

By the Committee on Education; and Senators Baker, Fasano, Diaz de la Portilla, Garcia, Posey, Sebesta, Villalobos, Peaden, Haridopolos, Clary, Wise, Webster, Dockery, Bennett, Alexander and Atwater

581-2288-05

1                                   A bill to be entitled  
2            An act relating to educational choice programs;  
3            creating s. 1002.395, F.S.; establishing the  
4            K-12 GI Bill Program to provide educational  
5            options for dependents of an active-duty member  
6            of the Florida National Guard who is serving in  
7            Operation Enduring Freedom or Operation Iraqi  
8            Freedom; providing that a student may attend a  
9            public school in the school district other than  
10           the one to which assigned; providing that a  
11           student may receive a K-12 GI Bill to attend a  
12           public school in an adjacent school district or  
13           to attend a private school; providing K-12 GI  
14           Bill eligibility requirements; providing school  
15           district obligations; providing private school  
16           eligibility requirements; providing obligations  
17           of families choosing the private school option;  
18           providing for the amount, funding, and payment  
19           of a K-12 GI Bill; exempting the state from  
20           liability; authorizing the State Board of  
21           Education to adopt rules; providing eligibility  
22           restrictions; providing obligations of the  
23           Department of Education; providing authority  
24           and obligations of the Commissioner of  
25           Education, including the denial, suspension, or  
26           revocation of a private school's participation  
27           in the program and procedures and timelines  
28           therefor; authorizing the waiver of deadlines;  
29           requiring background screening of individuals  
30           having direct student contact; amending s.  
31           1002.20, F.S., relating to student and parent

1 rights to educational choice, to conform;  
2 providing an effective date.

3  
4 Be It Enacted by the Legislature of the State of Florida:

5  
6 Section 1. Section 1002.395, Florida Statutes, is  
7 created to read:

8 1002.395 K-12 GI Bill Program.--

9 (1) DEFINITIONS.--For purposes of this section, the  
10 term:

11 (a) "Active-duty member" means an active-duty member  
12 of the Florida National Guard who is serving in Operation  
13 Enduring Freedom or Operation Iraqi Freedom.

14 (b) "Dependent" means a dependent of an active-duty  
15 member of the Florida National Guard who is serving in  
16 Operation Enduring Freedom or Operation Iraqi Freedom.

17 (2) PURPOSE.--The purpose of this section is to:

18 (a) Recognize, honor, and reward the courage and  
19 sacrifices made by an active-duty member of the Florida  
20 National Guard who is serving in Operation Enduring Freedom or  
21 Operation Iraqi Freedom, and his or her family.

22 (b) Expand educational opportunities for children who  
23 are dependents of an active-duty member.

24 (c) Provide a new benefit to an active-duty member by  
25 giving such an individual the option to choose his or her  
26 children's education.

27 (3) THE K-12 GI BILL PROGRAM.--The K-12 GI Bill  
28 Program is established as a benefit to an active-duty member  
29 which provides the option for his or her dependents to attend  
30 a public school in the school district other than the one to  
31 which assigned, to receive a K-12 GI Bill to attend a public

1 school in an adjacent school district, or to receive a K-12 GI  
2 Bill to attend an eligible private school of his or her  
3 choice.

4 (4) K-12 GI BILL ELIGIBILITY.--The parent of a student  
5 who is a dependent of an active-duty member may request and  
6 receive from the state a K-12 GI Bill for the child to enroll  
7 in and attend an eligible private school if the parent has  
8 notified the school district that the student is a dependent  
9 of an active-duty member; has obtained acceptance for  
10 admission of the student to a private school that is eligible  
11 for the program under subsection (6); and has notified the  
12 school district of the request for a K-12 GI Bill at least 60  
13 days before the date of the first K-12 GI Bill payment. The  
14 parental notification must be through a communication directly  
15 to the district or through the Department of Education to the  
16 district in a manner that creates a written or electronic  
17 record of the notification and the date of receipt of the  
18 notification. A dependent child of an active-duty member is  
19 not required to have been enrolled and reported by a school  
20 district for funding during the preceding October and February  
21 Florida Education Finance Program surveys in kindergarten  
22 through grade 12 in order to be eligible to receive a  
23 scholarship. This section does not apply to a student who is  
24 enrolled in a school operating for the purpose of providing  
25 educational services to youth in a commitment program of the  
26 Department of Juvenile Justice. For purposes of continuity of  
27 educational choice, the K-12 GI Bill shall remain in force  
28 until the student returns to a public school or graduates from  
29 high school. However, at any time, the student's parent may  
30 remove the student from the private school and place the  
31 student in another private school that is eligible to provide

1 educational opportunities for students whose families choose  
2 to use a K-12 GI Bill under subsection (6) or may place the  
3 student in a public school as provided in subsection (5).

4 (5) SCHOOL DISTRICT OBLIGATIONS.--

5 (a) A school district shall timely notify the parent  
6 of each student who the school district has knowledge is a  
7 dependent of an active-duty member of all options available  
8 under this section and shall offer that student's parent an  
9 opportunity to enroll the student in another public school  
10 within the district. The parent is not required to accept this  
11 offer in lieu of requesting a K-12 GI Bill for the student to  
12 attend a public school in an adjacent school district or to  
13 attend a private school. However, if the parent chooses to  
14 enroll the student in another public school within the  
15 district, the student may continue attending the public school  
16 chosen by the parent until the student graduates from high  
17 school. The option set forth in this paragraph may be  
18 exercised only on a space-available basis. However, a student  
19 who is the dependent of a parent on active-duty shall be given  
20 first priority, except that this option is not available if  
21 exercising the option would result in a violation of the  
22 constitutional class-size requirements. If the parent chooses  
23 a public school consistent with the district school board's  
24 choice plan under s. 1002.31, the school district shall  
25 provide transportation to the public school selected by the  
26 parent. The parent is responsible to provide transportation to  
27 a chosen public school that is not consistent with the  
28 district school board's plan under s. 1002.31.

29 (b) The parent of a student may choose, as an  
30 alternative, to enroll the student in and transport the  
31 student to a public school in an adjacent school district

1 which has available space, and that school district shall  
2 accept the student and report the student for purposes of the  
3 district's funding under the Florida Education Finance  
4 Program.

5 (c) For a student in the school district who  
6 participates in the K-12 GI Bill Program whose parent requests  
7 that the student take the statewide assessments under s.  
8 1008.22, the district shall provide locations and times to  
9 take all statewide assessments.

10 (d) A school district must notify the Department of  
11 Education within 10 days after it receives notification of a  
12 parent's intent to apply for a student to receive a K-12 GI  
13 Bill.

14 (6) PRIVATE SCHOOL ELIGIBILITY.--To be eligible to  
15 provide educational opportunities for students whose families  
16 choose to use a K-12 GI Bill, a private school must be a  
17 Florida private school, may be sectarian or nonsectarian, and  
18 must:

19 (a) Demonstrate fiscal soundness by being in operation  
20 for at least 2 school years or file with the Department of  
21 Education a surety bond or letter of credit for the amount  
22 equal to the K-12 GI Bill funds for each quarter.

23 (b) Notify the Department of Education of its intent  
24 to provide educational opportunities for students whose  
25 families choose to use a K-12 GI Bill. The notice must specify  
26 the grade levels and services that the private school has  
27 available for students attending on a K-12 GI Bill.

28 (c) Comply with the antidiscrimination provisions of  
29 42 U.S.C. s. 2000d.

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

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

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

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

10           (h) Adhere to the tenets of its published disciplinary  
11 procedures before expelling a student who is attending the  
12 school on a K-12 GI Bill.

13           (7) OBLIGATION OF FAMILIES CHOOSING TO USE A K-12 GI  
14 BILL.--

15           (a) A parent who applies for a K-12 GI Bill to enable  
16 his or her child to attend a private school is exercising his  
17 or her parental option to place his or her child in a private  
18 school. The parent must select the private school and apply  
19 for the admission of his or her child.

20           (b) If the parent chooses the private-school option  
21 and the student is accepted by the private school pending the  
22 availability of a space for the student, the parent of the  
23 student must notify the school district at least 60 days  
24 before the date of the first K-12 GI Bill payment and before  
25 the student enters the private school in order to be eligible  
26 for the K-12 GI Bill when a space becomes available for the  
27 student in the private school.

28           (c) Any student attending a private school on a K-12  
29 GI Bill must remain in attendance throughout the school year,  
30 unless excused by the school for illness or other good cause,  
31 and must comply fully with the school's code of conduct.

1       (d) The parent of each student attending a private  
2 school on a K-12 GI Bill must comply fully with the private  
3 school's parental-involvement requirements unless excused by  
4 the school for illness or other good cause.

5       (e) If the parent requests that the student attending  
6 a private school on a K-12 GI Bill take all statewide  
7 assessments required pursuant to s. 1008.22, the parent is  
8 responsible for transporting the student to the assessment  
9 site designated by the school district.

10       (f) Upon receipt of a K-12 GI Bill warrant, the parent  
11 to whom the warrant is made must restrictively endorse the  
12 warrant to the private school for deposit into the account of  
13 the private school.

14       (g) Any failure to comply with this subsection results  
15 in forfeiture of the K-12 GI Bill.

16       (8) K-12 GI BILL FUNDING AND PAYMENT.--

17       (a) The amount of a K-12 GI Bill provided to any child  
18 for any single school year may not exceed the following annual  
19 limits:

20           1. Three thousand six hundred dollars or the amount of  
21 tuition and fees, whichever is less, for a K-12 GI Bill  
22 awarded to a student enrolled in an eligible private school.

23           2. Five hundred dollars, or the amount of  
24 transportation expenses, whichever is less, for a K-12 GI Bill  
25 awarded to a student enrolled in a Florida public school that  
26 is located outside the school district in which the student  
27 resides.

28       (b) If a participating private school requires partial  
29 payment of tuition before the start of the academic year to  
30 reserve space for students admitted to the school, that  
31 partial payment may be paid by the Department of Education

1 before the first quarterly payment of the year in which the  
2 K-12 GI Bill is awarded, up to a maximum of \$1,000, and  
3 deducted from subsequent K-12 GI Bill payments. If a student  
4 decides not to attend the participating private school, the  
5 participating private school must return the partial  
6 reservation payment to the Department of Education. There is a  
7 limit of one reservation payment per student per year.

8 (c) The school district shall report all students who  
9 are attending a private school on a K-12 GI Bill. The students  
10 attending private schools on K-12 GI Bills shall be reported  
11 separately from other students reported for purposes of the  
12 Florida Education Finance Program.

13 (d) Following notification on July 1, September 1,  
14 December 1, or February 1 of the number of students attending  
15 private schools on K-12 GI Bills, the Department of Education  
16 shall transfer, from general revenue funds only, the amount of  
17 the K-12 GI Bills from the school district's total funding  
18 entitlement under the Florida Education Finance Program to a  
19 separate account for the K-12 GI Bills for quarterly  
20 disbursement to the parents of K-12 GI Bill students. For  
21 purposes of this paragraph, the term school district means the  
22 school district in which the parent resides at the time of the  
23 scholarship request. When a student enters a private school on  
24 a K-12 GI Bill, the Department of Education must receive all  
25 documentation required for the student's K-12 GI Bill,  
26 including the private school's and student's fee schedules, at  
27 least 30 days before the first quarterly K-12 GI Bill payment  
28 is made for the student. The Department of Education may not  
29 make any retroactive payments.

30 (e) Upon proper documentation reviewed and approved by  
31 the Department of Education, the Chief Financial Officer shall



1 make K-12 GI Bill payments in four equal amounts no later than  
2 September 1, November 1, February 1, and April 15 of each  
3 academic year in which the K-12 GI Bill is in force. The  
4 initial payment for attendance at a private school shall be  
5 made after Department of Education verification of admission  
6 acceptance, and subsequent payments shall be made upon  
7 verification of continued enrollment and attendance at the  
8 private school. Payment must be by individual warrant made  
9 payable to the student's parent and mailed by the Department  
10 of Education to the private school of the parent's choice, and  
11 the parent shall restrictively endorse the warrant to the  
12 private school for deposit into the account of the private  
13 school.

14 (9) LIABILITY.--The state is not liable for any loss  
15 based on the award or use of a K-12 GI Bill.

16 (10) RULES.--The State Board of Education may adopt  
17 rules under ss. 120.536(1) and 120.54 to administer this  
18 section. However, the inclusion of eligible private schools  
19 within options available to Florida public school students  
20 does not expand the regulatory authority of the state, its  
21 officers, or any school district to impose any additional  
22 regulation of private schools beyond those reasonably  
23 necessary to enforce requirements expressly set forth in this  
24 section.

25 (11) K-12 GI BILL PROHIBITIONS.--A student is not  
26 eligible for a K-12 GI Bill if he or she is:

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

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

1           (c) Receiving an educational scholarship pursuant to  
2 this chapter.

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

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

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

10           (12) DEPARTMENT OF EDUCATION OBLIGATIONS.--The  
11 department shall:

12           (a) Annually verify the eligibility of private schools  
13 that meet the requirements of subsection (8).

14           (b) Establish a toll-free hotline that provides  
15 parents and private schools with information on participation  
16 in the K-12 GI Bill Program.

17           (c) Establish a process by which individuals may  
18 notify the department of any violation by a parent, private  
19 school, or school district of state laws relating to program  
20 participation. The department shall conduct an investigation  
21 of any written complaint of a violation of this section, or  
22 make a referral to the appropriate agency for investigation,  
23 if the complaint is signed by the complainant and is legally  
24 sufficient. A complaint is legally sufficient if it contains  
25 ultimate facts that show that a violation of this section or  
26 any rule adopted by the State Board of Education has occurred.  
27 In order to determine legal sufficiency, the department may  
28 require supporting information or documentation from the  
29 complainant.

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

4       (e) Cross-check the list of participating students  
5 with the public school enrollment lists prior to the first  
6 payment to avoid duplication.

7       (f) Identify all nationally norm-referenced tests that  
8 are comparable to the norm-referenced test portions of the  
9 Florida Comprehensive Assessment Test (FCAT).

10       (g) Select an independent private research  
11 organization to which participating private schools must  
12 report the scores of participating students on the nationally  
13 norm-referenced tests administered by the private school. The  
14 independent private research organization must annually report  
15 to the department on the year-to-year improvements of the  
16 participating students. The independent private research  
17 organization must analyze and report student performance data  
18 in a manner that protects the rights of students and parents  
19 as mandated in 20 U.S.C. s. 1232g, the Family Educational  
20 Rights and Privacy Act, and must not disaggregate data to a  
21 level that will disclose the academic level of individual  
22 students or of individual schools. To the extent possible, the  
23 independent private research organization must accumulate  
24 historical performance data on students from the department  
25 and private schools to describe baseline performance and to  
26 conduct longitudinal studies. To minimize costs and reduce  
27 time required for third-party analysis and evaluation, the  
28 department shall conduct analyses of matched students from  
29 public school assessment data and calculate control group  
30 learning gains using an agreed-upon methodology outlined in  
31 the contract with the third-party evaluator. The sharing of

1 student data must be in accordance with requirements of 20  
2 U.S.C. s. 1232g, the Family Educational Rights and Privacy  
3 Act, and shall be for the sole purpose of conducting the  
4 evaluation. All parties must preserve the confidentiality of  
5 such information as required by law.

6 (13) COMMISSIONER OF EDUCATION AUTHORITY AND  
7 OBLIGATIONS.--

8 (a) The Commissioner of Education shall deny, suspend,  
9 or revoke a private school's participation in the program if  
10 it is determined that the private school has failed to comply  
11 with the provisions of this section. However, if the  
12 noncompliance is correctable within a reasonable amount of  
13 time and if the health, safety, and welfare of the students  
14 are not threatened, the commissioner may issue a notice of  
15 noncompliance which shall provide the private school with a  
16 timeframe within which to provide evidence of compliance prior  
17 to taking action to suspend or revoke the private school's  
18 participation in the program.

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

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

29 2. The private school that is adversely affected by  
30 the proposed action shall have 15 days after receipt of the  
31 notice of proposed action to file with the department's agency

1 clerk a request for a proceeding pursuant to ss. 120.569 and  
2 120.57. If the private school is entitled to a hearing under  
3 s. 120.57(1), the department shall forward the request to the  
4 Division of Administrative Hearings.

5 3. Upon receipt of a request referred pursuant to this  
6 paragraph, the director of the Division of Administrative  
7 Hearings shall expedite the hearing and assign an  
8 administrative law judge who shall commence a hearing within  
9 30 days after the receipt of the formal written request by the  
10 division and enter a recommended order within 30 days after  
11 the hearing or within 30 days after receipt of the hearing  
12 transcript, whichever is later. Each party shall be allowed 10  
13 days in which to submit written exceptions to the recommended  
14 order. A final order shall be entered by the agency within 30  
15 days after the entry of a recommended order. The provisions of  
16 this subparagraph may be waived upon stipulation by all  
17 parties.

18 (c) The commissioner may immediately suspend payment  
19 if it is determined that there is probable cause to believe  
20 that there is:

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

23 2. Fraudulent activity on the part of the private  
24 school.

25  
26 The commissioner's order suspending payment pursuant to this  
27 paragraph may be appealed pursuant to the same procedures and  
28 timelines as the notice of proposed action set forth in  
29 paragraph (b).

30 (d) The parent shall ensure that the student  
31 participating in the program takes the norm-referenced

1 assessment offered by the private school. The parent may also  
2 choose to have the student participate in the statewide  
3 assessments pursuant to s. 1008.22. If the parent requests  
4 that the student take statewide assessments pursuant to s.  
5 1008.22, the parent is responsible for transporting the  
6 student to the assessment site designated by the school  
7 district.

8 (e) Subsequent to each payment, the Department of  
9 Financial Services shall randomly review endorsed warrants to  
10 confirm compliance with endorsement requirements. The  
11 Department of Financial Services shall immediately report  
12 inconsistencies or irregularities to the department.

13 (f) In the event of an act of God, which means an act  
14 occasioned exclusively by violence of nature without the  
15 interference of any human agency, the State Board of Education  
16 is authorized to waive any deadlines to effectuate the  
17 purposes of the K-12 GI Bill.

18 (g) Each private school shall require each individual  
19 with direct student contact with a scholarship student to be  
20 of good moral character, to be subject to the level 1  
21 background screening as provided under chapter 435, to be  
22 denied employment or terminated if required under s. 435.06,  
23 and not to be ineligible to teach in a public school because  
24 his or her educator certificate is suspended or revoked. For  
25 purposes of this paragraph:

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

29 2. The costs of fingerprinting and the background  
30 check shall not be borne by the state.  
31

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

5           4. An individual holding a valid Florida teaching  
6 certificate who has been fingerprinted pursuant to s. 1012.32  
7 shall not be required to comply with the provisions of this  
8 paragraph.

9           (h) The private school shall annually administer or  
10 make provision for students participating in the program to  
11 take one of the nationally norm-referenced tests identified by  
12 the department. Students with disabilities for whom  
13 standardized testing is not appropriate are exempt from this  
14 requirement. A participating private school must report a  
15 student's scores to the parent and to the independent private  
16 research organization selected by the department.

17           Section 2. Paragraphs (a) and (b) of subsection (6) of  
18 section 1002.20, Florida Statutes, are amended to read:

19           1002.20 K-12 student and parent rights.--Parents of  
20 public school students must receive accurate and timely  
21 information regarding their child's academic progress and must  
22 be informed of ways they can help their child to succeed in  
23 school. K-12 students and their parents are afforded numerous  
24 statutory rights including, but not limited to, the following:

25           (6) EDUCATIONAL CHOICE.--

26           (a) Public school choices.--Parents of public school  
27 students may seek whatever public school choice options that  
28 are applicable to their students and are available to students  
29 in their school districts. These options may include  
30 controlled open enrollment, lab schools, charter schools,  
31 charter technical career centers, magnet schools, alternative

1 | schools, special programs, advanced placement, dual  
2 | enrollment, International Baccalaureate, early admissions,  
3 | credit by examination or demonstration of competency, the New  
4 | World School of the Arts, the Florida School for the Deaf and  
5 | the Blind, and the Florida Virtual School. These options may  
6 | also include the public school choice options of the  
7 | Opportunity Scholarship Program, ~~and~~ the McKay Scholarships  
8 | for Students with Disabilities Program, and the K-12 GI Bill  
9 | Program.

10 |         (b) Private school choices.--Parents of public school  
11 | students may seek private school choice options under certain  
12 | programs.

13 |             1. Under the Opportunity Scholarship Program, the  
14 | parent of a student in a failing public school may request and  
15 | receive an opportunity scholarship for the student to attend a  
16 | private school in accordance with the provisions of s.  
17 | 1002.38.

18 |             2. Under the McKay Scholarships for Students with  
19 | Disabilities Program, the parent of a public school student  
20 | with a disability who is dissatisfied with the student's  
21 | progress may request and receive a McKay Scholarship for the  
22 | student to attend a private school in accordance with the  
23 | provisions of s. 1002.39.

24 |             3. Under the K-12 GI Bill Program, the parent of a  
25 | public school student who is a dependent of an active-duty  
26 | member as defined in s. 1002.395(1) may request and receive a  
27 | K-12 GI Bill for the student to attend a private school in  
28 | accordance with s. 1002.395.

29 |             ~~4.3-~~ Under the corporate income tax credit scholarship  
30 | program, the parent of a student who qualifies for free or  
31 | reduced-price school lunch may seek a scholarship from an



1 eligible nonprofit scholarship-funding organization in  
2 accordance with the provisions of s. 220.187.

3 Section 3. This act shall take effect upon becoming a  
4 law.

5  
6 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
7 COMMITTEE SUBSTITUTE FOR  
8 Senate Bill 876

9 The committee substitute makes the following changes:

- 10 - Provides for scholarships to dependents of active-duty  
11 members of the Florida National Guard who are serving in  
Operation Enduring Freedom or Operation Iraqi Freedom.
- 12 - Provides that a student does not have to attend a  
13 public school during the preceding school year to be  
eligible for the scholarship.
- 14 - Provides a method to pay for the scholarships.
- 15 - Provides oversight responsibilities for the Department  
16 of Education and the Commissioner of Education.
- 17 - Provides additional requirements for participating  
18 private schools, including Level 1 background checks and  
student assessments.
- 19 - Provides for an independent research organization to  
20 report on the academic improvement of scholarship  
students.
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