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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/23/2014	.	
	.	
	.	
	.	

The Committee on Appropriations (Galvano) recommended the following:

Senate Amendment (with title amendment)

Between lines 94 and 95

insert:

Section 1. Paragraph (c) is added to subsection (1), paragraph (f) of subsection (2), subsection (3), subsection (5), subsection (6), paragraph (e) of subsection (7), paragraphs (c) and (e) of subsection (8), paragraphs (d), (j) and (o) of subsection (9), and paragraph (a) of subsection (12) of section 1002.395, Florida Statutes, are amended, paragraphs (h) through



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11 (j) of subsection (2) are redesignated as paragraphs (i) through
12 (k), respectively, and a new paragraph (h) is added to that
13 subsection, paragraph (g) is added to subsection (7), and
14 subsection (16) is added to that section, to read:

15 1002.395 Florida Tax Credit Scholarship Program.—

16 (1) FINDINGS AND PURPOSE.—

17 (c) The purpose of this section is not to prescribe the
18 standards or curriculum for private schools. A private school
19 retains the authority to determine its own standards and
20 curriculum.

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

22 (f) "Eligible nonprofit scholarship-funding organization"
23 means a state university; or an independent college or
24 university that is eligible to participate in the William L.
25 Boyd, IV, Florida Resident Access Grant Program, located and
26 chartered in this state, is not for profit, and is accredited by
27 the Commission on Colleges of the Southern Association of
28 Colleges and Schools; or is a charitable organization that:

29 1. Is exempt from federal income tax pursuant to s.
30 501(c)(3) of the Internal Revenue Code;

31 2. Is a Florida entity formed under chapter 607, chapter
32 608, or chapter 617 and whose principal office is located in the
33 state; and

34 3. Complies with subsections ~~the provisions of subsection~~
35 (6) and (16).

36 (h) "Household income" has the same meaning as the term
37 "income" is defined in the Income Eligibility Guidelines for
38 free and reduced price meals under the National School Lunch
39 Program in 7 C.F.R. part 210 as published in the Federal



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40 Register by the United States Department of Agriculture.

41 (3) PROGRAM; SCHOLARSHIP ELIGIBILITY.—

42 (a) The Florida Tax Credit Scholarship Program is
43 established.

44 (b) For the 2014-2015 and 2015-2016 school years,
45 contingent upon available funds, a student is eligible for a
46 Florida tax credit scholarship under this section if the student
47 meets one or more of the following criteria:

48 1. The student qualifies for free or reduced-price school
49 lunches under the National School Lunch Act or is on the direct
50 certification list; ~~and:~~

51 ~~a. Was counted as a full-time equivalent student during the~~
52 ~~previous state fiscal year for purposes of state per-student~~
53 ~~funding;~~

54 ~~b. Received a scholarship from an eligible nonprofit~~
55 ~~scholarship-funding organization or from the State of Florida~~
56 ~~during the previous school year; or~~

57 ~~e. Is eligible to enter kindergarten through fifth grade.~~

58 2. The student is currently placed, or during the previous
59 state fiscal year was placed, in foster care or in out-of-home
60 care as defined in s. 39.01; ~~or-~~

61 3. The student continues in the scholarship program as long
62 as the student's household income level does not exceed 230
63 percent of the federal poverty level.

64 ~~4. The student, who is a first-time tax credit scholarship~~
65 ~~recipient, is a sibling of a student who is continuing in the~~
66 ~~scholarship program and who resides in the same household as the~~
67 ~~student if the sibling meets one or more of the criteria~~
68 ~~specified in subparagraphs 1. and 2. and as long as the~~



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69 ~~student's and sibling's household income level does not exceed~~
70 ~~230 percent of the federal poverty level.~~

71 (c) For the 2016-2017 school year and thereafter,
72 contingent upon available funds, a student is eligible for a
73 Florida tax credit scholarship under this section if the student
74 meets one or more of the following criteria:

75 1. The student is on the direct certification list or the
76 student's household income level does not exceed 185 percent of
77 the federal poverty level; or

78 2. The student is currently placed, or during the previous
79 state fiscal year was placed, in foster care or in out-of-home
80 care as defined in s. 39.01.

81
82 A student who initially receives a scholarship based on
83 eligibility under subparagraph (b)2. or subparagraph (c)2.
84 remains eligible until the student graduates from high school or
85 attains the age of 21 years, whichever occurs first, regardless
86 of the student's household income level. A sibling of a student
87 who is participating in the scholarship program under this
88 subsection is eligible for a scholarship if the student resides
89 in the same household as the sibling.

90 (5) SCHOLARSHIP FUNDING TAX CREDITS; LIMITATIONS.—

91 (a)1. The tax credit cap amount is \$229 million in the
92 2012-2013 state fiscal year.

93 2. In the 2013-2014 state fiscal year and each state fiscal
94 year thereafter, the tax credit cap amount is the tax credit cap
95 amount in the prior state fiscal year. However, in any state
96 fiscal year when the annual tax credit amount for the prior
97 state fiscal year is equal to or greater than 90 percent of the



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98 tax credit cap amount applicable to that state fiscal year, the
99 tax credit cap amount shall increase by 25 percent. The
100 Department of Education and Department of Revenue~~department~~
101 shall publish on their websites~~its website~~ information
102 identifying the tax credit cap amount when it is increased
103 pursuant to this subparagraph.

104 (b) A taxpayer may submit an application to the department
105 for a tax credit or credits under one or more of s. 211.0251, s.
106 212.1831, s. 220.1875, s. 561.1211, or s. 624.51055.

107 1. The taxpayer shall specify in the application each tax
108 for which the taxpayer requests a credit and the applicable
109 taxable year for a credit under s. 220.1875 or s. 624.51055 or
110 the applicable state fiscal year for a credit under s. 211.0251,
111 s. 212.1831, or s. 561.1211. The department shall approve tax
112 credits on a first-come, first-served basis and must obtain the
113 division's approval before ~~prior to~~ approving a tax credit under
114 s. 561.1211.

115 2. Within 10 days after approving an application, the
116 department shall provide a copy of its approval letter to the
117 eligible nonprofit scholarship-funding organization specified by
118 the taxpayer in the application.

119 (c) If a tax credit approved under paragraph (b) is not
120 fully used within the specified state fiscal year for credits
121 under s. 211.0251, s. 212.1831, or s. 561.1211 or against taxes
122 due for the specified taxable year for credits under s. 220.1875
123 or s. 624.51055 because of insufficient tax liability on the
124 part of the taxpayer, the unused amount may be carried forward
125 for a period not to exceed 5 years. However, any taxpayer that
126 seeks to carry forward an unused amount of tax credit must



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127 submit an application to the department for approval of the
128 carryforward tax credit in the year that the taxpayer intends to
129 use the carryforward. The department must obtain the division's
130 approval prior to approving the carryforward of a tax credit
131 under s. 561.1211.

132 (d) A taxpayer may not convey, assign, or transfer an
133 approved tax credit or a carryforward tax credit to another
134 entity unless all of the assets of the taxpayer are conveyed,
135 assigned, or transferred in the same transaction. However, a tax
136 credit under s. 211.0251, s. 212.1831, s. 220.1875, s. 561.1211,
137 or s. 624.51055 may be conveyed, transferred, or assigned
138 between members of an affiliated group of corporations if the
139 type of tax credit under s. 211.0251, s. 212.1831, s. 220.1875,
140 s. 561.1211, or s. 624.51055 remains the same. A taxpayer shall
141 notify the department of its intent to convey, transfer, or
142 assign a tax credit to another member within an affiliated group
143 of corporations. The amount conveyed, transferred, or assigned
144 is available to another member of the affiliated group of
145 corporations upon approval by the department. The department
146 shall obtain the division's approval before approving a
147 conveyance, transfer, or assignment of a tax credit under s.
148 561.1211.

149 (e) Within any state fiscal year, a taxpayer may rescind
150 all or part of a tax credit approved under paragraph (b). The
151 amount rescinded shall become available for that state fiscal
152 year to another eligible taxpayer as approved by the department
153 if the taxpayer receives notice from the department that the
154 rescindment has been accepted by the department. The department
155 must obtain the division's approval prior to accepting the



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156 rescindment of a tax credit under s. 561.1211. Any amount
157 rescinded under this paragraph shall become available to an
158 eligible taxpayer on a first-come, first-served basis based on
159 tax credit applications received after the date the rescindment
160 is accepted by the department.

161 (f) For purposes of calculating the underpayment of
162 estimated corporate income taxes pursuant to s. 220.34 and tax
163 installment payments for taxes on insurance premiums or
164 assessments under s. 624.5092, the final amount due is the
165 amount after credits earned under s. 220.1875 or s. 624.51055
166 for contributions to eligible nonprofit scholarship-funding
167 organizations are deducted.

168 1. For purposes of determining if a penalty or interest
169 shall be imposed for underpayment of estimated corporate income
170 tax pursuant to s. 220.34(2)(d)1., a taxpayer may, after earning
171 a credit under s. 220.1875, reduce the following estimated
172 payment in that taxable year by the amount of the credit. This
173 subparagraph applies to contributions made on or after July 1,
174 2014.

175 2. For purposes of determining if a penalty under s.
176 624.5092 shall be imposed, an insurer may, after earning a
177 credit under s. 624.51055, reduce the following installment
178 payment of 27 percent of the amount of the net tax due as
179 reported on the return for the preceding year under s.
180 624.5092(2)(b) by the amount of the credit. This subparagraph
181 applies to contributions made on or after July 1, 2014.

182 (6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING
183 ORGANIZATIONS.—An eligible nonprofit scholarship-funding
184 organization:



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185 (a) Must comply with the antidiscrimination provisions of
186 42 U.S.C. s. 2000d.

187 (b) Must comply with the following background check
188 requirements:

189 1. All owners and operators as defined in subparagraph
190 (2)(i)1. ~~(2)(h)1.~~ are, before ~~upon~~ employment or engagement to
191 provide services, subject to level 2 background screening as
192 provided under chapter 435. The fingerprints for the background
193 screening must be electronically submitted to the Department of
194 Law Enforcement and can be taken by an authorized law
195 enforcement agency or by an employee of the eligible nonprofit
196 scholarship-funding organization or a private company who is
197 trained to take fingerprints. However, the complete set of
198 fingerprints of an owner or operator may not be taken by the
199 owner or operator. The results of the state and national
200 criminal history check shall be provided to the Department of
201 Education for screening under chapter 435. The cost of the
202 background screening may be borne by the eligible nonprofit
203 scholarship-funding organization or the owner or operator.

204 2. Every 5 years following employment or engagement to
205 provide services or association with an eligible nonprofit
206 scholarship-funding organization, each owner or operator must
207 meet level 2 screening standards as described in s. 435.04, at
208 which time the nonprofit scholarship-funding organization shall
209 request the Department of Law Enforcement to forward the
210 fingerprints to the Federal Bureau of Investigation for level 2
211 screening. If the fingerprints of an owner or operator are not
212 retained by the Department of Law Enforcement under subparagraph
213 3., the owner or operator must electronically file a complete



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214 set of fingerprints with the Department of Law Enforcement. Upon
215 submission of fingerprints for this purpose, the eligible
216 nonprofit scholarship-funding organization shall request that
217 the Department of Law Enforcement forward the fingerprints to
218 the Federal Bureau of Investigation for level 2 screening, and
219 the fingerprints shall be retained by the Department of Law
220 Enforcement under subparagraph 3.

221 3. ~~All~~ Fingerprints submitted to the Department of Law
222 Enforcement as required by this paragraph must be retained by
223 the Department of Law Enforcement in a manner approved by rule
224 and entered in the statewide automated biometric identification
225 system authorized by s. 943.05(2)(b). The fingerprints must
226 thereafter be available for all purposes and uses authorized for
227 arrest fingerprints entered in the statewide automated biometric
228 identification system pursuant to s. 943.051.

229 4. The Department of Law Enforcement shall search all
230 arrest fingerprints received under s. 943.051 against the
231 fingerprints retained in the statewide automated biometric
232 identification system under subparagraph 3. Any arrest record
233 that is identified with an owner's or operator's fingerprints
234 must be reported to the Department of Education. The Department
235 of Education shall participate in this search process by paying
236 an annual fee to the Department of Law Enforcement and by
237 informing the Department of Law Enforcement of any change in the
238 employment, engagement, or association status of the owners or
239 operators whose fingerprints are retained under subparagraph 3.
240 The Department of Law Enforcement shall adopt a rule setting the
241 amount of the annual fee to be imposed upon the Department of
242 Education for performing these services and establishing the



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243 procedures for the retention of owner and operator fingerprints
244 and the dissemination of search results. The fee may be borne by
245 the owner or operator of the nonprofit scholarship-funding
246 organization.

247 5. A nonprofit scholarship-funding organization whose owner
248 or operator fails the level 2 background screening is not shall
249 ~~not be~~ eligible to provide scholarships under this section.

250 6. A nonprofit scholarship-funding organization whose owner
251 or operator in the last 7 years has filed for personal
252 bankruptcy or corporate bankruptcy in a corporation of which he
253 or she owned more than 20 percent shall not be eligible to
254 provide scholarships under this section.

255 7. In addition to the offenses listed in s. 435.04, a
256 person required to undergo background screening pursuant to this
257 part or authorizing statutes must not have an arrest awaiting
258 final disposition for, must not have been found guilty of, or
259 entered a plea of nolo contendere to, regardless of
260 adjudication, and must not have been adjudicated delinquent, and
261 the record must not have been sealed or expunged for, any of the
262 following offenses or any similar offense of another
263 jurisdiction:

264 a. Any authorizing statutes, if the offense was a felony.

265 b. This chapter, if the offense was a felony.

266 c. Section 409.920, relating to Medicaid provider fraud.

267 d. Section 409.9201, relating to Medicaid fraud.

268 e. Section 741.28, relating to domestic violence.

269 f. Section 817.034, relating to fraudulent acts through

270 mail, wire, radio, electromagnetic, photoelectronic, or

271 photooptical systems.



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- 272 g. Section 817.234, relating to false and fraudulent
273 insurance claims.
- 274 h. Section 817.505, relating to patient brokering.
- 275 i. Section 817.568, relating to criminal use of personal
276 identification information.
- 277 j. Section 817.60, relating to obtaining a credit card
278 through fraudulent means.
- 279 k. Section 817.61, relating to fraudulent use of credit
280 cards, if the offense was a felony.
- 281 l. Section 831.01, relating to forgery.
- 282 m. Section 831.02, relating to uttering forged instruments.
- 283 n. Section 831.07, relating to forging bank bills, checks,
284 drafts, or promissory notes.
- 285 o. Section 831.09, relating to uttering forged bank bills,
286 checks, drafts, or promissory notes.
- 287 p. Section 831.30, relating to fraud in obtaining medicinal
288 drugs.
- 289 q. Section 831.31, relating to the sale, manufacture,
290 delivery, or possession with the intent to sell, manufacture, or
291 deliver any counterfeit controlled substance, if the offense was
292 a felony.
- 293 (c) Must not have an owner or operator who owns or operates
294 an eligible private school that is participating in the
295 scholarship program.
- 296 (d) Must provide scholarships, from eligible contributions,
297 to eligible students for the cost of:
- 298 1. Tuition and fees for an eligible private school; or
299 2. Transportation to a Florida public school that is
300 located outside the district in which the student resides or to



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301 a lab school as defined in s. 1002.32.

302 (e) Must give first priority to eligible students who
303 received a scholarship from an eligible nonprofit scholarship-
304 funding organization or from the State of Florida during the
305 previous school year. Beginning in the 2016-2017 school year, an
306 eligible nonprofit scholarship-funding organization shall give
307 priority to new applicants whose household income levels do not
308 exceed 185 percent of the federal poverty level or who are in
309 foster care or out-of-home care.

310 (f) Must provide a scholarship to an eligible student on a
311 first-come, first-served basis unless the student qualifies for
312 priority pursuant to paragraph (e).

313 (g) May not restrict or reserve scholarships for use at a
314 particular private school or provide scholarships to a child of
315 an owner or operator.

316 (h) Must allow a student in foster care or out-of-home care
317 to apply for a scholarship at any time.

318 (i) ~~(h)~~ Must allow an eligible student to attend any
319 eligible private school and must allow a parent to transfer a
320 scholarship during a school year to any other eligible private
321 school of the parent's choice.

322 (j) ~~(i)~~ 1. May use up to 3 percent of eligible contributions
323 received during the state fiscal year in which such
324 contributions are collected for administrative expenses if the
325 organization has operated under this section for at least 3
326 state fiscal years and did not have any negative financial
327 findings in its most recent audit under paragraph (m) ~~(l)~~. Such
328 administrative expenses must be reasonable and necessary for the
329 organization's management and distribution of eligible



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330 contributions under this section. No funds authorized under this
331 subparagraph shall be used for lobbying or political activity or
332 expenses related to lobbying or political activity. Up to ~~No~~
333 more than one-third of the funds authorized for administrative
334 expenses under this subparagraph may be used for expenses
335 related to the recruitment of contributions from taxpayers. In
336 any year an eligible non-profit scholarship funding organization
337 is permitted under this subparagraph to use eligible
338 contributions for administrative expenses, any application fee
339 charged by the organization for an application for scholarship
340 shall be expended for scholarships to students.

341 2. Must expend for annual or partial-year scholarships an
342 amount equal to or greater than 75 percent of the net eligible
343 contributions remaining after administrative expenses during the
344 state fiscal year in which such contributions are collected. No
345 more than 25 percent of such net eligible contributions may be
346 carried forward to the following state fiscal year. All amounts
347 carried forward, for audit purposes, must be specifically
348 identified for particular students, by student name and the name
349 of the school to which the student is admitted, subject to the
350 requirements of s. 1002.22, s. 1002.221, 20 U.S.C. s. 1232g, and
351 the applicable rules and regulations issued pursuant thereto.

352 Any amounts carried forward shall be expended for annual or
353 partial-year scholarships in the following state fiscal year.
354 Net eligible contributions remaining on June 30 of each year
355 that are in excess of the 25 percent that may be carried forward
356 shall be returned to the State Treasury for deposit in the
357 General Revenue Fund.

358 3. Must, before granting a scholarship for an academic



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359 year, document each scholarship student's eligibility for that
360 academic year. A scholarship-funding organization may not grant
361 multiyear scholarships in one approval process.

362 (k)~~(j)~~ Must maintain separate accounts for scholarship
363 funds and operating funds.

364 (l)~~(k)~~ With the prior approval of the Department of
365 Education, may transfer funds to another eligible nonprofit
366 scholarship-funding organization if additional funds are
367 required to meet scholarship demand at the receiving nonprofit
368 scholarship-funding organization. A transfer is ~~shall be~~ limited
369 to the greater of \$500,000 or 20 percent of the total
370 contributions received by the nonprofit scholarship-funding
371 organization making the transfer. All transferred funds must be
372 deposited by the receiving nonprofit scholarship-funding
373 organization into its scholarship accounts. All transferred
374 amounts received by any nonprofit scholarship-funding
375 organization must be separately disclosed in the annual
376 financial and compliance audit required in this section.

377 (m)~~(l)~~ Must provide to the Auditor General and the
378 Department of Education a report on the results of an annual
379 financial and compliance audit of its accounts and records
380 conducted by an independent certified public accountant ~~and~~ in
381 accordance with auditing standards generally accepted in the
382 United States, government auditing standards, and rules
383 promulgated~~adopted~~ by the Auditor General. The audit report~~must~~
384 ~~be conducted in compliance with generally accepted auditing~~
385 ~~standards and~~ must include a report on financial statements
386 presented in accordance with generally accepted accounting
387 principles ~~set forth by the American Institute of Certified~~



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388 ~~Public Accountants for not-for-profit organizations and a~~
389 ~~determination of compliance with the statutory eligibility and~~
390 ~~expenditure requirements set forth in this section. Audit~~
391 ~~reports~~ Audits must be provided to the Auditor General and the
392 Department of Education within 180 days after completion of the
393 eligible nonprofit scholarship-funding organization's fiscal
394 year. The Auditor General shall review all audit reports
395 submitted pursuant to this paragraph. The Auditor General shall
396 request any significant items that were omitted in violation of
397 a rule adopted by the Auditor General. The items must be
398 provided within 45 days after the date of the request. If the
399 scholarship-funding organization does not comply with the
400 Auditor General's request, the Auditor General shall notify the
401 Legislative Auditing Committee.

402 (n) ~~(m)~~ Must prepare and submit quarterly reports to the
403 Department of Education pursuant to paragraph (9) (m). In
404 addition, an eligible nonprofit scholarship-funding organization
405 must submit in a timely manner any information requested by the
406 Department of Education relating to the scholarship program.

407 (o) ~~(n)~~ 1.a. Must participate in the joint development of
408 agreed-upon procedures to be performed by an independent
409 certified public accountant as required under paragraph (8) (e)
410 if the scholarship-funding organization provided more than
411 \$250,000 in scholarship funds to an eligible private school
412 under this section during the 2009-2010 state fiscal year. The
413 agreed-upon procedures must uniformly apply to all private
414 schools and must determine, at a minimum, whether the private
415 school has been verified as eligible by the Department of
416 Education under paragraph (9) (c); has an adequate accounting



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417 system, system of financial controls, and process for deposit
418 and classification of scholarship funds; and has properly
419 expended scholarship funds for education-related expenses.
420 During the development of the procedures, the participating
421 scholarship-funding organizations shall specify guidelines
422 governing the materiality of exceptions that may be found during
423 the accountant's performance of the procedures. The procedures
424 and guidelines shall be provided to private schools and the
425 Commissioner of Education by March 15, 2011.

426 b. Must participate in a joint review of the agreed-upon
427 procedures and guidelines developed under sub-subparagraph a.,
428 by February 2013 and biennially thereafter, if the scholarship-
429 funding organization provided more than \$250,000 in scholarship
430 funds to an eligible private school under this section during
431 the state fiscal year preceding the biennial review. If the
432 procedures and guidelines are revised, the revisions must be
433 provided to private schools and the Commissioner of Education by
434 March 15, 2013, and biennially thereafter.

435 c. Must monitor the compliance of a private school with
436 paragraph (8)(e) if the scholarship-funding organization
437 provided the majority of the scholarship funding to the school.
438 For each private school subject to paragraph (8)(e), the
439 appropriate scholarship-funding organization shall notify the
440 Commissioner of Education by October 30, 2011, and annually
441 thereafter of:

442 (I) A private school's failure to submit a report required
443 under paragraph (8)(e); or

444 (II) Any material exceptions set forth in the report
445 required under paragraph (8)(e).



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446 2. Must seek input from the accrediting associations that
447 are members of the Florida Association of Academic Nonpublic
448 Schools when jointly developing the agreed-upon procedures and
449 guidelines under sub-subparagraph 1.a. and conducting a review
450 of those procedures and guidelines under sub-subparagraph 1.b.

451 (p) Must maintain the surety bond or letter of credit
452 required by subsection (16). The amount of the surety bond or
453 letter of credit may be adjusted quarterly to equal the actual
454 amount of undisbursed funds based upon submission by the
455 organization of a statement from a certified public accountant
456 verifying the amount of undisbursed funds. The requirements of
457 this paragraph are waived if the cost of acquiring a surety bond
458 or letter of credit exceeds the average 10-year cost of
459 acquiring a surety bond or letter of credit by 200 percent. The
460 requirements of this paragraph are waived for a state
461 university; or an independent college or university which is
462 eligible to participate in the William L. Boyd, IV, Florida
463 Resident Access Grant Program, located and chartered in this
464 state, is not for profit, and is accredited by the Commission on
465 Colleges of the Southern Association of Colleges and Schools.

466 (q) Must provide to the Auditor General any information or
467 documentation requested in connection with an operational audit
468 of a scholarship funding organization conducted pursuant to s.
469 11.45.

470
471 ~~Any and all~~ Information and documentation provided to the
472 Department of Education and the Auditor General relating to the
473 identity of a taxpayer that provides an eligible contribution
474 under this section shall remain confidential at all times in



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475 accordance with s. 213.053.

476 (7) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
477 PARTICIPATION.—

478 (e) The parent shall ensure that the student participating
479 in the scholarship program takes the norm-referenced assessment
480 offered by the private school. The parent may also choose to
481 have the student participate in the statewide assessments
482 pursuant to s. 1008.22. If the parent requests that the student
483 participating in the scholarship program take statewide
484 assessments pursuant to s. 1008.22 and the private school has
485 not chosen to offer and administer the statewide assessments,
486 the private schoolparent is responsible for transporting the
487 student in a manner as agreed upon by the parent, which may
488 include but not be limited to transportation by the parent, to
489 the assessment site designated by the school district, and for
490 making arrangements for the student to take the assessments at
491 an assessment site designated by the school district in
492 accordance with the district's assessment schedule.

493 (g) The parent shall authorize the nonprofit scholarship-
494 funding organization to access information needed for income
495 eligibility determination and verification held by other state
496 or federal agencies, including the Department of Revenue, the
497 Department of Children and Families, the Department of
498 Education, the Department of Economic Opportunity, and the
499 Agency for Health Care Administration.

500 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—An eligible
501 private school may be sectarian or nonsectarian and must:

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



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

506 2. Annually administering or making provision for students
507 participating in the scholarship program in grades 3 through 10
508 to take one of the nationally norm-referenced tests identified
509 by the Department of Education or the statewide assessments
510 pursuant to s. 1008.22. Students with disabilities for whom
511 standardized testing is not appropriate are exempt from this
512 requirement. A participating private school must report a
513 student's scores to the parent. A participating private school
514 must annually report by August 15 the scores of all
515 participating students to the Learning System
516 Institute~~independent research organization~~ described in
517 paragraph (9)(j).

518 3. Providing~~Cooperating with~~ the scholarship student whose
519 parent chooses to have the student participate in the statewide
520 assessments pursuant to s. 1008.22, transportation in a manner
521 as agreed upon by the parent, which may include but not limited
522 to transportation by the parent, to the assessment site
523 designated by the school district, and making arrangements for
524 the student to take the assessments at an assessment site
525 designated by the school district in accordance with the
526 district's assessment schedule or, if a private school chooses
527 to offer the statewide assessments, administering the
528 assessments at the school.

529 a. A participating private school may choose to offer and
530 administer the statewide assessments to all students who attend
531 the private school in grades 3 through 10.

532 b. A participating private school must submit a request in



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533 writing to the Department of Education by March 1 of each year
534 in order to administer the statewide assessments in the
535 subsequent school year.

536 (e) Annually contract with an independent certified public
537 accountant to perform the agreed-upon procedures developed under
538 paragraph (6) (o) ~~(6) (n)~~ and produce a report of the results if
539 the private school receives more than \$250,000 in funds from
540 scholarships awarded under this section in the 2010-2011 state
541 fiscal year or a state fiscal year thereafter. A private school
542 subject to this paragraph must submit the report by September
543 15, 2011, and annually thereafter to the scholarship-funding
544 organization that awarded the majority of the school's
545 scholarship funds. The agreed-upon procedures must be conducted
546 in accordance with attestation standards established by the
547 American Institute of Certified Public Accountants.

548
549 The inability of a private school to meet the requirements of
550 this subsection shall constitute a basis for the ineligibility
551 of the private school to participate in the scholarship program
552 as determined by the Department of Education.

553 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The Department of
554 Education shall:

555 (d) Annually verify the eligibility of expenditures as
556 provided in paragraph (6) (d) using the audit required by
557 paragraph (6) (m) and s. 11.45(2) (k) ~~(6) (l)~~.

558 (j) Issue a project grant award to the Learning System
559 Institute at the Florida State University ~~Select an independent~~
560 ~~research organization, which may be a public or private entity~~
561 ~~or university~~, to which participating private schools must



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562 report the scores of participating students on the nationally
563 norm-referenced tests or the statewide assessments administered
564 by the private school in grades 3 through 10. The project term
565 is 2 years, and the amount of the project is up to \$500,000 per
566 year. The project grant award must be reissued in 2 year
567 intervals in accordance with this paragraph.

568 1. The Learning System Institute ~~independent research~~
569 ~~organization~~ must annually report to the Department of Education
570 on the student performance year-to-year learning gains of
571 participating students:

572 a. On a statewide basis. The report shall also include, to
573 the extent possible, a comparison of scholarship ~~these students'~~
574 ~~performance~~ learning gains to the statewide student
575 ~~performance~~ learning gains of public school students with
576 socioeconomic backgrounds similar to those of students
577 participating in the scholarship program. To minimize costs and
578 reduce time required for the Learning System
579 ~~Institute's independent research organization's~~ analysis and
580 evaluation, the Department of Education shall coordinate with
581 the Learning System Institute to provide data to the Learning
582 System Institute in order to conduct analyses of matched
583 students from public school assessment data and calculate
584 control group student performance ~~learning gains~~ using an agreed-
585 upon methodology ~~outlined in the contract~~ with the Learning
586 System Institute ~~independent research organization~~; and

587 b. On an individual school basis. The annual report must
588 include student performance for each participating private
589 school in which at least 51 percent of the total enrolled
590 students in the private school participated in the Florida Tax



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591 Credit Scholarship Program in the prior school year. The report
592 shall be according~~According~~ to each participating private
593 school, and for participating students, in which there are at
594 least 30 participating students who have scores for tests
595 ~~administered during or after the 2009-2010 school year for 2~~
596 ~~consecutive years at that private school.~~ If the Learning System
597 Institute determines that the 30 participating student cell size
598 may be reduced without disclosing personally identifiable
599 information, as described in 34 C.F.R. 99.12, of a participating
600 student, the Learning System Institute may reduce the
601 participating student cell size, but the cell size must not be
602 reduced to less than 10 participating students. The department
603 shall provide each private school's prior school year's student
604 enrollment information to the Learning System Institute no later
605 than June 15 of each year, or as requested by the Learning
606 System Institute.

607 2. The sharing and reporting of student performance~~learning~~
608 ~~gain~~ data under this paragraph must be in accordance with
609 requirements of s. 1002.22, s. 1002.221, 20 U.S.C. s. 1232g, the
610 Family Educational Rights and Privacy Act, and the applicable
611 rules and regulations issued pursuant thereto, and shall be for
612 the sole purpose of creating the annual report required by
613 subparagraph 1. All parties must preserve the confidentiality of
614 such information as required by law. The annual report must not
615 disaggregate data to a level that will identify individual
616 participating schools, except as required under sub-subparagraph
617 1.b., or disclose the academic level of individual students.

618 3. The annual report required by subparagraph 1. shall be
619 published by the Department of Education on its website.



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620 (o) Provide a process to match the direct certification
621 list with the scholarship application data submitted by any
622 nonprofit scholarship-funding organization eligible to receive
623 the 3-percent administrative allowance under paragraph (6)(j)
624 ~~(6)(i)~~.

625 (12) SCHOLARSHIP AMOUNT AND PAYMENT.—

626 (a)~~1~~. Except as provided in subparagraph 2., the amount of
627 a scholarship provided to any student for any single school year
628 by an eligible nonprofit scholarship-funding organization from
629 eligible contributions shall be for total costs authorized under
630 paragraph (6)(d), not to exceed annual limits, which shall be
631 determined as follows:

632 1.a. For a scholarship awarded to a student enrolled in an
633 eligible private school:

634 ~~(I) For the 2009-2010 state fiscal year, the limit shall be~~
635 ~~\$3,950.~~

636 ~~(II) For the 2010-2011 state fiscal year, the limit shall~~
637 ~~be 60 percent of the unweighted FTE funding amount for that~~
638 ~~year.~~

639 ~~(III) For the 2011-2012 state fiscal year and thereafter,~~
640 the limit shall be determined by multiplying the unweighted FTE
641 funding amount in that state fiscal year by the percentage used
642 to determine the limit in the prior state fiscal year. However,
643 in each state fiscal year that the tax credit cap amount
644 increases pursuant to paragraph (5)(a) ~~subparagraph (5)(a)2.~~,
645 the prior year percentage shall be increased by 4 percentage
646 points and the increased percentage shall be used to determine
647 the limit for that state fiscal year. If the percentage so
648 calculated reaches 80 percent in a state fiscal year, no further



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649 increase in the percentage is allowed and the limit shall be 80
650 percent of the unweighted FTE funding amount for that state
651 fiscal year and thereafter. Beginning in the 2016-2017 state
652 fiscal year, the amount of a scholarship awarded to a student
653 enrolled in an eligible private school shall be equal to 82
654 percent of the unweighted FTE funding amount for that state
655 fiscal year and thereafter.

656 b. For a scholarship awarded to a student enrolled in a
657 Florida public school that is located outside the district in
658 which the student resides or in a lab school as defined in s.
659 1002.32, the limit shall be \$500.

660 2. The annual limit for a scholarship under sub-
661 subparagraph 1.a. shall be reduced by:

662 a. Twenty-five percent if the student's household income
663 level is equal to or greater than 200 percent, but less than 215
664 percent, of the federal poverty level.

665 b. Fifty percent if the student's household income level is
666 equal to or greater than 215 percent, but equal to or less than
667 230 percent, of the federal poverty level.

668 (16) NONPROFIT SCHOLARSHIP-FUNDING ORGANIZATIONS;
669 APPLICATION.—In order to participate in the scholarship program
670 created under this section, a charitable organization that seeks
671 to be a nonprofit scholarship-funding organization must submit
672 an application for initial approval or renewal to the Office of
673 Independent Education and Parental Choice no later than
674 September 1 of each year before the school year for which the
675 organization intends to offer scholarships.

676 (a) An application for initial approval must include:

677 1. A copy of the organization's incorporation documents and



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678 registration with the Division of Corporations of the Department
679 of State.

680 2. A copy of the organization's Internal Revenue Service
681 determination letter as a s. 501(c) (3) not-for-profit
682 organization.

683 3. A description of the organization's financial plan that
684 demonstrates sufficient funds to operate throughout the school
685 year.

686 4. A description of the geographic region that the
687 organization intends to serve and an analysis of the demand and
688 unmet need for eligible students in that area.

689 5. The organization's organizational chart.

690 6. A description of the criteria and methodology that the
691 organization will use to evaluate scholarship eligibility.

692 7. A description of the application process, including
693 deadlines and any associated fees.

694 8. A description of the deadlines for attendance
695 verification and scholarship payments.

696 9. A copy of the organization's policies on conflict of
697 interest and whistleblowers.

698 10. A copy of a surety bond or letter of credit in an
699 amount equal to 25 percent of the scholarship funds anticipated
700 for each school year or \$100,000, whichever is greater.

701 (b) In addition to the information required by
702 subparagraphs (a)1.-9., an application for renewal must include:

703 1. A surety bond or letter of credit equal to the amount of
704 undisbursed donations held by the organization based on the
705 annual report submitted pursuant to paragraph (6) (m). The amount
706 of the surety bond or letter of credit must be at least



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707 \$100,000, but not more than \$25 million.

708 2. The organization's completed Internal Revenue Service
709 Form 990 submitted no later than November 30 of the year before
710 the school year that the organization intends to offer the
711 scholarships, notwithstanding the September 1 application
712 deadline.

713 3. A copy of the statutorily required audit to the
714 Department of Education and Auditor General.

715 4. An annual report that includes:

716 a. The number of students who completed applications, by
717 county and by grade.

718 b. The number of students who were approved for
719 scholarships, by county and by grade.

720 c. The number of students who received funding for
721 scholarships within each funding category, by county and by
722 grade.

723 d. The amount of funds received, the amount of funds
724 distributed in scholarships, and an accounting of remaining
725 funds and the obligation of those funds.

726 e. A detailed accounting of how the organization spent the
727 administrative funds allowable under paragraph (6) (j).

728 (c) In consultation with the Department of Revenue and the
729 Chief Financial Officer, the Office of Independent Education and
730 Parental Choice shall review the application. The Department of
731 Education shall notify the organization in writing of any
732 deficiencies within 30 days after receipt of the application and
733 allow the organization 30 days to correct any deficiencies.

734 (d) Within 30 days after receipt of the finalized
735 application by the Office of Independent Education and Parental



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736 Choice, the Commissioner of Education shall recommend approval
737 or disapproval of the application to the State Board of
738 Education. The State Board of Education shall consider the
739 application and recommendation at the next scheduled meeting,
740 adhering to appropriate meeting notice requirements. If the
741 State Board of Education disapproves the organization's
742 application, it shall provide the organization with a written
743 explanation of that determination. The State Board of
744 Education's action is not subject to chapter 120.

745 (e) If the State Board of Education disapproves the renewal
746 of a nonprofit scholarship-funding organization, the
747 organization must notify the affected eligible students and
748 parents of the decision within 15 days after disapproval. An
749 eligible student affected by the disapproval of an
750 organization's participation remains eligible under this section
751 until the end of the school year in which the organization was
752 disapproved. The student must apply and be accepted by another
753 eligible nonprofit scholarship-funding organization for the
754 upcoming school year. The student shall be given priority in
755 accordance with paragraph (6) (f).

756 (f) All remaining funds held by a nonprofit scholarship-
757 funding organization that is disapproved for participation must
758 revert to the Department of Revenue for redistribution to other
759 eligible nonprofit scholarship-funding organizations.

760 (g) A nonprofit scholarship-funding organization is a
761 renewing organization if it maintains continuous approval and
762 participation in the program. An organization that chooses not
763 to participate for 1 year or more or is disapproved to
764 participate for 1 year or more must submit an application for



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765 initial approval in order to participate in the program again.

766 (h) The State Board of Education shall adopt rules
767 providing guidelines for receiving, reviewing, and approving
768 applications for new and renewing nonprofit scholarship-funding
769 organizations. The rules must include a process for compiling
770 input and recommendations from the Chief Financial Officer, the
771 Department of Revenue, and the Department of Education. The
772 rules must also require that the nonprofit scholarship-funding
773 organization make a brief presentation to assist the State Board
774 of Education in its decision.

775 (i) A state university; or an independent college or
776 university which is eligible to participate in the William L.
777 Boyd, IV, Florida Resident Access Grant Program, located and
778 chartered in this state, is not for profit, and is accredited by
779 the Commission on Colleges of the Southern Association of
780 Colleges and Schools, is exempt from the initial or renewal
781 application process, but must file a registration notice with
782 the Department of Education to be an eligible nonprofit
783 scholarship-funding organization. The State Board of Education
784 shall adopt rules that identify the procedure for filing the
785 registration notice with the department. The rules must identify
786 appropriate reporting requirements for fiscal, programmatic, and
787 performance accountability purposes consistent with this
788 section, but shall not exceed the requirements for eligible
789 nonprofit scholarship-funding organizations for charitable
790 organizations. An nonprofit scholarship-funding organization
791 that becomes eligible pursuant to this paragraph may begin
792 providing scholarships to participating students in the 2015-
793 2016 school year.



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794 Section 2. A nonprofit scholarship-funding organization
795 whose application for participation in the program established
796 by s. 1002.395, Florida Statutes, was approved before July 1,
797 2014, must, by August 1, 2014, provide a copy of a surety bond
798 or letter of credit meeting the requirements of s. 1002.395(16),
799 Florida Statutes, to the Office of Independent Education and
800 Parental Choice.

801 Section 3. Paragraph (k) is added to subsection (2) and
802 paragraph (y) is added to subsection (3) of section 11.45,
803 Florida Statutes, and subsection (8) of that section is amended,
804 to read:

805 11.45 Definitions; duties; authorities; reports; rules.—

806 (2) DUTIES.—The Auditor General shall:

807 (k) Annually conduct operational audits of the accounts and
808 records of eligible non-profit scholarship-funding organizations
809 receiving eligible contributions under s. 1002.395, including
810 any contracts for services with related entities, to determine
811 compliance with the provisions of that section. Such audits
812 shall include, but not be limited to, a determination of the
813 eligible non-profit scholarship funding organization's
814 compliance with s. 1002.395(6)(j). The Auditor General shall
815 provide its report on the results of the audits to the Governor,
816 the President of the Senate, the Speaker of the House, the Chief
817 Financial Officer, and the Legislative Auditing Committee,
818 within 30 days of completion of the audit.

819
820 The Auditor General shall perform his or her duties
821 independently but under the general policies established by the
822 Legislative Auditing Committee. This subsection does not limit



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823 the Auditor General's discretionary authority to conduct other
824 audits or engagements of governmental entities as authorized in
825 subsection (3).

826 (3) AUTHORITY FOR AUDITS AND OTHER ENGAGEMENTS.—The Auditor
827 General may, pursuant to his or her own authority, or at the
828 direction of the Legislative Auditing Committee, conduct audits
829 or other engagements as determined appropriate by the Auditor
830 General of:

831 (y) The accounts and records of a nonprofit scholarship-
832 funding organization participating in a state sponsored
833 scholarship program authorized by chapter 1002.

834 (8) RULES OF THE AUDITOR GENERAL.—The Auditor General, in
835 consultation with the Board of Accountancy, shall adopt rules
836 for the form and conduct of all financial audits performed by
837 independent certified public accountants pursuant to ss.
838 215.981, 218.39, 1001.453, 1002.395, 1004.28, and 1004.70. The
839 rules for audits of local governmental entities, charter
840 schools, charter technical career centers, and district school
841 boards must include, but are not limited to, requirements for
842 the reporting of information necessary to carry out the purposes
843 of the Local Governmental Entity, Charter School, Charter
844 Technical Career Center, and District School Board Financial
845 Emergencies Act as stated in s. 218.501.

846
847 ===== T I T L E A M E N D M E N T =====

848 And the title is amended as follows:

849 Delete line 2

850 and insert:

851 An act relating to education; amending s. 1002.395,



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852 F.S.; revising purpose; revising definitions; revising
853 eligibility requirements for the Florida Tax Credit
854 Scholarship Program; requiring the Department of
855 Education and Department of Revenue to publish the tax
856 credit cap on their websites when it is increased;
857 requiring the Department of Revenue to provide a copy
858 of a letter approving a taxpayer for a specified tax
859 credit to the eligible nonprofit scholarship-funding
860 organization; authorizing certain entities to convey,
861 transfer, or assign certain tax credits; providing for
862 the calculation of underpayment of estimated corporate
863 income taxes and tax installation payments for taxes
864 on insurance premiums and assessments and the
865 determination of whether penalties or interest shall
866 be imposed on the underpayment; revising the
867 disqualifying offenses for nonprofit scholarship-
868 funding organization owners and operators; revising
869 priority for new applicants; allowing a student in
870 foster care or out-of-home care to apply for a
871 scholarship at any time; prohibiting use of eligible
872 contributions from being used for lobbying or
873 political activity or related expenses; requiring
874 application fees to be expended for student
875 scholarships in any year a nonprofit scholarship-
876 funding organization uses eligible contributions for
877 administrative expenses; requiring amounts carried
878 forward to be specifically reserved for particular
879 students and schools for audit purposes; revising
880 audit and report requirements for nonprofit



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881 scholarship-funding organizations and Auditor General
882 review of all reports; requiring nonprofit
883 scholarship-funding organizations to maintain a surety
884 bond or letter of credit and to adjust the bond or
885 letter of credit quarterly based upon a statement from
886 a certified public accountant; providing exceptions;
887 requiring the nonprofit scholarship-funding
888 organization to provide the Auditor General any
889 information or documentation requested in connection
890 with an operational audit; requiring a private school
891 to provide agreed upon transportation and make
892 arrangements for taking statewide assessments at the
893 school district testing site and in accordance with
894 the district's testing schedule if the student chooses
895 to take the statewide assessment; requiring parental
896 authorization for access to income eligibility
897 information; specifying that the independent research
898 organization is the Learning System Institute at the
899 Florida State University; identifying grant terms and
900 payments; revising statewide and individual school
901 report requirements; revising limitations on annual
902 scholarship amounts; providing initial and renewal
903 application requirements and an approval process for a
904 charitable organization that seeks to be a nonprofit
905 scholarship-funding organization; requiring the State
906 Board of Education to adopt rules; providing a
907 registration notice requirement for public and private
908 universities to be nonprofit scholarship-funding
909 organizations; requiring the State Board of Education



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910 to adopt rules; allowing existing nonprofit
911 scholarship-funding organizations to provide the
912 required bond at a specified date; amending s. 11.45,
913 F.S.; authorizing the Auditor General to conduct
914 audits of the accounts and records of nonprofit
915 scholarship-funding organizations; creating s.
916 1002.385,