

By Senator Farmer

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1 A bill to be entitled
2 An act relating to scholarship programs; repealing s.
3 1002.395, F.S., relating to the Florida Tax Credit
4 Scholarship Program; repealing s. 1002.40, F.S.,
5 relating to the Hope Scholarship Program; repealing s.
6 1002.411, F.S., relating to reading scholarship
7 accounts; repealing s. 212.099, F.S., relating to the
8 Florida Sales Tax Credit Scholarship Program;
9 repealing ss. 211.0251, 212.1831, 220.1875, 561.1211,
10 and 624.51055, F.S., relating to credit for
11 contributions to eligible nonprofit scholarship-
12 funding organizations; amending ss. 11.45, 213.053,
13 220.02, 220.13, 220.186, 1002.20, 1002.23, 1002.385,
14 1002.39, and 1002.421, F.S.; conforming provisions to
15 changes made by the act; providing an effective date.
16

17 Be It Enacted by the Legislature of the State of Florida:
18

19 Section 1. Section 1002.395, Florida Statutes, is repealed.

20 Section 2. Section 1002.40, Florida Statutes, is repealed.

21 Section 3. Section 1002.411, Florida Statutes, is repealed.

22 Section 4. Section 212.099, Florida Statutes, is repealed.

23 Section 5. Section 211.0251, Florida Statutes, is repealed.

24 Section 6. Section 212.1831, Florida Statutes, is repealed.

25 Section 7. Section 220.1875, Florida Statutes, is repealed.

26 Section 8. Section 561.1211, Florida Statutes, is repealed.

27 Section 9. Section 624.51055, Florida Statutes, is
28 repealed.

29 Section 10. Paragraph (k) of subsection (2) and subsection

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30 (8) of section 11.45, Florida Statutes, are amended to read:

31 11.45 Definitions; duties; authorities; reports; rules.—

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

33 ~~(k) Annually conduct operational audits of the accounts and~~
34 ~~records of eligible nonprofit scholarship funding organizations~~
35 ~~receiving eligible contributions under s. 1002.395, including~~
36 ~~any contracts for services with related entities, to determine~~
37 ~~compliance with the provisions of that section. Such audits~~
38 ~~shall include, but not be limited to, a determination of the~~
39 ~~eligible nonprofit scholarship funding organization's compliance~~
40 ~~with s. 1002.395(6)(j). The Auditor General shall provide its~~
41 ~~report on the results of the audits to the Governor, the~~
42 ~~President of the Senate, the Speaker of the House of~~
43 ~~Representatives, the Chief Financial Officer, and the~~
44 ~~Legislative Auditing Committee, within 30 days of completion of~~
45 ~~the audit.~~

46
47 The Auditor General shall perform his or her duties
48 independently but under the general policies established by the
49 Legislative Auditing Committee. This subsection does not limit
50 the Auditor General's discretionary authority to conduct other
51 audits or engagements of governmental entities as authorized in
52 subsection (3).

53 (8) RULES OF THE AUDITOR GENERAL.—The Auditor General, in
54 consultation with the Board of Accountancy, shall adopt rules
55 for the form and conduct of all financial audits performed by
56 independent certified public accountants pursuant to ss.
57 215.981, 218.39, 1001.453, ~~1002.395~~, 1004.28, and 1004.70. The
58 rules for audits of local governmental entities, charter

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59 schools, charter technical career centers, and district school
 60 boards must include, but are not limited to, requirements for
 61 the reporting of information necessary to carry out the purposes
 62 of the Local Governmental Entity, Charter School, Charter
 63 Technical Career Center, and District School Board Financial
 64 Emergencies Act as stated in s. 218.501.

65 Section 11. Paragraph (s) of subsection (8) of section
 66 213.053, Florida Statutes, is amended to read:

67 213.053 Confidentiality and information sharing.—

68 (8) Notwithstanding any other provision of this section,
 69 the department may provide:

70 ~~(s) Information relative to ss. 211.0251, 212.1831,~~
 71 ~~220.1875, 561.1211, 624.51055, and 1002.395 to the Department of~~
 72 ~~Education and the Division of Alcoholic Beverages and Tobacco in~~
 73 ~~the conduct of official business.~~

74
 75 Disclosure of information under this subsection shall be
 76 pursuant to a written agreement between the executive director
 77 and the agency. Such agencies, governmental or nongovernmental,
 78 shall be bound by the same requirements of confidentiality as
 79 the Department of Revenue. Breach of confidentiality is a
 80 misdemeanor of the first degree, punishable as provided by s.
 81 775.082 or s. 775.083.

82 Section 12. Subsection (8) of section 220.02, Florida
 83 Statutes, is amended to read:

84 220.02 Legislative intent.—

85 (8) It is the intent of the Legislature that credits
 86 against either the corporate income tax or the franchise tax be
 87 applied in the following order: those enumerated in s. 631.828,

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88 those enumerated in s. 220.191, those enumerated in s. 220.181,
 89 those enumerated in s. 220.183, those enumerated in s. 220.182,
 90 those enumerated in s. 220.1895, those enumerated in s. 220.195,
 91 those enumerated in s. 220.184, those enumerated in s. 220.186,
 92 those enumerated in s. 220.1845, those enumerated in s. 220.19,
 93 those enumerated in s. 220.185, ~~those enumerated in s. 220.1875,~~
 94 those enumerated in s. 220.192, those enumerated in s. 220.193,
 95 those enumerated in s. 288.9916, those enumerated in s.
 96 220.1899, those enumerated in s. 220.194, and those enumerated
 97 in s. 220.196.

98 Section 13. Paragraph (a) of subsection (1) of section
 99 220.13, Florida Statutes, is amended to read:

100 220.13 "Adjusted federal income" defined.—

101 (1) The term "adjusted federal income" means an amount
 102 equal to the taxpayer's taxable income as defined in subsection
 103 (2), or such taxable income of more than one taxpayer as
 104 provided in s. 220.131, for the taxable year, adjusted as
 105 follows:

106 (a) *Additions.*—There shall be added to such taxable income:

107 1. ~~a.~~ The amount of any tax upon or measured by income,
 108 excluding taxes based on gross receipts or revenues, paid or
 109 accrued as a liability to the District of Columbia or any state
 110 of the United States which is deductible from gross income in
 111 the computation of taxable income for the taxable year.

112 ~~b. Notwithstanding sub-subparagraph a., if a credit taken~~
 113 ~~under s. 220.1875 is added to taxable income in a previous~~
 114 ~~taxable year under subparagraph 11. and is taken as a deduction~~
 115 ~~for federal tax purposes in the current taxable year, the amount~~
 116 ~~of the deduction allowed shall not be added to taxable income in~~

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117 ~~the current year. The exception in this sub-subparagraph is~~
118 ~~intended to ensure that the credit under s. 220.1875 is added in~~
119 ~~the applicable taxable year and does not result in a duplicate~~
120 ~~addition in a subsequent year.~~

121 2. The amount of interest which is excluded from taxable
122 income under s. 103(a) of the Internal Revenue Code or any other
123 federal law, less the associated expenses disallowed in the
124 computation of taxable income under s. 265 of the Internal
125 Revenue Code or any other law, excluding 60 percent of any
126 amounts included in alternative minimum taxable income, as
127 defined in s. 55(b)(2) of the Internal Revenue Code, if the
128 taxpayer pays tax under s. 220.11(3).

129 3. In the case of a regulated investment company or real
130 estate investment trust, an amount equal to the excess of the
131 net long-term capital gain for the taxable year over the amount
132 of the capital gain dividends attributable to the taxable year.

133 4. That portion of the wages or salaries paid or incurred
134 for the taxable year which is equal to the amount of the credit
135 allowable for the taxable year under s. 220.181. This
136 subparagraph shall expire on the date specified in s. 290.016
137 for the expiration of the Florida Enterprise Zone Act.

138 5. That portion of the ad valorem school taxes paid or
139 incurred for the taxable year which is equal to the amount of
140 the credit allowable for the taxable year under s. 220.182. This
141 subparagraph shall expire on the date specified in s. 290.016
142 for the expiration of the Florida Enterprise Zone Act.

143 6. The amount taken as a credit under s. 220.195 which is
144 deductible from gross income in the computation of taxable
145 income for the taxable year.

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146 7. That portion of assessments to fund a guaranty
147 association incurred for the taxable year which is equal to the
148 amount of the credit allowable for the taxable year.

149 8. In the case of a nonprofit corporation that ~~which~~ holds
150 a pari-mutuel permit and that ~~which~~ is exempt from federal
151 income tax as a farmers' cooperative, an amount equal to the
152 excess of the gross income attributable to the pari-mutuel
153 operations over the attributable expenses for the taxable year.

154 9. The amount taken as a credit for the taxable year under
155 s. 220.1895.

156 10. Up to 9 ~~nine~~ percent of the eligible basis of any
157 designated project which is equal to the credit allowable for
158 the taxable year under s. 220.185.

159 ~~11. The amount taken as a credit for the taxable year under~~
160 ~~s. 220.1875. The addition in this subparagraph is intended to~~
161 ~~ensure that the same amount is not allowed for the tax purposes~~
162 ~~of this state as both a deduction from income and a credit~~
163 ~~against the tax. This addition is not intended to result in~~
164 ~~adding the same expense back to income more than once.~~

165 ~~11.12.~~ The amount taken as a credit for the taxable year
166 under s. 220.192.

167 ~~12.13.~~ The amount taken as a credit for the taxable year
168 under s. 220.193.

169 ~~13.14.~~ Any portion of a qualified investment, as defined in
170 s. 288.9913, which is claimed as a deduction by the taxpayer and
171 taken as a credit against income tax pursuant to s. 288.9916.

172 ~~14.15.~~ The costs to acquire a tax credit pursuant to s.
173 288.1254(5) that are deducted from or otherwise reduce federal
174 taxable income for the taxable year.

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175 15.16. The amount taken as a credit for the taxable year
176 pursuant to s. 220.194.

177 16.17. The amount taken as a credit for the taxable year
178 under s. 220.196. The addition in this subparagraph is intended
179 to ensure that the same amount is not allowed for the tax
180 purposes of this state as both a deduction from income and a
181 credit against the tax. The addition is not intended to result
182 in adding the same expense back to income more than once.

183 Section 14. Subsection (2) of section 220.186, Florida
184 Statutes, is amended to read:

185 220.186 Credit for Florida alternative minimum tax.—

186 (2) The credit pursuant to this section shall be the amount
187 of the excess, if any, of the tax paid based upon taxable income
188 determined pursuant to s. 220.13(2)(k) over the amount of tax
189 which would have been due based upon taxable income without
190 application of s. 220.13(2)(k), ~~before application of this~~
191 ~~credit without application of any credit under s. 220.1875.~~

192 Section 15. Paragraph (b) of subsection (6) of section
193 1002.20, Florida Statutes, is amended to read:

194 1002.20 K-12 student and parent rights.—Parents of public
195 school students must receive accurate and timely information
196 regarding their child's academic progress and must be informed
197 of ways they can help their child to succeed in school. K-12
198 students and their parents are afforded numerous statutory
199 rights including, but not limited to, the following:

200 (6) EDUCATIONAL CHOICE.—

201 (b) *Private educational choices.*—Parents of public school
202 students may seek private educational choice options under
203 certain programs.

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204 1. Under the McKay Scholarships for Students with
205 Disabilities Program, the parent of a public school student with
206 a disability may request and receive a McKay Scholarship for the
207 student to attend a private school in accordance with s.
208 1002.39.

209 ~~2. Under the Florida Tax Credit Scholarship Program, the~~
210 ~~parent of a student who qualifies for free or reduced-price~~
211 ~~school lunch or who is currently placed, or during the previous~~
212 ~~state fiscal year was placed, in foster care as defined in s.~~
213 ~~39.01 may seek a scholarship from an eligible nonprofit~~
214 ~~scholarship funding organization in accordance with s. 1002.395.~~

215 2.3. Under the Florida Personal Learning Scholarship
216 Accounts Program, the parent of a student with a qualifying
217 disability may apply for a personal learning scholarship to be
218 used for individual educational needs in accordance with s.
219 1002.385.

220 Section 16. Subsection (2) of section 1002.23, Florida
221 Statutes, is amended to read:

222 1002.23 Family and School Partnership for Student
223 Achievement Act.—

224 (2) To facilitate meaningful parent and family involvement,
225 the Department of Education shall develop guidelines for a
226 parent guide to successful student achievement which describes
227 what parents need to know about their child's educational
228 progress and how they can help their child to succeed in school.
229 The guidelines shall include, but need not be limited to:

230 (a) Parental information regarding:

231 1. Requirements for their child to be promoted to the next
232 grade, as provided for in s. 1008.25;

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- 233 2. Progress of their child toward achieving state and
234 district expectations for academic proficiency;
- 235 3. Assessment results, including report cards and progress
236 reports;
- 237 4. Qualifications of their child's teachers; and
- 238 5. School entry requirements, including required
239 immunizations and the recommended immunization schedule;
- 240 (b) Services available for parents and their children, such
241 as family literacy services; mentoring, tutorial, and other
242 academic reinforcement programs; college planning, academic
243 advisement, and student counseling services; and after-school
244 programs;
- 245 (c) Opportunities for parental participation, such as
246 parenting classes, adult education, school advisory councils,
247 and school volunteer programs;
- 248 (d) Opportunities for parents to learn about rigorous
249 academic programs that may be available for their child, such as
250 honors programs, dual enrollment, advanced placement,
251 International Baccalaureate, International General Certificate
252 of Secondary Education (pre-AICE), Advanced International
253 Certificate of Education, Florida Virtual High School courses,
254 and accelerated access to postsecondary education;
- 255 (e) Educational choices, as provided for in s. 1002.20(6)~~7~~
256 ~~and Florida tax credit scholarships, as provided for in s.~~
257 ~~1002.395;~~
- 258 (f) Classroom and test accommodations available for
259 students with disabilities;
- 260 (g) School board rules, policies, and procedures for
261 student promotion and retention, academic standards, student

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262 assessment, courses of study, instructional materials, and
263 contact information for school and district offices; and

264 (h) Resources for information on student health and other
265 available resources for parents.

266 Section 17. Paragraphs (e) and (g) of subsection (2),
267 paragraph (b) of subsection (3), paragraph (c) of subsection
268 (4), paragraph (c) of subsection (9), and paragraph (g) of
269 subsection (13) of section 1002.385, Florida Statutes, are
270 amended to read:

271 1002.385 The Gardiner Scholarship.—

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

273 ~~(e) “Eligible nonprofit scholarship funding organization”~~
274 ~~or “organization” means a nonprofit scholarship funding~~
275 ~~organization that is approved pursuant to s. 1002.395(15).~~

276 (f) ~~(g)~~ “Eligible private school” means a private school, as
277 defined in s. 1002.01, which is located in this state, which
278 offers an education to students in any grade from kindergarten
279 to grade 12, and which meets the requirements of:

280 1. Sections 1002.42 and 1002.421; and

281 2. A scholarship program under s. 1002.39 ~~or s. 1002.395,~~
282 ~~as applicable,~~ if the private school participates in a
283 scholarship program under s. 1002.39 ~~or s. 1002.395.~~

284 (3) PROGRAM ELIGIBILITY.—A parent of a student with a
285 disability may request and receive from the state a Gardiner
286 Scholarship for the purposes specified in subsection (5) if:

287 (b) The parent has applied to an eligible nonprofit
288 scholarship-funding organization to participate in the program
289 by February 1 before the school year in which the student will
290 participate or an alternative date as set by the organization

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291 for any vacant, funded slots. The request must be communicated
292 directly to the organization in a manner that creates a written
293 or electronic record of the request and the date of receipt of
294 the request. In addition to the application and any
295 documentation required by the organization or by State Board of
296 Education rule, the parent may submit a final verification
297 document pursuant to this paragraph to receive scholarship funds
298 in the student's account before the department confirms program
299 eligibility pursuant to paragraph (9)(e). The final verification
300 document must consist of one of the following items applicable
301 to the student:

302 1. A completed withdrawal form from the school district, if
303 the student was enrolled in a public school before the
304 determination of program eligibility.

305 2. A letter of admission or enrollment from an eligible
306 private school for the fiscal year in which the student wishes
307 to participate and, if applicable, a copy of the notification
308 from the private school that the student has withdrawn from the
309 John M. McKay Scholarships for Students with Disabilities
310 Program ~~or the Florida Tax Credit Scholarship Program.~~

311 3. A copy of the notice of the parent's intent to establish
312 and maintain a home education program required by s.
313 1002.41(1)(a) or the annual educational evaluation of the
314 student in a home education program, which is required by s.
315 1002.41(2).

316 (4) PROGRAM PROHIBITIONS.—A student is not eligible for the
317 program if he or she is:

318 (c) Receiving a scholarship pursuant to ~~the Florida Tax~~
319 ~~Credit Scholarship Program under s. 1002.395~~ or the John M.

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320 McKay Scholarships for Students with Disabilities Program under
321 s. 1002.39.

322 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The department
323 shall:

324 (c) Investigate any written complaint of a violation of
325 this section by a parent, a student, a private school, a public
326 school or a school district, an organization, a provider, or
327 another appropriate party ~~in accordance with the process~~
328 ~~established by s. 1002.421.~~

329 (13) FUNDING AND PAYMENT.—

330 (g) In addition to funds appropriated for scholarship
331 awards and subject to a separate, specific legislative
332 appropriation, an organization may receive an amount equivalent
333 to not more than 3 percent of the amount of each scholarship
334 award from state funds for administrative expenses if the
335 organization has operated as a nonprofit entity for at least the
336 preceding 3 fiscal years and did not have any findings of
337 material weakness or material noncompliance in its most recent
338 audit ~~under s. 1002.395(6)(m).~~ Such administrative expenses must
339 be reasonable and necessary for the organization's management
340 and distribution of scholarships under this section. Funds
341 authorized under this paragraph may not be used for lobbying or
342 political activity or expenses related to lobbying or political
343 activity. An organization may not charge an application fee for
344 a scholarship. Administrative expenses may not be deducted from
345 funds appropriated for scholarship awards.

346 Section 18. Subsection (3) of section 1002.39, Florida
347 Statutes, is amended to read:

348 1002.39 The John M. McKay Scholarships for Students with

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349 Disabilities Program.—There is established a program that is
350 separate and distinct from the Opportunity Scholarship Program
351 and is named the John M. McKay Scholarships for Students with
352 Disabilities Program.

353 (3) JOHN M. MCKAY SCHOLARSHIP PROHIBITIONS.—A student is
354 not eligible for a John M. McKay Scholarship:

355 (a) While he or she is enrolled in a school operating for
356 the purpose of providing educational services to youth in
357 Department of Juvenile Justice commitment programs;

358 ~~(b) While he or she is receiving a Florida tax credit~~
359 ~~scholarship under s. 1002.395;~~

360 (b) ~~(e)~~ While he or she is receiving an educational
361 scholarship pursuant to this chapter;

362 (c) ~~(d)~~ While he or she is participating in a home education
363 program as defined in s. 1002.01(1);

364 (d) ~~(e)~~ While he or she is participating in a private
365 tutoring program pursuant to s. 1002.43;

366 (e) ~~(f)~~ While he or she is participating in a virtual
367 school, correspondence school, or distance learning program that
368 receives state funding pursuant to the student's participation
369 unless the participation is limited to no more than two courses
370 per school year;

371 (f) ~~(g)~~ While he or she is enrolled in the Florida School
372 for the Deaf and the Blind;

373 (g) ~~(h)~~ While he or she is not having regular and direct
374 contact with his or her private school teachers at the school's
375 physical location unless he or she is enrolled in the private
376 school's transition-to-work program pursuant to subsection (9);
377 or

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378 (h) ~~(i)~~ If he or she has been issued a temporary 504
379 accommodation plan under s. 504 of the Rehabilitation Act of
380 1973 which is valid for 6 months or less.

381 Section 19. Paragraph (q) of subsection (1) of section
382 1002.421, Florida Statutes, is amended to read:

383 1002.421 State school choice scholarship program
384 accountability and oversight.—

385 (1) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—A private
386 school participating in an educational scholarship program
387 established pursuant to this chapter must be a private school as
388 defined in s. 1002.01(2) in this state, be registered, and be in
389 compliance with all requirements of this section in addition to
390 private school requirements outlined in s. 1002.42, specific
391 requirements identified within respective scholarship program
392 laws, and other provisions of Florida law that apply to private
393 schools, and must:

394 ~~(q) Provide a report from an independent certified public
395 accountant who performs the agreed-upon procedures developed
396 pursuant to s. 1002.395(6) (o) if the private school receives
397 more than \$250,000 in funds from scholarships awarded under this
398 chapter in a state fiscal year. A private school subject to this
399 subsection must annually submit the report by September 15 to
400 the scholarship funding organization that awarded the majority
401 of the school's scholarship funds. However, a school that
402 receives more than \$250,000 in scholarship funds only through
403 the John M. McKay Scholarship for Students with Disabilities
404 Program pursuant to s. 1002.39 must submit the annual report by
405 September 15 to the department. The agreed-upon procedures must
406 be conducted in accordance with attestation standards~~

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407 ~~established by the American Institute of Certified Public~~
408 ~~Accountants.~~

409
410 The department shall suspend the payment of funds to a private
411 school that knowingly fails to comply with this subsection, and
412 shall prohibit the school from enrolling new scholarship
413 students, for 1 fiscal year and until the school complies. If a
414 private school fails to meet the requirements of this subsection
415 ~~or has consecutive years of material exceptions listed in the~~
416 ~~report required under paragraph (g),~~ the commissioner may
417 determine that the private school is ineligible to participate
418 in a scholarship program.

419 Section 20. This act shall take effect July 1, 2019.