

CHAMBER ACTION

1 The Choice & Innovation Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to educational choice; creating s.
7 1002.385, F.S.; establishing the Reading Compact
8 Scholarship Program to provide students with reading
9 deficiencies the option to attend a public or private
10 school of choice; providing eligibility requirements for
11 receipt of a Reading Compact Scholarship to attend a
12 private school and restricting eligibility therefor;
13 providing for the term of a scholarship; providing school
14 district obligation to notify parents of available
15 options; providing Department of Education obligations,
16 including establishment of a process for notification of
17 violations, subsequent investigation, and certification of
18 compliance by private schools and selection of a research
19 organization to analyze student performance data;
20 providing Commissioner of Education authority and
21 obligations, including the denial, suspension, or
22 revocation of a private school's participation in the
23 scholarship program and procedures and timelines therefor;

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24 providing private school eligibility requirements and
 25 obligations, including compliance with specified laws and
 26 academic accountability to the parent; providing parent
 27 and student responsibilities for scholarship program
 28 participation, including compliance with private school's
 29 published policies, participation in student academic
 30 assessment, and restrictive endorsement of scholarship
 31 warrants; prohibiting power of attorney for endorsing a
 32 scholarship warrant; providing funding and payment
 33 requirements, including calculation of scholarship amount,
 34 payment process, and Department of Financial Services
 35 review; providing for immunity; authorizing waiver of
 36 deadlines; providing scope of authority; requiring
 37 adoption of rules; creating s. 1002.421, F.S., relating to
 38 rights and obligations of private schools participating in
 39 state school choice scholarship programs; providing
 40 requirements for participation in a scholarship program,
 41 including compliance with specified state, local, and
 42 federal laws and demonstration of fiscal soundness;
 43 requiring restrictive endorsement of checks and
 44 prohibiting a school from acting as attorney in fact;
 45 requiring employment of qualified teachers and background
 46 screening of individuals with direct student contact;
 47 requiring adoption of rules; amending s. 1002.20, F.S.;
 48 providing an educational choice, to conform; providing an
 49 effective date.

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

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

1002.385 Reading Compact Scholarship Program.--

(1) READING COMPACT SCHOLARSHIP PROGRAM.--The Reading Compact Scholarship Program is established to offer the parent of a student who has not attained reading proficiency beyond Level 1 an educational choice to further the student's progress in reading. The scholarship program shall provide students who have scored Level 1 on FCAT Reading for 2 of the previous 3 years the option to attend a public or private school of choice.

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

(a) The student scored Level 1 on FCAT Reading for 2 of the previous 3 years. However, a student who scored Level 1 on grade 10 FCAT Reading is not eligible for a Reading Compact Scholarship.

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

80 request.

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

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

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

89 (c) Already receiving an educational scholarship pursuant
 90 to this chapter.

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

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

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

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

99 (a) For purposes of continuity of educational choice, a
 100 Reading Compact Scholarship shall remain in force until the
 101 student returns to a public school or graduates from high
 102 school.

103 (b) Upon reasonable notice to the department and the
 104 school district, the student's parent may remove the student
 105 from the private school and place the student in a public
 106 school, as provided in paragraph (5)(a).

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

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

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

115 2. The parent is not required to accept the offer of
 116 enrolling the student in another public school in lieu of
 117 requesting a Reading Compact Scholarship to a private school.
 118 However, if the parent chooses the public school option, the
 119 student may continue attending a public school chosen by the
 120 parent until the student graduates from high school.

121 3. If the parent chooses a public school consistent with
 122 the district school board's choice plan under s. 1002.31, the
 123 school district shall provide transportation to the public
 124 school selected by the parent. The parent is responsible for
 125 providing transportation to a public school chosen that is not
 126 consistent with the district school board's choice plan under s.
 127 1002.31.

128 (b) If the parent chooses the private school option and
 129 the student is accepted by the private school pending the
 130 availability of a space for the student, the parent of the
 131 student must notify the department no later than 60 days prior
 132 to the first scholarship payment and before entering the private
 133 school in order to be eligible for the scholarship when a space
 134 becomes available for the student in the private school.

135 (c) The parent of a student may choose, as an alternative,
 136 to enroll the student in and transport the student to a public
 137 school in an adjacent school district that has available space,
 138 and that school district shall accept the student and report the
 139 student for purposes of the school district's funding under the
 140 Florida Education Finance Program.

141 (d) For a student in the school district who participates
 142 in the Reading Compact Scholarship Program whose parent requests
 143 that the student take the statewide assessments under s.
 144 1008.22, the school district shall provide locations and times
 145 to take all statewide assessments.

146 (6) DEPARTMENT OF EDUCATION OBLIGATIONS.--The department
 147 shall:

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

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

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

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

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

172 (f) Select an independent private research organization to
173 which participating private schools must report the scores of
174 participating students on the nationally norm-referenced tests
175 administered by the private school. The independent private
176 research organization must annually report to the department on
177 the year-to-year improvements of participating students. The
178 independent private research organization must analyze and
179 report student performance data in a manner that protects the
180 rights of students and parents as mandated in 20 U.S.C. s.
181 1232g, the Family Educational Rights and Privacy Act, and must
182 not disaggregate data to a level that will disclose the academic
183 level of individuals or of individual schools. To the extent
184 possible, the independent private research organization must
185 accumulate historical performance data on students from the
186 department and private schools to describe baseline performance
187 and to conduct longitudinal studies. To minimize costs and
188 reduce time required for third-party analysis and evaluation,
189 the department shall conduct analyses of matched students from
190 public school assessment data and calculate control group

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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191 learning gains using an agreed-upon methodology outlined in the
 192 contract with the third-party evaluator. The sharing of student
 193 data must be in accordance with the requirements of 20 U.S.C. s.
 194 1232g, the Family Educational Rights and Privacy Act, and shall
 195 be for the sole purpose of conducting the evaluation. All
 196 parties must preserve the confidentiality of such information as
 197 otherwise required by state and federal law.

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

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

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

212 1. If the commissioner intends to deny, suspend, or revoke
 213 a private school's participation in the scholarship program, the
 214 department shall notify the private school of such proposed
 215 action in writing by certified mail and regular mail to the
 216 private school's address of record with the department. The
 217 notification shall include the reasons for the proposed action

218 and notice of the timelines and procedures set forth in this
 219 paragraph.

220 2. The private school that is adversely affected by the
 221 proposed action shall have 15 days from the receipt of the
 222 notice of proposed action to file with the department's agency
 223 clerk a request for a proceeding pursuant to ss. 120.569 and
 224 120.57. If the private school is entitled to a hearing under s.
 225 120.57(1), the department shall forward the request to the
 226 Division of Administrative Hearings.

227 3. Upon receipt of a request referred pursuant to this
 228 paragraph, the director of the Division of Administrative
 229 Hearings shall expedite the hearing and assign an administrative
 230 law judge who shall commence a hearing within 30 days after the
 231 receipt of the formal written request by the division and enter
 232 a recommended order within 30 days after the hearing or within
 233 30 days after receipt of the hearing transcript, whichever is
 234 later. Each party shall be allowed 10 days in which to submit
 235 written exceptions to the recommended order. A final order shall
 236 be entered by the agency within 30 days after the entry of a
 237 recommended order. The provisions of this subparagraph may be
 238 waived upon stipulation by all parties.

239 (c) The commissioner may immediately suspend payment if it
 240 is determined that there is probable cause to believe that there
 241 is:

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

244 2. Fraudulent activity on the part of the private school.
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246 The commissioner's order suspending payment pursuant to this
 247 paragraph may be appealed pursuant to the same procedures and
 248 timelines as the notice of proposed action set forth in
 249 paragraph (b).

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

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

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

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

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

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

273 3. Cooperating with the scholarship student whose parent
 274 chooses to participate in the statewide assessments pursuant to
 275 s. 1008.22.

276
 277 The inability of a private school to meet the requirements of
 278 this subsection shall constitute a basis for the ineligibility
 279 of the private school to participate in the scholarship program
 280 as determined by the department.

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

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

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

290 (c) Any student participating in the Reading Compact
 291 Scholarship Program must remain in attendance throughout the
 292 school year, unless excused by the school for illness or other
 293 good cause.

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

297 (e) The parent shall ensure that the student participating
 298 in the scholarship program takes the norm-referenced assessment
 299 offered by the private school. The parent may also choose to
 300 have the student participate in the statewide assessments

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301 pursuant to s. 1008.22. If the parent requests that the student
 302 participating in the scholarship program take statewide
 303 assessments pursuant to s. 1008.22, the parent is responsible
 304 for transporting the student to the assessment site designated
 305 by the school district.

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

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

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

325 (b) The amount of the Reading Compact Scholarship shall be
 326 the calculated amount or the amount of the private school's
 327 tuition and fees, whichever is less. Fees eligible shall include

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328 textbook fees, lab fees, and other fees related to instruction,
329 including transportation.

330 (c) The school district shall report all students who are
331 attending a private school under this scholarship program. The
332 students attending private schools on Reading Compact
333 Scholarships shall be reported separately from those students
334 reported for purposes of the Florida Education Finance Program.

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

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

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

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

348 (f) Following notification on July 1, September 1,
349 December 1, or February 1 of the number of scholarship program
350 participants, the department shall transfer, from General
351 Revenue funds only, the calculated amount from the Florida
352 Education Finance Program and authorized categorical accounts to
353 a separate account for the Reading Compact Scholarship Program
354 for quarterly disbursement to the parents of participating
355 students. When a student enters the scholarship program, the

356 department must receive all documentation required for the
 357 student's participation, including the private school's and
 358 student's fee schedules, at least 30 days before the first
 359 quarterly scholarship payment is made for the student.

360 (g) The Chief Financial Officer shall make Reading Compact
 361 Scholarship payments in four equal amounts no later than
 362 September 1, November 1, February 1, and April 1 of each
 363 academic year in which the Reading Compact Scholarship is in
 364 force. The initial payment shall be made after department
 365 verification of admission acceptance, and subsequent payments
 366 shall be made upon verification of continued enrollment and
 367 attendance at the private school. Payment must be by individual
 368 warrant made payable to the student's parent and mailed by the
 369 department to the private school of the parent's choice, and the
 370 parent shall restrictively endorse the warrant to the private
 371 school.

372 (h) Subsequent to each scholarship payment, the Department
 373 of Financial Services shall randomly review endorsed warrants to
 374 confirm compliance with endorsement requirements. The Department
 375 of Financial Services shall immediately report inconsistencies
 376 or irregularities to the department.

377 (11) LIABILITY.--No liability shall arise on the part of
 378 the state based on the award or use of a Reading Compact
 379 Scholarship.

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

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

390 (14) RULES.--The State Board of Education shall adopt rules
 391 pursuant to ss. 120.536(1) and 120.54 to administer this
 392 section. Rules shall include penalties for noncompliance with
 393 subsections (8) and (9).

394 Section 2. Section 1002.421, Florida Statutes, is created
 395 to read:

396 1002.421 Rights and obligations of private schools
 397 participating in state school choice scholarship
 398 programs.--Requirements of this section are in addition to
 399 private school requirements outlined in s. 1002.42, specific
 400 requirements identified within respective scholarship program
 401 laws, and other provisions of Florida law that apply to private
 402 schools.

403 (1) A Florida private school participating in the
 404 Corporate Income Tax Credit Scholarship Program established
 405 pursuant to s. 220.187 or an educational scholarship program
 406 established pursuant to this chapter must comply with all
 407 requirements of this section.

408 (2) A private school participating in a scholarship
 409 program must be a Florida private school as defined in s.
 410 1002.01(2) and must:

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411 (a) Be a registered Florida private school in accordance
412 with s. 1002.42.

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

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

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

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

423 (f) Annually complete and submit to the department a
424 notarized scholarship compliance statement certifying compliance
425 with state laws relating to private school participation in the
426 scholarship program.

427 (g) Demonstrate fiscal soundness and accountability by:
428 1. Being in operation for at least 3 school years or
429 obtaining a surety bond or letter of credit for the amount equal
430 to the scholarship funds for any quarter and filing the surety
431 bond or letter of credit with the department.

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

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

- 441 1. Fire safety.
- 442 2. Building safety.

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

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

- 455 1. An "individual with direct student contact" means any
 456 individual who has unsupervised access to a scholarship student
 457 for whom the private school is responsible.

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

- 460 3. Continued employment of an individual after
 461 notification that the individual has failed the level 1
 462 background screening shall cause a private school to be
 463 ineligible for participation in a scholarship program.

- 464 4. An individual holding a valid Florida teaching
 465 certificate who has been fingerprinted pursuant to s. 1012.32

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466 shall not be required to comply with the provisions of this
467 paragraph.

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

472 (4)(a) The State Board of Education shall adopt rules
473 pursuant to ss. 120.536(1) and 120.54 to administer this
474 section.

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

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

483 1002.20 K-12 student and parent rights.--Parents of public
484 school students must receive accurate and timely information
485 regarding their child's academic progress and must be informed
486 of ways they can help their child to succeed in school. K-12
487 students and their parents are afforded numerous statutory
488 rights including, but not limited to, the following:

489 (6) EDUCATIONAL CHOICE.--

490 (a) Public school choices.--Parents of public school
491 students may seek whatever public school choice options that are
492 applicable to their students and are available to students in
493 their school districts. These options may include controlled

494 open enrollment, lab schools, charter schools, charter technical
 495 career centers, magnet schools, alternative schools, special
 496 programs, advanced placement, dual enrollment, International
 497 Baccalaureate, early admissions, credit by examination or
 498 demonstration of competency, the New World School of the Arts,
 499 the Florida School for the Deaf and the Blind, and the Florida
 500 Virtual School. These options may also include the public school
 501 choice options of the Opportunity Scholarship Program, ~~and~~ the
 502 McKay Scholarships for Students with Disabilities Program, and
 503 the Reading Compact Scholarship Program.

504 (b) Private school choices.--Parents of public school
 505 students may seek private school choice options under certain
 506 programs.

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

511 2. Under the McKay Scholarships for Students with
 512 Disabilities Program, the parent of a public school student with
 513 a disability who is dissatisfied with the student's progress may
 514 request and receive a McKay Scholarship for the student to
 515 attend a private school in accordance with the provisions of s.
 516 1002.39.

517 3. Under the corporate income tax credit scholarship
 518 program, the parent of a student who qualifies for free or
 519 reduced-price school lunch may seek a scholarship from an
 520 eligible nonprofit scholarship-funding organization in
 521 accordance with the provisions of s. 220.187.

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522 4. Under the Reading Compact Scholarship Program, the
523 parent of a student with reading deficiencies may request and
524 receive a Reading Compact Scholarship for the student to attend
525 a private school in accordance with the provisions of s.
526 1002.385.

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