

1 A bill to be entitled
2 An act relating to educational choice; creating s.
3 1002.385, F.S.; establishing the Reading Compact
4 Scholarship Program to provide students with reading
5 deficiencies the option to attend a public or private
6 school of choice; providing eligibility requirements for
7 receipt of a Reading Compact Scholarship to attend a
8 private school and restricting eligibility therefor;
9 providing for the term of a scholarship; providing school
10 district obligation to notify parents of available
11 options; providing Department of Education obligations,
12 including establishment of a process for notification of
13 violations, subsequent investigation, and certification of
14 compliance by private schools and selection of a research
15 organization to analyze student performance data;
16 providing Commissioner of Education authority and
17 obligations, including the denial, suspension, or
18 revocation of a private school's participation in the
19 scholarship program and procedures and timelines therefor;
20 providing private school eligibility requirements and
21 obligations, including compliance with specified laws and
22 academic accountability to the parent; providing parent
23 and student responsibilities for scholarship program
24 participation, including compliance with private school's
25 published policies, participation in student academic
26 assessment, and restrictive endorsement of scholarship
27 warrants; prohibiting power of attorney for endorsing a
28 scholarship warrant; providing funding and payment

29 requirements, including calculation of scholarship amount,
 30 payment process, and Department of Financial Services
 31 review; providing for immunity; authorizing waiver of
 32 deadlines; requiring adoption of rules; creating s.
 33 1002.421, F.S., relating to rights and obligations of
 34 private schools participating in state school choice
 35 scholarship programs; providing requirements for
 36 participation in a scholarship program, including
 37 compliance with specified state, local, and federal laws
 38 and demonstration of fiscal soundness; requiring
 39 restrictive endorsement of checks and prohibiting a school
 40 from acting as attorney in fact; requiring employment of
 41 qualified teachers and background screening of individuals
 42 with direct student contact; requiring adoption of rules;
 43 amending s. 1002.20, F.S.; providing an educational
 44 choice, to conform; providing an effective date.

45
 46 Be It Enacted by the Legislature of the State of Florida:

47
 48 Section 1. Section 1002.385, Florida Statutes, is created
 49 to read:

50 1002.385 Reading Compact Scholarship Program.--
 51 (1) READING COMPACT SCHOLARSHIP PROGRAM.--The Reading
 52 Compact Scholarship Program is established to offer the parent
 53 of a student who has not attained reading proficiency beyond
 54 Level 1 an educational choice to further the student's progress
 55 in reading. The scholarship program shall provide students who
 56 have scored Level 1 on the reading portion of the FCAT for 2

57 consecutive years the option to attend a public or private
 58 school of choice.

59 (2) READING COMPACT SCHOLARSHIP ELIGIBILITY.--The parent
 60 of a public school student may request and receive from the
 61 state a Reading Compact Scholarship for the student to enroll in
 62 and attend a private school in accordance with the provisions of
 63 this section if:

64 (a) The student scored Level 1 on the reading portion of
 65 the FCAT for 2 consecutive years.

66 (b) The parent has obtained acceptance for admission of
 67 the student to a private school eligible to participate in the
 68 scholarship program pursuant to subsection (8) and has requested
 69 from the Department of Education a Reading Compact Scholarship
 70 no later than 60 days prior to the date of the first scholarship
 71 payment. The parental request must be through a communication
 72 directly to the department in a manner that creates a written or
 73 electronic record of the request and the date of receipt of the
 74 request.

75 (3) READING COMPACT SCHOLARSHIP PROHIBITIONS.--A student
 76 is not eligible for a Reading Compact Scholarship if he or she
 77 is:

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

81 (b) Receiving a scholarship from an eligible nonprofit
 82 scholarship-funding organization under s. 220.187.

83 (c) Already receiving an educational scholarship pursuant
 84 to this chapter.

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

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

89 (f) Participating in a virtual school, correspondence
90 school, or distance learning program that receives state funding
91 pursuant to the student's participation.

92 (4) TERM OF READING COMPACT SCHOLARSHIP.--

93 (a) For purposes of continuity of educational choice, a
94 Reading Compact Scholarship shall remain in force until the
95 student returns to a public school or graduates from high
96 school. (b) Upon reasonable notice to the department and the
97 school district, the student's parent may remove the student
98 from the private school and place the student in a public
99 school, as provided in subparagraph (5)(a)2.

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

103 (5) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.--

104 (a)1. A school district shall timely notify the parent of
105 each eligible student of all options available pursuant to this
106 section and offer that student's parent an opportunity to enroll
107 the student in another public school within the school district.

108 2. The parent is not required to accept the offer of
109 enrolling the student in another public school in lieu of
110 requesting a Reading Compact Scholarship to a private school.
111 However, if the parent chooses the public school option, the

112 student may continue attending a public school chosen by the
113 parent until the student graduates from high school.

114 3. If the parent chooses a public school consistent with
115 the district school board's choice plan under s. 1002.31, the
116 school district shall provide transportation to the public
117 school selected by the parent. The parent is responsible for
118 providing transportation to a public school chosen that is not
119 consistent with the district school board's choice plan under s.
120 1002.31.

121 (b) If the parent chooses the private school option and
122 the student is accepted by the private school pending the
123 availability of a space for the student, the parent of the
124 student must notify the department no later than 60 days prior
125 to the first scholarship payment and before entering the private
126 school in order to be eligible for the scholarship when a space
127 becomes available for the student in the private school.

128 (c) The parent of a student may choose, as an alternative,
129 to enroll the student in and transport the student to a public
130 school in an adjacent school district that has available space,
131 and that school district shall accept the student and report the
132 student for purposes of the school district's funding under the
133 Florida Education Finance Program.

134 (d) For a student in the school district who participates
135 in the Reading Compact Scholarship Program whose parent requests
136 that the student take the statewide assessments under s.
137 1008.22, the school district shall provide locations and times
138 to take all statewide assessments.

139 (6) DEPARTMENT OF EDUCATION OBLIGATIONS.--The department
 140 shall:

141 (a) Establish a toll-free hotline that provides parents
 142 and private schools with information on participation in the
 143 Reading Compact Scholarship Program.

144 (b) Establish a process by which individuals may notify
 145 the department of any violation by a parent, private school, or
 146 school district of state laws relating to program participation.
 147 The department shall conduct an investigation of any written
 148 complaint of a violation of this section, or make a referral to
 149 the appropriate agency for an investigation, if the complaint is
 150 signed by the complainant and is legally sufficient. A complaint
 151 is legally sufficient if it contains ultimate facts that show
 152 that a violation of this section or any rule adopted by the
 153 State Board of Education has occurred. In order to determine
 154 legal sufficiency, the department may require supporting
 155 information or documentation from the complainant.

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

159 (d) Cross-check the list of participating scholarship
 160 students with the public school enrollment lists prior to the
 161 first scholarship payment to avoid duplication.

162 (e) Identify all nationally norm-referenced tests that are
 163 comparable to the norm-referenced test portions of the Florida
 164 Comprehensive Assessment Test (FCAT).

165 (f) Select an independent private research organization to
 166 which participating private schools must report the scores of

167 participating students on the nationally norm-referenced tests
 168 administered by the private school. The independent private
 169 research organization must annually report to the department on
 170 the year-to-year improvements of participating students. The
 171 independent private research organization must analyze and
 172 report student performance data in a manner that protects the
 173 rights of students and parents as mandated in 20 U.S.C. s.
 174 1232g, the Family Educational Rights and Privacy Act, and must
 175 not disaggregate data to a level that will disclose the academic
 176 level of individuals or of individual schools. To the extent
 177 possible, the independent private research organization must
 178 accumulate historical performance data on students from the
 179 department and private schools to describe baseline performance
 180 and to conduct longitudinal studies. To minimize costs and
 181 reduce time required for third-party analysis and evaluation,
 182 the department shall conduct analyses of matched students from
 183 public school assessment data and calculate control group
 184 learning gains using an agreed-upon methodology outlined in the
 185 contract with the third-party evaluator. The sharing of student
 186 data must be in accordance with the requirements of 20 U.S.C. s.
 187 1232g, the Family Educational Rights and Privacy Act, and shall
 188 be for the sole purpose of conducting the evaluation. All
 189 parties must preserve the confidentiality of such information as
 190 otherwise required by state and federal law.

191 (7) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.--

192 (a) The Commissioner of Education shall deny, suspend, or
 193 revoke a private school's participation in the scholarship
 194 program if it is determined that the private school has failed

195 to comply with the provisions of this section. However, in
 196 instances in which the noncompliance is correctable within a
 197 reasonable amount of time and in which the health, safety, and
 198 welfare of the students are not threatened, the commissioner may
 199 issue a notice of noncompliance which shall provide the private
 200 school with a timeframe within which to provide evidence of
 201 compliance prior to taking action to suspend or revoke the
 202 private school's participation in the scholarship program.

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

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

213 2. The private school that is adversely affected by the
 214 proposed action shall have 15 days from the receipt of the
 215 notice of proposed action to file with the department's agency
 216 clerk a request for a proceeding pursuant to ss. 120.569 and
 217 120.57. If the private school is entitled to a hearing under s.
 218 120.57(1), the department shall forward the request to the
 219 Division of Administrative Hearings.

220 3. Upon receipt of a request referred pursuant to this
 221 paragraph, the director of the Division of Administrative
 222 Hearings shall expedite the hearing and assign an administrative

223 law judge who shall commence a hearing within 30 days after the
 224 receipt of the formal written request by the division and enter
 225 a recommended order within 30 days after the hearing or within
 226 30 days after receipt of the hearing transcript, whichever is
 227 later. Each party shall be allowed 10 days in which to submit
 228 written exceptions to the recommended order. A final order shall
 229 be entered by the agency within 30 days after the entry of a
 230 recommended order. The provisions of this subparagraph may be
 231 waived upon stipulation by all parties.

232 (c) The commissioner may immediately suspend payment if it
 233 is determined that there is probable cause to believe that there
 234 is:

- 235 1. An imminent threat to the health, safety, and welfare
 236 of the students; or
- 237 2. Fraudulent activity on the part of the private school.

238
 239 The commissioner's order suspending payment pursuant to this
 240 paragraph may be appealed pursuant to the same procedures and
 241 timelines as the notice of proposed action set forth in
 242 paragraph (b).

243 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.--To be
 244 eligible to participate in the Reading Compact Scholarship
 245 Program, a private school may be sectarian or nonsectarian and
 246 must:

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

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

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

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

258 2. Annually administering or making provision for students
 259 participating in the scholarship program to take one of the
 260 nationally norm-referenced tests identified by the department.
 261 Students with disabilities for whom standardized testing is not
 262 appropriate are exempt from this requirement. A participating
 263 private school must report a student's scores to the parent and
 264 to the independent private research organization selected by the
 265 department pursuant to paragraph (6)(f).

266 3. Cooperating with the scholarship student whose parent
 267 chooses to participate in the statewide assessments pursuant to
 268 s. 1008.22.

269
 270 The inability of a private school to meet the requirements of
 271 this subsection shall constitute a basis for the ineligibility
 272 of the private school to participate in the scholarship program
 273 as determined by the department.

274 (9) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
 275 PARTICIPATION.--A parent who applies for a Reading Compact
 276 Scholarship is exercising his or her parental option to place
 277 his or her child in a private school.

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

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

283 (c) Any student participating in the Reading Compact
284 Scholarship Program must remain in attendance throughout the
285 school year, unless excused by the school for illness or other
286 good cause.

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

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

299 (f) Upon receipt of a scholarship warrant, the parent to
300 whom the warrant is made must restrictively endorse the warrant
301 to the private school for deposit into the account of the
302 private school. The parent may not designate any entity or
303 individual associated with the participating private school as
304 the parent's attorney in fact to sign a scholarship warrant. A

305 participant who fails to comply with this paragraph forfeits the
306 scholarship.

307 (10) READING COMPACT SCHOLARSHIP FUNDING AND PAYMENT.--

308 (a) The maximum Reading Compact Scholarship granted for an
309 eligible student shall be a calculated amount equivalent to the
310 base student allocation in the Florida Education Finance Program
311 multiplied by the appropriate cost factor for the educational
312 program that would have been provided for the student in the
313 district school to which he or she was assigned, multiplied by
314 the district cost differential. In addition, the calculated
315 amount shall include the per-student share of instructional
316 materials funds, technology funds, and other categorical funds
317 as provided for this purpose in the General Appropriations Act.

318 (b) The amount of the Reading Compact Scholarship shall be
319 the calculated amount or the amount of the private school's
320 tuition and fees, whichever is less. Fees eligible shall include
321 textbook fees, lab fees, and other fees related to instruction,
322 including transportation.

323 (c) The school district shall report all students who are
324 attending a private school under this scholarship program. The
325 students attending private schools on Reading Compact
326 Scholarships shall be reported separately from those students
327 reported for purposes of the Florida Education Finance Program.

328 (d) A public or private school that provides services to
329 students with disabilities shall receive the weighted funding
330 for such services at the appropriate funding level consistent
331 with the provisions of s. 1011.62(1)(e).

332 (e) For purposes of calculating the Reading Compact
 333 Scholarship, a student shall be eligible for the amount of the
 334 appropriate basic cost factor if:

335 1. The student currently participates in a Group 1 program
 336 funded at the basic cost factor and is not subsequently
 337 identified as having a disability; or

338 2. The student currently participates in a Group 2 program
 339 and the parent has chosen a private school that does not provide
 340 the additional services funded by a Group 2 program.

341 (f) Following notification on July 1, September 1,
 342 December 1, or February 1 of the number of scholarship program
 343 participants, the department shall transfer, from General
 344 Revenue funds only, the calculated amount from the Florida
 345 Education Finance Program and authorized categorical accounts to
 346 a separate account for the Reading Compact Scholarship Program
 347 for quarterly disbursement to the parents of participating
 348 students. When a student enters the scholarship program, the
 349 department must receive all documentation required for the
 350 student's participation, including the private school's and
 351 student's fee schedules, at least 30 days before the first
 352 quarterly scholarship payment is made for the student.

353 (g) The Chief Financial Officer shall make Reading Compact
 354 Scholarship payments in four equal amounts no later than
 355 September 1, November 1, February 1, and April 1 of each
 356 academic year in which the Reading Compact Scholarship is in
 357 force. The initial payment shall be made after department
 358 verification of admission acceptance, and subsequent payments
 359 shall be made upon verification of continued enrollment and

360 attendance at the private school. Payment must be by individual
 361 warrant made payable to the student's parent and mailed by the
 362 department to the private school of the parent's choice, and the
 363 parent shall restrictively endorse the warrant to the private
 364 school.

365 (h) Subsequent to each scholarship payment, the Department
 366 of Financial Services shall randomly review endorsed warrants to
 367 confirm compliance with endorsement requirements. The Department
 368 of Financial Services shall immediately report inconsistencies
 369 or irregularities to the department.

370 (11) LIABILITY.--No liability shall arise on the part of
 371 the state based on the award or use of a Reading Compact
 372 Scholarship.

373 (12) WAIVER.--In the event of an act of God, the State
 374 Board of Education shall have the authority to waive any
 375 deadlines to effectuate the purposes of the scholarship program.

376 (13) RULES.--

377 (a) The State Board of Education shall adopt rules
 378 pursuant to ss. 120.536(1) and 120.54 to administer this
 379 section. Rules shall include penalties for noncompliance with
 380 subsections (8) and (9).

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

387 Section 2. Section 1002.421, Florida Statutes, is created
 388 to read:

389 1002.421 Rights and obligations of private schools
 390 participating in state school choice scholarship
 391 programs.--Requirements of this section are in addition to
 392 private school requirements outlined in s. 1002.42, specific
 393 requirements identified within respective scholarship program
 394 laws, and other provisions of Florida law that apply to private
 395 schools.

396 (1) A Florida private school participating in the
 397 Corporate Income Tax Credit Scholarship Program established
 398 pursuant to s. 220.187 or an educational scholarship program
 399 established pursuant to this chapter must comply with all
 400 requirements of this section.

401 (2) A private school participating in a scholarship
 402 program must be a Florida private school as defined in s.
 403 1002.01(2) and must:

404 (a) Be a registered Florida private school in accordance
 405 with s. 1002.42.

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

408 (c) Notify the department of its intent to participate in
 409 a scholarship program.

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

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

416 (f) Annually complete and submit to the department a
417 notarized scholarship compliance statement certifying compliance
418 with state laws relating to private school participation in the
419 scholarship program.

420 (g) Demonstrate fiscal soundness and accountability by:

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

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

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

434 1. Fire safety.

435 2. Building safety.

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

441 (j) Require each individual with direct student contact
442 with a scholarship student to be of good moral character, to be
443 subject to the level 1 background screening as provided under
444 chapter 435, to be denied employment or terminated if required
445 under s. 435.06, and not to be ineligible to teach in a public
446 school because his or her educator certificate is suspended or
447 revoked. For purposes of this paragraph:

448 1. An "individual with direct student contact" means any
449 individual who has unsupervised access to a scholarship student
450 for whom the private school is responsible.

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

453 3. Continued employment of an individual after
454 notification that the individual has failed the level 1
455 background screening shall cause a private school to be
456 ineligible for participation in a scholarship program.

457 4. An individual holding a valid Florida teaching
458 certificate who has been fingerprinted pursuant to s. 1012.32
459 shall not be required to comply with the provisions of this
460 paragraph.

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

465 (4)(a) The State Board of Education shall adopt rules
466 pursuant to ss. 120.536(1) and 120.54 to administer this
467 section.

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

474 Section 3. Paragraphs (a) and (b) of subsection (6) of
 475 section 1002.20, Florida Statutes, are amended to read:

476 1002.20 K-12 student and parent rights.--Parents of public
 477 school students must receive accurate and timely information
 478 regarding their child's academic progress and must be informed
 479 of ways they can help their child to succeed in school. K-12
 480 students and their parents are afforded numerous statutory
 481 rights including, but not limited to, the following:

482 (6) EDUCATIONAL CHOICE.--

483 (a) Public school choices.--Parents of public school
 484 students may seek whatever public school choice options that are
 485 applicable to their students and are available to students in
 486 their school districts. These options may include controlled
 487 open enrollment, lab schools, charter schools, charter technical
 488 career centers, magnet schools, alternative schools, special
 489 programs, advanced placement, dual enrollment, International
 490 Baccalaureate, early admissions, credit by examination or
 491 demonstration of competency, the New World School of the Arts,
 492 the Florida School for the Deaf and the Blind, and the Florida
 493 Virtual School. These options may also include the public school
 494 choice options of the Opportunity Scholarship Program, ~~and~~ the

495 McKay Scholarships for Students with Disabilities Program, and
496 the Reading Compact Scholarship Program.

497 (b) Private school choices.--Parents of public school
498 students may seek private school choice options under certain
499 programs.

500 1. Under the Opportunity Scholarship Program, the parent
501 of a student in a failing public school may request and receive
502 an opportunity scholarship for the student to attend a private
503 school in accordance with the provisions of s. 1002.38.

504 2. Under the McKay Scholarships for Students with
505 Disabilities Program, the parent of a public school student with
506 a disability who is dissatisfied with the student's progress may
507 request and receive a McKay Scholarship for the student to
508 attend a private school in accordance with the provisions of s.
509 1002.39.

510 3. Under the corporate income tax credit scholarship
511 program, the parent of a student who qualifies for free or
512 reduced-price school lunch may seek a scholarship from an
513 eligible nonprofit scholarship-funding organization in
514 accordance with the provisions of s. 220.187.

515 4. Under the Reading Compact Scholarship Program, the
516 parent of a student with reading deficiencies may request and
517 receive a Reading Compact Scholarship for the student to attend
518 a private school in accordance with the provisions of s.
519 1002.385.

520 Section 4. This act shall take effect July 1, 2005.