 enrolled in an eligible postsecondary educational institution or
1906 a program offered by the institution; or

1907 c. The account has been inactive for 2 consecutive fiscal
1908 years prior to high school completion or graduation Upon
1909 reasonable notice to the department and the school district, the
1910 student's parent may remove the student from the private school
1911 and place the student in a public school in accordance with this
1912 section.



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1913 2. The commissioner must notify the parent and the
1914 organization when a Family Empowerment Scholarship account is
1915 closed and program funds revert to the state

1916 ~~(c) Upon reasonable notice to the department, the student's~~
1917 ~~parent may move the student from one participating private~~
1918 ~~school to another participating private school.~~

1919 (5) SCHOLARSHIP PROHIBITIONS.—A student is not eligible for
1920 a Family Empowerment Scholarship while he or she is:

1921 (a) Enrolled in a public school, including, but not limited
1922 to, the Florida School for the Deaf and the Blind, the College-
1923 Preparatory Boarding Academy, a developmental research school
1924 authorized under s. 1002.32, or a charter school authorized
1925 under this chapter;

1926 (b) Enrolled in a school operating for the purpose of
1927 providing educational services to youth in a Department of
1928 Juvenile Justice commitment program;

1929 (c) Receiving any other educational scholarship pursuant to
1930 this chapter; or

1931 ~~(d) Participating in a home education program as defined in~~
1932 ~~s. 1002.01(1);~~

1933 ~~(e) Participating in a private tutoring program pursuant to~~
1934 ~~s. 1002.43; or~~

1935 ~~(f) Participating in a virtual school, correspondence~~
1936 ~~school, or distance learning program that receives state funding~~
1937 ~~pursuant to the student's participation.~~

1938 (6) AUTHORIZED USES OF PROGRAM FUNDS.—Program funds must be
1939 used to meet the individual educational needs of an eligible
1940 student and may be spent for the following purposes:

1941 (a) Instructional materials, including school equipment and



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1942 supplies, and digital devices and Internet access to access
1943 digital instructional materials.

1944 (b) Curriculum.

1945 (c) Tuition or fees associated with full-time or part-time
1946 enrollment in any of the following:

1947 1. A home education program, an eligible private school, an
1948 eligible postsecondary educational institution, or a program
1949 offered by the postsecondary institution;

1950 2. A private tutoring program authorized under s. 1002.43,
1951 a virtual program offered by a department-approved private
1952 online provider that meets the provider qualifications specified
1953 in s. 1002.45(2)(a), or a program offered by the Florida Virtual
1954 School to a private paying student; or

1955 3. An approved online course offered pursuant to s.
1956 1003.499 or s. 1004.0961 or a private virtual school that meets
1957 the requirements of s. 1002.421.

1958 (d) Fees for nationally standardized, norm-referenced
1959 achievement tests, Advanced Placement examinations, industry
1960 certification examinations, assessments related to postsecondary
1961 education, or other assessments.

1962 (e) Contributions to the Stanley G. Tate Florida Prepaid
1963 College Program pursuant to s. 1009.98 or the Florida College
1964 Savings Program pursuant to s. 1009.981, for the benefit of the
1965 eligible student.

1966 (f) Contracted services provided by a public school or
1967 school district, including classes. A student who receives
1968 services under a contract under this paragraph is not considered
1969 enrolled in a public school for eligibility purposes as
1970 specified in subsection (5).



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1971 (g) Tuition and fees for part-time tutoring services
 1972 provided by a person who holds a valid Florida educator's
 1973 certificate pursuant to s. 1012.56; a person who holds an
 1974 adjunct teaching certificate pursuant to s. 1012.57; a person
 1975 who has a bachelor's degree or a graduate degree in the subject
 1976 area in which instruction is given; or a person who has
 1977 demonstrated a mastery of subject area knowledge pursuant to s.
 1978 1012.56(5) or as approved by the department. As used in this
 1979 paragraph, the term "part-time tutoring services" does not
 1980 qualify as regular school attendance as defined in s.
 1981 1003.01(13)(e).

1982 (h) Fees for summer education programs.
 1983 (i) Fees for after-school education programs.
 1984 (j) Fees for an annual evaluation of educational progress
 1985 by a state-certified teacher under s. 1002.41(1)(f), if this
 1986 option is chosen for a home education student.

1987 (k) Transportation expenses that may not exceed \$750
 1988 annually necessary to meet the student's educational needs under
 1989 this section.

1990
 1991 A provider of any services receiving payments pursuant to this
 1992 subsection may not share, refund, or rebate any moneys from the
 1993 Family Empowerment Scholarship with the parent or participating
 1994 student in any manner.

1995 (7)(6) SCHOOL DISTRICT OBLIGATIONS.-
 1996 (a) By July 15, 2019, and by April 1 of each year
 1997 thereafter, a school district shall inform all households within
 1998 the district receiving free or reduced-priced meals under the
 1999 National School Lunch Act of their eligibility to apply to the



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2000 ~~department~~ for a Family Empowerment Scholarship. The form of
 2001 such notice shall be provided by the department, and the school
 2002 district shall include the provided form in any normal
 2003 correspondence with eligible households. Such notice is limited
 2004 to once a year.

2005 (b) Upon receipt of a report of an incident, the school
 2006 principal, or his or her designee, shall provide a copy of the
 2007 report to the parent and investigate the incident to determine
 2008 if the incident must be reported as required by s. 1006.147(4).
 2009 Within 24 hours after receipt of the report, the principal or
 2010 his or her designee shall provide a copy of the report to the
 2011 parent of the alleged offender and to the superintendent. Upon
 2012 conclusion of the investigation or within 15 days after the
 2013 incident was reported, whichever occurs first, the school
 2014 district shall notify the parent of the program and offer the
 2015 parent an opportunity to request and receive a Family
 2016 Empowerment Scholarship.

2017 (c) The school district in which a participating student
 2018 resides must notify the student and his or her parent about the
 2019 locations and times to take all statewide assessments under s.
 2020 1008.22 if the student chooses to participate in such
 2021 assessments. Upon the request of the department, a school
 2022 district shall coordinate with the department to provide to a
 2023 participating private school the statewide assessments
 2024 administered under s. 1008.22 and any related materials for
 2025 administering the assessments. For a student who participates in
 2026 the Family Empowerment Scholarship Program whose parent requests
 2027 that the student take the statewide assessments under s.
 2028 1008.22, the district in which the student attends a private



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2029 school shall provide locations and times to take all statewide
2030 assessments. A school district is responsible for implementing
2031 test administrations at a participating private school,
2032 including the:

2033 1. Provision of training for private school staff on test
2034 security and assessment administration procedures;

2035 2. Distribution of testing materials to a private school;

2036 3. Retrieval of testing materials from a private school;

2037 4. Provision of the required format for a private school to
2038 submit information to the district for test administration and
2039 enrollment purposes; and

2040 5. Provision of any required assistance, monitoring, or
2041 investigation at a private school.

2042 (d) (e) Each school district must publish information about
2043 the Family Empowerment Scholarship Program on the district's
2044 website homepage, ~~which, at a minimum, the published~~
2045 ~~information~~ must include a website link to the Family
2046 Empowerment Scholarship Program published on the Department of
2047 Education website as well as a telephone number and e-mail that
2048 ~~students and parents may use to contact relevant personnel in~~
2049 ~~the school district to obtain information about the scholarship.~~

2050 ~~(8) (7)~~ DEPARTMENT OF EDUCATION OBLIGATIONS.—The department
2051 shall:

2052 (a) Annually verify the eligibility of nonprofit
2053 scholarship-funding organizations that meet the requirements of
2054 paragraph (2) (e).

2055 (b) (a) Publish and update, as necessary, information on the
2056 department website about the scholarship programs under this
2057 chapter Family Empowerment Scholarship Program, including, but



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2058 not limited to, student eligibility criteria, parental
2059 responsibilities, and relevant data.

2060 (c) (b) Cross-check prior to each distribution of funds the
2061 list of participating scholarship students with the public
2062 school enrollment lists before each scholarship payment to avoid
2063 duplication.

2064 (d) (e) Maintain and publish a list of nationally norm-
2065 referenced tests identified for purposes of satisfying the
2066 testing requirement in subparagraph (9) (c) 1. ~~(8) (e) 1.~~ The tests
2067 must meet industry standards of quality in accordance with state
2068 board rule.

2069 (e) (d) Notify eligible nonprofit scholarship-funding
2070 organizations of the deadlines for submitting the verified list
2071 of students determined to be eligible for an initial or renewal
2072 scholarship.

2073 (f) (e) Distribute each student's scholarship funds on a
2074 quarterly basis to the eligible nonprofit scholarship-funding
2075 organization, to be deposited into the student's account
2076 ~~Establish deadlines for the receipt of initial applications and~~
2077 ~~renewal notifications in order to implement the priority order~~
2078 ~~for scholarship awards pursuant to paragraph (3) (d).~~

2079 (g) Notify an eligible nonprofit scholarship-funding
2080 organization of any of the organization's or other eligible
2081 nonprofit scholarship-funding organization's identified students
2082 who are receiving educational scholarships under this chapter.

2083 (h) Issue a project grant award to a state university, to
2084 which participating private schools must report the scores of
2085 participating students on the nationally norm-referenced tests
2086 or the statewide assessments administered by the private school



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2087 in grades 3 through 10. The project term is 2 years, and the
2088 amount of the project is up to \$250,000 per year. The project
2089 grant award must be reissued in 2-year intervals in accordance
2090 with this paragraph.

2091 1. The state university must annually report to the
2092 Department of Education on the student performance of
2093 participating students:

2094 a. On a statewide basis. The report shall also include, to
2095 the extent possible, a comparison of scholarship students'
2096 performance to the statewide student performance of public
2097 school students with socioeconomic backgrounds similar to those
2098 of students participating in the scholarship program. To
2099 minimize costs and reduce time required for the state
2100 university's analysis and evaluation, the Department of
2101 Education shall coordinate with the state university to provide
2102 data in order to conduct analyses of matched students from
2103 public school assessment data and calculate control group
2104 student performance using an agreed-upon methodology; and

2105 b. On an individual school basis. For the 2020-2021 school
2106 year, the annual report must include student performance for
2107 each participating private school in which at least 51 percent
2108 of the total enrolled students in the private school
2109 participated in the Florida Tax Credit Scholarship Program or
2110 the Family Empowerment Scholarship Program. Beginning with the
2111 2021-2022 school year, the annual report must include student
2112 performance for each participating private school in which at
2113 least 51 percent of the total enrolled students in the private
2114 school participated in the Family Empowerment Scholarship
2115 Program. The report shall be according to each participating



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2116 private school, and for participating students, in which there
2117 are at least 30 participating students who have scores for tests
2118 administered. If the state university determines that the 30-
2119 participating-student cell size may be reduced without
2120 disclosing personally identifiable information, as described in
2121 34 C.F.R. s. 99.12, of a participating student, the state
2122 university may reduce the participating-student cell size, but
2123 the cell size may not be reduced to less than 10 participating
2124 students. The department shall provide each private school's
2125 prior school year student enrollment information to the state
2126 university no later than June 15 of each year, or as requested
2127 by the state university.

2128 2. The sharing and reporting of student performance data
2129 under this paragraph must be in accordance with the requirements
2130 of ss. 1002.22 and 1002.221 and 20 U.S.C. s. 1232g, the Family
2131 Educational Rights and Privacy Act, and the applicable rules and
2132 regulations issued pursuant thereto, and must be for the sole
2133 purpose of creating the annual report required by subparagraph
2134 1. All parties must preserve the confidentiality of such
2135 information as required by law. The annual report may not
2136 disaggregate data to a level that will identify individual
2137 participating schools, except as required under sub-subparagraph
2138 1.b., or disclose the academic level of individual students.

2139 3. The annual report required by subparagraph 1. must be
2140 published by the Department of Education on its website.

2141 (i) Maintain on its website a list of approved providers,
2142 including eligible postsecondary educational institutions,
2143 eligible private schools, and organizations. The department may
2144 identify or provide links to lists of other approved providers.



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2145 (j) Require each organization to verify eligible
2146 expenditures before the distribution of funds for any
2147 expenditures made pursuant to paragraphs (6) (a) and (b). Review
2148 of expenditures made for services specified in paragraphs
2149 (6) (c)-(k) may be completed after the purchase is made.
2150 (k) Require quarterly reports by an eligible nonprofit
2151 scholarship-funding organization regarding the overall number of
2152 students participating in the scholarship program, the number of
2153 home education students participating in the scholarship
2154 program, the number of students attending a private school
2155 participating in the scholarship program, the private schools at
2156 which the students are enrolled, and other information the
2157 department deems necessary.
2158 (l) Provide a process to match the direct certification
2159 list with the scholarship application data submitted by any
2160 nonprofit scholarship-funding organization eligible to receive
2161 the 2.5 percent administrative allowance under paragraph
2162 (11) (k).
2163 (m) Contract with an independent entity to provide an
2164 annual evaluation of the program by:
2165 1. Reviewing the school bullying prevention education
2166 program, school climate, and code of student conduct of each
2167 public school from which 10 or more students transferred to
2168 another public school or private school using the Hope
2169 Scholarship or Family Empowerment Scholarship to determine areas
2170 in the school or school district procedures involving reporting,
2171 investigating, and communicating a parent's and student's rights
2172 which are in need of improvement. At a minimum, the review must
2173 include:



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2174 a. An assessment of the investigation time and quality of
2175 the response of the school and the school district.
2176 b. An assessment of the effectiveness of communication
2177 procedures with the students involved in an incident, the
2178 students' parents, and the school and school district personnel.
2179 c. An analysis of school incident and discipline data.
2180 d. The challenges and obstacles relating to implementing
2181 recommendations from the review.
2182 2. Reviewing the school bullying prevention education
2183 program, school climate, and code of student conduct of each
2184 public school to which a student transferred if the student was
2185 from a school identified in subparagraph 1. in order to identify
2186 best practices and make recommendations to the public school at
2187 which the incidents occurred.
2188 3. Surveying the parents of participating students to
2189 determine academic, safety, and school climate satisfaction and
2190 to identify any challenges to or obstacles in addressing an
2191 incident or relating to the use of the scholarship.
2192 (n) Investigate any written complaint of a violation of
2193 this section by a parent, a student, a private school, a public
2194 school, a school district, an organization, a provider, or
2195 another appropriate party in accordance with the process
2196 established under s. 1002.421.
2197 (9)-(8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.-To be
2198 eligible to participate in the Family Empowerment Scholarship
2199 Program, a private school may be sectarian or nonsectarian and
2200 must:
2201 (a) Comply with all requirements for private schools
2202 participating in state school choice scholarship programs



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2203 pursuant to s. 1002.421.

2204 (b) Provide to the organization department all
2205 documentation required for a student's participation, including
2206 the private school's and student's fee schedules, at least 30
2207 days before any quarterly scholarship payment is made for the
2208 student pursuant to paragraph (12) (f) (11) (f). ~~A student is not~~
2209 ~~eligible to receive a quarterly scholarship payment if the~~
2210 ~~private school fails to meet this deadline.~~

2211 (c)1. Annually administer or make provision for students
2212 participating in the program in grades 3 through 10 to take one
2213 of the nationally norm-referenced tests that are identified by
2214 the department pursuant to paragraph (8) (d) (7) (e) or to take
2215 the statewide assessments pursuant to s. 1008.22. Students with
2216 disabilities for whom standardized testing is not appropriate
2217 are exempt from this requirement. A participating private school
2218 shall report a student's scores to his or her parent. By August
2219 15 of each year, a participating private school must report the
2220 scores of all participating students to a state university as
2221 described in paragraph (8) (h) s. 1002.395(9) (f).

2222 2. Administer the statewide assessments pursuant to s.
2223 1008.22 if the private school chooses to offer the statewide
2224 assessments. A participating private school may choose to offer
2225 and administer the statewide assessments to all students who
2226 attend the private school in grades 3 through 10 and must submit
2227 a request in writing to the department by March 1 of each year
2228 in order to administer the statewide assessments in the
2229 subsequent school year.

2230
2231 If a private school fails to meet the requirements of this



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2232 subsection or s. 1002.421, the commissioner may determine that
2233 the private school is ineligible to participate in the
2234 scholarship program.

2235 (10) (9) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
2236 PARTICIPATION.—A parent who applies for a Family Empowerment
2237 Scholarship is exercising his or her parental option to
2238 determine the appropriate placement or the services that best
2239 meets the needs of his or her child place his or her child in a
2240 private school.

2241 (a) To satisfy or maintain program eligibility, including
2242 eligibility to receive and spend program payments, the parent
2243 must sign an agreement with the organization and annually submit
2244 a sworn compliance statement to the organization to:

2245 1. Affirm that the student is enrolled in a program that
2246 meets regular school attendance requirements as provided in s.
2247 1003.01(13) (b)-(e).

2248 2. Affirm that the program funds are used only for
2249 authorized purposes serving the student's educational needs, as
2250 described in subsection (6).

2251 3. Affirm that the parent is responsible for the education
2252 of his or her student by, as applicable:

2253 a. Requiring the student to take an assessment in
2254 accordance with paragraph (9) (c); or

2255 b. Providing an annual evaluation in accordance with s.
2256 1002.41(1) (f).

2257 4. Affirm that the student remains in good standing with
2258 the provider or school if those options are selected by the
2259 parent The parent must select the private school and apply for
2260 the admission of his or her student.



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2261 (b) ~~The parent must request the scholarship at least 60~~
 2262 ~~days before the date of the first scholarship payment.~~

2263 ~~(c) The parent must inform the applicable school district~~
 2264 ~~when the parent withdraws his or her student from a public~~
 2265 ~~school to attend an eligible private school.~~

2266 ~~(d) Any student participating in the program must remain in~~
 2267 ~~attendance throughout the school year unless excused by the~~
 2268 ~~school for illness or other good cause.~~

2269 ~~(c)(e) If Before~~ enrolling in a private school, a student
 2270 and his or her parent or guardian must meet with the private
 2271 school's principal or the principal's designee to review the
 2272 school's academic programs and policies, customized educational
 2273 programs, code of student conduct, and attendance policies.

2274 ~~(d)(f)~~ The parent shall ensure that a ~~the~~ student
 2275 participating in the scholarship program and enrolled in a
 2276 private school takes the norm-referenced assessment offered by
 2277 the private school. The parent may also choose to have the
 2278 student participate in the statewide assessments pursuant to
 2279 paragraph ~~(9)(c)~~ ~~(6)(b)~~.

2280 ~~(e)(g)~~ If the parent requests that the student
 2281 participating in the program take all statewide assessments
 2282 required pursuant to s. 1008.22, the parent is responsible for
 2283 transporting the student to the assessment site designated by
 2284 the school district.

2285 ~~(h) Upon receipt of a scholarship warrant, the parent to~~
 2286 ~~whom the warrant is issued must restrictively endorse the~~
 2287 ~~warrant to the private school for deposit into the private~~
 2288 ~~school's account. The parent may not designate any entity or~~
 2289 ~~individual associated with the participating private school as~~



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2290 ~~the parent's attorney in fact to endorse a scholarship warrant.~~
 2291 ~~A participant who fails to comply with this paragraph forfeits~~
 2292 ~~the scholarship.~~

2293 ~~(f)(i)~~ The parent must annually renew participation in the
 2294 program by the date established and in a format determined by
 2295 the organization department pursuant to paragraph (7)(e). A
 2296 student whose participation in the program is not renewed may
 2297 continue to spend scholarship funds that are in his or her
 2298 account from prior years unless the account must be closed
 2299 pursuant to paragraph (4)(b).

2300 ~~(g)~~ The parent is responsible for procuring the services
 2301 necessary to educate the student. If a parent does not procure
 2302 the necessary educational services for the student and the
 2303 student's account has been inactive for 2 consecutive fiscal
 2304 years, the student is ineligible and the student's account must
 2305 be closed pursuant to paragraph (4)(b).

2306 ~~(h)~~ The parent is responsible for all eligible expenses in
 2307 excess of the Family Empowerment Scholarship.

2308 ~~(i)~~ The parent may not transfer any prepaid college plan or
 2309 college savings plan funds contributed pursuant to paragraph
 2310 (6)(e) to another beneficiary while the plan contains funds
 2311 contributed pursuant to this section.

2312 ~~(j)~~ The parent may not receive a payment, refund, or rebate
 2313 from an approved provider of any services under this program.

2314

2315 ~~A participant who fails to comply with this subsection forfeits~~
 2316 ~~the Family Empowerment Scholarship.~~

2317 ~~(11)(10)~~ OBLIGATIONS OF ELIGIBLE SCHOLARSHIP-FUNDING
 2318 ORGANIZATIONS.-An eligible nonprofit scholarship-funding



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2319 organization:

2320 (a) Must comply with the antidiscrimination provisions of
2321 42 U.S.C. s. 2000d.

2322 (b) Must comply with the following background check
2323 requirements:

2324 1. All owners and operators as defined in subparagraph
2325 (2)(k)1., before employment or engagement to provide services,
2326 are subject to a level 2 background screening as provided under
2327 chapter 435. The fingerprints for the background screening must
2328 be electronically submitted to the Department of Law Enforcement
2329 and can be taken by an authorized law enforcement agency or by
2330 an employee of the eligible nonprofit scholarship-funding
2331 organization or a private company who is trained to take
2332 fingerprints. However, the complete set of fingerprints of an
2333 owner or operator may not be taken by the owner or operator. The
2334 results of the state and national criminal history check must be
2335 provided to the Department of Education for screening under
2336 chapter 435. The cost of the background screening may be borne
2337 by the eligible nonprofit scholarship-funding organization or
2338 the owner or operator.

2339 2. Every 5 years following employment or engagement to
2340 provide services or association with an eligible nonprofit
2341 scholarship-funding organization, each owner or operator must
2342 meet level 2 screening standards as described in s. 435.04, at
2343 which time the nonprofit scholarship-funding organization shall
2344 request the Department of Law Enforcement to forward the
2345 fingerprints to the Federal Bureau of Investigation for level 2
2346 screening. If the fingerprints of an owner or operator are not
2347 retained by the Department of Law Enforcement under subparagraph



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2348 3., the owner or operator must electronically file a complete
2349 set of fingerprints with the Department of Law Enforcement. Upon
2350 submission of fingerprints for this purpose, the eligible
2351 nonprofit scholarship-funding organization shall request that
2352 the Department of Law Enforcement forward the fingerprints to
2353 the Federal Bureau of Investigation for level 2 screening, and
2354 the fingerprints must be retained by the Department of Law
2355 Enforcement under subparagraph 3.

2356 3. Fingerprints submitted to the Department of Law
2357 Enforcement as required by this paragraph must be retained by
2358 the Department of Law Enforcement in a manner approved by rule
2359 and entered in the statewide automated biometric identification
2360 system authorized by s. 943.05(2)(b). The fingerprints must
2361 continue to be available for all purposes and uses authorized
2362 for arrest fingerprints entered in the statewide automated
2363 biometric identification system pursuant to s. 943.051.

2364 4. The Department of Law Enforcement shall search all
2365 arrest fingerprints received under s. 943.051 against the
2366 fingerprints retained in the statewide automated biometric
2367 identification system under subparagraph 3. Any arrest record
2368 that is identified with an owner's or operator's fingerprints
2369 must be reported to the Department of Education. The Department
2370 of Education shall participate in this search process by paying
2371 an annual fee to the Department of Law Enforcement and by
2372 informing the Department of Law Enforcement of any change in the
2373 employment, engagement, or association status of the owners or
2374 operators whose fingerprints are retained under subparagraph 3.
2375 The Department of Law Enforcement shall adopt a rule setting the
2376 amount of the annual fee to be imposed upon the Department of



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2377 Education for performing these services and establishing the
2378 procedures for the retention of owner or operator fingerprints
2379 and the dissemination of search results. The fee may be borne by
2380 the owner or operator of the nonprofit scholarship-funding
2381 organization.

2382 5. A nonprofit scholarship-funding organization whose owner
2383 or operator fails the level 2 background screening is not
2384 eligible to provide scholarships under this section.

2385 6. A nonprofit scholarship-funding organization whose owner
2386 or operator in the last 7 years has filed for personal
2387 bankruptcy or corporate bankruptcy in a corporation of which he
2388 or she owned more than 20 percent is not eligible to provide
2389 scholarships under this section.

2390 7. In addition to the offenses listed in s. 435.04, a
2391 person required to undergo background screening pursuant to this
2392 part or authorizing statutes may not have an arrest awaiting
2393 final disposition for, must not have been found guilty of, or
2394 entered a plea of nolo contendere to, regardless of
2395 adjudication, and must not have been adjudicated delinquent, and
2396 the record must not have been sealed or expunged for, any of the
2397 following offenses or any similar offense of another
2398 jurisdiction:

- 2399 a. Any authorizing statutes, if the offense was a felony.
- 2400 b. This chapter, if the offense was a felony.
- 2401 c. Section 409.920, relating to Medicaid provider fraud.
- 2402 d. Section 409.9201, relating to Medicaid fraud.
- 2403 e. Section 741.28, relating to domestic violence.
- 2404 f. Section 817.034, relating to fraudulent acts through
- 2405 mail, wire, radio, electromagnetic, photoelectronic, or



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2406 photooptical systems.

2407 g. Section 817.234, relating to false and fraudulent
2408 insurance claims.

2409 h. Section 817.505, relating to patient brokering.

2410 i. Section 817.568, relating to criminal use of personal
2411 identification information.

2412 j. Section 817.60, relating to obtaining a credit card
2413 through fraudulent means.

2414 k. Section 817.61, relating to fraudulent use of credit
2415 cards, if the offense was a felony.

2416 l. Section 831.01, relating to forgery.

2417 m. Section 831.02, relating to uttering forged instruments.

2418 n. Section 831.07, relating to forging bank bills, checks,
2419 drafts, or promissory notes.

2420 o. Section 831.09, relating to uttering forged bank bills,
2421 checks, drafts, or promissory notes.

2422 p. Section 831.30, relating to fraud in obtaining medicinal
2423 drugs.

2424 g. Section 831.31, relating to the sale, manufacture,
2425 delivery, or possession with the intent to sell, manufacture, or
2426 deliver any counterfeit controlled substance, if the offense was
2427 a felony.

2428 (c) May not have an owner or operator who owns or operates
2429 an eligible private school that is participating in the
2430 scholarship program.

2431 (d) Shall establish and maintain separate accounts for each
2432 eligible student. For each account, the organization must
2433 maintain a record of accrued interest that is retained in the
2434 student's account and available only for authorized program



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2435 expenditures.

2436 (e) May not restrict or reserve scholarships for use at a
2437 particular private school.

2438 (f) Must provide to the Auditor General and the Department
2439 of Education a report on the results of an annual financial
2440 audit of its accounts and records conducted by an independent
2441 certified public accountant in accordance with auditing
2442 standards generally accepted in the United States, government
2443 auditing standards, and rules promulgated by the Auditor
2444 General. The audit report must include a report on financial
2445 statements presented in accordance with generally accepted
2446 accounting principles. Audit reports must be provided to the
2447 Auditor General and the Department of Education within 180 days
2448 after completion of the eligible nonprofit scholarship-funding
2449 organization's fiscal year. The Auditor General shall review all
2450 audit reports submitted pursuant to this paragraph. The Auditor
2451 General shall request any significant items that were omitted in
2452 violation of a rule adopted by the Auditor General. The items
2453 must be provided within 45 days after the date of the request.
2454 If the scholarship-funding organization does not comply with the
2455 Auditor General's request, the Auditor General shall notify the
2456 Legislative Auditing Committee.

2457 (g)1.a. Must use agreed-upon procedures that uniformly
2458 apply to all private schools and determine, at a minimum,
2459 whether the private school has been verified as eligible by the
2460 Department of Education under s. 1002.421; has an adequate
2461 accounting system, system of financial controls, and process for
2462 deposit and classification of scholarship funds; and has
2463 properly expended scholarship funds for education-related



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2464 expenses.

2465 b. Must participate in a joint review of the agreed-upon
2466 procedures and guidelines under sub-subparagraph a., by February
2467 of each biennium, if the scholarship-funding organization
2468 provided more than \$250,000 in scholarship funds to an eligible
2469 private school under this chapter during the state fiscal year
2470 preceding the biennial review. If the procedures and guidelines
2471 are revised, the revisions must be provided to private schools
2472 and the Commissioner of Education by March 15 of the year in
2473 which the revisions were completed. The revised agreed-upon
2474 procedures take effect the subsequent school year.

2475 c. Must monitor the compliance of a private school with s.
2476 1002.421(1)(q) if the scholarship-funding organization provided
2477 the majority of the scholarship funding to the school. For each
2478 private school subject to s. 1002.421(1)(q), the appropriate
2479 scholarship-funding organization shall annually notify the
2480 Commissioner of Education by October 30 of:

2481 (I) A private school's failure to submit a report required
2482 under s. 1002.421(1)(q); or

2483 (II) Any material exceptions set forth in the report
2484 required under s. 1002.421(1)(q).

2485 2. Must seek input from the accrediting associations that
2486 are members of the Florida Association of Academic Nonpublic
2487 Schools and the Department of Education when conducting a joint
2488 review of the procedures and guidelines under sub-subparagraph
2489 1.b.

2490 (h) Must establish a date by which the parent of a
2491 participating student must confirm continuing participation in
2492 the program.



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2493 (i)(a) Shall verify the household income level of students
2494 pursuant to subparagraph (3)(a)1. and submit the verified list
2495 of students and related documentation to the department.

2496 (j)(b) Shall award initial and renewal scholarships to
2497 eligible students in priority order pursuant to subsection (3)
2498 and notify parents of their receipt of a scholarship paragraph
2499 (3)(d). The eligible nonprofit scholarship-funding organization
2500 shall implement the deadlines established by the department
2501 pursuant to paragraphs (7)(d) and (e).

2502 (k)(e) May, from eligible contributions received pursuant
2503 to s. 1002.395(6)(j)1., use an amount not to exceed 2.5 ±
2504 percent of the total amount of all scholarships awarded under
2505 this section for administrative expenses associated with
2506 performing functions under this section, if the organization has
2507 operated as an eligible nonprofit scholarship-funding
2508 organization for at least the preceding 3 fiscal years and did
2509 not have any findings of material weakness or material
2510 noncompliance in its most recent audit performed pursuant to
2511 paragraph (f). ~~Such administrative expense amount is considered~~
2512 ~~within the 3 percent limit on the total amount an organization~~
2513 ~~may use to administer scholarships under this chapter.~~

2514 (l) Must verify qualifying educational expenditures
2515 pursuant to the requirement of paragraph (8)(j) and must request
2516 the return of any funds used for unauthorized purposes.

2517 (m) Must return any remaining program funds to the
2518 department pursuant to paragraph (4)(b).

2519 (n) Must document each scholarship student's eligibility
2520 pursuant to subsection (3) for a fiscal year before granting a
2521 scholarship for that fiscal year. A student is ineligible for a



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2522 scholarship if the student's account has been inactive for 2
2523 fiscal years and the student's account has been closed pursuant
2524 to paragraph (4)(b).

2525 (o) Must allow a student who meets the requirements of
2526 subparagraph (3)(a)2. or a dependent child of a parent who is a
2527 member of the United States Armed Forces to apply for a
2528 scholarship at any time.

2529 (p)(d) Must, in a timely manner, submit any information
2530 requested by the department relating to the scholarship under
2531 this section.

2532 (q) Must establish a date by which the parent of a
2533 participating student must confirm continuing participation in
2534 the program.

2535 (r) Must prepare and submit quarterly reports to the
2536 department pursuant to paragraph (8)(k).

2537 (s)(e) Must notify the department about any violation of
2538 this section by a parent or a private school.

2539 (12)(11) SCHOLARSHIP FUNDING AND PAYMENT.—For the purposes
2540 of this subsection, the term "student FTE" refers to how
2541 participating students are calculated for the purposes of the
2542 scholarship program allocation, which is equal to four quarterly
2543 scholarship payments.

2544 (a) The scholarship is established for up to 175,000 ~~18,000~~
2545 student FTE for students annually beginning in the 2021-2022
2546 2019-2020 school year. A student who received a Florida Tax
2547 Credit Scholarship or a Hope Scholarship in the 2020-2021 school
2548 year and who meets the eligibility requirements in subsection
2549 (3) for the 2021-2022 school year is eligible for a Family
2550 Empowerment Scholarship in the 2021-2022 school year. Beginning



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2551 in the ~~2022-2023~~ ~~2020-2021~~ school year, and each year
2552 thereafter, the maximum number of student FTE students
2553 participating in the scholarship program under this section
2554 shall annually increase by 1.0 percent of the state's total
2555 public school student enrollment.

2556 (b) ~~The scholarship amount provided to a student for any~~
2557 ~~single school year shall be for tuition and fees for an eligible~~
2558 ~~private school, not to exceed annual limits, which shall be~~
2559 ~~determined in accordance with this paragraph. The calculated~~
2560 ~~scholarship amount for a student participating in the program~~
2561 ~~must to attend an eligible private school shall be based upon~~
2562 ~~the grade level and school district in which the student was~~
2563 ~~assigned as 97.5 95 percent of the funds per unweighted full-~~
2564 ~~time equivalent in the Florida Education Finance Program for a~~
2565 ~~student in the basic program established pursuant to s.~~
2566 ~~1011.62(1)(c)1., plus a per-full-time equivalent share of funds~~
2567 ~~for all categorical programs, as provided in the General~~
2568 ~~Appropriations Act except for the Exceptional Student Education~~
2569 ~~Guaranteed Allocation.~~

2570 (c) As an alternative, a student who is eligible for a
2571 Family Empowerment Scholarship is eligible for a transportation
2572 award limited to \$750 annually necessary to meet the student's
2573 educational needs under this section, if the student enrolls in
2574 a Florida public school that is outside the school district in
2575 which the student resides or is enrolled in a lab school as
2576 defined in s. 1002.32. These students do not count against the
2577 175,000 student FTE cap established in paragraph (a) ~~The amount~~
2578 ~~of the Family Empowerment Scholarship shall be the calculated~~
2579 ~~amount or the amount of the private school's tuition and fees,~~



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2580 ~~whichever is less. The amount of any assessment fee required by~~
2581 ~~the participating private school may be paid from the total~~
2582 ~~amount of the scholarship.~~

2583 (d) At the time of each Florida Education Finance Program
2584 student membership survey, the scholarship-funding organization
2585 shall report to the department student enrollment, student FTE,
2586 and total award amounts by county, delineated by the FEFP
2587 program, and grade for ~~The school district shall report all~~
2588 ~~students who are participating in attending a private school~~
2589 ~~under this program. The students attending private schools on~~
2590 ~~Family Empowerment Scholarships shall be reported separately~~
2591 ~~from other students reported for purposes of the Florida~~
2592 ~~Education Finance Program.~~

2593 (e) Upon following notification from the organization on
2594 July 1, September 1, December 1, and ~~or~~ February 1 that an
2595 application has been approved for the program of the number of
2596 program participants, the department shall verify that the
2597 student is not prohibited from receiving a scholarship pursuant
2598 to subsection (5). The organization must provide the department
2599 with the documentation necessary to verify the student's
2600 participation transfer, from general revenue funds only, the
2601 amount calculated pursuant to paragraph (b) to a separate
2602 account for the scholarship program for quarterly disbursement
2603 to parents of participating students. For a student exiting a
2604 Department of Juvenile Justice commitment program who chooses to
2605 participate in the scholarship program, the amount of the Family
2606 Empowerment Scholarship calculated pursuant to paragraph (b)
2607 must be transferred from the school district in which the
2608 student last attended a public school before commitment to the



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2609 ~~Department of Juvenile Justice.~~ When a student enters the
2610 scholarship program, the department must receive all
2611 documentation required for the student's participation,
2612 including the private school's and the student's fee schedules,
2613 at least 30 days before the first quarterly scholarship payment
2614 is made for the student.

2615 (f) Upon verification, the department shall release the
2616 student's scholarship funds to the organization, to be deposited
2617 into the student's account notification by the department that
2618 it has received the documentation required under paragraph (c),
2619 the Chief Financial Officer shall make scholarship payments in
2620 four equal amounts no later than September 1, November 1,
2621 February 1, and April 1 of each school year in which the
2622 scholarship is in force. The initial payment shall be made after
2623 department verification of admission acceptance, and subsequent
2624 payments shall be made upon verification of continued enrollment
2625 and attendance at the private school. Payment must be by
2626 individual warrant made payable to the student's parent and
2627 mailed by the department to the private school of the parent's
2628 choice, and the parent shall restrictively endorse the warrant
2629 to the private school for deposit into the account of the
2630 private school.

2631 (g) Accrued interest in the student's account is in
2632 addition to, and not part of, the awarded funds. Program funds
2633 include both the awarded funds and accrued interest. Subsequent
2634 to each scholarship payment, the department shall request from
2635 the Department of Financial Services a sample of endorsed
2636 warrants to review and confirm compliance with endorsement
2637 requirements.



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2638 (h) The organization may develop a system for payment of
2639 benefits by funds transfer, including, but not limited to, debit
2640 cards, electronic payment cards, or any other means of payment
2641 that the department deems to be commercially viable or cost-
2642 effective. A student's scholarship award may not be reduced for
2643 debit card or electronic payment fees. Commodities or services
2644 related to the development of such a system must be procured by
2645 competitive solicitation unless they are purchased from a state
2646 term contract pursuant to s. 287.056.

2647 (i) Moneys received pursuant to this section do not
2648 constitute taxable income to the qualified student or parent of
2649 the qualified student.

2650 (13) OBLIGATIONS OF THE AUDITOR GENERAL.-

2651 (a) At least once every 3 years, the Auditor General shall
2652 conduct an operational audit of accounts and records of each
2653 organization that participates in the program. As part of this
2654 audit, the Auditor General shall verify, at a minimum, the total
2655 number of students served and the eligibility of reimbursements
2656 made by the organization and transmit that information to the
2657 department. The Auditor General shall provide the commissioner
2658 with a copy of each annual operational audit performed pursuant
2659 to this subsection within 10 days after the audit is finalized.

2660 (b) The Auditor General shall notify the department of any
2661 organization that fails to comply with a request for
2662 information.

2663 (14) NONPROFIT SCHOLARSHIP-FUNDING ORGANIZATIONS;
2664 APPLICATION.-In order to participate in the scholarship program
2665 created under this section, a charitable organization that seeks
2666 to be a nonprofit scholarship-funding organization shall submit



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2667 an application for initial approval or renewal to the Office of
2668 Independent Education and Parental Choice no later than
2669 September 1 of each year before the school year for which the
2670 organization intends to offer scholarships.
2671 (a) An application for initial approval must include:
2672 1. A copy of the organization's incorporation documents and
2673 registration with the Division of Corporations of the Department
2674 of State.
2675 2. A copy of the organization's Internal Revenue Service
2676 determination letter as an s. 501(c) (3) not-for-profit
2677 organization.
2678 3. A description of the organization's financial plan that
2679 demonstrates sufficient funds to operate throughout the school
2680 year.
2681 4. A description of the geographic region that the
2682 organization intends to serve and an analysis of the demand and
2683 unmet need for eligible students in that area.
2684 5. The organization's organizational chart.
2685 6. A description of the criteria and methodology that the
2686 organization will use to evaluate scholarship eligibility.
2687 7. A description of the application process, including
2688 deadlines and any associated fees.
2689 8. A description of the deadlines for attendance
2690 verification and scholarship payments.
2691 9. A copy of the organization's policies on conflict of
2692 interest and whistleblowers.
2693 10. A copy of a surety bond or letter of credit to secure
2694 the faithful performance of the obligations of the eligible
2695 nonprofit scholarship-funding organization in accordance with



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2696 this section in an amount equal to 25 percent of the scholarship
2697 funds anticipated for each school year or \$100,000, whichever is
2698 greater. The surety bond or letter of credit must specify that
2699 any claim against the bond or letter of credit may be made only
2700 by an eligible nonprofit scholarship-funding organization to
2701 provide scholarships to and on behalf of students who would have
2702 had scholarships funded if it were not for the diversion of
2703 funds giving rise to the claim against the bond or letter of
2704 credit.
2705 (b) In addition to the information required by
2706 subparagraphs (a)1.-10., an application for renewal must
2707 include:
2708 1. A single surety bond or letter of credit to secure the
2709 faithful performance of the obligations of the eligible
2710 nonprofit scholarship-funding organization in accordance with
2711 this chapter equal to the amount of undisbursed funds held by
2712 the organization based on the annual report submitted pursuant
2713 to paragraph (11) (r). The amount of the surety bond or letter of
2714 credit must be at least \$100,000, but not more than \$25 million.
2715 The surety bond or letter of credit must specify that any claim
2716 against the bond or letter of credit may be made only by an
2717 eligible nonprofit scholarship-funding organization to provide
2718 scholarships to and on behalf of students who would have had
2719 scholarships funded if it were not for the diversion of funds
2720 giving rise to the claim against the bond or letter of credit.
2721 2. The organization's completed Internal Revenue Service
2722 Form 990 submitted no later than November 30 of the year before
2723 the school year that the organization intends to offer the
2724 scholarships, notwithstanding the September 1 application



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2725 deadline.
2726 3. A copy of the statutorily required audit to the
2727 Department of Education and Auditor General.
2728 4. An annual report that includes:
2729 a. The number of students who completed applications, by
2730 county and by grade.
2731 b. The number of students who were approved for
2732 scholarships, by county and by grade.
2733 c. The number of students who received funding for
2734 scholarships within each funding category, by county and by
2735 grade.
2736 d. The amount of funds received, the amount of funds
2737 distributed in scholarships, and an accounting of remaining
2738 funds and the obligation of those funds.
2739 e. A detailed accounting of how the organization spent the
2740 administrative funds allowable under paragraph (11)(k).
2741 (c) In consultation with the Department of Revenue and the
2742 Chief Financial Officer, the Office of Independent Education and
2743 Parental Choice shall review the application. The Department of
2744 Education shall notify the organization in writing of any
2745 deficiencies within 30 days after receipt of the application and
2746 allow the organization 30 days to correct any deficiencies.
2747 (d) Within 30 days after receipt of the finalized
2748 application by the Office of Independent Education and Parental
2749 Choice, the Commissioner of Education shall recommend approval
2750 or disapproval of the application to the State Board of
2751 Education. The State Board of Education shall consider the
2752 application and recommendation at the next scheduled meeting,
2753 adhering to appropriate meeting notice requirements. If the



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2754 State Board of Education disapproves the organization's
2755 application, it shall provide the organization with a written
2756 explanation of that determination. The State Board of
2757 Education's action is not subject to chapter 120.
2758 (e) If the State Board of Education disapproves the renewal
2759 of a nonprofit scholarship-funding organization, the
2760 organization must notify the affected eligible students and
2761 parents of the decision within 15 days after disapproval. An
2762 eligible student affected by the disapproval of an
2763 organization's participation remains eligible under this section
2764 until the end of the school year in which the organization was
2765 disapproved. The student must apply and be accepted by another
2766 eligible nonprofit scholarship-funding organization for the
2767 upcoming school year. The student must be given priority in
2768 accordance with paragraph (3)(d).
2769 (f) All remaining eligible student accounts with funds held
2770 by a nonprofit scholarship-funding organization that is
2771 disapproved for participation must be transferred to the
2772 student's account established at the eligible nonprofit
2773 scholarship-funding organization accepting the student. All
2774 transferred funds must be deposited by each eligible nonprofit
2775 scholarship-funding organization receiving such funds into the
2776 student's scholarship account. All other remaining funds must be
2777 transferred to the department. All transferred amounts received
2778 by any eligible nonprofit scholarship-funding organization must
2779 be separately disclosed in the annual financial audit required
2780 under subsection (11).
2781 (g) A nonprofit scholarship-funding organization is a
2782 renewing organization if it was approved by the State Board of



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2783 Education for the 2021-2022 fiscal year or after and maintains
2784 continuous approval and participation in the program. An
2785 organization that chooses not to participate for 1 year or more
2786 or is disapproved to participate for 1 year or more must submit
2787 an application for initial approval in order to participate in
2788 the program again.

2789 (h) The State Board of Education shall adopt rules
2790 providing guidelines for receiving, reviewing, and approving
2791 applications for new and renewing nonprofit scholarship-funding
2792 organizations. The rules must include a process for compiling
2793 input and recommendations from the Chief Financial Officer, the
2794 Department of Revenue, and the Department of Education. The
2795 rules must also require that the nonprofit scholarship-funding
2796 organization make a brief presentation to assist the State Board
2797 of Education in its decision.

2798 (i) A state university or an independent college or
2799 university that is eligible to participate in the William L.
2800 Boyd, IV, Effective Access to Student Education Grant Program,
2801 is located and chartered in this state, is not for profit, and
2802 is accredited by the Commission on Colleges of the Southern
2803 Association of Colleges and Schools is exempt from the initial
2804 or renewal application process, but must file a registration
2805 notice with the Department of Education to be an eligible
2806 nonprofit scholarship-funding organization. The State Board of
2807 Education shall adopt rules that identify the procedure for
2808 filing the registration notice with the department. The rules
2809 must identify appropriate reporting requirements for fiscal,
2810 programmatic, and performance accountability purposes consistent
2811 with this section, but may not exceed the requirements for



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2812 eligible nonprofit scholarship-funding organizations for
2813 charitable organizations.

2814 (15)(12) LIABILITY.—No liability shall arise on the part of
2815 the state based on the award or use of a Family Empowerment
2816 Scholarship.

2817 (16)(13) SCOPE OF AUTHORITY.—The inclusion of eligible
2818 private schools and private providers within the options
2819 available to Florida public school students does not expand the
2820 regulatory authority of the state, its officers, or any school
2821 district to impose any additional regulation of private schools
2822 beyond those reasonably necessary to enforce requirements
2823 expressly set forth in this section.

2824 (17)(14) RULES.—The State Board of Education shall adopt
2825 rules pursuant to ss. 120.536(1) and 120.54 to administer this
2826 section. The state board rules must include a requirement that
2827 the department work collaboratively with an approved
2828 scholarship-funding organization to expedite the process for the
2829 verification and reporting obligations specified under
2830 subsection (11) (10).

2831 ~~(15) IMPLEMENTATION SCHEDULE FOR THE 2019-2020 SCHOOL~~
2832 ~~YEAR. Notwithstanding the provisions of this section related to~~
2833 ~~notification requirements and eligibility timelines, for the~~
2834 ~~2019-2020 school year:~~

2835 ~~(a) A student is eligible for a Family Empowerment~~
2836 ~~Scholarship under this section if the student's parent has~~
2837 ~~obtained acceptance of the student's admission to a private~~
2838 ~~school that is eligible for the program under subsection (8),~~
2839 ~~and the parent has requested a scholarship from the Department~~
2840 ~~of Education no later than August 15, 2019. The request must be~~



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2841 ~~communicated directly to the department in a manner that creates~~
2842 ~~a written or electronic record of the request and the date of~~
2843 ~~receipt of the request.~~

2844 ~~(b) The department shall expedite the publication of~~
2845 ~~information relevant to the Family Empowerment Scholarship~~
2846 ~~Program on the department's website, including, but not limited~~
2847 ~~to, the eligibility criteria for students to qualify for the~~
2848 ~~scholarship under this section and how parents may request the~~
2849 ~~scholarship. The department must immediately notify the school~~
2850 ~~district of the parent's intent upon receipt of the parent's~~
2851 ~~request.~~

2852 ~~(c) Upon notification by the department that it has~~
2853 ~~received the documentation required under paragraph (10)(a), the~~
2854 ~~Chief Financial Officer shall make the first quarter payment of~~
2855 ~~scholarships no later than October 1, 2019.~~

2856 ~~This subsection shall expire June 30, 2020.~~

2858 Section 20. Section 1002.395, Florida Statutes, is amended
2859 to read:

2860 1002.395 Florida K-12 Education Funding Tax Credit
2861 Scholarship Program.-

2862 (1) FINDINGS AND PURPOSE.-

2863 (a) The Legislature finds that:

2864 1. It has the inherent power to determine subjects of
2865 taxation for general or particular public purposes.

2866 2. Expanding educational opportunities and improving the
2867 quality of educational services within the state are valid
2868 public purposes that the Legislature may promote using its
2869 sovereign power to determine subjects of taxation and exemptions



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2870 from taxation.

2871 3. Ensuring that all parents, regardless of means, may
2872 exercise and enjoy their basic right to educate their children
2873 as they see fit is a valid public purpose that the Legislature
2874 may promote using its sovereign power to determine subjects of
2875 taxation and exemptions from taxation.

2876 4. Expanding educational opportunities and the healthy
2877 competition they promote are critical to improving the quality
2878 of education in the state and to ensuring that all children
2879 receive the high-quality education to which they are entitled.

2880 (b) The purpose of this section is to:

2881 1. Enable taxpayers to designate portions of certain tax
2882 payments as make private, voluntary contributions to K-12
2883 education funding to nonprofit scholarship-funding organizations
2884 in order to promote the general welfare.

2885 2. ~~Provide taxpayers who wish to help parents with limited~~
2886 ~~resources exercise their basic right to educate their children~~
2887 ~~as they see fit with a means to do so.~~

2888 3. ~~Promote the general welfare by expanding educational~~
2889 ~~opportunities for children of families that have limited~~
2890 ~~financial resources.~~

2891 4. Enable children in this state to achieve a greater level
2892 of excellence in their education.

2893 3.5- Improve the quality of education in this state, both
2894 by expanding educational opportunities for children and by
2895 creating incentives for schools to achieve excellence.

2896 ~~(c) The purpose of this section is not to prescribe the~~
2897 ~~standards or curriculum for private schools. A private school~~
2898 ~~retains the authority to determine its own standards and~~



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2899 ~~curriculum.~~

2900 (2) DEFINITIONS.—As used in this section, the term:

2901 (a) ~~“Annual tax credit amount” means, for any state fiscal~~
2902 ~~year, the sum of the amount of tax credits approved under~~
2903 ~~paragraph (5)(b), including tax credits to be taken under s.~~
2904 ~~220.1875 or s. 624.51055, which are approved for a taxpayer~~
2905 ~~whose taxable year begins on or after January 1 of the calendar~~
2906 ~~year preceding the start of the applicable state fiscal year.~~

2907 ~~(b) “Department” means the Department of Revenue.~~

2908 ~~(c) “Direct certification list” means the certified list of~~
2909 ~~children who qualify for the food assistance program, the~~
2910 ~~Temporary Assistance to Needy Families Program, or the Food~~
2911 ~~Distribution Program on Indian Reservations provided to the~~
2912 ~~Department of Education by the Department of Children and~~
2913 ~~Families.~~

2914 ~~(b)(d) “Division” means the Division of Alcoholic Beverages~~
2915 ~~and Tobacco of the Department of Business and Professional~~
2916 ~~Regulation.~~

2917 ~~(c)(e) “Eligible contribution” means the taxes, or a~~
2918 ~~portion thereof, remitted by the taxpayer to the department or~~
2919 ~~the division which the taxpayer elects to designate for K-12~~
2920 ~~education funding a monetary contribution from a taxpayer,~~
2921 ~~subject to the restrictions provided in this section, to an~~
2922 ~~eligible nonprofit scholarship funding organization. The~~
2923 ~~taxpayer making the contribution may not designate a specific~~
2924 ~~child as the beneficiary of the contribution.~~

2925 ~~(f) “Eligible nonprofit scholarship funding organization”~~
2926 ~~means a state university; or an independent college or~~
2927 ~~university that is eligible to participate in the William I.~~



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2928 ~~Byrd, IV, Effective Access to Student Education Grant Program,~~
2929 ~~located and chartered in this state, is not for profit, and is~~
2930 ~~accredited by the Commission on Colleges of the Southern~~
2931 ~~Association of Colleges and Schools; or is a charitable~~
2932 ~~organization that:~~

2933 ~~1. Is exempt from federal income tax pursuant to s.~~
2934 ~~501(e)(3) of the Internal Revenue Code;~~

2935 ~~2. Is a Florida entity formed under chapter 605, chapter~~
2936 ~~607, or chapter 617 and whose principal office is located in the~~
2937 ~~state; and~~

2938 ~~3. Complies with subsections (6) and (15).~~

2939 ~~(g) “Eligible private school” means a private school, as~~
2940 ~~defined in s. 1002.01(2), located in Florida which offers an~~
2941 ~~education to students in any grades K-12 and that meets the~~
2942 ~~requirements in subsection (8).~~

2943 ~~(h) “Household income” has the same meaning as the term~~
2944 ~~“income” as defined in the Income Eligibility Guidelines for~~
2945 ~~free and reduced price meals under the National School Lunch~~
2946 ~~Program in 7 C.F.R. part 210 as published in the Federal~~
2947 ~~Register by the United States Department of Agriculture.~~

2948 ~~(i) “Owner or operator” includes:~~

2949 ~~1. An owner, president, officer, or director of an eligible~~
2950 ~~nonprofit scholarship funding organization or a person with~~
2951 ~~equivalent decisionmaking authority over an eligible nonprofit~~
2952 ~~scholarship funding organization.~~

2953 ~~2. An owner, operator, superintendent, or principal of an~~
2954 ~~eligible private school or a person with equivalent~~
2955 ~~decisionmaking authority over an eligible private school.~~

2956 ~~(j) “Tax credit cap amount” means the maximum annual tax~~



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2957 ~~credit amount that the department may approve for a state fiscal~~
2958 ~~year.~~

2959 ~~(k) "Unweighted FTE funding amount" means the statewide~~
2960 ~~average total funds per unweighted full-time equivalent funding~~
2961 ~~amount that is incorporated by reference in the General~~
2962 ~~Appropriations Act, or any subsequent special appropriations~~
2963 ~~act, for the applicable state fiscal year.~~

2964 ~~(3) PROGRAM; INITIAL SCHOLARSHIP ELICIBILITY.-~~

2965 ~~(a) The Florida Tax Credit Scholarship Program is~~
2966 ~~established.~~

2967 ~~(b) A student is eligible for a Florida tax credit~~
2968 ~~scholarship under this section if the student meets one or more~~
2969 ~~of the following criteria:~~

2970 ~~1. The student is on the direct certification list or the~~
2971 ~~student's household income level does not exceed 260 percent of~~
2972 ~~the federal poverty level; or~~

2973 ~~2. The student is currently placed, or during the previous~~
2974 ~~state fiscal year was placed, in foster care or in out of home~~
2975 ~~care as defined in s. 39.01.~~

2976 ~~Priority must be given to a student whose household income level~~
2977 ~~does not exceed 185 percent of the federal poverty level or who~~
2978 ~~is in foster care or out of home care. A student who initially~~
2979 ~~receives a scholarship based on eligibility under this paragraph~~
2980 ~~remains eligible to participate until he or she graduates from~~
2981 ~~high school or attains the age of 21 years, whichever occurs~~
2982 ~~first, regardless of the student's household income level. A~~
2983 ~~sibling of a student who is participating in the scholarship~~
2984 ~~program under this subsection is eligible for a scholarship if~~
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2986 ~~the student resides in the same household as the sibling.~~

2987 ~~(4) SCHOLARSHIP PROHIBITIONS. A student is not eligible for~~
2988 ~~a scholarship while he or she is:~~

2989 ~~(a) Enrolled in a school operating for the purpose of~~
2990 ~~providing educational services to youth in Department of~~
2991 ~~Juvenile Justice commitment programs;~~

2992 ~~(b) Receiving a scholarship from another eligible nonprofit~~
2993 ~~scholarship funding organization under this section;~~

2994 ~~(c) Receiving an educational scholarship pursuant to~~
2995 ~~chapter 1002;~~

2996 ~~(d) Participating in a home education program as defined in~~
2997 ~~s. 1002.01(1);~~

2998 ~~(e) Participating in a private tutoring program pursuant to~~
2999 ~~s. 1002.43;~~

3000 ~~(f) Participating in a virtual school, correspondence~~
3001 ~~school, or distance learning program that receives state funding~~
3002 ~~pursuant to the student's participation unless the participation~~
3003 ~~is limited to no more than two courses per school year; or~~

3004 ~~(g) Enrolled in the Florida School for the Deaf and the~~
3005 ~~Blind.~~

3006 ~~(5) K-12 EDUCATION SCHOLARSHIP FUNDING TAX CREDITS;~~
3007 ~~LIMITATIONS.-~~

3008 ~~(a)1. The tax credit cap amount is \$229 million in the~~
3009 ~~2012-2013 state fiscal year.~~

3010 ~~2. In the 2013-2014 state fiscal year and each state fiscal~~
3011 ~~year thereafter, the tax credit cap amount is the tax credit cap~~
3012 ~~amount in the prior state fiscal year. However, in any state~~
3013 ~~fiscal year when the annual tax credit amount for the prior~~
3014 ~~state fiscal year is equal to or greater than 90 percent of the~~



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3015 ~~tax credit cap amount applicable to that state fiscal year, the~~
3016 ~~tax credit cap amount shall increase by 25 percent. The~~
3017 ~~Department of Education and Department of Revenue shall publish~~
3018 ~~on their websites information identifying the tax credit cap~~
3019 ~~amount when it is increased pursuant to this subparagraph.~~

3020 (a) (b) A taxpayer may elect to make eligible contributions
3021 submit an application to the department or the division for a
3022 tax credit or credits under one or more of s. 211.0251, s.
3023 212.1831, s. 220.1875, s. 561.1211, or s. 624.51055. For
3024 elections related to taxes imposed under chapter 211, chapter
3025 212, or chapter 561, the taxpayer shall make the election on a
3026 return filed with the department or the division. For elections
3027 related to taxes imposed under chapter 220 or chapter 624, the
3028 taxpayer shall make the election when making the estimated
3029 payment.

3030 (b) The taxpayer shall specify the amount of the eligible
3031 contribution, which amount may not exceed:

3032 1. For elections under s. 211.0251, 50 percent of the tax
3033 due on the return on which the election is made.

3034 2. For elections under s. 212.1831, 100 percent of the tax
3035 due on the return on which the election is made.

3036 3. For elections under s. 220.1875, 25 percent of the final
3037 tax liability shown on the taxpayer's Florida Corporate Income
3038 Tax Return for the prior taxable year.

3039 4. For elections under s. 561.1211, 90 percent of the tax
3040 due on the return on which the election is made.

3041 5. For elections under s. 624.51055, 33 percent of the tax
3042 due for the prior taxable year under s. 624.509(1) after
3043 deducting from such tax the prior year's deductions for



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3044 assessments made pursuant to s. 440.51; credits for taxes paid
3045 under ss. 175.101 and 185.08; credits for income taxes paid
3046 under chapter 220; and the credit allowed under s. 624.509(5),
3047 as such credit is limited by s. 624.509(6).

3048 ~~1. The taxpayer shall specify in the application each tax~~
3049 ~~for which the taxpayer requests a credit and the applicable~~
3050 ~~taxable year for a credit under s. 220.1875 or s. 624.51055 or~~
3051 ~~the applicable state fiscal year for a credit under s. 211.0251,~~
3052 ~~s. 212.1831, or s. 561.1211. For purposes of s. 220.1875, a~~
3053 ~~taxpayer may apply for a credit to be used for a prior taxable~~
3054 ~~year before the date the taxpayer is required to file a return~~
3055 ~~for that year pursuant to s. 220.222. For purposes of s.~~
3056 ~~624.51055, a taxpayer may apply for a credit to be used for a~~
3057 ~~prior taxable year before the date the taxpayer is required to~~
3058 ~~file a return for that prior taxable year pursuant to ss.~~
3059 ~~624.509 and 624.5092. The department shall approve tax credits~~
3060 ~~on a first-come, first-served basis and must obtain the~~
3061 ~~division's approval before approving a tax credit under s.~~
3062 ~~561.1211.~~

3063 ~~2. Within 10 days after approving or denying an~~
3064 ~~application, the department shall provide a copy of its approval~~
3065 ~~or denial letter to the eligible nonprofit scholarship-funding~~
3066 ~~organization specified by the taxpayer in the application.~~

3067 ~~(c) If a tax credit approved under paragraph (b) is not~~
3068 ~~fully used within the specified state fiscal year for credits~~
3069 ~~under s. 211.0251, s. 212.1831, or s. 561.1211 or against taxes~~
3070 ~~due for the specified taxable year for credits under s. 220.1875~~
3071 ~~or s. 624.51055 because of insufficient tax liability on the~~
3072 ~~part of the taxpayer, the unused amount shall be carried forward~~



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3073 ~~for a period not to exceed 10 years. For purposes of s.~~
3074 ~~220.1875, a credit carried forward may be used in a subsequent~~
3075 ~~year after applying the other credits and unused carryovers in~~
3076 ~~the order provided in s. 220.02(8).~~

3077 ~~(d) A taxpayer may not convey, assign, or transfer an~~
3078 ~~approved tax credit or a carryforward tax credit to another~~
3079 ~~entity unless all of the assets of the taxpayer are conveyed,~~
3080 ~~assigned, or transferred in the same transaction. However, a tax~~
3081 ~~credit under s. 211.0251, s. 212.1831, s. 220.1875, s. 561.1211,~~
3082 ~~or s. 624.51055 may be conveyed, transferred, or assigned~~
3083 ~~between members of an affiliated group of corporations if the~~
3084 ~~type of tax credit under s. 211.0251, s. 212.1831, s. 220.1875,~~
3085 ~~s. 561.1211, or s. 624.51055 remains the same. A taxpayer shall~~
3086 ~~notify the department of its intent to convey, transfer, or~~
3087 ~~assign a tax credit to another member within an affiliated group~~
3088 ~~of corporations. The amount conveyed, transferred, or assigned~~
3089 ~~is available to another member of the affiliated group of~~
3090 ~~corporations upon approval by the department. The department~~
3091 ~~shall obtain the division's approval before approving a~~
3092 ~~conveyance, transfer, or assignment of a tax credit under s.~~
3093 ~~561.1211.~~

3094 ~~(e) Within any state fiscal year, a taxpayer may rescind~~
3095 ~~all or part of a tax credit approved under paragraph (b). The~~
3096 ~~amount rescinded shall become available for that state fiscal~~
3097 ~~year to another eligible taxpayer as approved by the department~~
3098 ~~if the taxpayer receives notice from the department that the~~
3099 ~~rescindment has been accepted by the department. The department~~
3100 ~~must obtain the division's approval prior to accepting the~~
3101 ~~rescindment of a tax credit under s. 561.1211. Any amount~~



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3102 ~~rescinded under this paragraph shall become available to an~~
3103 ~~eligible taxpayer on a first-come, first-served basis based on~~
3104 ~~tax credit applications received after the date the rescindment~~
3105 ~~is accepted by the department.~~

3106 ~~(f) Within 10 days after approving or denying the~~
3107 ~~conveyance, transfer, or assignment of a tax credit under~~
3108 ~~paragraph (d), or the rescindment of a tax credit under~~
3109 ~~paragraph (e), the department shall provide a copy of its~~
3110 ~~approval or denial letter to the eligible nonprofit scholarship-~~
3111 ~~funding organization specified by the taxpayer. The department~~
3112 ~~shall also include the eligible nonprofit scholarship funding~~
3113 ~~organization specified by the taxpayer on all letters or~~
3114 ~~correspondence of acknowledgment for tax credits under s.~~
3115 ~~212.1831.~~

3116 ~~(g) For purposes of calculating the underpayment of~~
3117 ~~estimated corporate income taxes pursuant to s. 220.34 and tax~~
3118 ~~installment payments for taxes on insurance premiums or~~
3119 ~~assessments under s. 624.5092, the final amount due is the~~
3120 ~~amount after credits earned under s. 220.1875 or s. 624.51055~~
3121 ~~for contributions to eligible nonprofit scholarship funding~~
3122 ~~organizations are deducted.~~

3123 ~~1. For purposes of determining if a penalty or interest~~
3124 ~~shall be imposed for underpayment of estimated corporate income~~
3125 ~~tax pursuant to s. 220.34(2)(d)1., a taxpayer may, after earning~~
3126 ~~a credit under s. 220.1875, reduce any estimated payment in that~~
3127 ~~taxable year by the amount of the credit. This subparagraph~~
3128 ~~applies to contributions made on or after July 1, 2014.~~

3129 ~~2. For purposes of determining if a penalty under s.~~
3130 ~~624.5092 shall be imposed, an insurer, after earning a credit~~



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3131 under ~~s. 624.51055~~ for a taxable year, may reduce any
3132 installment payment for such taxable year of 27 percent of the
3133 amount of the net tax due as reported on the return for the
3134 preceding year under ~~s. 624.5092(2)(b)~~ by the amount of the
3135 credit. This subparagraph applies to contributions made on or
3136 after July 1, 2014.

3137 ~~(6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING~~
3138 ~~ORGANIZATIONS. An eligible nonprofit scholarship-funding~~
3139 ~~organization:~~

3140 ~~(a) Must comply with the antidiscrimination provisions of~~
3141 ~~42 U.S.C. s. 2000d.~~

3142 ~~(b) Must comply with the following background check~~
3143 ~~requirements:~~

3144 ~~1. All owners and operators as defined in subparagraph~~
3145 ~~(2)(i)1. are, before employment or engagement to provide~~
3146 ~~services, subject to level 2 background screening as provided~~
3147 ~~under chapter 435. The fingerprints for the background screening~~
3148 ~~must be electronically submitted to the Department of Law~~
3149 ~~Enforcement and can be taken by an authorized law enforcement~~
3150 ~~agency or by an employee of the eligible nonprofit scholarship-~~
3151 ~~funding organization or a private company who is trained to take~~
3152 ~~fingerprints. However, the complete set of fingerprints of an~~
3153 ~~owner or operator may not be taken by the owner or operator. The~~
3154 ~~results of the state and national criminal history check shall~~
3155 ~~be provided to the Department of Education for screening under~~
3156 ~~chapter 435. The cost of the background screening may be borne~~
3157 ~~by the eligible nonprofit scholarship-funding organization or~~
3158 ~~the owner or operator.~~

3159 ~~2. Every 5 years following employment or engagement to~~



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3160 ~~provide services or association with an eligible nonprofit~~
3161 ~~scholarship-funding organization, each owner or operator must~~
3162 ~~meet level 2 screening standards as described in s. 435.04, at~~
3163 ~~which time the nonprofit scholarship-funding organization shall~~
3164 ~~request the Department of Law Enforcement to forward the~~
3165 ~~fingerprints to the Federal Bureau of Investigation for level 2~~
3166 ~~screening. If the fingerprints of an owner or operator are not~~
3167 ~~retained by the Department of Law Enforcement under subparagraph~~
3168 ~~3., the owner or operator must electronically file a complete~~
3169 ~~set of fingerprints with the Department of Law Enforcement. Upon~~
3170 ~~submission of fingerprints for this purpose, the eligible~~
3171 ~~nonprofit scholarship-funding organization shall request that~~
3172 ~~the Department of Law Enforcement forward the fingerprints to~~
3173 ~~the Federal Bureau of Investigation for level 2 screening, and~~
3174 ~~the fingerprints shall be retained by the Department of Law~~
3175 ~~Enforcement under subparagraph 3.~~

3176 ~~3. Fingerprints submitted to the Department of Law~~
3177 ~~Enforcement as required by this paragraph must be retained by~~
3178 ~~the Department of Law Enforcement in a manner approved by rule~~
3179 ~~and entered in the statewide automated biometric identification~~
3180 ~~system authorized by s. 943.05(2)(b). The fingerprints must~~
3181 ~~thereafter be available for all purposes and uses authorized for~~
3182 ~~arrest fingerprints entered in the statewide automated biometric~~
3183 ~~identification system pursuant to s. 943.051.~~

3184 ~~4. The Department of Law Enforcement shall search all~~
3185 ~~arrest fingerprints received under s. 943.051 against the~~
3186 ~~fingerprints retained in the statewide automated biometric~~
3187 ~~identification system under subparagraph 3. Any arrest record~~
3188 ~~that is identified with an owner's or operator's fingerprints~~



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3189 ~~must be reported to the Department of Education. The Department~~
3190 ~~of Education shall participate in this search process by paying~~
3191 ~~an annual fee to the Department of Law Enforcement and by~~
3192 ~~informing the Department of Law Enforcement of any change in the~~
3193 ~~employment, engagement, or association status of the owners or~~
3194 ~~operators whose fingerprints are retained under subparagraph 3.~~
3195 ~~The Department of Law Enforcement shall adopt a rule setting the~~
3196 ~~amount of the annual fee to be imposed upon the Department of~~
3197 ~~Education for performing these services and establishing the~~
3198 ~~procedures for the retention of owner and operator fingerprints~~
3199 ~~and the dissemination of search results. The fee may be borne by~~
3200 ~~the owner or operator of the nonprofit scholarship funding~~
3201 ~~organization.~~

3202 ~~5. A nonprofit scholarship funding organization whose owner~~
3203 ~~or operator fails the level 2 background screening is not~~
3204 ~~eligible to provide scholarships under this section.~~

3205 ~~6. A nonprofit scholarship funding organization whose owner~~
3206 ~~or operator in the last 7 years has filed for personal~~
3207 ~~bankruptcy or corporate bankruptcy in a corporation of which he~~
3208 ~~or she owned more than 20 percent shall not be eligible to~~
3209 ~~provide scholarships under this section.~~

3210 ~~7. In addition to the offenses listed in s. 435.04, a~~
3211 ~~person required to undergo background screening pursuant to this~~
3212 ~~part or authorizing statutes must not have an arrest awaiting~~
3213 ~~final disposition for, must not have been found guilty of, or~~
3214 ~~entered a plea of nolo contendere to, regardless of~~
3215 ~~adjudication, and must not have been adjudicated delinquent, and~~
3216 ~~the record must not have been sealed or expunged for, any of the~~
3217 ~~following offenses or any similar offense of another~~



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3218 ~~jurisdiction.~~
3219 ~~a. Any authorizing statutes, if the offense was a felony.~~
3220 ~~b. This chapter, if the offense was a felony.~~
3221 ~~c. Section 409.920, relating to Medicaid provider fraud.~~
3222 ~~d. Section 409.9201, relating to Medicaid fraud.~~
3223 ~~e. Section 741.28, relating to domestic violence.~~
3224 ~~f. Section 817.034, relating to fraudulent acts through~~
3225 ~~mail, wire, radio, electromagnetic, photoelectronic, or~~
3226 ~~photooptical systems.~~
3227 ~~g. Section 817.234, relating to false and fraudulent~~
3228 ~~insurance claims.~~
3229 ~~h. Section 817.505, relating to patient brokering.~~
3230 ~~i. Section 817.568, relating to criminal use of personal~~
3231 ~~identification information.~~
3232 ~~j. Section 817.60, relating to obtaining a credit card~~
3233 ~~through fraudulent means.~~
3234 ~~k. Section 817.61, relating to fraudulent use of credit~~
3235 ~~cards, if the offense was a felony.~~
3236 ~~l. Section 831.01, relating to forgery.~~
3237 ~~m. Section 831.02, relating to uttering forged instruments.~~
3238 ~~n. Section 831.07, relating to forging bank bills, checks,~~
3239 ~~drafts, or promissory notes.~~
3240 ~~o. Section 831.09, relating to uttering forged bank bills,~~
3241 ~~checks, drafts, or promissory notes.~~
3242 ~~p. Section 831.30, relating to fraud in obtaining medicinal~~
3243 ~~drugs.~~
3244 ~~q. Section 831.31, relating to the sale, manufacture,~~
3245 ~~delivery, or possession with the intent to sell, manufacture, or~~
3246 ~~deliver any counterfeit controlled substance, if the offense was~~



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3247 ~~a felony.~~
3248 ~~(e) Must not have an owner or operator who owns or operates~~
3249 ~~an eligible private school that is participating in the~~
3250 ~~scholarship program.~~
3251 ~~(d) Must provide scholarships, from eligible contributions,~~
3252 ~~to eligible students for the cost of:~~
3253 ~~1. Tuition and fees for an eligible private school; or~~
3254 ~~2. Transportation to a Florida public school in which a~~
3255 ~~student is enrolled and that is different from the school to~~
3256 ~~which the student was assigned or to a lab school as defined in~~
3257 ~~s. 1002.32.~~
3258 ~~(e) Must give first priority to eligible renewal students~~
3259 ~~who received a scholarship from an eligible nonprofit~~
3260 ~~scholarship funding organization or from the State of Florida~~
3261 ~~during the previous school year. The eligible nonprofit~~
3262 ~~scholarship funding organization must fully apply and exhaust~~
3263 ~~all funds available under this section and s. 1002.40(11)(i) for~~
3264 ~~renewal scholarship awards before awarding any initial~~
3265 ~~scholarships.~~
3266 ~~(f) Must provide a renewal or initial scholarship to an~~
3267 ~~eligible student on a first-come, first-served basis unless the~~
3268 ~~student qualifies for priority pursuant to paragraph (e). Each~~
3269 ~~eligible nonprofit scholarship funding organization must refer~~
3270 ~~any student eligible for a scholarship pursuant to this section~~
3271 ~~who did not receive a renewal or initial scholarship based~~
3272 ~~solely on the lack of available funds under this section and s.~~
3273 ~~1002.40(11)(i) to another eligible nonprofit scholarship funding~~
3274 ~~organization that may have funds available.~~
3275 ~~(g) May not restrict or reserve scholarships for use at a~~



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3276 ~~particular private school or provide scholarships to a child of~~
3277 ~~an owner or operator.~~
3278 ~~(h) Must allow a student in foster care or out of home care~~
3279 ~~or a dependent child of a parent who is a member of the United~~
3280 ~~States Armed Forces to apply for a scholarship at any time.~~
3281 ~~(i) Must allow an eligible student to attend any eligible~~
3282 ~~private school and must allow a parent to transfer a scholarship~~
3283 ~~during a school year to any other eligible private school of the~~
3284 ~~parent's choice.~~
3285 ~~(j)1. May use eligible contributions received pursuant to~~
3286 ~~this section and ss. 212.099, 212.1832, and 1002.40 during the~~
3287 ~~state fiscal year in which such contributions are collected for~~
3288 ~~administrative expenses if the organization has operated as an~~
3289 ~~eligible nonprofit scholarship funding organization for at least~~
3290 ~~the preceding 3 fiscal years and did not have any findings of~~
3291 ~~material weakness or material noncompliance in its most recent~~
3292 ~~audit under paragraph (m). Administrative expenses from eligible~~
3293 ~~contributions may not exceed 3 percent of the total amount of~~
3294 ~~all scholarships awarded by an eligible scholarship funding~~
3295 ~~organization under this chapter. Such administrative expenses~~
3296 ~~must be reasonable and necessary for the organization's~~
3297 ~~management and distribution of scholarships awarded under this~~
3298 ~~chapter. No funds authorized under this subparagraph shall be~~
3299 ~~used for lobbying or political activity or expenses related to~~
3300 ~~lobbying or political activity. Up to one-third of the funds~~
3301 ~~authorized for administrative expenses under this subparagraph~~
3302 ~~may be used for expenses related to the recruitment of~~
3303 ~~contributions from taxpayers. An eligible nonprofit scholarship-~~
3304 ~~funding organization may not charge an application fee.~~



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3305 ~~2. Must expend for annual or partial-year scholarships an~~
3306 ~~amount equal to or greater than 75 percent of the net eligible~~
3307 ~~contributions remaining after administrative expenses during the~~
3308 ~~state fiscal year in which such contributions are collected. No~~
3309 ~~more than 25 percent of such net eligible contributions may be~~
3310 ~~carried forward to the following state fiscal year. All amounts~~
3311 ~~carried forward, for audit purposes, must be specifically~~
3312 ~~identified for particular students, by student name and the name~~
3313 ~~of the school to which the student is admitted, subject to the~~
3314 ~~requirements of ss. 1002.22 and 1002.221 and 20 U.S.C. s. 1232g,~~
3315 ~~and the applicable rules and regulations issued pursuant~~
3316 ~~thereto. Any amounts carried forward shall be expended for~~
3317 ~~annual or partial-year scholarships in the following state~~
3318 ~~fiscal year. No later than September 30 of each year, net~~
3319 ~~eligible contributions remaining on June 30 of each year that~~
3320 ~~are in excess of the 25 percent that may be carried forward~~
3321 ~~shall be used to provide scholarships to eligible students or~~
3322 ~~transferred to other eligible nonprofit scholarship funding~~
3323 ~~organizations to provide scholarships for eligible students. All~~
3324 ~~transferred funds must be deposited by each eligible nonprofit~~
3325 ~~scholarship funding organization receiving such funds into its~~
3326 ~~scholarship account. All transferred amounts received by any~~
3327 ~~eligible nonprofit scholarship funding organization must be~~
3328 ~~separately disclosed in the annual financial audit required~~
3329 ~~under paragraph (m).~~

3330 ~~3. Must, before granting a scholarship for an academic~~
3331 ~~year, document each scholarship student's eligibility for that~~
3332 ~~academic year. A scholarship funding organization may not grant~~
3333 ~~multiyear scholarships in one approval process.~~



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3334 ~~(k) Must maintain separate accounts for scholarship funds~~
3335 ~~and operating funds.~~
3336 ~~(l) With the prior approval of the Department of Education,~~
3337 ~~may transfer funds to another eligible nonprofit scholarship-~~
3338 ~~funding organization if additional funds are required to meet~~
3339 ~~scholarship demand at the receiving nonprofit scholarship-~~
3340 ~~funding organization. A transfer is limited to the greater of~~
3341 ~~\$500,000 or 20 percent of the total contributions received by~~
3342 ~~the nonprofit scholarship funding organization making the~~
3343 ~~transfer. All transferred funds must be deposited by the~~
3344 ~~receiving nonprofit scholarship funding organization into its~~
3345 ~~scholarship accounts. All transferred amounts received by any~~
3346 ~~nonprofit scholarship funding organization must be separately~~
3347 ~~disclosed in the annual financial and compliance audit required~~
3348 ~~in this section.~~
3349 ~~(m) Must provide to the Auditor General and the Department~~
3350 ~~of Education a report on the results of an annual financial~~
3351 ~~audit of its accounts and records conducted by an independent~~
3352 ~~certified public accountant in accordance with auditing~~
3353 ~~standards generally accepted in the United States, government~~
3354 ~~auditing standards, and rules promulgated by the Auditor~~
3355 ~~General. The audit report must include a report on financial~~
3356 ~~statements presented in accordance with generally accepted~~
3357 ~~accounting principles. Audit reports must be provided to the~~
3358 ~~Auditor General and the Department of Education within 180 days~~
3359 ~~after completion of the eligible nonprofit scholarship funding~~
3360 ~~organization's fiscal year. The Auditor General shall review all~~
3361 ~~audit reports submitted pursuant to this paragraph. The Auditor~~
3362 ~~General shall request any significant items that were omitted in~~



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3363 ~~violation of a rule adopted by the Auditor General. The items~~
3364 ~~must be provided within 45 days after the date of the request.~~
3365 ~~If the scholarship funding organization does not comply with the~~
3366 ~~Auditor General's request, the Auditor General shall notify the~~
3367 ~~Legislative Auditing Committee.~~

3368 ~~(n) Must prepare and submit quarterly reports to the~~
3369 ~~Department of Education pursuant to paragraph (9) (i). In~~
3370 ~~addition, an eligible nonprofit scholarship funding organization~~
3371 ~~must submit in a timely manner any information requested by the~~
3372 ~~Department of Education relating to the scholarship program.~~

3373 ~~(o)1.a. Must participate in the joint development of~~
3374 ~~agreed-upon procedures during the 2009-2010 state fiscal year.~~
3375 ~~The agreed-upon procedures must uniformly apply to all private~~
3376 ~~schools and must determine, at a minimum, whether the private~~
3377 ~~school has been verified as eligible by the Department of~~
3378 ~~Education under s. 1002.421; has an adequate accounting system,~~
3379 ~~system of financial controls, and process for deposit and~~
3380 ~~classification of scholarship funds; and has properly expended~~
3381 ~~scholarship funds for education-related expenses. During the~~
3382 ~~development of the procedures, the participating scholarship-~~
3383 ~~funding organizations shall specify guidelines governing the~~
3384 ~~materiality of exceptions that may be found during the~~
3385 ~~accountant's performance of the procedures. The procedures and~~
3386 ~~guidelines shall be provided to private schools and the~~
3387 ~~Commissioner of Education by March 15, 2011.~~

3388 ~~b. Must participate in a joint review of the agreed upon~~
3389 ~~procedures and guidelines developed under sub-subparagraph a.,~~
3390 ~~by February of each biennium, if the scholarship funding~~
3391 ~~organization provided more than \$250,000 in scholarship funds to~~



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3392 ~~an eligible private school under this chapter during the state~~
3393 ~~fiscal year preceding the biennial review. If the procedures and~~
3394 ~~guidelines are revised, the revisions must be provided to~~
3395 ~~private schools and the Commissioner of Education by March 15 of~~
3396 ~~the year in which the revisions were completed. The revised~~
3397 ~~agreed-upon procedures shall take effect the subsequent school~~
3398 ~~year. For the 2018-2019 school year only, the joint review of~~
3399 ~~the agreed-upon procedures must be completed and the revisions~~
3400 ~~submitted to the commissioner no later than September 15, 2018.~~
3401 ~~The revised procedures are applicable to the 2018-2019 school~~
3402 ~~year.~~

3403 ~~e. Must monitor the compliance of a private school with s.~~
3404 ~~1002.421(1)(g) if the scholarship funding organization provided~~
3405 ~~the majority of the scholarship funding to the school. For each~~
3406 ~~private school subject to s. 1002.421(1)(g), the appropriate~~
3407 ~~scholarship funding organization shall annually notify the~~
3408 ~~Commissioner of Education by October 30 of:~~

3409 ~~(I) A private school's failure to submit a report required~~
3410 ~~under s. 1002.421(1)(g); or~~

3411 ~~(II) Any material exceptions set forth in the report~~
3412 ~~required under s. 1002.421(1)(g).~~

3413 ~~2. Must seek input from the accrediting associations that~~
3414 ~~are members of the Florida Association of Academic Nonpublic~~
3415 ~~Schools and the Department of Education when jointly developing~~
3416 ~~the agreed-upon procedures and guidelines under sub-subparagraph~~
3417 ~~1.a. and conducting a review of those procedures and guidelines~~
3418 ~~under sub-subparagraph 1.b.~~

3419 ~~(p) Must maintain the surety bond or letter of credit~~
3420 ~~required by subsection (15). The amount of the surety bond or~~



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3421 ~~letter of credit may be adjusted quarterly to equal the actual~~
3422 ~~amount of undisbursed funds based upon submission by the~~
3423 ~~organization of a statement from a certified public accountant~~
3424 ~~verifying the amount of undisbursed funds. The requirements of~~
3425 ~~this paragraph are waived if the cost of acquiring a surety bond~~
3426 ~~or letter of credit exceeds the average 10-year cost of~~
3427 ~~acquiring a surety bond or letter of credit by 200 percent. The~~
3428 ~~requirements of this paragraph are waived for a state~~
3429 ~~university; or an independent college or university which is~~
3430 ~~eligible to participate in the William I. Boyd, IV, Effective~~
3431 ~~Access to Student Education Grant Program, located and chartered~~
3432 ~~in this state, is not for profit, and is accredited by the~~
3433 ~~Commission on Colleges of the Southern Association of Colleges~~
3434 ~~and Schools.~~

3435 ~~(q) Must provide to the Auditor General any information or~~
3436 ~~documentation requested in connection with an operational audit~~
3437 ~~of a scholarship funding organization conducted pursuant to s.~~
3438 ~~11.45.~~

3439 ~~Information and documentation provided to the Department of~~
3440 ~~Education and the Auditor General relating to the identity of a~~
3441 ~~taxpayer that provides an eligible contribution under this~~
3442 ~~section shall remain confidential at all times in accordance~~
3443 ~~with s. 213.053.~~

3444 ~~(7) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM~~
3445 ~~PARTICIPATION.~~

3446 ~~(a) The parent must select an eligible private school and~~
3447 ~~apply for the admission of his or her child.~~

3448 ~~(b) The parent must inform the child's school district when~~
3449



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3450 ~~the parent withdraws his or her child to attend an eligible~~
3451 ~~private school.~~

3452 ~~(c) Any student participating in the scholarship program~~
3453 ~~must remain in attendance throughout the school year unless~~
3454 ~~excused by the school for illness or other good cause.~~

3455 ~~(d) Each parent and each student has an obligation to the~~
3456 ~~private school to comply with the private school's published~~
3457 ~~policies.~~

3458 ~~(e) The parent shall ensure that the student participating~~
3459 ~~in the scholarship program takes the norm-referenced assessment~~
3460 ~~offered by the private school. The parent may also choose to~~
3461 ~~have the student participate in the statewide assessments~~
3462 ~~pursuant to s. 1008.22. If the parent requests that the student~~
3463 ~~participating in the scholarship program take statewide~~
3464 ~~assessments pursuant to s. 1008.22 and the private school has~~
3465 ~~not chosen to offer and administer the statewide assessments,~~
3466 ~~the parent is responsible for transporting the student to the~~
3467 ~~assessment site designated by the school district.~~

3468 ~~(f) Upon receipt of a scholarship warrant from the eligible~~
3469 ~~nonprofit scholarship funding organization, the parent to whom~~
3470 ~~the warrant is made must restrictively endorse the warrant to~~
3471 ~~the private school for deposit into the account of the private~~
3472 ~~school. If payments are made by funds transfer, the parent must~~
3473 ~~approve each payment before the scholarship funds may be~~
3474 ~~deposited. The parent may not designate any entity or individual~~
3475 ~~associated with the participating private school as the parent's~~
3476 ~~attorney in fact to endorse a scholarship warrant or approve a~~
3477 ~~funds transfer. A participant who fails to comply with this~~
3478 ~~paragraph forfeits the scholarship.~~



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3479 ~~(g) The parent shall authorize the nonprofit scholarship~~
3480 ~~funding organization to access information needed for income~~
3481 ~~eligibility determination and verification held by other state~~
3482 ~~or federal agencies, including the Department of Revenue, the~~
3483 ~~Department of Children and Families, the Department of~~
3484 ~~Education, the Department of Economic Opportunity, and the~~
3485 ~~Agency for Health Care Administration.~~
3486 ~~(8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS. An eligible~~
3487 ~~private school may be sectarian or nonsectarian and must:~~
3488 ~~(a) Comply with all requirements for private schools~~
3489 ~~participating in state school choice scholarship programs~~
3490 ~~pursuant to s. 1002.421.~~
3491 ~~(b)1. Annually administer or make provision for students~~
3492 ~~participating in the scholarship program in grades 3 through 10~~
3493 ~~to take one of the nationally norm-referenced tests identified~~
3494 ~~by the Department of Education or the statewide assessments~~
3495 ~~pursuant to s. 1008.22. Students with disabilities for whom~~
3496 ~~standardized testing is not appropriate are exempt from this~~
3497 ~~requirement. A participating private school must report a~~
3498 ~~student's scores to the parent. A participating private school~~
3499 ~~must annually report by August 15 the scores of all~~
3500 ~~participating students to a state university described in~~
3501 ~~paragraph (9)(f).~~
3502 ~~2. Administer the statewide assessments pursuant to s.~~
3503 ~~1008.22 if a private school chooses to offer the statewide~~
3504 ~~assessments. A participating private school may choose to offer~~
3505 ~~and administer the statewide assessments to all students who~~
3506 ~~attend the private school in grades 3 through 10 and must submit~~
3507 ~~a request in writing to the Department of Education by March 1~~



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3508 ~~of each year in order to administer the statewide assessments in~~
3509 ~~the subsequent school year.~~
3510
3511 ~~If a private school fails to meet the requirements of this~~
3512 ~~subsection or s. 1002.421, the commissioner may determine that~~
3513 ~~the private school is ineligible to participate in the~~
3514 ~~scholarship program.~~
3515 ~~(9) DEPARTMENT OF EDUCATION OBLIGATIONS. The Department of~~
3516 ~~Education shall:~~
3517 ~~(a) Annually submit to the department and division, by~~
3518 ~~March 15, a list of eligible nonprofit scholarship funding~~
3519 ~~organizations that meet the requirements of paragraph (2)(f).~~
3520 ~~(b) Annually verify the eligibility of nonprofit~~
3521 ~~scholarship funding organizations that meet the requirements of~~
3522 ~~paragraph (2)(f).~~
3523 ~~(c) Annually verify the eligibility of expenditures as~~
3524 ~~provided in paragraph (6)(d) using the audit required by~~
3525 ~~paragraph (6)(m) and s. 11.45(2)(l).~~
3526 ~~(d) Cross-check the list of participating scholarship~~
3527 ~~students with the public school enrollment lists to avoid~~
3528 ~~duplication.~~
3529 ~~(e) Maintain a list of nationally norm-referenced tests~~
3530 ~~identified for purposes of satisfying the testing requirement in~~
3531 ~~subparagraph (8)(b)1. The tests must meet industry standards of~~
3532 ~~quality in accordance with State Board of Education rule.~~
3533 ~~(f) Issue a project grant award to a state university, to~~
3534 ~~which participating private schools must report the scores of~~
3535 ~~participating students on the nationally norm-referenced tests~~
3536 ~~or the statewide assessments administered by the private school~~



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3537 ~~in grades 3 through 10. The project term is 2 years, and the~~
3538 ~~amount of the project is up to \$250,000 per year. The project~~
3539 ~~grant award must be reissued in 2-year intervals in accordance~~
3540 ~~with this paragraph.~~

3541 ~~1. The state university must annually report to the~~
3542 ~~Department of Education on the student performance of~~
3543 ~~participating students:~~

3544 ~~a. On a statewide basis. The report shall also include, to~~
3545 ~~the extent possible, a comparison of scholarship students'~~
3546 ~~performance to the statewide student performance of public~~
3547 ~~school students with socioeconomic backgrounds similar to those~~
3548 ~~of students participating in the scholarship program. To~~
3549 ~~minimize costs and reduce time required for the state~~
3550 ~~university's analysis and evaluation, the Department of~~
3551 ~~Education shall coordinate with the state university to provide~~
3552 ~~data to the state university in order to conduct analyses of~~
3553 ~~matched students from public school assessment data and~~
3554 ~~calculate control group student performance using an agreed upon~~
3555 ~~methodology with the state university; and~~

3556 ~~b. On an individual school basis. The annual report must~~
3557 ~~include student performance for each participating private~~
3558 ~~school in which at least 51 percent of the total enrolled~~
3559 ~~students in the private school participated in the Florida Tax~~
3560 ~~Credit Scholarship Program in the prior school year. The report~~
3561 ~~shall be according to each participating private school, and for~~
3562 ~~participating students, in which there are at least 30~~
3563 ~~participating students who have scores for tests administered.~~
3564 ~~If the state university determines that the 30-participating-~~
3565 ~~student cell size may be reduced without disclosing personally~~



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3566 ~~identifiable information, as described in 34 C.F.R. s. 99.12, of~~
3567 ~~a participating student, the state university may reduce the~~
3568 ~~participating student cell size, but the cell size must not be~~
3569 ~~reduced to less than 10 participating students. The department~~
3570 ~~shall provide each private school's prior school year's student~~
3571 ~~enrollment information to the state university no later than~~
3572 ~~June 15 of each year, or as requested by the state university.~~

3573 ~~2. The sharing and reporting of student performance data~~
3574 ~~under this paragraph must be in accordance with requirements of~~
3575 ~~ss. 1002.22 and 1002.221 and 20 U.S.C. s. 1232g, the Family~~
3576 ~~Educational Rights and Privacy Act, and the applicable rules and~~
3577 ~~regulations issued pursuant thereto, and shall be for the sole~~
3578 ~~purpose of creating the annual report required by subparagraph~~
3579 ~~1. All parties must preserve the confidentiality of such~~
3580 ~~information as required by law. The annual report must not~~
3581 ~~disaggregate data to a level that will identify individual~~
3582 ~~participating schools, except as required under sub-subparagraph~~
3583 ~~1.b., or disclose the academic level of individual students.~~

3584 ~~3. The annual report required by subparagraph 1. shall be~~
3585 ~~published by the Department of Education on its website.~~

3586 ~~(g) Notify an eligible nonprofit scholarship-funding~~
3587 ~~organization of any of the organization's identified students~~
3588 ~~who are receiving educational scholarships pursuant to chapter~~
3589 ~~1002.~~

3590 ~~(h) Notify an eligible nonprofit scholarship-funding~~
3591 ~~organization of any of the organization's identified students~~
3592 ~~who are receiving tax credit scholarships from other eligible~~
3593 ~~nonprofit scholarship-funding organizations.~~

3594 ~~(i) Require quarterly reports by an eligible nonprofit~~



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3595 ~~scholarship funding organization regarding the number of~~
3596 ~~students participating in the scholarship program, the private~~
3597 ~~schools at which the students are enrolled, and other~~
3598 ~~information deemed necessary by the Department of Education.~~
3599 ~~(j) Provide a process to match the direct certification~~
3600 ~~list with the scholarship application data submitted by any~~
3601 ~~nonprofit scholarship funding organization eligible to receive~~
3602 ~~the 3-percent administrative allowance under paragraph (6)(j).~~
3603 ~~(10) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.~~
3604 ~~(a) Upon the request of any eligible nonprofit scholarship-~~
3605 ~~funding organization, a school district shall inform all~~
3606 ~~households within the district receiving free or reduced-priced~~
3607 ~~meals under the National School Lunch Act of their eligibility~~
3608 ~~to apply for a tax credit scholarship. The form of such notice~~
3609 ~~shall be provided by the eligible nonprofit scholarship funding~~
3610 ~~organization, and the district shall include the provided form,~~
3611 ~~if requested by the organization, in any normal correspondence~~
3612 ~~with eligible households. If an eligible nonprofit scholarship-~~
3613 ~~funding organization requests a special communication to be~~
3614 ~~issued to households within the district receiving free or~~
3615 ~~reduced-price meals under the National School Lunch Act, the~~
3616 ~~organization shall reimburse the district for the cost of~~
3617 ~~postage. Such notice is limited to once a year.~~
3618 ~~(b) Upon the request of the Department of Education, a~~
3619 ~~school district shall coordinate with the department to provide~~
3620 ~~to a participating private school the statewide assessments~~
3621 ~~administered under s. 1008.22 and any related materials for~~
3622 ~~administering the assessments. A school district is responsible~~
3623 ~~for implementing test administrations at a participating private~~



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3624 ~~school, including the:~~
3625 ~~1. Provision of training for private school staff on test~~
3626 ~~security and assessment administration procedures;~~
3627 ~~2. Distribution of testing materials to a private school;~~
3628 ~~3. Retrieval of testing materials from a private school;~~
3629 ~~4. Provision of the required format for a private school to~~
3630 ~~submit information to the district for test administration and~~
3631 ~~enrollment purposes; and~~
3632 ~~5. Provision of any required assistance, monitoring, or~~
3633 ~~investigation at a private school.~~
3634 ~~(11) SCHOLARSHIP AMOUNT AND PAYMENT.~~
3635 ~~(a) The scholarship amount provided to any student for any~~
3636 ~~single school year by an eligible nonprofit scholarship funding~~
3637 ~~organization from eligible contributions shall be for total~~
3638 ~~costs authorized under paragraph (6)(d), not to exceed annual~~
3639 ~~limits, which shall be determined as follows:~~
3640 ~~1. For a student who received a scholarship in the 2018-~~
3641 ~~2019 school year, who remains eligible, and who is enrolled in~~
3642 ~~an eligible private school, the amount shall be the greater~~
3643 ~~amount calculated pursuant to subparagraph 2. or a percentage of~~
3644 ~~the unweighted FTE funding amount for the 2018-2019 state fiscal~~
3645 ~~year and thereafter as follows:~~
3646 ~~a. Eighty-eight percent for a student enrolled in~~
3647 ~~kindergarten through grade 5.~~
3648 ~~b. Ninety-two percent for a student enrolled in grade 6~~
3649 ~~through grade 8.~~
3650 ~~e. Ninety-six percent for a student enrolled in grade 9~~
3651 ~~through grade 12.~~
3652 ~~2. For students initially eligible in the 2019-2020 school~~



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3653 ~~year or thereafter, the calculated amount for a student to~~
3654 ~~attend an eligible private school shall be based upon the grade~~
3655 ~~level and school district in which the student resides as 95~~
3656 ~~percent of the funds per unweighted full-time equivalent in the~~
3657 ~~Florida Education Finance Program for a student in the basic~~
3658 ~~program established pursuant to s. 1011.62(1)(c)1., plus a per-~~
3659 ~~full-time equivalent share of funds for all categorical~~
3660 ~~programs, except for the Exceptional Student Education~~
3661 ~~Guaranteed Allocation.~~
3662 3. The scholarship amount awarded to a student enrolled in
3663 a Florida public school in which a student is enrolled and that
3664 is different from the school to which the student was assigned
3665 or in a lab school as defined in s. 1002.32, is limited to \$750.
3666 (b) Payment of the scholarship by the eligible nonprofit
3667 scholarship-funding organization shall be by individual warrant
3668 made payable to the student's parent or by funds transfer,
3669 including, but not limited to, debit cards, electronic payment
3670 cards, or any other means of payment that the department deems
3671 to be commercially viable or cost-effective. If the payment is
3672 made by warrant, the warrant must be delivered by the eligible
3673 nonprofit scholarship-funding organization to the private school
3674 of the parent's choice, and the parent shall restrictively
3675 endorse the warrant to the private school. An eligible nonprofit
3676 scholarship-funding organization shall ensure that the parent to
3677 whom the warrant is made restrictively endorsed the warrant to
3678 the private school for deposit into the account of the private
3679 school or that the parent has approved a funds transfer before
3680 any scholarship funds are deposited.
3681 (c) An eligible nonprofit scholarship-funding organization



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3682 ~~shall obtain verification from the private school of a student's~~
3683 ~~continued attendance at the school for each period covered by a~~
3684 ~~scholarship payment.~~
3685 ~~(d) Payment of the scholarship shall be made by the~~
3686 ~~eligible nonprofit scholarship-funding organization no less~~
3687 ~~frequently than on a quarterly basis.~~
3688 ~~(12) ADMINISTRATION; RULES.~~
3689 ~~(a) The department, the division, and the Department of~~
3690 ~~Education shall develop a cooperative agreement to assist in the~~
3691 ~~administration of this section.~~
3692 ~~(b) The department shall adopt rules necessary to~~
3693 ~~administer this section and ss. 211.0251, 212.1931, 220.1875,~~
3694 ~~561.1211, and 624.51055, including rules establishing~~
3695 ~~application forms, procedures governing the approval of tax~~
3696 ~~credits and carryforward tax credits under subsection (5), and~~
3697 ~~procedures to be followed by taxpayers when claiming approved~~
3698 ~~tax credits on their returns.~~
3699 ~~(c) The division shall adopt rules necessary to administer~~
3700 ~~its responsibilities under this section and s. 561.1211.~~
3701 ~~(d) The State Board of Education shall adopt rules to~~
3702 ~~administer the responsibilities of the Department of Education~~
3703 ~~and the Commissioner of Education under this section.~~
3704 (4)(13) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.~~All eligible~~
3705 contributions received by the department or the division or
3706 transferred by an eligible nonprofit scholarship-funding
3707 organization shall be deposited into a designated student fund
3708 and used for K-12 education funding in a manner consistent with
3709 s. 17.57(2).
3710 ~~(14) PRESERVATION OF CREDIT.~~~~If any provision or portion of~~



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3711 ~~this section, s. 211.0251, s. 212.1831, s. 220.1875, s.~~
3712 ~~561.1211, or s. 624.51055 or the application thereof to any~~
3713 ~~person or circumstance is held unconstitutional by any court or~~
3714 ~~is otherwise declared invalid, the unconstitutionality or~~
3715 ~~invalidity shall not affect any credit earned under s. 211.0251,~~
3716 ~~s. 212.1831, s. 220.1875, s. 561.1211, or s. 624.51055 by any~~
3717 ~~taxpayer with respect to any contribution paid to an eligible~~
3718 ~~nonprofit scholarship funding organization before the date of a~~
3719 ~~determination of unconstitutionality or invalidity. Such credit~~
3720 ~~shall be allowed at such time and in such a manner as if a~~
3721 ~~determination of unconstitutionality or invalidity had not been~~
3722 ~~made, provided that nothing in this subsection by itself or in~~
3723 ~~combination with any other provision of law shall result in the~~
3724 ~~allowance of any credit to any taxpayer in excess of one dollar~~
3725 ~~of credit for each dollar paid to an eligible nonprofit~~
3726 ~~scholarship funding organization.~~

3727 ~~(15) NONPROFIT SCHOLARSHIP FUNDING ORGANIZATIONS;~~
3728 ~~APPLICATION. In order to participate in the scholarship program~~
3729 ~~created under this section, a charitable organization that seeks~~
3730 ~~to be a nonprofit scholarship funding organization must submit~~
3731 ~~an application for initial approval or renewal to the Office of~~
3732 ~~Independent Education and Parental Choice no later than~~
3733 ~~September 1 of each year before the school year for which the~~
3734 ~~organization intends to offer scholarships.~~

3735 ~~(a) An application for initial approval must include:~~
3736 ~~1. A copy of the organization's incorporation documents and~~
3737 ~~registration with the Division of Corporations of the Department~~
3738 ~~of State.~~

3739 ~~2. A copy of the organization's Internal Revenue Service~~



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3740 ~~determination letter as a s. 501(c)(3) not-for-profit~~
3741 ~~organization.~~

3742 ~~3. A description of the organization's financial plan that~~
3743 ~~demonstrates sufficient funds to operate throughout the school~~
3744 ~~year.~~

3745 ~~4. A description of the geographic region that the~~
3746 ~~organization intends to serve and an analysis of the demand and~~
3747 ~~unmet need for eligible students in that area.~~

3748 ~~5. The organization's organizational chart.~~

3749 ~~6. A description of the criteria and methodology that the~~
3750 ~~organization will use to evaluate scholarship eligibility.~~

3751 ~~7. A description of the application process, including~~
3752 ~~deadlines and any associated fees.~~

3753 ~~8. A description of the deadlines for attendance~~
3754 ~~verification and scholarship payments.~~

3755 ~~9. A copy of the organization's policies on conflict of~~
3756 ~~interest and whistleblowers.~~

3757 ~~10. A copy of a surety bond or letter of credit to secure~~
3758 ~~the faithful performance of the obligations of the eligible~~
3759 ~~nonprofit scholarship funding organization in accordance with~~
3760 ~~this section in an amount equal to 25 percent of the scholarship~~
3761 ~~funds anticipated for each school year or \$100,000, whichever is~~
3762 ~~greater. The surety bond or letter of credit must specify that~~
3763 ~~any claim against the bond or letter of credit may be made only~~
3764 ~~by an eligible nonprofit scholarship funding organization to~~
3765 ~~provide scholarships to and on behalf of students who would have~~
3766 ~~had scholarships funded if it were not for the diversion of~~
3767 ~~funds giving rise to the claim against the bond or letter of~~
3768 ~~credit.~~



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3769 ~~(b) In addition to the information required by~~
3770 ~~subparagraphs (a)1.-9., an application for renewal must include:~~
3771 ~~1. A surety bond or letter of credit to secure the faithful~~
3772 ~~performance of the obligations of the eligible nonprofit~~
3773 ~~scholarship funding organization in accordance with this section~~
3774 ~~equal to the amount of undisbursed donations held by the~~
3775 ~~organization based on the annual report submitted pursuant to~~
3776 ~~paragraph (6) (m). The amount of the surety bond or letter of~~
3777 ~~credit must be at least \$100,000, but not more than \$25 million.~~
3778 ~~The surety bond or letter of credit must specify that any claim~~
3779 ~~against the bond or letter of credit may be made only by an~~
3780 ~~eligible nonprofit scholarship funding organization to provide~~
3781 ~~scholarships to and on behalf of students who would have had~~
3782 ~~scholarships funded if it were not for the diversion of funds~~
3783 ~~giving rise to the claim against the bond or letter of credit.~~
3784 ~~2. The organization's completed Internal Revenue Service~~
3785 ~~Form 990 submitted no later than November 30 of the year before~~
3786 ~~the school year that the organization intends to offer the~~
3787 ~~scholarships, notwithstanding the September 1 application~~
3788 ~~deadline.~~
3789 ~~3. A copy of the statutorily required audit to the~~
3790 ~~Department of Education and Auditor General.~~
3791 ~~4. An annual report that includes:~~
3792 ~~a. The number of students who completed applications, by~~
3793 ~~county and by grade.~~
3794 ~~b. The number of students who were approved for~~
3795 ~~scholarships, by county and by grade.~~
3796 ~~c. The number of students who received funding for~~
3797 ~~scholarships within each funding category, by county and by~~



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3798 ~~grade.~~
3799 ~~d. The amount of funds received, the amount of funds~~
3800 ~~distributed in scholarships, and an accounting of remaining~~
3801 ~~funds and the obligation of those funds.~~
3802 ~~e. A detailed accounting of how the organization spent the~~
3803 ~~administrative funds allowable under paragraph (6) (j).~~
3804 ~~(e) In consultation with the Department of Revenue and the~~
3805 ~~Chief Financial Officer, the Office of Independent Education and~~
3806 ~~Parental Choice shall review the application. The Department of~~
3807 ~~Education shall notify the organization in writing of any~~
3808 ~~deficiencies within 30 days after receipt of the application and~~
3809 ~~allow the organization 30 days to correct any deficiencies.~~
3810 ~~(d) Within 30 days after receipt of the finalized~~
3811 ~~application by the Office of Independent Education and Parental~~
3812 ~~Choice, the Commissioner of Education shall recommend approval~~
3813 ~~or disapproval of the application to the State Board of~~
3814 ~~Education. The State Board of Education shall consider the~~
3815 ~~application and recommendation at the next scheduled meeting,~~
3816 ~~adhering to appropriate meeting notice requirements. If the~~
3817 ~~State Board of Education disapproves the organization's~~
3818 ~~application, it shall provide the organization with a written~~
3819 ~~explanation of that determination. The State Board of~~
3820 ~~Education's action is not subject to chapter 120.~~
3821 ~~(e) If the State Board of Education disapproves the renewal~~
3822 ~~of a nonprofit scholarship funding organization, the~~
3823 ~~organization must notify the affected eligible students and~~
3824 ~~parents of the decision within 15 days after disapproval. An~~
3825 ~~eligible student affected by the disapproval of an~~
3826 ~~organization's participation remains eligible under this section~~



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3827 until the end of the school year in which the organization was
3828 disapproved. The student must apply and be accepted by another
3829 eligible nonprofit scholarship funding organization for the
3830 upcoming school year. The student shall be given priority in
3831 accordance with paragraph (6)(f).

3832 (f) All remaining funds held by a nonprofit scholarship
3833 funding organization that is disapproved for participation must
3834 be transferred to other eligible nonprofit scholarship funding
3835 organizations to provide scholarships for eligible students. All
3836 transferred funds must be deposited by each eligible nonprofit
3837 scholarship funding organization receiving such funds into its
3838 scholarship account. All transferred amounts received by any
3839 eligible nonprofit scholarship funding organization must be
3840 separately disclosed in the annual financial audit required
3841 under subsection (6).

3842 (g) A nonprofit scholarship funding organization is a
3843 renewing organization if it maintains continuous approval and
3844 participation in the program. An organization that chooses not
3845 to participate for 1 year or more or is disapproved to
3846 participate for 1 year or more must submit an application for
3847 initial approval in order to participate in the program again.

3848 (h) The State Board of Education shall adopt rules
3849 providing guidelines for receiving, reviewing, and approving
3850 applications for new and renewing nonprofit scholarship funding
3851 organizations. The rules must include a process for compiling
3852 input and recommendations from the Chief Financial Officer, the
3853 Department of Revenue, and the Department of Education. The
3854 rules must also require that the nonprofit scholarship funding
3855 organization make a brief presentation to assist the State Board



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3856 of Education in its decision.

3857 (i) A state university, or an independent college or
3858 university which is eligible to participate in the William L.
3859 Boyd, IV, Effective Access to Student Education Grant Program,
3860 located and chartered in this state, is not for profit, and is
3861 accredited by the Commission on Colleges of the Southern
3862 Association of Colleges and Schools, is exempt from the initial
3863 or renewal application process, but must file a registration
3864 notice with the Department of Education to be an eligible
3865 nonprofit scholarship funding organization. The State Board of
3866 Education shall adopt rules that identify the procedure for
3867 filing the registration notice with the department. The rules
3868 must identify appropriate reporting requirements for fiscal,
3869 programmatic, and performance accountability purposes consistent
3870 with this section, but shall not exceed the requirements for
3871 eligible nonprofit scholarship funding organizations for
3872 charitable organizations.

3873 Section 21. Section 1002.40, Florida Statutes, is amended
3874 to read:

3875 1002.40 The Hope Scholarship Florida K-12 Education Funding
3876 Tax Credit Program.—

3877 (1) PURPOSE.—The Hope Scholarship Program is established to
3878 provide the parent of a public school student who was subjected
3879 to an incident listed in subsection (3) an opportunity to
3880 transfer the student to another public school or to request a
3881 scholarship for the student to enroll in and attend an eligible
3882 private school.

3883 (2) DEFINITIONS.—As used in this section, the term:

3884 (a) "Dealer" has the same meaning as provided in s. 212.06.



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3885 (b) ~~"Department" means the Department of Education.~~
3886 ~~(e) "Designated agent" has the same meaning as provided in~~
3887 ~~s. 212.06(10).~~
3888 (c)(d) "Eligible contribution" or "contribution" means the
3889 amount of tax paid by a monetary contribution from a person
3890 purchasing a motor vehicle, subject to the restrictions provided
3891 in this section, and designated by the purchaser to be used for
3892 K-12 education funding an eligible nonprofit scholarship funding
3893 organization. The person making the contribution may not
3894 designate a specific student as the beneficiary of the
3895 contribution.
3896 ~~(e) "Eligible nonprofit scholarship funding organization"~~
3897 ~~or "organization" has the same meaning as provided in s.~~
3898 ~~1002.395(2)(f).~~
3899 ~~(f) "Eligible private school" has the same meaning as~~
3900 ~~provided in s. 1002.395(2)(g).~~
3901 (d)(g) "Motor vehicle" has the same meaning as provided in
3902 s. 320.01(1)(a), but does not include a heavy truck, truck
3903 tractor, trailer, or motorcycle.
3904 ~~(h) "Parent" means a resident of this state who is a~~
3905 ~~parent, as defined in s. 1000.21, and whose student reported an~~
3906 ~~incident in accordance with subsection (6).~~
3907 ~~(i) "Program" means the Hope Scholarship Program.~~
3908 ~~(j) "School" means any educational program or activity~~
3909 ~~conducted by a public K-12 educational institution, any school-~~
3910 ~~related or school sponsored program or activity, and riding on a~~
3911 ~~school bus, as defined in s. 1006.25(1), including waiting at a~~
3912 ~~school bus stop.~~
3913 ~~(k) "Unweighted FTE funding amount" means the statewide~~



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3914 ~~average total funds per unweighted full-time equivalent funding~~
3915 ~~amount that is incorporated by reference in the General~~
3916 ~~Appropriations Act, or by a subsequent special appropriations~~
3917 ~~act, for the applicable state fiscal year.~~
3918 ~~(3) PROGRAM ELIGIBILITY. Beginning with the 2018-2019~~
3919 ~~school year, contingent upon available funds, and on a first-~~
3920 ~~come, first-served basis, a student enrolled in a Florida public~~
3921 ~~school in kindergarten through grade 12 is eligible for a~~
3922 ~~scholarship under this program if the student reported an~~
3923 ~~incident in accordance with subsection (6). For purposes of this~~
3924 ~~section, the term "incident" means battery; harassment; hazing;~~
3925 ~~bullying; kidnapping; physical attack; robbery; sexual offenses;~~
3926 ~~harassment, assault, or battery; threat or intimidation; or~~
3927 ~~fighting at school, as defined by the department in accordance~~
3928 ~~with s. 1006.09(6).~~
3929 ~~(4) PROGRAM PROHIBITIONS. Payment of a scholarship to a~~
3930 ~~student enrolled in a private school may not be made if a~~
3931 ~~student is:~~
3932 ~~(a) Enrolled in a public school, including, but not limited~~
3933 ~~to, the Florida School for the Deaf and the Blind; the College-~~
3934 ~~Preparatory Boarding Academy; a developmental research school~~
3935 ~~authorized under s. 1002.32; or a charter school authorized~~
3936 ~~under s. 1002.33, s. 1002.331, or s. 1002.332;~~
3937 ~~(b) Enrolled in a school operating for the purpose of~~
3938 ~~providing educational services to youth in the Department of~~
3939 ~~Juvenile Justice commitment programs;~~
3940 ~~(c) Participating in a virtual school, correspondence~~
3941 ~~school, or distance learning program that receives state funding~~
3942 ~~pursuant to the student's participation unless the participation~~



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3943 ~~is limited to no more than two courses per school year; or~~
3944 ~~(d) Receiving any other educational scholarship pursuant to~~
3945 ~~this chapter.~~
3946 ~~(5) TERM OF HOPE SCHOLARSHIP. For purposes of continuity of~~
3947 ~~educational choice, a Hope scholarship shall remain in force~~
3948 ~~until the student returns to public school or graduates from~~
3949 ~~high school, whichever occurs first. A scholarship student who~~
3950 ~~enrolls in a public school or public school program is~~
3951 ~~considered to have returned to a public school for the purpose~~
3952 ~~of determining the end of the scholarship's term.~~
3953 ~~(6) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.~~
3954 ~~(a) Upon receipt of a report of an incident, the school~~
3955 ~~principal, or his or her designee, shall provide a copy of the~~
3956 ~~report to the parent and investigate the incident to determine~~
3957 ~~if the incident must be reported as required by s. 1006.09(6).~~
3958 ~~Within 24 hours after receipt of the report, the principal or~~
3959 ~~his or her designee shall provide a copy of the report to the~~
3960 ~~parent of the alleged offender and to the superintendent. Upon~~
3961 ~~conclusion of the investigation or within 15 days after the~~
3962 ~~incident was reported, whichever occurs first, the school~~
3963 ~~district shall notify the parent of the program and offer the~~
3964 ~~parent an opportunity to enroll his or her student in another~~
3965 ~~public school that has capacity or to request and receive a~~
3966 ~~scholarship to attend an eligible private school, subject to~~
3967 ~~available funding. A parent who chooses to enroll his or her~~
3968 ~~student in a public school located outside the district in which~~
3969 ~~the student resides pursuant to s. 1002.31 shall be eligible for~~
3970 ~~a scholarship to transport the student as provided in paragraph~~
3971 ~~(11)(b).~~



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3972 ~~(b) For each student participating in the program in an~~
3973 ~~eligible private school who chooses to participate in the~~
3974 ~~statewide assessments under s. 1008.22 or the Florida Alternate~~
3975 ~~Assessment, the school district in which the student resides~~
3976 ~~must notify the student and his or her parent about the~~
3977 ~~locations and times to take all statewide assessments.~~
3978 ~~(7) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS. An eligible~~
3979 ~~private school may be sectarian or nonsectarian and shall:~~
3980 ~~(a) Comply with all requirements for private schools~~
3981 ~~participating in state school choice scholarship programs~~
3982 ~~pursuant to this section and s. 1002.421.~~
3983 ~~(b)1. Annually administer or make provision for students~~
3984 ~~participating in the program in grades 3 through 10 to take one~~
3985 ~~of the nationally norm-referenced tests identified by the~~
3986 ~~department or the statewide assessments pursuant to s. 1008.22.~~
3987 ~~Students with disabilities for whom standardized testing is not~~
3988 ~~appropriate are exempt from this requirement. A participating~~
3989 ~~private school shall report a student's scores to his or her~~
3990 ~~parent.~~
3991 ~~2. Administer the statewide assessments pursuant to s.~~
3992 ~~1008.22 if a private school chooses to offer the statewide~~
3993 ~~assessments. A participating private school may choose to offer~~
3994 ~~and administer the statewide assessments to all students who~~
3995 ~~attend the private school in grades 3 through 10 and must submit~~
3996 ~~a request in writing to the department by March 1 of each year~~
3997 ~~in order to administer the statewide assessments in the~~
3998 ~~subsequent school year.~~
3999
4000 ~~If a private school fails to meet the requirements of this~~



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4001 ~~subsection or s. 1002.421, the commissioner may determine that~~
4002 ~~the private school is ineligible to participate in the program.~~
4003 ~~(8) DEPARTMENT OF EDUCATION OBLIGATIONS. The department~~
4004 ~~shall:~~
4005 ~~(a) Cross-check the list of participating scholarship~~
4006 ~~students with the public school enrollment lists to avoid~~
4007 ~~duplication.~~
4008 ~~(b) Maintain a list of nationally norm-referenced tests~~
4009 ~~identified for purposes of satisfying the testing requirement in~~
4010 ~~paragraph (9) (f). The tests must meet industry standards of~~
4011 ~~quality in accordance with State Board of Education rule.~~
4012 ~~(c) Require quarterly reports by an eligible nonprofit~~
4013 ~~scholarship-funding organization regarding the number of~~
4014 ~~students participating in the program, the private schools in~~
4015 ~~which the students are enrolled, and other information deemed~~
4016 ~~necessary by the department.~~
4017 ~~(d) Contract with an independent entity to provide an~~
4018 ~~annual evaluation of the program by:~~
4019 ~~1. Reviewing the school bullying prevention education~~
4020 ~~program, climate, and code of student conduct of each public~~
4021 ~~school from which 10 or more students transferred to another~~
4022 ~~public school or private school using the Hope scholarship to~~
4023 ~~determine areas in the school or school district procedures~~
4024 ~~involving reporting, investigating, and communicating a parent's~~
4025 ~~and student's rights that are in need of improvement. At a~~
4026 ~~minimum, the review must include:~~
4027 ~~a. An assessment of the investigation time and quality of~~
4028 ~~the response of the school and the school district.~~
4029 ~~b. An assessment of the effectiveness of communication~~



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4030 ~~procedures with the students involved in an incident, the~~
4031 ~~students' parents, and the school and school district personnel.~~
4032 ~~c. An analysis of school incident and discipline data.~~
4033 ~~d. The challenges and obstacles relating to implementing~~
4034 ~~recommendations from the review.~~
4035 ~~2. Reviewing the school bullying prevention education~~
4036 ~~program, climate, and code of student conduct of each public~~
4037 ~~school to which a student transferred if the student was from a~~
4038 ~~school identified in subparagraph 1. in order to identify best~~
4039 ~~practices and make recommendations to a public school at which~~
4040 ~~the incidents occurred.~~
4041 ~~3. Reviewing the performance of participating students~~
4042 ~~enrolled in a private school in which at least 51 percent of the~~
4043 ~~total enrolled students in the prior school year participated in~~
4044 ~~the program and in which there are at least 10 participating~~
4045 ~~students who have scores for tests administered.~~
4046 ~~4. Surveying the parents of participating students to~~
4047 ~~determine academic, safety, and school climate satisfaction and~~
4048 ~~to identify any challenges to or obstacles in addressing the~~
4049 ~~incident or relating to the use of the scholarship.~~
4050 ~~(9) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM~~
4051 ~~PARTICIPATION. A parent who applies for a Hope scholarship is~~
4052 ~~exercising his or her parental option to place his or her~~
4053 ~~student in an eligible private school.~~
4054 ~~(a) The parent must select an eligible private school and~~
4055 ~~apply for the admission of his or her student.~~
4056 ~~(b) The parent must inform the student's school district~~
4057 ~~when the parent withdraws his or her student to attend an~~
4058 ~~eligible private school.~~



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4059 ~~(e) Any student participating in the program must remain in~~
4060 ~~attendance throughout the school year unless excused by the~~
4061 ~~school for illness or other good cause.~~

4062 ~~(d) Each parent and each student has an obligation to the~~
4063 ~~private school to comply with such school's published policies.~~

4064 ~~(e) Upon reasonable notice to the department and the school~~
4065 ~~district, the parent may remove the student from the private~~
4066 ~~school and place the student in a public school in accordance~~
4067 ~~with this section.~~

4068 ~~(f) The parent must ensure that the student participating~~
4069 ~~in the program takes the norm referenced assessment offered by~~
4070 ~~the private school. The parent may also choose to have the~~
4071 ~~student participate in the statewide assessments pursuant to s.~~
4072 ~~1008.22. If the parent requests that the student take the~~
4073 ~~statewide assessments pursuant to s. 1008.22 and the private~~
4074 ~~school has not chosen to offer and administer the statewide~~
4075 ~~assessments, the parent is responsible for transporting the~~
4076 ~~student to the assessment site designated by the school~~
4077 ~~district.~~

4078 ~~(g) Upon receipt of a scholarship warrant, the parent to~~
4079 ~~whom the warrant is made must restrictively endorse the warrant~~
4080 ~~to the private school for deposit into the account of such~~
4081 ~~school. If payment is made by funds transfer in accordance with~~
4082 ~~paragraph (11) (d), the parent must approve each payment before~~
4083 ~~the scholarship funds may be deposited. The parent may not~~
4084 ~~designate any entity or individual associated with the~~
4085 ~~participating private school as the parent's attorney in fact to~~
4086 ~~endorse a scholarship warrant or approve a funds transfer. A~~
4087 ~~parent who fails to comply with this paragraph forfeits the~~



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4088 ~~scholarship.~~

4089 ~~(10) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP FUNDING~~
4090 ~~ORGANIZATIONS. An eligible nonprofit scholarship funding~~
4091 ~~organization may establish scholarships for eligible students~~
4092 ~~by:~~

4093 ~~(a) Receiving applications and determining student~~
4094 ~~eligibility in accordance with the requirements of this section.~~

4095 ~~(b) Notifying parents of their receipt of a scholarship on~~
4096 ~~a first-come, first-served basis, based upon available funds.~~

4097 ~~(c) Establishing a date by which the parent of a~~
4098 ~~participating student must confirm continuing participation in~~
4099 ~~the program.~~

4100 ~~(d) Awarding scholarship funds to eligible students, giving~~
4101 ~~priority to renewing students from the previous year.~~

4102 ~~(e) Preparing and submitting quarterly reports to the~~
4103 ~~department pursuant to paragraph (8) (e). In addition, an~~
4104 ~~eligible nonprofit scholarship funding organization must submit~~
4105 ~~in a timely manner any information requested by the department~~
4106 ~~relating to the program.~~

4107 ~~(f) Notifying the department of any violation of this~~
4108 ~~section.~~

4109 ~~(11) FUNDING AND PAYMENT.—~~

4110 ~~(a) For students initially eligible in the 2019-2020 school~~
4111 ~~year or thereafter, the calculated amount for a student to~~
4112 ~~attend an eligible private school shall be based upon the grade~~
4113 ~~level and school district in which the student was assigned as~~
4114 ~~95 percent of the funds per unweighted full-time equivalent in~~
4115 ~~the Florida Education Finance Program for a student in the basic~~
4116 ~~program established pursuant to s. 1011.62(1)(c)1., plus a per-~~



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4117 ~~full-time equivalent share of funds for all categorical~~
4118 ~~programs, except for the Exceptional Student Education~~
4119 ~~Guaranteed Allocation.~~

4120 ~~(b) The maximum amount awarded to a student enrolled in a~~
4121 ~~public school located outside of the district in which the~~
4122 ~~student resides shall be \$750.~~

4123 ~~(c) When a student enters the program, the eligible~~
4124 ~~nonprofit scholarship funding organization must receive all~~
4125 ~~documentation required for the student's participation,~~
4126 ~~including a copy of the report of the incident received pursuant~~
4127 ~~to subsection (6) and the private school's and student's fee~~
4128 ~~schedules. The initial payment shall be made after verification~~
4129 ~~of admission acceptance, and subsequent payments shall be made~~
4130 ~~upon verification of continued enrollment and attendance at the~~
4131 ~~private school.~~

4132 ~~(d) Payment of the scholarship by the eligible nonprofit~~
4133 ~~scholarship funding organization may be by individual warrant~~
4134 ~~made payable to the student's parent or by funds transfer,~~
4135 ~~including, but not limited to, debit cards, electronic payment~~
4136 ~~cards, or any other means of payment that the department deems~~
4137 ~~to be commercially viable or cost-effective. If payment is made~~
4138 ~~by warrant, the warrant must be delivered by the eligible~~
4139 ~~nonprofit scholarship funding organization to the private school~~
4140 ~~of the parent's choice, and the parent shall restrictively~~
4141 ~~endorse the warrant to the private school. If payments are made~~
4142 ~~by funds transfer, the parent must approve each payment before~~
4143 ~~the scholarship funds may be deposited. The parent may not~~
4144 ~~designate any entity or individual associated with the~~
4145 ~~participating private school as the parent's attorney in fact to~~



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4146 ~~endorse a scholarship warrant or approve a funds transfer.~~

4147 ~~(e) An eligible nonprofit scholarship funding organization~~
4148 ~~shall obtain verification from the private school of a student's~~
4149 ~~continued attendance at the school for each period covered by a~~
4150 ~~scholarship payment.~~

4151 ~~(f) Payment of the scholarship shall be made by the~~
4152 ~~eligible nonprofit scholarship funding organization no less~~
4153 ~~frequently than on a quarterly basis.~~

4154 ~~(g) An eligible nonprofit scholarship funding organization,~~
4155 ~~subject to the limitations of s. 1002.395(6)(j)1., may use~~
4156 ~~eligible contributions received during the state fiscal year in~~
4157 ~~which such contributions are collected for administrative~~
4158 ~~expenses.~~

4159 ~~(h) Moneys received pursuant to this section do not~~
4160 ~~constitute taxable income to the qualified student or his or her~~
4161 ~~parent.~~

4162 ~~(i) Notwithstanding s. 1002.395(6)(j)2., no more than 5~~
4163 ~~percent of net eligible contributions may be carried forward to~~
4164 ~~the following state fiscal year by an eligible scholarship~~
4165 ~~funding organization. For audit purposes, all amounts carried~~
4166 ~~forward must be specifically identified for individual students~~
4167 ~~by student name and by the name of the school to which the~~
4168 ~~student is admitted, subject to the requirements of ss. 1002.21~~
4169 ~~and 1002.22 and 20 U.S.C. s. 1232g, and the applicable rules and~~
4170 ~~regulations issued pursuant to such requirements. Any amounts~~
4171 ~~carried forward shall be expended for annual scholarships or~~
4172 ~~partial-year scholarships in the following state fiscal year.~~
4173 ~~Net eligible contributions remaining on June 30 of each year~~
4174 ~~which are in excess of the 5 percent that may be carried forward~~



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4175 ~~shall be transferred to other eligible nonprofit scholarship-~~
4176 ~~funding organizations participating in the Hope Scholarship~~
4177 ~~Program to provide scholarships for eligible students. All~~
4178 ~~transferred funds must be deposited by each eligible nonprofit~~
4179 ~~scholarship funding organization receiving such funds into the~~
4180 ~~scholarship account of eligible students. All transferred~~
4181 ~~amounts received by an eligible nonprofit scholarship funding~~
4182 ~~organization must be separately disclosed in the annual~~
4183 ~~financial audit requirement under s. 1002.395(6)(m). If no other~~
4184 ~~eligible nonprofit scholarship funding organization participates~~
4185 ~~in the Hope Scholarship Program, net eligible contributions in~~
4186 ~~excess of the 5 percent may be used to fund scholarships for~~
4187 ~~students eligible under s. 1002.395 only after fully exhausting~~
4188 ~~all contributions made in support of scholarships under that~~
4189 ~~section in accordance with the priority established in s.~~
4190 ~~1002.395(6)(c) prior to awarding any initial scholarships.~~

4191 ~~(12) OBLIGATIONS OF THE AUDITOR GENERAL.-~~

4192 ~~(a) The Auditor General shall conduct an annual operational~~
4193 ~~audit of accounts and records of each organization that~~
4194 ~~participates in the program. As part of this audit, the Auditor~~
4195 ~~General shall verify, at a minimum, the total number of students~~
4196 ~~served and transmit that information to the department. The~~
4197 ~~Auditor General shall provide the commissioner with a copy of~~
4198 ~~each annual operational audit performed pursuant to this~~
4199 ~~paragraph within 10 days after the audit is finalized.~~

4200 ~~(b) The Auditor General shall notify the department of any~~
4201 ~~organization that fails to comply with a request for~~
4202 ~~information.~~

4203 ~~(2)(13) SCHOLARSHIP FUNDING TAX CREDITS.-~~



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4204 (a) A tax credit is available under s. 212.1832(1) for use
4205 by a person that makes an eligible contribution. Eligible
4206 contributions shall be used for K-12 education funding to fund
4207 ~~scholarships under this section and may be used to fund~~
4208 ~~scholarships~~ under s. 1002.395. Each eligible contribution is
4209 limited to a single designation payment of \$105 per motor
4210 vehicle purchased at the time of purchase of a motor vehicle or
4211 a single designation payment of \$105 per motor vehicle purchased
4212 at the time of registration of a motor vehicle that was not
4213 purchased from a dealer, except that a contribution may not
4214 exceed the state tax imposed under chapter 212 that would
4215 otherwise be collected from the purchaser by a dealer,
4216 designated agent, or private tag agent. ~~Payments of~~
4217 ~~contributions shall be made to a dealer at the time of purchase~~
4218 ~~of a motor vehicle or to a designated agent or private tag agent~~
4219 ~~at the time of registration of a motor vehicle that was not~~
4220 ~~purchased from a dealer. An eligible contribution shall be~~
4221 ~~accompanied by a contribution election form provided by the~~
4222 ~~Department of Revenue. The form shall include, at a minimum, the~~
4223 ~~following brief description of the Hope Scholarship Program and~~
4224 ~~the Florida Tax Credit Scholarship Program: "THE HOPE~~
4225 ~~SCHOLARSHIP PROGRAM PROVIDES A PUBLIC SCHOOL STUDENT WHO WAS~~
4226 ~~SUBJECTED TO AN INCIDENT OF VIOLENCE OR BULLYING AT SCHOOL THE~~
4227 ~~OPPORTUNITY TO APPLY FOR A SCHOLARSHIP TO ATTEND AN ELIGIBLE~~
4228 ~~PRIVATE SCHOOL RATHER THAN REMAIN IN AN UNSAFE SCHOOL~~
4229 ~~ENVIRONMENT. THE FLORIDA TAX CREDIT SCHOLARSHIP PROGRAM PROVIDES~~
4230 ~~A LOW-INCOME STUDENT THE OPPORTUNITY TO APPLY FOR A SCHOLARSHIP~~
4231 ~~TO ATTEND AN ELIGIBLE PRIVATE SCHOOL." The form shall also~~
4232 ~~include, at a minimum, a section allowing the consumer to~~



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4233 ~~designate, from all participating scholarship funding~~
4234 ~~organizations, which organization will receive his or her~~
4235 ~~donation. For purposes of this subsection, the term "purchase"~~
4236 ~~does not include the lease or rental of a motor vehicle.~~
4237 (b) A dealer, designated agent, or private tag agent shall:
4238 ~~1. Provide the purchaser the contribution election form, as~~
4239 ~~provided by the Department of Revenue, at the time of purchase~~
4240 ~~of a motor vehicle or at the time of registration of a motor~~
4241 ~~vehicle that was not purchased from a dealer.~~
4242 ~~2. Collect eligible contributions.~~
4243 ~~3. Using a form provided by the Department of Revenue,~~
4244 ~~which shall include the dealer's or agent's federal employer~~
4245 ~~identification number, remit to an organization no later than~~
4246 ~~the date the return filed pursuant to s. 212.11 is due the total~~
4247 ~~amount of contributions made to that organization and collected~~
4248 ~~during the preceding reporting period. Using the same form, the~~
4249 ~~dealer or agent shall also report this information to the~~
4250 ~~Department of Revenue no later than the date the return filed~~
4251 ~~pursuant to s. 212.11 is due.~~
4252 ~~4. report to the Department of Revenue on each return filed~~
4253 ~~pursuant to s. 212.11 the total amount of credits granted under~~
4254 ~~s. 212.1832 for the preceding reporting period.~~
4255 (c) An organization shall report to and the Department of
4256 Revenue shall deposit all receipts held or designated as
4257 eligible contributions into a designated student fund, on or
4258 before the 20th day of each month, the total amount of
4259 contributions received pursuant to paragraph (b) in the
4260 preceding calendar month on a form provided by the Department of
4261 Revenue. Such report shall include:



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4262 ~~1. The federal employer identification number of each~~
4263 ~~designated agent, private tag agent, or dealer who remitted~~
4264 ~~contributions to the organization during that reporting period.~~
4265 ~~2. The amount of contributions received from each~~
4266 ~~designated agent, private tag agent, or dealer during that~~
4267 ~~reporting period.~~
4268 ~~(d) A person who, with the intent to unlawfully deprive or~~
4269 ~~defraud the program of its moneys or the use or benefit thereof,~~
4270 ~~fails to remit a contribution collected under this section is~~
4271 ~~guilty of theft, punishable as follows:~~
4272 ~~1. If the total amount stolen is less than \$300, the~~
4273 ~~offense is a misdemeanor of the second degree, punishable as~~
4274 ~~provided in s. 775.082 or s. 775.083. Upon a second conviction,~~
4275 ~~the offender is guilty of a misdemeanor of the first degree,~~
4276 ~~punishable as provided in s. 775.082 or s. 775.083. Upon a third~~
4277 ~~or subsequent conviction, the offender is guilty of a felony of~~
4278 ~~the third degree, punishable as provided in s. 775.082, s.~~
4279 ~~775.083, or s. 775.084.~~
4280 ~~2. If the total amount stolen is \$300 or more, but less~~
4281 ~~than \$20,000, the offense is a felony of the third degree,~~
4282 ~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~
4283 ~~3. If the total amount stolen is \$20,000 or more, but less~~
4284 ~~than \$100,000, the offense is a felony of the second degree,~~
4285 ~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~
4286 ~~4. If the total amount stolen is \$100,000 or more, the~~
4287 ~~offense is a felony of the first degree, punishable as provided~~
4288 ~~in s. 775.082, s. 775.083, or s. 775.084.~~
4289 ~~(e) A person convicted of an offense under paragraph (d)~~
4290 ~~shall be ordered by the sentencing judge to make restitution to~~



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4291 ~~the organization in the amount that was stolen from the program.~~

4292 ~~(f) Upon a finding that a dealer failed to remit a~~
4293 ~~contribution under subparagraph (b)3. for which the dealer~~
4294 ~~claimed a credit pursuant to s. 212.1832(2), the Department of~~
4295 ~~Revenue shall notify the affected organizations of the dealer's~~
4296 ~~name, address, federal employer identification number, and~~
4297 ~~information related to differences between credits taken by the~~
4298 ~~dealer pursuant to s. 212.1832(2) and amounts remitted to the~~
4299 ~~eligible nonprofit scholarship funding organization under~~
4300 ~~subparagraph (b)3.~~

4301 ~~(g) Any dealer, designated agent, private tag agent, or~~
4302 ~~organization that fails to timely submit reports to the~~
4303 ~~Department of Revenue as required in paragraphs (b) and (c) is~~
4304 ~~subject to a penalty of \$1,000 for every month, or part thereof,~~
4305 ~~the report is not provided, up to a maximum amount of \$10,000.~~
4306 ~~Such penalty shall be collected by the Department of Revenue and~~
4307 ~~shall be transferred into the General Revenue Fund. Such penalty~~
4308 ~~must be settled or compromised if it is determined by the~~
4309 ~~Department of Revenue that the noncompliance is due to~~
4310 ~~reasonable cause and not due to willful negligence, willful~~
4311 ~~neglect, or fraud.~~

4312 ~~(14) LIABILITY.—The state is not liable for the award of or~~
4313 ~~any use of awarded funds under this section.~~

4314 ~~(15) SCOPE OF AUTHORITY.—This section does not expand the~~
4315 ~~regulatory authority of this state, its officers, or any school~~
4316 ~~district to impose additional regulation on participating~~
4317 ~~private schools beyond those reasonably necessary to enforce~~
4318 ~~requirements expressly set forth in this section.~~

4319 ~~(3)(16) RULES.—The State Board of Education shall adopt~~



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4320 ~~rules to administer this section, except the Department of~~
4321 ~~Revenue shall adopt rules to administer this section subsection~~
4322 ~~(13).~~

4323 Section 22. Subsection (4) of section 1002.411, Florida
4324 Statutes, is amended to read:

4325 1002.411 Reading scholarship accounts.—

4326 (4) ADMINISTRATION.—An eligible nonprofit scholarship-
4327 funding organization participating in a scholarship program
4328 under this chapter the Florida Tax Credit Scholarship Program
4329 established by s. 1002.395 may establish reading scholarship
4330 accounts for eligible students in accordance with the
4331 requirements of eligible nonprofit scholarship-funding
4332 organizations under this chapter.

4333 Section 23. Paragraphs (i) and (q) of subsection (1) of
4334 section 1002.421, Florida Statutes, are amended, and paragraph
4335 (r) is added to that subsection, to read:

4336 1002.421 State school choice scholarship program
4337 accountability and oversight.—

4338 (1) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—A private
4339 school participating in an educational scholarship program
4340 established pursuant to this chapter must be a private school as
4341 defined in s. 1002.01(2) in this state, be registered, and be in
4342 compliance with all requirements of this section in addition to
4343 private school requirements outlined in s. 1002.42, specific
4344 requirements identified within respective scholarship program
4345 laws, and other provisions of Florida law that apply to private
4346 schools, and must:

4347 (i) 1. Maintain a physical location in the state at which
4348 each student has regular and direct contact with teachers; or



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4349 2. If the private school is a private virtual school, have
4350 at least one administrative office located in this state at
4351 which all of its administrative staff are Florida residents.

4352 (q) Provide a report from an independent certified public
4353 accountant who performs the agreed-upon procedures ~~developed~~
4354 pursuant to s. 1002.394(11)(g) ~~s. 1002.395(6)(e)~~ if the private
4355 school receives more than \$250,000 in funds from scholarships
4356 awarded under this chapter in a state fiscal year. A private
4357 school subject to this subsection must annually submit the
4358 report by September 15 to the scholarship-funding organization
4359 that awarded the majority of the school's scholarship funds.
4360 However, for the 2020-2021 school year only, a school that
4361 receives more than \$250,000 in scholarship funds only through
4362 the John M. McKay Scholarship for Students with Disabilities
4363 Program pursuant to s. 1002.39 must submit the annual report by
4364 September 15 to the department. The agreed-upon procedures must
4365 be conducted in accordance with attestation standards
4366 established by the American Institute of Certified Public
4367 Accountants.

4368 (r) Provide to parents and students enrolled in a private
4369 virtual school specific information posted and accessible online
4370 which includes, but is not limited to, all of the following
4371 teacher-parent and teacher-student contact information for each
4372 course:

4373 1. How to contact the instructor, technical support staff,
4374 and the administration office by phone, e-mail, or online
4375 messaging tools.

4376 2. Requirements for regular contact with the instructor for
4377 the course and clear expectations for meeting such requirements.



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4378 3. Requirements that the instructor of each course must, at
4379 a minimum, conduct one contact with the parent and student each
4380 month.

4381
4382 The department shall suspend the payment of funds to a private
4383 school that knowingly fails to comply with this subsection, and
4384 shall prohibit the school from enrolling new scholarship
4385 students, for 1 fiscal year and until the school complies. If a
4386 private school fails to meet the requirements of this subsection
4387 or has consecutive years of material exceptions listed in the
4388 report required under paragraph (q), the commissioner may
4389 determine that the private school is ineligible to participate
4390 in a scholarship program.

4391 Section 24. Paragraph (aa) of subsection (4) of section
4392 1009.971, Florida Statutes, is amended to read:

4393 1009.971 Florida Prepaid College Board.—

4394 (4) FLORIDA PREPAID COLLEGE BOARD; POWERS AND DUTIES.—The
4395 board shall have the powers and duties necessary or proper to
4396 carry out the provisions of ss. 1009.97-1009.988, including, but
4397 not limited to, the power and duty to:

4398 (aa) Adopt rules relating to the purchase and use of a
4399 prepaid college plan authorized under s. 1009.98 or a college
4400 savings plan authorized under s. 1009.981 for the McKay-Gardiner
4401 Gardiner Scholarship Program pursuant to s. 1002.381 or the
4402 Family Empowerment Scholarship Program pursuant to s. 1002.394
4403 ~~s. 1002.385~~, which may include, but need not be limited to:

- 4404 1. The use of such funds for postsecondary education
4405 programs for students with disabilities;
4406 2. Effective procedures that allow program funds to be used



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4407 in conjunction with other funds used by a parent in the purchase
4408 of a prepaid college plan or a college savings plan;

4409 3. The tracking and accounting of program funds separately
4410 from other funds contributed to a prepaid college plan or a
4411 college savings plan;

4412 4. The reversion of program funds, including, but not
4413 limited to, earnings from contributions to the Florida College
4414 Savings Plan;

4415 5. The use of program funds only after private payments
4416 have been used for prepaid college plan or college savings plan
4417 expenditures;

4418 6. Contracting with each eligible nonprofit scholarship-
4419 funding organization to establish mechanisms to implement ss.
4420 1002.381 and 1002.394 ~~ss. 1002.385~~, including, but not limited
4421 to, identifying the source of funds being deposited in the
4422 plans; and

4423 7. The development of a written agreement that defines the
4424 owner and beneficiary of an account and outlines
4425 responsibilities for the use of the advance payment contract
4426 funds or savings program funds.

4427 Section 25. Subsection (11) of section 1009.98, Florida
4428 Statutes, is amended to read:

4429 1009.98 Stanley G. Tate Florida Prepaid College Program.—

4430 (11) IMPLEMENTATION PROCEDURES.—

4431 (a) A prepaid college plan may be purchased, accounted for,
4432 used, and terminated as provided in ss. 1002.381 and 1002.394 ~~ss.~~
4433 ~~1002.385~~.

4434 (b) A qualified beneficiary may apply the benefits of an
4435 advance payment contract toward the program fees of a program



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4436 designed for students with disabilities conducted by a state
4437 postsecondary institution. A transfer authorized under this
4438 subsection may not exceed the redemption value of the advance
4439 payment contract at a state postsecondary institution or the
4440 number of semester credit hours contracted on behalf of a
4441 qualified beneficiary. A qualified beneficiary may not be
4442 changed while a prepaid college plan contains funds contributed
4443 under ss. 1002.381 and 1002.394 ~~ss. 1002.385~~.

4444 Section 26. Subsection (10) of section 1009.981, Florida
4445 Statutes, is amended to read:

4446 1009.981 Florida College Savings Program.—

4447 (10) IMPLEMENTATION PROCEDURES.—

4448 (a) A college savings plan may be purchased, accounted for,
4449 used, and terminated as provided in ss. 1002.381 and 1002.394 ~~ss.~~
4450 ~~1002.385~~.

4451 (b) A designated beneficiary may apply the benefits of a
4452 participation agreement toward the program fees of a program
4453 designed for students with disabilities conducted by a state
4454 postsecondary institution. A designated beneficiary may not be
4455 changed while a college savings plan contains funds contributed
4456 under ss. 1002.381 and 1002.394 ~~ss. 1002.385~~.

4457 Section 27. Subsection (4) of section 1011.61, Florida
4458 Statutes, is amended to read:

4459 1011.61 Definitions.—Notwithstanding the provisions of s.
4460 1000.21, the following terms are defined as follows for the
4461 purposes of the Florida Education Finance Program:

4462 (4) The maximum value for funding a student in kindergarten
4463 through grade 12 or in a prekindergarten program for exceptional
4464 children as provided in s. 1003.21(1)(e) shall be the sum of the



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4465 calculations in paragraphs (a), (b), and (c) as calculated by
4466 the department.

4467 (a) The sum of the student's full-time equivalent student
4468 membership value for the school year or the equivalent derived
4469 from paragraphs (1)(a) and (b), subparagraph (1)(c)1., sub-
4470 subparagraphs (1)(c)2.b. and c., ~~subparagraph (1)(c)3.,~~ and
4471 subsection (2). If the sum is greater than 1.0, the full-time
4472 equivalent student membership value for each program or course
4473 shall be reduced by an equal proportion so that the student's
4474 total full-time equivalent student membership value is equal to
4475 1.0.

4476 (b) If the result in paragraph (a) is less than 1.0 full-
4477 time equivalent student and the student has full-time equivalent
4478 student enrollment pursuant to sub-sub-subparagraph
4479 (1)(c)1.b.(VIII), calculate an amount that is the lesser of the
4480 value in sub-sub-subparagraph (1)(c)1.b.(VIII) or the value of
4481 1.0 less the value in paragraph (a).

4482 (c) The full-time equivalent student enrollment value in
4483 sub-subparagraph (1)(c)2.a.

4484 ~~A scholarship award provided to a student enrolled in the John
4485 M. McKay Scholarships for Students with Disabilities Program
4486 pursuant to s. 1002.39 is not subject to the maximum value for
4487 funding a student under this subsection.~~

4488 Section 28. Paragraph (f) of subsection (18) of section
4489 1011.62, Florida Statutes, is amended to read:

4490 1011.62 Funds for operation of schools.—If the annual
4491 allocation from the Florida Education Finance Program to each
4492 district for operation of schools is not determined in the
4493



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4494 annual appropriations act or the substantive bill implementing
4495 the annual appropriations act, it shall be determined as
4496 follows:

4497 (18) TEACHER SALARY INCREASE ALLOCATION.—The Legislature
4498 may annually provide in the Florida Education Finance Program a
4499 teacher salary increase allocation to assist school districts in
4500 their recruitment and retention of classroom teachers and other
4501 instructional personnel. The amount of the allocation shall be
4502 specified in the General Appropriations Act.

4503 ~~(f) Notwithstanding any other provision of law, funds
4504 allocated under this subsection shall not be included in the
4505 calculated amount for any scholarship awarded under chapter
4506 1002.~~

4507 Section 29. Section 1011.687, Florida Statutes, is created
4508 to read:

4509 1011.687 K-12 Education Scholarship Program Allocation.—The
4510 K-12 Education Scholarship Program Allocation is established to
4511 provide funds to implement the McKay-Gardiner Scholarship
4512 Program provided in s. 1002.381 and the Family Empowerment
4513 Scholarship Program provided in 1002.394. A student FTE
4514 scholarship amount shall be calculated as provided in ss.
4515 1002.381(15) and 1002.394(12) (b), based on funds calculated for
4516 a similarly situated public school student full-time equivalent
4517 in the Florida Education Finance Program. For purposes of this
4518 allocation, one student FTE is equivalent to four quarterly
4519 scholarship payments. A student who receives funding for the
4520 program for less than four quarters shall be a fraction of an
4521 FTE. Funds for the scholarship allocation shall be provided for
4522 student FTE in each county in the amount prescribed in the



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4523 General Appropriations Act. The calculated student scholarship
4524 amounts provided may not be revised during the fiscal year.

4525 Section 30. (1) Any unused tax credit that was approved
4526 under former s. 212.099, Florida Statutes 2020, before July 1,
4527 2021, continues in effect, subject to the carryforward,
4528 conveyance, assignment, transfer, and rescindment provisions of
4529 former s. 212.099(5), Florida Statutes 2020.

4530 (2) Any unused tax credit under former s. 1002.395, Florida
4531 Statutes 2020, which was approved before July 1, 2021, continues
4532 in effect, subject to the carryforward, conveyance, assignment,
4533 transfer, rescindment, estimated corporate income tax payment,
4534 and insurance premium tax installment payment provisions of
4535 former s. 1002.395(5), Florida Statutes 2020.

4536 (3) This section is repealed June 30, 2031.

4537 Section 31. Former s. 1002.395(5)(g), Florida Statutes
4538 2020, relating to deduction of contributions for purposes of
4539 calculating underpayments, applies to a taxpayer who, before
4540 July 1, 2021, was approved to receive a credit allocation by the
4541 department and reduced or made no estimated corporate income tax
4542 payments or insurance premium or assessment installment payments
4543 in reliance of former s. 1002.395(5)(g), Florida Statutes 2020,
4544 except that the taxpayer shall remit amounts intended for
4545 contributions to an eligible nonprofit scholarship organization
4546 to the department. The department shall deposit such amounts into
4547 the designated student fund in accordance with s. 1002.395(4),
4548 Florida Statutes. This section expires June 30, 2024.

4549 Section 32. This act shall take effect July 1, 2021.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 48

INTRODUCER: Education Committee and Senator Diaz and others

SUBJECT: Educational Scholarship Programs

DATE: March 3, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Sagues</u>	<u>Bouck</u>	<u>ED</u>	Fav/CS
2.	<u>Underhill</u>	<u>Elwell</u>	<u>AED</u>	Recommend: Fav/CS
3.	<u>Underhill</u>	<u>Sadberry</u>	<u>AP</u>	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 48 consolidates student scholarship programs and provides parents with more flexibility to meet the educational needs of their child. The bill merges the John M. McKay Scholarship Program for Students with Disabilities (McKay program) with the Gardiner Scholarship Program (Gardiner program) and creates a new scholarship program, the McKay-Gardiner Scholarship Program (McKay-Gardiner program). The bill incorporates the Florida Tax Credit Scholarship Program (FTC program) and Hope Scholarship Program (Hope) into the Family Empowerment Scholarship Program (FES program). In addition, the bill:

- Establishes both scholarship programs as education savings accounts.
- Provides that eligible families may receive an award for students enrolled in a public school, a private school, or a home education program.
- Specifies that recipients of a scholarship during the 2020-2021 school year are eligible for a scholarship under the appropriate consolidated program for the 2021-2022 school year.
- Increases the scholarship awards to 97.5 percent of the per-student-funding calculation and authorizes up to 2.5 percent for administrative costs incurred by nonprofit scholarship funding organizations (SFOs).
- Combines eligibility requirements from the McKay and Gardiner scholarship programs to establish the McKay-Gardiner program student eligibility requirements and award priorities.
- Modifies the FES program student eligibility requirements and award priorities to incorporate provisions of the FTC program and Hope program.

- Establishes the maximum number of McKay-Gardiner program awards at 50,000 full-time equivalent (FTE) students with an annual scholarship growth rate of seven percent of the total student FTE who participated in the program in the prior year.
- Maintains the current FES program annual growth rate of one percent of the state's total public school student FTE enrollment.
- Establishes common accountability metrics across scholarship programs.
- Requires the Auditor General to conduct an operational audit of each nonprofit SFO at least once every three years.
- Specifies that a private virtual school, with at least one administrative office located in Florida, may participate in the state school choice scholarship program.

The impact on state funding is indeterminate. The state funding will depend on an official estimate of student FTE participating in the scholarship programs for the 2021-2022 school year, an official estimate of the amount of revenue that will be transferred into the Florida Education Finance Program (FEFP), and the amount of state funds allocated to the FEFP during the appropriation process that will aid in determination of the scholarship awards. See Section V.

The bill takes effect on July 1, 2021.

II. Present Situation:

The present situation for the relevant portions of the bill is discussed under the Effect of Proposed Changes of this bill analysis.

III. Effect of Proposed Changes:

Scholarships for Students with Disabilities

Present Situation

The John M. McKay Scholarship for Students with Disabilities Program

The McKay program was established in 1999 and provides public school students with a defined disability¹ and an Individual Education Plan (IEP)² or a 504 accommodation plan issued under s.

¹ Students with disabilities include K-12 students who are documented as having an intellectual disability; a speech impairment; a language impairment; a hearing impairment, including deafness; a visual impairment, including blindness; a dual sensory impairment; an orthopedic impairment; another health impairment; an emotional or behavioral disability; a specific learning disability, including, but not limited to, dyslexia, dyscalculia, or developmental aphasia; a traumatic brain injury; a developmental delay; or autism spectrum disorder. Section 1002.39(1), F.S.

² All students who are between the ages of three to 21 and have a disability have the right to a free, appropriate public education. Section 1003.5716, F.S. The IEP is the primary vehicle for communicating the school district's commitment to addressing the unique educational needs of a student with a disability. Florida Department of Education, *Developing Quality Individual Education Plans* (2015), available at <http://www.fldoe.org/core/fileparse.php/7690/urlt/0070122-qualityieps.pdf>, at 9.

504 of the Rehabilitation Act of 1973³ the option to attend a different public school or attend a private school using a state funded school voucher scholarship.⁴

Student Eligibility

A student is eligible for an award under the McKay program if:

- The student has an Individual Education Plan (IEP), or a 504 accommodation plan;
- The student has spent the prior school year in attendance at a Florida public school or the Florida School for the Deaf and Blind; and
- The parent has obtained acceptance for admission of their child to a private school that is eligible to participate in the McKay Scholarship program.⁵

Program Prohibitions

A student is not eligible for an award under the McKay program if the student:

- Is enrolled in a Department of Juvenile Justice (DJJ) program or the Florida School for the Deaf and Blind;
- Participates in a home education or private tutoring program, or a virtual school that receives state funding unless the student is enrolled in no more than two courses per year;
- Does not have regular or direct contact with teachers;
- Is issued a temporary 504 accommodation plan valid for 6 months or less; or
- Receives any other educational scholarship pursuant to law.⁶

Eligibility Term

The term of the scholarship continues until the student returns to public school, graduates from high school, or reaches 22 years of age.⁷

School District Obligations

School districts are required to comply with multiple obligations, including all of the following:

- Notifying parents of the scholarship.
- Providing IEP evaluation and student assessment services.
- Allowing the parent to enroll their child in a public school other than the one assigned and provide transportation if the school chosen is consistent with the district school board's choice plan.
- Allowing the parent to enroll their child in a public school in an adjacent school district.⁸

³ U.S. Department of Labor, Section 504, Rehabilitation Act of 1973 *available at* <https://www.dol.gov/agencies/oasam/centers-offices/civil-rights-center/statutes/section-504-rehabilitation-act-of-1973> (last visited Jan. 28, 2021). The Section 504 plan identifies the services and accommodations necessary for a student to access instruction and may include accommodations in the classroom and for local and state assessments. Florida Department of Education, *Accommodations, Assisting Students with Disabilities* (2018), *available at* <http://www.fldoe.org/core/fileparse.php/7567/urlt/0070069-accomm-educator.pdf>. at 3.

⁴ Section 1002.39(1), F.S.

⁵ Section 1002.39(2), F.S.

⁶ Section 1002.39(3), F.S.

⁷ Section 1002.39(4), F.S.

⁸ Section 1002.39(5), F.S.

In addition, the school district is required to report all students to the Department of Education (DOE) who are attending a private school using a McKay Scholarship.⁹

Department of Education Obligations

The DOE is responsible for administering the program, including:

- Cross-checking the list of participating students against the public school enrollment prior to each scholarship payment to avoid duplication; and¹⁰
- Making quarterly scholarship payments to the private school of the parent's choice.¹¹

Private School Obligations

Private schools participating in the scholarship program must comply with the general laws governing private schools, pursuant to s. 1002.421, F.S., and must provide all documentation required for a student's participation, including the student fee schedule.¹²

Parent and Student Obligations

A parent is exercising his or her parental choice to enroll his or her child in a private school, and is responsible for:

- Applying for admission to a private school;
- Remaining in attendance at the private school throughout the school year unless excused for illness or other good cause; and
- Restrictively endorsing the warrant to the private school.¹³

Transition-to-work Program

Students who are between the ages of 17 and 22 may participate in a transition-to-work program offered through their private school. The transition-to-work program includes academic instruction, work skills training, and a volunteer or paid work experience.¹⁴

Scholarship Funding and Payment

The McKay program is funded through the Florida Education Finance Program (FEFP) and administered by the DOE.¹⁵ The calculation of the awards are based on the base student allocation, the student's grade level, matrix level of services cost factors, and district cost differential for the school district to which the student was assigned, and funding from selected categorical programs.

⁹ Section 1002.39(10)(c), F.S.

¹⁰ Section 1002.39(6), F.S.

¹¹ Section 1002.39(10)(e), F.S.

¹² Section 1002.39(7), F.S.

¹³ Section 1002.39(8), F.S.

¹⁴ Section 1002.39(9), F.S.

¹⁵ The Florida Education Finance Program (FEFP) is the mechanism that allocates the state appropriation to each school district throughout the year based on reported student enrollments.

During the 2019-2020 school year, \$221.5 million in scholarship payments were distributed to 1,547 private schools serving 30,185 students. The average scholarship for a student with an IEP was \$8,473. The average scholarship for a student with a 504 accommodation plan was \$4,676.¹⁶

The Gardiner Scholarship Program

The Gardiner program was established in 2014 to provide eligible students with a disability¹⁷ a scholarship to meet the individual educational needs of the student through an education savings account.

Student Eligibility

In order to be eligible for a scholarship a student must:

- Be a Florida resident;
- Be at least three years of age before September 1 or eligible to enroll in kindergarten through grade 12,
- Have a defined disability; and
- Have an IEP written in accordance the rules of the State Board of Education (SBE)¹⁸ or the rules of another state; or
- Have the diagnosis of a specified disability from a physician or psychologist who holds an active license.¹⁹

Program Prohibitions

A student is not eligible for an award under the Gardiner program if the student is:²⁰

- Enrolled in a public school, including the Florida Virtual School;
- Enrolled in a DJJ program or the Florida School for the Deaf and Blind; or
- Receiving any other educational scholarship pursuant to law.²¹

A parent may not transfer any prepaid college plan or college savings account that contains funds contributed from the Gardiner Scholarship to another beneficiary. In addition, a parent may not receive a payment, refund or rebate from an approved provider of any services under the program.²²

¹⁶ Florida Department of Education, Office of Independent Education and Parental Choice, *McKay Scholarship Program* (2020), available at <https://www.fldoe.org/core/fileparse.php/5606/urlt/McKay-Aug.pdf>.

¹⁷ Disability means, for a 3- or 4-year-old child or for a student in kindergarten to grade 12, autism spectrum disorder, as defined in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, published by the American Psychiatric Association; cerebral palsy; Down syndrome; an intellectual disability; Phelan-McDermid syndrome; Prader-Willi syndrome; spina bifida; being a high-risk child; muscular dystrophy; Williams syndrome; rare diseases which affect patient populations of fewer than 200,000 individuals in the United States, as defined by the National Organization for Rare Disorders; anaphylaxis; deaf; visually impaired; traumatic brain injured; hospital or homebound; or identification as dual sensory impaired. The term “hospital or homebound” includes a student who has a medically diagnosed physical or psychiatric condition or illness and who is confined to the home or hospital for more than 6 months. Section 1002.385(2), F.S.

¹⁸ Rule 6A-6.0961, F.A.C. See also Rules 6A-6.03028, 6A-6.030281, 6A-6.03029, and 6A-6.03311, F.A.C.

¹⁹ Florida Department of Education, Office of Independent Education and Parental Choice, *Gardiner Scholarship Program* (2020), available at <http://www.fldoe.org/core/fileparse.php/5606/urlt/Gardiner.pdf>. See s. 1002.385(3), F.S.

²⁰ Section 1002.385(4), F.S.

²¹ Section 1002.385(4), F.S.

²² Section 1002.385(11), F.S.

Authorized Uses of Funds

Scholarship funds provided through an education savings account must be used to meet the individual needs of an eligible student and may include:²³

- Instructional materials;
- Curriculum;
- Specialized services, programs, and courses;²⁴
- Tuition and fees;²⁵
- Transition services provided by job coaches;²⁶ and
- Contributions to a college prepaid account.

Eligibility Term

The term of the scholarship continues until one of the following occurs:

- The parent does not renew scholarship eligibility;
- The nonprofit SFO determines that the student is ineligible;
- The Commissioner of Education (commissioner) suspends or revokes scholarship participation or use of funds;
- The student's parent fails to comply with parent and student responsibilities for scholarship participation;
- The student enrolls in a public school; or
- The student graduates from high school or attains 22 years of age.²⁷

Any remaining funds revert to the state after denial or revocation of scholarship eligibility by the commissioner for fraud or abuse, or after three consecutive fiscal years in which an account has been inactive or three consecutive years after high school completion or graduation during which the student is not enrolled in an eligible postsecondary educational institution or a program offered by the institution.²⁸

School District Obligations

Upon request, school districts are required to develop an IEP and a matrix of services evaluation, and provide student assessment services.²⁹

²³ Section 1002.385(5), F.S.

²⁴ *Id.* Specialized services may include applied behavior analysis, services provided by speech-language pathologists, occupational therapy services, services provided by physical therapists, and services provided by listening and spoken language specialists. Specialized programs and courses include summer and after-school education programs and music and art therapy.

²⁵ Tuition or fees may include full-time or part-time enrollment in a home education program, an eligible private school, an eligible postsecondary educational institution or a program offered by the postsecondary institution, a private tutoring program, a virtual program, part-time tutoring, assessments, specialized programs including Voluntary Prekindergarten Education programs. Section 1002.385(5), F.S.

²⁶ "Transition services" means a coordinated set of activities for a student, designed within an outcome-oriented process, that promote movement from school to post-school activities, including postsecondary education; vocational training; integrated employment; supported employment; continuing and adult education; adult services; independent living, or community participation. Section 413.20(26), F.S.

²⁷ Section 1002.385(6), F.S.

²⁸ *Id.*

²⁹ Section 1002.385(7), F.S.

Private School Obligations

Private schools participating in the scholarship program must comply with the general laws governing private schools, pursuant to s. 1002.421, F.S., and must make provisions for students to take a nationally norm-referenced test and report the scores to the parent.³⁰

Department of Education Obligations

The DOE has multiple obligations, including all of the following:

- Maintaining a list of approved providers on the DOE website.
- Requiring each nonprofit SFO to verify eligible expenditures.
- Investigating any written complaint.
- Requiring quarterly reports by nonprofit SFOs that would include information related to participants, awards, expenditures, and types of providers.
- Compare the list of participating students against the public school enrollment lists, Voluntary Prekindergarten Education (VPK) enrollment lists, and the list of students participating in school choice scholarship programs prior to each scholarship payment to avoid duplication.³¹

Commissioner of Education Obligations

The commissioner may suspend or revoke the participation in the Gardiner program of students, parents, nonprofit SFOs, and approved providers.³²

Parent and Student Obligations

Parents must meet participation requirements for the Gardiner program, which include annually submitting a notarized, sworn compliance statement affirming:

- The student is enrolled in a program meeting attendance requirements;
- Funds are used as authorized;
- The parent is responsible for the child's education by meeting specified requirements; and
- The student remains in good standing with the provider or school.³³

In addition, the parent is responsible for all of the following:

- Filing an application for initial program participation.
- Notifying the school district that the student is participating in the Gardiner program.
- Enrolling his or her child in an eligible VPK program or private school, if choosing this option.
- Renewing participation in the program annually.
- Procuring the services necessary to educate the student.
- Paying expenses in excess of the amount of the Gardiner Scholarship.³⁴

³⁰ Section 1002.39(8), F.S.

³¹ Section 1002.39(9), F.S.

³² Section 1002.39(10), F.S.

³³ Section 1002.385(11), F.S.

³⁴ Section 1002.385(11), F.S.

Scholarship-funding Organization Obligations

The scholarship is directly administered by state-approved nonprofit scholarship funding organizations (SFOs), which have multiple obligations, including all of the following:

- Reviewing applications to determine student eligibility.
- Notifying parents of their receipt of a scholarship.
- Establishing deadlines for parents to confirm participation.
- Awarding scholarships based on established priorities.
- Maintaining separate accounts for each eligible student.
- Verifying qualifying educational expenditures.
- Returning any remaining program funds to the DOE.
- Notifying parents about the availability of requesting an IEP.
- Documenting each student's eligibility for a scholarship.³⁵

The nonprofit SFO is required to award scholarship funds in the following priority order:

1. Renewing students from the previous school year.
2. Students retained on the previous school year's wait list.
3. Newly approved applicants.
4. Late-filed applicant.

Auditor General Obligations

The Auditor General is required to conduct an annual operational audit of accounts and records of each nonprofit SFO that participates in the program.³⁶

Scholarship Funding and Payment

The funding amount is based on the student's matrix level of services. For a student without a matrix of services, the funding is calculated based on the amount to support Level III services. The amount of the scholarship award is equal to 90 percent of the calculated funding amount.³⁷ Once the scholarship has been verified and approved, the full amount of the award is deposited into the student's account. The nonprofit SFO may use up to three percent of the total amount of all program scholarships awarded for administrative expenses. The funds used for administrative expenses must originate from eligible tax credit contributions authorized under the FTC program and Hope program.³⁸

The Gardiner program has grown significantly over the seven years since it was established. For the 2014-2015 school year, scholarships totaling \$15 million were awarded to 1,559 students.³⁹ For the 2020-2021 school year, \$184.1 million has been awarded to 17,508 students through scholarships. The average scholarship amount is approximately \$10,464 per student.⁴⁰

³⁵ See s. 1002.385(12), F.S.

³⁶ Section 1002.385(14), F.S.

³⁷ Section 1002.385(13), F.S.

³⁸ Section 1002.395(6)(j), F.S.

³⁹ Florida Department of Education, Office of Independent Education and Parental Choice, *Gardiner Scholarship Program* (2020), available at <https://www.fldoe.org/core/fileparse.php/5606/urlt/Gardiner.pdf>.

⁴⁰ *Id.* Data for 2020-2021 is current as of Nov. 16, 2020.

Effect of Proposed Changes

The bill repeals s. 1002.385, F.S., relating to the Gardiner Scholarship Program and s. 1002.39, F.S., relating to the John M. McKay Scholarships for Students with Disabilities Program, and creates a new education savings account scholarship program: s. 1002.381, F.S., relating to the McKay-Gardiner Scholarship Program (McKay-Gardiner).

McKay-Gardiner Scholarship Program

The bill merges the McKay and the Gardiner scholarship programs into a single scholarship program, the McKay-Gardiner Scholarship Program, with a common set of eligibility requirements and scholarship award funding structure.

Student Eligibility

To be eligible for receipt of a scholarship, a student must be a Florida resident, be three or four years of age or eligible to enroll in kindergarten through grade 12, and have a disability as specified in law that is documented through one of the following:

- An IEP⁴¹ written in accordance to the rules of the SBE⁴² or the rules of another state;
- A diagnosis of a defined disability from a physician or psychologist who holds an active license; or
- A 504 accommodation plan issued under s. 504 of the Rehabilitation Act of 1973.⁴³

The bill specifies the following priority order for awarding scholarships:

- A student who received a McKay or Gardiner program scholarship in the prior year;
- A student retained on the previous school year's wait list; and
- Other eligible students.

Program Prohibitions

Similar to the Gardiner program,⁴⁴ the bill specifies that a student is not eligible for an award under the McKay-Gardiner program if he or she is enrolled in a public school or DJJ program, issued a temporary 504 accommodation plan, does not have regular or direct contact with teachers unless enrolled in a transition-to-work program, or is receiving any other educational scholarship pursuant to state law.

Authorized Uses of Funds

The bill maintains that the scholarship is directly administered by state-approved nonprofit SFOs. Similar to the Gardiner program,⁴⁵ scholarship funds can be used to meet the education needs of students, which in addition to all authorized uses under the Gardiner program, include:

- Digital devices and internet access.
- Teacher's manuals.
- Classes related to art, music, or theater.

⁴¹ *Supra* note 20.

⁴² Rule 6A-6.0961, F.A.C. *See also* Rules 6A-6.03028, 6A-6.030281, 6A-6.03029, and 6A-6.03311, F.A.C.

⁴³ *Supra* note 21.

⁴⁴ *See* Section 1002.385(4), F.S.

⁴⁵ *See* Section 1002.385(5), F.S.

- Fees for summer and after-school programs.
- Transition services provided by private schools or job coaches.
- Transportation expenses not to exceed \$750 per year.

Eligibility Term

The term of the scholarship under the bill remains similar to the conditions for termination under the Gardiner program.⁴⁶

School District Obligations

School districts must also continue to notify parents about the scholarship and provide IEP evaluation and assessment services.

Private School Obligations

Private schools participating in the scholarship program must continue to comply with current law,⁴⁷ and under the bill may discount tuition if the private school deems it necessary.

Department of Education Obligations

The bill requires the DOE to distribute scholarship funds on a quarterly basis, and adds requirements from the FES program and the FTC program to maintain and publish a list of nationally norm-referenced tests identified for purposes of satisfying assessment requirements, verify nonprofit SFO eligibility, and maintain scholarship information on the DOE website. Additionally, the bill maintains DOE obligations from the Gardiner program, including:

- Maintaining a list of approved providers.
- Requiring nonprofit SFOs to verify eligible educational expenses.
- Requiring quarterly reports of nonprofit SFOs.
- Cross-checking student participation and avoid duplicate payments to nonprofit SFOs.
- Investigating written complaints by a parent, student, private school, public school, school district, nonprofit SFO, provider, or other party.

Commissioner of Education Obligations

The bill maintains that the commissioner may suspend or revoke the participation in the program of students, parents, nonprofit SFOs, and approved providers.

Parent and Student Obligations

The bill requires parents to meet a number of requirements similar to the Gardiner program,⁴⁸ which include annually submitting a sworn compliance statement that affirms:

- The student is enrolled in a program meeting attendance requirements.
- Funds are used as authorized.
- The parent is responsible for the child's education by meeting specified requirements.
- The student remains in good standing with the provider or school.

⁴⁶ See Section 1002.385(6), F.S.

⁴⁷ Section 1002.421, F.S.

⁴⁸ See Section 1002.385(11), F.S.

Scholarship-funding Organization Obligations

Under the bill, nonprofit SFOs participating in the McKay-Gardiner program may use up to 2.5 percent of the student generated funding for administrative purposes and must comply with a number of requirements to administer the program:

- From the FTC program:
 - Complying with federal antidiscrimination provisions.⁴⁹
 - Complying with background check requirements.
 - Prohibiting an owner or operator from participating in the program or restricting scholarships.
 - Providing an annual financial audit conducted by an independent certified public accountant to the Auditor General.
 - Monitoring compliance of private schools.
 - Notifying the DOE of any violations of law.
 - Having operated for at least three years without any material audit finding in order to use specified funds for administrative purposes.
 - Maintaining a surety bond.⁵⁰
- From the Gardiner program:
 - Maintaining separate accounts for students.
 - Receiving applications, determining eligibility, and awarding scholarships.
 - Verifying qualifying educational expenditures.
 - Returning program funds as required.
 - Notifying parents of IEP evaluations and reevaluations.
 - Submitting timely reports to the DOE and Auditor General.⁵¹

The bill also retains the nonprofit SFO application process from the FTC program.⁵²

Auditor General Obligations

Similar to public school districts, the bill requires the Auditor General to conduct an operational audit on an approved nonprofit SFO at least once every three years,⁵³ rather than annually as currently required under the Gardiner program.

Transition-to-work Program

The bill maintains the opportunity from the McKay program for students who are between the ages of 17 and 22 to participate in a transition-to-work program offered through their private school. The transition-to-work program includes academic instruction, work skills training, and a volunteer or paid work experience.

⁴⁹ 42 U.S.C. s. 2000d.

⁵⁰ Section 1002.395(4), F.S.

⁵¹ Section 1002.385(12), F.S.

⁵² See Section 1002.395(15), F.S.

⁵³ Since 2015, the Auditor General has conducted annual operational audits of the accounts and records of eligible nonprofit scholarship-funding organizations. As recent audits have not disclosed significant control deficiencies or noncompliance, the Legislature should consider amending ss. 11.45(2)(l), 1002.385(14)(a), and 1002.40(12)(a), F.S., to require the Auditor General to conduct operational audits at least once every 3 years of the accounts and records of eligible nonprofit scholarship-funding organizations. Auditor General, *Auditor General Annual Report 2020 November 1, 2019, Through October 31, 2020* (2020) available at https://flauditor.gov/pages/pdf_files/annual%20report%202020.pdf at 7.. Section 11.45(2)(f), F.S.

Scholarship Funding and Payment

The bill establishes the McKay-Gardiner program for up to 50,000 full-time equivalent (FTE) students with a seven percent annual scholarship growth rate. The funding is calculated based on the FEFP grade level, the district school to which the student would have been assigned, and the level of services generated by the students. The scholarship award is 97.5 percent of the calculated amount. However, unlike the Gardiner program where a student's full scholarship award is distributed at the beginning of the school year or upon program enrollment, scholarship awards under the new McKay-Gardiner program will be disbursed on a quarterly basis.

Similar to the Gardiner program, any remaining funds revert to the state after denial or revocation of scholarship eligibility by the commissioner for fraud or abuse, or after two consecutive fiscal years in which an account has been inactive or three consecutive years after high school completion or graduation during which the student is not enrolled in an eligible postsecondary educational institution or a program offered by the institution.

Other K-12 Education Scholarship Programs

Present Situation

Florida Tax Credit (FTC) Scholarship Program

The FTC program was established in 2001⁵⁴ to authorize private, voluntary contributions from corporate donors to eligible nonprofit SFOs that award tax credit scholarships to eligible children from low-income families.⁵⁵ State law requires the nonprofit SFOs to use the contributions received to provide scholarships to eligible students for the cost of private school tuition or transportation to a public school that is different from the school to which the student was assigned.

Student Eligibility

To be eligible for an award under the FTC program, a student must meet at least one of the following criteria:

- The student is on the direct certification list⁵⁶ or the student's household income level does not exceed 260 percent of the federal poverty level; or
- The student is currently placed, or during the previous state fiscal year was placed, in foster care or in out-of-home care as defined in law.⁵⁷

⁵⁴ Section 5, ch. 2001-225, L.O.F.

⁵⁵ The program allows a corporation to receive a dollar-for-dollar tax credit up to 100% of its state income tax liability. The program also includes credits against the insurance premium tax for contributions to eligible nonprofit SFOs, credits against severance taxes on oil and gas production, self-accrued sales tax liabilities of direct pay permit holders, and alcoholic beverage taxes on beer, wine, and spirits. The maximum amount the state may award is \$873 million in credits for the 2020-21 fiscal year. Department of Education, *Florida Tax Credit Scholarship Program September 2020 Quarterly Report* (2020), available at: <http://www.fldoe.org/core/fileparse.php/7558/urlt/FTC-Sept-2020-Q-Report.pdf>.

⁵⁶ Direct certification list means the certified list of children who qualify for the food assistance program, the Temporary Assistance to Needy Families Program, or the Food Distribution Program on Indian Reservations provided to the Department of Education by the Department of Children and Families. Section 1002.395(2)(c), F.S.

⁵⁷ Section 1002.395(3), F.S.

Priority is given to a student whose household income level does not exceed 185 percent of the federal poverty level or who is in foster care or out-of-home care.

A sibling of a student who is participating in the scholarship program is eligible for a scholarship if the student resides in the same household as the sibling.

Program Prohibitions

A student is not eligible for a scholarship while he or she is enrolled in a public school or DJJ program; receiving another state educational scholarship pursuant to Florida law; enrolled in a home education or private tutoring program, or enrolled in the Florida School for the Deaf and the Blind. The student is also limited to participating in no more than two state-funded virtual courses per year.⁵⁸

Eligibility Term

A student who initially receives a scholarship remains eligible to participate until the student graduates from high school or attains the age of 21 years, whichever occurs first, regardless of the student's household income level.⁵⁹

Scholarship Funding Tax Credits

A taxpayer may submit an application for a tax credit toward one or more contributions to an eligible nonprofit SFO that administers an educational scholarship program.⁶⁰

Scholarship-funding Organization Obligations

Nonprofit SFOs must comply with requirements relating to administration of the program, which include federal antidiscrimination laws, background checks, and private school choice. In addition, nonprofit SFOs must:

- Give first priority to eligible students who received an FTC program scholarship during the previous school year;
- Apply all funds available under the FTC program and the Hope program for renewal scholarship awards before awarding any initial scholarships;
- Provide a scholarship to an eligible student on a first-come, first-served basis unless the student qualifies for priority established in law;
- Refer any student eligible for an FTC program scholarship who did not receive a renewal or initial scholarship based solely on the lack of available funds through the FTC program or Hope program to another eligible nonprofit SFO that may have funds available;
- Not restrict or reserve scholarships for use at a particular private school or provide scholarships to a child of an owner or operator;
- Allow a student in foster care or out-of-home care or a dependent child of a parent who is a member of the United States Armed forces to apply for a scholarship at any time;
- Allow a student to attend any private school and transfer school during the school year;
- Maintain separate accounts for scholarship funds and operating funds;

⁵⁸ Section 1002.395(4), F.S.

⁵⁹ Section 1002.395(3), F.S.

⁶⁰ Section 1002.395(5), F.S.

- Provide the annual financial audit report to the Auditor General and the DOE.
- Submit quarterly reports to the DOE; and
- Maintain a surety bond.⁶¹

The nonprofit SFO may use up to three percent of the total amount of all scholarships awarded for administrative expenses. No more than 25 percent of the eligible contributions can be carried forward to the following state fiscal year. Prior to granting a scholarship, the nonprofit SFO must document the student's eligibility each year.

An organization that intends to participate in the program must annually submit an application to the Office of Independent Education and Parental Choice. Within 30 days of receipt of the application, the commissioner shall recommend approval to the State Board of Education. If an existing nonprofit SFO is disapproved for renewal, all remaining funds held by the SFO must be transferred to other eligible nonprofit SFOs to provide scholarships for eligible students.⁶²

Parent and Student Obligations

Parents must meet participation requirements for the FTC program, which include all of the following:⁶³

- Selecting an eligible private school.
- Informing the child's school district when withdrawing their child to attend a private school.
- Remaining in attendance at the private school throughout the school year.
- Ensuring the student takes the norm-referenced assessment.
- Restrictively endorsing the warrant to the private school.

Private School Obligations

Private schools participating in the scholarship program must comply with the general laws governing private schools, pursuant to s. 1002.421, F.S., and must make provisions for students to take a nationally norm-referenced test and report the scores to the parent.⁶⁴

Department of Education Obligations

The DOE has multiple obligations, including all of the following:

- Verifying the eligibility of each nonprofit SFO.
- Verifying the eligibility of expenditures.
- Cross-checking the list of participating students against the public school enrollment to avoid duplication.
- Maintaining a list of nationally norm-referenced tests.
- Issuing a project grant award every two years to a state university to which private schools must report the scores from the nationally norm-referenced tests.
- Notifying the nonprofit SFO of their eligible students and eligible students associated with other nonprofit SFOs.

⁶¹ Section 1002.395(6), F.S.

⁶² Section 1002.395(15), F.S.

⁶³ Section 1002.395(7), F.S.

⁶⁴ Section 1002.395(8), F.S.

- Requiring quarterly reports by nonprofit SFOs that would include information related to the scholarship participants and the private schools they attend.
- Providing a process to match the direct-certification list with the scholarship application data.⁶⁵

School District Obligations

School districts are required to comply with multiple obligations, including:

- Notifying households that receive a free or reduced-price meal of the scholarship, upon request of the nonprofit SFO; and
- Implementing test administration of statewide assessments at private schools.⁶⁶

Scholarship Funding and Payment

During the 2019-20 school year, FTC program scholarships in the amount of \$670 million were awarded to a total of 111,219 students enrolled in 1,870 participating Florida private schools. The maximum scholarship amount per student in the 2019-2020 school year was \$7,408.⁶⁷ As of January 2021, 100,008 scholarships were awarded to students for the 2020-2021 school year.⁶⁸

Family Empowerment Scholarship (FES) Program

The FES program was established in 2019⁶⁹ to provide educational options to eligible children of families with limited financial resources through a state funded school voucher scholarship. Similar to the McKay program,⁷⁰ the FES program is based on the FEFP allocation formula.

Student Eligibility

To be eligible for an award under the FES program, a student must meet the following criteria:⁷¹

- The student is:
 - On the direct certification list pursuant to law or the student's household income level does not exceed 300 percent of the federal poverty level; or
 - Currently placed, or during the previous fiscal year was placed, in foster care or in out-of-home care as defined in law.
- The student is eligible to enroll in kindergarten or has spent the prior school year in attendance at a Florida public school. However, a dependent child of a member of the United States Armed Forces who transfers to a school in this state from out of state or from a foreign country due to a parent's permanent change of station orders or a foster child is exempt from the prior public school attendance requirement.

⁶⁵ Section 1002.395(9), F.S.

⁶⁶ Section 1002.395(10), F.S.

⁶⁷ Florida Department of Education, *Fact Sheet, Florida Tax Credit Scholarship Program (2020)*, available at <https://www.fldoe.org/core/fileparse.php/5606/urlt/FTC-Sept-2020-line.pdf>.

⁶⁸ Florida Department of Education, *K-12 Scholarships*, Presentation to the Committee on Education, The Florida Senate (January 12, 2021), available at https://www.flsenate.gov/Committees/Show/ED/MeetingPacket/4961/8839_MeetingPacket_4961.pdf.

⁶⁹ Section 6, ch. 2019-21, L.O.F.

⁷⁰ See Section 1002.39(10), F.S.

⁷¹ Section 1002.394(3), F.S.

- The parent has obtained acceptance for admission of the student to a private school that is eligible for the program and the parent has requested a scholarship from the DOE at least 60 days before the date of the first scholarship payment.

A sibling of a student who is participating in the FES program is eligible for a scholarship if the student resides in the same household as the sibling.

The law specifies the following priority order for awarding FES scholarships:

1. An eligible student who received a FES program scholarship in the prior year.
2. An eligible student who is a renewal student from a different nonprofit SFO.
3. An eligible student who attended a public school the prior year and was on the direct certification list or the student was placed in foster care.
4. An eligible student who is eligible to enroll in kindergarten and was on the direct certification list or the student was placed in foster care.
5. An eligible student whose household income level does not exceed 300 percent of the federal poverty level and who attended a public school the prior year or is a renewal student from a different nonprofit SFO.⁷²

The qualifying household income level of 300 percent may increase by 25 percent in any fiscal year in which more than five percent of the available scholarships authorized have not been awarded.

Eligibility Term

A student who receives a scholarship remains eligible to participate until the student graduates from high school or attains the age of 21 years, whichever occurs first, regardless of the student's household income level.⁷³

Program Prohibitions

A student is not eligible for a scholarship while he or she is enrolled in a public school or DJJ program; receiving another state educational scholarship pursuant to Florida law; enrolled in a home education or private tutoring program, a virtual program that receives state funding pursuant to the student's participation, or enrolled in the Florida School for the Deaf and the Blind.⁷⁴

School District Obligations

School districts must provide information on the district's website and inform all households within the district receiving free or reduced priced meals under the National School Lunch Act⁷⁵

⁷² Section 1002.394(3), F.S.

⁷³ Section 1002.394(4), F.S.

⁷⁴ Section 1002.394(5), F.S.

⁷⁵ 42 U.S.C s. 1751, et seq. The National School Lunch Program (NSLP) is a federally assisted meal program operating in public and nonprofit private schools and residential child care institutions. It provides nutritionally balanced, low-cost or free lunches to children each school day. The program was established under the National School Lunch Act, signed by President Harry Truman in 1946. USDA Food and Nutrition Service, *National School Lunch Program*, <https://www.fns.usda.gov/nslp> (last visited Jan. 29, 2021).

of their eligibility to apply for the scholarship. School districts must also notify the student and parent about, and provide services for, statewide assessment participation.⁷⁶

Department of Education Obligations

The DOE is required to:

- Publish information on the DOE website about the FES program, including student eligibility criteria, parental responsibilities, and relevant data;
- Cross-check the list of participating scholarship students with the public school enrollment lists before each scholarship payment is made to avoid duplication;
- Maintain and publish a list of nationally norm-referenced tests identified for purposes of satisfying the FES program testing requirement; and
- Establish and notify nonprofit SFO's of specified deadlines.⁷⁷

Private School Obligations

Private schools participating in the scholarship program must comply with the general laws governing private schools, pursuant to s. 1002.421, F.S., and must provide all documentation required for a student's participation, including the student fee schedule. In addition, the private school must annually administer or make provision for participating students in grades three through ten to take one of the nationally norm-referenced tests identified by the DOE or take the statewide standardized assessments. A participating private school must report a student's scores to his or her parent and to a state university for the purpose of annual performance data reporting.⁷⁸

Parent and Student Obligations

Parents must meet participation requirements for the FTC program, which include all of the following:

- Selecting an eligible private school.
- Requesting a scholarship at least 60 days prior to first scholarship payment.
- Informing the child's school district when withdrawing child to attend a private school.
- Remaining in attendance at the private school throughout the school year.
- Reviewing the private school's policies with the school principal or designee.
- Ensuring the student takes the norm-referenced assessment.
- Restrictively endorsing the warrant to the private school.⁷⁹

Scholarship-funding Organization Obligations

An eligible nonprofit SFO:

- Must verify the household income level of students and submit the verified list of students and related documentation to the DOE;
- Must award scholarships in priority order as specified in law;

⁷⁶ Section 1002.394(6), F.S.

⁷⁷ Section 1002.394(7), F.S.

⁷⁸ Section 1002.394(8), F.S.

⁷⁹ Section 1002.394(9), F.S.

- May use up to one percent of the total amount of all FES program scholarships awarded for administrative expenses. The funds used for administrative expenses must originate from eligible tax credit contributions authorized under the FTC program and Hope program;⁸⁰
- Must, in a timely manner, submit any information requested by the DOE relating to the scholarship; and
- Must notify the DOE of any violation by a parent or private school of FES program requirements.⁸¹

Scholarship Funding and Payment

The funding amount is based on the student's grade level and school district in which the student was assigned plus a share of most categorical programs.⁸² The amount of the scholarship award is equal to 95 percent of the calculated amount. The amount of the award is deposited quarterly in the student's account once the scholarship has been verified and approved.⁸³

The FES program was initially established for up to 18,000 eligible students annually beginning with the 2019-2020 school year, and served 17,823.⁸⁴ Beginning in the 2020-2021 school year, the number of students participating in the FES annually increases by one percent of the state's total public school student enrollment.⁸⁵ As of January 2021, 36,384 scholarships were awarded to students for the 2020-2021 school year.⁸⁶

Hope Scholarship Program (Hope)

The Hope program was established in 2018⁸⁷ as a tax credit scholarship program to provide the parent of a public school student in kindergarten through grade 12 an opportunity to transfer the student to another public school or to request a scholarship for the student to enroll in and attend an eligible private school if that student has been subjected to battery; harassment; hazing; bullying; kidnapping; physical attack; robbery; sexual offenses; threat or intimidation; or fighting at school.⁸⁸

Once a parent or child submits a report of an incident, the school principal must provide a copy of the report to the parent and investigate the incident. Once the investigation is complete, or within 15 days after the incident was reported, whichever occurs first, the principal must notify the parent about the Hope program.⁸⁹

⁸⁰ Section 1002.395(6)(j), F.S.

⁸¹ Section 1002.394(10), F.S.

⁸² In addition to the basic amount for current operations for the FEFP specified in law, the Legislature may appropriate categorical funding for specified programs, activities, or purposes. Section 1011.62(6), F.S.

⁸³ Section 1002.394(11), F.S.

⁸⁴ Florida Department of Education, *K-12 Scholarships*, Presentation to the Committee on Education, The Florida Senate (January 12, 2021), available at https://www.flsenate.gov/Committees/Show/ED/MeetingPacket/4961/8839_MeetingPacket_4961.pdf.

⁸⁵ Section 1002.394(11)(a), F.S.

⁸⁶ Florida Department of Education, *K-12 Scholarships*, Presentation to the Committee on Education, The Florida Senate (January 12, 2021), available at https://www.flsenate.gov/Committees/Show/ED/MeetingPacket/4961/8839_MeetingPacket_4961.pdf.

⁸⁷ Section 16, ch. 2018-6, L.O.F.

⁸⁸ Section 1002.40(1) and (6), F.S.

⁸⁹ Section 1002.40(6), F.S.

Program Prohibitions

A student is not eligible for a scholarship while he or she is enrolled in a public school or DJJ program; receiving another state educational scholarship pursuant to Florida law; enrolled in a home education or private tutoring program, or enrolled in the Florida School for the Deaf and the Blind. The student is also limited to participating in no more than two state-funded virtual courses per year.⁹⁰

Eligibility Term

The term of the scholarship continues until the student returns to public school or graduates from high school.⁹¹

School District Obligations

A school district is required to notify parents of the scholarship upon conclusion of the investigation about the opportunity to enroll in a different public school or attend an eligible private school.⁹²

Private School Obligations

Private schools participating in the scholarship program must comply with the general laws governing private schools, pursuant to s. 1002.421, F.S. and must annually administer or make provision for participating students in grades three through ten to take one of the nationally norm-referenced tests identified by the DOE or take the statewide standardized assessments.⁹³

Department of Education Obligations

The DOE is required to:

- Cross-check the list of participating scholarship students with the public school enrollment lists to avoid duplication;
- Maintain a list of nationally norm-referenced;
- Require quarterly reports by the nonprofit SFOs regarding the number of students and private schools enrolled; and
- Contract with an independent entity to annually evaluate the program.⁹⁴

Parent and Student Obligations

Parents must meet participation requirements for the Hope program, which include all of the following:⁹⁵

- Selecting an eligible private school.
- Informing the child's school district when withdrawing child to attend a private school.
- Remaining in attendance at the private school throughout the school year.

⁹⁰ Section 1002.40(4), F.S.

⁹¹ Section 1002.40(5), F.S.

⁹² Section 1002.40(6), F.S.

⁹³ Section 1002.40(7), F.S.

⁹⁴ Section 1002.40(8), F.S.

⁹⁵ Section 1002.40(9), F.S.

- Ensuring the student takes the norm-referenced assessment.
- Restrictively endorsing the warrant to the private school.

Scholarship-funding Organization Obligations

The scholarship is directly administered by state-approved nonprofit SFOs, which have multiple obligations, including.

- Reviewing applications to determine student eligibility.
- Notifying parents of their receipt of a scholarship.
- Establishing deadlines for parents to confirm participation.
- Awarding scholarships and giving priority to renewing students.
- Preparing quarterly reports to the DOE.
- Notifying the DOE of any violation.⁹⁶

Auditor General Obligations

The Auditor General is required to conduct an annual operational audit of accounts and records of each organization that participates in the program.⁹⁷

Scholarship Funding Tax Credit

A tax credit⁹⁸ is available for use by a person who makes an eligible contribution.⁹⁹ Eligible contributions used to fund the Hope program may be used to fund FTC scholarships, with conditions. A nonprofit SFO may carry forward to the next state fiscal year no more than five percent of net eligible contributions to the Hope program.¹⁰⁰

Scholarship Funding and Payment

The Hope program served 388 students in the 2019-2020 school year. As of January 2021, 476 scholarships were awarded to students for the 2020-2021 school year.¹⁰¹

Effect of Proposed Changes

The bill modifies s. 1002.394, F.S., relating to the Family Empowerment Scholarship Program, s. 1002.395, F.S., relating to the Florida Tax Credit Scholarship Program, s. 1002.40, F.S., relating to the Hope Program, and related statutes.

⁹⁶ Section 1002.40(10), F.S.

⁹⁷ Section 1002.40(12), F.S.

⁹⁸ The purchaser of a motor vehicle is granted a credit of 100 percent of an eligible contribution made to an eligible nonprofit scholarship-funding organization for the Hope Scholarship Program against any tax imposed by the state and collected from the purchaser by a dealer, designated agent, or private tag agent as a result of the purchase or acquisition of a motor vehicle, except that a credit may not exceed the tax that would otherwise be collected from the purchaser by a dealer, designated agent, or private tag agent. Section 212.1832(1), F.S.

⁹⁹ Section 1002.40(13), F.S.

¹⁰⁰ Section 1002.40(11)(i), F.S.

¹⁰¹ Florida Department of Education, *K-12 Scholarships*, Presentation to the Committee on Education, The Florida Senate (January 12, 2021), available at

https://www.flsenate.gov/Committees/Show/ED/MeetingPacket/4961/8839_MeetingPacket_4961.pdf.

Family Empowerment Scholarship Program

The bill incorporates the FTC program and Hope program into the FES program with a common set of eligibility requirements and scholarship award funding structure, expands the option under which a student may qualify for the FES program, and changes the program from a state funded school voucher program to an education savings account program.

Student Eligibility

A student is eligible for an award under the FES program if the student is eligible to enroll in kindergarten through grade 12 and is:

- On the direct certification list or the student's household income does not exceed 300 percent of poverty; which is a higher maximum income level than the FTC program, which is 260% of the poverty level;
- Currently placed or placed during the previous fiscal year in foster or out-of-home care;
- A sibling of a participating student residing in the same household; or
- Enrolled in a public school and reported an incident of being subjected to battery; harassment; hazing; bullying; kidnapping; physical attack; robbery; sexual offenses, threat or intimidation; or fighting at school.

The bill removes the requirement that a student must spend the prior year in attendance at a Florida public school. Therefore, under the bill students participating in a home education or private tutoring program may be eligible to apply for a scholarship, which may likely increase the number of families eligible for an award under the FES program.

The bill establishes scholarship award priorities in the following order:

- A student who received an FTC program or Hope program award in the 2020-2021 school year and a student who received an FES program award the previous school year.
- A student who was retained on the previous school year's wait list.
- A student placed in foster care, a sibling of a participating student, or a student who reported an incident of being subjected to battery; harassment; hazing; bullying; kidnapping; physical attack; robbery; sexual offenses; threat or intimidation; or fighting at school.
- A student who's household income does not exceed 185 percent of the federal poverty level.
- A student who's household income does not exceed 300 percent of the federal poverty level.

Eligibility Term

The bill adds to the FES program similar policies from the Gardiner program relating to scholarship terms.

Commissioner of Education Obligations

The bill adds to the FES program similar policies from the Gardiner program relating to commissioner responsibilities. The bill specifies that any remaining funds revert to the state after denial or revocation of scholarship eligibility by the commissioner for fraud or abuse, or after two consecutive fiscal years in which an account has been inactive or two consecutive years after high school completion or graduation during which the student is not enrolled in an eligible postsecondary educational institution or a program offered by the institution.

Program Prohibitions

The bill removes the restriction that a student could not participate in a home education program or participate in a private tutoring program.

Authorized Use of Funds

The bill modifies the FES program from an award which only covers tuition at a private school to an education savings account program and authorizes parents to use scholarship funds to meet the educational needs of their children. These authorized uses include all of the following:

- Instructional materials including digital devices and internet access.
- Curriculum including teacher's manuals.
- Tuition and fees, including fees for summer and after-school programs, and annual assessments and evaluations.
- Transportation expenses not to exceed \$750 per year.

School District Obligations

The bill maintains the FES requirements and adds that the district must notify the parents of the scholarship upon conclusion of the investigation for a student who was a victim of bullying or other qualified incident. The district is not responsible for reporting the student FTE to the DOE for FES participants.

Department of Education Obligations

The bill maintains the current FES requirements for the DOE and adds the following provisions:

- Contracting with an independent entity to annually evaluate the program.
- Verifying the eligibility of expenditures.
- Distributing scholarship funds to nonprofit SFOs on a quarterly basis.
- Maintaining a list of approved providers.
- Issuing a project grant award every two years to a state university to which private schools must report the scores from the nationally norm-referenced tests.
- Notifying the SFO of its eligible students and the eligible students associated with other nonprofit SFOs.
- Requiring quarterly reports by nonprofit SFOs that would include information related to the scholarship participants and the private schools they attend.
- Providing a process to match the direct-certification list with the scholarship application data.
- Investigating any written complaint of a violation.

Parent and Student Obligations

The bill includes provisions that parents must meet to maintain eligibility, including annually submitting a sworn compliance statement similar to the McKay-Gardiner program. The bill modifies specific parent responsibilities relating to private schools by removing provisions requiring that the student must attend a private school, and modifying assessment provisions for parents who choose to send their child to a private school.

Scholarship-funding Organization Obligations

The bill specifies that nonprofit SFOs must comply with a number of requirements similar to the McKay-Gardiner program to administer the FES program, and allows for nonprofit SFOs to use up to 2.5 percent of the calculated funding for administrative purposes. In addition, the bill maintains that nonprofit SFOs must:

- Verify household income;
- Allow specified eligible students to apply for a scholarship at any time; and
- Have an annual financial audit conducted by an independent certified public accountant.

The bill also retains the nonprofit SFO application process from the FTC program.¹⁰²

Scholarship Funding and Payment

The bill maintains the current annual growth rate of one percent of the public school student enrollment and adds prior year FTC program and Hope program scholarship recipients outside of the enrollment cap. The scholarship funding is calculated based on the FEFP and includes the grade level and the district school to which the student would have been assigned. The bill increases the scholarship award from 95 percent to 97.5 percent of the calculated amount. An eligible student may alternatively choose a transportation award of \$750 to attend a public school that is different from the student's assigned school. The bill requires nonprofit SFOs to report student enrollment to the DOE at the time of each student membership survey and specifies that an FTE shall be equal to four quarterly scholarship payments.

Private School Obligations

In addition, the bill:

- Requires private schools participating in the scholarship program to comply with current law,¹⁰³ and allows a private school to discount tuition if the private school deems it necessary; and
- Requires school districts to notify parents about the scholarship and removes the requirement for school districts to report scholarship students for funding.

Auditor General Obligations

Similar to public school districts, the bill requires the Auditor General to conduct an operational audit on an approved nonprofit SFO at least once every three years,¹⁰⁴ rather than annually as currently required under the Gardiner program.

¹⁰² See Section 1002.395(15), F.S.

¹⁰³ Section 1002.421, F.S.

¹⁰⁴ Since 2015, the Auditor General has conducted annual operational audits of the accounts and records of eligible nonprofit scholarship-funding organizations. As recent audits have not disclosed significant control deficiencies or noncompliance, the Legislature should consider amending ss. 11.45(2)(l), 1002.385(14)(a), and 1002.40(12)(a), F.S., to require the Auditor General to conduct operational audits at least once every 3 years of the accounts and records of eligible nonprofit scholarship-funding organizations. Auditor General, *Auditor General Annual Report 2020 November 1, 2019, Through October 31, 2020* (2020) available at https://flauditor.gov/pages/pdf_files/annual%20report%202020.pdf at 7.. Section 11.45(2)(f), F.S.

Florida Tax Credit Scholarship Program

The bill modifies the catchline of s. 1002.395, F.S. from the Florida Tax Credit Scholarship Program to the Florida K-12 Education Funding Tax Credit Program. The bill enables taxpayers to designate portions of certain tax payments as contributions to K-12 education funding. The bill also requires that contributions be deposited into a designated student fund and used for K-12 education funding.

The bill removes other substantive provisions and incorporates certain provisions into the FES program, including:

- Obligations of eligible nonprofit SFO's;
- Obligations of the DOE; and
- Nonprofit SFO application requirements.

Hope Scholarship Program

The bill modifies the catchline of s. 1002.40, F.S., from the Hope Scholarship Program to the Florida K-12 Education Funding Tax Credit Program. The bill enables taxpayers to designate portions of certain tax payments as contributions to K-12 education funding. The bill also requires that:

- Eligible contributions be deposited into a designated student fund and used for K-12 education funding.¹⁰⁵
- The Department of Revenue and DOE collaboratively develop a contribution election form that includes a brief description of each scholarship program available and the type of student served under each program.

The bill removes other substantive provisions and incorporates certain provisions into the FES program, including:

- Eligibility requirements; and
- Requiring an annual evaluation of public schools with ten or more students transferring to another public school or private school due to bullying or other qualifying incident.

Other Bill Provisions

The bill also:

- Modifies other tax credit-related statutes to conform to the bill.
- Modifies controlled open enrollment preferential treatment¹⁰⁶ to include McKay-Gardiner program award recipients for students choosing to attend a public school other than the one assigned.

¹⁰⁵ Under current law, a taxpayer makes an eligible contribution to a nonprofit SFO and receives a credit against any tax due as a result of buying a motor vehicle. Because the contribution is made directly to the nonprofit SFO, which also distributes scholarship funds, the law prohibits the taxpayer from designating funds to a particular student as a beneficiary of the contribution. However, under the bill contributions are no longer made directly to the nonprofit SFO. The taxpayer may designate a portion of the taxes paid to K-12 education funding, to be deposited into a specified state fund. Because contributions under the bill are not made directly to a nonprofit SFO this prohibition specified in law is no longer necessary.

¹⁰⁶ Section 1002.31(2)(c), F.S.

- Allows for a private virtual school with a least one administrative office located in the state to meet the physical location requirement for private school participating in the state school scholarship program.
- Includes the teacher salary allocation in the per student scholarship amount calculation, which is currently excluded under s. 1011.62(18), F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The tax impact for CS/SB 48 is indeterminate. The effect on taxes and tax credits will be determined by an impact conference conducted by the Revenue Estimating Conference.

B. Private Sector Impact:

Additional eligible families may have the opportunity to use scholarship funds for private school and educational services to meet the educational needs of their children. There may also be increased usage of private educational services as authorized in the bill. In addition, certain taxpayers may designate funding for education through authorized tax credits.

C. Government Sector Impact:

The impact on state funding is indeterminate. The state funding will depend on an official estimate of student full-time equivalent (FTE) participation in the scholarship programs for the 2021-2022 school year, an official estimate of the amount of revenue that will be transferred into the Florida Education Finance Program (FEFP), and the amount of state

funds allocated to the FEFP through the General Appropriations Act and implementing legislation.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 11.45, 211.0251, 212.099, 212.1831, 212.1832, 213.053, 220.1105, 220.13, 220.186, 220.1875, 561.1211, 624.51055, 1002.20, 1002.23, 1002.31, 1002.394, 1002.395, 1002.40, 1002.411, 1002.421, 1009.971, 1009.98, 1009.981, 1011.61, and 1011.62.

This bill creates section 1002.381 of the Florida Statutes.

This bill repeals the following sections of the Florida Statutes: 1002.385 and 1002.39.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Education on February 3, 2021:

The committee substitute makes a technical change to redesignate paragraphs in s. 1002.395, F.S.

B. Amendments:

None.

By the Committee on Education; and Senators Diaz, Brandes,
Garcia, Baxley, and Perry

581-01976-21

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1 A bill to be entitled
2 An act relating to educational scholarship programs;
3 amending s. 11.45, F.S.; requiring the Auditor General
4 to conduct certain audits at least every 3 years
5 instead of annually; conforming provisions to changes
6 made by the act; amending s. 211.0251, F.S.;
7 conforming provisions to changes made by the act;
8 deleting a provision limiting a certain tax credit to
9 no more than 50 percent of the tax due on the return
10 the credit is taken; amending s. 212.099, F.S.;
11 revising the definition of the term "eligible
12 contribution"; deleting the definition of the term
13 "eligible nonprofit scholarship-funding organization";
14 conforming provisions to changes made by the act;
15 requiring a dealer to identify on the dealer's return
16 the amount of an eligible contribution; requiring the
17 Department of Revenue to ensure that certain receipts
18 are deposited in a specified fund; amending ss.
19 212.1831 and 212.1832, F.S.; conforming provisions to
20 changes made by the act; amending s. 213.053, F.S.;
21 deleting authorization for the Department of Revenue
22 to provide specified information to certain entities;
23 deleting definitions; amending ss. 220.1105, 220.13,
24 220.186, 220.1875, 561.1211, 624.51055, and 1002.20,
25 F.S.; conforming provisions to changes made by the
26 act; amending s. 1002.23, F.S.; correcting a reference
27 to the Florida Virtual School; conforming a provision
28 to changes made by the act; amending s. 1002.31, F.S.;
29 adding certain students to those whom district school

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30 boards must provide preferential treatment in the
31 controlled open enrollment process; creating s.
32 1002.381, F.S.; establishing the McKay-Gardiner
33 Scholarship Program; providing the purpose of the
34 program; requiring certain written materials to
35 describe a scholarship under the program as a "McKay-
36 Gardiner Scholarship"; defining terms; specifying
37 eligibility requirements; prohibiting a student from
38 participating in the program under certain
39 circumstances; providing criteria for authorized uses
40 of program funds; prohibiting providers of any
41 services receiving payments pursuant to the program
42 from sharing, refunding, or rebating any program funds
43 with parents of program students; prohibiting
44 specified persons from billing certain entities for
45 specified services; providing that program funding for
46 specified children constitutes their full funding
47 under part V of ch. 1002, F.S.; providing the terms of
48 a program scholarship; requiring the Commissioner of
49 Education to close scholarship accounts and for
50 specified funds to revert to the state under specified
51 circumstances; requiring the commissioner to notify
52 parents and organizations when a program scholarship
53 account is closed and funds revert to the state;
54 providing school district obligations relating to
55 notifying parents, individualized education plans, and
56 matrices of service; specifying obligations for
57 eligible private schools; authorizing the commissioner
58 to determine that a private school is ineligible to

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59 participate in the scholarship program if the private
 60 school fails to meet certain requirements; providing
 61 Department of Education obligations relating to the
 62 program; providing commissioner authority and
 63 obligations relating to suspending or revoking program
 64 participation; providing parent and student
 65 responsibilities for program participation; providing
 66 that a participant who fails to comply with program
 67 responsibilities forfeits a program scholarship;
 68 requiring charitable organizations seeking to
 69 participate in the program to submit an application
 70 for initial approval or renewal to the Office of
 71 Independent Education and Parental Choice by a
 72 specified date; providing requirements for such
 73 applications; requiring the office to review
 74 applications in consultation with the Department of
 75 Revenue and the Chief Financial Officer; requiring the
 76 commissioner to recommend approval or disapproval of
 77 applications to the State Board of Education within a
 78 certain timeframe; requiring the state board to
 79 consider applications and recommendations at its next
 80 scheduled meeting; requiring the state board to
 81 provide a written explanation to organizations whose
 82 applications are disapproved; requiring the state
 83 board to provide written notice to affected students
 84 and parents if the state board disapproves an
 85 organization's renewal application; allowing students
 86 affected by such disapproval to remain eligible for
 87 the program for a specified timeframe; requiring such

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88 students to apply to and be accepted by a different
 89 organization for upcoming school years; requiring
 90 remaining funds held by a disapproved organization to
 91 be transferred to other eligible organizations;
 92 requiring the state board to adopt specified rules;
 93 exempting specified entities from the initial or
 94 renewal application process; providing nonprofit
 95 scholarship-funding organization obligations relating
 96 to establishing program scholarships; providing
 97 eligibility for transition-to-work programs; providing
 98 requirements for such programs and for private schools
 99 and job coaches participating in such programs;
 100 providing student obligations relating to
 101 participating in such programs; providing business
 102 obligations relating to participating in such
 103 programs; specifying requirements for scholarship
 104 funding and payment; specifying the initial maximum
 105 number of eligible FTE; providing for the annual
 106 increase of the maximum number of eligible FTE;
 107 requiring nonprofit scholarship-funding organizations
 108 to report specified information to the department at
 109 the time of each Florida Education Finance Program
 110 student membership survey; requiring the department to
 111 transfer certain funds to organizations in a specified
 112 manner; clarifying that accrued interest in student
 113 accounts is in addition to, and not part of, awarded
 114 funds; authorizing organizations to develop systems
 115 for payment of benefits by funds transfer; prohibiting
 116 organizations that develop such systems from reducing

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117 scholarship awards through certain fees; clarifying
 118 that scholarship funds do not constitute taxable
 119 income to the qualified student or to his or her
 120 parent; requiring the Auditor General to conduct
 121 certain audits at least once every 3 years; providing
 122 criteria for such audits; requiring the Auditor
 123 General to provide the commissioner with a copy of
 124 such audits within a specified timeframe; requiring
 125 the Auditor General to notify the department of any
 126 organization that fails to comply with a request for
 127 information; requiring certain departments and
 128 agencies to work with organizations to provide access
 129 to specified lists; providing that the state is not
 130 liable for the award or use of program funds;
 131 clarifying that the act does not expand regulatory
 132 authority of the state over specified entities;
 133 requiring the State Board of Education to adopt rules;
 134 repealing ss. 1002.385 and 1002.39, F.S., relating to
 135 the Gardiner Scholarship and the John M. McKay
 136 Scholarships for Students with Disabilities Program,
 137 respectively; amending s. 1002.394, F.S.; providing
 138 and revising definitions; conforming provisions to
 139 changes made by the act; specifying and revising
 140 eligibility requirements; deleting a provision
 141 requiring the department to notify the school district
 142 of the parent's intent upon receipt of the parent's
 143 request; revising the priority order for awarding the
 144 scholarships to eligible students; providing and
 145 revising terms for state Family Empowerment

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146 Scholarship payments to organizations; providing
 147 circumstances under which a student's account must be
 148 closed and remaining funds reverted to the state;
 149 requiring the commissioner to notify parents when an
 150 account is closed and funds revert to the state;
 151 requiring funds to be used to meet individual
 152 educational needs of eligible students; specifying the
 153 purposes for which such funds may be used; prohibiting
 154 a provider receiving such funds from sharing,
 155 refunding, or rebating the funds with a participating
 156 parent or student; providing eligibility for a
 157 scholarship to transport a student; requiring a
 158 principal or his or her designee to provide copies of
 159 certain reports to a parent; requiring a principal or
 160 his or her designee to investigate incidents in a
 161 specified manner; providing and revising department
 162 obligations relating to participating students;
 163 requiring the department to issue a project grant
 164 award to a state university, to which certain private
 165 schools must report student scores on certain tests;
 166 requiring the department to verify eligible
 167 expenditures before distributing funds; providing and
 168 revising obligations for eligible private schools;
 169 providing and revising parent and student obligations
 170 for initial and continued participation in the
 171 program; providing and revising nonprofit scholarship-
 172 funding organization obligations relating to
 173 participating in the program; expanding eligibility to
 174 specified students who received certain scholarships

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175 in a specified school year; clarifying that such
 176 scholarships do not count toward the maximum number of
 177 eligible students; requiring nonprofit scholarship-
 178 funding organizations to report specified information
 179 to the department at the time of each Florida
 180 Education Finance Program student membership survey;
 181 providing the manner in which funds will be allocated
 182 by certain dates; requiring the department to release
 183 scholarship funds once an application has been
 184 approved for the program; clarifying that accrued
 185 interest is in addition to, and not part of, awarded
 186 funds; authorizing organizations to develop a system
 187 for payment of benefits by funds transfer; prohibiting
 188 scholarship awards from being reduced by certain fees;
 189 clarifying that scholarship funds do not constitute
 190 taxable income to the qualified student or to his or
 191 her parent; requiring the Auditor General to conduct
 192 certain audits at least once every 3 years; providing
 193 criteria for such audits; requiring the Auditor
 194 General to provide the commissioner with a copy of
 195 such audits within a specified timeframe; requiring
 196 the Auditor General to notify the department of any
 197 organization that fails to comply with a request for
 198 information; providing application requirements for
 199 charitable organizations seeking to participate in the
 200 Family Empowerment Scholarship program; requiring the
 201 office to review applications in consultation with the
 202 Department of Revenue and the Chief Financial Officer;
 203 requiring the commissioner to recommend approval or

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204 disapproval of applications to the State Board of
 205 Education within a certain timeframe; requiring the
 206 state board to consider applications and
 207 recommendations at its next scheduled meeting;
 208 requiring the state board to provide a written
 209 explanation to organizations whose applications are
 210 disapproved; requiring the state board to provide
 211 written notice to affected students and parents if the
 212 state board disapproves an organization's renewal
 213 application; allowing students affected by such
 214 disapproval to remain eligible for the program for a
 215 specified timeframe; requiring such students to apply
 216 to and be accepted by a different organization for
 217 upcoming school years; requiring remaining funds held
 218 by a disapproved organization to be transferred to the
 219 student's account established at the eligible
 220 organization accepting the student; providing that an
 221 organization is a renewing organization if it
 222 maintains continuous approval and participation in the
 223 program; requiring the state board to adopt rules;
 224 exempting specified entities from the initial or
 225 renewal application process; deleting an obsolete
 226 implementation schedule; amending s. 1002.395, F.S.;
 227 renaming the Florida Tax Credit Scholarship Program
 228 the Florida K-12 Education Funding Tax Credit Program;
 229 revising the purpose of the program; revising and
 230 deleting terms; deleting provisions made obsolete by
 231 the act; authorizing a taxpayer to elect to make
 232 eligible contributions to the Department of Revenue or

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233 Division of Alcoholic Beverages and Tobacco;
 234 specifying the manner in which a taxpayer may elect to
 235 make eligible contributions; requiring all eligible
 236 contributions received by the department and the
 237 division to be deposited into a specified fund;
 238 amending s. 1002.40, F.S.; renaming the Hope
 239 Scholarship Program the K-12 Education Funding Tax
 240 Credit Program; deleting provisions made obsolete by
 241 the act; revising and deleting terms; authorizing
 242 eligible contributions to be used for K-12 education
 243 funding; requiring an eligible contribution to be
 244 accompanied by a contribution election form provided
 245 by the Department of Revenue; requiring the Department
 246 of Revenue to develop the form in collaboration with
 247 the Department of Education; providing the information
 248 to be included in the form; requiring the Department
 249 of Revenue to deposit all receipts of eligible
 250 contributions into a specified fund; requiring the
 251 Department of Revenue to adopt rules; amending s.
 252 1002.411, F.S.; conforming a provision to changes made
 253 by the act; amending s. 1002.421, F.S.; providing that
 254 private virtual schools meet the requirement to
 255 maintain a physical location in this state if such
 256 virtual schools maintain at least one administrative
 257 office in a specified manner; requiring certain
 258 private schools to provide reports from a specified
 259 public accountant; providing requirements for such
 260 reports; amending s. 1009.971, F.S.; conforming
 261 provisions to changes made by the act; amending ss.

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262 1009.98, 1009.981, and 1011.61, F.S.; conforming
 263 provisions to changes made by the act; amending s.
 264 1011.62, F.S.; deleting a provision requiring that
 265 certain funds not be included in the calculated amount
 266 for certain scholarship awards; providing an effective
 267 date.

268
 269 Be It Enacted by the Legislature of the State of Florida:

270
 271 Section 1. Paragraph (1) of subsection (2) and subsection
 272 (8) of section 11.45, Florida Statutes, are amended to read:
 273 11.45 Definitions; duties; authorities; reports; rules.—
 274 (2) DUTIES.—The Auditor General shall:
 275 (1) At least every 3 years, ~~Annually~~ conduct operational
 276 audits of the accounts and records of eligible nonprofit
 277 scholarship-funding organizations ~~receiving eligible~~
 278 ~~contributions~~ under ss. 1002.381 and 1002.394 ~~s. 1002.395~~,
 279 including any contracts for services with related entities, to
 280 determine compliance with the provisions of that section. Such
 281 audits must ~~shall~~ include, but not be limited to, a
 282 determination of the eligible nonprofit scholarship-funding
 283 organization's compliance with ss. 1002.381(13)(f) and
 284 1002.394(11)(k) ~~s. 1002.395(6)(j)~~. The Auditor General shall
 285 provide its report on the results of the audits to the Governor,
 286 the President of the Senate, the Speaker of the House of
 287 Representatives, the Chief Financial Officer, and the
 288 Legislative Auditing Committee, within 30 days of completion of
 289 the audit.
 290

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291 The Auditor General shall perform his or her duties
 292 independently but under the general policies established by the
 293 Legislative Auditing Committee. This subsection does not limit
 294 the Auditor General's discretionary authority to conduct other
 295 audits or engagements of governmental entities as authorized in
 296 subsection (3).

297 (8) RULES OF THE AUDITOR GENERAL.—The Auditor General, in
 298 consultation with the Board of Accountancy, shall adopt rules
 299 for the form and conduct of all financial audits performed by
 300 independent certified public accountants pursuant to ss.
 301 215.981, 218.39, 1001.453, 1002.381, 1002.394 ~~1002.395~~, 1004.28,
 302 and 1004.70. The rules for audits of local governmental
 303 entities, charter schools, charter technical career centers, and
 304 district school boards must include, but are not limited to,
 305 requirements for the reporting of information necessary to carry
 306 out the purposes of the Local Governmental Entity, Charter
 307 School, Charter Technical Career Center, and District School
 308 Board Financial Emergencies Act as stated in s. 218.501.

309 Section 2. Section 211.0251, Florida Statutes, is amended
 310 to read:

311 211.0251 Credit for contributions to K-12 education funding
 312 ~~eligible nonprofit scholarship funding organizations.~~—There is
 313 allowed a credit of 100 percent of an eligible contribution
 314 ~~directed made to K-12 education funding an eligible nonprofit~~
 315 ~~scholarship funding organization~~ under s. 1002.395 for ~~against~~
 316 any tax due under s. 211.02 or s. 211.025. ~~However, a credit~~
 317 ~~allowed under this section may not exceed 50 percent of the tax~~
 318 ~~due on the return the credit is taken.~~ For purposes of the
 319 distributions of tax revenue under s. 211.06, the department

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320 shall disregard any tax credits allowed under this section to
 321 ensure that any reduction in tax revenue received which is
 322 attributable to the tax credits results only in a reduction in
 323 distributions to the General Revenue Fund. The provisions of s.
 324 1002.395 apply to the credit authorized by this section.

325 Section 3. Section 212.099, Florida Statutes, is amended to
 326 read:

327 212.099 Credit for contributions to K-12 education funding
 328 ~~eligible nonprofit scholarship funding organizations.~~—

329 (1) As used in this section, the term:

330 (a) "Eligible business" means a tenant or person actually
 331 occupying, using, or entitled to the use of any property from
 332 which the rental or license fee is subject to taxation under s.
 333 212.031.

334 (b) "Eligible contribution" or "contribution" means the
 335 amount of tax, or portion thereof, paid by a monetary
 336 ~~contribution from~~ an eligible business to a collecting dealer
 337 and designated for K-12 education funding by the eligible
 338 business ~~an eligible nonprofit scholarship funding organization~~
 339 ~~to be used pursuant to s. 1002.395. The eligible business making~~
 340 ~~the contribution may not designate a specific student as the~~
 341 ~~beneficiary of the contribution.~~

342 ~~(c) "Eligible nonprofit scholarship funding organization"~~
 343 ~~or "organization" has the same meaning as provided in s.~~
 344 ~~1002.395(2)(f).~~

345 (2) An eligible business shall be granted a credit ~~against~~
 346 ~~the tax imposed under s. 212.031 and collected from the eligible~~
 347 ~~business by a dealer. The credit shall be in an amount equal to~~
 348 100 percent of an eligible contribution ~~made to an organization.~~

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349 (3) A dealer shall take a credit ~~against the tax imposed~~
 350 ~~under s. 212.031~~ in an amount equal to the credit taken by the
 351 eligible business under subsection (2).

352 (4)~~(a)~~ An eligible business must apply to the department
 353 for an allocation of tax credits under this section. The
 354 eligible business must specify in the application the state
 355 fiscal year during which the contribution will be made, ~~the~~
 356 ~~organization that will receive the contribution,~~ the planned
 357 amount of the contribution, the address of the property from
 358 which the rental or license fee is subject to taxation under s.
 359 212.031, and the federal employer identification number of the
 360 dealer who collects the tax imposed under s. 212.031 from the
 361 eligible business ~~and who will reduce collection of taxes from~~
 362 ~~the eligible business pursuant to this section.~~ The department
 363 shall approve allocations of tax credits on a first-come, first-
 364 served basis and shall provide to the eligible business a
 365 separate approval or denial letter for each dealer for which the
 366 eligible business applied for an allocation of tax credits.
 367 ~~Within 10 days after approving or denying an application, the~~
 368 ~~department shall provide a copy of its approval or denial letter~~
 369 ~~to the organization specified by the eligible business in the~~
 370 ~~application.~~ An approval letter must include the name and
 371 federal employer identification number of the dealer from whom a
 372 credit under this section can be taken and the amount of tax
 373 credits approved for use with that dealer.

374 ~~(b) Upon receipt of an eligible contribution, the~~
 375 ~~organization shall provide the eligible business that made the~~
 376 ~~contribution with a separate certificate of contribution for~~
 377 ~~each dealer from whom a credit can be taken as approved under~~

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378 ~~paragraph (a). A certificate of contribution must include the~~
 379 ~~contributor's name and, if available, federal employer~~
 380 ~~identification number, the amount contributed, the date of~~
 381 ~~contribution, the name of the organization, and the name and~~
 382 ~~federal employer identification number of the dealer.~~

383 (5) Each dealer that receives from an eligible business a
 384 copy of the department's approval letter ~~and a certificate of~~
 385 ~~contribution, both of which identify the dealer as the dealer~~
 386 ~~who collects the tax imposed under s. 212.031 from the eligible~~
 387 ~~business and who will reduce collection of taxes from the~~
 388 ~~eligible business pursuant to this section,~~ shall identify on
 389 the dealer's return the amount of the eligible contribution by
 390 reduce the tax collected from the eligible business, which
 391 amount under s. 212.031 by the total amount of contributions
 392 indicated in the certificate of contribution. The reduction may
 393 not exceed the amount of credit allocation approved by the
 394 department and may not exceed the amount of tax that would
 395 otherwise be collected from the eligible business by a dealer
 396 when a payment is made under the rental or license fee
 397 arrangement. ~~However, payments by an eligible business to a~~
 398 ~~dealer may not be reduced before October 1, 2018.~~

399 (a) If the total amount of credits an eligible business may
 400 take cannot be fully used within any period that a payment is
 401 due under the rental or license fee arrangement because of an
 402 insufficient amount of tax that the dealer would collect from
 403 the eligible business during that period, the unused amount may
 404 be carried forward for a period not to exceed 10 years.

405 (b) A tax credit may not be claimed on an amended return or
 406 through a refund.

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407 (c) A dealer that claims a tax credit must file returns and
408 pay taxes by electronic means under s. 213.755.

409 (d) An eligible business may not convey, assign, or
410 transfer an approved tax credit or a carryforward tax credit to
411 another entity unless all of the assets of the eligible business
412 are conveyed, assigned, or transferred in the same transaction
413 and the successor business continues the same lease with the
414 dealer.

415 (e) Within any state fiscal year, an eligible business may
416 rescind all or part of a tax credit approved under this section.
417 The amount rescinded shall become available for that state
418 fiscal year to another eligible business as approved by the
419 department if the business receives notice from the department
420 that the rescindment has been accepted by the department. Any
421 amount rescinded under this subsection shall become available to
422 an eligible business on a first-come, first-served basis based
423 on tax credit applications received after the date the
424 rescindment is accepted by the department.

425 ~~(f) Within 10 days after the rescindment of a tax credit~~
426 ~~under paragraph (c) is accepted by the department, the~~
427 ~~department shall notify the eligible nonprofit scholarship-~~
428 ~~funding organization specified by the eligible business. The~~
429 ~~department shall also include the eligible nonprofit~~
430 ~~scholarship-funding organization specified by the eligible~~
431 ~~business on all letters or correspondence of acknowledgment for~~
432 ~~tax credits under this section.~~

433 ~~(6) An organization shall report to the department, on or~~
434 ~~before the 20th day of each month, the total amount of~~
435 ~~contributions received pursuant to subsection (4) in the~~

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436 ~~preceding calendar month on a form provided by the department.~~
437 ~~Such report shall include the amount of contributions received~~
438 ~~during that reporting period and the federal employer~~
439 ~~identification number of each dealer associated with the~~
440 ~~contribution.~~

441 ~~(7)(a)~~ Eligible contributions may be used to fund the
442 program established under s. 1002.395.

443 ~~(b) The organization shall separately account for each~~
444 ~~scholarship funded pursuant to this section.~~

445 ~~(c) The organization may, subject to the limitations of s.~~
446 ~~1002.395(6)(j)1., use eligible contributions received during the~~
447 ~~state fiscal year in which such contributions are collected for~~
448 ~~administrative expenses.~~

449 ~~(7)(8)~~ The sum of tax credits that may be approved by the
450 department in any state fiscal year is \$57.5 million.

451 ~~(8)(9)~~ The department shall ensure that receipts designated
452 by a remitting dealer as eligible contributions under this
453 section are deposited into a designated student fund. For
454 purposes of the distributions of tax revenue under s. 212.20,
455 the department shall disregard any tax credits allowed under
456 this section to ensure that any reduction in tax revenue
457 received that is attributable to the tax credits results only in
458 a reduction in distributions to the General Revenue Fund.

459 ~~(9)(10)~~ The department may adopt rules to administer this
460 section.

461 Section 4. Section 212.1831, Florida Statutes, is amended
462 to read:

463 212.1831 Credit for contributions to K-12 education funding
464 eligible nonprofit scholarship-funding organizations.—There is

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 465 allowed a credit of 100 percent of an eligible contribution made
 466 ~~to an eligible nonprofit scholarship funding organization~~ under
 467 s. 1002.395 ~~against any tax imposed by the state and due under~~
 468 ~~this chapter~~ from a direct pay permit holder as a result of the
 469 direct pay permit held pursuant to s. 212.183. For purposes of
 470 the dealer's credit granted for keeping prescribed records,
 471 filing timely tax returns, and properly accounting and remitting
 472 taxes under s. 212.12, the amount of tax due used to calculate
 473 the credit shall include any eligible contribution ~~made to an~~
 474 ~~eligible nonprofit scholarship funding organization~~ from a
 475 direct pay permit holder. For purposes of the distributions of
 476 tax revenue under s. 212.20, the department shall disregard any
 477 tax credits allowed under this section to ensure that any
 478 reduction in tax revenue received that is attributable to the
 479 tax credits results only in a reduction in distributions to the
 480 General Revenue Fund. The provisions of s. 1002.395 apply to the
 481 credit authorized by this section.

482 Section 5. Section 212.1832, Florida Statutes, is amended
 483 to read:

484 212.1832 Credit for contributions to K-12 education funding
 485 ~~eligible nonprofit scholarship funding organizations.-~~

486 (1) The purchaser of a motor vehicle shall be granted a
 487 credit of 100 percent of an eligible contribution ~~made to an~~
 488 ~~eligible nonprofit scholarship funding organization~~ under s.
 489 1002.40 ~~against any tax imposed by the state under this chapter~~
 490 ~~and collected from the purchaser by a dealer, designated agent,~~
 491 ~~or private tag agent~~ as a result of the purchase or acquisition
 492 of a motor vehicle, except that a credit may not exceed the tax
 493 that would otherwise be collected from the purchaser by a

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 494 dealer, designated agent, or private tag agent. For purposes of
 495 this subsection, the term "purchase" does not include the lease
 496 or rental of a motor vehicle.

497 (2) A dealer shall take a credit against any tax imposed by
 498 the state under this chapter on the purchase of a motor vehicle
 499 in an amount equal to the credit granted to the purchaser under
 500 subsection (1).

501 (3) For purposes of the distributions of tax revenue under
 502 s. 212.20, the department shall disregard any tax credits
 503 allowed under this section to ensure that any reduction in tax
 504 revenue received that is attributable to the tax credits results
 505 only in a reduction in distributions to the General Revenue
 506 Fund. The provisions of s. 1002.40 apply to the credit
 507 authorized by this section.

508 Section 6. Paragraph (s) of subsection (8) and subsections
 509 (21) and (22) of section 213.053, Florida Statutes, are amended
 510 to read:

511 213.053 Confidentiality and information sharing.-

512 (8) Notwithstanding any other provision of this section,
 513 the department may provide:

514 ~~(s) Information relative to ss. 211.0251, 212.1831,~~
 515 ~~220.1875, 561.1211, 624.51055, and 1002.395 to the Department of~~
 516 ~~Education and the Division of Alcoholic Beverages and Tobacco in~~
 517 ~~the conduct of official business.-~~

518
 519 Disclosure of information under this subsection shall be
 520 pursuant to a written agreement between the executive director
 521 and the agency. Such agencies, governmental or nongovernmental,
 522 shall be bound by the same requirements of confidentiality as

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523 the Department of Revenue. Breach of confidentiality is a
524 misdemeanor of the first degree, punishable as provided by s.
525 775.082 or s. 775.083.

526 ~~(21)(a) For purposes of this subsection, the term:~~

527 1. "Eligible nonprofit scholarship funding organization"
528 means an eligible nonprofit scholarship funding organization as
529 defined in s. 1002.395(2) that meets the criteria in s.
530 1002.395(6) to use up to 3 percent of eligible contributions for
531 administrative expenses.

532 2. "Taxpayer" has the same meaning as in s. 220.03, unless
533 disclosure of the taxpayer's name and address would violate any
534 term of an information sharing agreement between the department
535 and an agency of the Federal Government.

536 (b) The department, upon request, shall provide to an
537 eligible nonprofit scholarship funding organization that
538 provides scholarships under s. 1002.395 a list of the 200
539 taxpayers with the greatest total corporate income or franchise
540 tax due as reported on the taxpayer's return filed pursuant to
541 s. 220.22 during the previous calendar year. The list must be in
542 alphabetical order based on the taxpayer's name and shall
543 contain the taxpayer's address. The list may not disclose the
544 amount of tax owed by any taxpayer.

545 (c) An eligible nonprofit scholarship funding organization
546 may request the list once each calendar year. The department
547 shall provide the list within 45 days after the request is made.

548 (d) Any taxpayer information contained in the list may be
549 used by the eligible nonprofit scholarship funding organization
550 only to notify the taxpayer of the opportunity to make an
551 eligible contribution to the Florida Tax Credit Scholarship

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552 ~~Program under s. 1002.395. Any information furnished to an~~
553 ~~eligible nonprofit scholarship funding organization under this~~
554 ~~subsection may not be further disclosed by the organization~~
555 ~~except as provided in this paragraph.~~

556 ~~(c) An eligible nonprofit scholarship funding organization,~~
557 ~~its officers, and employees are subject to the same requirements~~
558 ~~of confidentiality and the same penalties for violating~~
559 ~~confidentiality as the department and its employees. Breach of~~
560 ~~confidentiality is a misdemeanor of the first degree, punishable~~
561 ~~as provided by s. 775.082 or s. 775.083.~~

562 (22)(a) The department may provide to an eligible nonprofit
563 scholarship funding organization, as defined in s. 1002.40, a
564 dealer's name, address, federal employer identification number,
565 and information related to differences between credits taken by
566 the dealer pursuant to s. 212.1832(2) and amounts remitted to
567 the eligible nonprofit scholarship funding organization under s.
568 1002.40(13)(b)3. The eligible nonprofit scholarship funding
569 organization may use the information for purposes of recovering
570 eligible contributions designated for that organization that
571 were collected by the dealer but never remitted to the
572 organization.

573 (b) Nothing in this subsection authorizes the disclosure of
574 information if such disclosure is prohibited by federal law. An
575 eligible nonprofit scholarship funding organization is bound by
576 the same requirements of confidentiality and the same penalties
577 for a violation of the requirements as the department.

578 Section 7. Paragraph (a) of subsection (4) of section
579 220.1105, Florida Statutes, is amended to read:

580 220.1105 Tax imposed; automatic refunds and downward

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581 adjustments to tax rates.-

582 (4) For fiscal years 2018-2019 through 2020-2021, any
583 amount by which net collections for a fiscal year exceed
584 adjusted forecasted collections for that fiscal year shall only
585 be used to provide refunds to corporate income tax payers as
586 follows:

587 (a) For purposes of this subsection, the term:

588 1. "Eligible taxpayer" means:

589 a. For fiscal year 2018-2019, a taxpayer whose taxable year
590 begins between April 1, 2017, and March 31, 2018, and whose
591 final tax liability for such taxable year is greater than zero;

592 b. For fiscal year 2019-2020, a taxpayer whose taxable year
593 begins between April 1, 2018, and March 31, 2019, and whose
594 final tax liability for such taxable year is greater than zero;
595 or

596 c. For fiscal year 2020-2021, a taxpayer whose taxable year
597 begins between April 1, 2019, and March 31, 2020, and whose
598 final tax liability for such taxable year is greater than zero.

599 2. "Excess collections" for a fiscal year means the amount
600 by which net collections for a fiscal year exceeds adjusted
601 forecasted collections for that fiscal year.

602 3. "Final tax liability" means the taxpayer's amount of tax
603 due under this chapter for a taxable year, reported on a return
604 filed with the department, ~~plus the amount of any credit taken~~
605 ~~on such return under s. 220.1875.~~

606 4. "Total eligible tax liability" for a fiscal year means
607 the sum of final tax liabilities of all eligible taxpayers for a
608 fiscal year as such liabilities are shown on the latest return
609 filed with the department as of February 1 immediately following

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610 that fiscal year.

611 5. "Taxpayer refund share" for a fiscal year means an
612 eligible taxpayer's final tax liability as a percentage of the
613 total eligible tax liability for that fiscal year.

614 6. "Taxpayer refund" for a fiscal year means the taxpayer
615 refund share for a fiscal year multiplied by the excess
616 collections for a fiscal year.

617 Section 8. Paragraph (a) of subsection (1) of section
618 220.13, Florida Statutes, is amended to read:

619 220.13 "Adjusted federal income" defined.-

620 (1) The term "adjusted federal income" means an amount
621 equal to the taxpayer's taxable income as defined in subsection
622 (2), or such taxable income of more than one taxpayer as
623 provided in s. 220.131, for the taxable year, adjusted as
624 follows:

625 (a) *Additions*.-There shall be added to such taxable income:

626 1. ~~a.~~ The amount of any tax upon or measured by income,
627 excluding taxes based on gross receipts or revenues, paid or
628 accrued as a liability to the District of Columbia or any state
629 of the United States which is deductible from gross income in
630 the computation of taxable income for the taxable year.

631 ~~b. Notwithstanding sub-subparagraph a., if a credit taken~~
632 ~~under s. 220.1875 is added to taxable income in a previous~~
633 ~~taxable year under subparagraph 11. and is taken as a deduction~~
634 ~~for federal tax purposes in the current taxable year, the amount~~
635 ~~of the deduction allowed shall not be added to taxable income in~~
636 ~~the current year. The exception in this sub-subparagraph is~~
637 ~~intended to ensure that the credit under s. 220.1875 is added in~~
638 ~~the applicable taxable year and does not result in a duplicate~~

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639 ~~addition in a subsequent year.~~

640 2. The amount of interest which is excluded from taxable
641 income under s. 103(a) of the Internal Revenue Code or any other
642 federal law, less the associated expenses disallowed in the
643 computation of taxable income under s. 265 of the Internal
644 Revenue Code or any other law, excluding 60 percent of any
645 amounts included in alternative minimum taxable income, as
646 defined in s. 55(b)(2) of the Internal Revenue Code, if the
647 taxpayer pays tax under s. 220.11(3).

648 3. In the case of a regulated investment company or real
649 estate investment trust, an amount equal to the excess of the
650 net long-term capital gain for the taxable year over the amount
651 of the capital gain dividends attributable to the taxable year.

652 4. That portion of the wages or salaries paid or incurred
653 for the taxable year which is equal to the amount of the credit
654 allowable for the taxable year under s. 220.181. This
655 subparagraph shall expire on the date specified in s. 290.016
656 for the expiration of the Florida Enterprise Zone Act.

657 5. That portion of the ad valorem school taxes paid or
658 incurred for the taxable year which is equal to the amount of
659 the credit allowable for the taxable year under s. 220.182. This
660 subparagraph shall expire on the date specified in s. 290.016
661 for the expiration of the Florida Enterprise Zone Act.

662 6. The amount taken as a credit under s. 220.195 which is
663 deductible from gross income in the computation of taxable
664 income for the taxable year.

665 7. That portion of assessments to fund a guaranty
666 association incurred for the taxable year which is equal to the
667 amount of the credit allowable for the taxable year.

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668 8. In the case of a nonprofit corporation which holds a
669 pari-mutuel permit and which is exempt from federal income tax
670 as a farmers' cooperative, an amount equal to the excess of the
671 gross income attributable to the pari-mutuel operations over the
672 attributable expenses for the taxable year.

673 9. The amount taken as a credit for the taxable year under
674 s. 220.1895.

675 10. Up to nine percent of the eligible basis of any
676 designated project which is equal to the credit allowable for
677 the taxable year under s. 220.185.

678 ~~11. The amount taken as a credit for the taxable year under~~
679 ~~s. 220.1875. The addition in this subparagraph is intended to~~
680 ~~ensure that the same amount is not allowed for the tax purposes~~
681 ~~of this state as both a deduction from income and a credit~~
682 ~~against the tax. This addition is not intended to result in~~
683 ~~adding the same expense back to income more than once.~~

684 ~~12.~~ The amount taken as a credit for the taxable year under
685 s. 220.193.

686 ~~12.13.~~ Any portion of a qualified investment, as defined in
687 s. 288.9913, which is claimed as a deduction by the taxpayer and
688 taken as a credit against income tax pursuant to s. 288.9916.

689 ~~13.14.~~ The costs to acquire a tax credit pursuant to s.
690 288.1254(5) that are deducted from or otherwise reduce federal
691 taxable income for the taxable year.

692 ~~14.15.~~ The amount taken as a credit for the taxable year
693 pursuant to s. 220.194.

694 ~~15.16.~~ The amount taken as a credit for the taxable year
695 under s. 220.196. The addition in this subparagraph is intended
696 to ensure that the same amount is not allowed for the tax

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697 purposes of this state as both a deduction from income and a
698 credit against the tax. The addition is not intended to result
699 in adding the same expense back to income more than once.

700 Section 9. Subsection (2) of section 220.186, Florida
701 Statutes, is amended to read:

702 220.186 Credit for Florida alternative minimum tax.—

703 (2) The credit pursuant to this section shall be the amount
704 of the excess, if any, of the tax paid based upon taxable income
705 determined pursuant to s. 220.13(2)(k) over the amount of tax
706 which would have been due based upon taxable income without
707 application of s. 220.13(2)(k), before application of this
708 credit ~~without application of any credit under s. 220.1875.~~

709 Section 10. Section 220.1875, Florida Statutes, is amended
710 to read:

711 220.1875 Credit for contributions to K-12 education funding
712 ~~eligible nonprofit scholarship funding organizations.—~~

713 (1) There is allowed a credit of 100 percent of an eligible
714 contribution made ~~to an eligible nonprofit scholarship funding~~
715 ~~organization~~ under s. 1002.395 ~~against any tax due for a taxable~~
716 ~~year under this chapter after the application of any other~~
717 ~~allowable credits by the taxpayer.~~ An eligible contribution must
718 be made when the taxpayer makes an estimated payment to an
719 ~~eligible nonprofit scholarship funding organization on or before~~
720 ~~the date the taxpayer is required to file a return pursuant to~~
721 ~~s. 220.222.~~ The credit granted by this section shall be reduced
722 by the difference between the amount of federal corporate income
723 tax taking into account the credit granted by this section and
724 the amount of federal corporate income tax without application
725 of the credit granted by this section.

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

731 (3) The provisions of s. 1002.395 apply to the credit
732 authorized by this section.

733 ~~(4) If a taxpayer applies and is approved for a credit~~
734 ~~under s. 1002.395 after timely requesting an extension to file~~
735 ~~under s. 220.222(2):—~~

736 ~~(a) The credit does not reduce the amount of tax due for~~
737 ~~purposes of the department's determination as to whether the~~
738 ~~taxpayer was in compliance with the requirement to pay tentative~~
739 ~~taxes under ss. 220.222 and 220.32.~~

740 ~~(b) The taxpayer's noncompliance with the requirement to~~
741 ~~pay tentative taxes shall result in the revocation and~~
742 ~~rescindment of any such credit.~~

743 ~~(c) The taxpayer shall be assessed for any taxes,~~
744 ~~penalties, or interest due from the taxpayer's noncompliance~~
745 ~~with the requirement to pay tentative taxes.~~

746 Section 11. Section 561.1211, Florida Statutes, is amended
747 to read:

748 561.1211 Credit for contributions to K-12 education funding
749 ~~eligible nonprofit scholarship funding organizations.—~~There is
750 allowed a credit of 100 percent of an eligible contribution made
751 ~~to an eligible nonprofit scholarship funding organization~~ under
752 s. 1002.395 against any tax due under s. 563.05, s. 564.06, or
753 s. 565.12, except excise taxes imposed on wine produced by
754 manufacturers in this state from products grown in this state.

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755 ~~However, a credit allowed under this section may not exceed 90~~
 756 ~~percent of the tax due on the return the credit is taken. For~~
 757 ~~purposes of the distributions of tax revenue under ss. 561.121~~
 758 ~~and 564.06(10), the division shall disregard any tax credits~~
 759 ~~allowed under this section to ensure that any reduction in tax~~
 760 ~~revenue received that is attributable to the tax credits results~~
 761 ~~only in a reduction in distributions to the General Revenue~~
 762 ~~Fund. The provisions of s. 1002.395 apply to the credit~~
 763 ~~authorized by this section.~~

764 Section 12. Section 624.51055, Florida Statutes, is amended
 765 to read:

766 624.51055 Credit for contributions to K-12 education
 767 funding eligible nonprofit scholarship funding organizations.-

768 (1) There is allowed a credit of 100 percent of an eligible
 769 contribution made ~~to an eligible nonprofit scholarship funding~~
 770 ~~organization under s. 1002.395 against any tax due for a taxable~~
 771 ~~year under s. 624.509(1) after deducting from such tax~~
 772 ~~deductions for assessments made pursuant to s. 440.51; credits~~
 773 ~~for taxes paid under ss. 175.101 and 185.08; credits for income~~
 774 ~~taxes paid under chapter 220; and the credit allowed under s.~~
 775 ~~624.509(5), as such credit is limited by s. 624.509(6). An~~
 776 ~~eligible contribution must be made to an eligible nonprofit~~
 777 ~~scholarship funding organization on or before the date the~~
 778 ~~taxpayer is required to file a return pursuant to ss. 624.509~~
 779 ~~and 624.5092. An insurer claiming a credit against premium tax~~
 780 ~~liability under this section shall not be required to pay any~~
 781 ~~additional retaliatory tax levied pursuant to s. 624.5091 as a~~
 782 ~~result of claiming such credit. Section 624.5091 does not limit~~
 783 ~~such credit in any manner.~~

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784 (2) The provisions of s. 1002.395 apply to the credit
 785 authorized by this section.

786 Section 13. Paragraph (a) of subsection (6) of section
 787 1002.20, Florida Statutes, is amended to read:

788 1002.20 K-12 student and parent rights.-Parents of public
 789 school students must receive accurate and timely information
 790 regarding their child's academic progress and must be informed
 791 of ways they can help their child to succeed in school. K-12
 792 students and their parents are afforded numerous statutory
 793 rights including, but not limited to, the following:

794 (6) EDUCATIONAL CHOICE.-

795 (a) Public educational school choices.-Parents of public
 796 school students may seek any public educational school choice
 797 options that are applicable and available to students throughout
 798 the state. These options may include controlled open enrollment,
 799 single-gender programs, lab schools, virtual instruction
 800 programs, charter schools, charter technical career centers,
 801 magnet schools, alternative schools, special programs, auditory-
 802 oral education programs, advanced placement, dual enrollment,
 803 International Baccalaureate, International General Certificate
 804 of Secondary Education (pre-AICE), CAPE digital tools, CAPE
 805 industry certifications, collegiate high school programs,
 806 Advanced International Certificate of Education, early
 807 admissions, credit by examination or demonstration of
 808 competency, the New World School of the Arts, the Florida School
 809 for the Deaf and the Blind, and the Florida Virtual School.
 810 These options may also include the public educational choice
 811 options of the Opportunity Scholarship Program and the Family
 812 Empowerment Scholarship McKay Scholarships for Students with

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813 ~~Disabilities~~ Program.814 Section 14. Subsection (2) of section 1002.23, Florida
815 Statutes, is amended to read:816 1002.23 Family and School Partnership for Student
817 Achievement Act.—818 (2) To facilitate meaningful parent and family involvement,
819 the Department of Education shall develop guidelines for a
820 parent guide to successful student achievement which describes
821 what parents need to know about their child's educational
822 progress and how they can help their child to succeed in school.
823 The guidelines shall include, but need not be limited to:

824 (a) Parental information regarding:

825 1. Requirements for their child to be promoted to the next
826 grade, as provided for in s. 1008.25;827 2. Progress of their child toward achieving state and
828 district expectations for academic proficiency;829 3. Assessment results, including report cards and progress
830 reports;

831 4. Qualifications of their child's teachers; and

832 5. School entry requirements, including required
833 immunizations and the recommended immunization schedule;834 (b) Services available for parents and their children, such
835 as family literacy services; mentoring, tutorial, and other
836 academic reinforcement programs; college planning, academic
837 advisement, and student counseling services; and after-school
838 programs;839 (c) Opportunities for parental participation, such as
840 parenting classes, adult education, school advisory councils,
841 and school volunteer programs;

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842 (d) Opportunities for parents to learn about rigorous
843 academic programs that may be available for their child, such as
844 honors programs, dual enrollment, advanced placement,
845 International Baccalaureate, International General Certificate
846 of Secondary Education (pre-AICE), Advanced International
847 Certificate of Education, Florida Virtual ~~High~~ School courses,
848 and accelerated access to postsecondary education;849 (e) Educational choices, as provided for in s. 1002.20(6),
850 ~~and Florida tax credit scholarships, as provided for in s.~~
851 ~~1002.395;~~852 (f) Classroom and test accommodations available for
853 students with disabilities;854 (g) School board rules, policies, and procedures for
855 student promotion and retention, academic standards, student
856 assessment, courses of study, instructional materials, and
857 contact information for school and district offices; and858 (h) Resources for information on student health and other
859 available resources for parents.860 Section 15. Paragraph (c) of subsection (2) of section
861 1002.31, Florida Statutes, is amended to read:862 1002.31 Controlled open enrollment; Public school parental
863 choice.—

864 (2)

865 (c) Each district school board must provide preferential
866 treatment in its controlled open enrollment process to all of
867 the following:868 1. Dependent children of active duty military personnel
869 whose move resulted from military orders;
870

2. Children who have been relocated due to a foster care

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871 placement in a different school zone;—

872 3. Children who move due to a court-ordered change in
873 custody due to separation or divorce, or the serious illness or
874 death of a custodial parent;—

875 4. Students with an individual education plan or a 504
876 accommodation plan under s. 504 of the Rehabilitation Act of
877 1973 who are eligible for a McKay-Gardiner Scholarship pursuant
878 to s. 1002.381; and

879 5. Students residing in the school district.

880 Section 16. Section 1002.381, Florida Statutes, is created
881 to read:

882 1002.381 The McKay-Gardiner Scholarship.—

883 (1) ESTABLISHMENT OF PROGRAM.—Beginning with the 2021-2022
884 school year, the McKay-Gardiner Scholarship Program is
885 established to provide the option for a parent to better meet
886 the individual educational needs of his or her eligible child.
887 All written explanatory materials, including state websites,
888 scholarship organization materials, letters to parents,
889 scholarship agreements, and any other written information
890 describing the program to the public, must refer to a
891 scholarship granted under this program as a “McKay-Gardiner
892 Scholarship.”

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

894 (a) “Approved provider” means a provider approved by the
895 Agency for Persons with Disabilities, a health care practitioner
896 as defined in s. 456.001(4), or a provider approved by the
897 department pursuant to s. 1002.66.

898 (b) “Curriculum” has the same meaning as provided in s.
899 1002.394(2)(b).

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900 (c) “Department” means the Department of Education.

901 (d) “Disability” means:

902 1. For a 3-year-old or 4-year-old child or for a student in
903 kindergarten through grade 12, that the child has been diagnosed
904 with any of the following: autism spectrum disorder; cerebral
905 palsy; Down syndrome; an intellectual disability; Phelan-
906 McDermid syndrome; Prader-Willi syndrome; spina bifida; being a
907 high-risk child, as defined in s. 393.063(23)(a); muscular
908 dystrophy; Williams syndrome; rare diseases which affect patient
909 populations of fewer than 200,000 individuals in the United
910 States, as defined by the National Organization for Rare
911 Disorders; anaphylaxis; deaf; visually impaired; traumatic
912 brain-injured; hospital or homebound; or dual sensory impaired,
913 as defined by rules of the State Board of Education and
914 evidenced by reports from local school districts. As used in
915 this subparagraph, the term “hospital or homebound” includes a
916 student who has a medically diagnosed physical or psychiatric
917 condition or illness, as defined by state board rule, and who is
918 confined to the home or hospital for more than 6 months.

919 2. For a student in kindergarten through grade 12, that the
920 child has been diagnosed with any of the following: a speech
921 impairment; a language impairment; a hearing impairment; an
922 orthopedic impairment; an emotional or behavioral disability; a
923 specific learning disability, including, but not limited to,
924 dyslexia, dyscalculia, or developmental aphasia; or a
925 developmental delay.

926 (e) “Eligible nonprofit scholarship-funding organization”
927 or “organization” means a state university; or an independent
928 college or university that is eligible to participate in the

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929 William L. Boyd, IV, Effective Access to Student Education Grant
 930 Program located and chartered in this state which is not for
 931 profit and is accredited by the Commission on Colleges of the
 932 Southern Association of Colleges and Schools; or is a charitable
 933 organization that:

934 1. Is exempt from federal income tax pursuant to s.
 935 501(c)(3) of the Internal Revenue Code;

936 2. Is a Florida entity formed under chapter 605, chapter
 937 607, or chapter 617 and whose principal office is located in
 938 this state; and

939 3. Complies with subsections (12) and (13).

940 (f) "Eligible postsecondary educational institution" has
 941 the same meaning as s. 1002.394(2)(f).

942 (g) "Eligible private school" has the same meaning as s.
 943 1002.394(2)(g).

944 (h) "IEP" means an individual education plan, regardless of
 945 whether the plan has been reviewed or revised within the last 12
 946 months.

947 (i) "Inactive" means that no eligible expenditures have
 948 been made from a student scholarship account funded pursuant to
 949 this section.

950 (j) "Job coach" means an individual employed to help people
 951 with disabilities learn, accommodate, and perform their work
 952 duties.

953 (k) "Parent" means a resident of this state who is a
 954 parent, as defined in s. 1000.21(5).

955 (l) "Program" means the McKay-Gardiner Scholarship Program
 956 established in this section.

957 (3) PROGRAM ELIGIBILITY.—A parent of a student with a

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958 disability may request and receive from the state a McKay-
 959 Gardiner Scholarship for the purposes specified in subsection
 960 (5) if:

961 (a) The student:

962 1. Is a resident of this state;

963 2. Is 3 or 4 years of age on or before September 1 of the
 964 year in which the student applies for program participation, or
 965 is eligible to enroll in kindergarten through grade 12 in a
 966 public school in this state; and

967 3. Meets at least one of the following criteria:

968 a. Has a diagnosis of a disability from a physician who is
 969 licensed under chapter 458 or chapter 459, a psychologist who is
 970 licensed under chapter 490, or a physician who holds an active
 971 license issued by another state or territory of the United
 972 States, the District of Columbia, or the Commonwealth of Puerto
 973 Rico;

974 b. Has an individual education plan that has been written
 975 in accordance with the rules of the State Board of Education; or
 976 c. Has a 504 accommodation plan issued under s. 504 of the
 977 Rehabilitation Act of 1973.

978

979 A student with a disability who meets the requirements of
 980 subparagraph 1. and sub-subparagraph 3.a., but who turns 3 years
 981 of age after September 1, may be determined to be eligible on or
 982 after his or her third birthday and may be awarded a scholarship
 983 if program funds are available.

984 (b) The parent has applied to an eligible nonprofit
 985 scholarship-funding organization to participate in the program
 986 by a date as set by the organization for any vacant slots. The

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987 request must be communicated directly to the organization in a
 988 manner that creates a written or electronic record of the
 989 request and the date of receipt of the request.

990 (4) PROGRAM PROHIBITIONS.—A student is not eligible for the
 991 program if he or she is:

992 (a) Enrolled in a public school, including, but not limited
 993 to, the Florida School for the Deaf and the Blind, the College-
 994 Preparatory Boarding Academy, a developmental research school
 995 authorized under s. 1002.32, or a charter school authorized
 996 under this chapter. For purposes of this paragraph, a 3- or 4-
 997 year-old child who receives services funded through the Florida
 998 Education Finance Program is considered to be a student enrolled
 999 in a public school.

1000 (b) Enrolled in a school operating for the purpose of
 1001 providing educational services to youth in Department of
 1002 Juvenile Justice commitment programs.

1003 (c) Issued a temporary 504 accommodation plan under s. 504
 1004 of the Rehabilitation Act of 1973 which is valid for 6 months or
 1005 less.

1006 (d) Receiving any other educational scholarship pursuant to
 1007 this chapter.

1008 (e) Not having regular and direct contact with his or her
 1009 private school teachers pursuant to s. 1002.421(1)(i), unless he
 1010 or she is enrolled in the private school's transition-to-work
 1011 program pursuant to subsection (14) or a home education program
 1012 pursuant to s. 1002.41.

1013 (f) Participating in a virtual school, correspondence
 1014 school, or distance learning program that receives state funding
 1015 pursuant to the student's participation.

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1016 (5) AUTHORIZED USES OF PROGRAM FUNDS.—Program funds must be
 1017 used to meet the individual educational needs of an eligible
 1018 student and may be spent only for the following purposes:

1019 (a) Instructional materials, including digital devices,
 1020 digital periphery devices, and assistive technology devices that
 1021 allow a student to access instruction or instructional content;
 1022 training on the use of these devices and related maintenance
 1023 agreements; and Internet access to digital instructional
 1024 materials.

1025 (b) Curriculum as defined in paragraph (2)(b).

1026 (c) Specialized services by approved providers or by a
 1027 hospital in this state which are selected by the parent. These
 1028 specialized services may include, but are not limited to:

1029 1. Applied behavior analysis services as provided in ss.
 1030 627.6686 and 641.31098.

1031 2. Services provided by a speech-language pathologist as
 1032 defined in s. 468.1125(8).

1033 3. Occupational therapy services as specified in s.
 1034 468.203.

1035 4. Services provided by a physical therapist as defined in
 1036 s. 486.021(5).

1037 5. Services provided by listening and spoken language
 1038 specialists and an appropriate acoustical environment for a
 1039 child who is deaf or hard of hearing and who has received an
 1040 implant or assistive hearing device.

1041 (d) Tuition or fees associated with full-time or part-time
 1042 enrollment in any of the following: a home education program, an
 1043 eligible private school, or an eligible postsecondary
 1044 educational institution; a program offered by the postsecondary

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1045 institution, a private tutoring program authorized under s.
 1046 1002.43, a virtual program offered by a department-approved
 1047 private online provider that meets the provider qualifications
 1048 specified in s. 1002.45(2) (a), or a program offered by the
 1049 Florida Virtual School to a private paying student; or an
 1050 approved online course offered pursuant to s. 1003.499 or s.
 1051 1004.0961.

1052 (e) Fees for nationally standardized, norm-referenced
 1053 achievement tests, Advanced Placement examinations, industry
 1054 certification examinations, assessments related to postsecondary
 1055 education, or other such assessments.

1056 (f) Contributions to the Stanley G. Tate Florida Prepaid
 1057 College Program pursuant to s. 1009.98 or the Florida College
 1058 Savings Program pursuant to s. 1009.981, for the benefit of the
 1059 eligible student.

1060 (g) Contracted services provided by a public school or a
 1061 school district, including classes. A student who receives
 1062 services under this paragraph is not considered enrolled in a
 1063 public school for the purpose of eligibility as provided in
 1064 subsection (4).

1065 (h) Tuition and fees for part-time tutoring services
 1066 provided by a person who holds a valid Florida educator's
 1067 certificate issued pursuant to s. 1012.56; a person who holds an
 1068 adjunct teaching certificate issued pursuant to s. 1012.57; a
 1069 person who has a bachelor's degree or a graduate degree in the
 1070 subject area in which instruction is given; or a person who has
 1071 demonstrated a mastery of subject area knowledge as provided in
 1072 s. 1012.56(5). Any part-time tutoring undertaken pursuant to
 1073 this paragraph does not qualify as regular school attendance as

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1074 defined in s. 1003.01(13)(e).

1075 (i) Fees for summer education programs.

1076 (j) Fees for after-school education programs.

1077 (k) Transition services, including a coordinated set of
 1078 activities focused on improving the academic and functional
 1079 achievement of the student to facilitate his or her movement
 1080 from school to post-school activities and based on the
 1081 individual student's needs. Transition services may be provided
 1082 by job coaches or pursuant to subsection (14).

1083 (l) Fees for an annual evaluation of educational progress
 1084 by a state-certified teacher under s. 1002.41(1)(f), if this
 1085 option is chosen for a home education student.

1086 (m) Tuition and fees associated with programs offered by
 1087 Voluntary Prekindergarten Education Program providers approved
 1088 pursuant to s. 1002.55 and school readiness providers approved
 1089 pursuant to s. 1002.88.

1090 (n) Fees for services provided at a center that is a member
 1091 of the Professional Association of Therapeutic Horsemanship
 1092 International.

1093 (o) Fees for services provided by a therapist who is
 1094 certified by the Certification Board for Music Therapists or
 1095 credentialed by the Art Therapy Credentials Board, Inc.

1096 (p) Tuition and fees associated with enrollment in a
 1097 nationally or internationally recognized research-based training
 1098 program, for a child with a neurological disorder or brain
 1099 damage.

1100 (q) Tuition and fees associated with a student's
 1101 participation in classes or lessons relating to art, music, or
 1102 theater. The instructor of the classes or lessons must:

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1103 1. Hold a valid or expired Florida educator's certificate
 1104 issued under s. 1012.56 in art, music, or drama;
 1105 2. Have 3 years of employment experience in art, music, or
 1106 theater, as demonstrated by employment records;
 1107 3. Hold a baccalaureate degree or higher from a
 1108 postsecondary educational institution with a major in music,
 1109 art, theater, or drama or related field; or
 1110 4. Hold a certification or national accreditation in music,
 1111 art, theater, or drama.
 1112 (r) Transportation expenses, which may not exceed \$750
 1113 annually, in connection with meeting the student's educational
 1114 needs under this section.
 1115
 1116 A service provider who receives payments pursuant to this
 1117 subsection may not share or refund any moneys from the McKay-
 1118 Gardiner Scholarship with the parent or participating student
 1119 and may not issue rebates to such persons. A parent, student, or
 1120 service provider may not bill an insurance company, Medicaid, or
 1121 any other agency for the same services that are paid for with
 1122 McKay-Gardiner Scholarship funds. Funding provided pursuant to
 1123 this subsection for a child eligible for enrollment in the
 1124 Voluntary Prekindergarten Education Program constitutes funding
 1125 for the child under part V of this chapter, and no additional
 1126 funding may be provided for the child under part V.
 1127 (6) TERMS OF THE PROGRAM.—For purposes of continuity of
 1128 educational choice and program integrity:
 1129 (a)1. Program payments made by the state to an organization
 1130 for a McKay-Gardiner Scholarship under this section must
 1131 continue until:

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1132 a. A program student's parent does not renew program
 1133 eligibility;
 1134 b. The organization determines that a program student is
 1135 not eligible for program renewal;
 1136 c. The Commissioner of Education suspends or revokes
 1137 program participation or use of funds pursuant to subparagraph
 1138 (b) (1);
 1139 d. A program student's parent has forfeited participation
 1140 in the program for failure to comply with subsection (11);
 1141 e. A program student enrolls in a public school; or
 1142 f. A program student graduates from high school or attains
 1143 22 years of age, whichever occurs first.
 1144 2. Reimbursements for program expenditures may continue
 1145 until the account balance is expended or the account is closed
 1146 pursuant to paragraph (b).
 1147 (b)1. The commissioner must close a student's scholarship
 1148 account, and any remaining funds, including, but not limited to,
 1149 contributions made to the Stanley G. Tate Florida Prepaid
 1150 College Program or earnings from or contributions made to the
 1151 Florida College Savings Program using program funds pursuant to
 1152 paragraph (5) (f), revert to the state after:
 1153 a. Denial or revocation of program eligibility by the
 1154 commissioner for fraud or abuse, including, but not limited to,
 1155 the student or student's parent accepting any payment, refund,
 1156 or rebate from a provider of services received pursuant to
 1157 subsection (5); however, a private school may discount tuition
 1158 if the private school deems it necessary;
 1159 b. Any period of 3 consecutive years after high school
 1160 completion or graduation during which the student has not been

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1161 enrolled in an eligible postsecondary educational institution or
 1162 a program offered by such an institution; or

1163 c. Two consecutive fiscal years in which an account has
 1164 been inactive.

1165 2. The commissioner must notify the parent and the
 1166 organization when a McKay-Gardiner Scholarship account is closed
 1167 and program funds revert to the state.

1168 (7) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.-

1169 (a) By each April 1 and within 10 days after an individual
 1170 education plan meeting or a 504 accommodation plan is issued
 1171 under s. 504 of the Rehabilitation Act of 1973, a school
 1172 district shall notify the parent of the student of all options
 1173 available pursuant to this section, and shall inform the parent
 1174 of the availability of the department's website for additional
 1175 information on McKay-Gardiner Scholarships.

1176 (b)1. The parent of a student with a disability who does
 1177 not have an IEP or who seeks a reevaluation of an existing IEP
 1178 may request an IEP meeting and evaluation from the school
 1179 district in order to obtain or revise a matrix of services. The
 1180 school district shall notify a parent who has made a request for
 1181 an IEP that the district is required to complete the IEP and
 1182 matrix of services within 30 days after receiving notice of the
 1183 parent's request. The school district shall conduct a meeting
 1184 and develop an IEP and matrix of services within 30 days after
 1185 receipt of the parent's request in accordance with State Board
 1186 of Education rule.

1187 2.a. The school district must provide the student's parent
 1188 and the department with the student's matrix level within 10
 1189 calendar days after its completion.

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1190 b. A school district may change a matrix of services only
 1191 if the change is a result of an IEP reevaluation or to correct a
 1192 technical, typographical, or calculation error.

1193 (c) For each student participating in the program who
 1194 chooses to participate in statewide, standardized assessments
 1195 under s. 1008.22 or the Florida Alternate Assessment, the school
 1196 district in which the student resides must notify the student
 1197 and his or her parent about the locations and times of all
 1198 statewide, standardized assessments.

1199 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.-An eligible
 1200 private school may be sectarian or nonsectarian and shall:

1201 (a) Comply with all requirements for private schools
 1202 participating in state school choice scholarship programs
 1203 pursuant to s. 1002.421.

1204 (b)1. Annually administer or make provision for students
 1205 participating in the program in grades 3 through 10 to take one
 1206 of the nationally norm-referenced tests identified by the
 1207 Department of Education or the statewide assessments
 1208 administered pursuant to s. 1008.22. This subparagraph does not
 1209 apply to students with disabilities for whom standardized
 1210 testing is not appropriate. A participating private school shall
 1211 report a student's scores to the parent.

1212 2. Administer the statewide assessments pursuant to s.
 1213 1008.22 if a private school chooses to offer the statewide
 1214 assessments. A participating private school may choose to offer
 1215 and administer the statewide assessments to all students who
 1216 attend the private school in grades 3 through 10 and must submit
 1217 a request in writing to the Department of Education by March 1
 1218 of each year in order to administer the statewide assessments in

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1219 the subsequent school year.

1220

1221 If a private school fails to meet the requirements of this
 1222 subsection or s. 1002.421, the commissioner may determine that
 1223 the private school is ineligible to participate in the
 1224 scholarship program.

1225 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The department
 1226 shall:

1227 (a) Comply with s. 1002.394(8)(a)-(g).

1228 (b) Maintain on its website a list of approved providers as
 1229 required by s. 1002.66, eligible postsecondary educational
 1230 institutions, eligible private schools, and eligible
 1231 organizations and may identify or provide links to lists of
 1232 other approved providers.

1233 (c) Require each organization to verify eligible
 1234 expenditures before the distribution of funds for any
 1235 expenditures made pursuant to paragraphs (5)(a) and (b). Review
 1236 of expenditures made for services specified in paragraphs
 1237 (5)(c)-(r) may be completed after the purchase is made.

1238 (d) Investigate any written complaint of a violation of
 1239 this section by a parent, a student, a private school, a public
 1240 school, a school district, an organization, a provider, or
 1241 another appropriate party in accordance with the process
 1242 established under s. 1002.421.

1243 (e) Require quarterly reports by an organization, which
 1244 must include, at a minimum, the number of students participating
 1245 in the program; the demographics of program participants; the
 1246 disability category of program participants; the matrix level of
 1247 services, if known; the program award amount per student; the

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1248 total expenditures for the purposes specified in subsection (5);
 1249 the types of providers of services to students; and any other
 1250 information deemed necessary by the department.

1251 (f) Compare the list of students participating in the
 1252 program with the public school student enrollment lists,
 1253 Voluntary Prekindergarten Education Program enrollment lists,
 1254 and the list of students participating in school choice
 1255 scholarship programs established pursuant to this chapter before
 1256 each scholarship award is provided to the organization, and
 1257 subsequently throughout the school year, to avoid duplicate
 1258 payments and confirm program eligibility.

1259 (10) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.—

1260 (a) The Commissioner of Education:

1261 1. May suspend or revoke program participation or use of
 1262 program funds by the student or participation or eligibility of
 1263 an organization, eligible postsecondary educational institution,
 1264 approved provider, or other party for a violation of this
 1265 section.

1266 2. May determine the length of, and conditions for lifting,
 1267 a suspension or revocation specified in this subsection.

1268 3. May recover unexpended program funds or withhold payment
 1269 of an equal amount of program funds to recover program funds
 1270 that were not authorized for use.

1271 4. Shall deny or terminate program participation upon a
 1272 parent's forfeiture of a McKay-Gardiner Scholarship pursuant to
 1273 subsection (11).

1274 (b) In determining whether to suspend or revoke
 1275 participation or lift a suspension or revocation in accordance
 1276 with this subsection, the commissioner may consider factors that

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1277 include, but are not limited to, acts or omissions that led to a
 1278 previous suspension or revocation of participation in a state or
 1279 federal program or an education scholarship program; failure to
 1280 reimburse the organization for funds improperly received or
 1281 retained; failure to reimburse government funds improperly
 1282 received or retained; imposition of a prior criminal sanction
 1283 related to the person or entity or its officers or employees;
 1284 imposition of a civil fine or administrative fine, license
 1285 revocation or suspension, or program eligibility suspension,
 1286 termination, or revocation related to a person's or entity's
 1287 management or operation; or other types of criminal proceedings
 1288 in which the person or entity or its officers or employees were
 1289 found guilty of, regardless of adjudication, or entered a plea
 1290 of nolo contendere or guilty to, any offense involving fraud,
 1291 deceit, dishonesty, or moral turpitude.

1292 (11) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
 1293 PARTICIPATION.—A parent who applies for program participation
 1294 under this section is exercising his or her parental option to
 1295 determine the appropriate placement or services that best meet
 1296 the needs of his or her child.

1297 (a) To satisfy or maintain program eligibility, including
 1298 eligibility to receive and spend program payments, the parent
 1299 must sign an agreement with the organization and annually submit
 1300 a sworn compliance statement to the organization to:

1301 1. Affirm that the student is enrolled in a program that
 1302 meets regular school attendance requirements as provided in s.
 1303 1003.01(13)(b), (c), or (d).

1304 2. Affirm that the program funds are used only for
 1305 authorized purposes serving the student's educational needs, as

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1306 described in subsection (5).

1307 3. Affirm that the parent is responsible for the education
 1308 of his or her student by, as applicable:

1309 a. Requiring the student to take an assessment in
 1310 accordance with paragraph (8)(b);

1311 b. Providing an annual evaluation in accordance with s.
 1312 1002.41(1)(f); or

1313 c. Requiring the child to take any preassessments and
 1314 postassessments selected by the provider if the child is 4 years
 1315 of age and is enrolled in a program provided by an eligible
 1316 Voluntary Prekindergarten Education Program provider. This sub-
 1317 paragraph does not apply to a student with disabilities for
 1318 whom a preassessment and postassessment are not appropriate. A
 1319 participating provider shall report a student's scores to the
 1320 parent.

1321 4. Affirm that the student remains in good standing with
 1322 the provider or school if one of those options is selected by
 1323 the parent.

1324 (b) The parent must file an application for initial program
 1325 participation with an organization by a date established by the
 1326 organization.

1327 (c) The parent must enroll his or her child in a program
 1328 from a Voluntary Prekindergarten Education Program provider
 1329 authorized under s. 1002.55, a school readiness provider
 1330 authorized under s. 1002.88, or an eligible private school if
 1331 either option is selected by the parent.

1332 (d) The parent must renew participation in the program by a
 1333 date set by the nonprofit scholarship-funding organization in
 1334 order for a student to be eligible to receive funding. A student

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1335 whose participation in the program is not renewed may continue
 1336 to spend scholarship funds that are in his or her account from
 1337 prior years unless the account is closed pursuant to paragraph
 1338 (6) (b). Notwithstanding any changes to the student's IEP, a
 1339 student who was previously eligible for participation in the
 1340 program remains eligible to apply for renewal. However, for a
 1341 high-risk child to continue to participate in the program in the
 1342 school year after he or she reaches 6 years of age, the child's
 1343 application for renewal of program participation must contain
 1344 documentation that the child has a disability as defined in
 1345 paragraph (2) (d), other than high-risk status.

1346 (e) The parent is responsible for procuring the services
 1347 necessary to educate the student. If a parent does not procure
 1348 the necessary educational services for the student and the
 1349 student's account has been inactive for 2 consecutive fiscal
 1350 years, the student's account must be closed pursuant to
 1351 paragraph (6) (b). When the student receives a McKay-Gardiner
 1352 Scholarship, the district school board is not obligated to
 1353 provide the student with a free, appropriate public education.
 1354 For purposes of s. 1003.57 and the Individuals with Disabilities
 1355 in Education Act, a participating student has only those rights
 1356 that apply to all other unilaterally, parentally placed
 1357 students, except that, when requested by the parent, school
 1358 district personnel must develop an individual education plan or
 1359 matrix level of services.

1360 (f) The parent is responsible for all eligible expenses in
 1361 excess of the amount of the McKay-Gardiner Scholarship.

1362 (g) The parent may not transfer any prepaid college plan or
 1363 college savings plan funds contributed pursuant to paragraph

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1364 (5) (f) to another beneficiary while the plan contains funds
 1365 contributed pursuant to this section.

1366 (h) The parent may not receive a payment, refund, or rebate
 1367 from an approved provider of any services under this program.

1368
 1369 A participant who fails to comply with this subsection forfeits
 1370 the McKay-Gardiner Scholarship.

1371 (12) NONPROFIT SCHOLARSHIP-FUNDING ORGANIZATIONS;
 1372 APPLICATION.—In order to participate in the scholarship program
 1373 created under this section, a charitable organization that seeks
 1374 to be a nonprofit scholarship-funding organization must submit
 1375 an application for initial approval or renewal to the Office of
 1376 Independent Education and Parental Choice no later than
 1377 September 1 of each year before the school year for which the
 1378 organization intends to offer scholarships.

1379 (a) An application for initial approval must include:

1380 1. A copy of the organization's incorporation documents and
 1381 registration with the Division of Corporations of the Department
 1382 of State.

1383 2. A copy of the organization's Internal Revenue Service
 1384 determination letter as a s. 501(c)(3) not-for-profit
 1385 organization.

1386 3. A description of the organization's financial plan which
 1387 demonstrates sufficient funds to operate throughout the school
 1388 year.

1389 4. A description of the geographic region that the
 1390 organization intends to serve and an analysis of the demand and
 1391 unmet need for eligible students in that area.

1392 5. The organization's organizational chart.

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1393 6. A description of the criteria and methodology that the
 1394 organization will use to evaluate scholarship eligibility.
 1395 7. A description of the application process, including
 1396 deadlines and any associated fees.
 1397 8. A description of the deadlines for attendance
 1398 verification and scholarship payments.
 1399 9. A copy of the organization's policies on conflict of
 1400 interest and whistleblowers.
 1401 10. A copy of a surety bond or letter of credit to secure
 1402 the faithful performance of the obligations of the eligible
 1403 nonprofit scholarship-funding organization in accordance with
 1404 this section in an amount equal to 25 percent of the scholarship
 1405 funds anticipated for each school year or \$100,000, whichever is
 1406 greater. The surety bond or letter of credit must specify that
 1407 any claim against the bond or letter of credit may be made only
 1408 by an eligible nonprofit scholarship-funding organization to
 1409 provide scholarships to and on behalf of students who would have
 1410 had scholarships funded if it were not for the diversion of
 1411 funds giving rise to the claim against the bond or letter of
 1412 credit.
 1413 (b) In addition to the information required under paragraph
 1414 (a), an application for renewal must include:
 1415 1. A surety bond or letter of credit to secure the faithful
 1416 performance of the obligations of the eligible nonprofit
 1417 scholarship-funding organization in accordance with this section
 1418 equal to the amount of undisbursed funds held by the
 1419 organization based on the annual report submitted pursuant to
 1420 paragraph (13)(1). The amount of the surety bond or letter of
 1421 credit must be at least \$100,000, but not more than \$25 million.

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1422 The surety bond or letter of credit must specify that any claim
 1423 against the bond or letter of credit may be made only by an
 1424 eligible nonprofit scholarship-funding organization to provide
 1425 scholarships to and on behalf of students who would have had
 1426 scholarships funded if it were not for the diversion of funds
 1427 giving rise to the claim against the bond or letter of credit.
 1428 2. The organization's completed Internal Revenue Service
 1429 Form 990 submitted no later than November 30 of the year before
 1430 the school year for which the organization intends to offer the
 1431 scholarships, notwithstanding the September 1 application
 1432 deadline.
 1433 3. A copy of any statutorily required audit which the
 1434 organization must provide to the Department of Education and
 1435 Auditor General.
 1436 4. An annual report that includes:
 1437 a. The number of students who completed applications, by
 1438 county and by grade.
 1439 b. The number of students who were approved for
 1440 scholarships, by county and by grade.
 1441 c. The number of students who received funding for
 1442 scholarships within each funding category, by county and by
 1443 grade.
 1444 d. The amount of funds received, the amount of funds
 1445 distributed in scholarships, and an accounting of remaining
 1446 funds and the obligation of those funds.
 1447 e. A detailed accounting of how the organization spent the
 1448 administrative funds allowable under paragraph (13)(f).
 1449 (c) In consultation with the Department of Revenue and the
 1450 Chief Financial Officer, the Office of Independent Education and

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1451 Parental Choice shall review the application. The Department of
 1452 Education shall notify the organization in writing of any
 1453 deficiencies within 30 days after receipt of the application and
 1454 allow the organization 30 days to correct any deficiencies.

1455 (d) Within 30 days after receipt of the finalized
 1456 application by the Office of Independent Education and Parental
 1457 Choice, the Commissioner of Education shall recommend approval
 1458 or disapproval of the application to the State Board of
 1459 Education. The State Board of Education shall consider the
 1460 application and recommendation at the next scheduled meeting,
 1461 adhering to appropriate meeting notice requirements. If the
 1462 State Board of Education disapproves the organization's
 1463 application, it must provide the organization with a written
 1464 explanation of that determination. The State Board of
 1465 Education's action is not subject to chapter 120.

1466 (e) If the State Board of Education disapproves the renewal
 1467 of a nonprofit scholarship-funding organization, the
 1468 organization must notify the affected eligible students and
 1469 parents of the decision within 15 days after disapproval. An
 1470 eligible student affected by the disapproval of an
 1471 organization's participation remains eligible under this section
 1472 until the end of the school year in which the organization was
 1473 disapproved. The student must apply and be accepted by another
 1474 eligible nonprofit scholarship-funding organization for the
 1475 upcoming school year. The student must be given priority under
 1476 paragraph (13) (e).

1477 (f) All remaining student accounts with funds held by a
 1478 nonprofit scholarship-funding organization that is disapproved
 1479 for participation must be transferred to the student's account

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1480 established with the eligible nonprofit scholarship-funding
 1481 organization that accepts the student. All transferred funds
 1482 must be deposited by the eligible nonprofit scholarship-funding
 1483 organization receiving such funds into the student's scholarship
 1484 account. All other remaining funds must be transferred to the
 1485 department. All transferred amounts received by any eligible
 1486 nonprofit scholarship-funding organization must be separately
 1487 disclosed in the annual financial audit required under
 1488 subsection (13).

1489 (g) A nonprofit scholarship-funding organization is a
 1490 renewing organization if it maintains continuous approval and
 1491 participation in the program. An organization that chooses not
 1492 to participate for 1 year or more or is disapproved to
 1493 participate for 1 year or more must submit an application for
 1494 initial approval in order to participate in the program again.

1495 (h) The State Board of Education shall adopt rules
 1496 providing guidelines for receiving, reviewing, and approving
 1497 applications for new and renewing nonprofit scholarship-funding
 1498 organizations. The rules must include a process for compiling
 1499 input and recommendations from the Chief Financial Officer, the
 1500 Department of Revenue, and the Department of Education. The
 1501 rules also must require that the nonprofit scholarship-funding
 1502 organization make a brief presentation to assist the State Board
 1503 of Education in its decision.

1504 (i) A state university; or an independent nonprofit college
 1505 chartered in this state or independent nonprofit university
 1506 chartered in this state that are eligible to participate in the
 1507 William L. Boyd, IV, Effective Access to Student Education Grant
 1508 Program and are accredited by the Commission on Colleges of the

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1509 Southern Association of Colleges and Schools is exempt from the
 1510 initial or renewal application process, but must file a
 1511 registration notice with the Department of Education to be an
 1512 eligible nonprofit scholarship-funding organization. The State
 1513 Board of Education shall adopt rules that identify the procedure
 1514 for filing the registration notice with the department. The
 1515 rules must identify appropriate reporting requirements for
 1516 fiscal, programmatic, and performance accountability purposes
 1517 consistent with this section, but may not exceed the
 1518 requirements for eligible nonprofit scholarship-funding
 1519 organizations for charitable organizations.

1520 (13) OBLIGATIONS OF ELIGIBLE SCHOLARSHIP-FUNDING
 1521 ORGANIZATIONS.—An organization may establish McKay-Gardiner
 1522 Scholarships for eligible students by:
 1523 (a) Complying with the requirements of s. 1002.394(11)(a)-
 1524 (h).
 1525 (b) Receiving applications and determining student
 1526 eligibility in accordance with the requirements of this section.
 1527 When an application is approved, the organization must provide
 1528 the department with information on the student to enable the
 1529 department to determine student funding in accordance with
 1530 subsection (15).

1531 (c) Providing scholarships on a first-come, first-served
 1532 basis, based upon the funds provided, and notifying parents of
 1533 their respective student's receipt of a scholarship.

1534 (d) Establishing a date by which a parent must confirm
 1535 initial or continuing participation in the program.

1536 (e) Reviewing applications and awarding scholarship funds
 1537 to approved applicants using the following order of priority:

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1538 1.a. For the 2021-2022 school year, a student who received
 1539 a John M. McKay Scholarship for Students with Disabilities or a
 1540 Gardiner Scholarship in the 2020-2021 school year and meets the
 1541 eligibility requirements in subsection (3) is eligible for a
 1542 McKay-Gardiner Scholarship in the 2021-2022 school year.

1543 b. For the 2022-2023 school year and thereafter, renewing
 1544 students from the previous school year under this section.

1545 2. Students retained on the previous school year's waiting
 1546 list.

1547 3. An eligible student who meets the criteria for an
 1548 initial award pursuant to subsection (3).

1549 An approved student who does not receive a scholarship must be
 1550 placed on the waiting list in the order in which his or her
 1551 application is approved. An eligible student who does not
 1552 receive a scholarship within the fiscal year shall be retained
 1553 on the waiting list for the subsequent year.

1554 (f) Using an amount not to exceed 2.5 percent of the total
 1555 calculated amount of all scholarships awarded under this section
 1556 for administrative expenses associated with performing functions
 1557 authorized under this section.

1558 (g) Verifying qualifying educational expenditures pursuant
 1559 to paragraph (9)(c) and requesting the return of any funds used
 1560 for unauthorized purposes.

1561 (h) Returning any remaining program funds to the department
 1562 pursuant to paragraph (6)(b).

1563 (i) Notifying the parent about the availability of, and the
 1564 requirements associated with requesting, an initial IEP or IEP
 1565 reevaluation every 3 years for each student participating in the
 1566 reevaluation every 3 years for each student participating in the

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1567 program.

1568 (j) Documenting each scholarship student's eligibility for
 1569 a fiscal year before granting a scholarship for that fiscal year
 1570 pursuant to paragraph (3) (b). A student is ineligible for a
 1571 scholarship if the student's account has been inactive for 2
 1572 consecutive fiscal years and the student's account has been
 1573 closed pursuant to paragraph (6) (b).

1574 (k) Submitting in a timely fashion any information
 1575 requested by the department relating to the program.

1576 (l) Preparing and submitting quarterly reports to the
 1577 department pursuant to paragraph (9) (e).

1578 (m) Notifying the department of any violation of this
 1579 section.

1580 (14) TRANSITION-TO-WORK PROGRAM.—A student participating in
 1581 the McKay-Gardiner Scholarship Program who is at least 17 years
 1582 of age, but not older than 22 years of age, and who has not
 1583 received a high school diploma or certificate of completion is
 1584 eligible for enrollment in a transition-to-work program provided
 1585 by a private school or job coach. A transition-to-work program
 1586 must consist of academic instruction, work skills training, and
 1587 a volunteer or paid work experience.

1588 (a) To offer a transition-to-work program, a participating
 1589 private school or job coach must:

1590 1. Develop a transition-to-work program plan, which must
 1591 include a written description of the academic instruction and
 1592 work skills training students will receive and the goals for
 1593 students in the program.

1594 2. Submit the transition-to-work program plan to the Office
 1595 of Independent Education and Parental Choice.

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1596 3. Develop a personalized transition-to-work program plan
 1597 for each student enrolled in the program. The student's parent,
 1598 the student, and the school principal or job coach must sign the
 1599 personalized plan. The personalized plan must be submitted to
 1600 the Office of Independent Education and Parental Choice upon
 1601 request by the office.

1602 4. Provide a release of liability form that must be signed
 1603 by the student's parent, the student, and a representative of
 1604 the business offering the volunteer or paid work experience.

1605 5. Assign a case manager or job coach to visit the
 1606 student's job site on a weekly basis to observe the student and,
 1607 if necessary, provide support and guidance to the student.

1608 6. Provide to the parent and student a quarterly report
 1609 that documents and explains the student's progress and
 1610 performance in the program.

1611 7. Maintain accurate attendance and performance records for
 1612 the student.

1613 (b) A student enrolled in a transition-to-work program
 1614 must, at a minimum:

1615 1. Receive 15 instructional hours that must include
 1616 academic instruction and work skills training.

1617 2. Participate in 10 hours of work at the student's
 1618 volunteer or paid work experience.

1619 (c) To participate in a transition-to-work program, a
 1620 business must:

1621 1. Maintain an accurate record of the student's performance
 1622 and hours worked and provide the information to the private
 1623 school.

1624 2. Comply with all state and federal child labor laws.

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1625 (15) FUNDING AND PAYMENT.—

1626 (a) The scholarship is established for up to 50,000 student
 1627 FTE annually beginning with the 2021-2022 school year. For the
 1628 2022-2023 school year and each year thereafter, the maximum
 1629 number of student FTE in the scholarship program under this
 1630 section must increase by 7 percent of the total student FTE for
 1631 the prior year.

1632 1. For a student who has a Level I to Level III matrix of
 1633 services or a doctor's diagnosis, the calculated scholarship
 1634 amount for a student participating in the program must be based
 1635 upon the grade level and district school to which the student
 1636 would have been assigned as 97.5 percent of the funds per
 1637 unweighted full-time equivalent in the Florida Education Finance
 1638 Program for a student in the basic exceptional student education
 1639 program pursuant to s. 1011.62(1)(c)1. and (e)1.c., plus a per-
 1640 full-time equivalent share of funds for all categorical
 1641 programs, as funded in the General Appropriations Act, except
 1642 that for the exceptional student education guaranteed allocation
 1643 as provided in s. 1011.62(1)(e)1.c. and 2., the funds must be
 1644 allocated based on the school district's average funds per
 1645 Exceptional Student Education student.

1646 2. For a student with a Level IV or Level V matrix of
 1647 services, the calculated scholarship amount must be based upon
 1648 the district school to which the student would have been
 1649 assigned as 97.5 percent of the funds per full-time equivalent
 1650 for the Level IV or Level V Exceptional Student Education
 1651 program pursuant to s. 1011.62(1)(c)2.a. or b., plus a per-full-
 1652 time equivalent share of funds for all categorical programs, as
 1653 funded in the General Appropriations Act.

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1654 3. For a student with a 504 plan, the calculated
 1655 scholarship amount must be based upon the grade level and
 1656 district school to which the student would have been assigned as
 1657 97.5 percent of the funds per unweighted full-time equivalent in
 1658 the Florida Education Finance Program for a student in the basic
 1659 education program established pursuant to s. 1011.62(1)(c)1.,
 1660 plus a per-full-time equivalent share of funds for all
 1661 categorical programs, as funded in the General Appropriations
 1662 Act.

1663 (b) At the time of each Florida Education Finance Program
 1664 student membership survey, the scholarship funding organization
 1665 shall report to the Department of Education student enrollment,
 1666 FTE, and total award amounts by county, delineated by FEFP
 1667 program, and grade and matrix level for all students who are
 1668 participating in the McKay-Gardiner Scholarship Program.
 1669 Students with a 504 plan must be separately identified. For the
 1670 purpose of this paragraph, an FTE shall be equal to four
 1671 quarterly scholarship payments.

1672 (c) Following notification on July 1, September 1, December
 1673 1, and February 1 of the number of program participants, the
 1674 department shall transfer the amount calculated pursuant to
 1675 paragraph (a) to organizations for quarterly disbursement to
 1676 accounts maintained by organizations pursuant to paragraph
 1677 (13)(a) for parents of participating students. When a student
 1678 enters the scholarship program, the department must receive from
 1679 an organization all documentation required for the student's
 1680 participation at least 30 days before the first quarterly
 1681 scholarship payment is made for the student.

1682 (d) Upon notification from the organization that an

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1683 application has been approved for the program, the department
 1684 shall release the student's scholarship funds to the
 1685 organization, to be deposited into the student's account in four
 1686 equal amounts no later than September 1, November 1, February 1,
 1687 and April 1 of each school year in which the scholarship is in
 1688 force.

1689 (e) Accrued interest in the student's account is in
 1690 addition to, and not part of, the awarded funds. Program funds
 1691 include both the awarded funds and accrued interest.

1692 (f) The organization may develop a system for payment of
 1693 benefits by funds transfer, including, but not limited to, debit
 1694 cards, electronic payment cards, or any other means of payment
 1695 which the department deems to be commercially viable or cost-
 1696 effective. A student's scholarship award may not be reduced for
 1697 debit card or electronic payment fees. Commodities or services
 1698 related to the development of such a system must be procured by
 1699 competitive solicitation unless they are purchased from a state
 1700 term contract pursuant to s. 287.056.

1701 (g) Moneys received pursuant to this section do not
 1702 constitute taxable income to the qualified student or the parent
 1703 of the qualified student.

1704 (16) OBLIGATIONS OF THE AUDITOR GENERAL.-

1705 (a) The Auditor General shall review all audit reports
 1706 submitted pursuant to subsection (13). The Auditor General shall
 1707 request any significant items that were omitted in violation of
 1708 a rule adopted by the Auditor General. The organization shall
 1709 provide such items within 45 days after the date of the request.
 1710 If the scholarship-funding organization does not comply with the
 1711 Auditor General's request, the Auditor General must notify the

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1712 Legislative Auditing Committee.

1713 (b) At least once every 3 years, the Auditor General shall
 1714 conduct an operational audit of accounts and records of each
 1715 organization that participates in the program. As part of this
 1716 audit, the Auditor General, at a minimum, shall verify the total
 1717 number of students served and the eligibility of reimbursements
 1718 made by the organization and transmit that information to the
 1719 department. The Auditor General shall provide the commissioner
 1720 with a copy of each annual operational audit performed pursuant
 1721 to this subsection within 10 days after the audit is finalized.

1722 (c) The Auditor General shall notify the department of any
 1723 organization that fails to comply with a request for
 1724 information.

1725 (17) OBLIGATIONS RELATED TO APPROVED PROVIDERS.-The
 1726 Department of Health, the Agency for Persons with Disabilities,
 1727 and the Department of Education shall coordinate with an
 1728 organization to provide easy or automated access to lists of
 1729 licensed providers of services specified in paragraph (5)(c) to
 1730 ensure efficient administration of the program.

1731 (18) LIABILITY.-The state is not liable for the awarding of
 1732 funds or for any use of funds awarded under this section.

1733 (19) SCOPE OF AUTHORITY.-This section does not expand the
 1734 authority of the state, its officers, or any school district to
 1735 impose additional regulation on participating private schools,
 1736 independent postsecondary educational institutions, and private
 1737 providers beyond that reasonably necessary to enforce
 1738 requirements expressly set forth in this section.

1739 (20) RULES.-The State Board of Education shall adopt rules
 1740 pursuant to ss. 120.536(1) and 120.54 to administer this

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1741 section.
 1742 Section 17. Section 1002.385, Florida Statutes, is
 1743 repealed.
 1744 Section 18. Section 1002.39, Florida Statutes, is repealed.
 1745 Section 19. Section 1002.394, Florida Statutes, is amended
 1746 to read:
 1747 1002.394 The Family Empowerment Scholarship Program.—
 1748 (1) PURPOSE.—The Family Empowerment Scholarship Program is
 1749 established to provide children of families in this state which
 1750 have limited financial resources with educational options to
 1751 achieve success in their education.
 1752 (2) DEFINITIONS.—As used in this section, the term:
 1753 (a) “Approved provider” means a provider approved by the
 1754 department “Department” means the Department of Education.
 1755 (b) “Curriculum” means a complete course of study for a
 1756 particular content area or grade level, including any required
 1757 supplemental materials, teachers’ manuals, and associated online
 1758 instruction.
 1759 (c) “Department” means the Department of Education.
 1760 (d) “Direct certification list” means the certified list of
 1761 children who qualify for the food assistance program, the
 1762 Temporary Assistance for Needy Families Program, or the Food
 1763 Distribution Program on Indian Reservations provided to the
 1764 Department of Education by the Department of Children and
 1765 Families.
 1766 (e) “Eligible nonprofit scholarship-funding organization”
 1767 or “organization” means a state university, an independent
 1768 college or university that is eligible to participate in the
 1769 William L. Boyd, IV, Effective Access to Student Education Grant

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1770 Program located and chartered in this state which is not for
 1771 profit and is accredited by the Commission on Colleges of the
 1772 Southern Association of Colleges and Schools, or is a charitable
 1773 organization that: ~~has the same meaning as provided in s.~~
 1774 ~~1002.395(2)(f).~~
 1775 1. Is exempt from federal income tax pursuant to s.
 1776 501(c)(3) of the Internal Revenue Code;
 1777 2. Is a Florida entity formed under chapter 605, chapter
 1778 607, or chapter 617 and whose principal office is located in
 1779 this state; and
 1780 3. Complies with subsections (11) and (14).
 1781 (f) “Eligible postsecondary educational institution” means
 1782 a Florida College System institution; a state university; a
 1783 school district technical center; a school district adult
 1784 general education center; an independent college or university
 1785 that is eligible to participate in the William L. Boyd, IV,
 1786 Effective Access to Student Education Grant Program under s.
 1787 1009.89; or an accredited independent postsecondary educational
 1788 institution, as defined in s. 1005.02, which is licensed to
 1789 operate in this state under part III of chapter 1005.
 1790 (g)~~(e)~~ “Eligible private school” means a private school as
 1791 defined in s. 1002.01 located in this state which offers an
 1792 education to students in any grade from Kindergarten through
 1793 grade 12 and:
 1794 1. Meets the requirements of ss. 1002.42 and 1002.421; and
 1795 2. Meets the applicable requirements imposed under this
 1796 chapter, if the private school participates in a scholarship
 1797 program under this chapter ~~has the same meaning as provided in~~
 1798 ~~s. 1002.395(2)(g).~~

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1799 (h) "Household income" has the same meaning as the term
 1800 "income" as defined in the Income Eligibility Guidelines for
 1801 free and reduced price meals under the National School Lunch
 1802 Program in 7 C.F.R. part 210 as published in the Federal
 1803 Register by the United States Department of Agriculture.
 1804 (i) "Inactive" means that no eligible expenditures have
 1805 been made from a student scholarship account funded pursuant to
 1806 this section.
 1807 (j) "Incident" means battery; harassment; hazing; bullying;
 1808 kidnapping; physical attack; robbery; sexual offenses,
 1809 harassment, assault, or battery; threat or intimidation; or
 1810 fighting at school, as defined by the department in accordance
 1811 with s. 1006.147(4).
 1812 (k) "Owner or operator" includes:
 1813 1. An owner, president, officer, or director of an eligible
 1814 nonprofit scholarship-funding organization or a person with
 1815 equivalent decisionmaking authority over an eligible nonprofit
 1816 scholarship-funding organization.
 1817 2. An owner, operator, superintendent, or principal of an
 1818 eligible private school or a person with equivalent
 1819 decisionmaking authority over an eligible private school.
 1820 (l)(d) "Parent" means a resident of this state who is a
 1821 parent, as defined in s. 1000.21.
 1822 (m)(e) "Program" means the Family Empowerment Scholarship
 1823 Program.
 1824 (n) "School" means any educational program or activity
 1825 conducted by a public K-12 educational institution, any school-
 1826 related or school-sponsored program or activity, and riding on a
 1827 school bus as defined in s. 1006.25(1), including waiting at a

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1828 school bus stop.
 1829 (3) INITIAL SCHOLARSHIP ELIGIBILITY.—A student is eligible
 1830 for a Family Empowerment Scholarship under this section if the
 1831 student meets the following criteria:
 1832 (a)1. The student is on the direct certification list as
 1833 defined in paragraph (2) (d) pursuant to s. 1002.395(2)(e) or the
 1834 student's household income level does not exceed 300 ~~185~~ percent
 1835 of the federal poverty level or an adjusted maximum percent of
 1836 the federal poverty level established pursuant to paragraph (e);
 1837 or
 1838 2. The student is:
 1839 a. Currently placed, or during the previous state fiscal
 1840 year was placed, in foster care or in out-of-home care as
 1841 defined in s. 39.01;
 1842 b. A sibling of a student who is participating in the
 1843 scholarship program under this subsection, if the student
 1844 resides in the same household as the sibling; or
 1845 c. Enrolled in a Florida public school in kindergarten
 1846 through grade 12 and reported an incident in accordance with
 1847 paragraph (7) (b)
 1848 ~~3. The student's household income level does not exceed 300~~
 1849 ~~percent of the federal poverty level or an adjusted maximum~~
 1850 ~~percent of the federal poverty level as established pursuant to~~
 1851 ~~paragraph (e).~~
 1852
 1853 A student who initially receives a scholarship based on
 1854 eligibility under this subsection ~~subparagraph 2.~~ remains
 1855 eligible to participate until the student graduates from high
 1856 school or attains the age of 21 years, whichever occurs first,

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1857 regardless of the student's household income level. A ~~sibling of~~
 1858 ~~a student who is participating in the scholarship program under~~
 1859 ~~this subsection is eligible for a scholarship if the student~~
 1860 ~~resides in the same household as the sibling.~~

1861 (b) ~~1.~~ The student is eligible to enroll in kindergarten
 1862 through grade 12 in a public school in this state.

1863 ~~2. The student has spent the prior school year in~~
 1864 ~~attendance at a Florida public school; or~~

1865 ~~3. Beginning with the 2020-2021 school year, the student~~
 1866 ~~received a scholarship pursuant to s. 1002.395 during the~~
 1867 ~~previous school year but did not receive a renewal scholarship~~
 1868 ~~based solely on the eligible nonprofit scholarship funding~~
 1869 ~~organization's lack of available funds after the organization~~
 1870 ~~fully exhausts its efforts to use funds available for awards~~
 1871 ~~under ss. 1002.395 and 1002.40(11)(i). Eligible nonprofit~~
 1872 ~~scholarship-funding organizations with students who meet the~~
 1873 ~~eligibility criterion of this subparagraph must annually notify~~
 1874 ~~the department in a format and by a date established by the~~
 1875 ~~department.~~

1876
 1877 ~~For purposes of this paragraph, the term "prior school year in~~
 1878 ~~attendance" means that the student was enrolled full time and~~
 1879 ~~reported by a school district for funding during the preceding~~
 1880 ~~October and February Florida Education Finance Program surveys~~
 1881 ~~in kindergarten through grade 12, which includes time spent in a~~
 1882 ~~Department of Juvenile Justice commitment program if funded~~
 1883 ~~under the Florida Education Finance Program. However, a~~
 1884 ~~dependent child of a member of the United States Armed Forces~~
 1885 ~~who transfers to a school in this state from out of state or~~

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1886 ~~from a foreign country due to a parent's permanent change of~~
 1887 ~~station orders or a foster child is exempt from the prior public~~
 1888 ~~school attendance requirement under this paragraph, but must~~
 1889 ~~meet the other eligibility requirements specified under this~~
 1890 ~~section to participate in the program.~~

1891 (c) The parent has applied to an eligible nonprofit
 1892 scholarship-funding organization to participate in the program
 1893 by a date set by the organization obtained acceptance for
 1894 admission of the student to a private school that is eligible
 1895 for the program under subsection (8), and the parent has
 1896 requested a scholarship from the Department of Education by a
 1897 date established by the department pursuant to paragraph (7)(e),
 1898 but no later than at least 60 days before the date of the first
 1899 scholarship payment. The application request must be
 1900 communicated directly to the organization department in a manner
 1901 that creates a written or electronic record of the application
 1902 request and the date of receipt of the application request. The
 1903 department must notify the school district of the parent's
 1904 intent upon receipt of the parent's request.

1905 (d) The student is awarded a scholarship in accordance with
 1906 the following priority order:

1907 1. An eligible student who received a Family Empowerment
 1908 Scholarship during the previous school year ~~school year~~, or a
 1909 Florida Tax Credit Scholarship or Hope Scholarship during the
 1910 2020-2021 school year, and requested a renewal scholarship
 1911 award.

1912 2. An eligible student who meets the criteria for an
 1913 initial award under both ~~paragraphs~~ paragraph (a) and (b) and
 1914 was retained on the previous school year's wait list

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1915 ~~subparagraph (b)3.~~

1916 3. An eligible student who meets the criteria for an
 1917 initial award under subparagraph (a)2. and paragraph (b) ~~(b)2.~~
 1918 ~~and either subparagraph (a)1. or subparagraph (a)2.~~

1919 4. An eligible student who meets the criteria for an
 1920 initial award under subparagraph (a)1. ~~(b)1.~~ and paragraph (b),
 1921 and the student's household income level does not exceed 185
 1922 percent of the federal poverty level ~~either subparagraph (a)1.~~
 1923 ~~or subparagraph (a)2.~~

1924 5. An eligible student who meets the criteria for an
 1925 initial award under subparagraph (a)1. ~~(a)3.~~ and paragraph (b)
 1926 in priority order, either subparagraph (b)2. or subparagraph
 1927 (b)1.

1928

1929 An approved student who does not receive a scholarship must be
 1930 placed on the wait list in the order in which his or her
 1931 application is approved. An eligible student who does not
 1932 receive a scholarship within the fiscal year must be retained on
 1933 the wait list for the subsequent year.

1934 (e) The student's household income level does not exceed an
 1935 adjusted maximum percent of the federal poverty level that is
 1936 increased by 25 percent in the fiscal year following any fiscal
 1937 year in which more than 5 percent of the available scholarships
 1938 authorized under subsection (12)~~(11)~~ have not been awarded.

1939 (4) TERM OF SCHOLARSHIP.—For purposes of continuity of
 1940 educational choice and program integrity:

1941 (a)1. Program payments made by the state to an organization
 1942 for a Family Empowerment Scholarship under this section must
 1943 continue until:

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1944 a. The parent does not renew program eligibility;

1945 b. The organization determines that the student is not
 1946 eligible for program renewal;

1947 c. The Commissioner of Education suspends or revokes
 1948 program participation or use of funds pursuant to subparagraph
 1949 (b) (1);

1950 d. The student's parent has forfeited participation in the
 1951 program for failure to comply with subsection (10);

1952 e. The student enrolls in a public school; or

1953 f. The student graduates from high school or attains 21
 1954 years of age, whichever occurs first. However, if a student
 1955 enters a Department of Juvenile Justice detention center for a
 1956 period of no more than 21 days, the student is not considered to
 1957 have returned to a public school for that purpose.

1958 2. Reimbursements for program expenditures may continue
 1959 until the account balance is expended or the account is closed
 1960 pursuant to paragraph (b) For purposes of continuity of
 1961 educational choice, a Family Empowerment Scholarship shall
 1962 remain in force until the student returns to a public school,
 1963 graduates from high school, or reaches the age of 21, whichever
 1964 occurs first. A scholarship student who enrolls in a public
 1965 school or public school program is considered to have returned
 1966 to a public school for the purpose of determining the end of the
 1967 scholarship's term. However, if a student enters a Department of
 1968 Juvenile Justice detention center for a period of no more than
 1969 21 days, the student is not considered to have returned to a
 1970 public school for that purpose.

1971 (b)1. The commissioner shall close a student's scholarship
 1972 account, and any remaining funds, including, but not limited to,

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1973 contributions made to the Stanley G. Tate Florida Prepaid
 1974 College Program or earnings from or contributions made to the
 1975 Florida College Savings Program using program funds pursuant to
 1976 paragraph (6) (e), revert to the state after:

1977 a. Denial or revocation of program eligibility by the
 1978 commissioner for fraud or abuse, including, but not limited to,
 1979 the student or the student's parent accepting any payment,
 1980 refund, or rebate in any manner from a provider of any services
 1981 received pursuant to subsection (6); however, a private school
 1982 may discount tuition if the private school deems it necessary;

1983 b. Any period of 2 consecutive years after high school
 1984 completion or graduation during which the student has not been
 1985 enrolled in an eligible postsecondary educational institution or
 1986 a program offered by the institution; or

1987 c. The account has been inactive for 2 consecutive fiscal
 1988 years prior to high school completion or graduation. Upon
 1989 reasonable notice to the department and the school district, the
 1990 student's parent may remove the student from the private school
 1991 and place the student in a public school in accordance with this
 1992 section.

1993 2. The commissioner must notify the parent and the
 1994 organization when a Family Empowerment Scholarship account is
 1995 closed and program funds revert to the state.

1996 ~~(e) Upon reasonable notice to the department, the student's~~
 1997 ~~parent may move the student from one participating private~~
 1998 ~~school to another participating private school.~~

1999 (5) SCHOLARSHIP PROHIBITIONS.—A student is not eligible for
 2000 a Family Empowerment Scholarship while he or she is:
 2001 (a) Enrolled in a public school, including, but not limited

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2002 to, the Florida School for the Deaf and the Blind, the College-
 2003 Preparatory Boarding Academy, a developmental research school
 2004 authorized under s. 1002.32, or a charter school authorized
 2005 under this chapter;

2006 (b) Enrolled in a school operating for the purpose of
 2007 providing educational services to youth in a Department of
 2008 Juvenile Justice commitment program;

2009 (c) Receiving any other educational scholarship pursuant to
 2010 this chapter; or

2011 ~~(d) Participating in a home education program as defined in~~
 2012 ~~s. 1002.01(1);~~

2013 ~~(e) Participating in a private tutoring program pursuant to~~
 2014 ~~s. 1002.43; or~~

2015 ~~(f) Participating in a virtual school, correspondence~~
 2016 ~~school, or distance learning program that receives state funding~~
 2017 ~~pursuant to the student's participation.~~

2018 (6) AUTHORIZED USES OF PROGRAM FUNDS.—Program funds must be
 2019 used to meet the individual educational needs of an eligible
 2020 student and may be spent for the following purposes:

2021 (a) Instructional materials, including digital devices and
 2022 Internet access to access digital instructional materials.

2023 (b) Curriculum as defined in paragraph (2) (b).

2024 (c) Tuition or fees associated with full-time or part-time
 2025 enrollment in a home education program, an eligible private
 2026 school, an eligible postsecondary educational institution or a
 2027 program offered by the postsecondary institution, a private
 2028 tutoring program authorized under s. 1002.43, a virtual program
 2029 offered by a department-approved private online provider that
 2030 meets the provider qualifications specified in s. 1002.45(2) (a),

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2031 the Florida Virtual School as a private paying student, or an
 2032 approved online course offered pursuant to s. 1003.499 or s.
 2033 1004.0961.

2034 (d) Fees for nationally standardized, norm-referenced
 2035 achievement tests, Advanced Placement examinations, industry
 2036 certification examinations, assessments related to postsecondary
 2037 education, or other assessments.

2038 (e) Contributions to the Stanley G. Tate Florida Prepaid
 2039 College Program pursuant to s. 1009.98 or the Florida College
 2040 Savings Program pursuant to s. 1009.981, for the benefit of the
 2041 eligible student.

2042 (f) Contracted services provided by a public school or
 2043 school district, including classes. A student who receives
 2044 services under a contract under this paragraph is not considered
 2045 enrolled in a public school for eligibility purposes as
 2046 specified in subsection (5).

2047 (g) Tuition and fees for part-time tutoring services
 2048 provided by a person who holds a valid Florida educator's
 2049 certificate pursuant to s. 1012.56; a person who holds an
 2050 adjunct teaching certificate pursuant to s. 1012.57; a person
 2051 who has a bachelor's degree or a graduate degree in the subject
 2052 area in which instruction is given; or a person who has
 2053 demonstrated a mastery of subject area knowledge pursuant to s.
 2054 1012.56(5). As used in this paragraph, the term "part-time
 2055 tutoring services" does not qualify as regular school attendance
 2056 as defined in s. 1003.01(13)(e).

2057 (h) Fees for summer education programs.

2058 (i) Fees for after-school education programs.

2059 (j) Fees for an annual evaluation of educational progress

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2060 by a state-certified teacher under s. 1002.41(1)(f), if this
 2061 option is chosen for a home education student.

2062 (k) Transportation expenses that may not exceed \$750
 2063 annually to meet the student's educational needs under this
 2064 subsection.

2065
 2066 A provider of any services receiving payments pursuant to this
 2067 subsection may not share, refund, or rebate any moneys from the
 2068 Family Empowerment Scholarship with the parent or participating
 2069 student in any manner.

2070 (7)(6) SCHOOL DISTRICT OBLIGATIONS.-

2071 (a) By July 15, 2019, and by April 1 of each year
 2072 thereafter, a school district shall inform all households within
 2073 the district receiving free or reduced-priced meals under the
 2074 National School Lunch Act of their eligibility to apply to the
 2075 department for a Family Empowerment Scholarship. A parent who
 2076 chooses to enroll his or her eligible student in a public school
 2077 that is different from the school in which the student was
 2078 assigned pursuant to s. 1002.31 or enrolls his or her eligible
 2079 student in a lab school as defined in s. 1002.32 is eligible for
 2080 a scholarship to transport the student as provided in paragraph
 2081 (12)(c). The form of such notice shall be provided by the
 2082 department, and the school district shall include the provided
 2083 form in any normal correspondence with eligible households. Such
 2084 notice is limited to once a year.

2085 (b) Upon receipt of a report of an incident, the school
 2086 principal, or his or her designee, shall provide a copy of the
 2087 report to the parent and investigate the incident to determine
 2088 if the incident must be reported as required by s. 1006.147(4).

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2089 Within 24 hours after receipt of the report, the principal or
 2090 his or her designee shall provide a copy of the report to the
 2091 parent of the alleged offender and to the superintendent. Upon
 2092 conclusion of the investigation or within 15 days after the
 2093 incident was reported, whichever occurs first, the school
 2094 district shall notify the parent of the program and offer the
 2095 parent an opportunity to request and receive a Family
 2096 Empowerment Scholarship.

2097 (c) The school district in which a participating student
 2098 resides must notify the student and his or her parent about the
 2099 locations and times to take all statewide assessments under s.
 2100 1008.22 if the student chooses to participate in such
 2101 assessments. Upon the request of the department, a school
 2102 district shall coordinate with the department to provide to a
 2103 participating private school the statewide assessments
 2104 administered under s. 1008.22 and any related materials for
 2105 administering the assessments. For a student who participates in
 2106 the Family Empowerment Scholarship Program whose parent requests
 2107 that the student take the statewide assessments under s.
 2108 1008.22, the district in which the student attends a private
 2109 school shall provide locations and times to take all statewide
 2110 assessments. A school district is responsible for implementing
 2111 test administrations at a participating private school,
 2112 including the:

- 2113 1. Provision of training for private school staff on test
- 2114 security and assessment administration procedures;
- 2115 2. Distribution of testing materials to a private school;
- 2116 3. Retrieval of testing materials from a private school;
- 2117 4. Provision of the required format for a private school to

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2118 submit information to the district for test administration and
 2119 enrollment purposes; and

2120 5. Provision of any required assistance, monitoring, or
 2121 investigation at a private school.

2122 ~~(d)(e)~~ Each school district must publish information about
 2123 the Family Empowerment Scholarship Program on the district's
 2124 website homepage, ~~which,~~ at a minimum, ~~the published~~
 2125 ~~information~~ must include a website link to the Family
 2126 Empowerment Scholarship Program published on the Department of
 2127 Education website ~~as well as a telephone number and e-mail that~~
 2128 ~~students and parents may use to contact relevant personnel in~~
 2129 ~~the school district to obtain information about the scholarship.~~

2130 ~~(8)(7)~~ DEPARTMENT OF EDUCATION OBLIGATIONS.—The department
 2131 shall:

2132 (a) Annually verify the eligibility of nonprofit
 2133 scholarship-funding organizations that meet the requirements of
 2134 paragraph (2) (e).

2135 ~~(b)(a)~~ Publish and update, as necessary, information on the
 2136 department website about the scholarship programs under this
 2137 chapter Family Empowerment Scholarship Program, including, but
 2138 not limited to, student eligibility criteria, parental
 2139 responsibilities, and relevant data.

2140 ~~(c)(b)~~ Cross-check prior to each distribution of funds the
 2141 list of participating scholarship students with the public
 2142 school enrollment lists before each scholarship payment to avoid
 2143 duplication.

2144 ~~(d)(e)~~ Maintain and publish a list of nationally norm-
 2145 referenced tests identified for purposes of satisfying the
 2146 testing requirement in subparagraph (9)(c)1. ~~(8)(e)1.~~ The tests

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2147 must meet industry standards of quality in accordance with state
2148 board rule.

2149 ~~(e)(d)~~ Notify eligible nonprofit scholarship-funding
2150 organizations of the deadlines for submitting the verified list
2151 of students determined to be eligible for an initial or renewal
2152 scholarship.

2153 ~~(f)(e)~~ Distribute each student's scholarship funds on a
2154 quarterly basis to the eligible nonprofit scholarship-funding
2155 organization, to be deposited into the student's account
2156 Establish deadlines for the receipt of initial applications and
2157 renewal notifications in order to implement the priority order
2158 for scholarship awards pursuant to paragraph (3)(d).

2159 ~~(g)~~ Notify an eligible nonprofit scholarship-funding
2160 organization of any of the organization's or other eligible
2161 nonprofit scholarship-funding organization's identified students
2162 who are receiving educational scholarships pursuant to chapter
2163 1002.

2164 ~~(h)~~ Issue a project grant award to a state university, to
2165 which participating private schools must report the scores of
2166 participating students on the nationally norm-referenced tests
2167 or the statewide assessments administered by the private school
2168 in grades 3 through 10. The project term is 2 years, and the
2169 amount of the project is up to \$250,000 per year. The project
2170 grant award must be reissued in 2-year intervals in accordance
2171 with this paragraph.

2172 ~~1.~~ The state university must annually report to the
2173 Department of Education on the student performance of
2174 participating students:

2175 a. On a statewide basis. The report shall also include, to

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2176 the extent possible, a comparison of scholarship students'
2177 performance to the statewide student performance of public
2178 school students with socioeconomic backgrounds similar to those
2179 of students participating in the scholarship program. To
2180 minimize costs and reduce time required for the state
2181 university's analysis and evaluation, the Department of
2182 Education shall coordinate with the state university to provide
2183 data in order to conduct analyses of matched students from
2184 public school assessment data and calculate control group
2185 student performance using an agreed-upon methodology; and
2186 b. On an individual school basis. For the 2020-2021 school
2187 year, the annual report must include student performance for
2188 each participating private school in which at least 51 percent
2189 of the total enrolled students in the private school
2190 participated in the Florida Tax Credit Scholarship Program or
2191 the Family Empowerment Scholarship Program. Beginning with the
2192 2021-2022 school year, the annual report must include student
2193 performance for each participating private school in which at
2194 least 51 percent of the total enrolled students in the private
2195 school participated in the Family Empowerment Scholarship
2196 Program. The report shall be according to each participating
2197 private school, and for participating students, in which there
2198 are at least 30 participating students who have scores for tests
2199 administered. If the state university determines that the 30-
2200 participating-student cell size may be reduced without
2201 disclosing personally identifiable information, as described in
2202 34 C.F.R. s. 99.12, of a participating student, the state
2203 university may reduce the participating-student cell size, but
2204 the cell size may not be reduced to less than 10 participating

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2205 students. The department shall provide each private school's
 2206 prior school year student enrollment information to the state
 2207 university no later than June 15 of each year, or as requested
 2208 by the state university.

2209 2. The sharing and reporting of student performance data
 2210 under this paragraph must be in accordance with the requirements
 2211 of ss. 1002.22 and 1002.221 and 20 U.S.C. s. 1232g, the Family
 2212 Educational Rights and Privacy Act, and the applicable rules and
 2213 regulations issued pursuant thereto, and must be for the sole
 2214 purpose of creating the annual report required by subparagraph

2215 1. All parties must preserve the confidentiality of such
 2216 information as required by law. The annual report may not
 2217 disaggregate data to a level that will identify individual
 2218 participating schools, except as required under sub-subparagraph
 2219 1.b., or disclose the academic level of individual students.

2220 3. The annual report required by subparagraph 1. must be
 2221 published by the Department of Education on its website.

2222 (i) Maintain on its website a list of approved providers,
 2223 including eligible postsecondary educational institutions,
 2224 eligible private schools, and organizations. The department may
 2225 identify or provide links to lists of other approved providers.

2226 (j) Require each organization to verify eligible
 2227 expenditures before the distribution of funds for any
 2228 expenditures made pursuant to paragraphs (6) (a) and (b). Review
 2229 of expenditures made for services specified in paragraphs
 2230 (6) (c)-(k) may be completed after the purchase is made.

2231 (k) Require quarterly reports by an eligible nonprofit
 2232 scholarship-funding organization regarding the overall number of
 2233 students participating in the scholarship program, the number of

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2234 home education students participating in the scholarship
 2235 program, the number of students attending a private school
 2236 participating in the scholarship program, the private schools at
 2237 which the students are enrolled, and other information the
 2238 department deems necessary.

2239 (l) Provide a process to match the direct certification
 2240 list with the scholarship application data submitted by any
 2241 nonprofit scholarship-funding organization eligible to receive
 2242 the 2.5 percent administrative allowance under paragraph
 2243 (11) (k).

2244 (m) Contract with an independent entity to provide an
 2245 annual evaluation of the program by:

2246 1. Reviewing the school bullying prevention education
 2247 program, school climate, and code of student conduct of each
 2248 public school from which 10 or more students transferred to
 2249 another public school or private school using the Hope
 2250 Scholarship or Family Empowerment Scholarship to determine areas
 2251 in the school or school district procedures involving reporting,
 2252 investigating, and communicating a parent's and student's rights
 2253 which are in need of improvement. At a minimum, the review must
 2254 include:

2255 a. An assessment of the investigation time and quality of
 2256 the response of the school and the school district.

2257 b. An assessment of the effectiveness of communication
 2258 procedures with the students involved in an incident, the
 2259 students' parents, and the school and school district personnel.

2260 c. An analysis of school incident and discipline data.

2261 d. The challenges and obstacles relating to implementing
 2262 recommendations from the review.

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2263 2. Reviewing the school bullying prevention education
 2264 program, school climate, and code of student conduct of each
 2265 public school to which a student transferred if the student was
 2266 from a school identified in subparagraph 1. in order to identify
 2267 best practices and make recommendations to the public school at
 2268 which the incidents occurred.

2269 3. Surveying the parents of participating students to
 2270 determine academic, safety, and school climate satisfaction and
 2271 to identify any challenges to or obstacles in addressing an
 2272 incident or relating to the use of the scholarship.

2273 (n) Investigate any written complaint of a violation of
 2274 this section by a parent, a student, a private school, a public
 2275 school, a school district, an organization, a provider, or
 2276 another appropriate party in accordance with the process
 2277 established under s. 1002.421.

2278 (9)(9) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.-To be
 2279 eligible to participate in the Family Empowerment Scholarship
 2280 Program, a private school may be sectarian or nonsectarian and
 2281 must:

2282 (a) Comply with all requirements for private schools
 2283 participating in state school choice scholarship programs
 2284 pursuant to s. 1002.421.

2285 (b) Provide to the organization department all
 2286 documentation required for a student's participation, including
 2287 the private school's and student's fee schedules, at least 30
 2288 days before any quarterly scholarship payment is made for the
 2289 student pursuant to paragraph (12)(f) (11)(f). ~~A student is not~~
 2290 ~~eligible to receive a quarterly scholarship payment if the~~
 2291 ~~private school fails to meet this deadline.~~

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2292 (c)1. Annually administer or make provision for students
 2293 participating in the program in grades 3 through 10 to take one
 2294 of the nationally norm-referenced tests that are identified by
 2295 the department pursuant to paragraph (8)(d) (7)(e) or to take
 2296 the statewide assessments pursuant to s. 1008.22. Students with
 2297 disabilities for whom standardized testing is not appropriate
 2298 are exempt from this requirement. A participating private school
 2299 shall report a student's scores to his or her parent. By August
 2300 15 of each year, a participating private school must report the
 2301 scores of all participating students to a state university as
 2302 described in paragraph (8)(h) s. 1002.395(9)(f).

2303 2. Administer the statewide assessments pursuant to s.
 2304 1008.22 if the private school chooses to offer the statewide
 2305 assessments. A participating private school may choose to offer
 2306 and administer the statewide assessments to all students who
 2307 attend the private school in grades 3 through 10 and must submit
 2308 a request in writing to the department by March 1 of each year
 2309 in order to administer the statewide assessments in the
 2310 subsequent school year.

2311
 2312 If a private school fails to meet the requirements of this
 2313 subsection or s. 1002.421, the commissioner may determine that
 2314 the private school is ineligible to participate in the
 2315 scholarship program.

2316 (10)(9) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
 2317 PARTICIPATION.-A parent who applies for a Family Empowerment
 2318 Scholarship is exercising his or her parental option to
 2319 determine the appropriate placement or the services that best
 2320 meets the needs of his or her child place his or her child in a

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2321 ~~private school.~~

2322 (a) To satisfy or maintain program eligibility, including
 2323 eligibility to receive and spend program payments, the parent
 2324 must sign an agreement with the organization and annually submit
 2325 a sworn compliance statement to the organization to:

2326 1. Affirm that the student is enrolled in a program that
 2327 meets regular school attendance requirements as provided in s.
 2328 1003.01(13)(b)-(e).

2329 2. Affirm that the program funds are used only for
 2330 authorized purposes serving the student's educational needs, as
 2331 described in subsection (6).

2332 3. Affirm that the parent is responsible for the education
 2333 of his or her student by, as applicable:

2334 a. Requiring the student to take an assessment in
 2335 accordance with paragraph (9)(c); or

2336 b. Providing an annual evaluation in accordance with s.
 2337 1002.41(1)(f).

2338 4. Affirm that the student remains in good standing with
 2339 the provider or school if those options are selected by the
 2340 parent. The parent must select the private school and apply for
 2341 the admission of his or her student.

2342 ~~(b) The parent must request the scholarship at least 60~~
 2343 ~~days before the date of the first scholarship payment.~~

2344 ~~(c) The parent must inform the applicable school district~~
 2345 ~~when the parent withdraws his or her student from a public~~
 2346 ~~school to attend an eligible private school.~~

2347 ~~(d) Any student participating in the program must remain in~~
 2348 ~~attendance throughout the school year unless excused by the~~
 2349 ~~school for illness or other good cause.~~

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2350 ~~(c)(e) If Before~~ enrolling in a private school, a student
 2351 and his or her parent or guardian must meet with the private
 2352 school's principal or the principal's designee to review the
 2353 school's academic programs and policies, customized educational
 2354 programs, code of student conduct, and attendance policies.

2355 ~~(d)(f)~~ The parent shall ensure that ~~a the~~ student
 2356 participating in the scholarship program and enrolled in a
 2357 private school takes the norm-referenced assessment offered by
 2358 the private school. The parent may also choose to have the
 2359 student participate in the statewide assessments pursuant to
 2360 paragraph (9)(c) ~~(6)(b)~~.

2361 ~~(e)(g)~~ If the parent requests that the student
 2362 participating in the program take all statewide assessments
 2363 required pursuant to s. 1008.22, the parent is responsible for
 2364 transporting the student to the assessment site designated by
 2365 the school district.

2366 ~~(h) Upon receipt of a scholarship warrant, the parent to~~
 2367 ~~whom the warrant is issued must restrictively endorse the~~
 2368 ~~warrant to the private school for deposit into the private~~
 2369 ~~school's account. The parent may not designate any entity or~~
 2370 ~~individual associated with the participating private school as~~
 2371 ~~the parent's attorney in fact to endorse a scholarship warrant.~~
 2372 ~~A participant who fails to comply with this paragraph forfeits~~
 2373 ~~the scholarship.~~

2374 ~~(f)(i)~~ The parent must annually renew participation in the
 2375 program by the date established by the organization ~~department~~
 2376 pursuant to paragraph (7)(e). A student whose participation in
 2377 the program is not renewed may continue to spend scholarship
 2378 funds that are in his or her account from prior years unless the

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2379 account must be closed pursuant to paragraph (4) (b).

2380 (g) The parent is responsible for procuring the services
 2381 necessary to educate the student. If a parent does not procure
 2382 the necessary educational services for the student and the
 2383 student's account has been inactive for 2 consecutive fiscal
 2384 years, the student is ineligible and the student's account must
 2385 be closed pursuant to paragraph (4) (b).

2386 (h) The parent is responsible for all eligible expenses in
 2387 excess of the Family Empowerment Scholarship.

2388 (i) The parent may not transfer any prepaid college plan or
 2389 college savings plan funds contributed pursuant to paragraph
 2390 (6) (e) to another beneficiary while the plan contains funds
 2391 contributed pursuant to this section.

2392 (j) The parent may not receive a payment, refund, or rebate
 2393 from an approved provider of any services under this program.

2394

2395 A participant who fails to comply with this subsection forfeits
 2396 the Family Empowerment Scholarship.

2397 (11)~~(10)~~ OBLIGATIONS OF ELIGIBLE SCHOLARSHIP-FUNDING
 2398 ORGANIZATIONS.—An eligible nonprofit scholarship-funding
 2399 organization:

2400 (a) Must comply with the antidiscrimination provisions of
 2401 42 U.S.C. s. 2000d.

2402 (b) Must comply with the following background check
 2403 requirements:

2404 1. All owners and operators as defined in subparagraph
 2405 (2) (k) 1., before employment or engagement to provide services,
 2406 are subject to a level 2 background screening as provided under
 2407 chapter 435. The fingerprints for the background screening must

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2408 be electronically submitted to the Department of Law Enforcement
 2409 and can be taken by an authorized law enforcement agency or by
 2410 an employee of the eligible nonprofit scholarship-funding
 2411 organization or a private company who is trained to take
 2412 fingerprints. However, the complete set of fingerprints of an
 2413 owner or operator may not be taken by the owner or operator. The
 2414 results of the state and national criminal history check must be
 2415 provided to the Department of Education for screening under
 2416 chapter 435. The cost of the background screening may be borne
 2417 by the eligible nonprofit scholarship-funding organization or
 2418 the owner or operator.

2419 2. Every 5 years following employment or engagement to
 2420 provide services or association with an eligible nonprofit
 2421 scholarship-funding organization, each owner or operator must
 2422 meet level 2 screening standards as described in s. 435.04, at
 2423 which time the nonprofit scholarship-funding organization shall
 2424 request the Department of Law Enforcement to forward the
 2425 fingerprints to the Federal Bureau of Investigation for level 2
 2426 screening. If the fingerprints of an owner or operator are not
 2427 retained by the Department of Law Enforcement under subparagraph
 2428 3., the owner or operator must electronically file a complete
 2429 set of fingerprints with the Department of Law Enforcement. Upon
 2430 submission of fingerprints for this purpose, the eligible
 2431 nonprofit scholarship-funding organization shall request that
 2432 the Department of Law Enforcement forward the fingerprints to
 2433 the Federal Bureau of Investigation for level 2 screening, and
 2434 the fingerprints must be retained by the Department of Law
 2435 Enforcement under subparagraph 3.

2436 3. Fingerprints submitted to the Department of Law

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2437 Enforcement as required by this paragraph must be retained by
 2438 the Department of Law Enforcement in a manner approved by rule
 2439 and entered in the statewide automated biometric identification
 2440 system authorized by s. 943.05(2)(b). The fingerprints must
 2441 continue to be available for all purposes and uses authorized
 2442 for arrest fingerprints entered in the statewide automated
 2443 biometric identification system pursuant to s. 943.051.

2444 4. The Department of Law Enforcement shall search all
 2445 arrest fingerprints received under s. 943.051 against the
 2446 fingerprints retained in the statewide automated biometric
 2447 identification system under subparagraph 3. Any arrest record
 2448 that is identified with an owner's or operator's fingerprints
 2449 must be reported to the Department of Education. The Department
 2450 of Education shall participate in this search process by paying
 2451 an annual fee to the Department of Law Enforcement and by
 2452 informing the Department of Law Enforcement of any change in the
 2453 employment, engagement, or association status of the owners or
 2454 operators whose fingerprints are retained under subparagraph 3.
 2455 The Department of Law Enforcement shall adopt a rule setting the
 2456 amount of the annual fee to be imposed upon the Department of
 2457 Education for performing these services and establishing the
 2458 procedures for the retention of owner or operator fingerprints
 2459 and the dissemination of search results. The fee may be borne by
 2460 the owner or operator of the nonprofit scholarship-funding
 2461 organization.

2462 5. A nonprofit scholarship-funding organization whose owner
 2463 or operator fails the level 2 background screening is not
 2464 eligible to provide scholarships under this section.

2465 6. A nonprofit scholarship-funding organization whose owner

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2466 or operator in the last 7 years has filed for personal
 2467 bankruptcy or corporate bankruptcy in a corporation of which he
 2468 or she owned more than 20 percent is not eligible to provide
 2469 scholarships under this section.

2470 7. In addition to the offenses listed in s. 435.04, a
 2471 person required to undergo background screening pursuant to this
 2472 part or authorizing statutes may not have an arrest awaiting
 2473 final disposition for, must not have been found guilty of, or
 2474 entered a plea of nolo contendere to, regardless of
 2475 adjudication, and must not have been adjudicated delinquent, and
 2476 the record must not have been sealed or expunged for, any of the
 2477 following offenses or any similar offense of another
 2478 jurisdiction:

- 2479 a. Any authorizing statutes, if the offense was a felony.
- 2480 b. This chapter, if the offense was a felony.
- 2481 c. Section 409.920, relating to Medicaid provider fraud.
- 2482 d. Section 409.9201, relating to Medicaid fraud.
- 2483 e. Section 741.28, relating to domestic violence.
- 2484 f. Section 817.034, relating to fraudulent acts through
- 2485 mail, wire, radio, electromagnetic, photoelectronic, or
- 2486 photooptical systems.
- 2487 g. Section 817.234, relating to false and fraudulent
- 2488 insurance claims.
- 2489 h. Section 817.505, relating to patient brokering.
- 2490 i. Section 817.568, relating to criminal use of personal
- 2491 identification information.
- 2492 j. Section 817.60, relating to obtaining a credit card
- 2493 through fraudulent means.
- 2494 k. Section 817.61, relating to fraudulent use of credit

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2495 cards, if the offense was a felony.

2496 l. Section 831.01, relating to forgery.

2497 m. Section 831.02, relating to uttering forged instruments.

2498 n. Section 831.07, relating to forging bank bills, checks,

2499 drafts, or promissory notes.

2500 o. Section 831.09, relating to uttering forged bank bills,

2501 checks, drafts, or promissory notes.

2502 p. Section 831.30, relating to fraud in obtaining medicinal

2503 drugs.

2504 q. Section 831.31, relating to the sale, manufacture,

2505 delivery, or possession with the intent to sell, manufacture, or

2506 deliver any counterfeit controlled substance, if the offense was

2507 a felony.

2508 (c) May not have an owner or operator who owns or operates

2509 an eligible private school that is participating in the

2510 scholarship program.

2511 (d) Shall establish and maintain separate accounts for each

2512 eligible student. For each account, the organization must

2513 maintain a record of accrued interest that is retained in the

2514 student's account and available only for authorized program

2515 expenditures.

2516 (e) May not restrict or reserve scholarships for use at a

2517 particular private school or provide scholarships to a child of

2518 an owner or operator.

2519 (f) Must provide to the Auditor General and the Department

2520 of Education a report on the results of an annual financial

2521 audit of its accounts and records conducted by an independent

2522 certified public accountant in accordance with auditing

2523 standards generally accepted in the United States, government

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2524 auditing standards, and rules promulgated by the Auditor

2525 General. The audit report must include a report on financial

2526 statements presented in accordance with generally accepted

2527 accounting principles. Audit reports must be provided to the

2528 Auditor General and the Department of Education within 180 days

2529 after completion of the eligible nonprofit scholarship-funding

2530 organization's fiscal year. The Auditor General shall review all

2531 audit reports submitted pursuant to this paragraph. The Auditor

2532 General shall request any significant items that were omitted in

2533 violation of a rule adopted by the Auditor General. The items

2534 must be provided within 45 days after the date of the request.

2535 If the scholarship-funding organization does not comply with the

2536 Auditor General's request, the Auditor General shall notify the

2537 Legislative Auditing Committee.

2538 (g)1.a. Must use agreed-upon procedures that uniformly

2539 apply to all private schools and determine, at a minimum,

2540 whether the private school has been verified as eligible by the

2541 Department of Education under s. 1002.421; has an adequate

2542 accounting system, system of financial controls, and process for

2543 deposit and classification of scholarship funds; and has

2544 properly expended scholarship funds for education-related

2545 expenses.

2546 b. Must participate in a joint review of the agreed-upon

2547 procedures and guidelines under sub-subparagraph a., by February

2548 of each biennium, if the scholarship-funding organization

2549 provided more than \$250,000 in scholarship funds to an eligible

2550 private school under this chapter during the state fiscal year

2551 preceding the biennial review. If the procedures and guidelines

2552 are revised, the revisions must be provided to private schools

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2553 and the Commissioner of Education by March 15 of the year in
 2554 which the revisions were completed. The revised agreed-upon
 2555 procedures take effect the subsequent school year.

2556 c. Must monitor the compliance of a private school with s.
 2557 1002.421(1)(g) if the scholarship-funding organization provided
 2558 the majority of the scholarship funding to the school. For each
 2559 private school subject to s. 1002.421(1)(g), the appropriate
 2560 scholarship-funding organization shall annually notify the
 2561 Commissioner of Education by October 30 of:

2562 (I) A private school's failure to submit a report required
 2563 under s. 1002.421(1)(g); or

2564 (II) Any material exceptions set forth in the report
 2565 required under s. 1002.421(1)(g).

2566 2. Must seek input from the accrediting associations that
 2567 are members of the Florida Association of Academic Nonpublic
 2568 Schools and the Department of Education when conducting a joint
 2569 review of the procedures and guidelines under sub-subparagraph
 2570 1.b.

2571 (h) Must establish a date by which the parent of a
 2572 participating student must confirm continuing participation in
 2573 the program.

2574 (i)-(a) Shall verify the household income level of students
 2575 pursuant to subparagraph (3)(a)1. and submit the verified list
 2576 of students and related documentation to the department.

2577 (j)-(b) Shall award initial and renewal scholarships to
 2578 eligible students in priority order pursuant to subsection (3)
 2579 and notify parents of their receipt of a scholarship paragraph
 2580 (3)-(d). The eligible nonprofit scholarship-funding organization
 2581 shall implement the deadlines established by the department

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2582 ~~pursuant to paragraphs (7)(d) and (e).~~

2583 ~~(k)(e) May, from eligible contributions received pursuant~~
 2584 ~~to s. 1002.395(6)(j)1., use an amount not to exceed 2.5 ±~~
 2585 ~~percent of the total amount of all scholarships awarded under~~
 2586 ~~this section for administrative expenses associated with~~
 2587 ~~performing functions under this section. Such administrative~~
 2588 ~~expense amount is considered within the 3 percent limit on the~~
 2589 ~~total amount an organization may use to administer scholarships~~
 2590 ~~under this chapter.~~

2591 (l) Must verify qualifying educational expenditures
 2592 pursuant to the requirement of paragraph (8)(j) and must request
 2593 the return of any funds used for unauthorized purposes.

2594 (m) Must return any remaining program funds to the
 2595 department pursuant to paragraph (4)(b).

2596 (n) Must document each scholarship student's eligibility
 2597 pursuant to subsection (3) for a fiscal year before granting a
 2598 scholarship for that fiscal year. A student is ineligible for a
 2599 scholarship if the student's account has been inactive for 2
 2600 fiscal years and the student's account has been closed pursuant
 2601 to paragraph (4)(b).

2602 (o) Must allow a student who meets the requirements of
 2603 subparagraph (3)(a)2. or a dependent child of a parent who is a
 2604 member of the United States Armed Forces to apply for a
 2605 scholarship at any time.

2606 ~~(p)-(d) Must, in a timely manner, submit any information~~
 2607 ~~requested by the department relating to the scholarship under~~
 2608 ~~this section.~~

2609 (q) Must establish a date by which the parent of a
 2610 participating student must confirm continuing participation in

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2611 the program.

2612 (r) Must prepare and submit quarterly reports to the
 2613 department pursuant to paragraph (8) (k).

2614 ~~(s)(e)~~ Must notify the department about any violation of
 2615 this section by a parent or a private school.

2616 ~~(12)(11)~~ SCHOLARSHIP FUNDING AND PAYMENT.—

2617 (a) The scholarship is established for up to 18,000
 2618 students annually beginning in the 2019-2020 school year.
 2619 Beginning in the 2020-2021 school year, the maximum number of
 2620 student FTE ~~students~~ participating in the scholarship program
 2621 under this section shall annually increase by 1.0 percent of the
 2622 state's total public school student FTE student enrollment. A
 2623 student who received a Florida Tax Credit Scholarship or a Hope
 2624 Scholarship in the 2020-2021 school year and who meets the
 2625 eligibility requirements in subsection (3) in the 2021-2022
 2626 school year is eligible for a Family Empowerment Scholarship in
 2627 the 2021-2022 school year. The scholarship may not be included
 2628 in the maximum number of student FTE authorized to participate
 2629 in the program under this paragraph.

2630 ~~(b) The scholarship amount provided to a student for any~~
 2631 ~~single school year shall be for tuition and fees for an eligible~~
 2632 ~~private school, not to exceed annual limits, which shall be~~
 2633 ~~determined in accordance with this paragraph.~~ The calculated
 2634 scholarship amount for a student participating in the program
 2635 must to attend an eligible private school shall be based upon
 2636 the grade level and school district in which the student was
 2637 assigned as ~~97.5~~ 95 percent of the funds per unweighted full-
 2638 time equivalent in the Florida Education Finance Program for a
 2639 student in the basic program established pursuant to s.

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2640 1011.62(1)(c)1., plus a per-full-time equivalent share of funds
 2641 for all categorical programs, as provided in the General
 2642 Appropriations Act ~~except for the Exceptional Student Education~~
 2643 ~~Guaranteed Allocation.~~

2644 (c) A student who is eligible for a Family Empowerment
 2645 Scholarship is eligible for a transportation award limited to
 2646 \$750, if the student is enrolled in a Florida public school that
 2647 is different from the school to which the student was assigned
 2648 pursuant to s. 1002.31 or is enrolled in a lab school as defined
 2649 in s. 1002.32 ~~The amount of the Family Empowerment Scholarship~~
 2650 ~~shall be the calculated amount or the amount of the private~~
 2651 ~~school's tuition and fees, whichever is less. The amount of any~~
 2652 ~~assessment fee required by the participating private school may~~
 2653 ~~be paid from the total amount of the scholarship.~~

2654 (d) At the time of each Florida Education Finance Program
 2655 student membership survey, the scholarship-funding organization
 2656 shall report to the Department of Education student enrollment,
 2657 FTE, and total award amounts by county, delineated by FEFP
 2658 program, and grade for ~~The school district shall report all~~
 2659 ~~students who are participating in attending a private school~~
 2660 ~~under this program. The students attending private schools on~~
 2661 ~~Family Empowerment Scholarships shall be reported separately~~
 2662 ~~from other students reported~~ For the purposes of this paragraph,
 2663 an FTE shall be equal to four quarterly scholarship payments the
 2664 Florida Education Finance Program.

2665 (e) Following notification on July 1, September 1, December
 2666 1, and ~~or~~ February 1 of the number of program participants, the
 2667 department shall transfer, from general revenue funds only, the
 2668 amount calculated pursuant to paragraph (b) to a separate

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2669 account for the scholarship program for quarterly disbursement
 2670 to parents of participating students. ~~For a student exiting a~~
 2671 ~~Department of Juvenile Justice commitment program who chooses to~~
 2672 ~~participate in the scholarship program, the amount of the Family~~
 2673 ~~Empowerment Scholarship calculated pursuant to paragraph (b)~~
 2674 ~~must be transferred from the school district in which the~~
 2675 ~~student last attended a public school before commitment to the~~
 2676 ~~Department of Juvenile Justice.~~ When a student enters the
 2677 scholarship program, the department must receive all
 2678 documentation required for the student's participation,
 2679 including the private school's and the student's fee schedules,
 2680 at least 30 days before the first quarterly scholarship payment
 2681 is made for the student.

2682 (f) Upon notification from the organization that an
 2683 application has been approved for the program, the department
 2684 shall release the student's scholarship funds to the
 2685 organization, to be deposited into the student's account by the
 2686 ~~department that it has received the documentation required under~~
 2687 ~~paragraph (e), the Chief Financial Officer shall make~~
 2688 ~~scholarship payments in four equal amounts no later than~~
 2689 ~~September 1, November 1, February 1, and April 1 of each school~~
 2690 ~~year in which the scholarship is in force. The initial payment~~
 2691 ~~shall be made after department verification of admission~~
 2692 ~~acceptance, and subsequent payments shall be made upon~~
 2693 ~~verification of continued enrollment and attendance at the~~
 2694 ~~private school. Payment must be by individual warrant made~~
 2695 ~~payable to the student's parent and mailed by the department to~~
 2696 ~~the private school of the parent's choice, and the parent shall~~
 2697 ~~restrictively endorse the warrant to the private school for~~

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2698 ~~deposit into the account of the private school.~~

2699 (g) Accrued interest in the student's account is in
 2700 addition to, and not part of, the awarded funds. Program funds
 2701 include both the awarded funds and accrued interest. Subsequent
 2702 ~~to each scholarship payment, the department shall request from~~
 2703 ~~the Department of Financial Services a sample of endorsed~~
 2704 ~~warrants to review and confirm compliance with endorsement~~
 2705 ~~requirements.~~

2706 (h) The organization may develop a system for payment of
 2707 benefits by funds transfer, including, but not limited to, debit
 2708 cards, electronic payment cards, or any other means of payment
 2709 that the department deems to be commercially viable or cost-
 2710 effective. A student's scholarship award may not be reduced for
 2711 debit card or electronic payment fees. Commodities or services
 2712 related to the development of such a system must be procured by
 2713 competitive solicitation unless they are purchased from a state
 2714 term contract pursuant to s. 287.056.

2715 (i) Moneys received pursuant to this section do not
 2716 constitute taxable income to the qualified student or parent of
 2717 the qualified student.

2718 (13) OBLIGATIONS OF THE AUDITOR GENERAL.—

2719 (a) At least once every 3 years, the Auditor General shall
 2720 conduct an operational audit of accounts and records of each
 2721 organization that participates in the program. As part of this
 2722 audit, the Auditor General shall verify, at a minimum, the total
 2723 number of students served and the eligibility of reimbursements
 2724 made by the organization and transmit that information to the
 2725 department. The Auditor General shall provide the commissioner
 2726 with a copy of each annual operational audit performed pursuant

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2727 to this subsection within 10 days after the audit is finalized.
 2728 (b) The Auditor General shall notify the department of any
 2729 organization that fails to comply with a request for
 2730 information.
 2731 (14) NONPROFIT SCHOLARSHIP-FUNDING ORGANIZATIONS;
 2732 APPLICATION.—In order to participate in the scholarship program
 2733 created under this section, a charitable organization that seeks
 2734 to be a nonprofit scholarship-funding organization shall submit
 2735 an application for initial approval or renewal to the Office of
 2736 Independent Education and Parental Choice no later than
 2737 September 1 of each year before the school year for which the
 2738 organization intends to offer scholarships.
 2739 (a) An application for initial approval must include:
 2740 1. A copy of the organization's incorporation documents and
 2741 registration with the Division of Corporations of the Department
 2742 of State.
 2743 2. A copy of the organization's Internal Revenue Service
 2744 determination letter as an s. 501(c) (3) not-for-profit
 2745 organization.
 2746 3. A description of the organization's financial plan that
 2747 demonstrates sufficient funds to operate throughout the school
 2748 year.
 2749 4. A description of the geographic region that the
 2750 organization intends to serve and an analysis of the demand and
 2751 unmet need for eligible students in that area.
 2752 5. The organization's organizational chart.
 2753 6. A description of the criteria and methodology that the
 2754 organization will use to evaluate scholarship eligibility.
 2755 7. A description of the application process, including

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2756 deadlines and any associated fees.
 2757 8. A description of the deadlines for attendance
 2758 verification and scholarship payments.
 2759 9. A copy of the organization's policies on conflict of
 2760 interest and whistleblowers.
 2761 10. A copy of a surety bond or letter of credit to secure
 2762 the faithful performance of the obligations of the eligible
 2763 nonprofit scholarship-funding organization in accordance with
 2764 this section in an amount equal to 25 percent of the scholarship
 2765 funds anticipated for each school year or \$100,000, whichever is
 2766 greater. The surety bond or letter of credit must specify that
 2767 any claim against the bond or letter of credit may be made only
 2768 by an eligible nonprofit scholarship-funding organization to
 2769 provide scholarships to and on behalf of students who would have
 2770 had scholarships funded if it were not for the diversion of
 2771 funds giving rise to the claim against the bond or letter of
 2772 credit.
 2773 (b) In addition to the information required by
 2774 subparagraphs (a)1.-10., an application for renewal must
 2775 include:
 2776 1. A surety bond or letter of credit to secure the faithful
 2777 performance of the obligations of the eligible nonprofit
 2778 scholarship-funding organization in accordance with this section
 2779 equal to the amount of undisbursed donations held by the
 2780 organization based on the annual report submitted pursuant to
 2781 paragraph (11) (r). The amount of the surety bond or letter of
 2782 credit must be at least \$100,000, but not more than \$25 million.
 2783 The surety bond or letter of credit must specify that any claim
 2784 against the bond or letter of credit may be made only by an

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2785 eligible nonprofit scholarship-funding organization to provide
 2786 scholarships to and on behalf of students who would have had
 2787 scholarships funded if it were not for the diversion of funds
 2788 giving rise to the claim against the bond or letter of credit.
 2789 2. The organization's completed Internal Revenue Service
 2790 Form 990 submitted no later than November 30 of the year before
 2791 the school year that the organization intends to offer the
 2792 scholarships, notwithstanding the September 1 application
 2793 deadline.
 2794 3. A copy of the statutorily required audit to the
 2795 Department of Education and Auditor General.
 2796 4. An annual report that includes:
 2797 a. The number of students who completed applications, by
 2798 county and by grade.
 2799 b. The number of students who were approved for
 2800 scholarships, by county and by grade.
 2801 c. The number of students who received funding for
 2802 scholarships within each funding category, by county and by
 2803 grade.
 2804 d. The amount of funds received, the amount of funds
 2805 distributed in scholarships, and an accounting of remaining
 2806 funds and the obligation of those funds.
 2807 e. A detailed accounting of how the organization spent the
 2808 administrative funds allowable under paragraph (11)(k).
 2809 (c) In consultation with the Department of Revenue and the
 2810 Chief Financial Officer, the Office of Independent Education and
 2811 Parental Choice shall review the application. The Department of
 2812 Education shall notify the organization in writing of any
 2813 deficiencies within 30 days after receipt of the application and

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2814 allow the organization 30 days to correct any deficiencies.
 2815 (d) Within 30 days after receipt of the finalized
 2816 application by the Office of Independent Education and Parental
 2817 Choice, the Commissioner of Education shall recommend approval
 2818 or disapproval of the application to the State Board of
 2819 Education. The State Board of Education shall consider the
 2820 application and recommendation at the next scheduled meeting,
 2821 adhering to appropriate meeting notice requirements. If the
 2822 State Board of Education disapproves the organization's
 2823 application, it shall provide the organization with a written
 2824 explanation of that determination. The State Board of
 2825 Education's action is not subject to chapter 120.
 2826 (e) If the State Board of Education disapproves the renewal
 2827 of a nonprofit scholarship-funding organization, the
 2828 organization must notify the affected eligible students and
 2829 parents of the decision within 15 days after disapproval. An
 2830 eligible student affected by the disapproval of an
 2831 organization's participation remains eligible under this section
 2832 until the end of the school year in which the organization was
 2833 disapproved. The student must apply and be accepted by another
 2834 eligible nonprofit scholarship-funding organization for the
 2835 upcoming school year. The student must be given priority in
 2836 accordance with paragraph (3)(d).
 2837 (f) All remaining eligible student accounts with funds held
 2838 by a nonprofit scholarship-funding organization that is
 2839 disapproved for participation must be transferred to the
 2840 student's account established at the eligible nonprofit
 2841 scholarship-funding organization accepting the student. All
 2842 transferred funds must be deposited by each eligible nonprofit

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2843 scholarship-funding organization receiving such funds into the
 2844 student's scholarship account. All other remaining funds must be
 2845 transferred to the department. All transferred amounts received
 2846 by any eligible nonprofit scholarship-funding organization must
 2847 be separately disclosed in the annual financial audit required
 2848 under subsection (11).

2849 (g) A nonprofit scholarship-funding organization is a
 2850 renewing organization if it maintains continuous approval and
 2851 participation in the program. An organization that chooses not
 2852 to participate for 1 year or more or is disapproved to
 2853 participate for 1 year or more must submit an application for
 2854 initial approval in order to participate in the program again.

2855 (h) The State Board of Education shall adopt rules
 2856 providing guidelines for receiving, reviewing, and approving
 2857 applications for new and renewing nonprofit scholarship-funding
 2858 organizations. The rules must include a process for compiling
 2859 input and recommendations from the Chief Financial Officer, the
 2860 Department of Revenue, and the Department of Education. The
 2861 rules must also require that the nonprofit scholarship-funding
 2862 organization make a brief presentation to assist the State Board
 2863 of Education in its decision.

2864 (i) A state university or an independent college or
 2865 university that is eligible to participate in the William L.
 2866 Boyd, IV, Effective Access to Student Education Grant Program,
 2867 is located and chartered in this state, is not for profit, and
 2868 is accredited by the Commission on Colleges of the Southern
 2869 Association of Colleges and Schools is exempt from the initial
 2870 or renewal application process, but must file a registration
 2871 notice with the Department of Education to be an eligible

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2872 nonprofit scholarship-funding organization. The State Board of
 2873 Education shall adopt rules that identify the procedure for
 2874 filing the registration notice with the department. The rules
 2875 must identify appropriate reporting requirements for fiscal,
 2876 programmatic, and performance accountability purposes consistent
 2877 with this section, but may not exceed the requirements for
 2878 eligible nonprofit scholarship-funding organizations for
 2879 charitable organizations.

2880 (15)(12) LIABILITY.—No liability shall arise on the part of
 2881 the state based on the award or use of a Family Empowerment
 2882 Scholarship.

2883 (16)(13) SCOPE OF AUTHORITY.—The inclusion of eligible
 2884 private schools and private providers within the options
 2885 available to Florida public school students does not expand the
 2886 regulatory authority of the state, its officers, or any school
 2887 district to impose any additional regulation of private schools
 2888 beyond those reasonably necessary to enforce requirements
 2889 expressly set forth in this section.

2890 (17)(14) RULES.—The State Board of Education shall adopt
 2891 rules pursuant to ss. 120.536(1) and 120.54 to administer this
 2892 section. The state board rules must include a requirement that
 2893 the department work collaboratively with an approved
 2894 scholarship-funding organization to expedite the process for the
 2895 verification and reporting obligations specified under
 2896 subsection (11) ~~(10)~~.

2897 ~~(15) IMPLEMENTATION SCHEDULE FOR THE 2019-2020 SCHOOL~~
 2898 ~~YEAR. Notwithstanding the provisions of this section related to~~
 2899 ~~notification requirements and eligibility timelines, for the~~
 2900 ~~2019-2020 school year.~~

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2901 ~~(a) A student is eligible for a Family Empowerment~~
 2902 ~~Scholarship under this section if the student's parent has~~
 2903 ~~obtained acceptance of the student's admission to a private~~
 2904 ~~school that is eligible for the program under subsection (8),~~
 2905 ~~and the parent has requested a scholarship from the Department~~
 2906 ~~of Education no later than August 15, 2019. The request must be~~
 2907 ~~communicated directly to the department in a manner that creates~~
 2908 ~~a written or electronic record of the request and the date of~~
 2909 ~~receipt of the request.~~

2910 ~~(b) The department shall expedite the publication of~~
 2911 ~~information relevant to the Family Empowerment Scholarship~~
 2912 ~~Program on the department's website, including, but not limited~~
 2913 ~~to, the eligibility criteria for students to qualify for the~~
 2914 ~~scholarship under this section and how parents may request the~~
 2915 ~~scholarship. The department must immediately notify the school~~
 2916 ~~district of the parent's intent upon receipt of the parent's~~
 2917 ~~request.~~

2918 ~~(c) Upon notification by the department that it has~~
 2919 ~~received the documentation required under paragraph (10)(a), the~~
 2920 ~~Chief Financial Officer shall make the first quarter payment of~~
 2921 ~~scholarships no later than October 1, 2019.~~

2922 ~~This subsection shall expire June 30, 2020.~~

2923 Section 20. Section 1002.395, Florida Statutes, is amended
 2924 to read:

2925 1002.395 Florida K-12 Education Funding Tax Credit
 2926 Scholarship Program.—

2927 (1) FINDINGS AND PURPOSE.—

2928 (a) The Legislature finds that:

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2930 1. It has the inherent power to determine subjects of
 2931 taxation for general or particular public purposes.
 2932 2. Expanding educational opportunities and improving the
 2933 quality of educational services within the state are valid
 2934 public purposes that the Legislature may promote using its
 2935 sovereign power to determine subjects of taxation and exemptions
 2936 from taxation.
 2937 3. Ensuring that all parents, regardless of means, may
 2938 exercise and enjoy their basic right to educate their children
 2939 as they see fit is a valid public purpose that the Legislature
 2940 may promote using its sovereign power to determine subjects of
 2941 taxation and exemptions from taxation.
 2942 4. Expanding educational opportunities and the healthy
 2943 competition they promote are critical to improving the quality
 2944 of education in the state and to ensuring that all children
 2945 receive the high-quality education to which they are entitled.
 2946 (b) The purpose of this section is to:
 2947 1. Enable taxpayers to designate portions of certain tax
 2948 payments as make private, voluntary contributions to K-12
 2949 education funding to nonprofit scholarship-funding organizations
 2950 in order to promote the general welfare.
 2951 2. Provide taxpayers who wish to help parents with limited
 2952 resources exercise their basic right to educate their children
 2953 as they see fit with a means to do so.
 2954 3. Promote the general welfare by expanding educational
 2955 opportunities for children of families that have limited
 2956 financial resources.
 2957 4. Enable children in this state to achieve a greater level
 2958 of excellence in their education.

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2959 5. Improve the quality of education in this state, both by
2960 expanding educational opportunities for children and by creating
2961 incentives for schools to achieve excellence.

2962 (c) The purpose of this section is not to prescribe the
2963 standards or curriculum for private schools. A private school
2964 retains the authority to determine its own standards and
2965 curriculum.

2966 (2) DEFINITIONS.—As used in this section, the term:

2967 (a) “Annual tax credit amount” means, for any state fiscal
2968 year, the sum of the amount of tax credits approved under
2969 paragraph (5)(b), including tax credits to be taken under s.
2970 220.1875 or s. 624.51055, which are approved for a taxpayer
2971 whose taxable year begins on or after January 1 of the calendar
2972 year preceding the start of the applicable state fiscal year.

2973 (b) “Department” means the Department of Revenue.

2974 (c) “Direct certification list” means the certified list of
2975 children who qualify for the food assistance program, the
2976 Temporary Assistance to Needy Families Program, or the Food
2977 Distribution Program on Indian Reservations provided to the
2978 Department of Education by the Department of Children and
2979 Families.

2980 (b)(d) “Division” means the Division of Alcoholic Beverages
2981 and Tobacco of the Department of Business and Professional
2982 Regulation.

2983 (c)(e) “Eligible contribution” means the taxes, or a
2984 portion thereof, remitted by the taxpayer to the department or
2985 the division which the taxpayer elects to designate for K-12
2986 education funding a monetary contribution from a taxpayer,
2987 subject to the restrictions provided in this section, to an

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2988 ~~eligible nonprofit scholarship funding organization. The~~
2989 ~~taxpayer making the contribution may not designate a specific~~
2990 ~~child as the beneficiary of the contribution.~~

2991 ~~(f) “Eligible nonprofit scholarship funding organization”~~
2992 ~~means a state university, or an independent college or~~
2993 ~~university that is eligible to participate in the William L.~~
2994 ~~Boyd, IV, Effective Access to Student Education Grant Program,~~
2995 ~~located and chartered in this state, is not for profit, and is~~
2996 ~~accredited by the Commission on Colleges of the Southern~~
2997 ~~Association of Colleges and Schools; or is a charitable~~
2998 ~~organization that:~~

2999 1. ~~Is exempt from federal income tax pursuant to s.~~
3000 ~~501(c)(3) of the Internal Revenue Code;~~

3001 2. ~~Is a Florida entity formed under chapter 605, chapter~~
3002 ~~607, or chapter 617 and whose principal office is located in the~~
3003 ~~state; and~~

3004 3. ~~Complies with subsections (6) and (15).~~

3005 (g) “Eligible private school” means a private school, as
3006 defined in s. 1002.01(2), located in Florida which offers an
3007 education to students in any grades K-12 and that meets the
3008 requirements in subsection (8).

3009 (h) ~~“Household income” has the same meaning as the term~~
3010 ~~“income” as defined in the Income Eligibility Guidelines for~~
3011 ~~free and reduced price meals under the National School Lunch~~
3012 ~~Program in 7 C.F.R. part 210 as published in the Federal~~
3013 ~~Register by the United States Department of Agriculture.~~

3014 (i) “Owner or operator” includes:

3015 1. An owner, president, officer, or director of an eligible
3016 nonprofit scholarship funding organization or a person with

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3017 equivalent decisionmaking authority over an eligible nonprofit
 3018 scholarship funding organization.

3019 2. An owner, operator, superintendent, or principal of an
 3020 eligible private school or a person with equivalent
 3021 decisionmaking authority over an eligible private school.

3022 (j) "Tax credit cap amount" means the maximum annual tax
 3023 credit amount that the department may approve for a state fiscal
 3024 year.

3025 (k) "Unweighted FTE funding amount" means the statewide
 3026 average total funds per unweighted full-time equivalent funding
 3027 amount that is incorporated by reference in the General
 3028 Appropriations Act, or any subsequent special appropriations
 3029 act, for the applicable state fiscal year.

3030 (3) PROGRAM; INITIAL SCHOLARSHIP ELIGIBILITY.—

3031 (a) The Florida Tax Credit Scholarship Program is
 3032 established.

3033 (b) A student is eligible for a Florida tax credit
 3034 scholarship under this section if the student meets one or more
 3035 of the following criteria:

3036 1. The student is on the direct certification list or the
 3037 student's household income level does not exceed 260 percent of
 3038 the federal poverty level; or

3039 2. The student is currently placed, or during the previous
 3040 state fiscal year was placed, in foster care or in out-of-home
 3041 care as defined in s. 39.01.

3042

3043 Priority must be given to a student whose household income level
 3044 does not exceed 185 percent of the federal poverty level or who
 3045 is in foster care or out-of-home care. A student who initially

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3046 receives a scholarship based on eligibility under this paragraph
 3047 remains eligible to participate until he or she graduates from
 3048 high school or attains the age of 21 years, whichever occurs
 3049 first, regardless of the student's household income level. A
 3050 sibling of a student who is participating in the scholarship
 3051 program under this subsection is eligible for a scholarship if
 3052 the student resides in the same household as the sibling.

3053 (4) SCHOLARSHIP PROHIBITIONS.—A student is not eligible for
 3054 a scholarship while he or she is:

3055 (a) Enrolled in a school operating for the purpose of
 3056 providing educational services to youth in Department of
 3057 Juvenile Justice commitment programs;

3058 (b) Receiving a scholarship from another eligible nonprofit
 3059 scholarship funding organization under this section;

3060 (c) Receiving an educational scholarship pursuant to
 3061 chapter 1002;

3062 (d) Participating in a home education program as defined in
 3063 s. 1002.01(1);

3064 (e) Participating in a private tutoring program pursuant to
 3065 s. 1002.43;

3066 (f) Participating in a virtual school, correspondence
 3067 school, or distance learning program that receives state funding
 3068 pursuant to the student's participation unless the participation
 3069 is limited to no more than two courses per school year; or

3070 (g) Enrolled in the Florida School for the Deaf and the
 3071 Blind.

3072 (5) K-12 EDUCATION SCHOLARSHIP FUNDING TAX CREDITS;
 3073 LIMITATIONS.—

3074 (a)1. The tax credit cap amount is \$229 million in the

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3075 ~~2012-2013 state fiscal year.~~

3076 2. In the 2013-2014 state fiscal year and each state fiscal
 3077 year thereafter, the tax credit cap amount is the tax credit cap
 3078 amount in the prior state fiscal year. However, in any state
 3079 fiscal year when the annual tax credit amount for the prior
 3080 state fiscal year is equal to or greater than 90 percent of the
 3081 tax credit cap amount applicable to that state fiscal year, the
 3082 tax credit cap amount shall increase by 25 percent. The
 3083 Department of Education and Department of Revenue shall publish
 3084 on their websites information identifying the tax credit cap
 3085 amount when it is increased pursuant to this subparagraph.

3086 (a) (b) A taxpayer may elect to make eligible contributions
 3087 submit an application to the department or the division for a
 3088 tax credit or credits under one or more of s. 211.0251, s.
 3089 212.1831, s. 220.1875, s. 561.1211, or s. 624.51055. For
 3090 elections related to taxes imposed under chapter 211, chapter
 3091 212, or chapter 561, the taxpayer shall make the election on a
 3092 return filed with the department or the division. For elections
 3093 related to taxes imposed under chapter 200 or chapter 624, the
 3094 taxpayer shall make the election when making the estimated
 3095 payment.

3096 (b) The taxpayer shall specify the amount of the eligible
 3097 contribution, which amount may not exceed:

3098 1. For elections under s. 211.0251, 50 percent of the tax
 3099 due on the return on which the election is made.

3100 2. For elections under s. 212.1831, 100 percent of the tax
 3101 due on the return on which the election is made.

3102 3. For elections under s. 220.1875, 25 percent of the final
 3103 tax liability shown on the taxpayer's Florida Corporate Income

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3104 Tax Return for the prior taxable year.

3105 4. For elections under s. 561.1211, 90 percent of the tax
 3106 due on the return on which the election is made.

3107 5. For elections under s. 624.51055, 33 percent of the tax
 3108 due for the prior taxable year under s. 624.509(1) after
 3109 deducting from such tax the prior year's deductions for
 3110 assessments made pursuant to s. 440.51; credits for taxes paid
 3111 under ss. 175.101 and 185.08; credits for income taxes paid
 3112 under chapter 220; and the credit allowed under s. 624.509(5),
 3113 as such credit is limited by s. 624.509(6).

3114 1. The taxpayer shall specify in the application each tax
 3115 for which the taxpayer requests a credit and the applicable
 3116 taxable year for a credit under s. 220.1875 or s. 624.51055 or
 3117 the applicable state fiscal year for a credit under s. 211.0251,
 3118 s. 212.1831, or s. 561.1211. For purposes of s. 220.1875, a
 3119 taxpayer may apply for a credit to be used for a prior taxable
 3120 year before the date the taxpayer is required to file a return
 3121 for that year pursuant to s. 220.222. For purposes of s.
 3122 624.51055, a taxpayer may apply for a credit to be used for a
 3123 prior taxable year before the date the taxpayer is required to
 3124 file a return for that prior taxable year pursuant to ss.
 3125 624.509 and 624.5092. The department shall approve tax credits
 3126 on a first-come, first-served basis and must obtain the
 3127 division's approval before approving a tax credit under s.
 3128 561.1211.

3129 2. Within 10 days after approving or denying an
 3130 application, the department shall provide a copy of its approval
 3131 or denial letter to the eligible nonprofit scholarship funding
 3132 organization specified by the taxpayer in the application.

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3133 ~~(c) If a tax credit approved under paragraph (b) is not~~
 3134 ~~fully used within the specified state fiscal year for credits~~
 3135 ~~under s. 211.0251, s. 212.1831, or s. 561.1211 or against taxes~~
 3136 ~~due for the specified taxable year for credits under s. 220.1875~~
 3137 ~~or s. 624.51055 because of insufficient tax liability on the~~
 3138 ~~part of the taxpayer, the unused amount shall be carried forward~~
 3139 ~~for a period not to exceed 10 years. For purposes of s.~~
 3140 ~~220.1875, a credit carried forward may be used in a subsequent~~
 3141 ~~year after applying the other credits and unused carryovers in~~
 3142 ~~the order provided in s. 220.02(8).~~

3143 ~~(d) A taxpayer may not convey, assign, or transfer an~~
 3144 ~~approved tax credit or a carryforward tax credit to another~~
 3145 ~~entity unless all of the assets of the taxpayer are conveyed,~~
 3146 ~~assigned, or transferred in the same transaction. However, a tax~~
 3147 ~~credit under s. 211.0251, s. 212.1831, s. 220.1875, s. 561.1211,~~
 3148 ~~or s. 624.51055 may be conveyed, transferred, or assigned~~
 3149 ~~between members of an affiliated group of corporations if the~~
 3150 ~~type of tax credit under s. 211.0251, s. 212.1831, s. 220.1875,~~
 3151 ~~s. 561.1211, or s. 624.51055 remains the same. A taxpayer shall~~
 3152 ~~notify the department of its intent to convey, transfer, or~~
 3153 ~~assign a tax credit to another member within an affiliated group~~
 3154 ~~of corporations. The amount conveyed, transferred, or assigned~~
 3155 ~~is available to another member of the affiliated group of~~
 3156 ~~corporations upon approval by the department. The department~~
 3157 ~~shall obtain the division's approval before approving a~~
 3158 ~~conveyance, transfer, or assignment of a tax credit under s.~~
 3159 ~~561.1211.~~

3160 ~~(e) Within any state fiscal year, a taxpayer may rescind~~
 3161 ~~all or part of a tax credit approved under paragraph (b). The~~

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3162 ~~amount rescinded shall become available for that state fiscal~~
 3163 ~~year to another eligible taxpayer as approved by the department~~
 3164 ~~if the taxpayer receives notice from the department that the~~
 3165 ~~rescindment has been accepted by the department. The department~~
 3166 ~~must obtain the division's approval prior to accepting the~~
 3167 ~~rescindment of a tax credit under s. 561.1211. Any amount~~
 3168 ~~rescinded under this paragraph shall become available to an~~
 3169 ~~eligible taxpayer on a first-come, first-served basis based on~~
 3170 ~~tax credit applications received after the date the rescindment~~
 3171 ~~is accepted by the department.~~

3172 ~~(f) Within 10 days after approving or denying the~~
 3173 ~~conveyance, transfer, or assignment of a tax credit under~~
 3174 ~~paragraph (d), or the rescindment of a tax credit under~~
 3175 ~~paragraph (e), the department shall provide a copy of its~~
 3176 ~~approval or denial letter to the eligible nonprofit scholarship-~~
 3177 ~~funding organization specified by the taxpayer. The department~~
 3178 ~~shall also include the eligible nonprofit scholarship-funding~~
 3179 ~~organization specified by the taxpayer on all letters or~~
 3180 ~~correspondence of acknowledgment for tax credits under s.~~
 3181 ~~212.1831.~~

3182 ~~(g) For purposes of calculating the underpayment of~~
 3183 ~~estimated corporate income taxes pursuant to s. 220.34 and tax~~
 3184 ~~installment payments for taxes on insurance premiums or~~
 3185 ~~assessments under s. 624.5092, the final amount due is the~~
 3186 ~~amount after credits earned under s. 220.1875 or s. 624.51055~~
 3187 ~~for contributions to eligible nonprofit scholarship-funding~~
 3188 ~~organizations are deducted.~~

3189 ~~1. For purposes of determining if a penalty or interest~~
 3190 ~~shall be imposed for underpayment of estimated corporate income~~

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3191 tax pursuant to s. 220.34(2)(d)1., a taxpayer may, after earning
 3192 a credit under s. 220.1875, reduce any estimated payment in that
 3193 taxable year by the amount of the credit. This subparagraph
 3194 applies to contributions made on or after July 1, 2014.

3195 ~~2. For purposes of determining if a penalty under s.~~
 3196 ~~624.5092 shall be imposed, an insurer, after earning a credit~~
 3197 ~~under s. 624.51055 for a taxable year, may reduce any~~
 3198 ~~installment payment for such taxable year of 27 percent of the~~
 3199 ~~amount of the net tax due as reported on the return for the~~
 3200 ~~preceding year under s. 624.5092(2)(b) by the amount of the~~
 3201 ~~credit. This subparagraph applies to contributions made on or~~
 3202 ~~after July 1, 2014.~~

3203 ~~(6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP FUNDING~~
 3204 ~~ORGANIZATIONS. An eligible nonprofit scholarship-funding~~
 3205 ~~organization:~~

3206 ~~(a) Must comply with the antidiscrimination provisions of~~
 3207 ~~42 U.S.C. s. 2000d.~~

3208 ~~(b) Must comply with the following background check~~
 3209 ~~requirements:~~

3210 ~~1. All owners and operators as defined in subparagraph~~
 3211 ~~(2)(i)1. are, before employment or engagement to provide~~
 3212 ~~services, subject to level 2 background screening as provided~~
 3213 ~~under chapter 435. The fingerprints for the background screening~~
 3214 ~~must be electronically submitted to the Department of Law~~
 3215 ~~Enforcement and can be taken by an authorized law enforcement~~
 3216 ~~agency or by an employee of the eligible nonprofit scholarship-~~
 3217 ~~funding organization or a private company who is trained to take~~
 3218 ~~fingerprints. However, the complete set of fingerprints of an~~
 3219 ~~owner or operator may not be taken by the owner or operator. The~~

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3220 ~~results of the state and national criminal history check shall~~
 3221 ~~be provided to the Department of Education for screening under~~
 3222 ~~chapter 435. The cost of the background screening may be borne~~
 3223 ~~by the eligible nonprofit scholarship-funding organization or~~
 3224 ~~the owner or operator.~~

3225 ~~2. Every 5 years following employment or engagement to~~
 3226 ~~provide services or association with an eligible nonprofit~~
 3227 ~~scholarship-funding organization, each owner or operator must~~
 3228 ~~meet level 2 screening standards as described in s. 435.04, at~~
 3229 ~~which time the nonprofit scholarship-funding organization shall~~
 3230 ~~request the Department of Law Enforcement to forward the~~
 3231 ~~fingerprints to the Federal Bureau of Investigation for level 2~~
 3232 ~~screening. If the fingerprints of an owner or operator are not~~
 3233 ~~retained by the Department of Law Enforcement under subparagraph~~
 3234 ~~3., the owner or operator must electronically file a complete~~
 3235 ~~set of fingerprints with the Department of Law Enforcement. Upon~~
 3236 ~~submission of fingerprints for this purpose, the eligible~~
 3237 ~~nonprofit scholarship-funding organization shall request that~~
 3238 ~~the Department of Law Enforcement forward the fingerprints to~~
 3239 ~~the Federal Bureau of Investigation for level 2 screening, and~~
 3240 ~~the fingerprints shall be retained by the Department of Law~~
 3241 ~~Enforcement under subparagraph 3.~~

3242 ~~3. Fingerprints submitted to the Department of Law~~
 3243 ~~Enforcement as required by this paragraph must be retained by~~
 3244 ~~the Department of Law Enforcement in a manner approved by rule~~
 3245 ~~and entered in the statewide automated biometric identification~~
 3246 ~~system authorized by s. 943.05(2)(b). The fingerprints must~~
 3247 ~~thereafter be available for all purposes and uses authorized for~~
 3248 ~~arrest fingerprints entered in the statewide automated biometric~~

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3249 identification system pursuant to s. 943.051.

3250 4. The Department of Law Enforcement shall search all

3251 arrest fingerprints received under s. 943.051 against the

3252 fingerprints retained in the statewide automated biometric

3253 identification system under subparagraph 3. Any arrest record

3254 that is identified with an owner's or operator's fingerprints

3255 must be reported to the Department of Education. The Department

3256 of Education shall participate in this search process by paying

3257 an annual fee to the Department of Law Enforcement and by

3258 informing the Department of Law Enforcement of any change in the

3259 employment, engagement, or association status of the owners or

3260 operators whose fingerprints are retained under subparagraph 3.

3261 The Department of Law Enforcement shall adopt a rule setting the

3262 amount of the annual fee to be imposed upon the Department of

3263 Education for performing these services and establishing the

3264 procedures for the retention of owner and operator fingerprints

3265 and the dissemination of search results. The fee may be borne by

3266 the owner or operator of the nonprofit scholarship-funding

3267 organization.

3268 5. A nonprofit scholarship-funding organization whose owner

3269 or operator fails the level 2 background screening is not

3270 eligible to provide scholarships under this section.

3271 6. A nonprofit scholarship-funding organization whose owner

3272 or operator in the last 7 years has filed for personal

3273 bankruptcy or corporate bankruptcy in a corporation of which he

3274 or she owned more than 20 percent shall not be eligible to

3275 provide scholarships under this section.

3276 7. In addition to the offenses listed in s. 435.04, a

3277 person required to undergo background screening pursuant to this

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3278 part or authorizing statutes must not have an arrest awaiting

3279 final disposition for, must not have been found guilty of, or

3280 entered a plea of nolo contendere to, regardless of

3281 adjudication, and must not have been adjudicated delinquent, and

3282 the record must not have been sealed or expunged for, any of the

3283 following offenses or any similar offense of another

3284 jurisdiction:

3285 a. Any authorizing statutes, if the offense was a felony.

3286 b. This chapter, if the offense was a felony.

3287 c. Section 409.920, relating to Medicaid provider fraud.

3288 d. Section 409.9201, relating to Medicaid fraud.

3289 e. Section 741.28, relating to domestic violence.

3290 f. Section 817.034, relating to fraudulent acts through

3291 mail, wire, radio, electromagnetic, photoelectronic, or

3292 photooptical systems.

3293 g. Section 817.234, relating to false and fraudulent

3294 insurance claims.

3295 h. Section 817.505, relating to patient brokering.

3296 i. Section 817.568, relating to criminal use of personal

3297 identification information.

3298 j. Section 817.60, relating to obtaining a credit card

3299 through fraudulent means.

3300 k. Section 817.61, relating to fraudulent use of credit

3301 cards, if the offense was a felony.

3302 l. Section 831.01, relating to forgery.

3303 m. Section 831.02, relating to uttering forged instruments.

3304 n. Section 831.07, relating to forging bank bills, checks,

3305 drafts, or promissory notes.

3306 o. Section 831.09, relating to uttering forged bank bills,

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3307 ~~cheeks, drafts, or promissory notes.~~

3308 ~~p. Section 831.30, relating to fraud in obtaining medicinal~~

3309 ~~drugs.~~

3310 ~~q. Section 831.31, relating to the sale, manufacture,~~

3311 ~~delivery, or possession with the intent to sell, manufacture, or~~

3312 ~~deliver any counterfeit controlled substance, if the offense was~~

3313 ~~a felony.~~

3314 ~~(c) Must not have an owner or operator who owns or operates~~

3315 ~~an eligible private school that is participating in the~~

3316 ~~scholarship program.~~

3317 ~~(d) Must provide scholarships, from eligible contributions,~~

3318 ~~to eligible students for the cost of:~~

3319 ~~1. Tuition and fees for an eligible private school; or~~

3320 ~~2. Transportation to a Florida public school in which a~~

3321 ~~student is enrolled and that is different from the school to~~

3322 ~~which the student was assigned or to a lab school as defined in~~

3323 ~~s. 1002.32.~~

3324 ~~(e) Must give first priority to eligible renewal students~~

3325 ~~who received a scholarship from an eligible nonprofit~~

3326 ~~scholarship funding organization or from the State of Florida~~

3327 ~~during the previous school year. The eligible nonprofit~~

3328 ~~scholarship funding organization must fully apply and exhaust~~

3329 ~~all funds available under this section and s. 1002.40(11)(i) for~~

3330 ~~renewal scholarship awards before awarding any initial~~

3331 ~~scholarships.~~

3332 ~~(f) Must provide a renewal or initial scholarship to an~~

3333 ~~eligible student on a first come, first served basis unless the~~

3334 ~~student qualifies for priority pursuant to paragraph (e). Each~~

3335 ~~eligible nonprofit scholarship funding organization must refer~~

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3336 ~~any student eligible for a scholarship pursuant to this section~~

3337 ~~who did not receive a renewal or initial scholarship based~~

3338 ~~solely on the lack of available funds under this section and s.~~

3339 ~~1002.40(11)(i) to another eligible nonprofit scholarship funding~~

3340 ~~organization that may have funds available.~~

3341 ~~(g) May not restrict or reserve scholarships for use at a~~

3342 ~~particular private school or provide scholarships to a child of~~

3343 ~~an owner or operator.~~

3344 ~~(h) Must allow a student in foster care or out-of-home care~~

3345 ~~or a dependent child of a parent who is a member of the United~~

3346 ~~States Armed Forces to apply for a scholarship at any time.~~

3347 ~~(i) Must allow an eligible student to attend any eligible~~

3348 ~~private school and must allow a parent to transfer a scholarship~~

3349 ~~during a school year to any other eligible private school of the~~

3350 ~~parent's choice.~~

3351 ~~(j)1. May use eligible contributions received pursuant to~~

3352 ~~this section and ss. 212.099, 212.1832, and 1002.40 during the~~

3353 ~~state fiscal year in which such contributions are collected for~~

3354 ~~administrative expenses if the organization has operated as an~~

3355 ~~eligible nonprofit scholarship funding organization for at least~~

3356 ~~the preceding 3 fiscal years and did not have any findings of~~

3357 ~~material weakness or material noncompliance in its most recent~~

3358 ~~audit under paragraph (m). Administrative expenses from eligible~~

3359 ~~contributions may not exceed 3 percent of the total amount of~~

3360 ~~all scholarships awarded by an eligible scholarship funding~~

3361 ~~organization under this chapter. Such administrative expenses~~

3362 ~~must be reasonable and necessary for the organization's~~

3363 ~~management and distribution of scholarships awarded under this~~

3364 ~~chapter. No funds authorized under this subparagraph shall be~~

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3365 ~~used for lobbying or political activity or expenses related to~~
 3366 ~~lobbying or political activity. Up to one-third of the funds~~
 3367 ~~authorized for administrative expenses under this subparagraph~~
 3368 ~~may be used for expenses related to the recruitment of~~
 3369 ~~contributions from taxpayers. An eligible nonprofit scholarship~~
 3370 ~~funding organization may not charge an application fee.~~

3371 ~~2. Must expend for annual or partial-year scholarships an~~
 3372 ~~amount equal to or greater than 75 percent of the net eligible~~
 3373 ~~contributions remaining after administrative expenses during the~~
 3374 ~~state fiscal year in which such contributions are collected. No~~
 3375 ~~more than 25 percent of such net eligible contributions may be~~
 3376 ~~carried forward to the following state fiscal year. All amounts~~
 3377 ~~carried forward, for audit purposes, must be specifically~~
 3378 ~~identified for particular students, by student name and the name~~
 3379 ~~of the school to which the student is admitted, subject to the~~
 3380 ~~requirements of ss. 1002.22 and 1002.221 and 20 U.S.C. s. 1232g,~~
 3381 ~~and the applicable rules and regulations issued pursuant~~
 3382 ~~thereto. Any amounts carried forward shall be expended for~~
 3383 ~~annual or partial-year scholarships in the following state~~
 3384 ~~fiscal year. No later than September 30 of each year, net~~
 3385 ~~eligible contributions remaining on June 30 of each year that~~
 3386 ~~are in excess of the 25 percent that may be carried forward~~
 3387 ~~shall be used to provide scholarships to eligible students or~~
 3388 ~~transferred to other eligible nonprofit scholarship-funding~~
 3389 ~~organizations to provide scholarships for eligible students. All~~
 3390 ~~transferred funds must be deposited by each eligible nonprofit~~
 3391 ~~scholarship funding organization receiving such funds into its~~
 3392 ~~scholarship account. All transferred amounts received by any~~
 3393 ~~eligible nonprofit scholarship-funding organization must be~~

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3394 ~~separately disclosed in the annual financial audit required~~
 3395 ~~under paragraph (m).~~

3396 ~~3. Must, before granting a scholarship for an academic~~
 3397 ~~year, document each scholarship student's eligibility for that~~
 3398 ~~academic year. A scholarship funding organization may not grant~~
 3399 ~~multiyear scholarships in one approval process.~~

3400 ~~(k) Must maintain separate accounts for scholarship funds~~
 3401 ~~and operating funds.~~

3402 ~~(l) With the prior approval of the Department of Education,~~
 3403 ~~may transfer funds to another eligible nonprofit scholarship-~~
 3404 ~~funding organization if additional funds are required to meet~~
 3405 ~~scholarship demand at the receiving nonprofit scholarship-~~
 3406 ~~funding organization. A transfer is limited to the greater of~~
 3407 ~~\$500,000 or 20 percent of the total contributions received by~~
 3408 ~~the nonprofit scholarship-funding organization making the~~
 3409 ~~transfer. All transferred funds must be deposited by the~~
 3410 ~~receiving nonprofit scholarship-funding organization into its~~
 3411 ~~scholarship accounts. All transferred amounts received by any~~
 3412 ~~nonprofit scholarship-funding organization must be separately~~
 3413 ~~disclosed in the annual financial and compliance audit required~~
 3414 ~~in this section.~~

3415 ~~(m) Must provide to the Auditor General and the Department~~
 3416 ~~of Education a report on the results of an annual financial~~
 3417 ~~audit of its accounts and records conducted by an independent~~
 3418 ~~certified public accountant in accordance with auditing~~
 3419 ~~standards generally accepted in the United States, government~~
 3420 ~~auditing standards, and rules promulgated by the Auditor~~
 3421 ~~General. The audit report must include a report on financial~~
 3422 ~~statements presented in accordance with generally accepted~~

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3423 ~~accounting principles. Audit reports must be provided to the~~
 3424 ~~Auditor General and the Department of Education within 180 days~~
 3425 ~~after completion of the eligible nonprofit scholarship funding~~
 3426 ~~organization's fiscal year. The Auditor General shall review all~~
 3427 ~~audit reports submitted pursuant to this paragraph. The Auditor~~
 3428 ~~General shall request any significant items that were omitted in~~
 3429 ~~violation of a rule adopted by the Auditor General. The items~~
 3430 ~~must be provided within 45 days after the date of the request.~~
 3431 ~~If the scholarship funding organization does not comply with the~~
 3432 ~~Auditor General's request, the Auditor General shall notify the~~
 3433 ~~Legislative Auditing Committee.~~

3434 ~~(n) Must prepare and submit quarterly reports to the~~
 3435 ~~Department of Education pursuant to paragraph (9) (i). In~~
 3436 ~~addition, an eligible nonprofit scholarship funding organization~~
 3437 ~~must submit in a timely manner any information requested by the~~
 3438 ~~Department of Education relating to the scholarship program.~~

3439 ~~(e)1.a. Must participate in the joint development of~~
 3440 ~~agreed-upon procedures during the 2009-2010 state fiscal year.~~
 3441 ~~The agreed-upon procedures must uniformly apply to all private~~
 3442 ~~schools and must determine, at a minimum, whether the private~~
 3443 ~~school has been verified as eligible by the Department of~~
 3444 ~~Education under s. 1002.421; has an adequate accounting system,~~
 3445 ~~system of financial controls, and process for deposit and~~
 3446 ~~classification of scholarship funds; and has properly expended~~
 3447 ~~scholarship funds for education-related expenses. During the~~
 3448 ~~development of the procedures, the participating scholarship~~
 3449 ~~funding organizations shall specify guidelines governing the~~
 3450 ~~materiality of exceptions that may be found during the~~
 3451 ~~accountant's performance of the procedures. The procedures and~~

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3452 ~~guidelines shall be provided to private schools and the~~
 3453 ~~Commissioner of Education by March 15, 2011.~~

3454 ~~b. Must participate in a joint review of the agreed-upon~~
 3455 ~~procedures and guidelines developed under sub-subparagraph a.,~~
 3456 ~~by February of each biennium, if the scholarship funding~~
 3457 ~~organization provided more than \$250,000 in scholarship funds to~~
 3458 ~~an eligible private school under this chapter during the state~~
 3459 ~~fiscal year preceding the biennial review. If the procedures and~~
 3460 ~~guidelines are revised, the revisions must be provided to~~
 3461 ~~private schools and the Commissioner of Education by March 15 of~~
 3462 ~~the year in which the revisions were completed. The revised~~
 3463 ~~agreed-upon procedures shall take effect the subsequent school~~
 3464 ~~year. For the 2018-2019 school year only, the joint review of~~
 3465 ~~the agreed-upon procedures must be completed and the revisions~~
 3466 ~~submitted to the commissioner no later than September 15, 2018.~~
 3467 ~~The revised procedures are applicable to the 2018-2019 school~~
 3468 ~~year.~~

3469 ~~e. Must monitor the compliance of a private school with s.~~
 3470 ~~1002.421(1)(q) if the scholarship funding organization provided~~
 3471 ~~the majority of the scholarship funding to the school. For each~~
 3472 ~~private school subject to s. 1002.421(1)(q), the appropriate~~
 3473 ~~scholarship funding organization shall annually notify the~~
 3474 ~~Commissioner of Education by October 30 of:~~

3475 ~~(I) A private school's failure to submit a report required~~
 3476 ~~under s. 1002.421(1)(q); or~~

3477 ~~(II) Any material exceptions set forth in the report~~
 3478 ~~required under s. 1002.421(1)(q).~~

3479 ~~2. Must seek input from the accrediting associations that~~
 3480 ~~are members of the Florida Association of Academic Nonpublic~~

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3481 Schools and the Department of Education when jointly developing
 3482 the agreed-upon procedures and guidelines under sub-subparagraph
 3483 1.a. and conducting a review of those procedures and guidelines
 3484 under sub-subparagraph 1.b.

3485 ~~(p) Must maintain the surety bond or letter of credit~~
 3486 ~~required by subsection (15). The amount of the surety bond or~~
 3487 ~~letter of credit may be adjusted quarterly to equal the actual~~
 3488 ~~amount of undisbursed funds based upon submission by the~~
 3489 ~~organization of a statement from a certified public accountant~~
 3490 ~~verifying the amount of undisbursed funds. The requirements of~~
 3491 ~~this paragraph are waived if the cost of acquiring a surety bond~~
 3492 ~~or letter of credit exceeds the average 10 year cost of~~
 3493 ~~acquiring a surety bond or letter of credit by 200 percent. The~~
 3494 ~~requirements of this paragraph are waived for a state~~
 3495 ~~university; or an independent college or university which is~~
 3496 ~~eligible to participate in the William L. Boyd, IV, Effective~~
 3497 ~~Access to Student Education Grant Program, located and chartered~~
 3498 ~~in this state, is not for profit, and is accredited by the~~
 3499 ~~Commission on Colleges of the Southern Association of Colleges~~
 3500 ~~and Schools.~~

3501 ~~(q) Must provide to the Auditor General any information or~~
 3502 ~~documentation requested in connection with an operational audit~~
 3503 ~~of a scholarship funding organization conducted pursuant to s.~~
 3504 ~~11.45.~~

3505 ~~Information and documentation provided to the Department of~~
 3506 ~~Education and the Auditor General relating to the identity of a~~
 3507 ~~taxpayer that provides an eligible contribution under this~~
 3508 ~~section shall remain confidential at all times in accordance~~
 3509

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3510 with s. 213.053.

3511 ~~(7) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM~~
 3512 ~~PARTICIPATION.~~

3513 ~~(a) The parent must select an eligible private school and~~
 3514 ~~apply for the admission of his or her child.~~

3515 ~~(b) The parent must inform the child's school district when~~
 3516 ~~the parent withdraws his or her child to attend an eligible~~
 3517 ~~private school.~~

3518 ~~(c) Any student participating in the scholarship program~~
 3519 ~~must remain in attendance throughout the school year unless~~
 3520 ~~excused by the school for illness or other good cause.~~

3521 ~~(d) Each parent and each student has an obligation to the~~
 3522 ~~private school to comply with the private school's published~~
 3523 ~~policies.~~

3524 ~~(e) The parent shall ensure that the student participating~~
 3525 ~~in the scholarship program takes the norm-referenced assessment~~
 3526 ~~offered by the private school. The parent may also choose to~~
 3527 ~~have the student participate in the statewide assessments~~
 3528 ~~pursuant to s. 1008.22. If the parent requests that the student~~
 3529 ~~participating in the scholarship program take statewide~~
 3530 ~~assessments pursuant to s. 1008.22 and the private school has~~
 3531 ~~not chosen to offer and administer the statewide assessments,~~
 3532 ~~the parent is responsible for transporting the student to the~~
 3533 ~~assessment site designated by the school district.~~

3534 ~~(f) Upon receipt of a scholarship warrant from the eligible~~
 3535 ~~nonprofit scholarship funding organization, the parent to whom~~
 3536 ~~the warrant is made must restrictively endorse the warrant to~~
 3537 ~~the private school for deposit into the account of the private~~
 3538 ~~school. If payments are made by funds transfer, the parent must~~

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3539 ~~approve each payment before the scholarship funds may be~~
 3540 ~~deposited. The parent may not designate any entity or individual~~
 3541 ~~associated with the participating private school as the parent's~~
 3542 ~~attorney in fact to endorse a scholarship warrant or approve a~~
 3543 ~~funds transfer. A participant who fails to comply with this~~
 3544 ~~paragraph forfeits the scholarship.~~

3545 ~~(g) The parent shall authorize the nonprofit scholarship-~~
 3546 ~~funding organization to access information needed for income~~
 3547 ~~eligibility determination and verification held by other state~~
 3548 ~~or federal agencies, including the Department of Revenue, the~~
 3549 ~~Department of Children and Families, the Department of~~
 3550 ~~Education, the Department of Economic Opportunity, and the~~
 3551 ~~Agency for Health Care Administration.~~

3552 ~~(8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS. An eligible~~
 3553 ~~private school may be sectarian or nonsectarian and must:~~

3554 ~~(a) Comply with all requirements for private schools~~
 3555 ~~participating in state school choice scholarship programs~~
 3556 ~~pursuant to s. 1002.421.~~

3557 ~~(b)1. Annually administer or make provision for students~~
 3558 ~~participating in the scholarship program in grades 3 through 10~~
 3559 ~~to take one of the nationally norm-referenced tests identified~~
 3560 ~~by the Department of Education or the statewide assessments~~
 3561 ~~pursuant to s. 1008.22. Students with disabilities for whom~~
 3562 ~~standardized testing is not appropriate are exempt from this~~
 3563 ~~requirement. A participating private school must report a~~
 3564 ~~student's scores to the parent. A participating private school~~
 3565 ~~must annually report by August 15 the scores of all~~
 3566 ~~participating students to a state university described in~~
 3567 ~~paragraph (9)(f).~~

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3568 ~~2. Administer the statewide assessments pursuant to s.~~
 3569 ~~1008.22 if a private school chooses to offer the statewide~~
 3570 ~~assessments. A participating private school may choose to offer~~
 3571 ~~and administer the statewide assessments to all students who~~
 3572 ~~attend the private school in grades 3 through 10 and must submit~~
 3573 ~~a request in writing to the Department of Education by March 1~~
 3574 ~~of each year in order to administer the statewide assessments in~~
 3575 ~~the subsequent school year.~~

3576
 3577 ~~If a private school fails to meet the requirements of this~~
 3578 ~~subsection or s. 1002.421, the commissioner may determine that~~
 3579 ~~the private school is ineligible to participate in the~~
 3580 ~~scholarship program.~~

3581 ~~(9) DEPARTMENT OF EDUCATION OBLIGATIONS. The Department of~~
 3582 ~~Education shall:~~

3583 ~~(a) Annually submit to the department and division, by~~
 3584 ~~March 15, a list of eligible nonprofit scholarship-funding~~
 3585 ~~organizations that meet the requirements of paragraph (2)(f).~~

3586 ~~(b) Annually verify the eligibility of nonprofit~~
 3587 ~~scholarship-funding organizations that meet the requirements of~~
 3588 ~~paragraph (2)(f).~~

3589 ~~(c) Annually verify the eligibility of expenditures as~~
 3590 ~~provided in paragraph (6)(d) using the audit required by~~
 3591 ~~paragraph (6)(m) and s. 11.45(2)(l).~~

3592 ~~(d) Cross-check the list of participating scholarship~~
 3593 ~~students with the public school enrollment lists to avoid~~
 3594 ~~duplication.~~

3595 ~~(e) Maintain a list of nationally norm-referenced tests~~
 3596 ~~identified for purposes of satisfying the testing requirement in~~

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3597 subparagraph (8) (b)1. The tests must meet industry standards of
3598 quality in accordance with State Board of Education rule.

3599 ~~(f) Issue a project grant award to a state university, to~~
3600 ~~which participating private schools must report the scores of~~
3601 ~~participating students on the nationally norm referenced tests~~
3602 ~~or the statewide assessments administered by the private school~~
3603 ~~in grades 3 through 10. The project term is 2 years, and the~~
3604 ~~amount of the project is up to \$250,000 per year. The project~~
3605 ~~grant award must be reissued in 2-year intervals in accordance~~
3606 ~~with this paragraph.~~

3607 1. The state university must annually report to the
3608 Department of Education on the student performance of
3609 participating students:

3610 a. On a statewide basis. The report shall also include, to
3611 the extent possible, a comparison of scholarship students'
3612 performance to the statewide student performance of public
3613 school students with socioeconomic backgrounds similar to those
3614 of students participating in the scholarship program. To
3615 minimize costs and reduce time required for the state
3616 university's analysis and evaluation, the Department of
3617 Education shall coordinate with the state university to provide
3618 data to the state university in order to conduct analyses of
3619 matched students from public school assessment data and
3620 calculate control group student performance using an agreed-upon
3621 methodology with the state university; and

3622 b. On an individual school basis. The annual report must
3623 include student performance for each participating private
3624 school in which at least 51 percent of the total enrolled
3625 students in the private school participated in the Florida Tax

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3626 ~~Credit Scholarship Program in the prior school year. The report~~
3627 ~~shall be according to each participating private school, and for~~
3628 ~~participating students, in which there are at least 30~~
3629 ~~participating students who have scores for tests administered.~~
3630 ~~If the state university determines that the 30 participating~~
3631 ~~student cell size may be reduced without disclosing personally~~
3632 ~~identifiable information, as described in 34 C.F.R. s. 99.12, of~~
3633 ~~a participating student, the state university may reduce the~~
3634 ~~participating student cell size, but the cell size must not be~~
3635 ~~reduced to less than 10 participating students. The department~~
3636 ~~shall provide each private school's prior school year's student~~
3637 ~~enrollment information to the state university no later than~~
3638 ~~June 15 of each year, or as requested by the state university.~~

3639 2. The sharing and reporting of student performance data
3640 under this paragraph must be in accordance with requirements of
3641 ss. 1002.22 and 1002.221 and 20 U.S.C. s. 1232g, the Family
3642 Educational Rights and Privacy Act, and the applicable rules and
3643 regulations issued pursuant thereto, and shall be for the sole
3644 purpose of creating the annual report required by subparagraph
3645 1. All parties must preserve the confidentiality of such
3646 information as required by law. The annual report must not
3647 disaggregate data to a level that will identify individual
3648 participating schools, except as required under sub-subparagraph
3649 1.b., or disclose the academic level of individual students.

3650 3. The annual report required by subparagraph 1. shall be
3651 published by the Department of Education on its website.

3652 ~~(g) Notify an eligible nonprofit scholarship funding~~
3653 ~~organization of any of the organization's identified students~~
3654 ~~who are receiving educational scholarships pursuant to chapter~~

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3655 ~~1002.~~

3656 ~~(h) Notify an eligible nonprofit scholarship funding~~

3657 ~~organization of any of the organization's identified students~~

3658 ~~who are receiving tax credit scholarships from other eligible~~

3659 ~~nonprofit scholarship funding organizations.~~

3660 ~~(i) Require quarterly reports by an eligible nonprofit~~

3661 ~~scholarship funding organization regarding the number of~~

3662 ~~students participating in the scholarship program, the private~~

3663 ~~schools at which the students are enrolled, and other~~

3664 ~~information deemed necessary by the Department of Education.~~

3665 ~~(j) Provide a process to match the direct certification~~

3666 ~~list with the scholarship application data submitted by any~~

3667 ~~nonprofit scholarship funding organization eligible to receive~~

3668 ~~the 3-percent administrative allowance under paragraph (6) (j).~~

3669 ~~(10) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.—~~

3670 ~~(a) Upon the request of any eligible nonprofit scholarship~~

3671 ~~funding organization, a school district shall inform all~~

3672 ~~households within the district receiving free or reduced-priced~~

3673 ~~meals under the National School Lunch Act of their eligibility~~

3674 ~~to apply for a tax credit scholarship. The form of such notice~~

3675 ~~shall be provided by the eligible nonprofit scholarship funding~~

3676 ~~organization, and the district shall include the provided form,~~

3677 ~~if requested by the organization, in any normal correspondence~~

3678 ~~with eligible households. If an eligible nonprofit scholarship~~

3679 ~~funding organization requests a special communication to be~~

3680 ~~issued to households within the district receiving free or~~

3681 ~~reduced price meals under the National School Lunch Act, the~~

3682 ~~organization shall reimburse the district for the cost of~~

3683 ~~postage. Such notice is limited to once a year.~~

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3684 ~~(b) Upon the request of the Department of Education, a~~

3685 ~~school district shall coordinate with the department to provide~~

3686 ~~to a participating private school the statewide assessments~~

3687 ~~administered under s. 1008.22 and any related materials for~~

3688 ~~administering the assessments. A school district is responsible~~

3689 ~~for implementing test administrations at a participating private~~

3690 ~~school, including the:~~

3691 ~~1. Provision of training for private school staff on test~~

3692 ~~security and assessment administration procedures;~~

3693 ~~2. Distribution of testing materials to a private school;~~

3694 ~~3. Retrieval of testing materials from a private school;~~

3695 ~~4. Provision of the required format for a private school to~~

3696 ~~submit information to the district for test administration and~~

3697 ~~enrollment purposes; and~~

3698 ~~5. Provision of any required assistance, monitoring, or~~

3699 ~~investigation at a private school.~~

3700 ~~(11) SCHOLARSHIP AMOUNT AND PAYMENT.—~~

3701 ~~(a) The scholarship amount provided to any student for any~~

3702 ~~single school year by an eligible nonprofit scholarship funding~~

3703 ~~organization from eligible contributions shall be for total~~

3704 ~~costs authorized under paragraph (6) (d), not to exceed annual~~

3705 ~~limits, which shall be determined as follows:~~

3706 ~~1. For a student who received a scholarship in the 2018-~~

3707 ~~2019 school year, who remains eligible, and who is enrolled in~~

3708 ~~an eligible private school, the amount shall be the greater~~

3709 ~~amount calculated pursuant to subparagraph 2. or a percentage of~~

3710 ~~the unweighted FTE funding amount for the 2018-2019 state fiscal~~

3711 ~~year and thereafter as follows:~~

3712 ~~a. Eighty-eight percent for a student enrolled in~~

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3713 kindergarten through grade 5.

3714 ~~b. Ninety-two percent for a student enrolled in grade 6~~

3715 ~~through grade 8.~~

3716 ~~c. Ninety-six percent for a student enrolled in grade 9~~

3717 ~~through grade 12.~~

3718 ~~2. For students initially eligible in the 2019-2020 school~~

3719 ~~year or thereafter, the calculated amount for a student to~~

3720 ~~attend an eligible private school shall be based upon the grade~~

3721 ~~level and school district in which the student resides as 95~~

3722 ~~percent of the funds per unweighted full-time equivalent in the~~

3723 ~~Florida Education Finance Program for a student in the basic~~

3724 ~~program established pursuant to s. 1011.62(1)(c)1., plus a per-~~

3725 ~~full time equivalent share of funds for all categorical~~

3726 ~~programs, except for the Exceptional Student Education~~

3727 ~~Guaranteed Allocation.~~

3728 ~~3. The scholarship amount awarded to a student enrolled in~~

3729 ~~a Florida public school in which a student is enrolled and that~~

3730 ~~is different from the school to which the student was assigned~~

3731 ~~or in a lab school as defined in s. 1002.32, is limited to \$750.~~

3732 ~~(b) Payment of the scholarship by the eligible nonprofit~~

3733 ~~scholarship-funding organization shall be by individual warrant~~

3734 ~~made payable to the student's parent or by funds transfer,~~

3735 ~~including, but not limited to, debit cards, electronic payment~~

3736 ~~cards, or any other means of payment that the department deems~~

3737 ~~to be commercially viable or cost-effective. If the payment is~~

3738 ~~made by warrant, the warrant must be delivered by the eligible~~

3739 ~~nonprofit scholarship-funding organization to the private school~~

3740 ~~of the parent's choice, and the parent shall restrictively~~

3741 ~~endorse the warrant to the private school. An eligible nonprofit~~

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3742 ~~scholarship-funding organization shall ensure that the parent to~~

3743 ~~whom the warrant is made restrictively endorsed the warrant to~~

3744 ~~the private school for deposit into the account of the private~~

3745 ~~school or that the parent has approved a funds transfer before~~

3746 ~~any scholarship funds are deposited.~~

3747 ~~(e) An eligible nonprofit scholarship-funding organization~~

3748 ~~shall obtain verification from the private school of a student's~~

3749 ~~continued attendance at the school for each period covered by a~~

3750 ~~scholarship payment.~~

3751 ~~(d) Payment of the scholarship shall be made by the~~

3752 ~~eligible nonprofit scholarship-funding organization no less~~

3753 ~~frequently than on a quarterly basis.~~

3754 ~~(12) ADMINISTRATION; RULES.~~

3755 ~~(a) The department, the division, and the Department of~~

3756 ~~Education shall develop a cooperative agreement to assist in the~~

3757 ~~administration of this section.~~

3758 ~~(b) The department shall adopt rules necessary to~~

3759 ~~administer this section and ss. 211.0251, 212.1831, 220.1875,~~

3760 ~~561.1211, and 624.51055, including rules establishing~~

3761 ~~application forms, procedures governing the approval of tax~~

3762 ~~credits and carryforward tax credits under subsection (5), and~~

3763 ~~procedures to be followed by taxpayers when claiming approved~~

3764 ~~tax credits on their returns.~~

3765 ~~(c) The division shall adopt rules necessary to administer~~

3766 ~~its responsibilities under this section and s. 561.1211.~~

3767 ~~(d) The State Board of Education shall adopt rules to~~

3768 ~~administer the responsibilities of the Department of Education~~

3769 ~~and the Commissioner of Education under this section.~~

3770 ~~(4)(13) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.-All eligible~~

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3771 contributions received by the department and the division must
 3772 by an eligible nonprofit scholarship funding organization shall
 3773 be deposited into a designated student fund and used for K-12
 3774 education funding in a manner consistent with s. 17.57(2).

3775 ~~(14) PRESERVATION OF CREDIT. If any provision or portion of~~
 3776 ~~this section, s. 211.0251, s. 212.1831, s. 220.1875, s.~~
 3777 ~~561.1211, or s. 624.51055 or the application thereof to any~~
 3778 ~~person or circumstance is held unconstitutional by any court or~~
 3779 ~~is otherwise declared invalid, the unconstitutionality or~~
 3780 ~~invalidity shall not affect any credit earned under s. 211.0251,~~
 3781 ~~s. 212.1831, s. 220.1875, s. 561.1211, or s. 624.51055 by any~~
 3782 ~~taxpayer with respect to any contribution paid to an eligible~~
 3783 ~~nonprofit scholarship funding organization before the date of a~~
 3784 ~~determination of unconstitutionality or invalidity. Such credit~~
 3785 ~~shall be allowed at such time and in such a manner as if a~~
 3786 ~~determination of unconstitutionality or invalidity had not been~~
 3787 ~~made, provided that nothing in this subsection by itself or in~~
 3788 ~~combination with any other provision of law shall result in the~~
 3789 ~~allowance of any credit to any taxpayer in excess of one dollar~~
 3790 ~~of credit for each dollar paid to an eligible nonprofit~~
 3791 ~~scholarship funding organization.~~

3792 ~~(15) NONPROFIT SCHOLARSHIP FUNDING ORGANIZATIONS;~~
 3793 ~~APPLICATION. In order to participate in the scholarship program~~
 3794 ~~created under this section, a charitable organization that seeks~~
 3795 ~~to be a nonprofit scholarship funding organization must submit~~
 3796 ~~an application for initial approval or renewal to the Office of~~
 3797 ~~Independent Education and Parental Choice no later than~~
 3798 ~~September 1 of each year before the school year for which the~~
 3799 ~~organization intends to offer scholarships.~~

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3800 ~~(a) An application for initial approval must include:~~
 3801 ~~1. A copy of the organization's incorporation documents and~~
 3802 ~~registration with the Division of Corporations of the Department~~
 3803 ~~of State.~~
 3804 ~~2. A copy of the organization's Internal Revenue Service~~
 3805 ~~determination letter as a s. 501(c)(3) not-for-profit~~
 3806 ~~organization.~~
 3807 ~~3. A description of the organization's financial plan that~~
 3808 ~~demonstrates sufficient funds to operate throughout the school~~
 3809 ~~year.~~
 3810 ~~4. A description of the geographic region that the~~
 3811 ~~organization intends to serve and an analysis of the demand and~~
 3812 ~~unmet need for eligible students in that area.~~
 3813 ~~5. The organization's organizational chart.~~
 3814 ~~6. A description of the criteria and methodology that the~~
 3815 ~~organization will use to evaluate scholarship eligibility.~~
 3816 ~~7. A description of the application process, including~~
 3817 ~~deadlines and any associated fees.~~
 3818 ~~8. A description of the deadlines for attendance~~
 3819 ~~verification and scholarship payments.~~
 3820 ~~9. A copy of the organization's policies on conflict of~~
 3821 ~~interest and whistleblowers.~~
 3822 ~~10. A copy of a surety bond or letter of credit to secure~~
 3823 ~~the faithful performance of the obligations of the eligible~~
 3824 ~~nonprofit scholarship funding organization in accordance with~~
 3825 ~~this section in an amount equal to 25 percent of the scholarship~~
 3826 ~~funds anticipated for each school year or \$100,000, whichever is~~
 3827 ~~greater. The surety bond or letter of credit must specify that~~
 3828 ~~any claim against the bond or letter of credit may be made only~~

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3829 ~~by an eligible nonprofit scholarship funding organization to~~
 3830 ~~provide scholarships to and on behalf of students who would have~~
 3831 ~~had scholarships funded if it were not for the diversion of~~
 3832 ~~funds giving rise to the claim against the bond or letter of~~
 3833 ~~credit.~~

3834 ~~(b) In addition to the information required by~~
 3835 ~~subparagraphs (a)1.-9., an application for renewal must include:~~

3836 ~~1. A surety bond or letter of credit to secure the faithful~~
 3837 ~~performance of the obligations of the eligible nonprofit~~
 3838 ~~scholarship funding organization in accordance with this section~~
 3839 ~~equal to the amount of undisbursed donations held by the~~
 3840 ~~organization based on the annual report submitted pursuant to~~
 3841 ~~paragraph (6) (m). The amount of the surety bond or letter of~~
 3842 ~~credit must be at least \$100,000, but not more than \$25 million.~~
 3843 ~~The surety bond or letter of credit must specify that any claim~~
 3844 ~~against the bond or letter of credit may be made only by an~~
 3845 ~~eligible nonprofit scholarship funding organization to provide~~
 3846 ~~scholarships to and on behalf of students who would have had~~
 3847 ~~scholarships funded if it were not for the diversion of funds~~
 3848 ~~giving rise to the claim against the bond or letter of credit.~~

3849 ~~2. The organization's completed Internal Revenue Service~~
 3850 ~~Form 990 submitted no later than November 30 of the year before~~
 3851 ~~the school year that the organization intends to offer the~~
 3852 ~~scholarships, notwithstanding the September 1 application~~
 3853 ~~deadline.~~

3854 ~~3. A copy of the statutorily required audit to the~~
 3855 ~~Department of Education and Auditor General.~~

3856 ~~4. An annual report that includes:~~

3857 ~~a. The number of students who completed applications, by~~

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3858 ~~county and by grade.~~

3859 ~~b. The number of students who were approved for~~
 3860 ~~scholarships, by county and by grade.~~

3861 ~~c. The number of students who received funding for~~
 3862 ~~scholarships within each funding category, by county and by~~
 3863 ~~grade.~~

3864 ~~d. The amount of funds received, the amount of funds~~
 3865 ~~distributed in scholarships, and an accounting of remaining~~
 3866 ~~funds and the obligation of those funds.~~

3867 ~~e. A detailed accounting of how the organization spent the~~
 3868 ~~administrative funds allowable under paragraph (6) (j).~~

3869 ~~(c) In consultation with the Department of Revenue and the~~
 3870 ~~Chief Financial Officer, the Office of Independent Education and~~
 3871 ~~Parental Choice shall review the application. The Department of~~
 3872 ~~Education shall notify the organization in writing of any~~
 3873 ~~deficiencies within 30 days after receipt of the application and~~
 3874 ~~allow the organization 30 days to correct any deficiencies.~~

3875 ~~(d) Within 30 days after receipt of the finalized~~
 3876 ~~application by the Office of Independent Education and Parental~~
 3877 ~~Choice, the Commissioner of Education shall recommend approval~~
 3878 ~~or disapproval of the application to the State Board of~~
 3879 ~~Education. The State Board of Education shall consider the~~
 3880 ~~application and recommendation at the next scheduled meeting,~~
 3881 ~~adhering to appropriate meeting notice requirements. If the~~
 3882 ~~State Board of Education disapproves the organization's~~
 3883 ~~application, it shall provide the organization with a written~~
 3884 ~~explanation of that determination. The State Board of~~
 3885 ~~Education's action is not subject to chapter 120.~~

3886 ~~(e) If the State Board of Education disapproves the renewal~~

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3887 of a nonprofit scholarship funding organization, the
 3888 organization must notify the affected eligible students and
 3889 parents of the decision within 15 days after disapproval. An
 3890 eligible student affected by the disapproval of an
 3891 organization's participation remains eligible under this section
 3892 until the end of the school year in which the organization was
 3893 disapproved. The student must apply and be accepted by another
 3894 eligible nonprofit scholarship funding organization for the
 3895 upcoming school year. The student shall be given priority in
 3896 accordance with paragraph (6)(f).

3897 (f) All remaining funds held by a nonprofit scholarship
 3898 funding organization that is disapproved for participation must
 3899 be transferred to other eligible nonprofit scholarship funding
 3900 organizations to provide scholarships for eligible students. All
 3901 transferred funds must be deposited by each eligible nonprofit
 3902 scholarship funding organization receiving such funds into its
 3903 scholarship account. All transferred amounts received by any
 3904 eligible nonprofit scholarship funding organization must be
 3905 separately disclosed in the annual financial audit required
 3906 under subsection (6).

3907 (g) A nonprofit scholarship funding organization is a
 3908 renewing organization if it maintains continuous approval and
 3909 participation in the program. An organization that chooses not
 3910 to participate for 1 year or more or is disapproved to
 3911 participate for 1 year or more must submit an application for
 3912 initial approval in order to participate in the program again.

3913 (h) The State Board of Education shall adopt rules
 3914 providing guidelines for receiving, reviewing, and approving
 3915 applications for new and renewing nonprofit scholarship funding

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3916 organizations. The rules must include a process for compiling
 3917 input and recommendations from the Chief Financial Officer, the
 3918 Department of Revenue, and the Department of Education. The
 3919 rules must also require that the nonprofit scholarship funding
 3920 organization make a brief presentation to assist the State Board
 3921 of Education in its decision.

3922 (i) A state university, or an independent college or
 3923 university which is eligible to participate in the William L.
 3924 Boyd, IV, Effective Access to Student Education Grant Program,
 3925 located and chartered in this state, is not for profit, and is
 3926 accredited by the Commission on Colleges of the Southern
 3927 Association of Colleges and Schools, is exempt from the initial
 3928 or renewal application process, but must file a registration
 3929 notice with the Department of Education to be an eligible
 3930 nonprofit scholarship funding organization. The State Board of
 3931 Education shall adopt rules that identify the procedure for
 3932 filing the registration notice with the department. The rules
 3933 must identify appropriate reporting requirements for fiscal,
 3934 programmatic, and performance accountability purposes consistent
 3935 with this section, but shall not exceed the requirements for
 3936 eligible nonprofit scholarship funding organizations for
 3937 charitable organizations.

3938 Section 21. Section 1002.40, Florida Statutes, is amended
 3939 to read:

3940 1002.40 The Hope Scholarship Florida K-12 Education Funding
 3941 Tax Credit Program.—

3942 (1) PURPOSE. The Hope Scholarship Program is established to
 3943 provide the parent of a public school student who was subjected
 3944 to an incident listed in subsection (3) an opportunity to

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3945 ~~transfer the student to another public school or to request a~~
 3946 ~~scholarship for the student to enroll in and attend an eligible~~
 3947 ~~private school.~~

3948 ~~(2) DEFINITIONS.—As used in this section, the term:~~

3949 ~~(a) "Dealer" has the same meaning as provided in s. 212.06.~~

3950 ~~(b) "Department" means the Department of Education.~~

3951 ~~(c) "Designated agent" has the same meaning as provided in~~
 3952 ~~s. 212.06(10).~~

3953 ~~(c)(d) "Eligible contribution" or "contribution" means the~~
 3954 ~~amount of tax paid by a monetary contribution from a person~~
 3955 ~~purchasing a motor vehicle, subject to the restrictions provided~~
 3956 ~~in this section, and designated by the purchaser to be used for~~
 3957 ~~K-12 education funding an eligible nonprofit scholarship funding~~
 3958 ~~organization. The person making the contribution may not~~
 3959 ~~designate a specific student as the beneficiary of the~~
 3960 ~~contribution.~~

3961 ~~(e) "Eligible nonprofit scholarship funding organization"~~
 3962 ~~or "organization" has the same meaning as provided in s.~~
 3963 ~~1002.395(2)(f).~~

3964 ~~(f) "Eligible private school" has the same meaning as~~
 3965 ~~provided in s. 1002.395(2)(g).~~

3966 ~~(d)(g) "Motor vehicle" has the same meaning as provided in~~
 3967 ~~s. 320.01(1)(a), but does not include a heavy truck, truck~~
 3968 ~~tractor, trailer, or motorcycle.~~

3969 ~~(h) "Parent" means a resident of this state who is a~~
 3970 ~~parent, as defined in s. 1000.21, and whose student reported an~~
 3971 ~~incident in accordance with subsection (6).~~

3972 ~~(i) "Program" means the Hope Scholarship Program.~~

3973 ~~(j) "School" means any educational program or activity~~

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3974 ~~conducted by a public K-12 educational institution, any school-~~
 3975 ~~related or school-sponsored program or activity, and riding on a~~
 3976 ~~school bus, as defined in s. 1006.25(1), including waiting at a~~
 3977 ~~school bus stop.~~

3978 ~~(k) "Unweighted FTE funding amount" means the statewide~~
 3979 ~~average total funds per unweighted full-time equivalent funding~~
 3980 ~~amount that is incorporated by reference in the General~~
 3981 ~~Appropriations Act, or by a subsequent special appropriations~~
 3982 ~~act, for the applicable state fiscal year.~~

3983 ~~(3) PROGRAM ELIGIBILITY.—Beginning with the 2018-2019~~
 3984 ~~school year, contingent upon available funds, and on a first-~~
 3985 ~~come, first served basis, a student enrolled in a Florida public~~
 3986 ~~school in kindergarten through grade 12 is eligible for a~~
 3987 ~~scholarship under this program if the student reported an~~
 3988 ~~incident in accordance with subsection (6). For purposes of this~~
 3989 ~~section, the term "incident" means battery; harassment; hazing;~~
 3990 ~~bullying; kidnapping; physical attack; robbery; sexual offenses;~~
 3991 ~~harassment, assault, or battery; threat or intimidation; or~~
 3992 ~~fighting at school, as defined by the department in accordance~~
 3993 ~~with s. 1006.09(6).~~

3994 ~~(4) PROGRAM PROHIBITIONS.—Payment of a scholarship to a~~
 3995 ~~student enrolled in a private school may not be made if a~~
 3996 ~~student is:~~

3997 ~~(a) Enrolled in a public school, including, but not limited~~
 3998 ~~to, the Florida School for the Deaf and the Blind; the College-~~
 3999 ~~Preparatory Boarding Academy; a developmental research school~~
 4000 ~~authorized under s. 1002.32; or a charter school authorized~~
 4001 ~~under s. 1002.33, s. 1002.331, or s. 1002.332;~~

4002 ~~(b) Enrolled in a school operating for the purpose of~~

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4003 ~~providing educational services to youth in the Department of~~
 4004 ~~Juvenile Justice commitment programs;~~

4005 ~~(c) Participating in a virtual school, correspondence~~
 4006 ~~school, or distance learning program that receives state funding~~
 4007 ~~pursuant to the student's participation unless the participation~~
 4008 ~~is limited to no more than two courses per school year; or~~

4009 ~~(d) Receiving any other educational scholarship pursuant to~~
 4010 ~~this chapter.~~

4011 ~~(5) TERM OF HOPE SCHOLARSHIP. For purposes of continuity of~~
 4012 ~~educational choice, a Hope scholarship shall remain in force~~
 4013 ~~until the student returns to public school or graduates from~~
 4014 ~~high school, whichever occurs first. A scholarship student who~~
 4015 ~~enrolls in a public school or public school program is~~
 4016 ~~considered to have returned to a public school for the purpose~~
 4017 ~~of determining the end of the scholarship's term.~~

4018 ~~(6) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.~~

4019 ~~(a) Upon receipt of a report of an incident, the school~~
 4020 ~~principal, or his or her designee, shall provide a copy of the~~
 4021 ~~report to the parent and investigate the incident to determine~~
 4022 ~~if the incident must be reported as required by s. 1006.09(6).~~
 4023 ~~Within 24 hours after receipt of the report, the principal or~~
 4024 ~~his or her designee shall provide a copy of the report to the~~
 4025 ~~parent of the alleged offender and to the superintendent. Upon~~
 4026 ~~conclusion of the investigation or within 15 days after the~~
 4027 ~~incident was reported, whichever occurs first, the school~~
 4028 ~~district shall notify the parent of the program and offer the~~
 4029 ~~parent an opportunity to enroll his or her student in another~~
 4030 ~~public school that has capacity or to request and receive a~~
 4031 ~~scholarship to attend an eligible private school, subject to~~

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4032 ~~available funding. A parent who chooses to enroll his or her~~
 4033 ~~student in a public school located outside the district in which~~
 4034 ~~the student resides pursuant to s. 1002.31 shall be eligible for~~
 4035 ~~a scholarship to transport the student as provided in paragraph~~
 4036 ~~(11)(b).~~

4037 ~~(b) For each student participating in the program in an~~
 4038 ~~eligible private school who chooses to participate in the~~
 4039 ~~statewide assessments under s. 1008.22 or the Florida Alternate~~
 4040 ~~Assessment, the school district in which the student resides~~
 4041 ~~must notify the student and his or her parent about the~~
 4042 ~~locations and times to take all statewide assessments.~~

4043 ~~(7) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS. An eligible~~
 4044 ~~private school may be sectarian or nonsectarian and shall:~~

4045 ~~(a) Comply with all requirements for private schools~~
 4046 ~~participating in state school choice scholarship programs~~
 4047 ~~pursuant to this section and s. 1002.421.~~

4048 ~~(b)1. Annually administer or make provision for students~~
 4049 ~~participating in the program in grades 3 through 10 to take one~~
 4050 ~~of the nationally norm-referenced tests identified by the~~
 4051 ~~department or the statewide assessments pursuant to s. 1008.22.~~
 4052 ~~Students with disabilities for whom standardized testing is not~~
 4053 ~~appropriate are exempt from this requirement. A participating~~
 4054 ~~private school shall report a student's scores to his or her~~
 4055 ~~parent.~~

4056 ~~2. Administer the statewide assessments pursuant to s.~~
 4057 ~~1008.22 if a private school chooses to offer the statewide~~
 4058 ~~assessments. A participating private school may choose to offer~~
 4059 ~~and administer the statewide assessments to all students who~~
 4060 ~~attend the private school in grades 3 through 10 and must submit~~

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4061 a request in writing to the department by March 1 of each year
 4062 in order to administer the statewide assessments in the
 4063 subsequent school year.

4064

4065 ~~If a private school fails to meet the requirements of this~~
 4066 ~~subsection or s. 1002.421, the commissioner may determine that~~
 4067 ~~the private school is ineligible to participate in the program.~~

4068 ~~(8) DEPARTMENT OF EDUCATION OBLIGATIONS. The department~~
 4069 ~~shall:~~

4070 ~~(a) Cross-check the list of participating scholarship~~
 4071 ~~students with the public school enrollment lists to avoid~~
 4072 ~~duplication.~~

4073 ~~(b) Maintain a list of nationally norm referenced tests~~
 4074 ~~identified for purposes of satisfying the testing requirement in~~
 4075 ~~paragraph (9) (f). The tests must meet industry standards of~~
 4076 ~~quality in accordance with State Board of Education rule.~~

4077 ~~(c) Require quarterly reports by an eligible nonprofit~~
 4078 ~~scholarship funding organization regarding the number of~~
 4079 ~~students participating in the program, the private schools in~~
 4080 ~~which the students are enrolled, and other information deemed~~
 4081 ~~necessary by the department.~~

4082 ~~(d) Contract with an independent entity to provide an~~
 4083 ~~annual evaluation of the program by:~~

4084 ~~1. Reviewing the school bullying prevention education~~
 4085 ~~program, climate, and code of student conduct of each public~~
 4086 ~~school from which 10 or more students transferred to another~~
 4087 ~~public school or private school using the Hope scholarship to~~
 4088 ~~determine areas in the school or school district procedures~~
 4089 ~~involving reporting, investigating, and communicating a parent's~~

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4090 and student's rights that are in need of improvement. At a
 4091 minimum, the review must include:

4092 ~~a. An assessment of the investigation time and quality of~~
 4093 ~~the response of the school and the school district.~~

4094 ~~b. An assessment of the effectiveness of communication~~
 4095 ~~procedures with the students involved in an incident, the~~
 4096 ~~students' parents, and the school and school district personnel.~~

4097 ~~c. An analysis of school incident and discipline data.~~

4098 ~~d. The challenges and obstacles relating to implementing~~
 4099 ~~recommendations from the review.~~

4100 ~~2. Reviewing the school bullying prevention education~~
 4101 ~~program, climate, and code of student conduct of each public~~
 4102 ~~school to which a student transferred if the student was from a~~
 4103 ~~school identified in subparagraph 1. in order to identify best~~
 4104 ~~practices and make recommendations to a public school at which~~
 4105 ~~the incidents occurred.~~

4106 ~~3. Reviewing the performance of participating students~~
 4107 ~~enrolled in a private school in which at least 51 percent of the~~
 4108 ~~total enrolled students in the prior school year participated in~~
 4109 ~~the program and in which there are at least 10 participating~~
 4110 ~~students who have scores for tests administered.~~

4111 ~~4. Surveying the parents of participating students to~~
 4112 ~~determine academic, safety, and school climate satisfaction and~~
 4113 ~~to identify any challenges to or obstacles in addressing the~~
 4114 ~~incident or relating to the use of the scholarship.~~

4115 ~~(9) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM~~
 4116 ~~PARTICIPATION. A parent who applies for a Hope scholarship is~~
 4117 ~~exercising his or her parental option to place his or her~~
 4118 ~~student in an eligible private school.~~

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4119 ~~(a) The parent must select an eligible private school and~~
 4120 ~~apply for the admission of his or her student.~~

4121 ~~(b) The parent must inform the student's school district~~
 4122 ~~when the parent withdraws his or her student to attend an~~
 4123 ~~eligible private school.~~

4124 ~~(c) Any student participating in the program must remain in~~
 4125 ~~attendance throughout the school year unless excused by the~~
 4126 ~~school for illness or other good cause.~~

4127 ~~(d) Each parent and each student has an obligation to the~~
 4128 ~~private school to comply with such school's published policies.~~

4129 ~~(e) Upon reasonable notice to the department and the school~~
 4130 ~~district, the parent may remove the student from the private~~
 4131 ~~school and place the student in a public school in accordance~~
 4132 ~~with this section.~~

4133 ~~(f) The parent must ensure that the student participating~~
 4134 ~~in the program takes the norm-referenced assessment offered by~~
 4135 ~~the private school. The parent may also choose to have the~~
 4136 ~~student participate in the statewide assessments pursuant to s.~~
 4137 ~~1008.22. If the parent requests that the student take the~~
 4138 ~~statewide assessments pursuant to s. 1008.22 and the private~~
 4139 ~~school has not chosen to offer and administer the statewide~~
 4140 ~~assessments, the parent is responsible for transporting the~~
 4141 ~~student to the assessment site designated by the school~~
 4142 ~~district.~~

4143 ~~(g) Upon receipt of a scholarship warrant, the parent to~~
 4144 ~~whom the warrant is made must restrictively endorse the warrant~~
 4145 ~~to the private school for deposit into the account of such~~
 4146 ~~school. If payment is made by funds transfer in accordance with~~
 4147 ~~paragraph (11)(d), the parent must approve each payment before~~

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4148 ~~the scholarship funds may be deposited. The parent may not~~
 4149 ~~designate any entity or individual associated with the~~
 4150 ~~participating private school as the parent's attorney in fact to~~
 4151 ~~endorse a scholarship warrant or approve a funds transfer. A~~
 4152 ~~parent who fails to comply with this paragraph forfeits the~~
 4153 ~~scholarship.~~

4154 ~~(10) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP FUNDING~~
 4155 ~~ORGANIZATIONS.—An eligible nonprofit scholarship funding~~
 4156 ~~organization may establish scholarships for eligible students~~
 4157 ~~by:~~

4158 ~~(a) Receiving applications and determining student~~
 4159 ~~eligibility in accordance with the requirements of this section.~~

4160 ~~(b) Notifying parents of their receipt of a scholarship on~~
 4161 ~~a first-come, first-served basis, based upon available funds.~~

4162 ~~(c) Establishing a date by which the parent of a~~
 4163 ~~participating student must confirm continuing participation in~~
 4164 ~~the program.~~

4165 ~~(d) Awarding scholarship funds to eligible students, giving~~
 4166 ~~priority to renewing students from the previous year.~~

4167 ~~(e) Preparing and submitting quarterly reports to the~~
 4168 ~~department pursuant to paragraph (8)(c). In addition, an~~
 4169 ~~eligible nonprofit scholarship funding organization must submit~~
 4170 ~~in a timely manner any information requested by the department~~
 4171 ~~relating to the program.~~

4172 ~~(f) Notifying the department of any violation of this~~
 4173 ~~section.~~

4174 ~~(11) FUNDING AND PAYMENT.—~~

4175 ~~(a) For students initially eligible in the 2019-2020 school~~
 4176 ~~year or thereafter, the calculated amount for a student to~~

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4177 attend an eligible private school shall be based upon the grade
 4178 level and school district in which the student was assigned as
 4179 95 percent of the funds per unweighted full-time equivalent in
 4180 the Florida Education Finance Program for a student in the basic
 4181 program established pursuant to s. 1011.62(1)(c)1., plus a per-
 4182 full-time equivalent share of funds for all categorical
 4183 programs, except for the Exceptional Student Education
 4184 Guaranteed Allocation.

4185 (b) The maximum amount awarded to a student enrolled in a
 4186 public school located outside of the district in which the
 4187 student resides shall be \$750.

4188 (c) When a student enters the program, the eligible
 4189 nonprofit scholarship funding organization must receive all
 4190 documentation required for the student's participation,
 4191 including a copy of the report of the incident received pursuant
 4192 to subsection (6) and the private school's and student's fee
 4193 schedules. The initial payment shall be made after verification
 4194 of admission acceptance, and subsequent payments shall be made
 4195 upon verification of continued enrollment and attendance at the
 4196 private school.

4197 (d) Payment of the scholarship by the eligible nonprofit
 4198 scholarship funding organization may be by individual warrant
 4199 made payable to the student's parent or by funds transfer,
 4200 including, but not limited to, debit cards, electronic payment
 4201 cards, or any other means of payment that the department deems
 4202 to be commercially viable or cost-effective. If payment is made
 4203 by warrant, the warrant must be delivered by the eligible
 4204 nonprofit scholarship funding organization to the private school
 4205 of the parent's choice, and the parent shall restrictively

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4206 endorse the warrant to the private school. If payments are made
 4207 by funds transfer, the parent must approve each payment before
 4208 the scholarship funds may be deposited. The parent may not
 4209 designate any entity or individual associated with the
 4210 participating private school as the parent's attorney in fact to
 4211 endorse a scholarship warrant or approve a funds transfer.

4212 (e) An eligible nonprofit scholarship funding organization
 4213 shall obtain verification from the private school of a student's
 4214 continued attendance at the school for each period covered by a
 4215 scholarship payment.

4216 (f) Payment of the scholarship shall be made by the
 4217 eligible nonprofit scholarship funding organization no less
 4218 frequently than on a quarterly basis.

4219 (g) An eligible nonprofit scholarship funding organization,
 4220 subject to the limitations of s. 1002.395(6)(j)1., may use
 4221 eligible contributions received during the state fiscal year in
 4222 which such contributions are collected for administrative
 4223 expenses.

4224 (h) Moneys received pursuant to this section do not
 4225 constitute taxable income to the qualified student or his or her
 4226 parent.

4227 (i) Notwithstanding s. 1002.395(6)(j)2., no more than 5
 4228 percent of net eligible contributions may be carried forward to
 4229 the following state fiscal year by an eligible scholarship-
 4230 funding organization. For audit purposes, all amounts carried
 4231 forward must be specifically identified for individual students
 4232 by student name and by the name of the school to which the
 4233 student is admitted, subject to the requirements of ss. 1002.21
 4234 and 1002.22 and 20 U.S.C. s. 1232g, and the applicable rules and

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4235 ~~regulations issued pursuant to such requirements. Any amounts~~
 4236 ~~carried forward shall be expended for annual scholarships or~~
 4237 ~~partial-year scholarships in the following state fiscal year.~~
 4238 ~~Net eligible contributions remaining on June 30 of each year~~
 4239 ~~which are in excess of the 5 percent that may be carried forward~~
 4240 ~~shall be transferred to other eligible nonprofit scholarship-~~
 4241 ~~funding organizations participating in the Hope Scholarship~~
 4242 ~~Program to provide scholarships for eligible students. All~~
 4243 ~~transferred funds must be deposited by each eligible nonprofit~~
 4244 ~~scholarship funding organization receiving such funds into the~~
 4245 ~~scholarship account of eligible students. All transferred~~
 4246 ~~amounts received by an eligible nonprofit scholarship funding~~
 4247 ~~organization must be separately disclosed in the annual~~
 4248 ~~financial audit requirement under s. 1002.395(6)(m). If no other~~
 4249 ~~eligible nonprofit scholarship funding organization participates~~
 4250 ~~in the Hope Scholarship Program, net eligible contributions in~~
 4251 ~~excess of the 5 percent may be used to fund scholarships for~~
 4252 ~~students eligible under s. 1002.395 only after fully exhausting~~
 4253 ~~all contributions made in support of scholarships under that~~
 4254 ~~section in accordance with the priority established in s.~~
 4255 ~~1002.395(6)(c) prior to awarding any initial scholarships.~~
 4256 ~~(12) OBLIGATIONS OF THE AUDITOR GENERAL.—~~
 4257 ~~(a) The Auditor General shall conduct an annual operational~~
 4258 ~~audit of accounts and records of each organization that~~
 4259 ~~participates in the program. As part of this audit, the Auditor~~
 4260 ~~General shall verify, at a minimum, the total number of students~~
 4261 ~~served and transmit that information to the department. The~~
 4262 ~~Auditor General shall provide the commissioner with a copy of~~
 4263 ~~each annual operational audit performed pursuant to this~~

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4264 ~~paragraph within 10 days after the audit is finalized.~~
 4265 ~~(b) The Auditor General shall notify the department of any~~
 4266 ~~organization that fails to comply with a request for~~
 4267 ~~information.~~
 4268 ~~(2)(13) SCHOLARSHIP FUNDING TAX CREDITS.—~~
 4269 ~~(a) A tax credit is available under s. 212.1832(1) for use~~
 4270 ~~by a person that makes an eligible contribution. Eligible~~
 4271 ~~contributions shall be used for K-12 education funding ~~to fund~~~~
 4272 ~~scholarships under this section and may be used to fund~~
 4273 ~~scholarships under s. 1002.395. Each eligible contribution is~~
 4274 ~~limited to a single designation ~~payment~~ of \$105 per motor~~
 4275 ~~vehicle purchased at the time of purchase of a motor vehicle or~~
 4276 ~~a single designation ~~payment~~ of \$105 per motor vehicle purchased~~
 4277 ~~at the time of registration of a motor vehicle that was not~~
 4278 ~~purchased from a dealer, except that a contribution may not~~
 4279 ~~exceed the state tax imposed under chapter 212 that would~~
 4280 ~~otherwise be collected from the purchaser by a dealer,~~
 4281 ~~designated agent, or private tag agent. ~~Payments of~~~~
 4282 ~~contributions shall be made to a dealer at the time of purchase~~
 4283 ~~of a motor vehicle or to a designated agent or private tag agent~~
 4284 ~~at the time of registration of a motor vehicle that was not~~
 4285 ~~purchased from a dealer. An eligible contribution shall be~~
 4286 ~~accompanied by a contribution election form provided by the~~
 4287 ~~Department of Revenue, developed in collaboration with the~~
 4288 ~~Department of Education. The form shall include, at a minimum, a~~
 4289 ~~the following brief description of each scholarship program~~
 4290 ~~available under this chapter and the type of student served in~~
 4291 ~~each program the Hope Scholarship Program and the Florida Tax~~
 4292 ~~Credit Scholarship Program: "THE HOPE SCHOLARSHIP PROGRAM"~~

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4293 PROVIDES A PUBLIC SCHOOL STUDENT WHO WAS SUBJECTED TO AN
 4294 INCIDENT OF VIOLENCE OR BULLYING AT SCHOOL THE OPPORTUNITY TO
 4295 APPLY FOR A SCHOLARSHIP TO ATTEND AN ELIGIBLE PRIVATE SCHOOL
 4296 RATHER THAN REMAIN IN AN UNSAFE SCHOOL ENVIRONMENT. THE FLORIDA
 4297 TAX CREDIT SCHOLARSHIP PROGRAM PROVIDES A LOW INCOME STUDENT THE
 4298 OPPORTUNITY TO APPLY FOR A SCHOLARSHIP TO ATTEND AN ELIGIBLE
 4299 PRIVATE SCHOOL." The form shall also include, at a minimum, a
 4300 section allowing the consumer to designate, from all
 4301 participating scholarship funding organizations, which
 4302 organization will receive his or her donation. For purposes of
 4303 this subsection, the term "purchase" does not include the lease
 4304 or rental of a motor vehicle.

4305 (b) A dealer, designated agent, or private tag agent shall:

4306 1. Provide the purchaser the contribution election form, as
 4307 provided by the Department of Revenue, at the time of purchase
 4308 of a motor vehicle or at the time of registration of a motor
 4309 vehicle that was not purchased from a dealer.

4310 2. Collect eligible contributions.

4311 3. Using a form provided by the Department of Revenue,
 4312 which shall include the dealer's or agent's federal employer
 4313 identification number, remit to an organization no later than
 4314 the date the return filed pursuant to s. 212.11 is due the total
 4315 amount of contributions made to that organization and collected
 4316 during the preceding reporting period. Using the same form, the
 4317 dealer or agent shall also report this information to the
 4318 Department of Revenue no later than the date the return filed
 4319 pursuant to s. 212.11 is due.

4320 4. report to the Department of Revenue on each return filed
 4321 pursuant to s. 212.11 the total amount of credits granted under

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4322 s. 212.1832 for the preceding reporting period.

4323 (c) ~~An organization shall report to~~ The Department of
 4324 Revenue shall deposit all receipts designated as eligible
 4325 contributions into a designated student fund, on or before the
 4326 20th day of each month, the total amount of contributions
 4327 received pursuant to paragraph (b) in the preceding calendar
 4328 month on a form provided by the Department of Revenue. Such
 4329 report shall include:

4330 1. ~~The federal employer identification number of each~~
 4331 ~~designated agent, private tag agent, or dealer who remitted~~
 4332 ~~contributions to the organization during that reporting period.~~

4333 2. ~~The amount of contributions received from each~~
 4334 ~~designated agent, private tag agent, or dealer during that~~
 4335 ~~reporting period.~~

4336 (d) A person who, with the intent to unlawfully deprive or
 4337 defraud the program of its moneys or the use or benefit thereof,
 4338 fails to remit a contribution collected under this section is
 4339 guilty of theft, punishable as follows:

4340 1. If the total amount stolen is less than \$300, the
 4341 offense is a misdemeanor of the second degree, punishable as
 4342 provided in s. 775.082 or s. 775.083. Upon a second conviction,
 4343 the offender is guilty of a misdemeanor of the first degree,
 4344 punishable as provided in s. 775.082 or s. 775.083. Upon a third
 4345 or subsequent conviction, the offender is guilty of a felony of
 4346 the third degree, punishable as provided in s. 775.082, s.
 4347 775.083, or s. 775.084.

4348 2. If the total amount stolen is \$300 or more, but less
 4349 than \$20,000, the offense is a felony of the third degree,
 4350 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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4351 3. If the total amount stolen is \$20,000 or more, but less
4352 than \$100,000, the offense is a felony of the second degree,
4353 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

4354 4. If the total amount stolen is \$100,000 or more, the
4355 offense is a felony of the first degree, punishable as provided
4356 in s. 775.082, s. 775.083, or s. 775.084.

4357 ~~(e) A person convicted of an offense under paragraph (d)
4358 shall be ordered by the sentencing judge to make restitution to
4359 the organization in the amount that was stolen from the program.~~

4360 ~~(f) Upon a finding that a dealer failed to remit a
4361 contribution under subparagraph (b)3. for which the dealer
4362 claimed a credit pursuant to s. 212.1832(2), the Department of
4363 Revenue shall notify the affected organizations of the dealer's
4364 name, address, federal employer identification number, and
4365 information related to differences between credits taken by the
4366 dealer pursuant to s. 212.1832(2) and amounts remitted to the
4367 eligible nonprofit scholarship funding organization under
4368 subparagraph (b)3.~~

4369 ~~(g) Any dealer, designated agent, private tag agent, or
4370 organization that fails to timely submit reports to the
4371 Department of Revenue as required in paragraphs (b) and (c) is
4372 subject to a penalty of \$1,000 for every month, or part thereof,
4373 the report is not provided, up to a maximum amount of \$10,000.
4374 Such penalty shall be collected by the Department of Revenue and
4375 shall be transferred into the General Revenue Fund. Such penalty
4376 must be settled or compromised if it is determined by the
4377 Department of Revenue that the noncompliance is due to
4378 reasonable cause and not due to willful negligence, willful
4379 neglect, or fraud.~~

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4380 ~~(14) LIABILITY.~~ The state is not liable for the award of or
4381 any use of awarded funds under this section.

4382 ~~(15) SCOPE OF AUTHORITY.~~ This section does not expand the
4383 regulatory authority of this state, its officers, or any school
4384 district to impose additional regulation on participating
4385 private schools beyond those reasonably necessary to enforce
4386 requirements expressly set forth in this section.

4387 ~~(3)(16) RULES.~~ The State Board of Education shall adopt
4388 rules to administer this section, except the Department of
4389 Revenue shall adopt rules to administer this section subsection
4390 ~~(13)~~.

4391 Section 22. Subsection (4) of section 1002.411, Florida
4392 Statutes, is amended to read:

4393 1002.411 Reading scholarship accounts.—

4394 (4) ADMINISTRATION.—An eligible nonprofit scholarship-
4395 funding organization participating in a scholarship program
4396 under this chapter the Florida Tax Credit Scholarship Program
4397 established by s. 1002.395 may establish reading scholarship
4398 accounts for eligible students in accordance with the
4399 requirements of eligible nonprofit scholarship-funding
4400 organizations under this chapter.

4401 Section 23. Paragraphs (i) and (q) of subsection (1) of
4402 section 1002.421, Florida Statutes, are amended to read:

4403 1002.421 State school choice scholarship program
4404 accountability and oversight.—

4405 (1) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—A private
4406 school participating in an educational scholarship program
4407 established pursuant to this chapter must be a private school as
4408 defined in s. 1002.01(2) in this state, be registered, and be in

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4409 compliance with all requirements of this section in addition to
 4410 private school requirements outlined in s. 1002.42, specific
 4411 requirements identified within respective scholarship program
 4412 laws, and other provisions of Florida law that apply to private
 4413 schools, and must:

4414 (i) Maintain a physical location in the state at which each
 4415 student has regular and direct contact with teachers. A private
 4416 virtual school with at least one administrative office located
 4417 in this state which requires all of its administrative staff to
 4418 be Florida residents meets this requirement.

4419 (q) Provide a report from an independent certified public
 4420 accountant who performs the agreed-upon procedures ~~developed~~
 4421 pursuant to s. 1002.394(11)(g) ~~s. 1002.395(6)(e)~~ if the private
 4422 school receives more than \$250,000 in funds from scholarships
 4423 awarded under this chapter in a state fiscal year. A private
 4424 school subject to this subsection must annually submit the
 4425 report by September 15 to the scholarship-funding organization
 4426 that awarded the majority of the school's scholarship funds.
 4427 However, for the 2020-2021 school year only, a school that
 4428 receives more than \$250,000 in scholarship funds only through
 4429 the John M. McKay Scholarship for Students with Disabilities
 4430 Program pursuant to s. 1002.39 must submit the annual report by
 4431 September 15 to the department. The agreed-upon procedures must
 4432 be conducted in accordance with attestation standards
 4433 established by the American Institute of Certified Public
 4434 Accountants.

4435
 4436 The department shall suspend the payment of funds to a private
 4437 school that knowingly fails to comply with this subsection, and

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4438 shall prohibit the school from enrolling new scholarship
 4439 students, for 1 fiscal year and until the school complies. If a
 4440 private school fails to meet the requirements of this subsection
 4441 or has consecutive years of material exceptions listed in the
 4442 report required under paragraph (q), the commissioner may
 4443 determine that the private school is ineligible to participate
 4444 in a scholarship program.

4445 Section 24. Paragraph (aa) of subsection (4) of section
 4446 1009.971, Florida Statutes, is amended to read:

4447 1009.971 Florida Prepaid College Board.—

4448 (4) FLORIDA PREPAID COLLEGE BOARD; POWERS AND DUTIES.—The
 4449 board shall have the powers and duties necessary or proper to
 4450 carry out the provisions of ss. 1009.97-1009.988, including, but
 4451 not limited to, the power and duty to:

4452 (aa) Adopt rules relating to the purchase and use of a
 4453 prepaid college plan authorized under s. 1009.98 or a college
 4454 savings plan authorized under s. 1009.981 for the McKay-Gardiner
 4455 Gardiner Scholarship Program pursuant to s. 1002.381 or the
 4456 Family Empowerment Scholarship Program pursuant to s. 1002.394
 4457 ~~s. 1002.385~~, which may include, but need not be limited to:

- 4458 1. The use of such funds for postsecondary education
 4459 programs for students with disabilities;
- 4460 2. Effective procedures that allow program funds to be used
 4461 in conjunction with other funds used by a parent in the purchase
 4462 of a prepaid college plan or a college savings plan;
- 4463 3. The tracking and accounting of program funds separately
 4464 from other funds contributed to a prepaid college plan or a
 4465 college savings plan;
- 4466 4. The reversion of program funds, including, but not

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4467 limited to, earnings from contributions to the Florida College
4468 Savings Plan;

4469 5. The use of program funds only after private payments
4470 have been used for prepaid college plan or college savings plan
4471 expenditures;

4472 6. Contracting with each eligible nonprofit scholarship-
4473 funding organization to establish mechanisms to implement ss.
4474 1002.381 and 1002.394 ~~s. 1002.385~~, including, but not limited
4475 to, identifying the source of funds being deposited in the
4476 plans; and

4477 7. The development of a written agreement that defines the
4478 owner and beneficiary of an account and outlines
4479 responsibilities for the use of the advance payment contract
4480 funds or savings program funds.

4481 Section 25. Subsection (11) of section 1009.98, Florida
4482 Statutes, is amended to read:

4483 1009.98 Stanley G. Tate Florida Prepaid College Program.—

4484 (11) IMPLEMENTATION PROCEDURES.—

4485 (a) A prepaid college plan may be purchased, accounted for,
4486 used, and terminated as provided in ss. 1002.381 and 1002.394 ~~s.~~
4487 ~~1002.385~~.

4488 (b) A qualified beneficiary may apply the benefits of an
4489 advance payment contract toward the program fees of a program
4490 designed for students with disabilities conducted by a state
4491 postsecondary institution. A transfer authorized under this
4492 subsection may not exceed the redemption value of the advance
4493 payment contract at a state postsecondary institution or the
4494 number of semester credit hours contracted on behalf of a
4495 qualified beneficiary. A qualified beneficiary may not be

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4496 changed while a prepaid college plan contains funds contributed
4497 under ss. 1002.381 and 1002.394 ~~s. 1002.385~~.

4498 Section 26. Subsection (10) of section 1009.981, Florida
4499 Statutes, is amended to read:

4500 1009.981 Florida College Savings Program.—

4501 (10) IMPLEMENTATION PROCEDURES.—

4502 (a) A college savings plan may be purchased, accounted for,
4503 used, and terminated as provided in ss. 1002.381 and 1002.394 ~~s.~~
4504 ~~1002.385~~.

4505 (b) A designated beneficiary may apply the benefits of a
4506 participation agreement toward the program fees of a program
4507 designed for students with disabilities conducted by a state
4508 postsecondary institution. A designated beneficiary may not be
4509 changed while a college savings plan contains funds contributed
4510 under ss. 1002.381 and 1002.394 ~~s. 1002.385~~.

4511 Section 27. Subsection (4) of section 1011.61, Florida
4512 Statutes, is amended to read:

4513 1011.61 Definitions.—Notwithstanding the provisions of s.
4514 1000.21, the following terms are defined as follows for the
4515 purposes of the Florida Education Finance Program:

4516 (4) The maximum value for funding a student in kindergarten
4517 through grade 12 or in a prekindergarten program for exceptional
4518 children as provided in s. 1003.21(1)(e) shall be the sum of the
4519 calculations in paragraphs (a), (b), and (c) as calculated by
4520 the department.

4521 (a) The sum of the student's full-time equivalent student
4522 membership value for the school year or the equivalent derived
4523 from paragraphs (1)(a) and (b), subparagraph (1)(c)1., sub-
4524 subparagraphs (1)(c)2.b. and c., ~~subparagraph (1)(c)3.7~~ and

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4525 subsection (2). If the sum is greater than 1.0, the full-time
 4526 equivalent student membership value for each program or course
 4527 shall be reduced by an equal proportion so that the student's
 4528 total full-time equivalent student membership value is equal to
 4529 1.0.

4530 (b) If the result in paragraph (a) is less than 1.0 full-
 4531 time equivalent student and the student has full-time equivalent
 4532 student enrollment pursuant to sub-sub-subparagraph

4533 (1)(c)1.b.(VIII), calculate an amount that is the lesser of the
 4534 value in sub-sub-subparagraph (1)(c)1.b.(VIII) or the value of
 4535 1.0 less the value in paragraph (a).

4536 (c) The full-time equivalent student enrollment value in
 4537 sub-subparagraph (1)(c)2.a.

4538

4539 ~~A scholarship award provided to a student enrolled in the John~~
 4540 ~~M. McKay Scholarships for Students with Disabilities Program~~
 4541 ~~pursuant to s. 1002.39 is not subject to the maximum value for~~
 4542 ~~funding a student under this subsection.~~

4543 Section 28. Paragraph (f) of subsection (18) of section
 4544 1011.62, Florida Statutes, is amended to read:

4545 1011.62 Funds for operation of schools.—If the annual
 4546 allocation from the Florida Education Finance Program to each
 4547 district for operation of schools is not determined in the
 4548 annual appropriations act or the substantive bill implementing
 4549 the annual appropriations act, it shall be determined as
 4550 follows:

4551 (18) TEACHER SALARY INCREASE ALLOCATION.—The Legislature
 4552 may annually provide in the Florida Education Finance Program a
 4553 teacher salary increase allocation to assist school districts in

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4554 their recruitment and retention of classroom teachers and other
 4555 instructional personnel. The amount of the allocation shall be
 4556 specified in the General Appropriations Act.

4557 ~~(f) Notwithstanding any other provision of law, funds~~
 4558 ~~allocated under this subsection shall not be included in the~~
 4559 ~~calculated amount for any scholarship awarded under chapter~~
 4560 ~~1002.~~

4561 Section 29. This act shall take effect July 1, 2021.

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SPB 7052

INTRODUCER: For consideration by the Appropriations Committee

SUBJECT: Florida K-12 Education Tax Credit Program Trust Fund/Department of Education

DATE: March 3, 2021

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Underhill	Sadberry	AP	Pre-meeting

I. Summary:

SPB 7052 creates the Florida K-12 Education Tax Credit Program Trust Fund within the Department of Education. The purpose of the trust fund is to serve as a depository of funds relating to eligible contributions made pursuant to sections 212.099 or 1002.395, Florida Statutes, as amended by SB 48 (2021). Funds from the trust fund must be used for K-12 education.

The bill takes effect on the same date (July 1, 2021) that SB 48 or similar legislation takes effect, if such legislation is enacted in the same legislative session or an extension thereof and becomes a law.

II. Present Situation:

Trust Funds

Article III, s. 19(f) of the Florida Constitution requires that state trust funds may only be created by the Legislature and only if passed by a three-fifths vote of the membership of each house in a separate bill for that purpose only. Each trust fund must be created by general law that specifies at a minimum all of the following:

- The name of the trust fund.
- The agency of branch of state government responsible for administering the trust fund.
- The requirements or purposes the trust fund is established to meet.
- The sources of moneys to be credited to the trust fund or specific sources of receipts to be deposited in the trust fund.¹

A trust fund is required to terminate not more than four years after the effective date of the act authorizing the initial creation of the trust fund.² The Legislature is required to review all state

¹ Section 215.3207, F.S.

² FLA. CONST. art. III, s. 19.

trust funds at least once every four years.³ If the Legislature does not re-create a trust fund, it will be abolished four years after its initial creation pursuant to the Florida Constitution.⁴

III. Effect of Proposed Changes:

The bill creates s. 1010.88, F.S., establishing the Florida K-12 Education Tax Credit Program Trust Fund within the Department of Education. The purpose of the trust fund is to serve as a depository of funds relating to eligible contributions made pursuant to ss. 212.099 or 1002.395, F.S., as amended by SB 48 (2021).

Funds from the trust fund are authorized to be used for K-12 education. The trust fund is exempt from the general revenue service charge imposed in s. 215.20, F.S. Notwithstanding s. 216.301, F.S., any balance remaining in the trust fund at the end of any fiscal year shall remain in the trust fund at the end of the year and shall be available for carrying out the purposes of the trust fund.

As required by the Florida Constitution, the trust fund is scheduled to terminate on July 1, 2025, unless terminated sooner. Additionally, the bill requires the trust fund to be reviewed as provided in s. 215.3206, F.S., before its scheduled termination.

The bill takes effect on the same date (July 1, 2021) that SB 48 or similar legislation takes effect, if such legislation is enacted in the same legislative session or an extension thereof and becomes a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

Article III, s. 19(f)(1) of the Florida Constitution specifies that a trust fund may be created or re-created only by a three-fifths vote of the membership of each house of the Legislature in a separate bill for that purpose only.

Article III, s. 19(f)(2) of the Florida Constitution specifies that state trust funds must terminate not more than four years after the effective date of the act authorizing the initial creation of the trust fund. By law the Legislature may set a shorter time period for which any trust fund is authorized

³ Section 215.3208, F.S.

⁴ FLA. CONST. art. III, s. 19.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 1010.88 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

B. Amendments:

None.

FOR CONSIDERATION By the Committee on Appropriations

576-02010A-21

20217052pb

A bill to be entitled

An act relating to trust funds; creating s. 1010.88, F.S.; creating the Florida K-12 Education Tax Credit Program Trust Fund within the Department of Education; providing the purpose of the trust fund and the source of funds; exempting the trust fund from the general revenue service charge; requiring any balance in the trust fund at the end of any fiscal year to remain in the trust fund and be available for carrying out the purpose of the trust fund; providing for future review and termination or re-creation of the trust fund; providing a contingent effective date.

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

Section 1. Section 1010.88, Florida Statutes, is created to read:

1010.88 Florida K-12 Education Tax Credit Program Trust Fund.

(1) The Florida K-12 Education Tax Credit Program Trust Fund is created within the Department of Education. The trust fund is established to serve as a depository for eligible contributions, as set forth in ss. 212.099 and 1002.395. The Department of Revenue and the Department of Business and Professional Regulation shall transfer any eligible contributions received to the Florida K-12 Education Tax Credit Program Trust Fund at least once each quarter. Funds in the trust fund must be used for K-12 education and may be used as provided in ss. 212.099 and 1002.395.

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(2) The trust fund is exempt from the general revenue service charge imposed in s. 215.20.

(3) Notwithstanding s. 216.301 and pursuant to s. 216.351, any balance in the trust fund at the end of any fiscal year shall remain in the trust fund at the end of the year and shall be available for carrying out the purposes of the trust fund.

(4) In accordance with s. 19(f), Art. III of the State Constitution, the Florida K-12 Education Tax Credit Program Trust Fund shall, unless terminated sooner, be terminated on July 1, 2025. Before its scheduled termination, the trust fund must be reviewed as provided in s. 215.3206(1) and (2).

Section 2. This act shall take effect on the same date that SB 48 or similar legislation takes effect, if such legislation is enacted in the same legislative session or an extension thereof and becomes a law.

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 50

INTRODUCER: Finance and Tax Committee and Senator Gruters and others

SUBJECT: Sales and Use Tax

DATE: March 3, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McMillian</u>	<u>McKay</u>	<u>CM</u>	Favorable
2.	<u>Gross</u>	<u>Babin</u>	<u>FT</u>	Fav/CS
3.	<u>Gross</u>	<u>Sadberry</u>	<u>AP</u>	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 50 requires out-of-state retailers and marketplace providers with no physical presence in Florida to collect Florida's sales tax on sales of taxable items delivered to purchasers in Florida if the out-of-state retailer or marketplace provider makes a substantial number of sales into Florida.

A substantial number of remote sales means conducting any number of taxable remote sales in an amount exceeding \$100,000 during the previous calendar year.

The Revenue Estimating Conference (REC) determined the bill will:

- Increase General Revenue Fund receipts by \$973.6 million in Fiscal Year 2021-2022 and by \$1.08 billion each year thereafter.
- Increase state trust fund receipts by \$0.3 million in Fiscal Year 2021-2022 and by \$3.3 million each year thereafter.
- Increase local government revenues by \$229.5 million in Fiscal Year 2021-2022 and by \$253.7 million each year thereafter.

Staff estimates that the provisions of the bill that relieve certain persons of liability for tax, penalty, and interest if they engaged in remote sales prior to July 1, 2021, will reduce the General Revenue Fund and local government revenue estimates by an indeterminate amount.

Except as otherwise provided in the bill, the bill takes effect July 1, 2021.

II. Present Situation:

Florida Sales and Use Tax

Florida levies a 6 percent sales and use tax (sales tax) on the sale or rental of most tangible personal property, admissions,¹ transient rentals,² and a limited number of services, and a 5.5 percent sales and use tax on commercial real estate.³ Chapter 212, F.S., authorizes the levy and collection of Florida's sales and use tax, and provides exemptions and credits applicable to certain items or uses under specified circumstances. Florida requires a dealer to add the tax to the sales price of the taxable good or service and collect it from the purchaser at the time of sale.⁴

In addition to the state tax, counties may levy local discretionary surtax. A county's total local discretionary surtax is comprised of separate surtaxes. Each separate surtax identifies the type of counties authorized to levy, the rates that may be imposed, and the purpose for which the proceeds may be expended.⁵ A surtax applies to "all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions by [ch. 212, F.S.], and communications services as defined in ch. 202."⁶ The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold, or are delivered. Discretionary sales surtax rates currently levied vary by county in a range from 0.5 to 2.5 percent.⁷

Remote Sales Tax Collection

As discussed above, sales tax is added to the price of taxable goods and the selling dealer is required to collect the tax from the purchaser at the time of sale.⁸ A dealer then remits the collected taxes to the Department of Revenue (department).⁹

For items sold by an out-of-state dealer and delivered to the in-state purchaser via mail (mail-order sales), states have relied on their use tax. Florida's use tax requires an in-state purchaser to remit to the department the tax owed on their purchase of an untaxed item.¹⁰ However, use tax compliance is notoriously low. Avalara reports that use tax compliance can be as low as 2 percent and is difficult to enforce.¹¹

¹ Section 212.04, F.S.

² Section 212.03, F.S.

³ Section 212.031, F.S.

⁴ See ss. 212.07(2) and 212.06(3)(a), F.S.

⁵ Section 212.055, F.S.

⁶ Section 212.054, F.S.

⁷ Office of Economic and Demographic Research (EDR), The Florida Legislature, *Florida Tax Handbook*, 2020 Local Discretionary Sales Surtax Rates in Florida's Counties, 231-232 (2020), available at <http://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2020.pdf> (last visited Jan. 22, 2021).

⁸ Florida Dept. of Revenue, *Florida Sales and Use Tax*, available at http://floridarevenue.com/taxes/taxesfees/Pages/sales_tax.aspx (last visited Jan. 22, 2021).

⁹ Section 212.15, F.S.

¹⁰ See s. 212.06, F.S.

¹¹ Gail Cole, *5 questions about use tax reporting requirements for non-collecting businesses*, *avalara.com*, Feb. 16, 2018, available at <https://www.avalara.com/us/en/blog/2018/02/5-use-tax-reporting-requirements-questions-for-non-collecting-businesses.html> (last visited Jan. 22, 2021).

One method of increasing compliance is to require out-of-state dealers to collect the state's sales tax at the time of sale and remit those taxes to the state. However, the U.S. Supreme Court has interpreted the Commerce Clause of the U.S. Constitution to require that a dealer have a "substantial nexus" with the taxing state before the taxing state may require the dealer to collect its sales taxes.¹² For decades, the U.S. Supreme Court has interpreted this substantial nexus requirement to require that the dealer have a physical presence (people or property) within the taxing state.¹³ The Court reasoned that it was an undue burden on interstate commerce to allow a taxing state to require an out-of-state dealer located outside of the taxing state to collect tax on behalf of the taxing state.¹⁴

Under the "substantial nexus" and "physical presence" standard, Florida, in 1987, adopted its "mail order sales statute," which defines a mail order sale to be the sale of tangible personal property, ordered from a dealer who receives the order in another state and then causes the property to be transported to a person in Florida.¹⁵ Although the statute describes dealers who "receive [orders] in another state," application of the statute was still limited by the U.S. Supreme Court's physical presence standard.¹⁶ In fact, much of the statute is written to only apply to dealers with a physical presence in Florida.¹⁷

Taxation of Mail Order Sales

Section 212.0596, F.S., establishes when a dealer¹⁸ who makes a mail-order sale is subject to Florida's sales tax. A "mail-order sale" is a sale of tangible personal property, ordered by mail or other means of communication, from a dealer who receives the order in another state of the United States, or in a commonwealth, territory, or other area under the jurisdiction of the United States, and transports the property or causes the property to be transported to a person in Florida.¹⁹

Every dealer as defined in s. 212.06(2)(c), F.S., who makes a mail-order sale is subject to the power of Florida to levy and collect the tax imposed by this ch. 212, F.S., when:

- The dealer is a corporation doing business under the laws of Florida or is a person domiciled in, a resident of, or a citizen of Florida;
- The dealer maintains retail establishments or offices in Florida;
- The dealer has agents in Florida who solicit business or transact business on behalf of the dealer;
- The property was delivered in Florida in fulfillment of a sales contract that was entered into in Florida when a person in Florida accepted an offer by ordering the property;

¹² See *Complete Auto Transit, Inc. v. Brady*, 430 U.S. 274 (1977).

¹³ *National Bellas Hess, Inc., v. Illinois*, 386 U.S. 753 (1967); *Quill Corporation v. North Dakota*, 504 U.S. 298 (1992).

¹⁴ *Quill Corporation v. North Dakota*, at 314-315.

¹⁵ See s. 212.0596(1), F.S.

¹⁶ See p. 3, *infra*, 'Taxation of Mail Order Sales' for further discussion of what activities subject a dealer to the levy and collection of tax pursuant to ch. 212, F.S.

¹⁷ See s. 212.0596(2)(j), F.S. (requiring dealers to collect tax on mail order sales if the dealer owns real property or tangible personal property that is physically in this state...).

¹⁸ Section 212.06(2)(a), F.S., defines "dealer" as every person, who manufactures or produces tangible personal property for sale at retail; for use, consumption, or distribution; or for storage to be used or consumed in Florida.

¹⁹ Section 212.0596(1), F.S.

- The dealer, by purposefully or systematically exploiting the market provided by Florida by any media-assisted, media-facilitated, or media-solicited means, creates nexus with Florida;
- Through compact or reciprocity with another jurisdiction of the United States, that jurisdiction uses its taxing power and its jurisdiction over the retailer in support of Florida's taxing power;
- The dealer consents, expressly or by implication, to the imposition of the tax imposed by ch. 212, F.S.;
- The dealer is subject to service of process under s. 48.181, F.S.;
- The dealer's remote sales are subject to the power of Florida to tax sales or to require the dealer to collect use taxes under a statute or statutes of the United States;
- The dealer owns real property or tangible personal property that is physically in Florida;
- The dealer is a corporation that is a member of an affiliated group of corporations and whose members are eligible to file a consolidated tax return for federal corporate income tax purposes and any parent or subsidiary corporation in the affiliated group has nexus with Florida; or
- The dealer or the dealer's activities have sufficient connection with or relationship to Florida or its residents of some type, other than those described above, to create nexus empowering this state to tax its mail order sales or to require the dealer to collect sales tax or accrue use tax.²⁰

Section 212.0596, F.S., also imposes a duty on dealers to cooperate in the collection of taxes. The department is required to enforce these provisions in other jurisdictions when the other jurisdiction consents. The law specifies that sales tax required under this section is to be collected and any amount unreturned to a purchaser that is not tax but was collected from the purchaser under the representation that it was tax constitute funds of the State of Florida from the moment of collection.²¹

A dealer who makes a mail order sale into this state is exempt from collecting and remitting any local option surtax on the sale.²² The department may establish rules for collecting the use tax from unregistered persons who, but for their remote purchases, would not be required to remit sales or use tax directly to the department.²³

Currently, a purchaser who remits use tax on an item imported into Florida for use or consumption is not required to include in the remittance any local discretionary sales surtax.²⁴

The Wayfair Decision

On June 21, 2018, the U.S. Supreme Court decided *South Dakota v. Wayfair*.²⁵ *Wayfair* involved a new South Dakota sales tax collection statute and Wayfair, Inc., a large online retailer with no physical presence in South Dakota, which sells and ships tangible personal property to customers all over the United States.

²⁰ Section 212.0596(2), F.S.

²¹ Section 212.0596(5), F.S.

²² Section 212.0596(6), F.S.

²³ Section 212.0596(7), F.S.

²⁴ *Id.*

²⁵ *South Dakota v. Wayfair, Inc.*, 138 S. Ct. 2080 (2018).

The *Wayfair* decision overturned the “physical presence test,” thereby expanding the states’ abilities to collect sales taxes; however, the foundational constitutional requirement (substantial nexus) remains in place. Thus, the extent of states’ authority is largely unknown at this time.

The facts involved in *Wayfair* provide the only situation currently known to satisfy all constitutional requirements for a remote seller without physical presence in the taxing state to collect and remit a states’ sales and use tax. For example:

- The South Dakota law only requires remote sellers with \$100,000 of sales or 200 individual transactions into South Dakota to collect tax. The law effectively has a “small seller exception” allowing small retailers—theoretically the ones most burdened by remote sales tax collection—to avoid collection responsibilities.
- The South Dakota law does not apply retroactively.
- South Dakota is a member of the Streamlined Sales and Use Tax Agreement.

State Reactions to Wayfair

After the *Wayfair* decision, 43 states and the District of Columbia enacted laws requiring remote sellers to collect the sales tax, and 38 states and the District of Columbia have enacted laws requiring a marketplace provider/facilitator to collect the sales tax.²⁶

Fees for Emergency Services

Enhanced 911 Fee

The Emergency Communications Number E911 Act established a comprehensive statewide emergency telecommunications number system to provide users of voice communications services within this state rapid direct access to public safety agencies by accessing the telephone number “911.” To accomplish this purpose, the Legislature authorized the levy of a reasonable fee on users of voice communications services. The fee is bifurcated by non-prepaid wireless service²⁷ and prepaid wireless service.²⁸

The fee imposed on prepaid wireless services is currently 40 cents and is collected by a seller for remittance to the department. Revenues derived from the fees levied on prepaid wireless services, less the costs of administration, are deposited by the department into the Emergency Communications Number E911 System Fund²⁹ and then distributed to the various counties for specific purposes and costs attributable to providing E911 service.³⁰ In Local Fiscal Year 2019-2020 counties received approximately \$15 million of prepaid wireless services fees.³¹

²⁶ National Conference of State Legislatures, Remote Sales Tax Collection, (March 13, 2020), available at <https://www.ncsl.org/research/fiscal-policy/e-fairness-legislation-overview.aspx#Marketplace> (last visited Jan. 22, 2021).

²⁷ Section 365.172(8), F.S.

²⁸ Section 365.172(9), F.S.

²⁹ Section 365.173(1)(b), F.S.

³⁰ Section 365.173(2), F.S. and s. 365.172(10), F.S.

³¹ EDR, *Enhance 911 Fee (Data Source: DMS), County Distributions: LFY 2014-2020* (Oct. 22, 2020), available at <http://edr.state.fl.us/Content/local-government/data/data-a-to-z/a-f.cfm> (last visited Feb. 15, 2021).

Fees for Waste Tires and Lead-acid Batteries

Waste tires and lead-acid batteries are considered “special wastes” that require special handling and management³² and must be disposed of accordingly.³³ Each new tire sold at retail is subject to a \$1 waste tire fee³⁴ and each new or remanufactured lead-acid battery is subject to a \$1.50 lead-acid battery fee.³⁵

The proceeds from the waste tire fee are deposited into the Solid Waste Management Trust Fund and a portion is used to fund the waste tire abatement program.³⁶ The proceeds from the lead-acid battery fee are deposited into the Water Quality Assurance Trust Fund.³⁷

III. Effect of Proposed Changes:

Taxation of Remote Sales and Marketplace Sales

The bill requires out-of-state retailers and marketplace providers with no physical presence in Florida to collect Florida’s sales tax on sales of taxable items delivered to purchasers in Florida if the out-of-state retailer or marketplace provider makes a substantial number of sales into Florida.

Section 1 amends the definition of “retail sale” in s. 212.02, F.S., to include a remote sale and a sale facilitated through a marketplace.

Section 2 amends s. 212.05, F.S., to apply the sales and use tax to remote sales.

Section 3 substantially amends s. 212.0596, F.S. The bill changes the catch line to refer to the taxation of remote sales, removes references or requirements related to a “mail order sale,” and provides that a person who makes a substantial number of remote sales is a dealer for purposes of ch. 212, F.S.

The bill defines “substantial number of remote sales” to mean conducting any number of taxable remote sales in an amount exceeding \$100,000 during the previous calendar year.

Section 4 creates s. 212.05965, F.S., which provides for the taxation of marketplace sales.

The bill defines:

- “Marketplace” to mean any physical place or electronic medium through which tangible personal property is offered for sale.
- “Marketplace provider” to mean a person who facilitates a retail sale by a marketplace seller by listing or advertising for sale by the marketplace seller tangible personal property in a marketplace, and who directly, or indirectly through agreements or arrangements with third

³² Section 403.703(40), F.S.

³³ See s. 403.717, F.S., and s. 403.708(12), F.S., encouraging “all persons who sell lead-acid batteries at retail” to “accept used lead-acid batteries as trade-ins for new lead-acid batteries.”

³⁴ Section 403.718, F.S.

³⁵ Section 403.7185, F.S.

³⁶ See s. 403.7095, F.S.

³⁷ Section 403.7185, F.S.

parties, collects payment from the customer and transmits all or a part of the payment to the marketplace seller, regardless of whether the marketplace provider receives compensation or other consideration in exchange for its services.

- “Marketplace provider” to exclude: (1) any person who solely provides travel agency services; (2) a delivery network company, unless the delivery network company is a registered dealer that notifies all local merchants that sell through the delivery company’s website or mobile application that the delivery network company must remit taxes in the same way as a marketplace provider; or (3) a payment processor business whose sole activity with respect to marketplace sales is to handle payment transactions between two parties.
- “Marketplace seller” to mean a person who has an agreement with a marketplace provider and who makes retail sales of tangible personal property through a marketplace owned, operated, or controlled by the marketplace provider.

Marketplace providers with a physical presence in Florida, or those making or facilitating a substantial number of remote sales into this state, are subject to the requirements imposed on dealers by ch. 212, F.S., for registration and for the collection and remittance of taxes. A marketplace provider must certify to its marketplace sellers that it will collect and remit the tax to the department.

A marketplace seller may not collect and remit sales tax when the marketplace provider certifies that it will collect and remit the tax. A marketplace seller must exclude sales made through the marketplace from the marketplace seller’s tax return. A marketplace seller with a physical presence in Florida, or that makes a substantial number of remote sales must register, collect, and remit sales tax on taxable sales made outside of the marketplace.

A marketplace provider must allow the department to examine and audit its books and records. If the department audits a marketplace provider, the department may not propose a tax assessment on the marketplace seller for the same retail sales unless the marketplace seller provides incorrect or incomplete information to the marketplace provider.

The marketplace provider is relieved of liability for the tax, and the marketplace seller or customer is liable for the tax imposed under this chapter if the marketplace provider demonstrates that it made a reasonable effort to obtain accurate information related to the retail sales facilitated through the marketplace from the marketplace seller, but the failure to collect and pay the correct amount of tax imposed under this chapter was due to incorrect or incomplete information provided by the marketplace seller to the marketplace provider.

The bill defines:

- “Delivery network company” as a person who maintains a website or mobile application used to facilitate delivery services, the sale of local products, or both.
- “Delivery network courier” as an individual who provides delivery services through a delivery network company website or mobile application using a personal means of transportation, such as a motor vehicle as defined in s. 320.01(1), F.S., bicycle, scooter, or other similar means of transportation; using public transportation; or by walking.
- “Delivery services” as the pickup and delivery by a delivery network courier of one or more local products from a local merchant to a customer, which may include, the selection, collection, and purchase of the local product in connection with the delivery. The term does

not include any delivery requiring more than 75 miles of travel from the local merchant to the customer.

- “Local merchant” as a kitchen, restaurant, or a third-party merchant, including a grocery store, retail store, convenience store, or business of another type, which is not under common ownership or control of the delivery network company.
- “Local product” as any tangible personal property, including food, but excluding freight, mail, or a package to which postage has been affixed.

Section 5, effective April 1, 2022, amends s. 212.05965, F.S., to allow a marketplace provider and a qualifying marketplace seller to agree contractually to have the marketplace seller collect and remit the taxes for sales on the marketplace. To qualify for this treatment a marketplace seller must have annual U.S. gross sales of more than \$1 billion, including the gross sales of any related entities, and in the case of franchised entities, including the combined sales of all franchisees of a single franchisor.

The bill also requires, effective April 1, 2022, a marketplace provider, at the time of sale, to collect and remit the prepaid wireless E911 fee,³⁸ the waste tire fee,³⁹ and the lead-acid battery fee, on applicable sales.⁴⁰

Section 6 amends s. 212.06, F.S., to specify that the term “dealer” includes a retailer who transacts a remote sale or who is a marketplace provider.

Section 7 amends s. 212.12, F.S., to (1) remove the authority given to the executive director of the department to negotiate a collection allowance with a dealer who makes mail order sales and (2) delete language that kept dealers who made mail order sales from participating in the state’s 2.5 percent collection allowance.

Section 8 makes conforming changes to s. 212.18 F.S., to change the term “mail order sale” to “remote sale.”

Section 9 amends s. 212.20(4), F.S., to include sales taxes collected as provided in s. 212.05965, F.S., as a tax for which if found unconstitutional requires the department to issue a refund to any person who paid such tax in the amount of tax paid.

Section 10 amends s. 213.27(5), F.S., to clarify that s. 213.27(5), F.S., relating to the departments authorization to conduct audits, applies to a person making or facilitating remote sales under s. 212.0596, F.S. or s. 212.05965, F.S.

Section 11 provides that this act first applies to remote sales made or facilitated on or after July 1, 2021, by a person who made or facilitated a substantial number of remote sales in calendar year 2020.

³⁸ Section 365.172, F.S.

³⁹ Section 403.718, F.S.

⁴⁰ Section 403.7185, F.S.

Section 12 grants relief of liability for tax, penalty, and interest to the following persons upon registration with the department: any person who conducted remote sales prior to the effective date of the bill, regardless of that person being found to have had a physical presence in this state; a marketplace seller for those sales made before the effective date of the bill; and a marketplace provider with a physical presence in this state is relieved of liability on those sales the marketplace provider facilitated on behalf of marketplace sellers.

This relief does not establish a right to a refund of taxes already paid.

Section 13 authorizes the department to adopt emergency rules to implement the bill. The emergency rulemaking grant is authorized upon the act becoming a law, and expires July 1, 2022.

Section 14 provides that, if any provision of the bill is found to be invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application and, to this end, the provisions of this act are severable.

Section 15 provides that this section take effect upon becoming a law, and except as otherwise provided, the bill takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties and municipalities to spend funds, limit their ability to raise revenue, or reduce the percentage of a state tax shared with them. Therefore, the mandates provision does not apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Article VII, s. 19 of the Florida Constitution requires new or increased taxes or fees to be passed by a two-thirds vote of the membership of each house of the Legislature in a separate bill that contains no other subject.

Since 1990, Florida has required dealers who transact mail-order sales to collect Florida's tax when the activities of the dealer have sufficient connection with this state to create nexus under the U.S. Commerce Clause.⁴¹

⁴¹ Section 212.0596(2)(1), F.S.

The bill neither imposes a tax where none was due before, nor does it increase the amount of a current state tax. Rather, the bill updates Florida's mail-order statute to align with U.S. Commerce Clause limitations, as redefined by the U.S. Supreme Court in *Wayfair*. As such, the bill does not appear to implicate the requirements of Article VII, s. 19 of the Florida Constitution.

E. Other Constitutional Issues:

The facts involved in *Wayfair* provide the only situation currently known to satisfy all constitutional requirements for states to require an out-of-state retailer to collect and remit a state's sales and use tax. The U.S. Supreme Court did not decide the constitutionality of marketplace providers to collect and remit a state's sales and use tax on behalf of retailers who sell on a marketplace.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference (REC) determined the bill will:

- Increase General Revenue Fund receipts by \$973.6 million in Fiscal Year 2021-2022 and by \$1.08 billion each year thereafter.
- Increase state trust fund receipts by \$0.3 million in Fiscal Year 2021-2022 and by \$3.3 million each year thereafter.
- Increase local government revenues by \$229.5 million in Fiscal Year 2021-2022 and by \$253.7 million each year thereafter.

Staff estimates that the provisions of the bill that relieve certain persons of liability for tax, penalty, and interest if they engaged in remote sales prior to July 1, 2021, will reduce the General Revenue Fund and local government revenue estimates by an indeterminate amount.

B. Private Sector Impact:

More remote sellers and marketplace providers will have to collect and remit Florida's sales tax, and consequently the bill reduces the burden on purchasers to remit use tax on such sales.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 212.02, 212.05, 212.0596, 212.06, 212.12, 212.18, 212.20, and 213.27.

This bill creates section 212.05965 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Finance and Tax on February 18, 2021:

The CS:

- Grants relief of liability for tax, penalty, and interest to Florida customers, out-of-state dealers, and marketplaces on remote sales that occurred prior to the effective date of this bill.
- Retains a provision of current law allowing the department authority to waive the local option surtax on Floridians' purchases of items in another state that they transport into this state.
- Clarifies that marketplace providers must collect tax on sales made on behalf of marketplace sellers regardless of how much of the sale proceeds are transferred back to the marketplace seller.
- Effective April 1, 2022:
 - Requires a marketplace provider to collect and remit the E911 fee, waste tire fee, and lead-acid battery fee.
 - Authorizes a marketplace provider and large retailer to agree to have the large retailer collect and remit the tax on sales made on a marketplace. A large retailer is one that has gross U.S. sales of more than \$1 billion. The retailer must be registered with this state and notify the department that the retailer will collect and remit all taxes and fees.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Gruters) recommended the following:

Senate Amendment (with title amendment)

Delete lines 590 - 1024

and insert:

Section 3. Paragraph (c) of subsection (4) of section 212.054, Florida Statutes, is amended to read:

212.054 Discretionary sales surtax; limitations, administration, and collection.—

(4)

(c)1. Any dealer located in a county that does not impose a



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11 discretionary sales surtax, as well as a marketplace provider
12 located outside of this state which makes or facilitates a
13 substantial number of remote sales or a person located outside
14 this state who is required to report remote sales, but who
15 collects the surtax due to sales of tangible personal property
16 or services delivered to a county imposing a surtax ~~outside the~~
17 ~~county~~ shall remit monthly the proceeds of the surtax to the
18 department to be deposited into an account in the Discretionary
19 Sales Surtax Clearing Trust Fund which is separate from the
20 county surtax collection accounts. The department shall
21 distribute funds in this account using a distribution factor
22 determined for each county that levies a surtax and multiplied
23 by the amount of funds in the account and available for
24 distribution. The distribution factor for each county equals the
25 product of:

26 a. The county's latest official population determined
27 pursuant to s. 186.901;

28 b. The county's rate of surtax; and

29 c. The number of months the county has levied a surtax
30 during the most recent distribution period;

31
32 divided by the sum of all such products of the counties levying
33 the surtax during the most recent distribution period.

34 2. The department shall compute distribution factors for
35 eligible counties once each quarter and make appropriate
36 quarterly distributions.

37 3. A county that fails to timely provide the information
38 required by this section to the department authorizes the
39 department, by such action, to use the best information



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40 available to it in distributing surtax revenues to the county.
41 If this information is unavailable to the department, the
42 department may partially or entirely disqualify the county from
43 receiving surtax revenues under this paragraph. A county that
44 fails to provide timely information waives its right to
45 challenge the department's determination of the county's share,
46 if any, of revenues provided under this paragraph.

47 Section 4. Section 212.0596, Florida Statutes, is amended
48 to read:

49 (Substantial rewording of section. See
50 s. 212.0596, F.S., for present text.)

51 212.0596 Taxation of remote sales.—

52 (1) As used in this chapter, the term:

53 (a) "Remote sale" means a retail sale of tangible personal
54 property ordered by mail, telephone, the Internet, or other
55 means of communication from a person who receives the order
56 outside of this state and transports the property or causes the
57 property to be transported from any jurisdiction, including this
58 state, to a location in this state. For purposes of this
59 paragraph, tangible personal property delivered to a location
60 within this state is presumed to be used, consumed, distributed,
61 or stored to be used or consumed in this state.

62 (b) "Substantial number of remote sales" means any number
63 of taxable remote sales in the previous calendar year in which
64 the sum of the sales prices, as defined in s. 212.02(16),
65 exceeded \$100,000.

66 (2) Every person making a substantial number of remote
67 sales is a dealer for purposes of this chapter.

68 (3) The department may establish by rule procedures for



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69 collecting the use tax from unregistered persons who but for
70 their remote purchases would not be required to remit sales or
71 use tax directly to the department. The procedures may provide
72 for waiver of registration, provisions for irregular remittance
73 of tax, elimination of the collection allowance, and
74 nonapplication of local option surtaxes.

75 (4) A marketplace provider that makes or facilitates a
76 substantial number of remote sales or a person who is required
77 to report remote sales is required to collect surtax when the
78 taxable item of tangible personal property is delivered within a
79 county imposing a surtax as provided in s. 212.054(3)(a).

80 Section 5. Section 212.05965, Florida Statutes, is created
81 to read:

82 212.05965 Taxation of marketplace sales.-

83 (1) As used in this chapter, the term:

84 (a) "Marketplace" means any physical place or electronic
85 medium through which tangible personal property is offered for
86 sale.

87 (b) "Marketplace provider" means a person who facilitates a
88 retail sale by a marketplace seller by listing or advertising
89 for sale by the marketplace seller tangible personal property in
90 a marketplace and who directly, or indirectly through agreements
91 or arrangements with third parties, collects payment from the
92 customer and transmits all or part of the payment to the
93 marketplace seller, regardless of whether the marketplace
94 provider receives compensation or other consideration in
95 exchange for its services.

96 1. The term does not include a person who solely provides
97 travel agency services. As used in this subparagraph, the term



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98 "travel agency services" means arranging, booking, or otherwise
99 facilitating for a commission, fee, or other consideration
100 vacation or travel packages, rental cars, or other travel
101 reservations; tickets for domestic or foreign travel by air,
102 rail, ship, bus, or other mode of transportation; or hotel or
103 other lodging accommodations.

104 2. The term does not include a person who is a delivery
105 network company unless the delivery network company is a
106 registered dealer for purposes of this chapter and the delivery
107 network company notifies all local merchants that sell through
108 the delivery network company's website or mobile application
109 that the delivery network company is subject to the requirements
110 of a marketplace provider under this section. As used in this
111 subparagraph, the term:

112 a. "Delivery network company" means a person who maintains
113 a website or mobile application used to facilitate delivery
114 services, the sale of local products, or both.

115 b. "Delivery network courier" means a person who provides
116 delivery services through a delivery network company website or
117 mobile application using a personal means of transportation,
118 such as a motor vehicle as defined in s. 320.01(1), bicycle,
119 scooter, or other similar means of transportation; using public
120 transportation; or by walking.

121 c. "Delivery services" means the pickup and delivery by a
122 delivery network courier of one or more local products from a
123 local merchant to a customer, which may include the selection,
124 collection, and purchase of the local product in connection with
125 the delivery. The term does not include any delivery requiring
126 more than 75 miles of travel from the local merchant to the



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127 customer.

128 d. "Local merchant" means a kitchen, a restaurant, or a
129 third-party merchant, including a grocery store, retail store,
130 convenience store, or business of another type, which is not
131 under common ownership or control of the delivery network
132 company.

133 e. "Local product" means any tangible personal property,
134 including food, but excluding freight, mail, or a package to
135 which postage has been affixed.

136 3. The term does not include a payment processor business
137 that is appointed to handle payment transactions from various
138 channels, such as charge cards, credit cards, or debit cards,
139 and whose sole activity with respect to marketplace sales is to
140 handle payment transactions between two parties.

141 (c) "Marketplace seller" means a person who has an
142 agreement with a marketplace provider and who makes retail sales
143 of tangible personal property through a marketplace owned,
144 operated, or controlled by the marketplace provider.

145 (2) A marketplace provider who has a physical presence in
146 this state or who is making or facilitating through a
147 marketplace a substantial number of remote sales as defined in
148 s. 212.0596(1) is a dealer for purposes of this chapter.

149 (3) A marketplace provider shall certify to its marketplace
150 sellers that it will collect and remit the tax imposed under
151 this chapter on taxable retail sales made through the
152 marketplace. Such certification may be included in the agreement
153 between the marketplace provider and the marketplace seller.

154 (4) (a) A marketplace seller may not collect and remit the
155 tax under this chapter on a taxable retail sale when the sale is



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156 made through the marketplace and the marketplace provider
157 certifies, as required under subsection (3), that it will
158 collect and remit such tax. A marketplace seller shall exclude
159 such sales made through the marketplace from the marketplace
160 seller's tax return under s. 212.11.

161 (b)1. A marketplace seller who has a physical presence in
162 this state shall register and shall collect and remit the tax
163 imposed under this chapter on all taxable retail sales made
164 outside of the marketplace.

165 2. A marketplace seller making a substantial number of
166 remote sales as defined in s. 212.0596(1) shall register and
167 shall collect and remit the tax imposed under this chapter on
168 all taxable retail sales made outside of the marketplace. For
169 the purposes of determining whether a marketplace seller made a
170 substantial number of remote sales, the marketplace seller shall
171 consider only those sales made outside of a marketplace.

172 (5) (a) A marketplace provider shall allow the department to
173 examine and audit its books and records pursuant to s. 212.13.
174 For retail sales facilitated through a marketplace, the
175 department may not examine or audit the books and records of
176 marketplace sellers, nor may the department assess marketplace
177 sellers except to the extent that the marketplace provider seeks
178 relief under paragraph (b). The department may examine, audit,
179 and assess a marketplace seller for retail sales made outside of
180 a marketplace under paragraph (4) (b). This paragraph does not
181 provide relief to a marketplace seller who is under audit; has
182 been issued a bill, notice, or demand for payment; or is under
183 an administrative or judicial proceeding before July 1, 2021.

184 (b) The marketplace provider is relieved of liability for



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185 the tax on the retail sale and the marketplace seller or
186 customer is liable for the tax imposed under this chapter if the
187 marketplace provider demonstrates to the department's
188 satisfaction that the marketplace provider made a reasonable
189 effort to obtain accurate information related to the retail
190 sales facilitated through the marketplace from the marketplace
191 seller, but that the failure to collect and pay the correct
192 amount of tax imposed under this chapter was due to the
193 provision of incorrect or incomplete information to the
194 marketplace provider by the marketplace seller. This paragraph
195 does not apply to a retail sale for which the marketplace
196 provider is the seller if the marketplace provider and the
197 marketplace seller are related parties or if transactions
198 between a marketplace seller and marketplace buyer are not
199 conducted at arm's length.

200 (6) For purposes of registration pursuant to s. 212.18, a
201 marketplace is deemed a separate place of business.

202 (7) A marketplace provider and a marketplace seller may
203 agree by contract or otherwise that if a marketplace provider
204 pays the tax imposed under this chapter on a retail sale
205 facilitated through a marketplace for a marketplace seller as a
206 result of an audit or otherwise, the marketplace provider has
207 the right to recover such tax and any associated interest and
208 penalties from the marketplace seller.

209 (8) This section may not be construed to authorize the
210 state to collect sales tax from both the marketplace provider
211 and the marketplace seller on the same retail sale.

212 (9) Chapter 213 applies to the administration of this
213 section to the extent that chapter does not conflict with this



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214 section.

215 Section 6. Effective April 1, 2022, subsections (10) and
216 (11) are added to section 212.05965, Florida Statutes, as
217 created by this act, to read:

218 212.05965 Taxation of marketplace sales.—

219 (10) Notwithstanding any other law, the marketplace
220 provider is also responsible for collecting and remitting any
221 prepaid wireless E911 fee under s. 365.172, waste tire fee under
222 s. 403.718, and lead-acid battery fee under s. 403.7185 at the
223 time of sale for taxable retail sales made through its
224 marketplace.

225 (11) The marketplace provider and the marketplace seller
226 may contractually agree to have the marketplace seller collect
227 and remit all applicable taxes and fees if the marketplace
228 seller:

229 (a) Has annual U.S. gross sales of more than \$1 billion,
230 including the gross sales of any related entities, and in the
231 case of franchised entities, including the combined sales of all
232 franchisees of a single franchisor;

233 (b) Provides evidence to the marketplace provider that it
234 is registered under s. 212.18; and

235 (c) Notifies the department in a manner prescribed by the
236 department that the marketplace seller will collect and remit
237 all applicable taxes and fees on its sales through the
238 marketplace and is liable for failure to collect or remit
239 applicable taxes and fees on its sales.

240 Section 7. Paragraph (c) of subsection (2) and paragraph
241 (a) of subsection (5) of section 212.06, Florida Statutes, are
242 amended to read:



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243 212.06 Sales, storage, use tax; collectible from dealers;
244 "dealer" defined; dealers to collect from purchasers;
245 legislative intent as to scope of tax.—

246 (2)

247 (c) The term "dealer" is further defined to mean every
248 person, as used in this chapter, who sells at retail or who
249 offers for sale at retail, or who has in his or her possession
250 for sale at retail; or for use, consumption, or distribution; or
251 for storage to be used or consumed in this state, tangible
252 personal property as defined herein, including a retailer who
253 transacts a substantial number of remote sales or a person who
254 is a marketplace provider making or facilitating a substantial
255 number of remote sales ~~mail order sale~~.

256 (5) (a) 1. Except as provided in subparagraph 2., it is not
257 the intention of this chapter to levy a tax upon tangible
258 personal property imported, produced, or manufactured in this
259 state for export, provided that tangible personal property may
260 not be considered as being imported, produced, or manufactured
261 for export unless the importer, producer, or manufacturer
262 delivers the same to a licensed exporter for exporting or to a
263 common carrier for shipment outside the state or mails the same
264 by United States mail to a destination outside the state; or, in
265 the case of aircraft being exported under their own power to a
266 destination outside the continental limits of the United States,
267 by submission to the department of a duly signed and validated
268 United States customs declaration, showing the departure of the
269 aircraft from the continental United States; and further with
270 respect to aircraft, the canceled United States registry of said
271 aircraft; or in the case of parts and equipment installed on



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272 aircraft of foreign registry, by submission to the department of
273 documentation, the extent of which shall be provided by rule,
274 showing the departure of the aircraft from the continental
275 United States; nor is it the intention of this chapter to levy a
276 tax on any sale which the state is prohibited from taxing under
277 the Constitution or laws of the United States. Every retail sale
278 made to a person physically present at the time of sale shall be
279 presumed to have been delivered in this state.

280 2.a. Notwithstanding subparagraph 1., a tax is levied on
281 each sale of tangible personal property to be transported to a
282 cooperating state as defined in sub-subparagraph c., at the rate
283 specified in sub-subparagraph d. However, a Florida dealer will
284 be relieved from the requirements of collecting taxes pursuant
285 to this subparagraph if the Florida dealer obtains from the
286 purchaser an affidavit setting forth the purchaser's name,
287 address, state taxpayer identification number, and a statement
288 that the purchaser is aware of his or her state's use tax laws,
289 is a registered dealer in Florida or another state, or is
290 purchasing the tangible personal property for resale or is
291 otherwise not required to pay the tax on the transaction. The
292 department may, by rule, provide a form to be used for the
293 purposes set forth herein.

294 b. For purposes of this subparagraph, "a cooperating state"
295 is one determined by the executive director of the department to
296 cooperate satisfactorily with this state in collecting taxes on
297 remote ~~mail-order~~ sales. No state shall be so determined unless
298 it meets all the following minimum requirements:

299 (I) It levies and collects taxes on remote ~~mail-order~~ sales
300 of property transported from that state to persons in this



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301 state, as described in s. 212.0596, upon request of the
302 department.

303 (II) The tax so collected shall be at the rate specified in
304 s. 212.05, not including any local option or tourist or
305 convention development taxes collected pursuant to s. 125.0104
306 or this chapter.

307 (III) Such state agrees to remit to the department all
308 taxes so collected no later than 30 days from the last day of
309 the calendar quarter following their collection.

310 (IV) Such state authorizes the department to audit dealers
311 within its jurisdiction who make remote ~~mail-order~~ sales that
312 are the subject of s. 212.0596, or makes arrangements deemed
313 adequate by the department for auditing them with its own
314 personnel.

315 (V) Such state agrees to provide to the department records
316 obtained by it from retailers or dealers in such state showing
317 delivery of tangible personal property into this state upon
318 which no sales or use tax has been paid in a manner similar to
319 that provided in sub-subparagraph g.

320 c. For purposes of this subparagraph, "sales of tangible
321 personal property to be transported to a cooperating state"
322 means remote ~~mail-order~~ sales to a person who is in the
323 cooperating state at the time the order is executed, from a
324 dealer who receives that order in this state.

325 d. The tax levied by sub-subparagraph a. shall be at the
326 rate at which such a sale would have been taxed pursuant to the
327 cooperating state's tax laws if consummated in the cooperating
328 state by a dealer and a purchaser, both of whom were physically
329 present in that state at the time of the sale.



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330 e. The tax levied by sub-subparagraph a., when collected,
331 shall be held in the State Treasury in trust for the benefit of
332 the cooperating state and shall be paid to it at a time agreed
333 upon between the department, acting for this state, and the
334 cooperating state or the department or agency designated by it
335 to act for it; however, such payment shall in no event be made
336 later than 30 days from the last day of the calendar quarter
337 after the tax was collected. Funds held in trust for the benefit
338 of a cooperating state shall not be subject to the service
339 charges imposed by s. 215.20.

340 f. The department is authorized to perform such acts and to
341 provide such cooperation to a cooperating state with reference
342 to the tax levied by sub-subparagraph a. as is required of the
343 cooperating state by sub-subparagraph b.

344 g. In furtherance of this act, dealers selling tangible
345 personal property for delivery in another state shall make
346 available to the department, upon request of the department,
347 records of all tangible personal property so sold. Such records
348 shall include a description of the property, the name and
349 address of the purchaser, the name and address of the person to
350 whom the property was sent, the purchase price of the property,
351 information regarding whether sales tax was paid in this state
352 on the purchase price, and such other information as the
353 department may by rule prescribe.

354 Section 8. Paragraph (b) of subsection (1) of section
355 212.07, Florida Statutes, is amended to read:

356 212.07 Sales, storage, use tax; tax added to purchase
357 price; dealer not to absorb; liability of purchasers who cannot
358 prove payment of the tax; penalties; general exemptions.—



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359 (1)
360 (b) A resale must be in strict compliance with s. 212.18
361 and the rules and regulations adopted thereunder. A dealer who
362 makes a sale for resale that is not in strict compliance with s.
363 212.18 and the rules and regulations adopted thereunder is
364 liable for and must pay the tax. A dealer who makes a sale for
365 resale shall document the exempt nature of the transaction, as
366 established by rules adopted by the department, by retaining a
367 copy of the purchaser's resale certificate. In lieu of
368 maintaining a copy of the certificate, a dealer may document,
369 before the time of sale, an authorization number provided
370 telephonically or electronically by the department, or by such
371 other means established by rule of the department. The dealer
372 may rely on a resale certificate issued pursuant to s.
373 212.18(3)(e) ~~s. 212.18(3)(d)~~, valid at the time of receipt from
374 the purchaser, without seeking annual verification of the resale
375 certificate if the dealer makes recurring sales to a purchaser
376 in the normal course of business on a continual basis. For
377 purposes of this paragraph, "recurring sales to a purchaser in
378 the normal course of business" refers to a sale in which the
379 dealer extends credit to the purchaser and records the debt as
380 an account receivable, or in which the dealer sells to a
381 purchaser who has an established cash or C.O.D. account, similar
382 to an open credit account. For purposes of this paragraph,
383 purchases are made from a selling dealer on a continual basis if
384 the selling dealer makes, in the normal course of business,
385 sales to the purchaser at least once in every 12-month period. A
386 dealer may, through the informal protest provided for in s.
387 213.21 and the rules of the department, provide the department



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388 with evidence of the exempt status of a sale. Consumer
389 certificates of exemption executed by those exempt entities that
390 were registered with the department at the time of sale, resale
391 certificates provided by purchasers who were active dealers at
392 the time of sale, and verification by the department of a
393 purchaser's active dealer status at the time of sale in lieu of
394 a resale certificate shall be accepted by the department when
395 submitted during the protest period, but may not be accepted in
396 any proceeding under chapter 120 or any circuit court action
397 instituted under chapter 72.

398 Section 9. Paragraphs (f) is added to subsection (4) of
399 section 212.11, Florida Statutes, to read:

400 212.11 Tax returns and regulations.—

401 (4)

402 (f) A marketplace provider that makes or facilitates a
403 substantial number of remote sales or a person who is required
404 to report remote sales shall file returns and pay taxes by
405 electronic means under s. 213.755.

406 Section 10. Paragraph (a) of subsection (1) and paragraph
407 (a) of subsection (5) of section 212.12, Florida Statutes, are
408 amended to read:

409 212.12 Dealer's credit for collecting tax; penalties for
410 noncompliance; powers of Department of Revenue in dealing with
411 delinquents; brackets applicable to taxable transactions;
412 records required.—

413 (1) (a) ~~1-~~ Notwithstanding any other law and for the purpose
414 of compensating persons granting licenses for and the lessors of
415 real and personal property taxed hereunder, for the purpose of
416 compensating dealers in tangible personal property, for the



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417 purpose of compensating dealers providing communication services
418 and taxable services, for the purpose of compensating owners of
419 places where admissions are collected, and for the purpose of
420 compensating remitters of any taxes or fees reported on the same
421 documents utilized for the sales and use tax, as compensation
422 for the keeping of prescribed records, filing timely tax
423 returns, and the proper accounting and remitting of taxes by
424 them, such seller, person, lessor, dealer, owner, and remitter
425 ~~(except dealers who make mail order sales)~~ who files the return
426 required pursuant to s. 212.11 only by electronic means and who
427 pays the amount due on such return only by electronic means
428 shall be allowed 2.5 percent of the amount of the tax due,
429 accounted for, and remitted to the department in the form of a
430 deduction. However, if the amount of the tax due and remitted to
431 the department by electronic means for the reporting period
432 exceeds \$1,200, an allowance is not allowed for all amounts in
433 excess of \$1,200. For purposes of this paragraph ~~subparagraph~~,
434 the term "electronic means" has the same meaning as provided in
435 s. 213.755(2)(c).

436 ~~2. The executive director of the department is authorized~~
437 ~~to negotiate a collection allowance, pursuant to rules~~
438 ~~promulgated by the department, with a dealer who makes mail~~
439 ~~order sales. The rules of the department shall provide~~
440 ~~guidelines for establishing the collection allowance based upon~~
441 ~~the dealer's estimated costs of collecting the tax, the volume~~
442 ~~and value of the dealer's mail order sales to purchasers in this~~
443 ~~state, and the administrative and legal costs and likelihood of~~
444 ~~achieving collection of the tax absent the cooperation of the~~
445 ~~dealer. However, in no event shall the collection allowance~~



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446 ~~negotiated by the executive director exceed 10 percent of the~~
447 ~~tax remitted for a reporting period.~~

448 (5) (a) The department is authorized to audit or inspect the
449 records and accounts of dealers defined herein, including audits
450 or inspections of dealers who make remote ~~mail order~~ sales ~~to~~
451 ~~the extent permitted by another state~~, and to correct by credit
452 any overpayment of tax, and, in the event of a deficiency, an
453 assessment shall be made and collected. No administrative
454 finding of fact is necessary prior to the assessment of any tax
455 deficiency.

456 Section 11. Present paragraphs (c) through (f) of
457 subsection (3) of section 212.18, Florida Statutes, are
458 redesignated as paragraphs (d) through (g), respectively, a new
459 paragraph (c) is added to that subsection, and present paragraph
460 (f) of that subsection is amended, to read:

461 212.18 Administration of law; registration of dealers;
462 rules.-

463 (3)

464 (c) A marketplace provider that makes or facilitates a
465 substantial number of remote sales or a person who is required
466 to report remote sales must file with the department an
467 application for a certificate of registration electronically.

468 (g) ~~(f)~~ As used in this paragraph, the term "exhibitor"
469 means a person who enters into an agreement authorizing the
470 display of tangible personal property or services at a
471 convention or a trade show. The following provisions apply to
472 the registration of exhibitors as dealers under this chapter:

473 1. An exhibitor whose agreement prohibits the sale of
474 tangible personal property or services subject to the tax



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475 imposed in this chapter is not required to register as a dealer.

476 2. An exhibitor whose agreement provides for the sale at
477 wholesale only of tangible personal property or services subject
478 to the tax imposed by this chapter must obtain a resale
479 certificate from the purchasing dealer but is not required to
480 register as a dealer.

481 3. An exhibitor whose agreement authorizes the retail sale
482 of tangible personal property or services subject to the tax
483 imposed by this chapter must register as a dealer and collect
484 the tax on such sales.

485 4. An exhibitor who makes a remote ~~mail-order~~ sale pursuant
486 to s. 212.0596 must register as a dealer.

487
488 A person who conducts a convention or a trade show must make his
489 or her exhibitor's agreements available to the department for
490 inspection and copying.

491 Section 12. Subsection (4) of section 212.20, Florida
492 Statutes, is amended to read:

493 212.20 Funds collected, disposition; additional powers of
494 department; operational expense; refund of taxes adjudicated
495 unconstitutionally collected.—

496 (4) When there has been a final adjudication that any tax
497 pursuant to s. 212.0596 or s. 212.05965 was levied, collected,
498 or both, contrary to the Constitution of the United States or
499 the State Constitution, the department shall, in accordance with
500 rules, determine, based upon claims for refund and other
501 evidence and information, who paid such tax or taxes, and refund
502 to each such person the amount of tax paid. For purposes of this
503 subsection, a "final adjudication" is a decision of a court of



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504 competent jurisdiction from which no appeal can be taken or from
505 which the official or officials of this state with authority to
506 make such decisions has or have decided not to appeal.

507 Section 13. Subsection (5) of section 213.27, Florida
508 Statutes, is amended to read:

509 213.27 Contracts with debt collection agencies and certain
510 vendors.—

511 (5) The department may, for the purpose of ascertaining the
512 amount of or collecting any taxes due from a person making or
513 facilitating remote sales under s. 212.0596 or s. 212.05965
514 ~~doing mail order business~~ in this state, contract with any
515 auditing agency doing business within or without this state for
516 the purpose of conducting an audit of such person ~~mail order~~
517 ~~business~~; however, such audit agency may not conduct an audit on
518 behalf of the department of any person domiciled in this state,
519 person registered for sales and use tax purposes in this state,
520 or corporation filing a Florida corporate tax return, if any
521 such person or corporation objects to such audit in writing to
522 the department and the auditing agency. The department shall
523 notify the taxpayer by mail at least 30 days before the
524 department assigns the collection of such taxes.

525 Section 14. For the purpose of incorporating the amendment
526 made by this act to section 212.054, Florida Statutes, in
527 references thereto, paragraph (c) of subsection (2), paragraph
528 (c) of subsection (3), paragraph (c) of subsection (8), and
529 paragraph (c) of subsection (9) of section 212.055, Florida
530 Statutes, are reenacted to read:

531 212.055 Discretionary sales surtaxes; legislative intent;
532 authorization and use of proceeds.—It is the legislative intent



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533 that any authorization for imposition of a discretionary sales
534 surtax shall be published in the Florida Statutes as a
535 subsection of this section, irrespective of the duration of the
536 levy. Each enactment shall specify the types of counties
537 authorized to levy; the rate or rates which may be imposed; the
538 maximum length of time the surtax may be imposed, if any; the
539 procedure which must be followed to secure voter approval, if
540 required; the purpose for which the proceeds may be expended;
541 and such other requirements as the Legislature may provide.
542 Taxable transactions and administrative procedures shall be as
543 provided in s. 212.054.

544 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

545 (c) Pursuant to s. 212.054(4), the proceeds of the surtax
546 levied under this subsection shall be distributed to the county
547 and the municipalities within such county in which the surtax
548 was collected, according to:

549 1. An interlocal agreement between the county governing
550 authority and the governing bodies of the municipalities
551 representing a majority of the county's municipal population,
552 which agreement may include a school district with the consent
553 of the county governing authority and the governing bodies of
554 the municipalities representing a majority of the county's
555 municipal population; or

556 2. If there is no interlocal agreement, according to the
557 formula provided in s. 218.62.

558
559 Any change in the distribution formula must take effect on the
560 first day of any month that begins at least 60 days after
561 written notification of that change has been made to the



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562 department.

563 (3) SMALL COUNTY SURTAX.—

564 (c) Pursuant to s. 212.054(4), the proceeds of the surtax
565 levied under this subsection shall be distributed to the county
566 and the municipalities within the county in which the surtax was
567 collected, according to:

568 1. An interlocal agreement between the county governing
569 authority and the governing bodies of the municipalities
570 representing a majority of the county's municipal population,
571 which agreement may include a school district with the consent
572 of the county governing authority and the governing bodies of
573 the municipalities representing a majority of the county's
574 municipal population; or

575 2. If there is no interlocal agreement, according to the
576 formula provided in s. 218.62.

577
578 Any change in the distribution formula shall take effect on the
579 first day of any month that begins at least 60 days after
580 written notification of that change has been made to the
581 department.

582 (8) EMERGENCY FIRE RESCUE SERVICES AND FACILITIES SURTAX.—

583 (c) Pursuant to s. 212.054(4), the proceeds of the
584 discretionary sales surtax collected under this subsection, less
585 an administrative fee that may be retained by the Department of
586 Revenue, shall be distributed by the department to the county.
587 The county shall distribute the proceeds it receives from the
588 department to each local government entity providing emergency
589 fire rescue services in the county. The surtax proceeds, less an
590 administrative fee not to exceed 2 percent of the surtax



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591 collected, shall be distributed by the county based on each
592 entity's average annual expenditures for fire control and
593 emergency fire rescue services in the 5 fiscal years preceding
594 the fiscal year in which the surtax takes effect in proportion
595 to the average annual total of the expenditures for such
596 entities in the 5 fiscal years preceding the fiscal year in
597 which the surtax takes effect. The county shall revise the
598 distribution proportions to reflect a change in the service area
599 of an entity receiving a distribution of the surtax proceeds. If
600 an entity declines its share of surtax revenue, such revenue
601 shall be redistributed proportionally to the entities that are
602 participating in the sharing of such revenue based on each
603 participating entity's average annual expenditures for fire
604 control and emergency fire rescue services in the preceding 5
605 fiscal years in proportion to the average annual total of the
606 expenditures for the participating entities in the preceding 5
607 fiscal years.

608 (9) PENSION LIABILITY SURTAX.—

609 (c) Pursuant to s. 212.054(4), the proceeds of the surtax
610 collected under this subsection, less an administrative fee that
611 may be retained by the department, shall be distributed by the
612 department to the local government.

613 Section 15. This act first applies to remote sales made or
614 facilitated on or after July 1, 2021, by a person who made or
615 facilitated a substantial number of remote sales in calendar
616 year 2020. A marketplace seller shall consider only those sales
617 made outside of a marketplace to determine whether it made a
618 substantial number of remote sales in calendar year 2020.

619 Section 16. (1) A person subject to the requirements of



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620 this act to collect and remit the tax under chapter 212, Florida
621 Statutes, on remote sales is relieved of liability for tax,
622 penalty, and interest due on remote sales that occurred before
623 the effective date of this act, provided that the person
624 registers with the department before October 1, 2021. This
625 subsection is also intended to provide relief to a marketplace
626 seller for remote sales made before the effective date of this
627 act which were facilitated by a marketplace provider. For a
628 marketplace provider with a physical presence in this state,
629 this subsection is intended to provide relief only for sales
630 facilitated by the marketplace provider on behalf of a
631 marketplace seller. This subsection does not apply to a person
632 who is under audit; has been issued a bill, notice, or demand
633 for payment; or is under an administrative or judicial
634 proceeding before July 1, 2021.

635 (2) The department may not use data received from
636 registered marketplace providers or persons making remote sales
637 for the purposes of identifying use tax liabilities occurring
638 before July 1, 2021, from unregistered persons who, but for
639 their purchases from the registered taxpayer, would not be
640 required to remit sales or use tax directly to the department.
641 This subsection does not apply to a person who is under audit;
642 has been issued a bill, notice, or demand for payment; or is
643 under an administrative or judicial proceeding before July 1,
644 2021.

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

647 And the title is amended as follows:

648 Delete lines 2 - 57



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649 and insert:

650 An act relating to taxes and fees on remote sales;
651 amending s. 212.02, F.S.; expanding the definition of
652 the term "retail sale" to include sales facilitated
653 through a marketplace; conforming a provision to
654 changes made by the act; amending s. 212.05, F.S.;
655 conforming a provision to changes made by the act;
656 amending s. 212.054, F.S.; requiring marketplace
657 providers and persons located outside of this state to
658 remit discretionary sales surtax when delivering
659 tangible personal property to a county imposing a
660 surtax; amending s. 212.0596, F.S.; replacing
661 provisions relating to the taxation of mail order
662 sales with provisions relating to the taxation of
663 remote sales; defining the terms "remote sale" and
664 "substantial number of remote sales"; providing that
665 every person making a substantial number of remote
666 sales is a dealer for purposes of the sales and use
667 tax; authorizing the Department of Revenue to adopt
668 rules for collecting use taxes from unregistered
669 persons; requiring marketplace providers and persons
670 located outside of this state to remit discretionary
671 sales surtax when delivering tangible personal
672 property to a county imposing a surtax; creating s.
673 212.05965, F.S.; defining terms; providing that
674 certain marketplace providers are dealers for purposes
675 of the sales and use tax; requiring marketplace
676 providers to provide a certain certification to their
677 marketplace sellers; specifying requirements for



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678 marketplace sellers; requiring marketplace providers
679 to allow the Department of Revenue to examine and
680 audit their books and records; specifying the
681 examination and audit authority of the department;
682 providing that a marketplace seller, rather than the
683 marketplace provider, is liable for sales tax
684 collection and remittance under certain circumstances;
685 authorizing marketplace providers and marketplace
686 sellers to enter into agreements for the recovery of
687 certain taxes, interest, and penalties; providing
688 construction and applicability; amending s. 212.05965,
689 F.S.; requiring marketplace providers to collect and
690 remit certain additional fees at the time of sale;
691 authorizing marketplace providers and marketplace
692 sellers to contractually agree for marketplace sellers
693 to collect applicable taxes and fees; specifying
694 requirements for marketplace sellers who collect such
695 taxes and fees; providing applicability; providing for
696 liability of sellers who fail to collect or remit such
697 taxes and fees; amending s. 212.06, F.S.; revising the
698 definition of the term "dealer"; conforming provisions
699 to changes made by the act; amending 212.07, F.S.;
700 conforming a cross-reference; amending 212.11, F.S.;
701 requiring a marketplace provider or a person required
702 to report remote sales to file returns and pay taxes
703 electronically; amending s. 212.12, F.S.; deleting the
704 authority of the department's executive director to
705 negotiate a collection allowance with certain dealers;
706 conforming provisions to changes made by the act;



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707 amending s. 212.18, F.S.; requiring a marketplace
708 provider or a person required to report remote sales
709 to file a registration application electronically;
710 conforming a provision to changes made by the act;
711 amending s. 212.20, F.S.; providing applicability of
712 requirements for refund of taxes adjudicated
713 unconstitutionally collected to taxes levied or
714 collected pursuant to marketplace provisions; amending
715 s. 213.27, F.S.; conforming provisions to changes made
716 by the act; reenacting s. 212.055, F.S., relating to
717 discretionary sales surtaxes, to incorporate the
718 amendment made to s. 212.054, F.S., in references
719 thereto; providing applicability; providing relief to
720 certain persons for liability for tax, penalty, and
721 interest due on certain remote sales and owed on
722 certain purchases that occurred before the effective
723 date of the act; providing applicability; prohibiting
724 the department from using data received from
725 marketplace providers or persons making remote sales
726 for certain purposes; providing applicability;

By the Committee on Finance and Tax; and Senators Gruters, Perry, Hooper, Torres, Taddeo, Burgess, Ausley, Albritton, and Harrell

593-02191-21

202150c1

1 A bill to be entitled
 2 An act relating to the sales and use tax; amending s.
 3 212.02, F.S.; expanding the definition of the term
 4 "retail sale" to include sales facilitated through a
 5 marketplace; conforming a provision to changes made by
 6 the act; amending s. 212.05, F.S.; conforming a
 7 provision to changes made by the act; amending s.
 8 212.0596, F.S.; replacing provisions relating to the
 9 taxation of mail order sales with provisions relating
 10 to the taxation of remote sales; defining the terms
 11 "remote sale" and "substantial number of remote
 12 sales"; providing that every person making a
 13 substantial number of remote sales is a dealer for
 14 purposes of the sales and use tax; authorizing the
 15 Department of Revenue to adopt rules for collecting
 16 use taxes from unregistered persons; creating s.
 17 212.05965, F.S.; defining terms; providing that
 18 certain marketplace providers are dealers for purposes
 19 of the sales and use tax; requiring marketplace
 20 providers to provide a certain certification to their
 21 marketplace sellers; specifying requirements for
 22 marketplace sellers; requiring marketplace providers
 23 to allow the Department of Revenue to examine and
 24 audit their books and records; specifying the
 25 examination and audit authority of the department;
 26 providing that a marketplace seller, rather than the
 27 marketplace provider, is liable for sales tax
 28 collection and remittance under certain circumstances;
 29 authorizing marketplace providers and marketplace

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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30 sellers to enter into agreements for the recovery of
 31 certain taxes, interest, and penalties; providing
 32 construction and applicability; amending s. 212.05965,
 33 F.S.; requiring marketplace providers to collect and
 34 remit certain additional fees at the time of sale;
 35 authorizing marketplace providers and marketplace
 36 sellers to contractually agree for marketplace sellers
 37 to collect applicable taxes and fees; specifying
 38 requirements for marketplace sellers who collect such
 39 taxes and fees; providing for liability of sellers who
 40 fail to collect or remit such taxes and fees; amending
 41 s. 212.06, F.S.; revising the definition of the term
 42 "dealer"; conforming provisions to changes made by the
 43 act; amending s. 212.12, F.S.; deleting the authority
 44 of the department's executive director to negotiate a
 45 collection allowance with certain dealers; conforming
 46 provisions to changes made by the act; amending s.
 47 212.18, F.S.; conforming a provision to changes made
 48 by the act; amending s. 212.20, F.S.; providing
 49 applicability of requirements for refund of taxes
 50 adjudicated unconstitutionally collected to taxes
 51 levied or collected pursuant to marketplace
 52 provisions; amending s. 213.27, F.S.; conforming
 53 provisions to changes made by the act; providing
 54 applicability; providing relief to certain persons for
 55 liability for tax, penalty, and interest due on
 56 certain remote sales and owed on certain purchases
 57 that occurred before the effective date of the act;
 58 providing construction; authorizing the department to

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59 adopt emergency rules; providing for expiration of
60 that authority; providing for severability; providing
61 effective dates.

62
63 Be It Enacted by the Legislature of the State of Florida:

64
65 Section 1. Paragraph (e) of subsection (14) of section
66 212.02, Florida Statutes, is amended, and paragraph (f) is added
67 to that subsection, to read:

68 212.02 Definitions.—The following terms and phrases when
69 used in this chapter have the meanings ascribed to them in this
70 section, except where the context clearly indicates a different
71 meaning:

72 (14)

73 (e) The term "retail sale" includes a remote mail order
74 sale, as defined in s. 212.0596(1).

75 (f) The term "retail sale" includes a sale facilitated
76 through a marketplace as defined in s. 212.05965(1).

77 Section 2. Section 212.05, Florida Statutes, is amended to
78 read:

79 212.05 Sales, storage, use tax.—It is hereby declared to be
80 the legislative intent that every person is exercising a taxable
81 privilege who engages in the business of selling tangible
82 personal property at retail in this state, including the
83 business of making or facilitating remote mail order sales; ~~or~~
84 who rents or furnishes any of the things or services taxable
85 under this chapter; ~~or~~ or who stores for use or consumption in
86 this state any item or article of tangible personal property as
87 defined herein and who leases or rents such property within the

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88 state.

89 (1) For the exercise of such privilege, a tax is levied on
90 each taxable transaction or incident, which tax is due and
91 payable as follows:

92 (a)1.a. At the rate of 6 percent of the sales price of each
93 item or article of tangible personal property when sold at
94 retail in this state, computed on each taxable sale for the
95 purpose of remitting the amount of tax due the state, and
96 including each and every retail sale.

97 b. Each occasional or isolated sale of an aircraft, boat,
98 mobile home, or motor vehicle of a class or type which is
99 required to be registered, licensed, titled, or documented in
100 this state or by the United States Government shall be subject
101 to tax at the rate provided in this paragraph. The department
102 shall by rule adopt any nationally recognized publication for
103 valuation of used motor vehicles as the reference price list for
104 any used motor vehicle which is required to be licensed pursuant
105 to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any
106 party to an occasional or isolated sale of such a vehicle
107 reports to the tax collector a sales price which is less than 80
108 percent of the average loan price for the specified model and
109 year of such vehicle as listed in the most recent reference
110 price list, the tax levied under this paragraph shall be
111 computed by the department on such average loan price unless the
112 parties to the sale have provided to the tax collector an
113 affidavit signed by each party, or other substantial proof,
114 stating the actual sales price. Any party to such sale who
115 reports a sales price less than the actual sales price is guilty
116 of a misdemeanor of the first degree, punishable as provided in

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117 s. 775.082 or s. 775.083. The department shall collect or
 118 attempt to collect from such party any delinquent sales taxes.
 119 In addition, such party shall pay any tax due and any penalty
 120 and interest assessed plus a penalty equal to twice the amount
 121 of the additional tax owed. Notwithstanding any other provision
 122 of law, the Department of Revenue may waive or compromise any
 123 penalty imposed pursuant to this subparagraph.

124 2. This paragraph does not apply to the sale of a boat or
 125 aircraft by or through a registered dealer under this chapter to
 126 a purchaser who, at the time of taking delivery, is a
 127 nonresident of this state, does not make his or her permanent
 128 place of abode in this state, and is not engaged in carrying on
 129 in this state any employment, trade, business, or profession in
 130 which the boat or aircraft will be used in this state, or is a
 131 corporation none of the officers or directors of which is a
 132 resident of, or makes his or her permanent place of abode in,
 133 this state, or is a noncorporate entity that has no individual
 134 vested with authority to participate in the management,
 135 direction, or control of the entity's affairs who is a resident
 136 of, or makes his or her permanent abode in, this state. For
 137 purposes of this exemption, either a registered dealer acting on
 138 his or her own behalf as seller, a registered dealer acting as
 139 broker on behalf of a seller, or a registered dealer acting as
 140 broker on behalf of the purchaser may be deemed to be the
 141 selling dealer. This exemption shall not be allowed unless:

142 a. The purchaser removes a qualifying boat, as described in
 143 sub-subparagraph f., from the state within 90 days after the
 144 date of purchase or extension, or the purchaser removes a
 145 nonqualifying boat or an aircraft from this state within 10 days

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146 after the date of purchase or, when the boat or aircraft is
 147 repaired or altered, within 20 days after completion of the
 148 repairs or alterations; or if the aircraft will be registered in
 149 a foreign jurisdiction and:

150 (I) Application for the aircraft's registration is properly
 151 filed with a civil airworthiness authority of a foreign
 152 jurisdiction within 10 days after the date of purchase;

153 (II) The purchaser removes the aircraft from the state to a
 154 foreign jurisdiction within 10 days after the date the aircraft
 155 is registered by the applicable foreign airworthiness authority;
 156 and

157 (III) The aircraft is operated in the state solely to
 158 remove it from the state to a foreign jurisdiction.

159 For purposes of this sub-subparagraph, the term "foreign
 160 jurisdiction" means any jurisdiction outside of the United
 161 States or any of its territories;

162 b. The purchaser, within 90 days from the date of
 163 departure, provides the department with written proof that the
 164 purchaser licensed, registered, titled, or documented the boat
 165 or aircraft outside the state. If such written proof is
 166 unavailable, within 90 days the purchaser shall provide proof
 167 that the purchaser applied for such license, title,
 168 registration, or documentation. The purchaser shall forward to
 169 the department proof of title, license, registration, or
 170 documentation upon receipt;

171 c. The purchaser, within 30 days after removing the boat or
 172 aircraft from Florida, furnishes the department with proof of
 173 removal in the form of receipts for fuel, dockage, slippage,
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175 tie-down, or hanging from outside of Florida. The information
176 so provided must clearly and specifically identify the boat or
177 aircraft;

178 d. The selling dealer, within 30 days after the date of
179 sale, provides to the department a copy of the sales invoice,
180 closing statement, bills of sale, and the original affidavit
181 signed by the purchaser attesting that he or she has read the
182 provisions of this section;

183 e. The seller makes a copy of the affidavit a part of his
184 or her record for as long as required by s. 213.35; and

185 f. Unless the nonresident purchaser of a boat of 5 net tons
186 of admeasurement or larger intends to remove the boat from this
187 state within 10 days after the date of purchase or when the boat
188 is repaired or altered, within 20 days after completion of the
189 repairs or alterations, the nonresident purchaser applies to the
190 selling dealer for a decal which authorizes 90 days after the
191 date of purchase for removal of the boat. The nonresident
192 purchaser of a qualifying boat may apply to the selling dealer
193 within 60 days after the date of purchase for an extension decal
194 that authorizes the boat to remain in this state for an
195 additional 90 days, but not more than a total of 180 days,
196 before the nonresident purchaser is required to pay the tax
197 imposed by this chapter. The department is authorized to issue
198 decals in advance to dealers. The number of decals issued in
199 advance to a dealer shall be consistent with the volume of the
200 dealer's past sales of boats which qualify under this sub-
201 subparagraph. The selling dealer or his or her agent shall mark
202 and affix the decals to qualifying boats in the manner
203 prescribed by the department, before delivery of the boat.

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204 (I) The department is hereby authorized to charge dealers a
205 fee sufficient to recover the costs of decals issued, except the
206 extension decal shall cost \$425.

207 (II) The proceeds from the sale of decals will be deposited
208 into the administrative trust fund.

209 (III) Decals shall display information to identify the boat
210 as a qualifying boat under this sub-subparagraph, including, but
211 not limited to, the decal's date of expiration.

212 (IV) The department is authorized to require dealers who
213 purchase decals to file reports with the department and may
214 prescribe all necessary records by rule. All such records are
215 subject to inspection by the department.

216 (V) Any dealer or his or her agent who issues a decal
217 falsely, fails to affix a decal, mismarks the expiration date of
218 a decal, or fails to properly account for decals will be
219 considered prima facie to have committed a fraudulent act to
220 evade the tax and will be liable for payment of the tax plus a
221 mandatory penalty of 200 percent of the tax, and shall be liable
222 for fine and punishment as provided by law for a conviction of a
223 misdemeanor of the first degree, as provided in s. 775.082 or s.
224 775.083.

225 (VI) Any nonresident purchaser of a boat who removes a
226 decal before permanently removing the boat from the state, or
227 defaces, changes, modifies, or alters a decal in a manner
228 affecting its expiration date before its expiration, or who
229 causes or allows the same to be done by another, will be
230 considered prima facie to have committed a fraudulent act to
231 evade the tax and will be liable for payment of the tax plus a
232 mandatory penalty of 200 percent of the tax, and shall be liable

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233 for fine and punishment as provided by law for a conviction of a
234 misdemeanor of the first degree, as provided in s. 775.082 or s.
235 775.083.

236 (VII) The department is authorized to adopt rules necessary
237 to administer and enforce this subparagraph and to publish the
238 necessary forms and instructions.

239 (VIII) The department is hereby authorized to adopt
240 emergency rules pursuant to s. 120.54(4) to administer and
241 enforce the provisions of this subparagraph.

242

243 If the purchaser fails to remove the qualifying boat from this
244 state within the maximum 180 days after purchase or a
245 nonqualifying boat or an aircraft from this state within 10 days
246 after purchase or, when the boat or aircraft is repaired or
247 altered, within 20 days after completion of such repairs or
248 alterations, or permits the boat or aircraft to return to this
249 state within 6 months from the date of departure, except as
250 provided in s. 212.08(7)(fff), or if the purchaser fails to
251 furnish the department with any of the documentation required by
252 this subparagraph within the prescribed time period, the
253 purchaser shall be liable for use tax on the cost price of the
254 boat or aircraft and, in addition thereto, payment of a penalty
255 to the Department of Revenue equal to the tax payable. This
256 penalty shall be in lieu of the penalty imposed by s. 212.12(2).
257 The maximum 180-day period following the sale of a qualifying
258 boat tax-exempt to a nonresident may not be tolled for any
259 reason.

260 (b) At the rate of 6 percent of the cost price of each item
261 or article of tangible personal property when the same is not

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262 sold but is used, consumed, distributed, or stored for use or
263 consumption in this state; however, for tangible property
264 originally purchased exempt from tax for use exclusively for
265 lease and which is converted to the owner's own use, tax may be
266 paid on the fair market value of the property at the time of
267 conversion. If the fair market value of the property cannot be
268 determined, use tax at the time of conversion shall be based on
269 the owner's acquisition cost. Under no circumstances may the
270 aggregate amount of sales tax from leasing the property and use
271 tax due at the time of conversion be less than the total sales
272 tax that would have been due on the original acquisition cost
273 paid by the owner.

274 (c) At the rate of 6 percent of the gross proceeds derived
275 from the lease or rental of tangible personal property, as
276 defined herein; however, the following special provisions apply
277 to the lease or rental of motor vehicles:

278 1. When a motor vehicle is leased or rented for a period of
279 less than 12 months:

280 a. If the motor vehicle is rented in Florida, the entire
281 amount of such rental is taxable, even if the vehicle is dropped
282 off in another state.

283 b. If the motor vehicle is rented in another state and
284 dropped off in Florida, the rental is exempt from Florida tax.

285 2. Except as provided in subparagraph 3., for the lease or
286 rental of a motor vehicle for a period of not less than 12
287 months, sales tax is due on the lease or rental payments if the
288 vehicle is registered in this state; provided, however, that no
289 tax shall be due if the taxpayer documents use of the motor
290 vehicle outside this state and tax is being paid on the lease or

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291 rental payments in another state.

292 3. The tax imposed by this chapter does not apply to the
 293 lease or rental of a commercial motor vehicle as defined in s.
 294 316.003(13)(a) to one lessee or rentee for a period of not less
 295 than 12 months when tax was paid on the purchase price of such
 296 vehicle by the lessor. To the extent tax was paid with respect
 297 to the purchase of such vehicle in another state, territory of
 298 the United States, or the District of Columbia, the Florida tax
 299 payable shall be reduced in accordance with the provisions of s.
 300 212.06(7). This subparagraph shall only be available when the
 301 lease or rental of such property is an established business or
 302 part of an established business or the same is incidental or
 303 germane to such business.

304 (d) At the rate of 6 percent of the lease or rental price
 305 paid by a lessee or rentee, or contracted or agreed to be paid
 306 by a lessee or rentee, to the owner of the tangible personal
 307 property.

308 (e)1. At the rate of 6 percent on charges for:

309 a. Prepaid calling arrangements. The tax on charges for
 310 prepaid calling arrangements shall be collected at the time of
 311 sale and remitted by the selling dealer.

312 (I) "Prepaid calling arrangement" has the same meaning as
 313 provided in s. 202.11.

314 (II) If the sale or recharge of the prepaid calling
 315 arrangement does not take place at the dealer's place of
 316 business, it shall be deemed to have taken place at the
 317 customer's shipping address or, if no item is shipped, at the
 318 customer's address or the location associated with the
 319 customer's mobile telephone number.

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320 (III) The sale or recharge of a prepaid calling arrangement
 321 shall be treated as a sale of tangible personal property for
 322 purposes of this chapter, regardless of whether a tangible item
 323 evidencing such arrangement is furnished to the purchaser, and
 324 such sale within this state subjects the selling dealer to the
 325 jurisdiction of this state for purposes of this subsection.

326 (IV) No additional tax under this chapter or chapter 202 is
 327 due or payable if a purchaser of a prepaid calling arrangement
 328 who has paid tax under this chapter on the sale or recharge of
 329 such arrangement applies one or more units of the prepaid
 330 calling arrangement to obtain communications services as
 331 described in s. 202.11(9)(b)3., other services that are not
 332 communications services, or products.

333 b. The installation of telecommunication and telegraphic
 334 equipment.

335 c. Electrical power or energy, except that the tax rate for
 336 charges for electrical power or energy is 4.35 percent. Charges
 337 for electrical power and energy do not include taxes imposed
 338 under ss. 166.231 and 203.01(1)(a)3.

339 2. Section 212.17(3), regarding credit for tax paid on
 340 charges subsequently found to be worthless, is equally
 341 applicable to any tax paid under this section on charges for
 342 prepaid calling arrangements, telecommunication or telegraph
 343 services, or electric power subsequently found to be
 344 uncollectible. As used in this paragraph, the term "charges"
 345 does not include any excise or similar tax levied by the Federal
 346 Government, a political subdivision of this state, or a
 347 municipality upon the purchase, sale, or recharge of prepaid
 348 calling arrangements or upon the purchase or sale of

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349 telecommunication, television system program, or telegraph
 350 service or electric power, which tax is collected by the seller
 351 from the purchaser.

352 (f) At the rate of 6 percent on the sale, rental, use,
 353 consumption, or storage for use in this state of machines and
 354 equipment, and parts and accessories therefor, used in
 355 manufacturing, processing, compounding, producing, mining, or
 356 quarrying personal property for sale or to be used in furnishing
 357 communications, transportation, or public utility services.

358 (g)1. At the rate of 6 percent on the retail price of
 359 newspapers and magazines sold or used in Florida.

360 2. Notwithstanding other provisions of this chapter,
 361 inserts of printed materials which are distributed with a
 362 newspaper or magazine are a component part of the newspaper or
 363 magazine, and neither the sale nor use of such inserts is
 364 subject to tax when:

365 a. Printed by a newspaper or magazine publisher or
 366 commercial printer and distributed as a component part of a
 367 newspaper or magazine, which means that the items after being
 368 printed are delivered directly to a newspaper or magazine
 369 publisher by the printer for inclusion in editions of the
 370 distributed newspaper or magazine;

371 b. Such publications are labeled as part of the designated
 372 newspaper or magazine publication into which they are to be
 373 inserted; and

374 c. The purchaser of the insert presents a resale
 375 certificate to the vendor stating that the inserts are to be
 376 distributed as a component part of a newspaper or magazine.

377 (h)1. A tax is imposed at the rate of 4 percent on the

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378 charges for the use of coin-operated amusement machines. The tax
 379 shall be calculated by dividing the gross receipts from such
 380 charges for the applicable reporting period by a divisor,
 381 determined as provided in this subparagraph, to compute gross
 382 taxable sales, and then subtracting gross taxable sales from
 383 gross receipts to arrive at the amount of tax due. For counties
 384 that do not impose a discretionary sales surtax, the divisor is
 385 equal to 1.04; for counties that impose a 0.5 percent
 386 discretionary sales surtax, the divisor is equal to 1.045; for
 387 counties that impose a 1 percent discretionary sales surtax, the
 388 divisor is equal to 1.050; and for counties that impose a 2
 389 percent sales surtax, the divisor is equal to 1.060. If a county
 390 imposes a discretionary sales surtax that is not listed in this
 391 subparagraph, the department shall make the applicable divisor
 392 available in an electronic format or otherwise. Additional
 393 divisors shall bear the same mathematical relationship to the
 394 next higher and next lower divisors as the new surtax rate bears
 395 to the next higher and next lower surtax rates for which
 396 divisors have been established. When a machine is activated by a
 397 slug, token, coupon, or any similar device which has been
 398 purchased, the tax is on the price paid by the user of the
 399 device for such device.

400 2. As used in this paragraph, the term "operator" means any
 401 person who possesses a coin-operated amusement machine for the
 402 purpose of generating sales through that machine and who is
 403 responsible for removing the receipts from the machine.

404 a. If the owner of the machine is also the operator of it,
 405 he or she shall be liable for payment of the tax without any
 406 deduction for rent or a license fee paid to a location owner for

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407 the use of any real property on which the machine is located.

408 b. If the owner or lessee of the machine is also its
409 operator, he or she shall be liable for payment of the tax on
410 the purchase or lease of the machine, as well as the tax on
411 sales generated through the machine.

412 c. If the proprietor of the business where the machine is
413 located does not own the machine, he or she shall be deemed to
414 be the lessee and operator of the machine and is responsible for
415 the payment of the tax on sales, unless such responsibility is
416 otherwise provided for in a written agreement between him or her
417 and the machine owner.

418 3.a. An operator of a coin-operated amusement machine may
419 not operate or cause to be operated in this state any such
420 machine until the operator has registered with the department
421 and has conspicuously displayed an identifying certificate
422 issued by the department. The identifying certificate shall be
423 issued by the department upon application from the operator. The
424 identifying certificate shall include a unique number, and the
425 certificate shall be permanently marked with the operator's
426 name, the operator's sales tax number, and the maximum number of
427 machines to be operated under the certificate. An identifying
428 certificate shall not be transferred from one operator to
429 another. The identifying certificate must be conspicuously
430 displayed on the premises where the coin-operated amusement
431 machines are being operated.

432 b. The operator of the machine must obtain an identifying
433 certificate before the machine is first operated in the state
434 and by July 1 of each year thereafter. The annual fee for each
435 certificate shall be based on the number of machines identified

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436 on the application times \$30 and is due and payable upon
437 application for the identifying device. The application shall
438 contain the operator's name, sales tax number, business address
439 where the machines are being operated, and the number of
440 machines in operation at that place of business by the operator.
441 No operator may operate more machines than are listed on the
442 certificate. A new certificate is required if more machines are
443 being operated at that location than are listed on the
444 certificate. The fee for the new certificate shall be based on
445 the number of additional machines identified on the application
446 form times \$30.

447 c. A penalty of \$250 per machine is imposed on the operator
448 for failing to properly obtain and display the required
449 identifying certificate. A penalty of \$250 is imposed on the
450 lessee of any machine placed in a place of business without a
451 proper current identifying certificate. Such penalties shall
452 apply in addition to all other applicable taxes, interest, and
453 penalties.

454 d. Operators of coin-operated amusement machines must
455 obtain a separate sales and use tax certificate of registration
456 for each county in which such machines are located. One sales
457 and use tax certificate of registration is sufficient for all of
458 the operator's machines within a single county.

459 4. The provisions of this paragraph do not apply to coin-
460 operated amusement machines owned and operated by churches or
461 synagogues.

462 5. In addition to any other penalties imposed by this
463 chapter, a person who knowingly and willfully violates any
464 provision of this paragraph commits a misdemeanor of the second

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465 degree, punishable as provided in s. 775.082 or s. 775.083.

466 6. The department may adopt rules necessary to administer
467 the provisions of this paragraph.

468 (i)1. At the rate of 6 percent on charges for all:

469 a. Detective, burglar protection, and other protection
470 services (NAICS National Numbers 561611, 561612, 561613, and
471 561621). Fingerprint services required under s. 790.06 or s.
472 790.062 are not subject to the tax. Any law enforcement officer,
473 as defined in s. 943.10, who is performing approved duties as
474 determined by his or her local law enforcement agency in his or
475 her capacity as a law enforcement officer, and who is subject to
476 the direct and immediate command of his or her law enforcement
477 agency, and in the law enforcement officer's uniform as
478 authorized by his or her law enforcement agency, is performing
479 law enforcement and public safety services and is not performing
480 detective, burglar protection, or other protective services, if
481 the law enforcement officer is performing his or her approved
482 duties in a geographical area in which the law enforcement
483 officer has arrest jurisdiction. Such law enforcement and public
484 safety services are not subject to tax irrespective of whether
485 the duty is characterized as "extra duty," "off-duty," or
486 "secondary employment," and irrespective of whether the officer
487 is paid directly or through the officer's agency by an outside
488 source. The term "law enforcement officer" includes full-time or
489 part-time law enforcement officers, and any auxiliary law
490 enforcement officer, when such auxiliary law enforcement officer
491 is working under the direct supervision of a full-time or part-
492 time law enforcement officer.

493 b. Nonresidential cleaning, excluding cleaning of the

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494 interiors of transportation equipment, and nonresidential
495 building pest control services (NAICS National Numbers 561710
496 and 561720).

497 2. As used in this paragraph, "NAICS" means those
498 classifications contained in the North American Industry
499 Classification System, as published in 2007 by the Office of
500 Management and Budget, Executive Office of the President.

501 3. Charges for detective, burglar protection, and other
502 protection security services performed in this state but used
503 outside this state are exempt from taxation. Charges for
504 detective, burglar protection, and other protection security
505 services performed outside this state and used in this state are
506 subject to tax.

507 4. If a transaction involves both the sale or use of a
508 service taxable under this paragraph and the sale or use of a
509 service or any other item not taxable under this chapter, the
510 consideration paid must be separately identified and stated with
511 respect to the taxable and exempt portions of the transaction or
512 the entire transaction shall be presumed taxable. The burden
513 shall be on the seller of the service or the purchaser of the
514 service, whichever applicable, to overcome this presumption by
515 providing documentary evidence as to which portion of the
516 transaction is exempt from tax. The department is authorized to
517 adjust the amount of consideration identified as the taxable and
518 exempt portions of the transaction; however, a determination
519 that the taxable and exempt portions are inaccurately stated and
520 that the adjustment is applicable must be supported by
521 substantial competent evidence.

522 5. Each seller of services subject to sales tax pursuant to

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523 this paragraph shall maintain a monthly log showing each
 524 transaction for which sales tax was not collected because the
 525 services meet the requirements of subparagraph 3. for out-of-
 526 state use. The log must identify the purchaser's name, location
 527 and mailing address, and federal employer identification number,
 528 if a business, or the social security number, if an individual,
 529 the service sold, the price of the service, the date of sale,
 530 the reason for the exemption, and the sales invoice number. The
 531 monthly log shall be maintained pursuant to the same
 532 requirements and subject to the same penalties imposed for the
 533 keeping of similar records pursuant to this chapter.

534 (j)1. Notwithstanding any other provision of this chapter,
 535 there is hereby levied a tax on the sale, use, consumption, or
 536 storage for use in this state of any coin or currency, whether
 537 in circulation or not, when such coin or currency:

538 a. Is not legal tender;

539 b. If legal tender, is sold, exchanged, or traded at a rate
 540 in excess of its face value; or

541 c. Is sold, exchanged, or traded at a rate based on its
 542 precious metal content.

543 2. Such tax shall be at a rate of 6 percent of the price at
 544 which the coin or currency is sold, exchanged, or traded, except
 545 that, with respect to a coin or currency which is legal tender
 546 of the United States and which is sold, exchanged, or traded,
 547 such tax shall not be levied.

548 3. There are exempt from this tax exchanges of coins or
 549 currency which are in general circulation in, and legal tender
 550 of, one nation for coins or currency which are in general
 551 circulation in, and legal tender of, another nation when

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552 exchanged solely for use as legal tender and at an exchange rate
 553 based on the relative value of each as a medium of exchange.

554 4. With respect to any transaction that involves the sale
 555 of coins or currency taxable under this paragraph in which the
 556 taxable amount represented by the sale of such coins or currency
 557 exceeds \$500, the entire amount represented by the sale of such
 558 coins or currency is exempt from the tax imposed under this
 559 paragraph. The dealer must maintain proper documentation, as
 560 prescribed by rule of the department, to identify that portion
 561 of a transaction which involves the sale of coins or currency
 562 and is exempt under this subparagraph.

563 (k) At the rate of 6 percent of the sales price of each
 564 gallon of diesel fuel not taxed under chapter 206 purchased for
 565 use in a vessel, except dyed diesel fuel that is exempt pursuant
 566 to s. 212.08(4)(a)4.

567 (l) Florists located in this state are liable for sales tax
 568 on sales to retail customers regardless of where or by whom the
 569 items sold are to be delivered. Florists located in this state
 570 are not liable for sales tax on payments received from other
 571 florists for items delivered to customers in this state.

572 (m) Operators of game concessions or other concessionaires
 573 who customarily award tangible personal property as prizes may,
 574 in lieu of paying tax on the cost price of such property, pay
 575 tax on 25 percent of the gross receipts from such concession
 576 activity.

577 (2) The tax shall be collected by the dealer, as defined
 578 herein, and remitted by the dealer to the state at the time and
 579 in the manner as hereinafter provided.

580 (3) The tax so levied is in addition to all other taxes,

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581 whether levied in the form of excise, license, or privilege
582 taxes, and in addition to all other fees and taxes levied.

583 (4) The tax imposed pursuant to this chapter shall be due
584 and payable according to the brackets set forth in s. 212.12.

585 (5) Notwithstanding any other provision of this chapter,
586 the maximum amount of tax imposed under this chapter and
587 collected on each sale or use of a boat in this state may not
588 exceed \$18,000 and on each repair of a boat in this state may
589 not exceed \$60,000.

590 Section 3. Section 212.0596, Florida Statutes, is amended
591 to read:

592 (Substantial rewording of section. See
593 s. 212.0596, F.S., for present text.)

594 212.0596 Taxation of remote sales.-

595 (1) As used in this chapter, the term:

596 (a) "Remote sale" means a retail sale of tangible personal
597 property ordered by mail, telephone, the Internet, or other
598 means of communication from a person who receives the order
599 outside of this state and transports the property or causes the
600 property to be transported from any jurisdiction, including this
601 state, to a location in this state. For purposes of this
602 paragraph, tangible personal property delivered to a location
603 within this state is presumed to be used, consumed, distributed,
604 or stored to be used or consumed in this state.

605 (b) "Substantial number of remote sales" means any number
606 of taxable remote sales in the previous calendar year in which
607 the sum of the sales prices, as defined in s. 212.02(16),
608 exceeded \$100,000.

609 (2) Every person making a substantial number of remote

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610 sales is a dealer for purposes of this chapter.

611 (3) The department may establish by rule procedures for
612 collecting the use tax from unregistered persons who but for
613 their remote purchases would not be required to remit sales or
614 use tax directly to the department. The procedures may provide
615 for waiver of registration, provisions for irregular remittance
616 of tax, elimination of the collection allowance, and
617 nonapplication of local option surtaxes.

618 Section 4. Section 212.05965, Florida Statutes, is created
619 to read:

620 212.05965 Taxation of marketplace sales.-

621 (1) As used in this chapter, the term:

622 (a) "Marketplace" means any physical place or electronic
623 medium through which tangible personal property is offered for
624 sale.

625 (b) "Marketplace provider" means a person who facilitates a
626 retail sale by a marketplace seller by listing or advertising
627 for sale by the marketplace seller tangible personal property in
628 a marketplace and who directly, or indirectly through agreements
629 or arrangements with third parties, collects payment from the
630 customer and transmits all or part of the payment to the
631 marketplace seller, regardless of whether the marketplace
632 provider receives compensation or other consideration in
633 exchange for its services.

634 1. The term does not include a person who solely provides
635 travel agency services. As used in this subparagraph, the term
636 "travel agency services" means arranging, booking, or otherwise
637 facilitating for a commission, fee, or other consideration
638 vacation or travel packages, rental cars, or other travel

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639 reservations; tickets for domestic or foreign travel by air,
 640 rail, ship, bus, or other mode of transportation; or hotel or
 641 other lodging accommodations.

642 2. The term does not include a person who is a delivery
 643 network company unless the delivery network company is a
 644 registered dealer for purposes of this chapter and the delivery
 645 network company notifies all local merchants that sell through
 646 the delivery network company's website or mobile application
 647 that the delivery network company is subject to the requirements
 648 of a marketplace provider under this section. As used in this
 649 subparagraph, the term:

650 a. "Delivery network company" means a person who maintains
 651 a website or mobile application used to facilitate delivery
 652 services, the sale of local products, or both.

653 b. "Delivery network courier" means a person who provides
 654 delivery services through a delivery network company website or
 655 mobile application using a personal means of transportation,
 656 such as a motor vehicle as defined in s. 320.01(1), bicycle,
 657 scooter, or other similar means of transportation; using public
 658 transportation; or by walking.

659 c. "Delivery services" means the pickup and delivery by a
 660 delivery network courier of one or more local products from a
 661 local merchant to a customer, which may include the selection,
 662 collection, and purchase of the local product in connection with
 663 the delivery. The term does not include any delivery requiring
 664 more than 75 miles of travel from the local merchant to the
 665 customer.

666 d. "Local merchant" means a kitchen, a restaurant, or a
 667 third-party merchant, including a grocery store, retail store,

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668 convenience store, or business of another type, which is not
 669 under common ownership or control of the delivery network
 670 company.

671 e. "Local product" means any tangible personal property,
 672 including food, but excluding freight, mail, or a package to
 673 which postage has been affixed.

674 3. The term does not include a payment processor business
 675 that is appointed to handle payment transactions from various
 676 channels, such as charge cards, credit cards, or debit cards,
 677 and whose sole activity with respect to marketplace sales is to
 678 handle payment transactions between two parties.

679 (c) "Marketplace seller" means a person who has an
 680 agreement with a marketplace provider and who makes retail sales
 681 of tangible personal property through a marketplace owned,
 682 operated, or controlled by the marketplace provider.

683 (2) A marketplace provider who has a physical presence in
 684 this state or who is making or facilitating through a
 685 marketplace a substantial number of remote sales as defined in
 686 s. 212.0596(1) is a dealer for purposes of this chapter.

687 (3) A marketplace provider shall certify to its marketplace
 688 sellers that it will collect and remit the tax imposed under
 689 this chapter on taxable retail sales made through the
 690 marketplace. Such certification may be included in the agreement
 691 between the marketplace provider and the marketplace seller.

692 (4) (a) A marketplace seller may not collect and remit the
 693 tax under this chapter on a taxable retail sale when the sale is
 694 made through the marketplace and the marketplace provider
 695 certifies, as required under subsection (3), that it will
 696 collect and remit such tax. A marketplace seller shall exclude

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697 such sales made through the marketplace from the marketplace
 698 seller's tax return under s. 212.11.

699 (b)1. A marketplace seller who has a physical presence in
 700 this state shall register and shall collect and remit the tax
 701 imposed under this chapter on all taxable retail sales made
 702 outside of the marketplace.

703 2. A marketplace seller making a substantial number of
 704 remote sales as defined in s. 212.0596(1) shall register and
 705 shall collect and remit the tax imposed under this chapter on
 706 all taxable retail sales made outside of the marketplace. For
 707 the purposes of determining whether a marketplace seller made a
 708 substantial number of remote sales, the marketplace seller shall
 709 consider only those sales made outside of the marketplace.

710 (5) (a) A marketplace provider shall allow the department to
 711 examine and audit its books and records pursuant to s. 212.13.
 712 For retail sales facilitated through a marketplace, the
 713 department may not examine or audit the books and records of
 714 marketplace sellers, nor may the department assess marketplace
 715 sellers except to the extent that the marketplace provider seeks
 716 relief under paragraph (b). The department may examine, audit,
 717 and assess a marketplace seller for retail sales made outside of
 718 the marketplace under paragraph (4) (b).

719 (b) The marketplace provider is relieved of liability for
 720 the tax on the retail sale and the marketplace seller or
 721 customer is liable for the tax imposed under this chapter if the
 722 marketplace provider demonstrates to the department's
 723 satisfaction that the marketplace provider made a reasonable
 724 effort to obtain accurate information related to the retail
 725 sales facilitated through the marketplace from the marketplace

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726 seller, but that the failure to collect and pay the correct
 727 amount of tax imposed under this chapter was due to the
 728 provision of incorrect or incomplete information to the
 729 marketplace provider by the marketplace seller. This paragraph
 730 does not apply to a retail sale for which the marketplace
 731 provider is the seller if the marketplace provider and the
 732 marketplace seller are related parties or if transactions
 733 between a marketplace seller and marketplace buyer are not
 734 conducted at arm's length.

735 (6) For purposes of registration pursuant to s. 212.18, a
 736 marketplace is deemed a separate place of business.

737 (7) A marketplace provider and a marketplace seller may
 738 agree by contract or otherwise that if a marketplace provider
 739 pays the tax imposed under this chapter on a retail sale
 740 facilitated through a marketplace for a marketplace seller as a
 741 result of an audit or otherwise, the marketplace provider has
 742 the right to recover such tax and any associated interest and
 743 penalties from the marketplace seller.

744 (8) This section may not be construed to authorize the
 745 state to collect sales tax from both the marketplace provider
 746 and the marketplace seller on the same retail sale.

747 (9) Chapter 213 applies to the administration of this
 748 section to the extent that chapter does not conflict with this
 749 section.

750 Section 5. Effective April 1, 2022, subsections (10) and
 751 (11) are added to section 212.05965, Florida Statutes, as
 752 created by this act, to read:

753 212.05965 Taxation of marketplace sales.—

754 (10) Notwithstanding any other law, the marketplace

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755 provider is also responsible for collecting and remitting any
 756 prepaid wireless E911 fee under s. 365.172, waste tire fee under
 757 s. 403.718, and lead-acid battery fee under s. 403.7185 at the
 758 time of sale for taxable retail sales made through its
 759 marketplace.

760 (11) The marketplace provider and the marketplace seller
 761 may contractually agree to have the marketplace seller collect
 762 and remit all applicable taxes and fees if the marketplace
 763 seller:

764 (a) Has annual U.S. gross sales of more than \$1 billion,
 765 including the gross sales of any related entities, and in the
 766 case of franchised entities, including the combined sales of all
 767 franchisees of a single franchisor;

768 (b) Provides evidence to the marketplace provider that it
 769 is registered under s. 212.18; and

770 (c) Notifies the department in a manner prescribed by the
 771 department that the marketplace seller will collect and remit
 772 all applicable taxes and fees on its sales through the
 773 marketplace and is liable for failure to collect or remit
 774 applicable taxes and fees on its sales.

775 Section 6. Paragraph (c) of subsection (2) and paragraph
 776 (a) of subsection (5) of section 212.06, Florida Statutes, are
 777 amended to read:

778 212.06 Sales, storage, use tax; collectible from dealers;
 779 "dealer" defined; dealers to collect from purchasers;
 780 legislative intent as to scope of tax.—

781 (2)

782 (c) The term "dealer" is further defined to mean every
 783 person, as used in this chapter, who sells at retail or who

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784 offers for sale at retail, or who has in his or her possession
 785 for sale at retail; or for use, consumption, or distribution; or
 786 for storage to be used or consumed in this state, tangible
 787 personal property as defined herein, including a retailer who
 788 transacts a substantial number of remote sales or a person who
 789 is a marketplace provider making or facilitating a substantial
 790 number of remote sales ~~mail-order sale.~~

791 (5) (a) 1. Except as provided in subparagraph 2., it is not
 792 the intention of this chapter to levy a tax upon tangible
 793 personal property imported, produced, or manufactured in this
 794 state for export, provided that tangible personal property may
 795 not be considered as being imported, produced, or manufactured
 796 for export unless the importer, producer, or manufacturer
 797 delivers the same to a licensed exporter for exporting or to a
 798 common carrier for shipment outside the state or mails the same
 799 by United States mail to a destination outside the state; or, in
 800 the case of aircraft being exported under their own power to a
 801 destination outside the continental limits of the United States,
 802 by submission to the department of a duly signed and validated
 803 United States customs declaration, showing the departure of the
 804 aircraft from the continental United States; and further with
 805 respect to aircraft, the canceled United States registry of said
 806 aircraft; or in the case of parts and equipment installed on
 807 aircraft of foreign registry, by submission to the department of
 808 documentation, the extent of which shall be provided by rule,
 809 showing the departure of the aircraft from the continental
 810 United States; nor is it the intention of this chapter to levy a
 811 tax on any sale which the state is prohibited from taxing under
 812 the Constitution or laws of the United States. Every retail sale

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813 made to a person physically present at the time of sale shall be
814 presumed to have been delivered in this state.

815 2.a. Notwithstanding subparagraph 1., a tax is levied on
816 each sale of tangible personal property to be transported to a
817 cooperating state as defined in sub-subparagraph c., at the rate
818 specified in sub-subparagraph d. However, a Florida dealer will
819 be relieved from the requirements of collecting taxes pursuant
820 to this subparagraph if the Florida dealer obtains from the
821 purchaser an affidavit setting forth the purchaser's name,
822 address, state taxpayer identification number, and a statement
823 that the purchaser is aware of his or her state's use tax laws,
824 is a registered dealer in Florida or another state, or is
825 purchasing the tangible personal property for resale or is
826 otherwise not required to pay the tax on the transaction. The
827 department may, by rule, provide a form to be used for the
828 purposes set forth herein.

829 b. For purposes of this subparagraph, "a cooperating state"
830 is one determined by the executive director of the department to
831 cooperate satisfactorily with this state in collecting taxes on
832 remote mail-order sales. No state shall be so determined unless
833 it meets all the following minimum requirements:

834 (I) It levies and collects taxes on remote mail-order sales
835 of property transported from that state to persons in this
836 state, as described in s. 212.0596, upon request of the
837 department.

838 (II) The tax so collected shall be at the rate specified in
839 s. 212.05, not including any local option or tourist or
840 convention development taxes collected pursuant to s. 125.0104
841 or this chapter.

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842 (III) Such state agrees to remit to the department all
843 taxes so collected no later than 30 days from the last day of
844 the calendar quarter following their collection.

845 (IV) Such state authorizes the department to audit dealers
846 within its jurisdiction who make remote mail-order sales that
847 are the subject of s. 212.0596, or makes arrangements deemed
848 adequate by the department for auditing them with its own
849 personnel.

850 (V) Such state agrees to provide to the department records
851 obtained by it from retailers or dealers in such state showing
852 delivery of tangible personal property into this state upon
853 which no sales or use tax has been paid in a manner similar to
854 that provided in sub-subparagraph g.

855 c. For purposes of this subparagraph, "sales of tangible
856 personal property to be transported to a cooperating state"
857 means remote mail-order sales to a person who is in the
858 cooperating state at the time the order is executed, from a
859 dealer who receives that order in this state.

860 d. The tax levied by sub-subparagraph a. shall be at the
861 rate at which such a sale would have been taxed pursuant to the
862 cooperating state's tax laws if consummated in the cooperating
863 state by a dealer and a purchaser, both of whom were physically
864 present in that state at the time of the sale.

865 e. The tax levied by sub-subparagraph a., when collected,
866 shall be held in the State Treasury in trust for the benefit of
867 the cooperating state and shall be paid to it at a time agreed
868 upon between the department, acting for this state, and the
869 cooperating state or the department or agency designated by it
870 to act for it; however, such payment shall in no event be made

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871 later than 30 days from the last day of the calendar quarter
872 after the tax was collected. Funds held in trust for the benefit
873 of a cooperating state shall not be subject to the service
874 charges imposed by s. 215.20.

875 f. The department is authorized to perform such acts and to
876 provide such cooperation to a cooperating state with reference
877 to the tax levied by sub-subparagraph a. as is required of the
878 cooperating state by sub-subparagraph b.

879 g. In furtherance of this act, dealers selling tangible
880 personal property for delivery in another state shall make
881 available to the department, upon request of the department,
882 records of all tangible personal property so sold. Such records
883 shall include a description of the property, the name and
884 address of the purchaser, the name and address of the person to
885 whom the property was sent, the purchase price of the property,
886 information regarding whether sales tax was paid in this state
887 on the purchase price, and such other information as the
888 department may by rule prescribe.

889 Section 7. Paragraph (a) of subsection (1) and paragraph
890 (a) of subsection (5) of section 212.12, Florida Statutes, are
891 amended to read:

892 212.12 Dealer's credit for collecting tax; penalties for
893 noncompliance; powers of Department of Revenue in dealing with
894 delinquents; brackets applicable to taxable transactions;
895 records required.—

896 (1) (a) ~~1-~~ Notwithstanding any other law and for the purpose
897 of compensating persons granting licenses for and the lessors of
898 real and personal property taxed hereunder, for the purpose of
899 compensating dealers in tangible personal property, for the

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900 purpose of compensating dealers providing communication services
901 and taxable services, for the purpose of compensating owners of
902 places where admissions are collected, and for the purpose of
903 compensating remitters of any taxes or fees reported on the same
904 documents utilized for the sales and use tax, as compensation
905 for the keeping of prescribed records, filing timely tax
906 returns, and the proper accounting and remitting of taxes by
907 them, such seller, person, lessor, dealer, owner, and remitter
908 ~~(except dealers who make mail order sales)~~ who files the return
909 required pursuant to s. 212.11 only by electronic means and who
910 pays the amount due on such return only by electronic means
911 shall be allowed 2.5 percent of the amount of the tax due,
912 accounted for, and remitted to the department in the form of a
913 deduction. However, if the amount of the tax due and remitted to
914 the department by electronic means for the reporting period
915 exceeds \$1,200, an allowance is not allowed for all amounts in
916 excess of \$1,200. For purposes of this paragraph ~~subparagraph~~,
917 the term "electronic means" has the same meaning as provided in
918 s. 213.755(2) (c).

919 ~~2. The executive director of the department is authorized~~
920 ~~to negotiate a collection allowance, pursuant to rules~~
921 ~~promulgated by the department, with a dealer who makes mail~~
922 ~~order sales. The rules of the department shall provide~~
923 ~~guidelines for establishing the collection allowance based upon~~
924 ~~the dealer's estimated costs of collecting the tax, the volume~~
925 ~~and value of the dealer's mail order sales to purchasers in this~~
926 ~~state, and the administrative and legal costs and likelihood of~~
927 ~~achieving collection of the tax absent the cooperation of the~~
928 ~~dealer. However, in no event shall the collection allowance~~

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929 ~~negotiated by the executive director exceed 10 percent of the~~
 930 ~~tax remitted for a reporting period.~~

931 (5) (a) The department is authorized to audit or inspect the
 932 records and accounts of dealers defined herein, including audits
 933 or inspections of dealers who make remote mail order sales ~~to~~
 934 ~~the extent permitted by another state~~, and to correct by credit
 935 any overpayment of tax, and, in the event of a deficiency, an
 936 assessment shall be made and collected. No administrative
 937 finding of fact is necessary prior to the assessment of any tax
 938 deficiency.

939 Section 8. Paragraph (f) of subsection (3) of section
 940 212.18, Florida Statutes, is amended to read:

941 212.18 Administration of law; registration of dealers;
 942 rules.-

943 (3)

944 (f) As used in this paragraph, the term "exhibitor" means a
 945 person who enters into an agreement authorizing the display of
 946 tangible personal property or services at a convention or a
 947 trade show. The following provisions apply to the registration
 948 of exhibitors as dealers under this chapter:

949 1. An exhibitor whose agreement prohibits the sale of
 950 tangible personal property or services subject to the tax
 951 imposed in this chapter is not required to register as a dealer.

952 2. An exhibitor whose agreement provides for the sale at
 953 wholesale only of tangible personal property or services subject
 954 to the tax imposed by this chapter must obtain a resale
 955 certificate from the purchasing dealer but is not required to
 956 register as a dealer.

957 3. An exhibitor whose agreement authorizes the retail sale

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958 of tangible personal property or services subject to the tax
 959 imposed by this chapter must register as a dealer and collect
 960 the tax on such sales.

961 4. An exhibitor who makes a remote mail order sale pursuant
 962 to s. 212.0596 must register as a dealer.

963
 964 A person who conducts a convention or a trade show must make his
 965 or her exhibitor's agreements available to the department for
 966 inspection and copying.

967 Section 9. Subsection (4) of section 212.20, Florida
 968 Statutes, is amended to read:

969 212.20 Funds collected, disposition; additional powers of
 970 department; operational expense; refund of taxes adjudicated
 971 unconstitutionally collected.-

972 (4) When there has been a final adjudication that any tax
 973 pursuant to s. 212.0596 or s. 212.05965 was levied, collected,
 974 or both, contrary to the Constitution of the United States or
 975 the State Constitution, the department shall, in accordance with
 976 rules, determine, based upon claims for refund and other
 977 evidence and information, who paid such tax or taxes, and refund
 978 to each such person the amount of tax paid. For purposes of this
 979 subsection, a "final adjudication" is a decision of a court of
 980 competent jurisdiction from which no appeal can be taken or from
 981 which the official or officials of this state with authority to
 982 make such decisions has or have decided not to appeal.

983 Section 10. Subsection (5) of section 213.27, Florida
 984 Statutes, is amended to read:

985 213.27 Contracts with debt collection agencies and certain
 986 vendors.-

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987 (5) The department may, for the purpose of ascertaining the
 988 amount of or collecting any taxes due from a person making or
 989 facilitating remote sales under s. 212.0596 or s. 212.05965
 990 ~~doing mail order business~~ in this state, contract with any
 991 auditing agency doing business within or without this state for
 992 the purpose of conducting an audit of such person mail order
 993 ~~business~~; however, such audit agency may not conduct an audit on
 994 behalf of the department of any person domiciled in this state,
 995 person registered for sales and use tax purposes in this state,
 996 or corporation filing a Florida corporate tax return, if any
 997 such person or corporation objects to such audit in writing to
 998 the department and the auditing agency. The department shall
 999 notify the taxpayer by mail at least 30 days before the
 1000 department assigns the collection of such taxes.

1001 Section 11. This act first applies to remote sales made or
 1002 facilitated on or after July 1, 2021, by a person who made or
 1003 facilitated a substantial number of remote sales in calendar
 1004 year 2020.

1005 Section 12. (1) Upon registration with the Department of
 1006 Revenue, a person subject to the requirements of this act to
 1007 collect and remit the tax under chapter 212, Florida Statutes,
 1008 on remote sales is relieved of liability for tax, penalty, and
 1009 interest due on remote sales that occurred before the effective
 1010 date of this act, including a person who is found by the
 1011 Department of Revenue to have had a physical presence in this
 1012 state before the effective date of this act. This subsection is
 1013 also intended to provide relief to a marketplace seller for
 1014 sales made before the effective date of this act which were
 1015 facilitated by a marketplace provider. For a marketplace

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1016 provider with a physical presence in this state, this subsection
 1017 is intended to provide relief only for sales facilitated by the
 1018 marketplace provider on behalf of a marketplace seller.

1019 (2) A person who owes use tax under chapter 212, Florida
 1020 Statutes, on the purchase of tangible personal property ordered
 1021 by remote sale that was conducted before the effective date of
 1022 this act is relieved of liability for tax, penalty, and interest
 1023 due. This subsection does not apply to the use tax liability of
 1024 a registered dealer.

1025 (3) This section does not establish a right to a refund of
 1026 taxes already paid.

1027 Section 13. (1) The Department of Revenue is authorized,
 1028 and all conditions are deemed met, to adopt emergency rules
 1029 pursuant to s. 120.54(4), Florida Statutes, for the purpose of
 1030 administering this act.

1031 (2) Notwithstanding any other law, emergency rules adopted
 1032 pursuant to subsection (1) are effective for 6 months after
 1033 adoption and may be renewed during the pendency of procedures to
 1034 adopt permanent rules addressing the subject of the emergency
 1035 rules.

1036 (3) This section shall take effect upon this act becoming a
 1037 law and expires July 1, 2022.

1038 Section 14. If any provision of this act or its application
 1039 to any person or circumstance is held invalid, the invalidity
 1040 does not affect other provisions or applications of the act
 1041 which can be given effect without the invalid provision or
 1042 application, and to this end the provisions of this act are
 1043 severable.

1044 Section 15. Except as otherwise expressly provided in this

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1045 act and except for this section, which shall take effect upon
1046 this act becoming a law, this act shall take effect July 1,
1047 2021.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SB 58

INTRODUCER: Senator Rodriguez

SUBJECT: Hospitals' Community Benefit Reporting

DATE: March 3, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	Favorable
2.	<u>Gross</u>	<u>Babin</u>	<u>FT</u>	Favorable
3.	<u>Gross</u>	<u>Sadberry</u>	<u>AP</u>	Pre-meeting

I. Summary:

SB 58 repeals section 193.019, Florida Statutes, relating to community benefit reporting requirements by charitable hospitals for property tax exemption purposes. Chapter 2020-10, s. 2, Laws of Florida, required a charitable hospital to submit to the Department of Revenue the amount of net community benefit expense the hospital reported to the Internal Revenue Service. The act required, effective January 1, 2022, a property appraiser to limit a hospital's property tax exemption to the value of the hospital's community benefit expense if the hospital's net community benefit expense did not equal or exceed the value of its tax exemption for two consecutive years. The bill removes this requirement by repealing the statute before it takes effect.

The Revenue Estimating Conference determined that the bill will reduce local government revenue by an indeterminate amount, beginning in Fiscal Year 2022-2023.

The bill takes effect upon becoming a law.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or "property tax" is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of

January 1 of each year.¹ The property appraiser annually determines the “just value”² of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”³ Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by the following March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes on real estate or tangible personal property,⁴ and limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.⁵

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;⁶ however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that may receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida’s aquifers, and land used exclusively for noncommercial recreational purposes; land used for conservation purposes; historic properties when authorized by the county or municipality; and certain working waterfront property.⁷

Ad Valorem Exemption for Educational, Literary, Scientific, Religious, or Charitable Organizations

Florida’s constitution grants a number of exemptions that exempt all or part of a property’s assessed value from taxation, including exemptions for educational, literary, scientific, religious, or charitable purposes.⁸ The Legislature implements these constitutional exemptions and sets forth the criteria to determine whether property is entitled to an exemption.⁹

To determine whether a property’s use qualifies for an educational, literary, scientific, religious, or charitable exemption, the property appraiser must consider the nature and extent of the qualifying activity and how it compares to the organization’s other activities or other uses of the property.¹⁰ The portions of the property used predominantly for qualified purposes are exempt from ad valorem taxation.¹¹

¹ Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

² Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

³ *See* s. 192.001(2) and (16), F.S.

⁴ FLA. CONST. art. VII, s. 1(a).

⁵ *See* FLA. CONST. art. VII, s. 4.

⁶ Section 193.011(2), F.S.

⁷ FLA. CONST. art. VII, s. 4.

⁸ FLA. CONST. art. VII, s. 3(a); s. 196.196, F.S.

⁹ Section 196.196, F.S.

¹⁰ Section 196.196(1), F.S.

¹¹ Section 196.196(2), F.S.

Hospitals seeking an ad valorem exemption for charitable use must be qualified as an exempt organization under the provisions of s. 501(c)(3) of the Internal Revenue Code.¹² To become a 501(c)(3) organization, none of the organization's earnings may benefit any private shareholder or individual, and the organization may not attempt to influence legislation as a substantial part of its activities.¹³

Federal Requirement to Report Community Benefit

In order to achieve and maintain 501(c)(3) nonprofit status, hospitals must report their community benefit to the IRS using the Schedule H (Form 990). “Community benefit” includes reduced cost and free health care services given to those unable to pay for it, as well as a hospital’s spending on programs that promote community health. The Schedule H includes all of the following information:

- The net, unreimbursed costs of charity care.
- Participation in means-tested government programs such as Medicaid.
- Health professions education.
- Health services research.
- Subsidized health services.
- Community health improvement activities.
- Cash or in-kind contributions to other community groups, such as donating to a health screening event, or hosting a blood drive.¹⁴

Additionally, 501(c)(3) hospitals must conduct a community health needs assessment every three years, maintain a financial assistance policy, and abide by certain limitations on charges and billing and collection requirements.¹⁵

Florida has 154 501(c)(3) hospitals, which according to the Florida Hospital Association generate more than four billion dollars of community benefit, representing more than 12 percent of their entire hospital operating expenses.¹⁶

Florida’s Reporting Requirement

During the 2020 Regular Session, the Legislature enacted s. 193.019, F.S., to require hospitals and property appraisers to submit certain information to the Department of Revenue (DOR) by January 15, 2022, and each year thereafter.

The property appraiser of each county must submit to the DOR the value of a hospital’s tax exemption that was granted for the prior year.¹⁷

¹² Section 196.197, F.S.

¹³ 26 U.S.C. 501(c)(3).

¹⁴ See IRS Form 990 Schedule H.

¹⁵ 26 U.S.C. 501(r).

¹⁶ Florida Hospital Association, *FHA Takeaways: Hospital Community Benefit Standards and Financial Reporting*, FHA.org, available at <http://fha.org/advocacy/state-advocacy/legislative-issues/taxexempt-hospitals-and-community-benefit.aspx> (last visited Feb. 2, 2021).

¹⁷ Section 193.019(2), F.S.

A hospital seeking a charitable use property tax exemption must submit the following:

- A copy of its most recent IRS Form 990, Schedule H;
- A schedule that reports the net community benefit attributable to each county where services were provided, the net community benefit attributed to a county from another county, and the net community benefit attributable to services and activities provided outside of this state; and
- A document signed by the hospital CEO and an independent accountant stating that the community benefit calculations are true and correct.¹⁸

The DOR will determine if the county net community benefit attributed to a hospital's property located in the county equals or exceeds the value of the tax exemption. In any second consecutive year the value of the tax exemption is greater than the net community benefit provided, the DOR will notify the property appraiser to reduce the current year's tax exemption by the ratio of the hospital's net community benefit expense to the prior year's value of the exemption. In effect, limiting the value of the exemption to the amount of net community benefit provided.¹⁹ This data will be published by the DOR.

III. Effect of Proposed Changes:

The bill repeals s. 193.019, F.S.,²⁰ relating to a hospitals community benefit reporting requirements for property tax exemption purposes.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(b) of the State Constitution provides that, except upon the approval of each house of the Legislature by a two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandate requirements do not apply to laws having an insignificant fiscal impact,^{21, 22} which for Fiscal Year 2021-2022 is forecast at approximately \$2.2 million.²³

¹⁸ Section 193.019(3), F.S.

¹⁹ Section 193.019(4) and (5), F.S.

²⁰ Chapter 2020-10, s. 2, Laws of Fla. (creating s. 193.019, F.S., effective Jan. 1, 2022).

²¹ FLA. CONST. art. VII, s. 18(d).

²² An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at: <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Feb. 03, 2021).

²³ Based on the Demographic Estimating Conference's April 1, 2021, estimated population adopted on Nov. 13, 2020. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Feb. 03, 2021).

The bill repeals s. 193.019, F.S., which was created during the 2020 Legislative Session. Neither s. 193.019, F.S., nor the bill reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. As such, the bill is not subject to the mandates provisions.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference determined that the bill will reduce local government revenue by an indeterminate amount, beginning in Fiscal Year 2022-2023.²⁴

B. Private Sector Impact:

Hospitals will avoid the cost of complying with the reporting requirements and potentially having their property tax exemption reduced based on their net community benefit expenses.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

²⁴ Revenue Estimating Impact Conference, *Hospital Community Benefit Repeal, SB 58*, (Jan. 29, 2021), available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2021/_pdf/page1-2.pdf (last visited Feb. 2, 2021).

VIII. Statutes Affected:

This bill repeals section 193.019 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Rodriguez

39-00522-21

202158__

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A bill to be entitled

An act relating to hospitals' community benefit reporting; repealing s. 193.019, F.S., relating to reporting of community benefit expenses for property tax exemption purposes; providing an effective date.

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

Section 1. Section 193.019, Florida Statutes, is repealed.

Section 2. This act shall take effect upon becoming a law.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Committee

BILL: SPB 7054

INTRODUCER: For consideration by the Appropriations Committee

SUBJECT: Trust Funds/Triumph Gulf Coast Trust Fund

DATE: March 3, 2021

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Hrdlicka</u>	<u>Sadberry</u>	<u>AP</u>	_____

I. Summary:

SPB 7054 re-creates, without modification, the Triumph Gulf Coast Trust Fund within the Department of Economic Opportunity.

The bill is effective upon becoming a law.

The bill does not impact state and local government revenues and expenditures.

II. Present Situation:

Article III, s. 19(f) of the Florida Constitution requires the termination of all state trust funds within four years of their initial creation, unless the trust fund is exempted by the constitution or operation of law.

The Triumph Gulf Coast Trust Fund is scheduled to be terminated on July 1, 2021, unless recreated by the Legislature.

The trust fund was created in 2017 for the deposit of the funds from the “Settlement Agreement Between the Gulf States and the BP Entities with Respect to Economic and Other Claims Arising from the Deepwater Horizon Incident,” which was entered into on October 5, 2015.¹ Under the settlement agreement, Florida will receive \$2 billion over an 18-year period. Of the settlement funds for Florida, 75 percent of payments to the state are transferred immediately upon receipt to the trust fund, and such funds are then released by the Department of Economic Opportunity to Triumph Gulf Coast, Inc., within 30 days of deposit in the trust fund.² The initial payment was \$400 million, \$300 million of which was transferred to Triumph Gulf Coast, Inc., in the

¹ The settlement agreement arose from *In re: Oil Spill by the Oil Rig “Deepwater Horizon” in the Gulf of Mexico, on April 20, 2010*, MDL 2179 in the United States District Court for the Eastern District of Louisiana. Chapter 2017-64, Laws of Fla. (creating s. 288.80125, F.S., relating to the trust fund, effective July 1, 2017).

² Section 288.8013(2), F.S.

2017-2018 fiscal year.³ Florida will receive \$106.7 million each year from 2019 until 2033; \$80 million is transferred to Triumph Gulf Coast and \$26.7 million is deposited in the General Revenue Fund.⁴

Funds are used by Triumph Gulf Coast, Inc., for projects within the eight disproportionately affected counties of Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Walton, and Wakulla.⁵ Awards to projects or programs must meet priorities for economic recovery, diversification, and enhancement of the disproportionately affected counties.⁶

Triumph Gulf Coast, Inc., is required to establish a trust account at a federally insured financial institution for the received funds. The corporation is also allowed to invest surplus funds in the Local Government Surplus Funds Trust Fund. Any interest earned in either the trust account or as invested must be deposited monthly back into the Triumph Gulf Coast Trust Fund.⁷

In Fiscal Year 2018-2019, the balance of interest in the trust fund was transferred to Triumph Gulf Coast, Inc., for projects.⁸ In Fiscal Year 2020-2021, \$8 million from the trust fund was appropriated to the Department of Economic Opportunity to serve as match for a potential grant from the U.S. Economic Development Administration for a revolving loan program in the region impacted by Hurricane Michael.⁹ As of February 19, 2021, the trust fund had a cash balance of \$15.4 million.

The trust fund is exempt from the general revenue service charge provided in s. 215.20, F.S.

Pursuant to s. 215.3206, F.S., the Department of Economic Opportunity reviewed the purpose and use of the trust fund and recommended the re-creation of the trust fund without modification.¹⁰

III. Effect of Proposed Changes:

The Triumph Gulf Coast Trust Fund within the Department of Economic Opportunity is re-created without modification. Section 288.80125(3), F.S., which terminates the trust fund on July 1, 2021, is repealed. The bill is effective upon becoming a law.

³ See ch. 2017-63, Laws of Fla., and Triumph Gulf Coast, *Frequently Asked Questions: How does Triumph Gulf Coast receive funding?*, available at <https://www.myfloridatriumph.com/about/frequently-asked-questions/> (last visited Feb. 22, 2021).

⁴ In re: Oil Spill by the Oil Rig “Deepwater Horizon” in the Gulf of Mexico, on April 20, 2010, Settlement Agreement Between the Gulf States and the BP Entities with Respect to Economic and Other Claims Arising from the Deepwater Horizon Incident, *Attachment I*, filed October 5, 2015, available at [http://www.laed.uscourts.gov/sites/default/files/OilSpill/Orders/10052015Motion\(DismissalofStates%2015435\).pdf](http://www.laed.uscourts.gov/sites/default/files/OilSpill/Orders/10052015Motion(DismissalofStates%2015435).pdf) (last visited Feb. 22, 2021).

⁵ Section 288.8012(3), F.S.; see also s. 288.8013(2)(b) and (c), F.S.

⁶ See s. 288.8017, F.S.

⁷ Section 288.8013(3), F.S.

⁸ Chapter 2018-9, s. 80, Laws of Fla.

⁹ Chapter 2020-111, s. 6, Specific Appropriation 2267, Laws of Fla.

¹⁰ Fiscal Year 2021-2022, *Schedule ID: Request For Creation, Re-Creation, Retention, Termination, or Modification of a Trust Fund*, Department of Economic Opportunity, Triumph Gulf Coast Trust Fund (on file with the Senate Transportation, Tourism, and Economic Development Appropriations Subcommittee).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

Pursuant to Art. III, s. 19(f)(1) of the Florida Constitution, a bill that re-creates a trust fund must pass by a three-fifths vote of the membership of each house in a separate bill for that purpose only.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None. This bill has no fiscal impact on state agencies or state funds, on local governments as a whole, or on the private sector. It simply re-creates, without modification, an existing state trust fund and continues the current use of the fund.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends section 288.80125 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

FOR CONSIDERATION By the Committee on Appropriations

576-00896A-21

20217054pb

1 A bill to be entitled
2 An act relating to trust funds; re-creating the
3 Triumph Gulf Coast Trust Fund within the Department of
4 Economic Opportunity without modification; amending s.
5 288.80125, F.S.; removing provisions relating to the
6 termination of the trust fund; providing an effective
7 date.

8
9 WHEREAS, the Legislature wishes to extend the life of the
10 Triumph Gulf Coast Trust Fund within the Department of Economic
11 Opportunity which is otherwise scheduled to be terminated
12 pursuant to constitutional mandate, and

13 WHEREAS, the Legislature has reviewed the trust fund before
14 its scheduled termination date and has found that it continues
15 to meet an important public purpose, and

16 WHEREAS, the Legislature has found that existing public
17 policy concerning the trust fund sets adequate parameters for
18 its use, NOW, THEREFORE,

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. The Triumph Gulf Coast Trust Fund within the
23 Department of Economic Opportunity, FLAIR number 40-2-043, which
24 is to be terminated pursuant to Section 19(f), Article III of
25 the State Constitution on July 1, 2021, is re-created.

26 Section 2. Subsection (3) of section 288.80125, Florida
27 Statutes, is amended to read:

28 288.80125 Triumph Gulf Coast Trust Fund.—

29 ~~(3) In accordance with s. 19(f)(2), Art. III of the State~~

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

576-00896A-21

20217054pb

30 ~~Constitution, the Triumph Gulf Coast Trust Fund shall, unless~~
31 ~~terminated sooner, be terminated on July 1, 2021. Before its~~
32 ~~scheduled termination, the trust fund shall be reviewed as~~
33 ~~provided in s. 215.3206(1) and (2).~~

34 Section 3. This act shall take effect upon becoming a law.

Page 2 of 2

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SPB 7056

INTRODUCER: For consideration by the Appropriations Committee

SUBJECT: Trust Funds

DATE: March 3, 2021

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Urban	Sadberry	AP	Pre-meeting

I. Summary:

SPB 7056 terminates the following trust funds:

- Public Defenders Revenue Trust Fund within the Justice Administrative Commission.
- Revolving Trust Fund within the Department of Law Enforcement.
- Welfare Transition Trust Fund within the Department of Military Affairs.
- Welfare Transition Trust Fund within the Department of Health.

The bill takes effect July 1, 2021.

II. Present Situation:

Trust Funds

Article III, s. 19(f) of the Florida Constitution requires the termination of all state trust funds within four years after their initial creation, unless the trust fund is exempted by the constitution or operation of law. If a trust fund was created pursuant to law, it should be reviewed, and either re-created after its initial creation or terminated, to prevent its automatic termination by the Florida Constitution. In subsequent reviews, the trust fund should be recommended for retention, if it is still necessary, or recommended for termination if it is no longer needed. To stagger trust fund reviews, a schedule is set forth each year listing which agency's trust funds are up for legislative review.¹ In any year that a state agency is scheduled for a trust fund review, the agency is required to provide recommendations in their legislative budget request relating to whether trust funds within their agency should be created, re-created, retained, terminated, or modified.²

When the Legislature terminates a trust fund, the agency that administers the trust fund is required to pay all outstanding debts or obligations of the trust fund as soon as practicable, and

¹ Section 215.3208, F.S.

² See Executive Office of the Governor, Office of Policy and Budget, *Legislative Budget Request Instructions* (July 2020) available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=20226&DocType=PDF> (last visited Feb. 26, 2021).

the Chief Financial Officer is required to close out and remove the trust fund from the various state financial systems, using generally accepted accounting principles concerning assets, liabilities, and warrants outstanding.³

Any moneys in a trust fund at the time it is terminated may be distributed as determined by the Legislature. If no such determination is made, the funds remaining after all outstanding obligations of the fund are met are deposited into the General Revenue Fund.⁴

Public Defenders Revenue Trust Fund – Justice Administrative Commission

The Public Defenders Revenue Trust Fund, FLAIR number 20-2-059, was created within the Justice Administrative Commission (JAC) in 2009 as a depository for Article V funds. The funds are authorized to be used for activities of the public defender, which include activities related to the defense of any person determined to be indigent.^{5,6} The Public Defenders Revenue Trust Fund pre-2018, was supported by revenues derived from two sources: (1) \$1.67 of a \$10 assessment paid for all noncriminal moving and nonmoving violations under chs. 316, 320, and 322, F.S., and (2) \$250 of a \$1,001 surcharge imposed when a person pleads guilty or nolo contendere to, or is found guilty of, the criminal use of personal identification information, as defined in s. 817.568, F.S.⁷

During the 2018 Legislative Session, \$2.6 million in budget authority was transferred from the Public Defenders Revenue Trust Fund to the Indigent Criminal Defense Trust Fund within the JAC.⁸ The purposes of the Indigent Criminal Defense Trust Fund and the Public Defenders Revenue Trust Fund are the same. The Fiscal Year 2018-2019 Implementing Bill made conforming changes to redirect future revenues to the Indigent Criminal Defense Trust Fund.⁹ The conforming changes were carried forward for both the 2018-2019 fiscal year and the 2020-2021 fiscal year and are set to expire July 1, 2021.¹⁰

The current balance in the trust fund is \$0 and no operating budget authority remains. Therefore, the JAC recommended the termination of the trust fund.¹¹

Revolving Trust Fund – Department of Law Enforcement

The Revolving Trust Fund, FLAIR number 71-2-600, within the Department of Law Enforcement (DLE) was recreated without modification by ch. 2002-113, Laws of Florida. The trust fund serves as a depository for loaned cash from the General Revenue Fund, for use by the DLE in criminal justice investigations. Funds loaned are deposited back to the General Revenue Fund after completion of investigative activities. The DLE reports that it has not used funds from

³ Section 215.3208, F.S.

⁴ *Id.*

⁵ Section 27.61, F.S.

⁶ Section 27.51, F.S.

⁷ Sections 318.88 and 817.58, F.S., respectively.

⁸ Chapter 2018-09, Laws of Fla.

⁹ Chapter 2018-10, ss. 39 and 42, Laws of Fla.

¹⁰ Chapter 2019-116, ss. 61 and 63, Laws of Fla.; ch. 2020-114, ss. 61 and 63, Laws of Fla.

¹¹ Justice Administrative Commission, Fiscal Year 2021-2022, *Schedule ID: Request for Creation, Re-creation, Retention, Termination, or Modification of a Trust Fund* available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=21079&DocType=PDF> (last visited Feb. 26, 2021).

the trust fund in 20 years and, instead, uses another trust fund held outside of the State Treasury for this purpose.¹²

Section 127 of the Fiscal Year 2020-2021 General Appropriations Act (ch. 2020-111, Laws of Florida) transferred the \$1,000,000 unobligated cash balances in the trust fund to the General Revenue Fund. The DLE in its legislative budget request recommended the termination of the trust fund.¹³

Welfare Transition Trust Fund – Department of Military Affairs and Department of Health

The Welfare Transition Trust Fund, FLAIR Number 62-2-401, within the Department of Military Affairs (DMA) and the Welfare Transition Trust Fund, FLAIR Number 64-2-401, within the Department of Health (DOH) were created for the purpose of receiving federal block grant funds under the Temporary Assistance for Needy Families Program (TANF).¹⁴

Trust fund dollars are required to be used exclusively for the purpose of providing services to individuals eligible under TANF pursuant to the requirements and limitations of Part A of Title IV of the Social Security Act, as amended, or any other federal requirement or limitation.

Funds credited to the trust fund consist of those funds collected from the TANF block grant.

Both the DMA and the DOH no longer provide services related to the TANF block grant. Therefore, there is no longer a need for the Welfare Transition Trust Funds within these agencies.

III. Effect of Proposed Changes:

This bill terminates the Public Defenders Revenue Trust Fund within the Justice Administrative Commission (JAC). The bill transfers any remaining balances and revenue to the Indigent Criminal Defense Trust Fund and requires the JAC to pay any outstanding debts or obligations against the fund. The bill repeals s. 27.61, F.S., relating to the Public Defenders Revenue Trust Fund and amends ss. 318.18 and 817.568, F.S., to redirect future revenues to the Indigent Criminal Defense Trust Fund within the JAC.

The bill terminates the Revolving Trust Fund within the Department of Law Enforcement. The bill transfers any remaining balances and revenue to the General Revenue Fund and requires the DLE to pay any outstanding debts or obligations against the fund.

The bill terminates the Welfare Transition Trust Fund within the Department of Military Affairs. The bill transfers any remaining balances and revenue to the DMA's Federal Grants Trust Fund and requires the DMA to pay any outstanding debts or obligations against the fund. The bill repeals s. 250.175(5), F.S., relating to the Welfare Transition Trust Fund.

¹² Email from Cynthia Barr, Senior Budget Officer, Department of Law Enforcement (Nov. 12, 2020) (on file with the Senate Appropriations Committee).

¹³ Department of Law Enforcement, Fiscal Year 2021-2022, *Schedule ID: Request for Creation, Re-creation, Retention, Termination, or Modification of a Trust Fund* available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=21093&DocType=PDF> (last visited Feb. 26, 2021).

¹⁴ Sections 250.175 and 20.435, F.S., respectively.

The bill terminates the Welfare Transition Trust Fund within the Department of Health. The bill transfers any remaining balances and revenue to the DOH's Federal Grants Trust Fund and requires the DOH to pay any outstanding debts or obligations against the fund. The bill repeals s. 20.435(8), F.S., relating to the Welfare Transition Trust Fund.

The bill is effective July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 318.18, 817.568, 250.175, and 20.435.

This bill repeals section 27.61 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

FOR CONSIDERATION By the Committee on Appropriations

576-02223-21

20217056pb

A bill to be entitled

An act relating to trust funds; terminating the Public Defenders Revenue Trust Fund within the Justice Administrative Commission; providing for the disposition of balances in and revenues of the trust fund; terminating the Revolving Trust Fund within the Department of Law Enforcement; providing for the disposition of balances in and revenues of the trust fund; repealing s. 27.61, F.S., relating to the Public Defenders Revenue Trust Fund; amending ss. 318.18 and 817.568, F.S.; providing for the redirection of certain revenues from the Public Defenders Revenue Trust Fund to the Indigent Criminal Defense Trust Fund to conform to changes made by the act; terminating the Welfare Transition Trust Fund within the Department of Military Affairs; providing for the disposition of balances in and revenues of the trust fund; repealing s. 250.175(5), F.S., relating to the Welfare Transition Trust Fund; terminating the Welfare Transition Trust Fund within the Department of Health; providing for the disposition of balances in and revenues of the trust fund; repealing s. 20.435(8), F.S., relating to the Welfare Transition Trust Fund; providing an effective date.

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

Section 1. (1) The Public Defenders Revenue Trust Fund, FLAIR number 20-2-059, within the Justice Administrative

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576-02223-21

20217056pb

Commission, is terminated.

(2) All current balances remaining in, and all revenues of, the trust fund shall be transferred to the Indigent Criminal Defense Trust Fund within the Justice Administrative Commission.

(3) The Justice Administrative Commission shall pay any outstanding debts and obligations of the terminated fund as soon as practicable, and the Chief Financial Officer shall close out and remove the terminated fund from the various state accounting systems using generally accepted accounting principles concerning warrants outstanding, assets, and liabilities.

Section 2. (1) The Revolving Trust Fund, FLAIR number 71-2-600, within the Department of Law Enforcement, is terminated.

(2) All current balances remaining in, and all revenues of, the trust fund shall be transferred to the General Revenue Fund.

(3) The Department of Law Enforcement shall pay any outstanding debts and obligations of the terminated fund as soon as practicable, and the Chief Financial Officer shall close out and remove the terminated fund from the various state accounting systems using generally accepted accounting principles concerning warrants outstanding, assets, and liabilities.

Section 3. Section 27.61, Florida Statutes, is repealed.

Section 4. Upon the expiration and reversion of the amendment made to section 318.18, Florida Statutes, pursuant to section 63 of chapter 2020-114, Laws of Florida, paragraph (c) of subsection (19) of section 318.18, Florida Statutes, is amended to read:

318.18 Amount of penalties.—The penalties required for a noncriminal disposition pursuant to s. 318.14 or a criminal offense listed in s. 318.17 are as follows:

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576-02223-21

20217056pb

59 (19) In addition to any penalties imposed, an Article V
60 assessment of \$10 must be paid for all noncriminal moving and
61 nonmoving violations under chapters 316, 320, and 322. The
62 assessment is not revenue for purposes of s. 28.36 and may not
63 be used in establishing the budget of the clerk of the court
64 under that section or s. 28.35. Of the funds collected under
65 this subsection:

66 (c) The sum of \$1.67 shall be deposited in the Indigent
67 Criminal Defense Trust Fund ~~Public Defenders Revenue Trust Fund~~
68 for use by the public defenders.

69 Section 5. Upon the expiration and reversion of the
70 amendment made to section 817.568, Florida Statutes, pursuant to
71 section 63 of chapter 2020-114, Laws of Florida, paragraph (b)
72 of subsection (12) of section 817.568, Florida Statutes, is
73 amended to read:

74 817.568 Criminal use of personal identification
75 information.—

76 (12) In addition to any sanction imposed when a person
77 pleads guilty or nolo contendere to, or is found guilty of,
78 regardless of adjudication, a violation of this section, the
79 court shall impose a surcharge of \$1,001.

80 (b) The sum of \$250 of the surcharge shall be deposited
81 into the State Attorneys Revenue Trust Fund for the purpose of
82 funding prosecutions of offenses relating to the criminal use of
83 personal identification information. The sum of \$250 of the
84 surcharge shall be deposited into the Indigent Criminal Defense
85 Trust Fund ~~Public Defenders Revenue Trust Fund~~ for the purposes
86 of indigent criminal defense related to the criminal use of
87 personal identification information.

576-02223-21

20217056pb

88 Section 6. (1) The Welfare Transition Trust Fund within the
89 Department of Military Affairs, FLAIR number 62-2-401, is
90 terminated.

91 (2) All current balances remaining in, and all revenues of,
92 the trust fund, shall be transferred to the Federal Grants Trust
93 Fund, FLAIR number 62-2-261.

94 (3) The Department of Military Affairs shall pay any
95 outstanding debts and obligations of the terminated fund as soon
96 as practicable, and the Chief Financial Officer shall close out
97 and remove the terminated fund from the various state accounting
98 systems using generally accepted accounting principles
99 concerning warrants outstanding, assets, and liabilities.

100 Section 7. Subsection (5) of section 250.175, Florida
101 Statutes, is repealed.

102 Section 8. (1) The Welfare Transition Trust Fund within the
103 Department of Health, FLAIR number 64-2-401, is terminated.

104 (2) All current balances remaining in, and all revenues of,
105 the trust fund, shall be transferred to the Federal Grants Trust
106 Fund, FLAIR number 64-2-261.

107 (3) The Department of Health shall pay any outstanding
108 debts and obligations of the terminated fund as soon as
109 practicable, and the Chief Financial Officer shall close out and
110 remove the terminated fund from the various state accounting
111 systems using generally accepted accounting principles
112 concerning warrants outstanding, assets, and liabilities.

113 Section 9. Subsection (8) of section 20.435, Florida
114 Statutes, is repealed.

115 Section 10. This act shall take effect July 1, 2021.