## Tab 1
**SB 48 by Diaz (CO-INTRODUCERS) Brandes, Garcia, Baxley, Perry; Educational Scholarship Programs**

<table>
<thead>
<tr>
<th>ID</th>
<th>Action</th>
<th>Source</th>
<th>Author</th>
<th>Notes</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>876706</td>
<td>A</td>
<td>S</td>
<td>ED, Berman</td>
<td>Delete L.275:</td>
<td>02/02 08:42 AM</td>
</tr>
<tr>
<td>453090</td>
<td>A</td>
<td>S</td>
<td>ED, Diaz</td>
<td>Delete L.2967 - 2983:</td>
<td>02/02 07:37 AM</td>
</tr>
<tr>
<td>854600</td>
<td>A</td>
<td>S</td>
<td>ED, Berman</td>
<td>Delete L.4543 - 4560:</td>
<td>02/02 08:43 AM</td>
</tr>
<tr>
<td>904122</td>
<td>A</td>
<td>S L</td>
<td>ED, Jones</td>
<td>Delete L.1182 - 1184:</td>
<td>02/02 04:52 PM</td>
</tr>
<tr>
<td>837324</td>
<td>A</td>
<td>S L</td>
<td>ED, Jones</td>
<td>Delete L.1204 - 1219:</td>
<td>02/03 07:36 AM</td>
</tr>
<tr>
<td>380768</td>
<td>A</td>
<td>S L</td>
<td>ED, Jones</td>
<td>Delete L.3958 - 3960:</td>
<td>02/03 07:38 AM</td>
</tr>
<tr>
<td>782544</td>
<td>A</td>
<td>S L</td>
<td>ED, Jones</td>
<td>Delete L.339 - 341:</td>
<td>02/03 07:38 AM</td>
</tr>
</tbody>
</table>

## Tab 2
**SB 146 by Brandes; (Compare to H 00611) Civic Education**

## Tab 3
**SB 282 by Baxley (CO-INTRODUCERS) Albritton; (Identical to H 00529) Moments of Silence in Public Schools**

## Tab 4
**SB 200 by Berman; Student Retention**

<table>
<thead>
<tr>
<th>ID</th>
<th>Action</th>
<th>Source</th>
<th>Author</th>
<th>Notes</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>794706</td>
<td>D</td>
<td>S</td>
<td>ED, Berman</td>
<td>Delete everything after</td>
<td>02/02 08:41 AM</td>
</tr>
<tr>
<td>TAB</td>
<td>BILL NO. and INTRODUCER</td>
<td>BILL DESCRIPTION and SENATE COMMITTEE ACTIONS</td>
<td>COMMITTEE ACTION</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-----</td>
<td>------------------------</td>
<td>---------------------------------------------</td>
<td>------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>SB 48 Diaz</td>
<td>Educational Scholarship Programs; Requiring the Auditor General to conduct certain audits at least every 3 years instead of annually; adding certain students to those whom district school boards must provide preferential treatment in the controlled open enrollment process; establishing the McKay-Gardiner Scholarship Program; prohibiting a student from participating in the program under certain circumstances; providing that program funding for specified children constitutes their full funding under part V of ch. 1002; providing commissioner authority and obligations relating to suspending or revoking program participation, etc.</td>
<td>ED 02/03/2021 AED AP</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>SB 146 Brandes</td>
<td>Civic Education; Requiring the Commissioner of Education to develop minimum criteria for a nonpartisan civic literacy practicum for high school students, beginning with a specified school year; authorizing students to apply the hours they devote to practicum activities to certain community service requirements; requiring school districts accept nonpartisan civic literacy practicum activities and hours in requirements for certain awards; requiring the State Board of Education to designate certain high schools as Freedom Schools, etc.</td>
<td>ED 02/03/2021 AP</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TAB</td>
<td>BILL NO. and INTRODUCER</td>
<td>BILL DESCRIPTION and SENATE COMMITTEE ACTIONS</td>
<td>COMMITTEE ACTION</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-----</td>
<td>------------------------</td>
<td>---------------------------------------------</td>
<td>-----------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>SB 282 Baxley</td>
<td>Moments of Silence in Public Schools; Providing legislative findings; requiring that public school principals require certain teachers to set aside time for a moment of silence at the beginning of each school day; prohibiting teachers from making suggestions as to the nature of any reflection that a student may engage in during the moment of silence; deleting a provision authorizing district school boards to provide a brief period of silent prayer or meditation; requiring certain teachers to encourage parents or guardians to discuss the moment of silence with their children and to make suggestions as to the best use of this time, etc.</td>
<td>ED 02/03/2021 JU RC</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>SB 200 Berman</td>
<td>Student Retention; Authorizing a parent to request that his or her student be retained in a grade level for a specified school year; requiring school district superintendents to grant such requests if they are timely received; requiring school districts to administer a certain assessment to specified students; clarifying that specified students may qualify for midyear promotion; authorizing a parent to request such promotion or to request that his or her student continue to be retained, etc.</td>
<td>ED 02/03/2021 AED AP</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Other Related Meeting Documents
I. Summary:

SB 48 consolidates student scholarship programs in order to reduce confusion in the eligibility for and use of awards, and provide parents with more flexibility to meet the educational needs of their child. The bill merges the John M. McKay Scholarship Program for Students with Disabilities (McKay program) with the Gardiner Scholarship Program (Gardiner program) and creates a new scholarship program, the McKay-Gardiner Scholarship Program (McKay-Gardiner program). The bill incorporates the Florida Tax Credit Scholarship Program (FTC program) and Hope Scholarship Program (HSP) into the Family Empowerment Scholarship Program (FES program). In addition, the bill:

- Establishes both scholarship programs as education savings accounts authorizing parents to choose from both public and private options to customize the educational experience to best meet the needs of their child.
- Provides that eligible families may receive an award whether their students are currently attending a public or private school, or a home education program.
- Specifies that prior year scholarship recipients are eligible for a scholarship under the appropriate program.
- Increases the scholarship award to 97.5 percent of the per-student-funding calculation and authorizes up to 2.5 percent as allowable for administrative costs incurred by nonprofit scholarship funding organizations (SFOs).
- Combines specified eligibility requirements from the McKay and Gardiner scholarship programs to establish the McKay-Gardiner program student eligibility requirements and award priorities.
- Modifies FES program student eligibility requirements and award priorities to incorporate FTC program and HSP provisions.
- Establishes the number of McKay-Gardiner program awards at 50,000 full-time equivalent (FTE) students and an annual scholarship growth rate of seven percent.
• Maintains the current FES program annual growth rate of one percent of the public school population, and includes prior year FTC program and HSP recipients outside of the growth cap.
• Establishes common accountability metrics across scholarship programs, maintaining accountability metrics established through the McKay, Gardiner, FTC, and FES programs, and the HSP.
• Requires the Auditor General to conduct an operational audit on nonprofit SFOs at least once every three years.
• Specifies that a private virtual school with at least one administrative office located in Florida meets the physical location requirement for private schools participating in the state school choice scholarship program.

The impact on state funding is indeterminate. The state funding will depend on an official estimate of student FTE participating in the scholarship programs for the 2021-2022 school year, the amount of revenue transferred into the Florida Education Finance Program (FEFP), and the amount of state funds allocated to the FEFP during the appropriation process. See Section V.

The bill takes effect on July 1, 2021.

II. Present Situation:

The present situation for the relevant portions of the bill is discussed under the Effect of Proposed Changes of this bill analysis.

III. Effect of Proposed Changes:

Education Choice

Across the United States, an evolving school choice landscape reflects changes in the accessibility and desirability of an array of education options, including traditional and nontraditional public schools, private schools, and homeschooling.¹ Many states are expanding school choice options. All 50 states and the District of Columbia provide parents the ability to send their child to a school outside of their zoned school.² Twenty-seven states and the District of Columbia have enacted policies designed to broaden access to a private education.³ The three primary policies states have adopted that expand private education choices include:⁴

• School vouchers;
• Scholarship tax credits; and

⁴ School vouchers are state-funded scholarships that pay for students to attend private school rather than public school. Scholarship tax credits allow individuals and corporations to allocate a portion of their owed state taxes to private nonprofit scholarship organizations that issue public and private school scholarships to K-12 students. Education Savings Accounts are state-funded grants deposited into special savings accounts from which parents can withdraw funds for certain educational expenses. Id.
- Education savings accounts.

**Education Choice in Florida**

Approximately 48 percent of Florida’s Pre-Kindergarten through grade 12 students participate in education choice programs in Florida. Students in all programs must meet school attendance requirements through:

- Enrolling in a public school;
- Enrolling in a private school;
- Participating in a home education program directed by his or her parent; or
- Enrolling in a private tutoring program.

To help students take advantage of educational choice options, Florida offers multiple student scholarship programs for students who meet the eligibility requirements. Of these:

- Two scholarship programs serve students with disabilities:
  - The John M. McKay Scholarship for Students with Disabilities Program (McKay program), a school voucher program; and
  - The Gardiner Scholarship Program (Gardiner program), an education savings account program.

- Two scholarship programs serve students from low-income families:
  - The Florida Tax Credit Scholarship Program (FTC program), a tax-credit scholarship program; and
  - The Family Empowerment Scholarship Program (FES program), a school voucher program.

Florida also offers a second tax-credit scholarship, the Hope Scholarship Program (HSP), serving students who have reported an incident of battery, harassment, hazing, bullying or other encounter as defined in law.

---


6 Section 1003.01(13), F.S.

7 A private school is defined as an individual, association, co-partnership, or corporation, or department, division, or section of such organizations, that designates itself as an educational center that includes kindergarten or a higher grade and is below college level. A private school may be a parochial, religious, denominational, for-profit, or nonprofit school. A home education program is not considered a private school. Section 1002.01(2), F.S.

8 A home education program is defined as the sequentially progressive instruction of a student directed by his or her parent in order to satisfy attendance requirements. Section 1002.01(1), F.S.

9 Section 1002.43, F.S.

10 Section 1002.39, F.S., and Rule 6A-6.0970, F.A.C.

11 Section 1002.385, F.S., and Rule 6A-6.0961, F.A.C.

12 Section 1002.395, F.S., and Rule 6A-6.0960, F.A.C.

13 Section 1002.395(8)(a), F.S.

14 Section 1002.40, F.S., and Rule 6A-60951, F.A.C.
Selected Scholarship Research

In a 2019 study, the Urban Institute found that students who participated in the FTC program for four or more years were up to 46 percent more likely to attend college than their public-school peers.\textsuperscript{15}

A 2020 study by the National Bureau of Economic Research found that as the FTC program expanded, public schools most impacted by the competition had higher test scores, fewer suspensions, and reduced absenteeism.\textsuperscript{16}

The Office of Program Policy Analysis and Government Accountability reported in 2010 that the state saved $36.2 million, which was $1.44 for every $1 lost in tax credits in fiscal year 2008-2009.\textsuperscript{17}

Additional studies have found that students participating in the FTC program are typically from the lowest performing schools, yet students achieve the same test score gains in reading and math as students of all income levels nationally.\textsuperscript{18}

Scholarships for Students with Disabilities

Present Situation

The John M. McKay Scholarship for Students with Disabilities Program

The McKay program was established in 1999 and provides public school students with a defined disability\textsuperscript{19} and an Individual Education Plan (IEP)\textsuperscript{20} or a 504 accommodation plan issued under


\textsuperscript{17} While the Florida Tax Credit Scholarship Program reduces the amount of tax revenues received by the state, it produces a net fiscal benefit. This occurs because education spending for students receiving scholarships is reduced by more than the amount of revenue lost. Office of Program Policy Analysis and Government Accountability, \textit{Florida Tax Credit Scholarship Program Fiscal Year 2008-2009 Fiscal Impact} (2010), available at [https://32n7ya2og9cc2147lx4e0my6-wpengine.netdna-ssl.com/wp-content/uploads/2015/09/2010-oppaga-research-memo.pdf](https://32n7ya2og9cc2147lx4e0my6-wpengine.netdna-ssl.com/wp-content/uploads/2015/09/2010-oppaga-research-memo.pdf). \textit{Supra} note 15 Step Up For Students.


\textsuperscript{19} Students with disabilities include K-12 students who are documented as having an intellectual disability; a speech impairment; a language impairment; a hearing impairment, including deafness; a visual impairment, including blindness; a dual sensory impairment; an orthopedic impairment; another health impairment; an emotional or behavioral disability; a specific learning disability, including, but not limited to, dyslexia, dyscalculia, or developmental aphasia; a traumatic brain injury; a developmental delay; or autism spectrum disorder. Section 1002.39(1), F.S.

\textsuperscript{20} All students who are between the ages of three to 21 and have a disability have the right to a free, appropriate public education. Section 1003.5716, F.S. The IEP is the primary vehicle for communicating the school district’s commitment to addressing the unique educational needs of a student with a disability. Florida Department of Education, \textit{Developing Quality Individual Education Plans} (2015), available at [http://www.fldoe.org/core/fileparse.php/7690/urlt/0070122-qualityieps.pdf](http://www.fldoe.org/core/fileparse.php/7690/urlt/0070122-qualityieps.pdf), at 9.
s. 504 of the Rehabilitation Act of 1973\textsuperscript{21} the option to attend a different public school or private school.\textsuperscript{22}

A student is not eligible for an award under the McKay program if the student is:\textsuperscript{23}

- Enrolled in a Department of Juvenile Justice (DJJ) program or the Florida School for the Deaf and Blind;
- Participating in a home education or private tutoring program, or a virtual school that receives state funding unless the participation is limited to no more than two courses per year;
- Not having regular or direct contact with teachers;
- Issued a temporary 504 accommodation plan valid for 6 months or less; or
- Receiving any other educational scholarship pursuant to law.

The term of the scholarship continues until the student returns to public school, graduates from high school, or reaches 22 years of age. Students who are between the ages of 17 and 22 may participate in a transition-to-work program offered through their private school. The transition-to-work program includes academic instruction, work skills training, and a volunteer or paid work experience.\textsuperscript{24}

School districts are required to comply with multiple obligations, including:\textsuperscript{25}

- Notifying parents of eligible students of the scholarship.
- Maintaining scholarship information on the district website.
- Allowing the parent to enroll their child in a public school other than the one assigned and provide transportation.
- Providing IEP evaluation and student assessment services.

Private schools participating in the scholarship program must comply with laws governing private schools in general, and specific requirements in each scholarship program.\textsuperscript{26}

The McKay program is funded through the Florida Education Finance Program (FEFP), and requires the student to be enrolled and reported for funding by a Florida school district the year prior to applying for a scholarship. During the 2019-2020 school year, $221.5 million in scholarship payments were distributed to 1,547 private schools serving 30,185 students. The


\textsuperscript{22} Section 1002.39(1), F.S.
\textsuperscript{23} Section 1002.39(3), F.S.
\textsuperscript{24} Section 1002.39(9), F.S.
\textsuperscript{25} Section 1002.39(5), F.S.
\textsuperscript{26} Section 1002.421(1), F.S.
The Gardiner Scholarship Program

The Gardiner program was established in 2014 to provide eligible students with a disability a scholarship that can be used to meet the individual educational needs of the student. In order to be eligible for receipt of a scholarship, a student with a defined disability must be a Florida resident, at least three years of age before September 1 or eligible to enroll in kindergarten through grade 12, and:

- Have an IEP written in accordance the rules of the State Board of Education (SBE) or the rules of another state; or
- Have the diagnosis of a specified disability from a physician or psychologist who holds an active license.

Students are not eligible while enrolled in a public school or DJJ program, or receiving any other educational scholarship specified in law.

The scholarship is directly administered by state-approved nonprofit scholarship funding organizations (SFOs). Moneys through scholarships can be used to meet the education needs of students including, but not limited to:

- Instructional materials;
- Curriculum;
- Specialized services, programs, and courses;
- Tuition and fees.

---

28 Disability means, for a 3- or 4-year-old child or for a student in kindergarten to grade 12, autism spectrum disorder, as defined in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, published by the American Psychiatric Association; cerebral palsy; Down syndrome; an intellectual disability; Phelan-McDermid syndrome; Prader-Willi syndrome; spina bifida; being a high-risk child; muscular dystrophy; Williams syndrome; rare diseases which affect patient populations of fewer than 200,000 individuals in the United States, as defined by the National Organization for Rare Disorders; anaphylaxis; deaf; visually impaired; traumatic brain injured; hospital or homebound; or identification as dual sensory impaired. The term “hospital or homebound” includes a student who has a medically diagnosed physical or psychiatric condition or illness and who is confined to the home or hospital for more than 6 months. Section 1002.385(2), F.S.
31 Section 1002.385(4), F.S.
32 See s. 1002.385(12), F.S.
33 Section 1002.385(5), F.S.
34 Id. Specialized services may include applied behavior analysis, services provided by speech-language pathologists, occupational therapy services, services provided by physical therapists, and services provided by listening and spoken language specialists. Specialized programs and courses include summer and after-school education programs and music and art therapy.
35 Tuition or fees may include full-time or part-time enrollment in a home education program, an eligible private school, an eligible postsecondary educational institution or a program offered by the postsecondary institution, a private tutoring program, a virtual program, part-time tutoring, assessments, specialized programs including Voluntary Prekindergarten Education programs. Section 1002.385(5), F.S.
• Transition services provided by job coaches;\textsuperscript{36} and
• Contributions to a college prepaid account.

The term of the scholarship continues until one of the following occurs:\textsuperscript{37}
• The parent does not renew scholarship eligibility;
• The nonprofit SFO determines that the student is ineligible;
• The Commissioner of Education (commissioner) suspends or revokes scholarship participation or use of funds;
• The student’s parent fails to comply with parent and student responsibilities for scholarship participation;\textsuperscript{38}
• The student enrolls in a public school; or
• The student graduates from high school or attains 22 years of age.

Any remaining funds revert to the state after denial or revocation of scholarship eligibility by the commissioner for fraud or abuse, or after three consecutive fiscal years in which an account has been inactive or three consecutive years after high school completion or graduation during which the student is not enrolled in an eligible postsecondary educational institution or a program offered by the institution.\textsuperscript{39}

Parents must meet a number of requirements for Gardiner program participation, which include annually submitting a notarized, sworn compliance statement affirming:\textsuperscript{40}
• The student is enrolled in a program meeting attendance requirements.
• Funds are used as authorized.
• The parent is responsible for the child’s education by meeting specified requirements.
• The student remains in good standing with the provider or school.

Funding is based on the student’s matrix level of services. The funding for a student without a matrix of services is based on the matrix that assigns the student to support Level III of services. If the parent chooses to request and receive a matrix of services\textsuperscript{41} from the school district, when the school district completes the matrix, the amount of the payment is adjusted. The amount of the scholarship award is 90 percent of the calculated amount.\textsuperscript{42} The full amount of the award is deposited in the student’s account once the scholarship has been verified and approved. The nonprofit SFO may use up to three percent of the total amount of all Gardiner program scholarships awarded for administrative expenses. The funds used for administrative expenses

\textsuperscript{36} “Transition services” means a coordinated set of activities for a student, designed within an outcome-oriented process, that promote movement from school to post-school activities, including postsecondary education; vocational training; integrated employment; supported employment; continuing and adult education; adult services; independent living, or community participation. Section 413.20(26), F.S.
\textsuperscript{37} Section 1002.385(6), F.S.
\textsuperscript{38} Section 1002.385(11), F.S.
\textsuperscript{39} Id.
\textsuperscript{40} Section 1002.385(11), F.S.
\textsuperscript{41} The Commissioner of Education must specify a matrix of services and intensity levels to be used by districts in the determination of the two weighted cost factors for exceptional students with the highest levels of need. Section 1011.62(1)(c).
\textsuperscript{42} Section 1002.385(13), F.S.
must originate from eligible tax credit contributions authorized under the FTC program and HSP.\textsuperscript{43}

The Gardiner program has experienced significant growth over the seven years since it was established. For the 2014-2015 school year, scholarships totaling $15 million were awarded to 1,559 students.\textsuperscript{44} For the 2020-2021 school year, $184.1 million has been awarded to 17,508 students through scholarships.\textsuperscript{45} The average scholarship amount is approximately $10,464 per student.\textsuperscript{46}

**Effect of Proposed Changes**

The bill repeals s. 1002.385, F.S., relating to the Gardiner Scholarship Program and s. 1002.39, F.S., relating to the John M. McKay Scholarships for Students with Disabilities Program, and creates a new education savings account scholarship program: s. 1002.381, F.S., relating to the McKay-Gardiner Scholarship Program (McKay-Gardiner).

**McKay-Gardiner Scholarship Program**

The bill merges the McKay and the Gardiner scholarship programs into a single scholarship program, the McKay-Gardiner Scholarship Program, with a common set of eligibility requirements and scholarship award-funding structure. In order to be eligible for receipt of a scholarship, a student must be a resident of this state, three or four years of age or eligible to enroll in kindergarten through grade 12, have a disability as specified in law; and have:

- An IEP\textsuperscript{47} written in accordance the rules of the SBE\textsuperscript{48} or the rules of another state;
- A diagnosis of a defined disability from a physician or psychologist who holds an active license; or
- A 504 accommodation plan issued under s. 504 of the Rehabilitation Act of 1973.\textsuperscript{49}

Similar to the Gardiner program,\textsuperscript{50} the bill specifies that a student is not eligible for an award under the McKay-Gardiner program if he or she is enrolled in a public school or DJJ program, issued a temporary 504 accommodation plan, does not have regular or direct contact with teachers unless enrolled in a transition-to-work program, or is receiving any other educational scholarship pursuant to law.

The bill specifies that eligible students are awarded scholarships using the following priority order:

- A student who received a McKay or Gardiner program scholarship in the prior year;
- A student retained on the previous school year’s wait list; and
- Other eligible students.

\textsuperscript{43} Section 1002.395(6)(j), F.S.
\textsuperscript{45} Id. Data for 2020-2021 is current as of Nov. 16, 2020.
\textsuperscript{46} Id.
\textsuperscript{47} Supra note 20.
\textsuperscript{48} Rule 6A-6.0961, F.A.C. See also Rules 6A-6.03028, 6A-6.030281, 6A-6.03029, and 6A-6.03311, F.A.C.
\textsuperscript{49} Supra note 21.
\textsuperscript{50} See Section 1002.385(4), F.S.
The bill maintains that the scholarship is directly administered by state-approved nonprofit SFOs. Similar to the Gardiner program, scholarship funds can be used to meet the education needs of students, which include all authorized uses under the Gardiner program, but adds:
- Instructional materials including digital devices and internet access.
- Curriculum including teacher’s manuals.
- Specialized services, programs, and courses, including classes related to art, music or theater.
- Tuition and fees, including fees for summer and after-school programs.
- Transition services provided by private schools or job coaches.
- Transportation not to exceed $750 per year.

The term of the scholarship under the bill remains similar to the conditions for termination under the Gardiner program. Private schools participating the scholarship program must continue to comply with current law, and the bill allows for a private school to discount tuition if the private school deems it necessary. School districts must also continue to notify parents of eligible students about the scholarship and provide IEP evaluation and assessment services.

The bill requires the DOE to distribute scholarship funds on a quarterly basis, and adds requirements from the FES program and the FTC program to maintain and publish a list of nationally norm-referenced tests identified for purposes of satisfying assessment requirements, verify nonprofit SFO eligibility, and maintain scholarship information on the DOE website. Additionally, the bill maintains DOE obligations from the Gardiner program, including:
- Maintaining a list of approved providers.
- Requiring nonprofit SFOs to verify eligible educational expenses.
- Requiring quarterly reports of nonprofit SFOs.
- Cross-checking student participation and avoid duplicate payments to nonprofit SFOs.
- Investigating written complaints by a parent, student, private school, public school, school district, SFO, provider, or other party.

The bill requires that parents must meet a number of requirements similar to the Gardiner program, including to annually submit a sworn compliance statement affirming:
- The student is enrolled in a program meeting attendance requirements.
- Funds are used as authorized.
- The parent is responsible for the child’s education by meeting specified requirements.
- The student remains in good standing with the provider or school.

Under the bill, nonprofit SFOs participating in the McKay-Gardiner program may use up to 2.5 percent of the student generated funding for administrative purposes and must comply with a number of requirements to administer the program, including:
- Requirements from the FTC program, which include:
  - Complying with federal antidiscrimination provisions.

---

51 See Section 1002.385(5), F.S.
52 See Section 1002.385(6), F.S.
53 Section 1002.421, F.S.
54 See Section 1002.385(11), F.S.
55 Section 1002.395(4), F.S.
56 42 U.S.C. s. 2000d.
Complying with background check requirements.
Prohibiting an owner or operator from participating in the program or restricting scholarships.
Providing an annual financial audit conducted by an independent certified public accountant to the Auditor General.
Monitoring compliance of private schools.
Notifying the DOE of any violations of law.

- Requirements from the Gardiner program, which include:
  - Maintaining separate accounts for students.
  - Receiving applications, determining eligibility, and awarding scholarships.
  - Verifying qualifying educational expenditures.
  - Returning program funds as required.
  - Notifying parents of IEP evaluations and reevaluations.
  - Submitting timely reports to the DOE and Auditor General.

The bill also retains the nonprofit SFO application process from the FTC program.

The bill establishes the McKay-Gardiner program for up to 50,000 full-time equivalent (FTE) students with a seven percent annual scholarship growth rate. The funding is generated through the FEFP per student calculation based on the grade level, district school to which the student would have been assigned, and the level of services generated by the students. The scholarship award is 97.5 percent of the calculated amount. However, under the McKay-Gardiner program the funds are disbursed quarterly to the parent, rather than under the Gardiner program where all funds are distributed at the beginning of the school year or upon program enrollment.

Similar to the Gardiner program, any remaining funds revert to the state after denial or revocation of scholarship eligibility by the commissioner for fraud or abuse, or after two consecutive fiscal years in which an account has been inactive or three consecutive years after high school completion or graduation during which the student is not enrolled in an eligible postsecondary educational institution or a program offered by the institution.

Similar to public school districts, the bill requires the Auditor General is required to conduct an operational audit on an approved nonprofit SFO at least once every three years, rather than annually under the Gardiner program.

---

57 Section 1002.385(12), F.S.
58 See Section 1002.395(15), F.S.
59 Since 2015, the Auditor General has conducted annual operational audits of the accounts and records of eligible nonprofit scholarship-funding organizations. As recent audits have not disclosed significant control deficiencies or noncompliance, the Legislature should consider amending ss. 11.45(2)(l), 1002.385(14)(a), and 1002.40(12)(a), F.S., to require the Auditor General to conduct operational audits at least once every 3 years of the accounts and records of eligible nonprofit scholarship-funding organizations. Auditor General, Auditor General Annual Report 2020 November 1, 2019, Through October 31, 2020 (2020) available at https://flauditor.gov/pages/pdf_files/annual%20report%202020.pdf at 7.. Section 11.45(2)(f), F.S.
Scholarship Programs for Lower-Income Families

Present Situation

Florida Tax Credit Scholarship Program

The FTC program was established in 2001\(^{60}\) to authorize private, voluntary contributions from corporate donors to eligible SFOs that award scholarships to eligible children from low-income families.\(^{61}\) State law requires the nonprofit SFOs to use the contributions received to provide scholarships to eligible students for the cost of private school tuition or transportation to a public school that is different from the school to which the student was assigned.

To be eligible for an award under the FTC program, a student must meet at least one of the following criteria:

- The student is on the direct certification list\(^{62}\) or the student’s household income level does not exceed 260 percent of the federal poverty level; or
- The student is currently placed, or during the previous state fiscal year was placed, in foster care or in out-of-home care as defined in law.

A student who initially receives a scholarship remains eligible to participate until the student graduates from high school or attains the age of 21 years, whichever occurs first, regardless of the student’s household income level. A sibling of a student who is participating in the scholarship program is eligible for a scholarship if the student resides in the same household as the sibling.\(^{63}\)

A student is not eligible for a scholarship while he or she is enrolled in a public school or DJJ program; receiving another state educational scholarship pursuant to Florida law; enrolled in a home education or private tutoring program, or enrolled in the Florida School for the Deaf and the Blind. The student is also limited to participating in no more than two state-funded virtual courses per year.\(^{64}\)

Nonprofit SFOs must comply with requirements relating to administration of the program, which include complying with federal antidiscrimination laws, background checks, and private school choice. In addition, nonprofit SFOs must:\(^{65}\)

- Give first priority to eligible students who received an FTC program scholarship during the previous school year; and must also prioritize new applicants whose household income levels

---

\(^{60}\) Section 5, ch. 2001-225, L.O.F.

\(^{61}\) The program allows a corporation to receive a dollar-for-dollar tax credit up to 100% of its state income tax liability. The program also includes credits against the insurance premium tax for contributions to eligible nonprofit SFOs, credits against severance taxes on oil and gas production, self-accrued sales tax liabilities of direct pay permit holders, and alcoholic beverage taxes on beer, wine, and spirits. The maximum amount the state may award is $873 million in credits for the 2020-21 fiscal year. Department of Education, Florida Tax Credit Scholarship Program September 2020 Quarterly Report (2020), available at: [http://www.fldoe.org/core/fileparse.php/7558/urlt/FTC-Sept-2020-Q-Report.pdf](http://www.fldoe.org/core/fileparse.php/7558/urlt/FTC-Sept-2020-Q-Report.pdf).

\(^{62}\) Direct certification list means the certified list of children who qualify for the food assistance program, the Temporary Assistance to Needy Families Program, or the Food Distribution Program on Indian Reservations provided to the Department of Education by the Department of Children and Families. Section 1002.395(2)(c), F.S.

\(^{63}\) Section 1002.395(3), F.S.

\(^{64}\) Section 1002.395(4), F.S.

\(^{65}\) Section 1002.395(6), F.S.
do not exceed 185 percent of the federal poverty level or who are in foster care or out-of-home care.

- Provide a scholarship to an eligible student on a first-come, first-served basis unless the student qualifies for priority established in law.
- Apply all funds available under the FTC program and the HSP for renewal scholarship awards before awarding any initial scholarships. The bill also requires each eligible nonprofit SFO to refer any student eligible for an FTC program scholarship who did not receive a renewal or initial scholarship based solely on the lack of available funds through the FTC program or HSP to another eligible nonprofit SFO that may have funds available.

During the 2019-20 school year, FTC program scholarships in the amount of $670 million were awarded to a total of 111,219 students enrolled in 1,870 participating Florida private schools. The maximum scholarship amount per student in the 2019-2020 school year was $7,408.66 As of January 2021, 100,008 scholarships were awarded to students for the 2020-2021 school year.67

**Family Empowerment Scholarship Program**

The FES program was established in 201968 to provide educational options to eligible children of families with limited financial resources. A student who receives a scholarship remains eligible to participate until the student graduates from high school or attains the age of 21 years, whichever occurs first, regardless of the student’s household income level.69 Similar to the McKay program,70 the FES program is funded through the FEFP.

To be eligible for an award under the FES program, a student must meet the following criteria:71

- The student is:
  - On the direct certification list pursuant to law or the student’s household income level does not exceed 300 percent of the federal poverty level; or
  - Currently placed, or during the previous fiscal year was placed, in foster care or in out-of-home care as defined in law.
- The student is eligible to enroll in kindergarten or has spent the prior school year in attendance at a Florida public school. However, a dependent child of a member of the United States Armed Forces who transfers to a school in this state from out of state or from a foreign country due to a parent’s permanent change of station orders or a foster child is exempt from the prior public school attendance requirement.
- The parent has obtained acceptance for admission of the student to a private school that is eligible for the program and the parent has requested a scholarship from DOE at least 60 days before the date of the first scholarship payment.

---

68 Section 6, ch. 2019-21, L.O.F.
69 Section 1002.394(1), F.S.
70 See Section 1002.39(10), F.S.
71 Section 1002.394(3), F.S.
A sibling of a student who is participating in the FES program is eligible for a scholarship if the student resides in the same household as the sibling.\(^{72}\)

A student is not eligible for a scholarship while he or she is enrolled in a public school or DJJ program; receiving another state educational scholarship pursuant to Florida law; enrolled in a home education or private tutoring program, a virtual program that receives state funding pursuant to the student’s participation, or enrolled in the Florida School for the Deaf and the Blind.\(^{73}\)

School districts must provide information on the district’s website and inform all households within the district receiving free or reduced priced meals under the National School Lunch Act\(^ {74}\) of their ability to apply for the scholarship. School districts must also notify the student and parent about, and provide services for, statewide assessment participation.\(^ {75}\)

The DOE is required to:\(^ {76}\)

- Publish and update, as necessary, information on the DOE website about the FES program, including, but not limited to, student eligibility criteria, parental responsibilities, and relevant data.
- Cross-check the list of participating scholarship students with the public school enrollment lists before each scholarship payment to avoid duplication.
- Maintain and publish a list of nationally norm-referenced tests identified for purposes of satisfying the FES program testing requirement.
- Establish and notify nonprofit SFO’s of specified deadlines.

Among other requirements, to be eligible to participate in the FES program, a private school must annually administer or make provision for participating students in grades three through ten to take one of the nationally norm-referenced tests identified by the DOE or take the statewide standardized assessments. A participating private school must report a student’s scores to his or her parent and to a state university for the purpose of annual performance data reporting.\(^ {77}\)

An eligible nonprofit SFO:\(^ {78}\)

- Must verify the household income level of students and submit the verified list of students and related documentation to the DOE.
- May use up to one percent of the total amount of all FES program scholarships awarded for administrative expenses. The funds used for administrative expenses must originate from eligible tax credit contributions authorized under the FTC program and HSP.\(^ {79}\)

---

\(^{72}\) Section 1002.394(3), F.S.
\(^{73}\) Section 1002.394(5), F.S.
\(^{74}\) 42 U.S.C s. 1751, et seq. The National School Lunch Program (NSLP) is a federally assisted meal program operating in public and nonprofit private schools and residential child care institutions. It provides nutritionally balanced, low-cost or free lunches to children each school day. The program was established under the National School Lunch Act, signed by President Harry Truman in 1946. USDA Food and Nutrition Service, National School Lunch Program, [https://www.fns.usda.gov/nslp](https://www.fns.usda.gov/nslp) (last visited Jan. 29, 2021).
\(^{75}\) Section 1002.394(6), F.S.
\(^{76}\) Section 1002.394(7), F.S.
\(^{77}\) Section 1002.394(8), F.S.
\(^{78}\) Section 1002.394(10), F.S.
\(^{79}\) Section 1002.395(6)(j), F.S.
• Must, in a timely manner, submit any information requested by the DOE relating to the scholarship.
• Must notify the DOE of any violation by a parent or private school of FES program requirements.

Funding is based on the student’s grade level and school district in which the student was assigned plus specified categorical programs. The amount of the scholarship award is 95 percent of the calculated amount. The amount of the award is deposited quarterly in the student’s account once the scholarship has been verified and approved.

The FES program was initially established for up to 18,000 eligible students annually beginning with the 2019-2020 school year, and served 17,823. Beginning in the 2020-2021 school year, the number of students participating in the FES annually increases by one percent of the state’s total public school student enrollment. As of January 2021, 36,384 scholarships were awarded to students for the 2020-2021 school year.

Hope Scholarship Program

The HSP was established in 2018 to provide the parent of a public school student an opportunity to transfer the student to another public school or to request a scholarship for the student to enroll in and attend an eligible private school if that student has been subjected to battery; harassment; hazing; bullying; kidnapping; physical attack; robbery; sexual offenses; threat or intimidation; or fighting at school.

Once a parent or child submits a report of an incident, the school principal must provide a copy of the report to the parent and investigate the incident. Once the investigation is complete, or within 15 days after the incident was reported, whichever occurs first, the principal must notify the parent about the HSP.
A tax credit\(^{88}\) is available for use by a person who makes an eligible contribution.\(^{89}\) Eligible contributions used to fund the HSP may be used to fund FTC scholarships, with conditions. A nonprofit SFO may carry forward to the next state fiscal year no more than five percent of net eligible contributions to the HSP.\(^{90}\)

The HSP served 388 students in the 2019-2020 school year.\(^{91}\) As of January 2021, 476 scholarships were awarded to students for the 2020-2021 school year.\(^{92}\)

**Effect of Proposed Changes**

The bill modifies s. 1002.394, F.S., relating to the Family Empowerment Scholarship Program, s. 1002.395, F.S., relating to the Florida Tax Credit Scholarship Program, s. 1002.40, F.S., relating to the Hope Scholarship Program, and related statutes.

**Family Empowerment Scholarship Program**

The bill incorporates the FTC program and HSP into the FES program with a common set of eligibility requirements and scholarship award funding structure. A student is eligible for an award under the FES program if the student is eligible to enroll in kindergarten through grade 12 and is:

- On the direct certification list or the student’s household income does not exceed 300 percent of poverty; which is a higher maximum income level than the FTC program, which is 260% of the poverty level.
- Currently placed or placed during the previous fiscal year in foster or out-of-home care;
- A sibling of a participating student residing in the same household; or
- Enrolled in a public school and reported an incident of being subjected to battery; harassment; hazing; bullying; kidnapping; physical attack; robbery; sexual offenses, threat or intimidation; or fighting at school.

The bill removes the requirement that a student must spend the prior year in attendance at a Florida public school. Therefore, under the bill students participating in a home education or private tutoring program may be eligible to apply for a scholarship, which may likely increase the number of families eligible for an award under the FES program.

The bill establishes scholarship award priorities in the following order:

- A student who received an FTC program or HSP award in the 2020-2021 school year and a student who received an FES program award the previous school year.

---

\(^{88}\) The purchaser of a motor vehicle is granted a credit of 100 percent of an eligible contribution made to an eligible nonprofit scholarship-funding organization for the Hope Scholarship Program against any tax imposed by the state and collected from the purchaser by a dealer, designated agent, or private tag agent as a result of the purchase or acquisition of a motor vehicle, except that a credit may not exceed the tax that would otherwise be collected from the purchaser by a dealer, designated agent, or private tag agent. Section 212.1832(1), F.S.

\(^{89}\) Section 1002.40(13), F.S.

\(^{90}\) Section 1002.40(11)(i), F.S.


\(^{92}\) *Id.*
• A student placed in foster care, a sibling of a participating student, or a student who reported an incident of being subjected to battery; harassment; hazing; bullying; kidnapping; physical attack; robbery; sexual offenses; threat or intimidation; or fighting at school.
• A student who’s household income does not exceed 185 percent of the federal poverty level.
• A student who’s household income does not exceed 300 percent of the federal poverty level.

The bill modifies the FES program from a voucher program to an education savings account program and authorizes scholarship funds to be used to meet the education needs of students, including:
• Instructional materials including digital devices and internet access.
• Curriculum including teacher’s manuals.
• Tuition and fees, including fees for summer and after-school programs, and annual assessments and evaluations.
• Transportation not to exceed $750 per year.

The bill includes a number of provisions parents must meet to maintain eligibility, including to annually submit a sworn compliance statement similar to the McKay-Gardiner program. The bill modifies specific parent responsibilities relating to private schools by removing provisions requiring that the student must attend a private school, and modifying assessment provisions to apply to parents choosing to send their child to a private school.

The bill specifies that nonprofit SFOs must comply with a number of requirements similar to the McKay-Gardiner program to administer the FES program, and allows for SFOs to use up to 2.5 percent, increasing from one percent, of the student generated funding for administrative purposes. In addition, the bill maintains that nonprofit SFOs must:
• Verify household income.
• Allow specified eligible students to apply for a scholarship at any time.
• Have an annual financial audit conducted by an independent certified public accountant.

The bill also retains the nonprofit SFO application process from the FTC program.93

The bill maintains the current annual growth rate of one percent of the public school student enrollment and adds to the program prior year FTC program and HSP scholarship recipients outside of the enrollment cap. The funding is generated through the FEFP per student calculation based on the grade level and the district school to which the student would have been assigned, and increases the scholarship award from 95 percent to 97.5 percent of the calculated amount. An eligible student may also choose a transportation award limited to $750 to attend a public school that is different from the student’s assigned school. The bill authorizes nonprofit SFOs to report students for funding at the time of each student membership survey in order to receive quarterly scholarship disbursements from the DOE.

The bill adds to the FES program similar policies from the Gardiner program relating to scholarship terms and commissioner responsibilities, The bill specifies that any remaining funds revert to the state after denial or revocation of scholarship eligibility by the commissioner for

93 See Section 1002.395(15), F.S.
fraud or abuse, or after two consecutive fiscal years in which an account has been inactive or two consecutive years after high school completion or graduation during which the student is not enrolled in an eligible postsecondary educational institution or a program offered by the institution.

In addition, the bill:
- Requires private schools participating the scholarship program to comply with current law, and allows a private school to discount tuition if the private school deems it necessary.
- Requires school districts to notify parents about the scholarship and removes the requirement for school districts to report scholarship students for funding.
- Similar to public school districts, requires the Auditor General to conduct an operational audit on an approved nonprofit SFO at least once every three years, rather than annually.

**Florida Tax Credit Scholarship Program**

The bill modifies the title of s. 1002.395, F.S. from the Florida Tax Credit Scholarship Program to the Florida K-12 Education Funding Tax Credit Program. The bill enables taxpayers to designate portions of certain tax payments as contributions to K-12 education funding. The bill also requires that contributions be deposited into a designated student fund and used for K-12 education funding.

The bill removes other substantive provisions and incorporates certain provisions into the FES program, including:
- Obligations of eligible nonprofit SFO’s;
- Obligations of the DOE; and
- Nonprofit SFO application requirements.

**Hope Scholarship Program**

The bill modifies the title of s. 1002.40, F.S., from the Hope Scholarship Program to the Florida K-12 Education Funding Tax Credit Program. The bill enables taxpayers to designate portions of certain tax payments as contributions to K-12 education funding. The bill also requires that:
- Eligible contributions be deposited into a designated student fund and used for K-12 education funding.
- The Department of Revenue and DOE collaboratively develop a contribution election form that includes a brief description of each scholarship program available and the type of student served under each program.

The bill removes other substantive provisions and incorporates certain provisions into the FES program, including:
- Eligibility requirements; and
- Requiring an annual evaluation of public schools with ten or more students transferring to another public school or private school due to bullying or other qualifying incident.

---

94 Section 1002.421, F.S.
95 See supra note 54. Section 11.45(2)(f), F.S.
Other Bill Provisions

The bill also:
• Modifies other tax credit related statutes to conform to the bill.
• Modifies controlled open enrollment preferential treatment96 to include McKay-Gardiner program award recipients for students choosing to attend a public school other than the one assigned.
• Allows for a private virtual school with a least one administrative office located in the state to meet the physical location requirement for private school participating in the state school scholarship program.
• Includes the teacher salary allocation in the per student scholarship amount calculation, which is currently excluded under s. 1011.62(18), F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The revenue estimating conference has not yet reviewed the fiscal impact of this bill.

B. Private Sector Impact:

Eligible families may have the opportunity to save money for private school and educational services to meet the educational needs of their child. There may also be increased usage of private educational services as authorized in the bill. In addition,

96 Section 1002.31(2)(c), F.S.
certain tax payers may designate more funding for education through authorized tax credits.

C. Government Sector Impact:

The impact on state funding is indeterminate. The state funding will depend on an official estimate of student full-time equivalent (FTE) participation in the scholarship programs for the 2021-2022 school year, the amount of revenue transferred into the Florida Education Finance Program (FEFP), and the amount of state funds allocated to the FEFP during the appropriation process.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 11.45, 211.0251, 212.099, 212.1831, 212.1832, 213.053, 220.1105, 220.13, 220.186, 220.1875, 561.1211, 624.51055, 1002.20, 1002.23, 1002.31, 1002.394, 1002.395, 1002.40, 1002.411, 1002.421, 1009.971, 1009.98, 1009.981, 1011.61, and 1011.62.

This bill creates section 1002.381 of the Florida Statutes.

This bill repeals the following sections of the Florida Statutes: 1002.385 and 1002.39.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.
The Committee on Education (Berman) recommended the following:

**Senate Amendment (with title amendment)**

1. Delete line 275
2. and insert:
   1. (1) Annually conduct operational
3. Delete line 1713
4. and insert:
   1. (b) The Auditor General shall annually
5. Delete line 2719
6. and insert:
   1. (a) The Auditor General shall annually
And the title is amended as follows:

Delete lines 3 - 5 and insert:

amending s. 11.45, F.S.; conforming provisions to changes

Delete line 121 and insert:

certain audits annually; providing

Delete line 192 and insert:

certain audits annually; providing
The Committee on Education (Diaz) recommended the following:

**Senate Amendment**

Delete lines 2967 - 2983

and insert:

(a) “Annual tax credit amount” means, for any state fiscal year, the sum of the amount of tax credits approved under paragraph (5)(b), including tax credits to be taken under s. 220.1875 or s. 624.51055, which are approved for a taxpayer whose taxable year begins on or after January 1 of the calendar year preceding the start of the applicable state fiscal year.

(b) “Department” means the Department of Revenue.
(c) “Direct certification list” means the certified list of children who qualify for the food assistance program, the Temporary Assistance to Needy Families Program, or the Food Distribution Program on Indian Reservations provided to the Department of Education by the Department of Children and Families.

(b)(d) “Division” means the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation.

(c)(e) “Eligible contribution” means the taxes, or a portion
The Committee on Education (Berman) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 4543 - 4560.

And the title is amended as follows:

Delete lines 263 - 266

and insert:

provisions to changes made by the act; providing an effective
The Committee on Education (Jones) recommended the following:

**Senate Amendment**

Delete lines 1182 - 1184 and insert:

matrix of services within 30 school days after receiving notice of the parent’s request. The school district shall conduct a meeting and develop an IEP and matrix of services within 30 school days after
The Committee on Education (Jones) recommended the following:

**Senate Amendment**

Delete lines 1204 - 1219

and insert:

(b) Annually administer or make provision for students participating in the program in grades 3 through 10 to take the statewide assessments administered pursuant to s. 1008.22. This paragraph does not apply to students with disabilities for whom standardized testing is not appropriate. A participating private school shall report a student’s scores to the parent and the department for use in calculating school grades pursuant to s.
12 1008.34.
The Committee on Education (Jones) recommended the following:

**Senate Amendment**

Delete lines 3958 - 3960 and insert:

organization. The person making the contribution may not designate a specific student as the beneficiary of the contribution.
The Committee on Education (Jones) recommended the following:

**Senate Amendment**

Delete lines 339 - 341
and insert:
to be used pursuant to s. 1002.395. The eligible business making the contribution may not designate a specific student as the beneficiary of the contribution.
A bill to be entitled
An act relating to educational scholarship programs;
amending s. 11.45, F.S.; requiring the Auditor General
to conduct certain audits at least every 3 years
instead of annually; conforming provisions to changes
made by the act; amending s. 211.0251, F.S.;
conforming provisions to changes made by the act;
deleting a provision limiting a certain tax credit to
no more than 50 percent of the tax due on the return
the credit is taken; amending s. 212.099, F.S.;
revising the definition of the term "eligible
contribution"; deleting the definition of the term
"eligible nonprofit scholarship-funding organization";
conforming provisions to changes made by the act;
requiring a dealer to identify on the dealer’s return
the amount of an eligible contribution; requiring the
Department of Revenue to ensure that certain receipts
are deposited in a specified fund; amending ss.
212.1831 and 212.1832, F.S.; conforming provisions to
changes made by the act; amending s. 213.053, F.S.;
deleting authorization for the Department of Revenue
to provide specified information to certain entities;
deleting definitions; amending ss. 220.1105, 220.13,
220.186, 220.1875, 561.1211, 624.51055, and 1002.20,
F.S.; conforming provisions to changes made by the
act; amending s. 1002.23, F.S.; correcting a reference
to the Florida Virtual School; conforming a provision
to changes made by the act; amending s. 1002.31, F.S.;
adding certain students to those whom district school
boards must provide preferential treatment in the
controlled open enrollment process; creating s.
1002.381, F.S.; establishing the McKay-Gardiner
Scholarship Program; providing the purpose of the
program; requiring certain written materials to
describe a scholarship under the program as a "McKay-
Gardiner Scholarship"; defining terms; specifying
eligibility requirements; prohibiting a student from
participating in the program under certain
circumstances; providing criteria for authorized uses
of program funds; prohibiting providers of any
services receiving payments pursuant to the program
from sharing, refunding, or rebating any program funds
with parents of program students; prohibiting
specified persons from billing certain entities for
specified services; providing that program funding for
specified children constitutes their full funding
under part V of ch. 1002; providing the terms of a
program scholarship; requiring the Commissioner of
Education to close scholarship accounts and for
specified funds to revert to the state under specified
circumstances; requiring the commissioner to notify
parents and organizations when a program scholarship
account is closed and funds revert to the state;
providing school district obligations relating to
notifying parents, individualized education plans, and
matrices of service; specifying obligations for
eligible private schools; authorizing the commissioner
to determine that a private school is ineligible to
participate in the scholarship program if the private school fails to meet certain requirements; providing Department of Education obligations relating to the program; providing commissioner authority and obligations relating to suspending or revoking program participation; providing parent and student responsibilities for program participation; providing that a participant who fails to comply with program responsibilities forfeits a program scholarship; requiring charitable organizations seeking to participate in the program to submit an application for initial approval or renewal to the Office of Independent Education and Parental Choice by a specified date; providing requirements for such applications; requiring the office to review applications in consultation with the Department of Revenue and the Chief Financial Officer; requiring the commissioner to recommend approval or disapproval of applications to the State Board of Education within a certain timeframe; requiring the state board to consider applications and recommendations at its next scheduled meeting; requiring the state board to provide a written explanation to organizations whose applications are disapproved; requiring the state board to provide written notice to affected students and parents if the state board disapproves an organization’s renewal application; allowing students affected by such disapproval to remain eligible for the program for a specified timeframe; requiring such students to apply to and be accepted by a different organization for upcoming school years; requiring remaining funds held by a disapproved organization to be transferred to other eligible organizations; requiring the state board to adopt specified rules; exempting specified entities from the initial or renewal application process; providing nonprofit scholarship-funding organization obligations relating to establishing program scholarships; providing eligibility for transition-to-work programs; providing requirements for such programs and for private schools and job coaches participating in such programs; providing student obligations relating to participating in such programs; providing business obligations relating to participating in such programs; specifying requirements for scholarship funding and payment; specifying the initial maximum number of eligible FTE; providing for the annual increase of the maximum number of eligible FTE; requiring nonprofit scholarship-funding organizations to report specified information to the department at the time of each Florida Education Finance Program student membership survey; requiring the department to transfer certain funds to organizations in a specified manner; clarifying that accrued interest in student accounts is in addition to, and not part of, awarded funds; authorizing organizations to develop systems for payment of benefits by funds transfer; prohibiting organizations that develop such systems from reducing...
CODING: Words stricken are deletions; words underlined are additions.

scholarship awards through certain fees; clarifying
that scholarship funds do not constitute taxable
income to the qualified student or to his or her
parent; requiring the Auditor General to conduct
certain audits at least once every 3 years; providing
criteria for such audits; requiring the Auditor
General to provide the commissioner with a copy of
such audits within a specified timeframe; requiring
the Auditor General to notify the department of any
organization that fails to comply with a request for
information; requiring certain departments and
agencies to work with organizations to provide access
to specified lists; providing that the state is not
liable for the award or use of program funds;
clarifying that the act does not expand regulatory
authority of the state over specified entities;
requiring the State Board of Education to adopt rules;
repealing ss. 1002.385 and 1002.39, F.S., relating to
the Gardiner Scholarship and the John M. McKay
Scholarships for Students with Disabilities Program,
respectively; amending s. 1002.394, F.S.; providing
and revising definitions; conforming provisions to
changes made by the act; specifying and revising
eligibility requirements; deleting a provision
requiring the department to notify the school district
of the parent’s intent upon receipt of the parent’s
request; revising the priority order for awarding the
scholarships to eligible students; providing and
revising terms for state Family Empowerment

Scholarship payments to organizations; providing
circumstances under which a student’s account must be
closed and remaining funds reverted to the state;
requiring the commissioner to notify parents when an
account is closed and funds revert to the state;
requiring funds to be used to meet individual
educational needs of eligible students; specifying the
purposes for which such funds may be used; prohibiting
a provider receiving such funds from sharing,
refunding, or rebating the funds with a participating
parent or student; providing eligibility for a
scholarship to transport a student; requiring a
principal or his or her designee to provide copies of
certain reports to a parent; requiring a principal or
his or her designee to investigate incidents in a
specified manner; providing and revising department
obligations relating to participating students;
requiring the department to issue a project grant
award to a state university, to which certain private
schools must report student scores on certain tests;
requiring the department to verify eligible
expenditures before distributing funds; providing and
revising obligations for eligible private schools;
providing and revising parent and student obligations
for initial and continued participation in the
program; providing and revising nonprofit scholarship-
funding organization obligations relating to
participating in the program; expanding eligibility to
specified students who received certain scholarships
Florida Senate - 2021

36-00745D-21

CODING: Words **underlined** are additions; words ___ are deletions.

Page 7 of 158
Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (1) of subsection (2) and subsection (8) of section 11.45, Florida Statutes, are amended to read:

(1) At least every 3 years, annually conduct operational audits of the accounts and records of eligible nonprofit scholarship-funding organizations receiving eligible contributions under ss. 1002.381 and 1002.394, including any contracts for services with related entities, to determine compliance with the provisions of that section. Such audits must include, but not be limited to, a determination of the eligible nonprofit scholarship-funding organization’s compliance with ss. 1002.381(13)(f) and 1002.394(11)(k). The Auditor General shall provide its report on the results of the audits to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Chief Financial Officer, and the Legislative Auditing Committee, within 30 days of completion of the audit.
The Auditor General shall perform his or her duties independently but under the general policies established by the Legislative Auditing Committee. This subsection does not limit the Auditor General’s discretionary authority to conduct other audits or engagements of governmental entities as authorized in subsection (3).

(8) RULES OF THE AUDITOR GENERAL.—The Auditor General, in consultation with the Board of Accountancy, shall adopt rules for the form and conduct of all financial audits performed by independent certified public accountants pursuant to ss. 215.981, 218.39, 1001.453, 1002.381, 1002.394, 1002.395, 1004.28, and 1004.70. The rules for audits of local governmental entities, charter schools, charter technical career centers, and district school boards must include, but are not limited to, requirements for the reporting of information necessary to carry out the purposes of the Local Governmental Entity, Charter School, Charter Technical Career Center, and District School Board Financial Emergencies Act as stated in s. 218.501.

Section 2. Section 211.0251, Florida Statutes, is amended to read:

211.0251 Credit for contributions to K-12 education funding eligible nonprofit scholarship funding organizations.—There is allowed a credit of 100 percent of an eligible contribution directed made to K-12 education funding an eligible nonprofit scholarship funding organization under s. 1002.395 for against any tax due under s. 211.02 or s. 211.025. However, a credit allowed under this section may not exceed 50 percent of the tax due or the return, the credit is taken. For purposes of the distributions of tax revenue under s. 211.06, the department disregard any tax credits allowed under this section to ensure that any reduction in tax revenue received which is attributable to the tax credits results only in a reduction in distributions to the General Revenue Fund. The provisions of s. 1002.395 apply to the credit authorized by this section.

Section 3. Section 212.099, Florida Statutes, is amended to read:

212.099 Credit for contributions to K-12 education funding eligible nonprofit scholarship funding organizations.—

(1) As used in this section, the term:

(a) “Eligible business” means a tenant or person actually occupying, using, or entitled to the use of any property from which the rental or license fee is subject to taxation under s. 212.031.

(b) “Eligible contribution” or “contribution” means the amount of tax, or portion thereof, paid by a monetary contribution from an eligible business to a collecting dealer and designated for K-12 education funding by the eligible business an eligible nonprofit scholarship funding organization to be used pursuant to s. 1002.395. The eligible business making the contribution may not designate a specific student as the beneficiary of the contribution.

(c) “Eligible nonprofit scholarship funding organization” or “organization” has the same meaning as provided in s. 1002.395(2)(f).

(2) An eligible business shall be granted a credit against the tax imposed under s. 211.02 or the tax imposed under s. 211.025 and collected from the eligible business by a dealer. The credit shall be in an amount equal to 100 percent of an eligible contribution made to an organization.
paragraph (a). A certificate of contribution must include the contributor’s name and, if available, federal employer identification number, the amount contributed, the date of contribution, the name of the organization, and the name and federal employer identification number of the dealer.

(5) Each dealer that receives from an eligible business a copy of the department’s approval letter and a certificate of contribution, both of which identify the dealer as the dealer who collects the tax imposed under s. 212.031 from the eligible business and who will reduce collection of taxes from the eligible business pursuant to this section, shall identify on the dealer’s return the amount of the eligible contribution by reducing the tax collected from the eligible business, which amount under s. 212.031 by the total amount of contributions indicated in the certificate of contribution. The reduction may not exceed the amount of credit allocation approved by the department and may not exceed the amount of tax that would otherwise be collected from the eligible business by a dealer when a payment is made under the rental or license fee arrangement. However, payments by an eligible business to a dealer may not be reduced before October 1, 2018.

(a) If the total amount of credits an eligible business may take cannot be fully used within any period that a payment is due under the rental or license fee arrangement because of an insufficient amount of tax that the dealer would collect from the eligible business during that period, the unused amount may be carried forward for a period not to exceed 10 years.

(b) A tax credit may not be claimed on an amended return or through a refund.
CODING: Words **stricken** are deletions; words *underlined* are additions.
allowed a credit of 100 percent of an eligible contribution made to an eligible nonprofit scholarship funding organization under s. 1002.395 against any tax imposed by the state and due under this chapter from a direct pay permit holder as a result of the direct pay permit held pursuant to s. 212.183. For purposes of the dealer’s credit granted for keeping prescribed records, filing timely tax returns, and properly accounting and remitting taxes under s. 212.12, the amount of tax due used to calculate the credit shall include any eligible contribution made to an eligible nonprofit scholarship funding organization from a direct pay permit holder. For purposes of the distributions of tax revenue under s. 212.20, the department shall disregard any tax credits allowed under this section to ensure that any reduction in tax revenue received that is attributable to the tax credits results only in a reduction in distributions to the General Revenue Fund. The provisions of s. 1002.395 apply to the credit authorized by this section.

Section 5. Section 212.1832, Florida Statutes, is amended to read:

212.1832 Credit for contributions to K-12 education funding eligible nonprofit scholarship funding organizations.—

(1) The purchaser of a motor vehicle shall be granted a credit of 100 percent of an eligible contribution made to an eligible nonprofit scholarship funding organization under s. 1002.40 against any tax imposed by the state under this chapter and collected from the purchaser by a direct pay permit holder. For purposes of the distributions of tax revenue under s. 212.20, the department shall disregard any tax credits allowed under this section to ensure that any reduction in tax revenue received that is attributable to the tax credits results only in a reduction in distributions to the General Revenue Fund. The provisions of s. 1002.40 apply to the credit authorized by this section.

(2) A dealer shall take a credit against any tax imposed by the state under this chapter on the purchase of a motor vehicle in an amount equal to the credit granted to the purchaser under subsection (1).

(3) For purposes of the distributions of tax revenue under s. 212.20, the department shall disregard any tax credits allowed under this section to ensure that any reduction in tax revenue received that is attributable to the tax credits results only in a reduction in distributions to the General Revenue Fund. The provisions of s. 1002.40 apply to the credit authorized by this section.

Section 6. Paragraph (s) of subsection (8) and subsections (21) and (22) of section 213.053, Florida Statutes, are amended to read:

213.053 Confidentiality and information sharing.—

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

(a) Information relative to ss. 211.0251, 212.1831, 220.1875, 661.1213, 624.51055, and 1002.395 to the Department of Education and the Division of Alcoholic Beverages and Tobacco in the conduct of official business.

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

(21)(a) For purposes of this subsection, the term:

1. “Eligible nonprofit scholarship funding organization” means an eligible nonprofit scholarship funding organization as defined in s. 1002.395(2) that meets the criteria in s. 1002.395(6) to use up to 3 percent of eligible contributions for administrative expenses.

2. “Taxpayer” has the same meaning as in s. 220.03, unless disclosure of the taxpayer’s name and address would violate any term of an information sharing agreement between the department and an agency of the Federal Government.

(b) The department, upon request, shall provide to an eligible nonprofit scholarship funding organization that provides scholarships under s. 1002.395 a list of the 200 taxpayers with the greatest total corporate income or franchise tax due as reported on the taxpayer’s return filed pursuant to s. 220.22 during the previous calendar year. The list must be in alphabetical order based on the taxpayer’s name and shall contain the taxpayer’s address. The list may not disclose the amount of tax owed by any taxpayer.

(c) An eligible nonprofit scholarship funding organization may request the list once each calendar year. The department shall provide the list within 45 days after the request is made.

(d) Any taxpayer information contained in the list may be used by the eligible nonprofit scholarship funding organization only to notify the taxpayer of the opportunity to make an eligible contribution to the Florida Tax Credit Scholarship Program under s. 1002.395.

For purposes of this subsection, the term:“Taxpayer” has the same meaning as in s. 220.03, unless disclosure of the taxpayer’s name and address would violate any term of an information sharing agreement between the department and an agency of the Federal Government.

(22)(a) The department may provide to an eligible nonprofit scholarship funding organization, as defined in s. 1002.395, a dealer's name, address, federal employer identification number, and information related to differences between credits taken by the dealer pursuant to s. 212.1832(2) and amounts remitted to the eligible nonprofit scholarship funding organization under s. 1002.39(13)(b). The eligible nonprofit scholarship funding organization may use the information for purposes of recovering eligible contributions designated for that organization that were collected by the dealer but never remitted to the organization.

(b) Nothing in this subsection authorizes the disclosure of information if such disclosure is prohibited by federal law. An eligible nonprofit scholarship funding organization is bound by the same requirements of confidentiality and the same penalties for a violation of the requirements as the department.

Section 7. Paragraph (a) of subsection (4) of section 220.1105, Florida Statutes, is amended to read:

220.1105 Tax imposed; automatic refunds and downward

 CODING: Words **stricken** are deletions; words **underlined** are additions.
(4) For fiscal years 2018-2019 through 2020-2021, any amount by which net collections for a fiscal year exceed adjusted forecasted collections for that fiscal year shall only be used to provide refunds to corporate income tax payers as follows:

(a) For purposes of this subsection, the term:

1. “Eligible taxpayer” means:

a. For fiscal year 2018-2019, a taxpayer whose taxable year begins between April 1, 2017, and March 31, 2018, and whose final tax liability for such taxable year is greater than zero;

b. For fiscal year 2019-2020, a taxpayer whose taxable year begins between April 1, 2018, and March 31, 2019, and whose final tax liability for such taxable year is greater than zero; or

c. For fiscal year 2020-2021, a taxpayer whose taxable year begins between April 1, 2019, and March 31, 2020, and whose final tax liability for such taxable year is greater than zero.

2. “Excess collections” for a fiscal year means the amount by which net collections for a fiscal year exceed adjusted forecasted collections for that fiscal year.

3. “Final tax liability” means the taxpayer’s amount of tax due under this chapter for a taxable year, reported on a return filed with the department, plus the amount of any credit taken on such return under s. 220.1875.

4. “Total eligible tax liability” for a fiscal year means the sum of final tax liabilities of all eligible taxpayers for a fiscal year as such liabilities are shown on the latest return filed with the department as of February 1 immediately following that fiscal year.

5. “Taxpayer refund share” for a fiscal year means an eligible taxpayer’s final tax liability as a percentage of the total eligible tax liability for that fiscal year.

6. “Taxpayer refund” for a fiscal year means the taxpayer refund share for a fiscal year multiplied by the excess collections for a fiscal year.

Section 8. Paragraph (a) of subsection (1) of section 220.13, Florida Statutes, is amended to read:

220.13 “Adjusted federal income” defined.—

(1) The term “adjusted federal income” means an amount equal to the taxpayer’s taxable income as defined in subsection (2), or such taxable income of more than one taxpayer as provided in s. 220.131, for the taxable year, adjusted as follows:

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

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

b. Notwithstanding sub-subparagraph a., if a credit taken under s. 220.1875 is added to taxable income in a previous taxable year under subparagraph 11., and is taken as a deduction for federal tax purposes in the current taxable year, the amount of the deduction allowed shall not be added to taxable income in the current year. The exception in this sub-subparagraph is intended to ensure that the credit under s. 220.1875 is added in the applicable taxable year and does not result in a duplicate

CODING: Words **stricken** are deletions; words **underlined** are additions.
2. The amount of interest which is excluded from taxable income under s. 103(a) of the Internal Revenue Code or any other federal law, less the associated expenses disallowed in the computation of taxable income under s. 265 of the Internal Revenue Code or any other law, excluding 60 percent of any amounts included in alternative minimum taxable income, as defined in s. 55(b)(2) of the Internal Revenue Code, if the taxpayer pays tax under s. 220.11(3).

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

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

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

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

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

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

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

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

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

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

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

14. The amount taken as a credit for the taxable year pursuant to s. 220.194.

15. The amount taken as a credit for the taxable year under s. 220.196. The addition in this subparagraph is intended to ensure that the same amount is not allowed for the tax

Page 23 of 158

CODING: Words stricken are deletions; words underlined are additions.
purposes of this state as both a deduction from income and as a credit against the tax. The addition is not intended to result in adding the same expense back to income more than once.

Section 9. Subsection (2) of section 220.186, Florida Statutes, is amended to read:

220.186 Credit for Florida alternative minimum tax.—

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

Section 10. Section 220.1875, Florida Statutes, is amended to read:

220.1875 Credit for contributions to K-12 education funding eligible nonprofit scholarship funding organizations.—

(1) There is allowed a credit of 100 percent of an eligible contribution made to an eligible nonprofit scholarship funding organization under s. 1002.395 against any tax due for a taxable year under this chapter after the application of any other allowable credits by the taxpayer. An eligible contribution must be made when the taxpayer makes an estimated payment to an eligible nonprofit scholarship funding organization on or before the date the taxpayer is required to file a return pursuant to s. 220.222. The credit granted by this section shall be reduced by the difference between the amount of federal corporate income tax taking into account the credit granted by this section and the amount of federal corporate income tax without application of the credit granted by this section.

(2) A taxpayer who files a Florida consolidated return as a member of an affiliated group pursuant to s. 220.131(1) may be allowed the credit on a consolidated return basis; however, the total credit taken by the affiliated group is subject to the limitation established under subsection (1).

(3) The provisions of s. 1002.395 apply to the credit authorized by this section.

(a) If a taxpayer applies and is approved for a credit under s. 1002.395 after timely requesting an extension to file under s. 220.222(2):

(1) The credit does not reduce the amount of tax due for purposes of the department’s determination as to whether the taxpayer was in compliance with the requirement to pay tentative taxes under ss. 220.222 and 220.33.

(b) The taxpayer’s noncompliance with the requirement to pay tentative taxes shall result in the revocation and rescission of any such credit.

(c) The taxpayer shall be assessed for any taxes, penalties, or interest due from the taxpayer’s noncompliance with the requirement to pay tentative taxes.

Section 11. Section 561.1211, Florida Statutes, is amended to read:

561.1211 Credit for contributions to K-12 education funding eligible nonprofit scholarship funding organizations. — There is allowed a credit of 100 percent of an eligible contribution made to an eligible nonprofit scholarship funding organization under s. 1002.395 against any tax due under s. 563.05, s. 564.06, or s. 565.12, except excise taxes imposed on wine produced by manufacturers in this state from products grown in this state.
However, a credit allowed under this section may not exceed 30 percent of the tax due on the return the credit is taken. For purposes of the distributions of tax revenue under ss. 561.121 and 564.06(10), the division shall disregard any tax credits allowed under this section to ensure that any reduction in tax revenue received that is attributable to the tax credits results only in a reduction in distributions to the General Revenue Fund. The provisions of s. 1002.395 apply to the credit authorized by this section.

Section 12. Section 624.51055, Florida Statutes, is amended to read:

624.51055 Credit for contributions to K-12 education funding eligible nonprofit scholarship funding organizations.—

(1) There is allowed a credit of 100 percent of an eligible contribution made to an eligible nonprofit scholarship funding organization under s. 1002.395 against any tax due for a taxable year under s. 624.509(1) after deducting from such tax deductions for assessments made pursuant to s. 443.51; credits for taxes paid under ss. 175.101 and 185.08; credits for income taxes paid under chapter 220; and the credit allowed under s. 624.509(5), as such credit is limited by s. 624.509(6). An eligible contribution must be made to an eligible nonprofit scholarship funding organization on or before the date the taxpayer is required to file a return pursuant to ss. 624.509 and 624.5092. An insurer claiming a credit against premium tax liability under this section shall not be required to pay any additional retaliatory tax levied pursuant to s. 624.5091 as a result of claiming such credit. Section 624.5091 does not limit such credit in any manner.
Section 14. Subsection (2) of section 1002.23, Florida Statutes, is amended to read:

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

(a) Parental information regarding:

1. Requirements for their child to be promoted to the next grade, as provided for in s. 1008.25;
2. Progress of their child toward achieving state and district expectations for academic proficiency;
3. Assessment results, including report cards and progress reports;
4. Qualifications of their child’s teachers; and
5. School entry requirements, including required immunizations and the recommended immunization schedule;

(b) Services available for parents and their children, such as family literacy services; mentoring, tutorial, and other academic reinforcement programs; college planning, academic advisement, and student counseling services; and after-school programs;

(c) Opportunities for parental participation, such as parenting classes, adult education, school advisory councils, and school volunteer programs;

(d) Opportunities for parents to learn about rigorous academic programs that may be available for their child, such as honors programs, dual enrollment, advanced placement, International Baccalaureate, International General Certificate of Secondary Education (pre-AICE), Advanced International Certificate of Education, Florida Virtual High School courses, and accelerated access to postsecondary education;

(e) Educational choices, as provided for in s. 1002.20(6), and Florida tax credit scholarships, as provided for in s. 1002.31;

(f) Classroom and test accommodations available for students with disabilities;

(g) School board rules, policies, and procedures for student promotion and retention, academic standards, student assessment, courses of study, instructional materials, and contact information for school and district offices; and

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

Section 15. Paragraph (c) of subsection (2) of section 1002.31, Florida Statutes, is amended to read:

(2) Each district school board must provide preferential treatment in its controlled open enrollment process to all of the following:

1. Dependent children of active duty military personnel whose move resulted from military orders;
2. Children who have been relocated due to a foster care
36-00745D-21

3. Children who move due to a court-ordered change in

4. Students with an individual education plan or a 504

5. Students residing in the school district.

Section 16. Section 1002.381, Florida Statutes, is created

to read:

1002.381 The McKay-Gardiner Scholarship.—

(1) ESTABLISHMENT OF PROGRAM.—Beginning with the 2021-2022

school year, the McKay-Gardiner Scholarship Program is

established to provide the option for a parent to better meet

the individual educational needs of his or her eligible child.

All written explanatory materials, including state websites,

scholarship organization materials, letters to parents,

scholarship agreements, and any other written information

describing the program to the public, must refer to a

scholarship granted under this program as a “McKay-Gardiner

Scholarship.”

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

(a) “Approved provider” means a provider approved by the

Agency for Persons with Disabilities, a health care practitioner

as defined in s. 456.001(4), or a provider approved by the

department pursuant to s. 1002.66.

(b) “Curriculum” has the same meaning as provided in s.

1002.394(2)(b).

Page 31 of 158

CODING: Words underlined are additions.
Program located and chartered in this state which is not for profit and is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools; or is a charitable organization that:

1. Is exempt from federal income tax pursuant to s. 501(c)(3) of the Internal Revenue Code;
2. Is a Florida entity formed under chapter 605, chapter 607, or chapter 617 and whose principal office is located in this state; and
3. Complies with subsections (12) and (13).

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

(a) The student:

1. Is a resident of this state;
2. Is 3 or 4 years of age on or before September 1 of the year in which the student applies for program participation, or is eligible to enroll in kindergarten through grade 12 in a public school in this state; and
3. Meets at least one of the following criteria:
   a. Has a diagnosis of a disability from a physician who is licensed under chapter 458 or chapter 459, a psychologist who is licensed under chapter 490, or a physician who holds an active license issued by another state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico;
   b. Has an individual education plan that has been written in accordance with the rules of the State Board of Education; or

A student with a disability who meets the requirements of subparagraph 1. and sub-subparagraph 3.a., but who turns 3 years of age after September 1, may be determined to be eligible on or after his or her third birthday and may be awarded a scholarship if program funds are available.

(b) The parent has applied to an eligible nonprofit scholarship-funding organization to participate in the program by a date as set by the organization for any vacant slots. The
request must be communicated directly to the organization in a manner that creates a written or electronic record of the request and the date of receipt of the request.

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

(a) Enrolled in a public school, including, but not limited to, the Florida School for the Deaf and the Blind, the College-Preparatory Boarding Academy, a developmental research school authorized under s. 1002.32, or a charter school authorized under this chapter. For purposes of this paragraph, a 3- or 4-year-old child who receives services funded through the Florida Education Finance Program is considered to be a student enrolled in a public school.

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

(c) Issued a temporary 504 accommodation plan under s. 504 of the Rehabilitation Act of 1973 which is valid for 6 months or less.

(d) Receiving any other educational scholarship pursuant to this chapter.

(e) Not having regular and direct contact with his or her private school teachers pursuant to s. 1002.421(1)(i), unless he or she is enrolled in the private school’s transition-to-work program pursuant to subsection (4) or a home education program pursuant to s. 1002.41.

(f) Participating in a virtual school, correspondence school, or distance learning program that receives state funding pursuant to the student’s participation.
Any part-time tutoring undertaken pursuant to this paragraph does not qualify as regular school attendance as specified in s. 1002.45(2)(a), or a program offered by the Florida Virtual School to a private paying student; or an approved online course offered pursuant to s. 1003.499 or s. 1004.0961.

(e) Fees for nationally standardized, norm-referenced achievement tests, Advanced Placement examinations, industry certification examinations, assessments related to postsecondary education, or other such assessments.

(f) Contributions to the Stanley G. Tate Florida Prepaid College Program pursuant to s. 1009.98 or the Florida College Savings Program pursuant to s. 1009.981, for the benefit of the eligible student.

(g) Contracted services provided by a public school or a school district, including classes. A student who receives services under this paragraph is not considered enrolled in a public school for the purpose of eligibility as provided in subsection (4).

(h) Tuition and fees for part-time tutoring services provided by a person who holds a valid Florida educator’s certificate issued pursuant to s. 1012.56; a person who holds an adjunct teaching certificate issued pursuant to s. 1012.57; a person who has a bachelor’s degree or a graduate degree in the subject area in which instruction is given; or a person who has demonstrated a mastery of subject area knowledge as provided in s. 1012.56(5). Any part-time tutoring undertaken pursuant to this paragraph does not qualify as regular school attendance as defined in s. 1003.01(13)(e).

(i) Fees for summer education programs.

(j) Fees for after-school education programs.

(k) Transition services, including a coordinated set of activities focused on improving the academic and functional achievement of the student to facilitate his or her movement from school to post-school activities and based on the individual student’s needs. Transition services may be provided by job coaches or pursuant to subsection (14).

(1) Fees for an annual evaluation of educational progress by a state-certified teacher under s. 1002.41(1)(f), if this option is chosen for a home education student.

(m) Tuition and fees associated with programs offered by Voluntary Prekindergarten Education Program providers approved pursuant to s. 1002.55 and school readiness providers approved pursuant to s. 1002.88.

(n) Fees for services provided at a center that is a member of the Professional Association of Therapeutic Horsemanship International.

(o) Fees for services provided by a therapist who is certified by the Certification Board for Music Therapists or credentialed by the Art Therapy Credentials Board, Inc.

(p) Tuition and fees associated with enrollment in a nationally or internationally recognized research-based training program, for a child with a neurological disorder or brain damage.

(q) Tuition and fees associated with a student’s participation in classes or lessons relating to art, music, or theater. The instructor of the classes or lessons must:
1. Hold a valid or expired Florida educator's certificate issued under s. 1012.56 in art, music, or drama;
2. Have 3 years of employment experience in art, music, or theater, as demonstrated by employment records;
3. Hold a baccalaureate degree or higher from a postsecondary educational institution with a major in music, art, theater, or drama or related field; or
4. Hold a certification or national accreditation in music, art, theater, or drama.
   (r) Transportation expenses, which may not exceed $750 annually, in connection with meeting the student's educational needs under this section.

A service provider who receives payments pursuant to this subsection may not share or refund any moneys from the McKay-Gardiner Scholarship with the parent or participating student and may not issue rebates to such persons. A parent, student, or service provider may not bill an insurance company, Medicaid, or any other agency for the same services that are paid for with McKay-Gardiner Scholarship funds. Funding provided pursuant to this subsection for a child eligible for enrollment in the Voluntary Prekindergarten Education Program constitutes funding for the child under part V of this chapter, and no additional funding may be provided for the child under part V.

(6) TERMS OF THE PROGRAM.—For purposes of continuity of educational choice and program integrity:
   (a) Program payments made by the state to an organization for a McKay-Gardiner Scholarship under this section must continue until:

CODING: Words **stricken** are deletions; words **underlined** are additions.
enrolled in an eligible postsecondary educational institution or
a program offered by such an institution; or

2. The commissioner must notify the parent and the
organization when a McKay-Gardiner Scholarship account is closed
and program funds revert to the state.

(7) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.—
(a) By each April 1 and within 10 days after an individual
education plan meeting or a 504 accommodation plan is issued
under s. 504 of the Rehabilitation Act of 1973, a school
district shall notify the parent of the student of all options
available pursuant to this section, and shall inform the parent
of the availability of the department’s website for additional
information on McKay-Gardiner Scholarships.

(b)1. The parent of a student with a disability who does
not have an IEP or who seeks a reevaluation of an existing IEP
may request an IEP meeting and evaluation from the school
district in order to obtain or revise a matrix of services. The
school district shall notify a parent who has made a request for
an IEP that the district is required to complete the IEP and
matrix of services within 30 days after receiving notice of the
parent’s request. The school district shall conduct a meeting
and develop an IEP and matrix of services within 30 days after
receipt of the parent’s request in accordance with State Board
of Education rule.

2.a. The school district must provide the student’s parent
and the department with the student’s matrix level within 10
calendar days after its completion.

b. A school district may change a matrix of services only
if the change is a result of an IEP reevaluation or to correct a
technical, typographical, or calculation error.

(c) For each student participating in the program who
chooses to participate in statewide, standardized assessments
under s. 1008.22 or the Florida Alternate Assessment, the school
district in which the student resides must notify the student
and his or her parent about the locations and times of all
statewide, standardized assessments.

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

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

(b)1. Annually administer or make provision for students
participating in the program in grades 3 through 10 to take one
of the nationally norm-referenced tests identified by the
Department of Education or the statewide assessments
administered pursuant to s. 1008.22. This subparagraph does not
apply to students with disabilities for whom standardized
testing is not appropriate. A participating private school shall
report a student’s scores to the parent.

2. Administer the statewide assessments pursuant to s.
1008.22 if a private school chooses to offer the statewide
assessments. A participating private school may choose to offer
and administer the statewide assessments to all students who
attend the private school in grades 3 through 10 and must submit
a request in writing to the Department of Education by March 1
of each year in order to administer the statewide assessments in
If a private school fails to meet the requirements of this subsection or s. 1002.421, the commissioner may determine that the private school is ineligible to participate in the scholarship program.

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

(a) Comply with s. 1002.394(8)(a)-(g).

(b) Maintain on its website a list of approved providers as required by s. 1002.66, eligible postsecondary educational institutions, eligible private schools, and eligible organizations and may identify or provide links to lists of other approved providers.

(c) Require each organization to verify eligible expenditures before the distribution of funds for any expenditures made pursuant to paragraphs (5)(a) and (b). Review of expenditures made for services specified in paragraphs (5)(c)-(z) may be made after the purchase is made.

(d) Investigate any written complaint of a violation of this section by a parent, a student, a private school, a public school, a school district, an organization, a provider, or another appropriate party in accordance with the process established under s. 1002.421.

(e) Require quarterly reports by an organization, which must include, at a minimum, the number of students participating in the program; the demographics of program participants; the disability category of program participants; the matrix level of services, if known; the program award amount per student; the

CODING: Words underlined are additions; words stricken are deletions.
include, but are not limited to, acts or omissions that led to a previous suspension or revocation of participation in a state or federal program or an education scholarship program; failure to reimburse the organization for funds improperly received or retained; failure to reimburse government funds improperly received or retained; imposition of a prior criminal sanction related to the person or entity or its officers or employees; imposition of a civil fine or administrative fine, license revocation or suspension, or program eligibility suspension, termination, or revocation related to a person’s or entity’s management or operation; or other types of criminal proceedings in which the person or entity or its officers or employees were found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense involving fraud, deceit, dishonesty, or moral turpitude.

(II) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM PARTICIPATION.—A parent who applies for program participation under this section is exercising his or her parental option to determine the appropriate placement or services that best meet the needs of his or her child.

(a) To satisfy or maintain program eligibility, including eligibility to receive and spend program payments, the parent must sign an agreement with the organization and annually submit a sworn compliance statement to the organization to:

1. Affirm that the student is enrolled in a program that meets regular school attendance requirements as provided in s. 1003.01(13)(b), (c), or (d).

2. Affirm that the program funds are used only for authorized purposes serving the student’s educational needs, as described in subsection (5).

3. Affirm that the parent is responsible for the education of his or her student by, as applicable:

   a. Requiring the student to take an assessment in accordance with paragraph (8)(b);

   b. Providing an annual evaluation in accordance with s. 1002.41(1)(f); or

   c. Requiring the child to take any preassessments and postassessments selected by the provider if the child is 4 years of age and is enrolled in a program provided by an eligible Voluntary Prekindergarten Education Program provider. This sub-subparagraph does not apply to a student with disabilities for whom a preassessment and postassessment are not appropriate. A participating provider shall report a student’s scores to the parent.

4. Affirm that the student remains in good standing with the provider or school if one of those options is selected by the parent.

   (b) The parent must file an application for initial program participation with an organization by a date established by the organization.

   (c) The parent must enroll his or her child in a program from a Voluntary Prekindergarten Education Program provider authorized under s. 1002.55, a school readiness provider authorized under s. 1002.88, or an eligible private school if either option is selected by the parent.

   (d) The parent must renew participation in the program by a date set by the nonprofit scholarship-funding organization in order for a student to be eligible to receive funding. A student
(5)(f) to another beneficiary while the plan contains funds contributed pursuant to this section.

(b) The parent may not receive a payment, refund, or rebate from an approved provider of any services under this program.

A participant who fails to comply with this subsection forfeits the McKay-Gardiner Scholarship.

(12) NONPROFIT SCHOLARSHIP-FUNDING ORGANIZATIONS;

APPLICATION.—In order to participate in the scholarship program created under this section, a charitable organization that seeks to be a nonprofit scholarship-funding organization must submit an application for initial approval or renewal to the Office of Independent Education and Parental Choice no later than September 1 of each year before the school year for which the organization intends to offer scholarships.

(a) An application for initial approval must include:

1. A copy of the organization’s incorporation documents and registration with the Division of Corporations of the Department of State.

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

3. A description of the organization’s financial plan which demonstrates sufficient funds to operate throughout the school year.

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

5. The organization’s organizational chart.
6. A description of the criteria and methodology that the organization will use to evaluate scholarship eligibility.

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

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

9. A copy of the organization’s policies on conflict of interest and whistleblowers.

10. A copy of a surety bond or letter of credit to secure the faithful performance of the obligations of the eligible nonprofit scholarship-funding organization in accordance with this section in an amount equal to 25 percent of the scholarship funds anticipated for each school year or $100,000, whichever is greater. The surety bond or letter of credit must specify that any claim against the bond or letter of credit may be made only by an eligible nonprofit scholarship-funding organization to provide scholarships to and on behalf of students who would have had scholarships funded if it were not for the diversion of funds giving rise to the claim against the bond or letter of credit.

(b) In addition to the information required under paragraph (a), an application for renewal must include:

1. A surety bond or letter of credit to secure the faithful performance of the obligations of the eligible nonprofit scholarship-funding organization in accordance with this section equal to the amount of undisbursed funds held by the organization based on the annual report submitted pursuant to paragraph (13)(l). The amount of the surety bond or letter of credit must be at least $100,000, but not more than $25 million.
Parental Choice shall review the application. The Department of Education shall notify the organization in writing of any deficiencies within 30 days after receipt of the application and allow the organization 30 days to correct any deficiencies.

(d) Within 30 days after receipt of the finalized application by the Office of Independent Education and Parental Choice, the Commissioner of Education shall recommend approval or disapproval of the application to the State Board of Education. The State Board of Education shall consider the application and recommendation at the next scheduled meeting, adhering to appropriate meeting notice requirements. If the State Board of Education disapproves the organization’s application, it must provide the organization with a written explanation of that determination. The State Board of Education’s action is not subject to chapter 120.

(e) If the State Board of Education disapproves the renewal of a nonprofit scholarship-funding organization, the organization must notify the affected eligible students and parents of the decision within 15 days after disapproval. An eligible student affected by the disapproval of an organization’s participation remains eligible under this section until the end of the school year in which the organization was disapproved. The student must apply and be accepted by another eligible nonprofit scholarship-funding organization for the upcoming school year. The student must be given priority under paragraph (f).

(f) All remaining student accounts with funds held by a nonprofit scholarship-funding organization that is disapproved for participation must be transferred to the student’s account.

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

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

(i) A state university; an independent nonprofit college chartered in this state; or an independent nonprofit university chartered in this state that are eligible to participate in the William L. Boyd, IV, Effective Access to Student Education Grant Program and are accredited by the Commission on Colleges of the.
Southern Association of Colleges and Schools is exempt from the initial or renewal application process, but must file a registration notice with the Department of Education to be an eligible nonprofit scholarship-funding organization. The State Board of Education shall adopt rules that identify the procedure for filing the registration notice with the department. The rules must identify appropriate reporting requirements for fiscal, programmatic, and performance accountability purposes consistent with this section, but may not exceed the requirements for eligible nonprofit scholarship-funding organizations for charitable organizations.

(13) OBLIGATIONS OF ELIGIBLE SCHOLARSHIP-FUNDING ORGANIZATIONS.—An organization may establish McKay-Gardiner scholarships for eligible students by:

(a) Complying with the requirements of s. 1002.394(11)(a)—

(b). Receiving applications and determining student eligibility in accordance with the requirements of this section.

When an application is approved, the organization must provide the department with information on the student to enable the department to determine student funding in accordance with subsection (15).

(c) Providing scholarships on a first-come, first-served basis, based upon the funds provided, and notifying parents of their respective student’s receipt of a scholarship.

(d) Establishing a date by which a parent must confirm initial or continuing participation in the program.

(e) Reviewing applications and awarding scholarship funds to approved applicants using the following order of priority:

1. An eligible student who meets the criteria for an initial or continuing participation in the program.

2. Students retained on the previous school year’s waiting list.

3. An eligible student who meets the criteria for an initial award pursuant to subsection (3).

An approved student who does not receive a scholarship must be placed on the waiting list in the order in which his or her application is approved. An eligible student who does not receive a scholarship within the fiscal year shall be retained on the waiting list for the subsequent year.

(f) Using an amount not to exceed 2.5 percent of the total calculated amount of all scholarships awarded under this section for administrative expenses associated with performing functions authorized under this section.

(g) Verifying qualifying educational expenditures pursuant to paragraph (9)(c) and requesting the return of any funds used for unauthorized purposes.

(h) Returning any remaining program funds to the department pursuant to paragraph (6)(b).

(i) Notifying the parent about the availability of, and the requirements associated with requesting, an initial IEP or IEP reevaluation every 3 years for each student participating in the McKay-Gardiner Scholarship in the 2020-2021 school year and meets the eligibility requirements in subsection (3) is eligible for a McKay-Gardiner Scholarship in the 2021-2022 school year.

b. For the 2022-2023 school year and thereafter, renewing students from the previous school year under this section.

1. An eligible student who meets the criteria for an initial or renewal application process, but must file a

2. Students retained on the previous school year’s waiting list.

3. An eligible student who meets the criteria for an initial award pursuant to subsection (3).

An approved student who does not receive a scholarship must be placed on the waiting list in the order in which his or her application is approved. An eligible student who does not receive a scholarship within the fiscal year shall be retained on the waiting list for the subsequent year.

(f) Using an amount not to exceed 2.5 percent of the total calculated amount of all scholarships awarded under this section for administrative expenses associated with performing functions authorized under this section.

(g) Verifying qualifying educational expenditures pursuant to paragraph (9)(c) and requesting the return of any funds used for unauthorized purposes.

(h) Returning any remaining program funds to the department pursuant to paragraph (6)(b).

(i) Notifying the parent about the availability of, and the requirements associated with requesting, an initial IEP or IEP reevaluation every 3 years for each student participating in the McKay-Gardiner Scholarship in the 2020-2021 school year and meets the eligibility requirements in subsection (3) is eligible for a McKay-Gardiner Scholarship in the 2021-2022 school year.

b. For the 2022-2023 school year and thereafter, renewing students from the previous school year under this section.
program.

(c) Documenting each scholarship student’s eligibility for a fiscal year before granting a scholarship for that fiscal year pursuant to paragraph (3)(b). A student is ineligible for a scholarship if the student’s account has been inactive for 2 consecutive fiscal years and the student’s account has been closed pursuant to paragraph (6)(b).

(k) Submitting in a timely fashion any information requested by the department relating to the program.

(1) Preparing and submitting quarterly reports to the department pursuant to paragraph (9)(e).

(m) Notifying the department of any violation of this section.

(14) TRANSITION-TO-WORK PROGRAM.—A student participating in the McKay-Gardiner Scholarship Program who is at least 17 years of age, but not older than 22 years of age, and who has not received a high school diploma or certificate of completion is eligible for enrollment in a transition-to-work program provided by a private school or job coach. A transition-to-work program must consist of academic instruction, work skills training, and a volunteer or paid work experience.

(a) To offer a transition-to-work program, a participating private school or job coach must:

1. Develop a transition-to-work program plan, which must include a written description of the academic instruction and work skills training students will receive and the goals for students in the program.

2. Submit the transition-to-work program plan to the Office of Independent Education and Parental Choice.

3. Develop a personalized transition-to-work program plan for each student enrolled in the program. The student’s parent, the student, and the school principal or job coach must sign the personalized plan. The personalized plan must be submitted to the Office of Independent Education and Parental Choice upon request by the office.

4. Provide a release of liability form that must be signed by the student’s parent, the student, and a representative of the business offering the volunteer or paid work experience.

5. Assign a case manager or job coach to visit the student’s job site on a weekly basis to observe the student and, if necessary, provide support and guidance to the student.

6. Provide to the parent and student a quarterly report that documents and explains the student’s progress and performance in the program.

7. Maintain accurate attendance and performance records for the student.

(b) A student enrolled in a transition-to-work program must, at a minimum:

1. Receive 15 instructional hours that must include academic instruction and work skills training.

2. Participate in 10 hours of work at the student’s volunteer or paid work experience.

(c) To participate in a transition-to-work program, a business must:

1. Maintain an accurate record of the student’s performance and hours worked and provide the information to the private school.

2. Comply with all state and federal child labor laws.
(15) FUNDING AND PAYMENT.—
(a) The scholarship is established for up to 50,000 student FTE annually beginning with the 2021-2022 school year. For the 2022-2023 school year and each year thereafter, the maximum number of student FTE in the scholarship program under this section must increase by 7 percent of the total student FTE for the prior year.

1. For a student who has a Level I to Level III matrix of services or a doctor’s diagnosis, the calculated scholarship amount for a student participating in the program must be based upon the grade level and district school to which the student would have been assigned as 97.5 percent of the funds per unweighted full-time equivalent in the Florida Education Finance Program for a student in the basic program pursuant to s. 1011.62(1)(c)1., and (e)1.c., plus a per-full-time equivalent share of funds for all categorical programs, as funded in the General Appropriations Act, except that for the exceptional student education guaranteed allocation as provided in s. 1011.62(1)(e)1.c. and 2., the funds must be allocated based on the school district’s average funds per Exceptional Student Education student.

2. For a student with a Level IV or Level V matrix of services, the calculated scholarship amount must be based upon the district school to which the student would have been assigned as 97.5 percent of the funds per full-time equivalent for the Level IV or Level V Exceptional Student Education program pursuant to s. 1011.62(1)(c)2.a. or b., plus a per-full-time equivalent share of funds for all categorical programs, as funded in the General Appropriations Act.

3. For a student with a 504 plan, the calculated scholarship amount must be based upon the grade level and district school to which the student would have been assigned as 97.5 percent of the funds per unweighted full-time equivalent in the Florida Education Finance Program for a student in the basic education program established pursuant to s. 1011.62(1)(c)1., plus a per-full-time equivalent share of funds for all categorical programs, as funded in the General Appropriations Act.

(b) At the time of each Florida Education Finance Program student membership survey, the scholarship funding organization shall report to the Department of Education student enrollment, FTE, and total award amounts by county, delineated by FEFP program, and grade and matrix level for all students who are participating in the McKay-Gardiner Scholarship Program. Students with a 504 plan must be separately identified. For the purpose of this paragraph, an FTE shall be equal to four quarterly scholarship payments.

(c) Following notification on July 1, September 1, December 1, and February 1 of the number of program participants, the department shall transfer the amount calculated pursuant to paragraph (a) to organizations for quarterly disbursement to accounts maintained by organizations pursuant to paragraph (13)(a) for parents of participating students. When a student enters the scholarship program, the department must receive from an organization all documentation required for the student’s participation at least 30 days before the first quarterly scholarship payment is made for the student.

(d) Upon notification from the organization that an
application has been approved for the program, the department shall release the student’s scholarship funds to the organization, to be deposited into the student’s account in four equal amounts no later than September 1, November 1, February 1, and April 1 of each school year in which the scholarship is in force.

(e) Accrued interest in the student’s account is in addition to, and not part of, the awarded funds. Program funds include both the awarded funds and accrued interest.

(f) The organization may develop a system for payment of benefits by funds transfer, including, but not limited to, debit cards, electronic payment cards, or any other means of payment which the department deems to be commercially viable or cost-effective. A student’s scholarship award may not be reduced for debit card or electronic payment fees. Commodities or services related to the development of such a system must be procured by competitive solicitation unless they are purchased from a state term contract pursuant to s. 287.056.

(g) Moneys received pursuant to this section do not constitute taxable income to the qualified student or the parent of the qualified student.

(16) OBLIGATIONS OF THE AUDITOR GENERAL.—

(a) The Auditor General shall review all audit reports submitted pursuant to subsection (13). The Auditor General shall request any significant items that were omitted in violation of a rule adopted by the Auditor General. The organization shall provide such items within 45 days after the date of the request. If the scholarship-funding organization does not comply with the Auditor General’s request, the Auditor General must notify the

Legislative Auditing Committee.

(b) At least once every 3 years, the Auditor General shall conduct an operational audit of accounts and records of each organization that participates in the program. As part of this audit, the Auditor General, at a minimum, shall verify the total number of students served and the eligibility of reimbursements made by the organization and transmit that information to the department. The Auditor General shall provide the commissioner with a copy of each annual operational audit performed pursuant to this subsection within 10 days after the audit is finalized.

(c) The Auditor General shall notify the department of any organization that fails to comply with a request for information.

(17) OBLIGATIONS RELATED TO APPROVED PROVIDERS.—The Department of Health, the Agency for Persons with Disabilities, and the Department of Education shall coordinate with an organization to provide easy or automated access to lists of licensed providers of services specified in paragraph (5)(c) to ensure efficient administration of the program.

(18) LIABILITY.—The state is not liable for the awarding of funds or for any use of funds awarded under this section.

(19) SCOPE OF AUTHORITY.—This section does not expand the authority of the state, its officers, or any school district to impose additional regulation on participating private schools, independent postsecondary educational institutions, and private providers beyond that reasonably necessary to enforce requirements expressly set forth in this section.

(20) RULES.—The State Board of Education shall adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this
Section 17. Section 1002.385, Florida Statutes, is repealed.

Section 18. Section 1002.39, Florida Statutes, is repealed.

Section 19. Section 1002.394, Florida Statutes, is amended to read:

1002.394 The Family Empowerment Scholarship Program.—

(1) PURPOSE.—The Family Empowerment Scholarship Program is established to provide children of families in this state which have limited financial resources with educational options to achieve success in their education.

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

(a) "Approved provider" means a provider approved by the department "Department" means the Department of Education.

(b) "Curriculum" means a complete course of study for a particular content area or grade level, including any required supplemental materials, teachers’ manuals, and associated online instruction.

(c) "Department" means the Department of Education.

(d) "Direct certification list" means the certified list of children who qualify for the food assistance program, the Temporary Assistance for Needy Families Program, or the Food Distribution Program on Indian Reservations provided to the Department of Education by the Department of Children and Families.

(e) "Eligible nonprofit scholarship-funding organization" or "organization" means a state university, an independent college or university that is eligible to participate in the William L. Boyd, IV, Effective Access to Student Education Grant Program located and chartered in this state which is not for profit and is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools, or is a charitable organization that has the same meaning as provided in s. 1002.395(2)(f).

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

2. Is a Florida entity formed under chapter 605, chapter 607, or chapter 617 and whose principal office is located in this state; and

3. Complies with subsections (11) and (14).

(f) "Eligible postsecondary educational institution" means a Florida College System institution; a state university; a school district technical center; a school district adult general education center; an independent college or university that is eligible to participate in the William L. Boyd, IV, Effective Access to Student Education Grant Program under s. 1009.89; or an accredited independent postsecondary educational institution, as defined in s. 1005.02, which is licensed to operate in this state under part III of chapter 1005.

(g)1. "Eligible private school" means a private school as defined in s. 1002.01 located in this state which offers an education to students in any grade from Kindergarten through grade 12 and:

1. Meets the requirements of ss. 1002.42 and 1002.421; and

2. Meets the applicable requirements imposed under this chapter, if the private school participates in a scholarship program under this chapter has the same meaning as provided in s. 1002.385(2)(f).
(h) "Household income" has the same meaning as the term "income" as defined in the Income Eligibility Guidelines for free and reduced price meals under the National School Lunch Program in 7 C.F.R. part 210 as published in the Federal Register by the United States Department of Agriculture.

(i) "Inactive" means that no eligible expenditures have been made from a student scholarship account funded pursuant to this section.

(j) "Incident" means battery; harassment; hazing; bullying; kidnapping; physical attack; robbery; sexual offenses, harassment, assault, or battery; threat or intimidation; or fighting at school, as defined by the department in accordance with s. 1006.147(4).

(k) "Owner or operator" includes:
1. An owner, president, officer, or director of an eligible nonprofit scholarship-funding organization or a person with equivalent decisionmaking authority over an eligible nonprofit scholarship-funding organization.
2. An owner, operator, superintendent, or principal of an eligible private school or a person with equivalent decisionmaking authority over an eligible private school.

(l) "Parent" means a resident of this state who is a parent, as defined in s. 1000.21.

(m) "Program" means the Family Empowerment Scholarship Program.

(n) "School" means any educational program or activity conducted by a public K-12 educational institution, any school-related or school-sponsored program or activity, and riding on a school bus as defined in s. 1006.25(1), including waiting at a school bus stop.

(3) INITIAL SCHOLARSHIP ELIGIBILITY.—A student is eligible for a Family Empowerment Scholarship under this section if the student meets the following criteria:

(a)1. The student is on the direct certification list as defined in paragraph (2)(d) pursuant to s. 1002.395(2)(a) or the student’s household income level does not exceed 300 percent of the federal poverty level or an adjusted maximum percent of the federal poverty level established pursuant to paragraph (e); or

2. The student is:
   a. Currently placed, or during the previous state fiscal year was placed, in foster care or in out-of-home care as defined in s. 39.01;
   b. A sibling of a student who is participating in the scholarship program under this subsection, if the student resides in the same household as the sibling; or
   c. Enrolled in a Florida public school in kindergarten through grade 12 and reported an incident in accordance with paragraph (7)(b).

1. The student’s household income level does not exceed 300 percent of the federal poverty level or an adjusted maximum percent of the federal poverty level as established pursuant to paragraph (e).

A student who initially receives a scholarship based on eligibility under this subsection subparagraph 2. remains eligible to participate until the student graduates from high school or attains the age of 21 years, whichever occurs first.
regardless of the student’s household income level. A sibling of a student who is participating in the scholarship program under this subsection is eligible for a scholarship if the student resides in the same household as the sibling.

(b) The student is eligible to enroll in kindergarten through grade 12 in a public school in this state,

2. The student has spent the prior school year in attendance at a Florida public school; or

3. Beginning with the 2020-2021 school year, the student received a scholarship pursuant to ss. 1002.395 during the previous school year but did not receive a renewal scholarship based solely on the eligible nonprofit scholarship funding organization’s lack of available funds after the organization fully exhausts its efforts to use funds available for awards under ss. 1002.395 and 1002.40(11)(e). Eligible nonprofit scholarship-funding organizations with students who meet the eligibility criterion of this subparagraph must annually notify the department in a format and by a date established by the department.

For purposes of this paragraph, the term “prior school year in attendance” means that the student was enrolled full-time and reported by a school district for funding during the preceding October and February Florida Education Finance Program surveys in kindergarten through grade 12, which includes time spent in a Department of Juvenile Justice commitment program if funded under the Florida Education Finance Program. However, a dependent child of a member of the United States Armed Forces who transfers to a school in this state from out of state or

(c) The parent has applied to an eligible nonprofit scholarship-funding organization to participate in the program by a date set by the organization obtained acceptance for admission of the student to a private school that is eligible for the program under subsection (8), and the parent has requested a scholarship from the Department of Education by a date established by the department pursuant to paragraph (7)(e), but no later than at least 60 days before the date of the first scholarship payment. The application request must be communicated directly to the organization department in a manner that creates a written or electronic record of the application request and the date of receipt of the application request. The department must notify the school district of the parent’s intent upon receipt of the parent’s request.

(d) The student is awarded a scholarship in accordance with the following priority order:

1. An eligible student who received a Family Empowerment Scholarship during the previous school year school year, or a Florida Tax Credit Scholarship or Hope Scholarship during the 2020-2021 school year, and requested a renewal scholarship award.

2. An eligible student who meets the criteria for an initial award under both paragraphs paragraph (a) and (b) and was retained on the previous school year’s wait list.
paragraph (a)1.

3. An eligible student who meets the criteria for an initial award under paragraph (a)2. and paragraph (b)1. shall continue to an organization for a Family Empowerment Scholarship under this section must continue until:

4. An eligible student who meets the criteria for an initial award under subparagraph (a)1. or paragraph (a)2. shall continue until:

An approved student who does not receive a scholarship must be placed on the wait list in the order in which his or her application is approved. An eligible student who does not receive a scholarship within the fiscal year must be retained on the wait list for the subsequent year.

(e) The student's household income level does not exceed an adjusted maximum percent of the federal poverty level that is increased by 25 percent in the fiscal year following any fiscal year in which more than 5 percent of the available scholarships authorized under subsection (11) have not been awarded.

(4) TERM OF SCHOLARSHIP.--For purposes of continuity of educational choice and program integrity:

(a) Program payments made by the state to an organization for a Family Empowerment Scholarship under this section must continue until:

(b) The student's parent has forfeited participation in the program for failure to comply with subsection (10);

(c) The student's parent has forfeited participation in the program pursuant to subparagraph (b)(1);

(d) The student's parent has forfeited participation in the program for failure to comply with subsection (10);

(e) The student enrolls in a public school; or

(5) CONTINUITY OF PROGRAM PAYMENTS.--Program payments made by the state to an organization for a Family Empowerment Scholarship shall remain in force until the student returns to a public school, graduates from high school, or reaches the age of 21, whichever occurs first. A scholarship student who enrols in a public school or public school program is considered to have returned to a public school for the purpose of determining the end of the scholarship's term. However, if a student enters a Department of Juvenile Justice detention center for a period of no more than 21 days, the student is not considered to have returned to a public school for that purpose.

2. Reimbursements for program expenditures may continue until the account balance is expended or the account is closed pursuant to paragraph (b) for purposes of continuity of educational choice, a Family Empowerment Scholarship shall remain in force until the student returns to a public school, graduates from high school, or reaches the age of 21, whichever occurs first. A scholarship student who enrols in a public school or public school program is considered to have returned to a public school for the purpose of determining the end of the scholarship's term. However, if a student enters a Department of Juvenile Justice detention center for a period of no more than 21 days, the student is not considered to have returned to a public school for that purpose.

Page 67 of 158
CODING: Words stricken are deletions; words underlined are additions.
36-00745D-21 202148__

Florida Senate - 2021

36-00745D-21 202148__

Page 70 of 158

CODING: Words ____(a)____ are deletions; words _______ are additions.

1973 contributions made to the Stanley G. Tate Florida Prepaid
1974 College Program or earnings from or contributions made to the
1975 Florida College Savings Program using program funds pursuant to
1976 paragraph (6)(e), revert to the state after:
1977 a. Denial or revocation of program eligibility by the
1978 commissioner for fraud or abuse, including, but not limited to,
1979 the student or the student’s parent accepting any payment,
1980 refund, or rebate in any manner from a provider of any services
1981 received pursuant to subsection (6); however, a private school
1982 may discount tuition if the private school deems it necessary;
1983 b. Any period of 2 consecutive years after high school
1984 completion or graduation during which the student has not been
1985 enrolled in a public school, including, but not limited
1986 to, the Florida School for the Deaf and the Blind, the College-
1987 Preparatory Boarding Academy, a developmental research school
1988 authorized under s. 1002.32, or a charter school authorized
1989 under this chapter;
1990 (b) Enrolled in a school operating for the purpose of
1991 providing educational services to youth in a Department of
1992 Juvenile Justice commitment program;
1993 (c) Receiving any other educational scholarship pursuant to
1994 this chapter; or
1995 (d) Participating in a private tutoring program pursuant to
1996 s. 1002.43;
1997 4. Participating in a virtual school, correspondence
1998 school, or distance learning program that receives state funding
1999 pursuant to the student’s participation.
2000 (6) AUTHORIZED USES OF PROGRAM FUNDS.—Program funds must be
2001 used to meet the individual educational needs of an eligible
2002 student and may be spent for the following purposes:
2003 (a) Instructional materials, including digital devices and
2004 Internet access to access digital instructional materials.
2005 (b) Curriculum as defined in paragraph (2)(b).
2006 (c) Tuition or fees associated with full-time or part-time
2007 enrollment in a home education program, an eligible private
2008 school, an eligible postsecondary educational institution or a
2009 program offered by the postsecondary institution, a private
2010 tutoring program authorized under s. 1002.43, a virtual program
2011 offered by a department-approved private online provider that
2012 meets the provider qualifications specified in s. 1002.45(2)(a).
Florida Senate - 2021

SB 48

36-00745D-21

202148

the Florida Virtual School as a private paying student, or an approved online course offered pursuant to s. 1003.499 or s. 1004.0961.

(d) Fees for nationally standardized, norm-referenced achievement tests, Advanced Placement examinations, industry certification examinations, assessments related to postsecondary education, or other assessments.

(e) Contributions to the Stanley G. Tate Florida Prepaid College Program pursuant to s. 1009.98 or the Florida College Savings Program pursuant to s. 1009.981, for the benefit of the eligible student.

(f) Contracted services provided by a public school or school district, including classes. A student who receives services under a contract under this paragraph is not considered enrolled in a public school for eligibility purposes as specified in subsection (5).

(g) Tuition and fees for part-time tutoring services provided by a person who holds a valid Florida educator's certificate pursuant to s. 1012.56; a person who holds an adjunct teaching certificate pursuant to s. 1012.57; a person who has a bachelor's degree or a graduate degree in the subject area in which instruction is given; or a person who has demonstrated a mastery of subject area knowledge pursuant to s. 1012.56(5). As used in this paragraph, the term "part-time tutoring services" does not qualify as regular school attendance as defined in s. 1003.01(13)(e).

(h) Fees for summer education programs.

(i) Fees for after-school education programs.

(j) Fees for an annual evaluation of educational progress and investigate the incident to determine if the incident must be reported as required by s. 1006.147(4).

A provider of any services receiving payments pursuant to this subsection may not share, refund, or rebate any moneys from the Family Empowerment Scholarship with the parent or participating student in any manner.

(7) "SCHOOL DISTRICT OBLIGATIONS."

(a) By July 15, 2019, and by April 1 of each year thereafter, a school district shall inform all households within the district receiving free or reduced-priced meals under the National School Lunch Act of their eligibility to apply to the department for a Family Empowerment Scholarship. A parent who chooses to enroll his or her eligible student in a public school that is different from the school in which the student was assigned pursuant to s. 1002.31 or enrolls his or her eligible student in a lab school as defined in s. 1002.32 is eligible for a scholarship to transport the student as provided in paragraph (12)(c). The form of such notice shall be provided by the department, and the school district shall include the provided form in any normal correspondence with eligible households. Such notice is limited to once a year.

(b) Upon receipt of a report of an incident, the school principal, or his or her designee, shall provide a copy of the report to the parent and investigate the incident to determine if the incident must be reported as required by s. 1006.147(4).
Within 24 hours after receipt of the report, the principal or his or her designee shall provide a copy of the report to the parent of the alleged offender and to the superintendent. Upon conclusion of the investigation or within 15 days after the incident was reported, whichever occurs first, the school district shall notify the parent of the program and offer the parent an opportunity to request and receive a Family Empowerment Scholarship.

(c) The school district in which a participating student resides must notify the student and his or her parent about the locations and times to take all statewide assessments under s. 1008.22 if the student chooses to participate in such assessments. Upon the request of the department, a school district shall coordinate with the department to provide to a participating private school the statewide assessments administered under s. 1008.22 and any related materials for administering the assessments. For a student who participates in the Family Empowerment Scholarship Program whose parent requests that the student take the statewide assessments under s. 1008.22, the district in which the student attends a private school shall provide locations and times to take all statewide assessments. A school district is responsible for implementing test administrations at a participating private school, including the:

1. Provision of training for private school staff on test security and assessment administration procedures;
2. Distribution of testing materials to a private school;
3. Retrieval of testing materials from a private school;
4. Provision of the required format for a private school to

4. Provision of the required format for a private school to

submit information to the district for test administration and enrollment purposes; and

5. Provision of any required assistance, monitoring, or investigation at a private school.

(d) Each school district must publish information about the Family Empowerment Scholarship Program on the district’s website homepage, which, at a minimum, the published information must include a website link to the Family Empowerment Scholarship Program published on the Department of Education website as well as a telephone number and e-mail that students and parents may use to contact relevant personnel in the school district to obtain information about the scholarship.

(8) DEPARTMENT OF EDUCATION OBLIGATIONS.—The department shall:

(a) Annually verify the eligibility of nonprofit scholarship-funding organizations that meet the requirements of paragraph (2)(e).

(b) Publish and update, as necessary, information on the department website about the scholarship programs under this chapter Family Empowerment Scholarship Program, including, but not limited to, student eligibility criteria, parental responsibilities, and relevant data.

(c) Cross-check prior to each distribution of funds the list of participating scholarship students with the public school enrollment lists before each scholarship payment to avoid duplication.

(d) Maintain and publish a list of nationally norm-referenced tests identified for purposes of satisfying the testing requirement in subparagraph (9)(c)1. The tests
must meet industry standards of quality in accordance with state board rule.

(e) Notify eligible nonprofit scholarship-funding organizations of the deadlines for submitting the verified list of students determined to be eligible for an initial or renewal scholarship.

(f) Distribute each student’s scholarship funds on a quarterly basis to the eligible nonprofit scholarship-funding organization, to be deposited into the student’s account established for the receipt of initial applications and renewal notifications in order to implement the priority order for scholarship awards pursuant to paragraph (3)(d).

(g) Notify an eligible nonprofit scholarship-funding organization of any of the organization’s or other eligible nonprofit scholarship-funding organization’s identified students who are receiving educational scholarships pursuant to chapter 1002.

(h) Issue a project grant award to a state university, to which participating private schools must report the scores of participating students on the nationally norm-referenced tests or the statewide assessments administered by the private school in grades 3 through 10. The project term is 2 years, and the amount of the project is up to $250,000 per year. The project grant award must be reissued in 2-year intervals in accordance with this paragraph.

1. The state university must annually report to the Department of Education on the student performance of participating students:

   a. On a statewide basis. The report shall also include, to the extent possible, a comparison of scholarship students’ performance to the statewide student performance of public school students with socioeconomic backgrounds similar to those of students participating in the scholarship program. To minimize costs and reduce time required for the state university’s analysis and evaluation, the Department of Education shall coordinate with the state university to provide data in order to conduct analyses of matched students from public school assessment data and calculate control group student performance using an agreed-upon methodology; and

   b. On an individual school basis. For the 2020-2021 school year, the annual report must include student performance for each participating private school in which at least 51 percent of the total enrolled students in the private school participated in the Florida Tax Credit Scholarship Program or the Family Empowerment Scholarship Program. Beginning with the 2021-2022 school year, the annual report must include student performance for each participating private school in which at least 51 percent of the total enrolled students in the private school participated in the Family Empowerment Scholarship Program. The report shall be according to each participating private school, and for participating students, in which there are at least 30 participating students who have scores for tests administered. If the state university determines that the 30-participating-student cell size may be reduced without disclosing personally identifiable information, as described in 34 C.F.R. s. 99.12, of a participating student, the state university may reduce the participating-student cell size, but the cell size may not be reduced to less than 10 participating students.
students. The department shall provide each private school's
prior school year student enrollment information to the state
university no later than June 15 of each year, or as requested
by the state university.

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

3. The annual report required by subparagraph 1. must be
published by the Department of Education on its website.
(i) Maintain on its website a list of approved providers,
including eligible postsecondary educational institutions,
eligible private schools, and organizations. The department may
identify or provide links to lists of other approved providers.

(ii) Require each organization to verify eligible
expenditures before the distribution of funds for any
expenditures made pursuant to paragraphs (6)(a) and (b). Review
of expenditures made for services specified in paragraphs
(6)(c)-(k) may be completed after the purchase is made.

(k) Require quarterly reports by an eligible nonprofit
scholarship-funding organization regarding the overall number of
students participating in the scholarship program, the number of

Page 77 of 158
CODING: Words are deletions; words are additions.
2. Reviewing the school bullying prevention education program, school climate, and code of student conduct of each public school to which a student transferred if the student was from a school identified in subparagraph 1. in order to identify best practices and make recommendations to the public school at which the incidents occurred.

3. Surveying the parents of participating students to determine academic, safety, and school climate satisfaction and to identify any challenges to or obstacles in addressing an incident or relating to the use of the scholarship.

(n) Investigate any written complaint of a violation of this section by a parent, a student, a private school, a public school, a school district, an organization, a provider, or another appropriate party in accordance with the process established under s. 1002.421.

(9) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—To be eligible to participate in the Family Empowerment Scholarship Program, a private school may be sectarian or nonsectarian and must:

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

(b) Provide to the organization department all documentation required for a student’s participation, including the private school’s and student’s fee schedules, at least 30 days before any quarterly scholarship payment is made for the student pursuant to paragraph (12)(f) (111)(f). A student is not eligible to receive a quarterly scholarship payment if the private school fails to meet this deadline.

(c)1. Annually administer or make provision for students participating in the program in grades 3 through 10 to take one of the nationally norm-referenced tests that are identified by the department pursuant to paragraph (8)(d) or to take the statewide assessments pursuant to s. 1008.22. Students with disabilities for whom standardized testing is not appropriate are exempt from this requirement. A participating private school shall report a student’s scores to his or her parent. By August 15 of each year, a participating private school must report the scores of all participating students to a state university as described in paragraph (8)(h).

2. Administer the statewide assessments pursuant to s. 1008.22 if the private school chooses to offer the statewide assessments. A participating private school may choose to offer and administer the statewide assessments to all students who attend the private school in grades 3 through 10 and must submit a request in writing to the department by March 1 of each year in order to administer the statewide assessments in the subsequent school year.

If a private school fails to meet the requirements of this subsection or s. 1002.421, the commissioner may determine that the private school is ineligible to participate in the scholarship program.

(10) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM PARTICIPATION.—A parent who applies for a Family Empowerment Scholarship is exercising his or her parental option to determine the appropriate placement or the services that best meets the needs of his or her child. Place his or her child in a...
A participant who fails to comply with this paragraph forfeits the scholarship.

1002.41(1)(f).

(c) If before enrolling in a private school, a student and his or her parent or guardian must meet with the private school’s principal or the principal’s designee to review the school’s academic programs and policies, customized educational programs, code of student conduct, and attendance policies.

The parent shall ensure that a student participating in the scholarship program and enrolled in a private school takes the norm-referenced assessment offered by the private school. The parent may also choose to have the student participate in the statewide assessments pursuant to paragraph (9)(c).

If the parent requests that the student participating in the program take all statewide assessments required pursuant to s. 1008.22, the parent is responsible for transporting the student to the assessment site designated by the school district.

(b) Upon receipt of a scholarship warrant, the parent to whom the warrant is issued must restrictively endorse the warrant to the private school for deposit into the private school’s account. The parent may not designate any entity or individual associated with the participating private school as the parent’s attorney in fact to endorse a scholarship warrant. A participant who fails to comply with this paragraph forfeits the scholarship.

(f) The parent must annually renew participation in the program by the date established by the organization. A student whose participation in the program is not renewed may continue to spend scholarship funds that are in his or her account from prior years unless the

Page 81 of 158
account must be closed pursuant to paragraph (4)(b).

(g) The parent is responsible for procuring the services necessary to educate the student. If a parent does not procure the necessary educational services for the student and the student’s account has been inactive for 2 consecutive fiscal years, the student is ineligible and the student’s account must be closed pursuant to paragraph (4)(b).

(h) The parent is responsible for all eligible expenses in excess of the Family Empowerment Scholarship.

(i) The parent may not transfer any prepaid college plan or college savings plan funds contributed pursuant to paragraph (6)(e) to another beneficiary while the plan contains funds contributed pursuant to this section.

(j) The parent may not receive a payment, refund, or rebate from an approved provider of any services under this program.

A participant who fails to comply with this subsection forfeits the Family Empowerment Scholarship.

(11) OBLIGATIONS OF ELIGIBLE SCHOLARSHIP-FUNDING ORGANIZATIONS.—An eligible nonprofit scholarship-funding organization:

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

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

1. All owners and operators as defined in subparagraph 2.

2. Before employment or engagement to provide services, are subject to a level 2 background screening as provided under chapter 435. The fingerprints for the background screening must be electronically submitted to the Department of Law Enforcement and can be taken by an authorized law enforcement agency or by an employee of the eligible nonprofit scholarship-funding organization or a private company who is trained to take fingerprints. However, the complete set of fingerprints of an owner or operator may not be taken by the owner or operator. The results of the state and national criminal history check must be provided to the Department of Education for screening under chapter 435. The cost of the background screening may be borne by the eligible nonprofit scholarship-funding organization or the owner or operator.

2. Every 5 years following employment or engagement to provide services or association with an eligible nonprofit scholarship-funding organization, each owner or operator must meet level 2 screening standards as described in s. 435.04, at which time the nonprofit scholarship-funding organization shall request the Department of Law Enforcement to forward the fingerprints to the Federal Bureau of Investigation for level 2 screening. If the fingerprints of an owner or operator are not received by the Department of Law Enforcement under subparagraph 3., the owner or operator must electronically file a complete set of fingerprints with the Department of Law Enforcement. Upon submission of fingerprints for this purpose, the eligible nonprofit scholarship-funding organization shall request that the Department of Law Enforcement forward the fingerprints to the Federal Bureau of Investigation for level 2 screening, and the fingerprints must be retained by the Department of Law Enforcement under subparagraph 3.

3. Fingerprints submitted to the Department of Law Enforcement under subparagraph 3.
6. A nonprofit scholarship-funding organization whose owner or operator has been convicted of a felony, or operator in the last 7 years has filed for personal bankruptcy or corporate bankruptcy in a corporation of which he or she owned more than 20 percent is not eligible to provide scholarships under this section.

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

a. Any authorizing statutes, if the offense was a felony.
b. This chapter, if the offense was a felony.
c. Section 409.920, relating to Medicaid provider fraud.
d. Section 409.9201, relating to Medicaid fraud.
e. Section 741.28, relating to domestic violence.
f. Section 817.034, relating to fraudulent acts through mail, wire, radio, electromagnetic, photoelectronic, or photooptical systems.
g. Section 817.234, relating to false and fraudulent insurance claims.
h. Section 817.505, relating to patient brokering.
i. Section 817.568, relating to criminal use of personal identification information.
j. Section 817.60, relating to obtaining a credit card through fraudulent means.
k. Section 817.61, relating to fraudulent use of credit card...
(a) May provide to the Auditor General and the Department of Education a report on the results of an annual financial audit of its accounts and records conducted by an independent certified public accountant in accordance with auditing standards generally accepted in the United States, government auditing standards, and rules promulgated by the Auditor General. The audit report must include a report on financial statements presented in accordance with generally accepted accounting principles. Audit reports must be provided to the Auditor General and the Department of Education within 180 days after completion of the eligible nonprofit scholarship-funding organization’s fiscal year. The Auditor General shall review all audit reports submitted pursuant to this paragraph. The Auditor General shall request any significant items that were omitted in violation of a rule adopted by the Auditor General. The items must be provided within 45 days after the date of the request.

(b) Must participate in a joint review of the agreed-upon procedures and guidelines under sub-subparagraph a., by February of each biennium, if the scholarship-funding organization provided more than $250,000 in scholarship funds to an eligible private school under this chapter during the state fiscal year preceding the biennial review. If the procedures and guidelines are revised, the revisions must be provided to private schools under this chapter during the state fiscal year preceding the biennial review. If the procedures and guidelines are revised, the revisions must be provided to private schools under this chapter during the state fiscal year preceding the biennial review.
and the Commissioner of Education by March 15 of the year in which the revisions were completed. The revised agreed-upon procedures take effect the subsequent school year.

(c) Must monitor the compliance of a private school with s. 1002.421(1)(q) if the scholarship-funding organization provided the majority of the scholarship funding to the school. For each private school subject to s. 1002.421(1)(q), the appropriate scholarship-funding organization shall annually notify the Commissioner of Education by October 30 of:

(I) A private school’s failure to submit a report required under s. 1002.421(1)(q); or

(II) Any material exceptions set forth in the report required under s. 1002.421(1)(q).

2. Must seek input from the accrediting associations that are members of the Florida Association of Academic Nonpublic Schools and the Department of Education when conducting a joint review of the procedures and guidelines under sub-subparagraph 1.b.

(h) Must establish a date by which the parent of a participating student must confirm continuing participation in the program.

(i) Shall verify the household income level of students pursuant to subparagraph (3)(a)1. and submit the verified list of students and related documentation to the department.

(ii) Shall award initial and renewal scholarships to eligible students in priority order pursuant to subsection (3) and notify parents of their receipt of a scholarship. The eligible nonprofit scholarship-funding organization shall implement the deadlines established by the department.

(cod) May, from eligible contributions received pursuant to s. 1002.395(6)(j), use an amount not to exceed 2.5 percent of the total amount of all scholarships awarded under this section for administrative expenses associated with performing functions under this section. Such administrative expense amount is considered within the 3 percent limit on the total amount an organization may use to administer scholarships under this chapter.

1. Must verify qualifying educational expenditures pursuant to the requirement of paragraph (8)(j) and must request the return of any funds used for unauthorized purposes.

(m) Must return any remaining program funds to the department pursuant to paragraph (4)(b).

(n) Must document each scholarship student’s eligibility pursuant to subsection (3) for a fiscal year before granting a scholarship for that fiscal year. A student is ineligible for a scholarship if the student’s account has been inactive for 2 fiscal years and the student’s account has been closed pursuant to paragraph (4)(b).

(o) Must allow a student who meets the requirements of subparagraph (3)(a)2. or a dependent child of a parent who is a member of the United States Armed Forces to apply for a scholarship at any time.

(p) Must, in a timely manner, submit any information requested by the department relating to the scholarship under this section.

(q) Must establish a date by which the parent of a participating student must confirm continuing participation in the program.
(r) Must prepare and submit quarterly reports to the department pursuant to paragraph (8)(k).

(a) Must notify the department about any violation of this section by a parent or a private school.

1. SCHOLARSHIP FUNDING AND PAYMENT.—

(a) The scholarship is established for up to 18,000 students annually beginning in the 2019-2020 school year.

Beginning in the 2020-2021 school year, the maximum number of student FTE students participating in the scholarship program under this section shall annually increase by 1.0 percent of the state’s total public school student FTE student enrollment. A student who received a Florida Tax Credit Scholarship or a Hope Scholarship in the 2020-2021 school year and who meets the eligibility requirements in subsection (3) in the 2021-2022 school year is eligible for a Family Empowerment Scholarship in the 2021-2022 school year. The scholarship may not be included in the maximum number of student FTE authorized to participate in the program under this paragraph.

(b) The scholarship amount provided to a student for any single school year shall be for tuition and fees for an eligible private school, not to exceed annual limits, which shall be determined in accordance with this paragraph. The calculated scholarship amount for a student participating in the program must be based upon the grade level and school district in which the student was assigned as 97.5 percent of the funds per unweighted full-time equivalent in the Florida Education Finance Program for a student in the basic program established pursuant to s. 1011.62(1)(c)1., plus a per-full-time equivalent share of funds for all categorical programs, as provided in the General Appropriations Act except for the Exceptional Student Education Guaranteed Allocation.

(c) A student who is eligible for a Family Empowerment Scholarship is eligible for a transportation award limited to $750, if the student is enrolled in a Florida public school that is different from the school to which the student was assigned pursuant to s. 1002.31 or is enrolled in a lab school as defined in s. 1002.32. The amount of the Family Empowerment Scholarship shall be the calculated amount or the amount of the private school’s tuition and fees, whichever is less. The amount of any assessment fee required by the participating private school may be paid from the total amount of the scholarship.

(d) At the time of each Florida Education Finance Program student membership survey, the scholarship-funding organization shall report to the Department of Education student enrollment, FTE, and total award amounts by county, delineated by FEFP program, and grade for the school district shall report all students who are participating in attending a private school under this program. The students attending private schools on Family Empowerment Scholarships shall be reported separately from other students reported. For the purposes of this paragraph, an FTE shall be equal to four quarterly scholarship payments the Florida Education Finance Program.

(e) Following notification on July 1, September 1, December 1, and February 1 of the number of program participants, the department shall transfer, from general revenue funds only, the amount calculated pursuant to paragraph (b) to a separate...
account for the scholarship program for quarterly disbursement to parents of participating students. For a student exiting the Department of Juvenile Justice commitment program who chooses to participate in the scholarship program, the amount of the Family Empowerment Scholarship calculated pursuant to paragraph (g) must be transferred from the school district in which the student last attended a public school before commitment to the Department of Juvenile Justice. When a student enters the scholarship program, the department must receive all documentation required for the student’s participation, including the private school’s and the student’s fee schedules, at least 30 days before the first quarterly scholarship payment is made for the student.

(f) Upon notification from the organization that an application has been approved for the program, the department shall release the student’s scholarship funds to the organization, to be deposited into the student’s account by the department that it has received the documentation required under paragraph (e), the Chief Financial Officer shall make scholarship payments in four equal amounts no later than September 1, November 1, February 1, and April 1 of each school year in which the scholarship is in force. The initial payment shall be made after department verification of admission acceptance, and subsequent payments shall be made upon verification of continued enrollment and attendance at the private school. Payment must be by individual warrant made payable to the student’s parent and mailed by the department to the private school of the parent’s choice, and the parent shall restrictively endorse the warrant to the private school for deposit into the account of the private school.

(g) Accrued interest in the student’s account is in addition to, and not part of, the awarded funds. Program funds include both the awarded funds and accrued interest. Subsequent to each scholarship payment, the department shall request from the Department of Financial Services a sample of endorsed warrants to review and confirm compliance with endorsement requirements.

(h) The organization may develop a system for payment of benefits by funds transfer, including, but not limited to, debit cards, electronic payment cards, or any other means of payment that the department deems to be commercially viable or cost-effective. A student’s scholarship award may not be reduced for debit card or electronic payment fees. Commodities or services related to the development of such a system must be procured by competitive solicitation unless they are purchased from a state term contract pursuant to s. 287.056.

(i) Moneys received pursuant to this section do not constitute taxable income to the qualified student or parent of the qualified student.

OBLIGATIONS OF THE AUDITOR GENERAL.

(a) At least once every 3 years, the Auditor General shall conduct an operational audit of accounts and records of each organization that participates in the program. As part of this audit, the Auditor General shall verify, at a minimum, the total number of students served and the eligibility of reimbursements made by the organization and transmit that information to the department. The Auditor General shall provide the commissioner with a copy of each annual operational audit performed pursuant to this paragraph.
backed to this subsection within 10 days after the audit is finalized.

(b) The Auditor General shall notify the department of any organization that fails to comply with a request for information.

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

(a) An application for initial approval must include:
1. A copy of the organization’s incorporation documents and registration with the Division of Corporations of the Department of State.
2. A copy of the organization’s Internal Revenue Service determination letter as an s. 501(c)(3) not-for-profit organization.
3. A description of the organization’s financial plan that demonstrates sufficient funds to operate throughout the school year.
4. A description of the geographic region that the organization intends to serve and an analysis of the demand and unmet need for eligible students in that area.
5. The organization’s organizational chart.
6. A description of the criteria and methodology that the organization will use to evaluate scholarship eligibility.
7. A description of the application process, including deadlines and any associated fees.

(b) In addition to the information required by subparagraphs (a)(1)-(10), an application for renewal must include:
1. A surety bond or letter of credit to secure the faithful performance of the obligations of the eligible nonprofit scholarship-funding organization in accordance with this section in an amount equal to 25 percent of the scholarship funds anticipated for each school year or $100,000, whichever is greater. The surety bond or letter of credit must specify that any claim against the bond or letter of credit may be made only by an eligible nonprofit scholarship-funding organization to provide scholarships to and on behalf of students who would have had scholarships funded if it were not for the diversion of funds giving rise to the claim against the bond or letter of credit.

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

9. A copy of the organization’s policies on conflict of interest and whistleblowers.

10. A copy of a surety bond or letter of credit to secure the faithful performance of the obligations of the eligible nonprofit scholarship-funding organization in accordance with this section in an amount equal to 25 percent of the scholarship funds anticipated for each school year or $100,000, whichever is greater. The surety bond or letter of credit must specify that any claim against the bond or letter of credit may be made only by an eligible nonprofit scholarship-funding organization to provide scholarships to and on behalf of students who would have had scholarships funded if it were not for the diversion of funds giving rise to the claim against the bond or letter of credit.
36-00745D-21 202148__

eligible nonprofit scholarship-funding organization to provide

scholarships to and on behalf of students who would have had

scholarships funded if it were not for the diversion of funds
giving rise to the claim against the bond or letter of credit.

2. The organization’s completed Internal Revenue Service

Form 990 submitted no later than November 30 of the year before
the school year that the organization intends to offer the
scholarships, notwithstanding the September 1 application
deadline.

3. A copy of the statutorily required audit to the

Department of Education and Auditor General.

4. An annual report that includes:

   a. The number of students who completed applications, by
   county and by grade.
   b. The number of students who were approved for
   scholarships, by county and by grade.
   c. The number of students who received funding for
   scholarships within each funding category, by county and by
   grade.
   d. The amount of funds received, the amount of funds
   distributed in scholarships, and an accounting of remaining
   funds and the obligation of those funds.
   e. A detailed accounting of how the organization spent the
   administrative funds allowable under paragraph (1)(k).
   (c) In consultation with the Department of Revenue and the
   Chief Financial Officer, the Office of Independent Education and
   Parental Choice shall review the application. The Department of
   Education shall notify the organization in writing of any
   deficiencies within 30 days after receipt of the application and
   allow the organization 30 days to correct any deficiencies.

   (d) Within 30 days after receipt of the finalized
   application by the Office of Independent Education and Parental
   Choice, the Commissioner of Education shall recommend approval
   or disapproval of the application to the State Board of
   Education. The State Board of Education shall consider the
   application and recommendation at the next scheduled meeting,
   adhering to appropriate meeting notice requirements. If the
   State Board of Education disapproves the organization’s
   application, it shall provide the organization with a written
   explanation of that determination. The State Board of
   Education’s action is not subject to chapter 120.

   (e) If the State Board of Education disapproves the renewal
   of a nonprofit scholarship-funding organization, the
   organization must notify the affected eligible students and
   parents of the decision within 15 days after disapproval. An
   eligible student affected by the disapproval of an
   organization’s participation remains eligible under this section
   until the end of the school year in which the organization was
   disapproved. The student must apply and be accepted by another
   eligible nonprofit scholarship-funding organization for the
   upcoming school year. The student must be given priority in
   accordance with paragraph (3)(d).

   (f) All remaining eligible student accounts with funds held
   by a nonprofit scholarship-funding organization that is
   disapproved for participation must be transferred to the
   student’s account established at the eligible nonprofit
   scholarship-funding organization accepting the student. All
   transferred funds must be deposited by each eligible nonprofit

Page 97 of 158
CODING: Words **stricken** are deletions; words **underlined** are additions.
(g) A nonprofit scholarship-funding organization is a renewing organization if it maintains continuous approval and participation in the program. An organization that chooses not to participate for 1 year or more or is disapproved to participate for 1 year or more must submit an application for initial approval in order to participate in the program again.

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

(i) A state university or an independent college or university that is eligible to participate in the William L. Boyd, IV, Effective Access to Student Education Grant Program, is located and chartered in this state, is not for profit, and is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools is exempt from the initial or renewal application process, but must file a registration notice with the Department of Education to be an eligible...

(15) LIABILITY.—No liability shall arise on the part of the state based on the award or use of a Family Empowerment Scholarship.

(16) SCOPE OF AUTHORITY.—The inclusion of eligible private schools and private providers within the options available to Florida public school students does not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of private schools beyond those reasonably necessary to enforce requirements expressly set forth in this section.

(17) RULES.—The State Board of Education shall adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section. The state board rules must include a requirement that the department work collaboratively with an approved scholarship-funding organization to expedite the process for the verification and reporting obligations specified under subsection (11).

(18) IMPLEMENTATION SCHEDULE FOR THE 2019-2020 SCHOOL YEAR. Notwithstanding the provisions of this section related to notification requirements and eligibility timelines, for the 2019-2020 school year...

CODING: Words Deleted are deletions; words Underlined are additions.
The Legislature finds that:

4. Enable children in this state to achieve a greater level of excellence in their education.

This subsection shall expire June 30, 2020.

Section 20. Section 1002.395, Florida Statutes, is amended to read:

1002.395 Florida K-12 Education Funding Tax Credit Scholarship Program.—

(a) The Legislature finds that:

1. It has the inherent power to determine subjects of taxation for general or particular public purposes.

2. Expanding educational opportunities and improving the quality of educational services within the state are valid public purposes that the Legislature may promote using its sovereign power to determine subjects of taxation and exemptions from taxation.

3. Ensuring that all parents, regardless of means, may exercise and enjoy their basic right to educate their children as they see fit is a valid public purpose that the Legislature may promote using its sovereign power to determine subjects of taxation and exemptions from taxation.

4. Expanding educational opportunities and the healthy competition they promote are critical to improving the quality of education in the state and to ensuring that all children receive the high-quality education to which they are entitled.

(b) The purpose of this section is to:

1. Enable taxpayers to designate portions of certain tax payments as make private, voluntary contributions to K-12 education funding to nonprofit scholarship funding organizations in order to promote the general welfare.

2. Provide taxpayers who wish to help parents with limited resources exercise their basic right to educate their children as they see fit with a means to do so.

3. Promote the general welfare by expanding educational opportunities for children of families that have limited financial resources.

4. Enable children in this state to achieve a greater level of excellence in their education.
5. Improve the quality of education in this state, both by expanding educational opportunities for children and by creating incentives for schools to achieve excellence.

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

(2) DEFINITIONS.—As used in this section, the term:
(a) "Annual tax credit amount" means, for any state fiscal year, the sum of the amount of tax credits approved under paragraph (5)(b), including tax credits to be taken under s. 220.1875 or s. 624.51055, which are approved for a taxpayer whose taxable year begins on or after January 1 of the calendar year preceding the start of the applicable state fiscal year.
(b) "Department" means the Department of Revenue.
(c) "Direct certification list" means the certified list of children who qualify for the food assistance program, the Temporary Assistance to Needy Families Program, or the Food Distribution Program on Indian Reservations provided to the Department of Education by the Department of Children and Families.
(d) "Division" means the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation.
(e) "Eligible contribution" means the taxes, or a portion thereof, remitted by the taxpayer to the department or the division which the taxpayer elects to designate for K-12 education funding a monetary contribution from a taxpayer, subject to the restrictions provided in this section, to an eligible nonprofit scholarship-funding organization. The taxpayer making the contribution may not designate a specific child as the beneficiary of the contribution.
(f) "Eligible nonprofit scholarship-funding organization" means a state university; an independent college or university that is eligible to participate in the William L. Boyd, IV, Effective Access to Student Education Grant Program, located and chartered in this state, is not for profit, and is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools; or is a charitable organization that:
1. Is exempt from federal income tax pursuant to s. 501(c)(3) of the Internal Revenue Code.
2. Is a Florida entity formed under chapter 605, chapter 607, or chapter 617 and whose principal office is located in the state; and
3. Complies with subsections (4) and (15).
(g) "Eligible private school" means a private school, as defined in s. 1002.01(2), located in Florida which offers an education to students in any grade K-12 and that meets the requirements in subsection (9).
(h) "Household income" has the same meaning as the term "income" as defined in the Income Eligibility Guidelines for free and reduced price meals under the National School Lunch Program in 7 C.F.R. part 210 as published in the Federal Register by the United States Department of Agriculture.
(i) "Owner or operator" includes:
1. An owner, president, officer, or director of an eligible nonprofit scholarship-funding organization or a person with
PROGRAM; INITIAL SCHOLARSHIP ELIGIBILITY.

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

(b) A student is eligible for a Florida tax credit scholarship under this section if the student meets one or more of the following criteria:

1. The student is on the direct certification list or the student’s household income level does not exceed 260 percent of the federal poverty level;

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

3. Priority must be given to a student whose household income level does not exceed 185 percent of the federal poverty level or who is in foster care or out-of-home care. A student who initially

(b)1. The tax credit cap amount is $229 million in the state fiscal year was placed, in foster care or in out-of-home care. A student who initially

(b) SCHOLARSHIP FUNDING TAX CREDITS; LIMITATIONS.—

(a) The tax credit cap amount is $229 million in the

(b) Receiving a scholarship from another eligible nonprofit scholarship funding organization under this section;

(b) Receiving an educational scholarship pursuant to chapter 1002;

(b) Participating in a home education program as defined in s. 1002.01(11);

(b) Participating in a virtual school, correspondence school, or distance learning program that receives state funding pursuant to the student’s participation unless the participation is limited to no more than two courses per school year;

(b) Enrolled in the Florida School for the Deaf and the Blind;

(b) K-12 EDUCATION SCHOLARSHIP FUNDING TAX CREDITS;

(b) LIMITATIONS.—

(a) The tax credit cap amount is $229 million in the

Page 106 of 158
2. In the 2012-2013 state fiscal year and each state fiscal year thereafter, the tax credit cap amount is the tax credit cap amount in the prior state fiscal year. However, in any state fiscal year when the annual tax credit amount for the prior state fiscal year is equal to or greater than 20 percent of the tax credit cap amount applicable to that state fiscal year, the tax credit cap amount shall increase by 25 percent. The Department of Education and Department of Revenue shall publish on their websites information identifying the tax credit cap amount when it is increased pursuant to this subparagraph.

(a) A taxpayer may elect to make eligible contributions submit an application to the department or the division for a tax credit or credits under one or more of s. 211.0251, s. 212.1831, s. 220.1875, s. 561.1211, or s. 624.51055. For elections related to taxes imposed under chapter 211, chapter 212, or chapter 561, the taxpayer shall make the election on a return filed with the department or the division. For elections related to taxes imposed under chapter 200 or chapter 624, the taxpayer shall make the election when making the estimated payment.

(b) The taxpayer shall specify the amount of the eligible contribution, which amount may not exceed:

1. For elections under s. 211.0251, 50 percent of the tax due on the return on which the election is made.

2. For elections under s. 212.1831, 100 percent of the tax due on the return on which the election is made.

3. For elections under s. 220.1875, 25 percent of the final tax liability shown on the taxpayer’s Florida Corporate Income Tax Return for the prior taxable year.

4. For elections under s. 561.1211, 90 percent of the tax due on the return on which the election is made.

5. For elections under s. 624.51055, 33 percent of the tax due for the prior taxable year under s. 624.509(1) after deducting from such tax the prior year’s deductions for assessments made pursuant to s. 440.51; credits for taxes paid under ss. 175.101 and 185.08; credits for income taxes paid under chapter 220; and the credit allowed under s. 624.509(5), as such credit is limited by s. 624.509(6).

The taxpayer shall specify in the application each tax for which the taxpayer requests a credit and the applicable tax year for a credit under s. 220.1875 or s. 624.51055 or the applicable state fiscal year for a credit under s. 561.1211, s. 212.1831, or s. 624.509(5). For purposes of s. 220.1875, a taxpayer may apply for a credit to be used for a prior taxable year before the date the taxpayer is required to file a return for that year pursuant to s. 220.222. For purposes of ss. 175.101 and 185.08, credits for income taxes paid under chapter 220; and the credit allowed under s. 624.509(5), a taxpayer may apply for a credit to be used for a prior taxable year before the date the taxpayer is required to file a return for that prior taxable year pursuant to ss. 624.509 and 624.5092. The Department of Education and Department of Revenue shall publish the tax credit cap amount applicable to that state fiscal year. However, in any state fiscal year when the annual tax credit amount for the prior state fiscal year is equal to or greater than 20 percent of the tax credit cap amount applicable to that state fiscal year, the tax credit cap amount shall increase by 25 percent. The Department of Education and Department of Revenue shall publish on their websites information identifying the tax credit cap amount when it is increased pursuant to this subparagraph.

1. Within 10 days after approving or denying an application, the department shall provide a copy of its approval or denial letter to the eligible nonprofit scholarship-funding organization specified by the taxpayer in the application.
Within any state fiscal year, a taxpayer may rescind all or part of a tax credit approved under paragraph (b). The amount rescinded shall become available for that state fiscal year to another eligible taxpayer as approved by the department if the taxpayer receives notice from the department that the rescindment has been accepted by the department. The department shall also include the eligible nonprofit scholarship funding organization specified by the taxpayer. The department shall also include the eligible nonprofit scholarship funding organization specified by the taxpayer in all letters or correspondence of acknowledgment for tax credits under s. 211.0251, s. 212.1831, s. 220.1875, s. 561.1211, or s. 624.51055 because of insufficient tax liability on the part of the taxpayer, the unused amount shall be carried forward for a period not to exceed 10 years. For purposes of s. 220.1875, a tax credit carried forward may be used in a subsequent year after applying the other credits and unused carryovers in the order provided in s. 220.02(8).

For purposes of calculating the underpayment of estimated corporate income taxes pursuant to s. 220.34 and tax installment payments for taxes on insurance premiums or assessments under s. 624.5092, the final amount due is the amount of tax due for the specified taxable year after credits earned under s. 220.1875 or s. 624.51055 because of insufficient tax liability on the part of the taxpayer are deducted.

For purposes of determining if a penalty or interest shall be imposed for underpayment of estimated corporate income taxes pursuant to s. 220.34 and tax installment payments for taxes on insurance premiums or assessments under s. 624.5092, the final amount due is the amount due for the specified taxable year after credits earned under s. 220.1875 or s. 624.51055 for contributions to eligible nonprofit scholarship funding organizations are deducted.

1. For purposes of determining if a penalty or interest shall be imposed for underpayment of estimated corporate income taxes pursuant to s. 220.34 and tax installment payments for taxes on insurance premiums or assessments under s. 624.5092, the final amount due is the amount due for the specified taxable year after credits earned under s. 220.1875 or s. 624.51055 because of insufficient tax liability on the part of the taxpayer, the unused amount shall be carried forward for a period not to exceed 10 years. For purposes of s. 220.1875, a tax credit carried forward may be used in a subsequent year after applying the other credits and unused carryovers in the order provided in s. 220.02(8).

A taxpayer may not convey, assign, or transfer an approved tax credit or a carryforward tax credit to another entity unless all of the assets of the taxpayer are conveyed, assigned, or transferred in the same transaction. However, a tax credit under s. 211.0251, s. 212.1831, s. 220.1875, s. 561.1211, or s. 624.51055 may be conveyed, transferred, or assigned between members of an affiliated group of corporations if the type of tax credit under s. 211.0251, s. 212.1831, s. 220.1875, s. 561.1211, or s. 624.51055 remains the same. A taxpayer shall notify the department of its intent to convey, transfer, or assign a tax credit to another member within an affiliated group of corporations. The amount conveyed, transferred, or assigned to another member of the affiliated group of corporations upon approval by the department. The department shall obtain the division's approval prior to accepting the conveyance, transfer, or assignment of a tax credit under s. 624.51055. Any amount rescinded under this paragraph shall become available to an eligible taxpayer on a first-come, first-served basis based on tax credit applications received after the date the rescindment is accepted by the department.

Within 10 days after approving or denying the conveyance, transfer, or assignment of a tax credit under paragraph (d), the department shall provide a copy of its approval or denial letter to the eligible nonprofit scholarship funding organization specified by the taxpayer. The department shall also include the eligible nonprofit scholarship funding organization specified by the taxpayer on all letters or correspondence of acknowledgment for tax credits under s. 211.0251, s. 212.1831, or s. 561.1211.
Florida Senate - 2021 SB 48

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

36-00745D-21 202148__

3191 Tax pursuant to s. 320 3192 3347.02(4)(1), a taxpayer may, after earning
3193 a credit under s. 320 3347.1875, reduce any estimated payment in that
3194 taxable year by the amount of the credit. This subparagraph
3195 applies to contributions made on or after July 1, 2014.
3196 2. For purposes of determining if a penalty under s.
3197 3214.5032 shall be imposed, an insurer, after earning a credit
3198 under s. 3214.51055 for a taxable year, may reduce any
3199 installment payment for such taxable year of 27 percent of the
3200 amount of the net tax due as reported on the return for the
3201 preceding year under s. 3214.5032(3)(b) by the amount of the
3202 credit. This subparagraph applies to contributions made on or
3203 after July 1, 2014.
3204 46. OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING
3205 ORGANIZATIONS. An eligible nonprofit scholarship-funding
3206 organization:
3207 (a) Must comply with the antidiscrimination provisions of
3208 42 U.S.C. s. 2000d.
3209 (b) Must comply with the following background check
3210 requirements:
3211 1. All owners and operators as defined in subparagraph
3212 (2)(11), are, before employment or engagement to provide
3213 services, subject to level 2 background screening as provided
3214 under chapter 103. The fingerprints for the background screening
3215 must be electronically submitted to the Department of Law
3216 Enforcement and can be taken by an authorized law enforcement
3217 agency or by an employee of the eligible nonprofit scholarship-
3218 funding organization or a private company who is trained to take
3219 fingerprints. However, the complete set of fingerprints of an
3220 owner or operator may not be taken by the owner or operator. The
3221 results of the state and national criminal history check shall
3222 be provided to the Department of Education for screening under
3223 chapter 135. The cost of the background screening may be borne
3224 by the eligible nonprofit scholarship-funding organization or
3225 the owner or operator.
3226 2. Every 5 years following employment or engagement to
3227 provide services or association with an eligible nonprofit
3228 scholarship-funding organization, each owner or operator must
3229 meet level 2 screening standards as described in s. 435.04, at
3230 which time the nonprofit scholarship-funding organization shall
3231 request the Department of Law Enforcement to forward the
3232 fingerprints to the Federal Bureau of Investigation for level 2
3233 screening. If the fingerprints of an owner or operator are not
3234 retained by the Department of Law Enforcement under subparagraph
3235 2., the owner or operator must electronically file a complete
3236 set of fingerprints with the Department of Law Enforcement. Upon
3237 submission of fingerprints for this purpose, the eligible
3238 nonprofit scholarship-funding organization shall request that
3239 the Department of Law Enforcement forward the fingerprints to
3240 the Federal Bureau of Investigation for level 2 screening, and
3241 the fingerprints shall be retained by the Department of Law
3242 Enforcement under subparagraph 3.
3243 3. Fingerprint submissions to the Department of Law
3244 Enforcement as required by this paragraph must be retained by
3245 the Department of Law Enforcement in a manner approved by rule
3246 and entered in the statewide automated biometric identification
3247 system authorized by s. 435.05(2)(b). The fingerprints must
3248 thereafter be available for all purposes and uses authorized for
3249 arrest fingerprints entered in the statewide automated biometric
4. The Department of Law Enforcement shall search all arrest fingerprints received under s. 943.051 against the fingerprints retained in the statewide automated biometric identification system under subparagraph 3. Any arrest record that is identified with an owner’s or operator’s fingerprints must be reported to the Department of Education. The Department of Education shall participate in this search process by paying an annual fee to the Department of Law Enforcement and by informing the Department of Law Enforcement of any change in the employment, engagement, or association status of the owner or operator whose fingerprints are retained under subparagraph 3. The Department of Law Enforcement shall adopt a rule setting the amount of the annual fee to be imposed upon the Department of Education for performing these services and establishing the procedures for the retention of owner and operator fingerprints and the dissemination of search results. The fee may be borne by the owner or operator of the nonprofit scholarship funding organization.

5. A nonprofit scholarship funding organization whose owner or operator fails the level 2 background screening is not eligible to provide scholarships under this section.

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

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

   a. Any authorizing statutes, if the offense was a felony.
   b. This chapter, if the offense was a felony.
   c. Section 831.07, relating to forging bank bills, checks, drafts, or promissory notes.
   d. Section 831.09, relating to uttering forged bank bills, checks, drafts, or promissory notes.
   e. Section 831.02, relating to uttering forged instruments.
   f. Section 831.01, relating to forgery.
   g. Section 817.568, relating to criminal use of personal identification information.
   h. Section 817.60, relating to obtaining a credit card through fraudulent means.
   i. Section 817.61, relating to fraudulent use of credit cards, if the offense was a felony.
   j. Section 817.505, relating to patient brokering.
   k. Section 817.506, relating to criminal use of personal identification information.
   l. Section 817.62, relating to patient brokering.
   m. Section 817.63, relating to patient brokering.
   n. Section 817.64, relating to obtaining a credit card through fraudulent means.
   o. Section 817.65, relating to patient brokering.
   p. Section 817.66, relating to obtaining a credit card through fraudulent means.
   q. Section 817.67, relating to obtaining a credit card through fraudulent means.
   r. Section 817.68, relating to obtaining a credit card through fraudulent means.
any student eligible for a scholarship pursuant to this section, who did not receive a renewal or initial scholarship based solely on the lack of available funds under this section and s. 1002.40(11)(i) to another eligible nonprofit scholarship funding organization that may have funds available.

4. May not restrict or reserve scholarships for use at a particular private school or provide scholarships to a child of an owner or operator.

5. Must allow a student in foster care or out-of-home care or a dependent child of a parent who is a member of the United States Armed Forces to apply for a scholarship at any time.

6. Must allow an eligible student to attend any eligible private school and must allow a parent to transfer a scholarship during a school year to any other eligible private school of the parent’s choice.

7. May use eligible contributions received pursuant to this section and ss. 212.099, 212.1832, and 1002.40 during the state fiscal year in which such contributions are collected for administrative expenses if the organization has operated as an eligible nonprofit scholarship funding organization for at least the preceding 3 fiscal years and did not have any findings of material weakness or material noncompliance in its most recent audit under paragraph (m). Administrative expenses from eligible contributions may not exceed 3 percent of the total amount of all scholarships awarded by an eligible scholarship funding organization under this chapter. Such administrative expenses must be reasonable and necessary for the organization’s management and distribution of scholarships awarded under this chapter. No funds authorized under this subparagraph shall be

CODING: Words underlined are deletions; words underlined are additions.
used for lobbying or political activity or expenses related to lobbying or political activity. Up to one-third of the funds authorized for administrative expenses under this subparagraph may be used for expenses related to the recruitment of contributions from taxpayers. An eligible nonprofit scholarship-funding organization may not charge an application fee.

2. Must expend for annual or partial-year scholarships an amount equal to or greater than 75 percent of the net eligible contributions remaining after administrative expenses during the state fiscal year in which such contributions are collected. No more than 25 percent of such net eligible contributions may be carried forward to the following state fiscal year. All amounts carried forward, for audit purposes, must be specifically identified for particular students, by student name and the name of the school to which the student is admitted, subject to the requirements of ss. 1002.22 and 1002.221 and 20 U.S.C. s. 1232g, and the applicable rules and regulations issued pursuant thereto. Any amounts carried forward shall be expended for annual or partial-year scholarships in the following state fiscal year. No later than September 30 of each year, net eligible contributions remaining on June 30 of each year that are in excess of the 75 percent that may be carried forward shall be used to provide scholarships to eligible students or transferred to other eligible nonprofit scholarship-funding organizations to provide scholarships for eligible students. All transferred funds must be deposited by each eligible nonprofit scholarship-funding organization into the scholarship account. All transferred amounts received by any eligible nonprofit scholarship-funding organization must be separately disclosed in the annual financial audit required under paragraph (e).

3. Must, before granting a scholarship for an academic year, document each scholarship student’s eligibility for that academic year. A scholarship-funding organization may not grant multiyear scholarships in one approval process.

(a) Must maintain separate accounts for scholarship funds and operating funds.

1. With the prior approval of the Department of Education, may transfer funds to another eligible nonprofit scholarship-funding organization if additional funds are required to meet scholarship demand at the receiving nonprofit scholarship-funding organization. A transfer is limited to the greater of $500,000 or 20 percent of the total contributions received by the nonprofit scholarship-funding organization making the transfer. All transferred funds must be deposited by the receiving nonprofit scholarship-funding organization into the scholarship accounts. All transferred amounts received by any nonprofit scholarship-funding organization must be separately disclosed in the annual financial and compliance audit required in this section.

(b) Must provide to the Auditor General and the Department of Education a report on the results of an annual financial audit of its accounts and records conducted by an independent certified public accountant in accordance with auditing standards generally accepted in the United States, government auditing standards, and rules promulgated by the Auditor General. The audit report must include a report on financial statements presented in accordance with generally accepted...
accounting principles. Audit reports must be provided to the Auditor General and the Department of Education within 180 days after completion of the eligible nonprofit scholarship funding organization’s fiscal year. The Auditor General shall review all audit reports submitted pursuant to this paragraph. The Auditor General shall request any significant items that were omitted in violation of a rule adopted by the Auditor General. The items must be provided within 45 days after the date of the request. If the scholarship-funding organization does not comply with the Auditor General’s request, the Auditor General shall notify the Legislative Auditing Committee.

(a) Must prepare and submit quarterly reports to the Department of Education pursuant to paragraph (2)(l). In addition, an eligible nonprofit scholarship funding organization must submit a timely manner any information requested by the Department of Education relating to the scholarship program.

(2)(l). Must participate in a joint review of the agreed-upon procedures during the 2009-2010 state fiscal year. The agreed-upon procedures must uniformly apply to all private schools and must determine, at a minimum, whether the private school has been verified as eligible by the Department of Education under s. 1002.421; has an adequate accounting system, system of financial controls, and process for deposit and classification of scholarship funds; and has properly expended scholarship funds for education-related expenses. During the development of the procedures, the participating scholarship-funding organizations shall specify guidelines governing the materiality of exceptions that may be found during the accountant’s performance of the procedures. The procedures and guidelines shall be provided to private schools and the Commissioner of Education by March 15, 2011.

(2)(l) must participate in a joint review of the agreed-upon procedures and guidelines developed under sub-subparagraph (n) by February of each biennium, if the scholarship funding organization provided more than $250,000 in scholarship funds to an eligible private school under this chapter during the state fiscal year preceding the biennial review. If the procedures and guidelines are revised, the revisions must be provided to private schools and the Commissioner of Education by March 15 of the year in which the revisions were completed. The revised agreed-upon procedures shall take effect the subsequent school year. For the 2018-2019 school year only, the joint review of the agreed-upon procedures must be completed and the revisions submitted to the commissioner no later than September 15, 2018. The revised procedures are applicable to the 2018-2019 school year.

(c) Must monitor the compliance of a private school with s. 1002.421(1)(q) if the scholarship funding organization provided the majority of the scholarship funding to the school. For each private school subject to s. 1002.421(1)(q), the appropriate scholarship funding organization shall annually notify the Commissioner of Education by October 30 of:

(1) A private school’s failure to submit a report required under s. 1002.421(1)(q); or

(2) Any material exceptions set forth in the report required under s. 1002.421(1)(q).

2. Must seek input from the accrediting associations that are members of the Florida Association of Academic Nonpublic Schools and must determine, at a minimum, whether the private school has been verified as eligible by the Department of Education under s. 1002.421; has an adequate accounting system, system of financial controls, and process for deposit and classification of scholarship funds; and has properly expended scholarship funds for education-related expenses. During the development of the procedures, the participating scholarship-funding organizations shall specify guidelines governing the materiality of exceptions that may be found during the accountant’s performance of the procedures. The procedures and guidelines shall be provided to private schools and the Commissioner of Education by March 15, 2011.

(2)(l) must participate in a joint review of the agreed-upon procedures and guidelines developed under sub-subparagraph (n) by February of each biennium, if the scholarship funding organization provided more than $250,000 in scholarship funds to an eligible private school under this chapter during the state fiscal year preceding the biennial review. If the procedures and guidelines are revised, the revisions must be provided to private schools and the Commissioner of Education by March 15 of the year in which the revisions were completed. The revised agreed-upon procedures shall take effect the subsequent school year. For the 2018-2019 school year only, the joint review of the agreed-upon procedures must be completed and the revisions submitted to the commissioner no later than September 15, 2018. The revised procedures are applicable to the 2018-2019 school year.

(c) Must monitor the compliance of a private school with s. 1002.421(1)(q) if the scholarship funding organization provided the majority of the scholarship funding to the school. For each private school subject to s. 1002.421(1)(q), the appropriate scholarship funding organization shall annually notify the Commissioner of Education by October 30 of:

(1) A private school’s failure to submit a report required under s. 1002.421(1)(q); or

(2) Any material exceptions set forth in the report required under s. 1002.421(1)(q).

2. Must seek input from the accrediting associations that are members of the Florida Association of Academic Nonpublic Schools and must determine, at a minimum, whether the private school has been verified as eligible by the Department of Education under s. 1002.421; has an adequate accounting system, system of financial controls, and process for deposit and classification of scholarship funds; and has properly expended scholarship funds for education-related expenses. During the development of the procedures, the participating scholarship-funding organizations shall specify guidelines governing the materiality of exceptions that may be found during the accountant’s performance of the procedures. The procedures and guidelines shall be provided to private schools and the Commissioner of Education by March 15, 2011.
Schools and the Department of Education when jointly developing
the agreed upon procedures and guidelines under sub-subparagraph (q) and conducting a review of those procedures and guidelines
under sub-subparagraph (r).

(p) Must maintain the surety bond or letter of credit
required by subsection (15). The amount of the surety bond or
letter of credit may be adjusted quarterly to equal the actual
amount of undisbursed funds based upon submission by the
organization of a statement from a certified public accountant
verifying the amount of undisbursed funds. The requirements of
this paragraph are waived if the cost of acquiring a surety bond
or letter of credit exceeds the average 10-year cost of
acquiring a surety bond or letter of credit by 200 percent. The
requirements of this paragraph are waived for a state
university or an independent college or university which is
generic participation in the William T. Boyd, IV, Effective
Access to Student Education Grant Program, located and chartered
in this state, is not for profit, and is accredited by the
Commission on Colleges of the Southern Association of Colleges
and Schools.

(q) Must provide to the Auditor General any information or
documentation requested in connection with an operational audit
of a scholarship funding organization conducted pursuant to s.
11.41.

Information and documentation provided to the Department of
Education and the Auditor General relating to the identity of a
taxpayer that provides an eligible contribution under this
section shall remain confidential at all times in accordance...
 codec: Words underlined are additions.

To ensure fairness and compliance with state standards, participating private schools must:

1. Maintain a list of nationally norm-referenced tests identified for purposes of satisfying the testing requirement in paragraph (9)(f).

2. Annually administer the statewide assessments pursuant to s. 1008.22 if a private school chooses to offer the statewide assessments. A participating private school may choose to offer and administer the statewide assessments to all students who attend the private school in grades 3 through 10 and must submit a request in writing to the Department of Education by March 1 of each year in order to administer the statewide assessments in the subsequent school year.

If a private school fails to meet the requirements of this subsection or s. 1002.421, the commissioner may determine that the private school is ineligible to participate in the scholarship program.

**PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.** An eligible private school may be sectarian or nonsectarian and must:

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

(b) Annually administer or make provision for students participating in the scholarship program in grades 3 through 10 to take one of the nationally norm-referenced tests identified by the Department of Education or the statewide assessments pursuant to s. 1008.22. Students with disabilities for whom standardized testing is not appropriate are exempt from this requirement. A participating private school must report a student's scores to the parent. A participating private school must annually report by August 15 the scores of all participating students to a state university described in paragraph (9)(f).

The parent shall authorize the nonprofit scholarship funding organization to access information needed for income eligibility determination and verification held by other state or federal agencies, including the Department of Revenue, the Department of Children and Families, the Department of Education, the Department of Economic Opportunity, and the Agency for Health Care Administration.

An eligible private school may be sectarian or nonsectarian and must:

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

(b) Annually administer or make provision for students participating in the scholarship program in grades 3 through 10 to take one of the nationally norm-referenced tests identified by the Department of Education or the statewide assessments pursuant to s. 1008.22. Students with disabilities for whom standardized testing is not appropriate are exempt from this requirement. A participating private school must report a student's scores to the parent. A participating private school must annually report by August 15 the scores of all participating students to a state university described in paragraph (9)(f).

(c) Maintain a list of nationally norm-referenced tests identified for purposes of satisfying the testing requirement in paragraph (9)(f).
subparagraph (f) 1. The tests must meet industry standards of quality in accordance with State Board of Education rules.

(f) Issue a project grant award to a state university, to which participating private schools must report the scores of participating students on the nationally norm-referenced tests or the statewide assessments administered by the private school in grades 3 through 10. The project term is 2 years, and the amount of the project is up to $250,000 per year. The project grant award must be released in 2-year intervals in accordance with this paragraph.

1. The state university must annually report to the Department of Education on the student performance of participating students.

a. On a statewide basis. The report shall also include, to the extent possible, a comparison of scholarship students’ performance to the statewide student performance of public school students with socioeconomic backgrounds similar to those of students participating in the scholarship program. To minimize costs and reduce time required for the state university’s analysis and evaluation, the Department of Education shall coordinate with the state university to provide data to the state university in order to conduct analyses of matched students from public school assessment data and calculate control group student performance using an agreed-upon methodology with the state university and

b. On an individual school basis. The annual report must include student performance for each participating private school in which at least 51 percent of the total enrolled students in the private school participated in the Florida Tax Credit Scholarship Program in the prior school year. The report shall be according to each participating private school, and for participating students, in which there are at least 10 participating students who have scores for tests administered.

If the state university determines that the 10-participating student cell size may be reduced without disclosing personally identifiable information, as described in 32 C.F.R. s. 39.12, of a participating student, the state university may reduce the participating student cell size, but the cell size must not be reduced to less than 10 participating students. The department shall provide each private school’s prior school year’s student enrollment information to the state university no later than June 15 of each year, or as requested by the state university.

2. The sharing and reporting of student performance data under this paragraph must be in accordance with requirements of ss. 1002.22 and 1002.23, the Family Educational Rights and Privacy Act, and the applicable rules and regulations issued pursuant thereto, and shall be for the sole purpose of creating the annual report required by subparagraph 1. All parties must preserve the confidentiality of such information as required by law. The annual report must not disaggregate data to a level that will identify individual participating schools, except as required under sub-subparagraph i.b., or disclose the academic level of individual students.

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

4) Notify an eligible nonprofit scholarship funding organization of any of the organization’s identified students who are receiving educational scholarships pursuant to chapter...
(h) Upon the request of the Department of Education, a school district shall coordinate with the Department to provide to a participating private school the statewide assessments administered under s. 1008.22 and any related materials for administering the assessments. A school district is responsible for implementing test administrations at a participating private school, including that:

1. Provision of training for private school staff on test security and assessment administration procedures;

2. Distribution of testing materials to a private school;

3. Retrieval of testing materials from a private school;

4. Provision of the required format for a private school to submit information to the district for test administration and enrollment purposes; and

5. Provision of any required assistance, monitoring, or investigation at a private school.

(11) SCHOLARSHIP AMOUNT AND PAYMENT.

(a) The scholarship amount provided to any student for any single school year by an eligible nonprofit scholarship funding organization from eligible contributions shall be for the costs authorized under paragraph (6)(d), not to exceed annual costs authorized under paragraph (6)(d), as a percentage of the unweighted FTE funding amount for the 2018-2019 school year, who remains eligible, and who is enrolled in an eligible private school; the amount shall be the greater amount calculated pursuant to subparagraph 2. or a percentage of the unweighted FTE funding amount for the 2018-2019 state fiscal year and thereafter as follows:

1. Eighty-eight percent for a student enrolled in meals under the National School Lunch Act of their eligibility as follows:

1. Eighty-eight percent for a student enrolled in any normal correspondence limits, which shall be determined as follows:

1. Eighty-eight percent for a student enrolled in any normal correspondence limits, which shall be determined as follows:

1. Eighty-eight percent for a student enrolled in any normal correspondence limits, which shall be determined as follows:

1. Eighty-eight percent for a student enrolled in any normal correspondence limits, which shall be determined as follows:

1. Eighty-eight percent for a student enrolled in any normal correspondence limits, which shall be determined as follows:

1. Eighty-eight percent for a student enrolled in any normal correspondence limits, which shall be determined as follows:

1. Eighty-eight percent for a student enrolled in any normal correspondence limits, which shall be determined as follows:

1. Eighty-eight percent for a student enrolled in any normal correspondence limits, which shall be determined as follows:

1. Eighty-eight percent for a student enrolled in any normal correspondence limits, which shall be determined as follows:

1. Eighty-eight percent for a student enrolled in any normal correspondence limits, which shall be determined as follows:

1. Eighty-eight percent for a student enrolled in any normal correspondence limits, which shall be determined as follows:

1. Eighty-eight percent for a student enrolled in any normal correspondence limits, which shall be determined as follows:

1. Eighty-eight percent for a student enrolled in any normal correspondence limits, which shall be determined as follows:

1. Eighty-eight percent for a student enrolled in any normal correspondence limits, which shall be determined as follows:

1. Eighty-eight percent for a student enrolled in any normal correspondence limits, which shall be determined as follows:

1. Eighty-eight percent for a student enrolled in any normal correspondence limits, which shall be determined as follows:

1. Eighty-eight percent for a student enrolled in any normal correspondence limits, which shall be determined as follows:

1. Eighty-eight percent for a student enrolled in any normal correspondence limits, which shall be determined as follows: 
An eligible nonprofit scholarship funding organization shall ensure that the parent to whom the warrant is made restrictively endorsed the warrant to the private school for deposit into the account of the private school or that the parent has approved a funds transfer before any scholarship funds are deposited.

(a) An eligible nonprofit scholarship funding organization shall obtain verification from the private school of a student's continued attendance at the school for each period covered by a scholarship payment.

(b) Payment of the scholarship shall be made by the eligible nonprofit scholarship funding organization no less frequently than on a quarterly basis.

(c) The department, the division, and the Department of Education shall develop a cooperative agreement to assist in the administration of this section.

(d) The department shall adopt rules necessary to administer this section and ss. 211.0251, 212.1831, 220.1875, 561.1211, and 624.51055, including rules establishing application forms, procedures governing the approval of tax credits and carryforward tax credits under subsection (5), and procedures to be followed by taxpayers when claiming approved tax credits on their returns.

(e) The division shall adopt rules necessary to administer its responsibilities under this section and ss. 561.1211.

(f) The State Board of Education shall adopt rules to administer the responsibilities of the Department of Education and the Commissioner of Education under this section.

(4) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.—All eligible nonprofit scholarship funding organizations shall ensure that the parent to whom the warrant is made restrictively endorsed the warrant to the private school or that the parent has approved a funds transfer before any scholarship funds are deposited.

(a) An eligible nonprofit scholarship funding organization shall obtain verification from the private school of a student's continued attendance at the school for each period covered by a scholarship payment.

(b) Payment of the scholarship shall be made by the eligible nonprofit scholarship funding organization no less frequently than on a quarterly basis.

(12) ADMINISTRATION: RULES.

(a) The department, the division, and the Department of Education shall develop a cooperative agreement to assist in the administration of this section.

(b) The department shall adopt rules necessary to administer this section and ss. 211.0251, 212.1831, 220.1875, 561.1211, and 624.51055, including rules establishing application forms, procedures governing the approval of tax credits and carryforward tax credits under subsection (5), and procedures to be followed by taxpayers when claiming approved tax credits on their returns.

(c) The division shall adopt rules necessary to administer its responsibilities under this section and ss. 561.1211.

(d) The State Board of Education shall adopt rules to administer the responsibilities of the Department of Education and the Commissioner of Education under this section.

(3) Guaranteed Allocation.

(a) The scholarship amount awarded to a student enrolled in a Florida public school in which a student is enrolled and that is different from the school to which the student was assigned or in a lab school as defined in s. 1002.32, is limited to $750.

(b) Payment of the scholarship shall be made by the eligible nonprofit scholarship funding organization to the private school for deposit into the account of the private school or that the parent has approved a funds transfer before any scholarship funds are deposited.

(c) An eligible nonprofit scholarship funding organization shall obtain verification from the private school of a student's continued attendance at the school for each period covered by a scholarship payment.

(d) Payment of the scholarship shall be made by the eligible nonprofit scholarship funding organization no less frequently than on a quarterly basis.

(e) The department, the division, and the Department of Education shall develop a cooperative agreement to assist in the administration of this section.

(f) The department shall adopt rules necessary to administer this section and ss. 211.0251, 212.1831, 220.1875, 561.1211, and 624.51055, including rules establishing application forms, procedures governing the approval of tax credits and carryforward tax credits under subsection (5), and procedures to be followed by taxpayers when claiming approved tax credits on their returns.

(g) The division shall adopt rules necessary to administer its responsibilities under this section and ss. 561.1211.

(2) The department shall adopt rules necessary to administer the responsibilities of the Department of Education and the Commissioner of Education under this section.

(3) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.—All eligible nonprofit scholarship funding organizations shall ensure that the parent to whom the warrant is made restrictively endorsed the warrant to the private school or that the parent has approved a funds transfer before any scholarship funds are deposited.

(a) An eligible nonprofit scholarship funding organization shall obtain verification from the private school of a student's continued attendance at the school for each period covered by a scholarship payment.

(b) Payment of the scholarship shall be made by the eligible nonprofit scholarship funding organization no less frequently than on a quarterly basis.

(c) The department, the division, and the Department of Education shall develop a cooperative agreement to assist in the administration of this section.

(d) The department shall adopt rules necessary to administer this section and ss. 211.0251, 212.1831, 220.1875, 561.1211, and 624.51055, including rules establishing application forms, procedures governing the approval of tax credits and carryforward tax credits under subsection (5), and procedures to be followed by taxpayers when claiming approved tax credits on their returns.

(e) The division shall adopt rules necessary to administer its responsibilities under this section and ss. 561.1211.

(f) The State Board of Education shall adopt rules to administer the responsibilities of the Department of Education and the Commissioner of Education under this section.

(g) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.—All eligible nonprofit scholarship funding organizations shall ensure that the parent to whom the warrant is made restrictively endorsed the warrant to the private school or that the parent has approved a funds transfer before any scholarship funds are deposited.

(a) An eligible nonprofit scholarship funding organization shall obtain verification from the private school of a student's continued attendance at the school for each period covered by a scholarship payment.

(b) Payment of the scholarship shall be made by the eligible nonprofit scholarship funding organization no less frequently than on a quarterly basis.

(c) The department, the division, and the Department of Education shall develop a cooperative agreement to assist in the administration of this section.

(d) The department shall adopt rules necessary to administer this section and ss. 211.0251, 212.1831, 220.1875, 561.1211, and 624.51055, including rules establishing application forms, procedures governing the approval of tax credits and carryforward tax credits under subsection (5), and procedures to be followed by taxpayers when claiming approved tax credits on their returns.

(e) The division shall adopt rules necessary to administer its responsibilities under this section and ss. 561.1211.

(f) The State Board of Education shall adopt rules to administer the responsibilities of the Department of Education and the Commissioner of Education under this section.

(g) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.—All eligible nonprofit scholarship funding organizations shall ensure that the parent to whom the warrant is made restrictively endorsed the warrant to the private school or that the parent has approved a funds transfer before any scholarship funds are deposited.

(a) An eligible nonprofit scholarship funding organization shall obtain verification from the private school of a student's continued attendance at the school for each period covered by a scholarship payment.

(b) Payment of the scholarship shall be made by the eligible nonprofit scholarship funding organization no less frequently than on a quarterly basis.

(c) The department, the division, and the Department of Education shall develop a cooperative agreement to assist in the administration of this section.

(d) The department shall adopt rules necessary to administer this section and ss. 211.0251, 212.1831, 220.1875, 561.1211, and 624.51055, including rules establishing application forms, procedures governing the approval of tax credits and carryforward tax credits under subsection (5), and procedures to be followed by taxpayers when claiming approved tax credits on their returns.

(e) The division shall adopt rules necessary to administer its responsibilities under this section and ss. 561.1211.

(f) The State Board of Education shall adopt rules to administer the responsibilities of the Department of Education and the Commissioner of Education under this section.

(g) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.—All eligible nonprofit scholarship funding organizations shall ensure that the parent to whom the warrant is made restrictively endorsed the warrant to the private school or that the parent has approved a funds transfer before any scholarship funds are deposited.

(a) An eligible nonprofit scholarship funding organization shall obtain verification from the private school of a student's continued attendance at the school for each period covered by a scholarship payment.

(b) Payment of the scholarship shall be made by the eligible nonprofit scholarship funding organization no less frequently than on a quarterly basis.

(c) The department, the division, and the Department of Education shall develop a cooperative agreement to assist in the administration of this section.
contributions received by the department and the division must be deposited into a designated student fund and used for K-12 education funding in a manner consistent with s. 17.57(3).

(14) PRESERVATION OF CREDIT. If any provision or portion of this section, s. 211.0251, s. 212.1831, s. 220.1875, s. 561.1211, or s. 624.5105 or the application thereof to any person or circumstance is held unconstitutional by any court or is otherwise declared invalid, the unconstitutionality or invalidity shall not affect any credit earned under s. 211.0251, s. 212.1831, s. 220.1875, s. 561.1211, or s. 624.5105 by any taxpayer with respect to any contribution paid to an eligible nonprofit scholarship funding organization before the date of a determination of unconstitutionality or invalidity. Such credit shall be allowed at such time and in such a manner as if a determination of unconstitutionality or invalidity had not been made, provided that nothing in this subsection by itself or in combination with any other provision of law shall result in the allowance of any credit to any taxpayer in excess of one dollar of credit for each dollar paid to an eligible nonprofit scholarship funding organization.

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

A copy of a surety bond or letter of credit to secure any claim against the bond or letter of credit may be made only if the surety bond or letter of credit must specify that any claim against the bond or letter of credit may be made only if the surety bond or letter of credit for each dollar paid to an eligible nonprofit scholarship funding organization in accordance with this section in an amount equal to 25 percent of the scholarship funds anticipated for each school year or $100,000, whichever is greater. The surety bond or letter of credit must specify that the bond or letter of credit shall be allowed at such time and in such a manner as if a determination of unconstitutionality or invalidity had not been made, provided that nothing in this subsection by itself or in combination with any other provision of law shall result in the allowance of any credit to any taxpayer in excess of one dollar of credit for each dollar paid to an eligible nonprofit scholarship funding organization.

1. A copy of the organization’s incorporation documents and registration with the Division of Corporations of the Department of State.

2. A copy of the organization’s Internal Revenue Service determination letter as a 501(c)(3) not for profit organization.

3. A description of the organization’s financial plan that demonstrates sufficient funds to operate throughout the school year.

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

5. The organization’s organizational chart.

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

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

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

9. A copy of the organization’s policies on conflict of interest and whistleblowers.

10. A copy of a surety bond or letter of credit to secure the faithful performance of the obligations of the eligible nonprofit scholarship funding organization in accordance with this section in an amount equal to 25 percent of the scholarship funds anticipated for each school year or $100,000, whichever is greater. The surety bond or letter of credit must specify that any claim against the bond or letter of credit may be made only if the surety bond or letter of credit shall be allowed at such time and in such a manner as if a determination of unconstitutionality or invalidity had not been made, provided that nothing in this subsection by itself or in combination with any other provision of law shall result in the allowance of any credit to any taxpayer in excess of one dollar of credit for each dollar paid to an eligible nonprofit scholarship funding organization.
By an eligible nonprofit scholarship-funding organization to provide scholarships to and on behalf of students who would have had scholarships funded if it were not for the diversion of funds giving rise to the claim against the bond or letter of credit:

4. An annual report that includes:
   a. The number of students who completed applications, by
   b. The number of students who received funding for scholarships, by county and by grade.
   c. The number of students who were approved for scholarships within each funding category, by county and by grade.
   d. The amount of funds received, the amount of funds distributed in scholarships, and an accounting of remaining funds and the obligation of those funds.
   e. A detailed accounting of how the organization spent the administrative funds allowable under paragraph (6)(j).
   (d) In addition to the information required by subparagraphs (a), (b), an application for renewal must include:
   1. A surety bond or letter of credit to secure the faithful performance of the obligations of the eligible nonprofit scholarship-funding organization in accordance with this section equal to the amount of undisbursed donations held by the organization based on the annual report submitted pursuant to paragraph (6)(m). The amount of the surety bond or letter of credit must be at least $100,000, but not more than $25 million. The surety bond or letter of credit must specify that any claim against the bond or letter of credit may be made only by an eligible nonprofit scholarship-funding organization to provide scholarships to and on behalf of students who would have had scholarships funded if it were not for the diversion of funds giving rise to the claim against the bond or letter of credit.
   2. The organization’s completed Internal Revenue Service Form 990 submitted no later than November 30 of the year before the school year that the organization intends to offer the scholarships, notwithstanding the September 1 application deadline.
   3. A copy of the statutory audit conducted by the Department of Education and Auditor General.
   4. An annual report that includes:
   a. The number of students who completed applications, by
of a nonprofit scholarship-funding organization, the
organization must notify the affected eligible students and
parents of the decision within 35 days after disapproval. An
eligible student affected by the disapproval of an
organization's participation remains eligible under this section
until the end of the school year in which the organization was
disapproved. The student must apply and be accepted by another
eligible nonprofit scholarship-funding organization for the
upcoming school year. The student shall be given priority in
accordance with paragraph (6)(f).

(5) All remaining funds held by a nonprofit scholarship-
funding organization that is disapproved for participation must
be transferred to other eligible nonprofit scholarship funding
organizations to provide scholarships for eligible students. All
transferred funds must be deposited by each eligible nonprofit
scholarship funding organization receiving such funds into its
scholarship account. All transferred amounts received by any
eligible nonprofit scholarship-funding organization must be
separately disclosed in the annual financial audit required
under subsection (6).

(6) A nonprofit scholarship funding organization is a
renewing organization if it maintains continuous approval and
participation in the program. An organization that chooses not
to participate for 1 year or more or is disapproved to
participate for 1 year or more must submit an application for
initial approval in order to participate in the program again.

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

(a) A state university or an independent college or
university which is eligible to participate in the William L.
Boyd, IV, Effective Access to Student Education Grant Program,
located and chartered in this state, is not for profit, and is
accredited by the Commission on Colleges of the Southern
Association of Colleges and Schools, is exempt from the initial
or renewal application process, but must file a registration
notice with the Department of Education to be an eligible
nonprofit scholarship funding organization. The State Board of
Education shall adopt rules that identify the procedure for
filling the registration notice with the department. The rules
must identify appropriate reporting requirements for fiscal,
programmatic, and performance accountability purposes consistent
with this section, but shall not exceed the requirements for
eligible nonprofit scholarship funding organizations for
charitable organizations.

Section 21. Section 1002.40, Florida Statutes, is amended
to read:

1002.40 The Hope Scholarship Florida K-12 Education Funding
Tax Credit Program.—
(1) PURPOSE. The Hope Scholarship Program is established to
provide the parent of a public school student who was subjected
to an incident listed in subsection (3) an opportunity to
(ii) "Program" means the Hope Scholarship Program.

(iii) "School" means any educational program or activity under s. 1002.33, s. 1002.331, or s. 1002.332;

(iv) "Eligible private school" has the same meaning as provided in s. 1002.39.

(v) "Eligible nonprofit scholarship organization" or "organization" has the same meaning as provided in s. 1002.395(2)(c).

(vi) "Motor vehicle" has the same meaning as provided in s. 320.01(1)(a), but does not include a heavy truck, truck tractor, trailer, or motorcycle.

(vii) "Parent" means a resident of this state who is a parent, as defined in s. 1000.21, and whose student reported an incident in accordance with subsection (6).

(viii) "Program" means the Hope Scholarship Program.

(ix) "School" means any educational program or activity.
providing educational services to youth in the Department of
Juvenile Justice commitment programs.

(a) Participating in a virtual school, correspondence
school, or distance learning program that receives state funding
pursuant to the student’s participation unless the participation
is limited to no more than two courses per school year or
(b) Receiving any other educational scholarship pursuant to
this chapter.

(4) TERM OF HOPE SCHOLARSHIP. For purposes of continuity of
educational choice, a Hope scholarship shall remain in force
until the student returns to public school or graduates from
high school, whichever occurs first. A scholarship student who
enrolls in a public school or public school program is
considered to have returned to a public school for the purpose
of determining the end of the scholarship’s term.

(4) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.
(a) Upon receipt of a report of an incident, the school
principal, or his or her designee, shall provide a copy of the
report to the parent and investigate the incident to determine
if the incident must be reported as required by s. 1006.09(6).
Within 24 hours after receipt of the report, the principal or
his or her designee shall provide a copy of the report to the
parent of the alleged offender and to the superintendent. Upon
conclusion of the investigation or within 15 days after the
incident was reported, whichever occurs first, the school
district shall notify the parent of the program and offer the
parent an opportunity to enroll his or her student in another
public school that has capacity or to request and receive a
scholarship to attend an eligible private school, subject to

(5) Receiving any other educational scholarship pursuant to
this chapter.

(6) ADMINISTRATIVE PENALTY. A school district in which the student resides
shall notify the parent of the program and offer the
parent an opportunity to enroll his or her student in another
public school that has capacity or to request and receive a
scholarship to attend an eligible private school, subject to

(7) Receiving any other educational scholarship pursuant to
this chapter.

Be deleted.

(8) TERM OF HOPE SCHOLARSHIP. For purposes of continuity of
educational choice, a Hope scholarship shall remain in force
until the student returns to public school or graduates from
high school, whichever occurs first. A scholarship student who
enrolls in a public school or public school program is
considered to have returned to a public school for the purpose
of determining the end of the scholarship’s term.

(9) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.
(a) Upon receipt of a report of an incident, the school
principal, or his or her designee, shall provide a copy of the
report to the parent and investigate the incident to determine
if the incident must be reported as required by s. 1006.09(6).
Within 24 hours after receipt of the report, the principal or
his or her designee shall provide a copy of the report to the
parent of the alleged offender and to the superintendent. Upon
conclusion of the investigation or within 15 days after the
incident was reported, whichever occurs first, the school
district shall notify the parent of the program and offer the
parent an opportunity to enroll his or her student in another
public school that has capacity or to request and receive a
Scholarship to attend an eligible private school, subject to

(10) Receiving any other educational scholarship pursuant to
this chapter.
a request in writing to the department by March 1 of each year in order to administer the statewide assessments in the subsequent school year.

If a private school fails to meet the requirements of this subsection or s. 1002.421, the commissioner may determine that the private school is ineligible to participate in the program.

(2) DEPARTMENT OF EDUCATION OBLIGATIONS. The department shall:

(a) Cross-check the list of participating scholarship students with the public school enrollment lists to avoid duplication.

(b) Maintain a list of nationally norm-referenced tests identified for purposes of satisfying the testing requirement in paragraph (c)(4). The tests must meet industry standards of quality in accordance with State Board of Education rules.

(c) Require quarterly reports by an eligible nonprofit scholarship funding organization regarding the number of students participating in the program, the private school in which the students are enrolled, and other information deemed necessary by the department.

(d) Contract with an independent entity to provide an annual evaluation of the program by:

1. Reviewing the school bullying prevention education program, climate, and code of student conduct of each public school from which 10 or more students transferred to another public school or private school using the Hope scholarship to determine areas in the school or school district procedures involving reporting, investigating, and communicating a parent's concerns.

2. Reviewing the school bullying prevention education program, climate, and code of student conduct of each public school to which a student transferred if the student was from a school identified in subparagraph 1. in order to identify best practices and make recommendations to a public school at which the incidents occurred.

3. Reviewing the performance of participating students enrolled in a private school in which at least 51 percent of the total enrolled students in the prior school year participated in the program and in which there are at least 10 participating students who have scores for tests administered.

4. Surveying the parents of participating students to determine academic, safety, and school climate satisfaction and to identify any challenges to or obstacles in addressing the incident or relating to the use of the scholarship.

(3) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM PARTICIPATION. A parent who applies for a Hope scholarship is exercising his or her parental option to place his or her student in an eligible private school.
(a) The parent must select an eligible private school and apply for the admission of his or her student.

(b) The parent must inform the student's school district when the parent withdraws his or her student to attend an eligible private school.

(c) Any student participating in the program must remain in attendance throughout the school year unless excused by the school for illness or other good cause.

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

(e) Upon reasonable notice to the department and the school district, the parent may remove the student from the private school and place the student in a public school in accordance with this section.

(f) The parent must ensure that the student participating in the program takes the norm-referenced assessment offered by the private school. The parent may also choose to have the student participate in the statewide assessments pursuant to s. 1008.22. If the parent requests that the student take the statewide assessments pursuant to s. 1008.22 and the private school has not chosen to offer and administer the statewide assessments, the parent is responsible for transporting the student to the assessment site designated by the school district.

(g) Upon receipt of a scholarship warrant, the parent may transfer the warrant to the private school for deposit into the account of such school. If payment is made by funds transfer in accordance with paragraph (11)(d), the parent must approve each payment before payment is made by funds transfer in accordance with paragraph (11)(d), the parent must approve each payment before

For students initially eligible in the 2019-2020 school year or thereafter, the calculated amount for a student to

The parent must ensure that the student participating in the program takes the norm-referenced assessment offered by the private school. The parent may also choose to have the student participate in the statewide assessments pursuant to s. 1008.22. If the parent requests that the student take the statewide assessments pursuant to s. 1008.22 and the private school has not chosen to offer and administer the statewide assessments, the parent is responsible for transporting the student to the assessment site designated by the school district.

Upon receipt of a scholarship warrant, the parent may transfer the warrant to the private school for deposit into the account of such school. If payment is made by funds transfer in accordance with paragraph (11)(d), the parent must approve each payment before payment is made by funds transfer in accordance with paragraph (11)(d), the parent must approve each payment before payment is made by funds transfer in accordance with paragraph (11)(d), the parent must approve each payment before.
attend an eligible private school shall be based upon the grade level and school district in which the student was assigned as 25 percent of the funds per unweighted full-time equivalent in the Florida Education Finance Program for a student in the basic program established pursuant to s. 1011.621(1)(c), plus a per full-time equivalent share of funds for all categorical programs, except for the Exceptional Student Education Guaranteed Allocation.

(b) The maximum amount awarded to a student enrolled in a public school located outside of the district in which the student resides shall be $750.

(c) When a student enters the program, the eligible nonprofit scholarship funding organization must receive all documentation required for the student’s participation, including a copy of the report of the incident received pursuant to subsection (f) and the private school’s and student’s fee schedule. The initial payment shall be made after verification of admission acceptance, and subsequent payments shall be made upon verification of continued enrollment and attendance at the private school.

(d) Payment of the scholarship by the eligible nonprofit scholarship funding organization may be by individual warrant made payable to the student’s parent or by funds transfer, including, but not limited to, debit cards, electronic payment cards, or any other means of payment that the department deems to be commercially viable or cost-effective. If payment is made by warrant, the warrant must be delivered by the eligible nonprofit scholarship funding organization to the private school of the parent’s choice, and the parent shall restrictively endorse the warrant to the private school. If payments are made by funds transfer, the parent must approve each payment before the scholarship funds may be deposited. The parent may not designate any entity or individual associated with the participating private school as the parent’s attorney in fact to endorse a scholarship warrant or approve a funds transfer.

(a) An eligible nonprofit scholarship funding organization shall obtain verification from the private school of a student’s continued attendance at the school for each period covered by a scholarship payment.

(b) Payment of the scholarship shall be made by the eligible nonprofit scholarship funding organization no less frequently than on a quarterly basis.

(c) An eligible nonprofit scholarship funding organization, subject to the limitations of s. 1002.395(6)(i)(b)1., may use eligible contributions received during the state fiscal year in which such contributions are collected for administrative expenses.

(d) Moneys received pursuant to this section do not constitute taxable income to the qualified student or his or her parent.

(i) Notwithstanding s. 1002.395(6)(s)1., no more than 5 percent of net eligible contributions may be carried forward to the following state fiscal year by an eligible scholarship funding organization. For audit purposes, all amounts carried forward must be specifically identified for individual students by student name and by the name of the school to which the student is admitted, subject to the requirements of ss. 1002.21 and 1002.23 and 20 U.S.C. s. 1232g, and the applicable rules and

Page 145 of 158
CODING: Words `stricken` are deletions; words `underlined` are additions.

Page 146 of 158
CODING: Words `stricken` are deletions; words `underlined` are additions.
regulations issued pursuant to such requirements. Any amounts carried forward shall be expended for annual scholarships or partial-year scholarships in the following state fiscal year. Net eligible contributions remaining on June 30 of each year which are in excess of the 5 percent that may be carried forward shall be transferred to other eligible nonprofit scholarship-funding organizations participating in the Hope Scholarship Program to provide scholarships for eligible students. All transferred funds must be deposited by each eligible nonprofit scholarship-funding organization receiving such funds into the scholarship account of eligible students. All transferred amounts received by an eligible nonprofit scholarship-funding organization must be separately disclosed in the annual financial audit requirement under s. 1002.395(6)(m). If no other eligible nonprofit scholarship-funding organization participates in the Hope Scholarship Program, net eligible contributions in excess of the 5 percent may be used to fund scholarships for students eligible under s. 1002.395 only after fully exhausting all contributions made in support of scholarships under that section in accordance with the priority established in s. 1002.395(6)(e) prior to awarding any initial scholarships.

(12) OBLIGATIONS OF THE AUDITOR GENERAL.

(a) The Auditor General shall conduct an annual operational audit of accounts and records of each organization that participates in the program. As part of this audit, the Auditor General shall verify, at a minimum, the total number of students served and transmit that information to the department. The Auditor General shall provide the commissioner with a copy of each annual operational audit performed pursuant to this paragraph within 10 days after the audit is finalized.

(b) The Auditor General shall notify the department of any organization that fails to comply with a request for information.

(13) SCHOLARSHIP FUNDING TAX CREDITS.—

(a) A tax credit is available under s. 212.1832(1) for use by a person that makes an eligible contribution. Eligible contributions shall be used for K-12 education funding to fund scholarships under this section and may be used to fund scholarships under s. 1002.395. Each eligible contribution is limited to a single designation payment of $105 per motor vehicle purchased at the time of purchase of a motor vehicle or a single designation payment of $105 per motor vehicle purchased at the time of registration of a motor vehicle that was not purchased from a dealer, except that a contribution may not exceed the state tax imposed under chapter 212 that would otherwise be collected from the purchaser by a dealer, designated agent, or private tag agent. Payments of contributions shall be made to a dealer at the time of purchase of a motor vehicle or to a designated agent or private tag agent at the time of registration of a motor vehicle that was not purchased from a dealer. An eligible contribution shall be accompanied by a contribution election form provided by the Department of Revenue, developed in collaboration with the Department of Education. The form shall include, at a minimum, a brief description of each scholarship program available under this chapter and the type of student served in each program: THE HOPE SCHOLARSHIP PROGRAM and THE FLORIDA TAX CREDIT SCHOLARSHIP PROGRAM.
Florida Senate - 2021 SB 48

36-00745D-21 202148__
Page 149 of 158

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

---

Florida Senate - 2021 SB 48

36-00745D-21 202148__
Page 150 of 158

CODING: Words **stricken** are deletions; words **underlined** are additions.
3. If the total amount stolen is $20,000 or more, but less than $100,000, the offense is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
4. If the total amount stolen is $100,000 or more, the offense is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(a) A person convicted of an offense under paragraph (d) shall be ordered by the sentencing judge to make restitution to the organization in the amount that was stolen from the program.
(b) Upon a finding that a dealer failed to remit a contribution under subparagraph (b)(3), for which the dealer claimed a credit pursuant to s. 212.1832(2), the Department of Revenue shall notify the affected organizations of the dealer’s name, address, federal employer identification number, and information related to differences between credits taken by the dealer pursuant to s. 212.1832(2) and amounts remitted to the eligible nonprofit scholarship-funding organization under subparagraph (b)(3).
(c) Any dealer, designated agent, private tag agent, or organization that fails to timely submit reports to the Department of Revenue as required in paragraphs (b) and (c) is subject to a penalty of $1,000 for every month, or part thereof, the report is not provided, up to a maximum amount of $10,000. Such penalty shall be collected by the Department of Revenue and shall be transferred into the General Revenue Fund. Such penalty must be settled or compromised if it is determined by the Department of Revenue that the noncompliance is due to reasonable cause and not due to willful neglect, willful neglect, or fraud.

Section 22. Subsection (4) of section 1002.411, Florida Statutes, is amended to read:

"4. ADMINISTRATION.—An eligible nonprofit scholarship-funding organization participating in a scholarship program under this chapter the Florida Tax Credit Scholarship Program established by s. 1002.395 may establish reading scholarship accounts for eligible students in accordance with the requirements of eligible nonprofit scholarship-funding organizations under this chapter.
"
compliance with all requirements of this section in addition to private school requirements outlined in s. 1002.42, specific requirements identified within respective scholarship program laws, and other provisions of Florida law that apply to private schools, and must:

(i) Maintain a physical location in the state at which each student has regular and direct contact with teachers. A private virtual school with at least one administrative office located in this state which requires all of its administrative staff to be Florida residents meets this requirement.

(q) Provide a report from an independent certified public accountant who performs the agreed-upon procedures developed pursuant to s. 1002.394(11)(q), if the private school receives more than $250,000 in funds from scholarships awarded under this chapter in a state fiscal year. A private school subject to this subsection must annually submit the report by September 15 to the scholarship-funding organization that awarded the majority of the school’s scholarship funds. However, for the 2020-2021 school year only, a school that receives more than $250,000 in scholarship funds only through the John M. McKay Scholarship for Students with Disabilities Program pursuant to s. 1002.39 must submit the annual report by September 15 to the department. The agreed-upon procedures must be conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants.

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

Section 24. Paragraph (aa) of subsection (4) of section 1009.971, Florida Statutes, is amended to read:

1009.971 Florida Prepaid College Board.—

(4) FLORIDA PREPAID COLLEGE BOARD; POWERS AND DUTIES.—The board shall have the powers and duties necessary or proper to carry out the provisions of ss. 1009.97-1009.988, including, but not limited to, the power and duty to:

(aa) Adopt rules relating to the purchase and use of a prepaid college plan authorized under s. 1009.98 or a college savings plan authorized under s. 1009.981 for the McKay-Gardiner Family Scholarship Program pursuant to s. 1002.381 or the Gardiner Scholarship Program pursuant to s. 1002.394, which may include, but need not be limited to:

1. The use of such funds for postsecondary education programs for students with disabilities;

2. Effective procedures that allow program funds to be used in conjunction with other funds used by a parent in the purchase of a prepaid college plan or a college savings plan;

3. The tracking and accounting of program funds separately from other funds contributed to a prepaid college plan or a college savings plan;

4. The reversion of program funds, including, but not
limited to, earnings from contributions to the Florida College Savings Plan;

5. The use of program funds only after private payments have been used for prepaid college plan or college savings plan expenditures;

6. Contracting with each eligible nonprofit scholarship-funding organization to establish mechanisms to implement ss. 1002.381 and 1002.394, including, but not limited to, identifying the source of funds being deposited in the plans; and

7. The development of a written agreement that defines the owner and beneficiary of an account and outlines responsibilities for the use of the advance payment contract funds or savings program funds.

Section 25. Subsection (11) of section 1009.98, Florida Statutes, is amended to read:

Section (11) of section 1009.98 Stanley G. Tate Florida Prepaid College Program.—

(a) A prepaid college plan may be purchased, accounted for, used, and terminated as provided in ss. 1002.381 and 1002.394;

(b) A designated beneficiary may apply the benefits of a participation agreement toward the program fees of a program designed for students with disabilities conducted by a state postsecondary institution. A designated beneficiary may not be changed while a college savings plan contains funds contributed under ss. 1002.381 and 1002.394.

Section 27. Subsection (4) of section 1011.61, Florida Statutes, is amended to read:

(4) The maximum value for funding a student in kindergarten through grade 12 or in a prekindergarten program for exceptional children as provided in s. 1003.21(1)(e) shall be the sum of the calculations in paragraphs (a), (b), and (c) as calculated by the department.

(a) The sum of the student's full-time equivalent student membership value for the school year or the equivalent derived from paragraphs (1)(a) and (b), subparagraph (1)(c)1., subparagraphs (1)(c)2.b. and c., subparagraph (1)(c)3., and...
subsection (2). If the sum is greater than 1.0, the full-time equivalent student membership value for each program or course shall be reduced by an equal proportion so that the student’s total full-time equivalent student membership value is equal to 1.0.

(b) If the result in paragraph (a) is less than 1.0 full-time equivalent student and the student has full-time equivalent student enrollment pursuant to sub-subparagraph (l)(c)(1)(b)(VIII), calculate an amount that is the lesser of the value in sub-subparagraph (l)(c)(1)(b)(VII) or the value of 1.0 less the value in paragraph (a).

(c) The full-time equivalent student enrollment value in sub-subparagraph (l)(c)(2)(a).

A scholarship award provided to a student enrolled in the John M. McKay Scholarships for Students with Disabilities Program pursuant to s. 1002.39 is not subject to the maximum value for funding a student under this subsection.

Section 28. Paragraph (f) of subsection (18) of section 1011.62, Florida Statutes, is amended to read:

1011.62 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(18) TEACHER SALARY INCREASE ALLOCATION.—The Legislature may annually provide in the Florida Education Finance Program a teacher salary increase allocation to assist school districts in their recruitment and retention of classroom teachers and other instructional personnel. The amount of the allocation shall be specified in the General Appropriations Act.

(f) Notwithstanding any other provision of law, funds allocated under this subsection shall not be included in the calculated amount for any scholarship awarded under chapter 1002.

Section 29. This act shall take effect July 1, 2021.
I. Summary:

SB 146 authorizes the development and integration of a nonpartisan civic literacy practicum and the designation of a public school providing high-quality civic learning as a Freedom School. Specifically, the bill requires:

- The Commissioner of Education to develop minimum criteria for a nonpartisan civic literacy practicum that may be incorporated into a school’s curriculum for the high school United States Government course, along with a process for district school boards to verify student completion of the practicum.
- School districts to include and accept nonpartisan civic literacy practicum activities and hours in requirements for academic awards.
- The State Board of Education to annually designate each public school in the state which provides students with high-quality civic learning as a Freedom School, based on specified criteria.

The bill has no impact on state revenues or expenditures.

The bill takes effect July 1, 2021.

II. Present Situation:

Civic Literacy in Florida

Florida law establishes civic literacy as a priority of the Florida K-20 education system and defines civic literacy to mean that students are prepared to become civically engaged and knowledgeable adults who make positive contributions to their communities.¹

¹ Section 1000.03(5)(c), F.S.
Next Generation Sunshine State Standards

Florida law requires the adoption of standards for core curricula content taught in public schools and specifies the requirements students must meet to earn a standard high school diploma.² The Next Generation Sunshine State Standards (NGSSS) establish the core content to be taught in Florida and specify the core knowledge and skills K-12 public school students are expected to acquire. The curricular content must integrate critical-thinking, problem-solving, and workforce-literacy skills; communication, reading, and writing skills; collaboration skills; information and media-literacy skills; and civic-engagement skills, among others.³

The State Board of Education (SBE) is responsible for adopting the NGSSS and subsequent revisions to standards in rule.⁴ NGSSS for social studies include at a minimum curricular content for geography, United States and world history, government, civics, humanities, economics, and financial literacy.⁵

Civic Standards Review

In 2019,⁶ the Legislature required the Commissioner of Education to conduct a comprehensive review of Florida’s civics education course standards. The SBE is expected to complete adoption of necessary revisions to these standards by summer 2021, and approval of new civics education course descriptions is anticipated by fall 2021.⁷

High School Diploma Requirements

Students have several options to earn a standard high school diploma.⁸ In order to graduate from a Florida high school with a standard high school diploma under a 24-credit or 18-credit option or the Career and Technical Education pathway, a student must complete three credits in social studies comprised of one credit in United States History, one credit in World History, one-half credit in economics, and one-half credit in United States Government.⁹

Demonstration of Civic Literacy

Students in Florida public schools and those entering Florida College System (FCS) institutions or state universities must demonstrate competency in civic literacy.¹⁰ Students must successfully complete a one-semester civics education course in grades 6, 7, and 8, which includes the roles and responsibilities of federal, state, and local governments; the structures and functions of the

² Sections 1003.41 and 1003.4282(3), F.S.
³ Section 1003.41(1), F.S.
⁴ Section 1003.41(3)-(4), F.S.
⁵ Section 1003.41(2)(d), F.S.
⁶ Section 1, ch. 2019-150, L.O.F.
⁸ A student may complete a 24-credit program under s. 1003.4282(3), F.S., an 18-credit Academically Challenging Curriculum to Enhance Learning (ACCEL) option under s. 1002.3105, F.S., the Career and Technical Education (CTE) Pathway under 1002.4282(11), F.S., an International Baccalaureate (IB) curriculum or Advanced International Certificate of Education (AICE) curriculum, pursuant to s. 1003.4282(1)(a), F.S., or an option for students with a disability under s. 1003.4282(10), F.S.
⁹ See ss. 1003.4282(3)(d), 1002.3105(5), and 1003.4282(11)(a)1., F.S.
legislative, executive, and judicial branches of government; and the meaning and significance of historic documents, such as the Articles of Confederation, the Declaration of Independence, and the Constitution of the United States. Moreover, each student’s performance on the statewide, standardized end-of-course assessment in civics education constitutes 30 percent of the student’s final course grade.\(^{11}\)

Students initially entering a FCS institution or state university must demonstrate civic literacy competencies and outcomes, including:\(^{12}\)

- Understanding of the basic principles of American democracy and how they are applied in our republican form of government.
- Understanding of the United States Constitution.
- Knowledge of the founding documents and how they have shaped the nature and functions of our institutions of self-governance.
- Understanding of landmark Supreme Court cases and their impact on law and society.

**Service Learning**

Service learning refers to a student-centered, research-based teaching and learning strategy that engages students in meaningful service activities in their schools or communities. Service learning activities are directly tied to academic curricula, standards, and course, district, or state assessments. The Department of Education is required by law to encourage school districts to initiate, adopt, expand, and institutionalize service-learning programs, activities, and policies in kindergarten through grade 12.\(^{13}\)

**Florida Bright Futures Scholarship Program**

The Florida Bright Futures Scholarship Program (program)\(^{14}\) is comprised of four awards, the Florida Academic Scholarship (FAS), the Florida Medallion Scholarship (FMS), the Florida Gold Seal CAPE Scholarship (CAPE), and the Florida Gold Seal Vocational Scholarship (Gold Seal).\(^{15}\)

In order to be eligible for an initial program award, a student must meet residency, academic, and service work requirements specified by each award. Criteria specific to each scholarship program include completing, as approved by the district school board, administrators of a nonpublic school, or Department of Education for home education students:

- For the FAS, a minimum of 100 hours of volunteer service work.\(^{16}\)
- For the FMS, a minimum of 75 hours of volunteer service work.\(^{17}\)

---


\(^{12}\) *Id.* *See also s. 1007.25(4), F.S.* Students must demonstrate competency by successful completion of a specified civic literacy course or by achieving a passing score on an assessment. *Id.*

\(^{13}\) *Id.* Section 1003.497(1), F.S.

\(^{14}\) Section 442, ch. 2002-387, L.O.F. *See also ss. 1009.53-1009.538, F.S.*

\(^{15}\) Section 1009.53(2), F.S.

\(^{16}\) Section 1009.534(1)(e), F.S.

\(^{17}\) Section 1009.535(1)(e), F.S.
• For the CAPE and Gold Seal, at least 30 hours of volunteer service work.\(^\text{18}\)

The program of volunteer service work includes identifying a social or civic issue or a professional area that interests the student, developing a plan for his or her personal involvement in addressing the issue or learning about the area, and, through papers or other presentations, evaluating and reflecting on his or her experience.\(^\text{19}\) Service work may include, but is not limited to, a business or governmental internship, work for a nonprofit community service organization, or activities on behalf of a candidate for public office. The hours of volunteer service must be documented in writing, and the document must be signed by the student, the student’s parent or guardian, and a representative of the organization for which the student performed the volunteer service work.\(^\text{20}\)

III. **Effect of Proposed Changes:**

SB 146 authorizes the development and integration of a nonpartisan civic literacy practicum and the designation of a public school providing high-quality civic learning as a Freedom School. Specifically, the bill requires:

- The Commissioner of Education (commissioner) to develop minimum criteria for a nonpartisan civic literacy practicum that may be incorporated into a school’s curriculum for the high school United States Government course, along with a process for district school boards to verify student completion of the practicum.
- School districts to include and accept nonpartisan civic literacy practicum activities and hours in requirements for academic awards.
- The State Board of Education (SBE) to annually designate each public school in the state which provides students with high-quality civic learning, based on specified criteria, as a Freedom School.

The bill requires the commissioner to develop minimum criteria for a nonpartisan civic literacy practicum that may be incorporated into a school’s curriculum for the high school United States Government course required for high school graduation, beginning with the 2022-2023 school year. The bill also requires the commissioner to develop a process by which a district school board can verify that a student successfully completed a practicum meeting the required criteria. The criteria developed by the commissioner must require a student to:

- Identify a civic issue that impacts his or her community;
- Rigorously research the issue from multiple perspectives and develop a plan for his or her personal involvement in addressing the issue; and
- Create a portfolio to evaluate and reflect upon his or her experience and the outcomes or likely outcomes of his or her involvement. A portfolio must, at a minimum, include research, evidence, and a written plan of involvement.

---

\(^{18}\) Section 1009.536(1)(e) and (2)(b), F.S.

\(^{19}\) Except for credit earned through service-learning courses adopted pursuant to s. 1003.497, F.S., the student may not receive remuneration or academic credit for the volunteer service work performed. Sections 1009.534(1)(e), 1009.535(1)(e), and 1009.536(1)(e) and (2)(b), F.S.

\(^{20}\) Sections 1009.534(1)(e), 1009.535(1)(e), and 1009.536(1)(e) and (2)(b), F.S.
The bill specifies that the civic literacy practicum must be nonpartisan, focus on addressing at least one community issue, and promote a student’s ability to consider differing points of view and engage in civil discourse with individuals who hold an opposing opinion.

School districts are required to include and accept nonpartisan civic literacy practicum activities and hours in requirements for academic awards, especially those awards that currently include community service as a criterion or selection factor. The bill authorizes school districts to count the hours outside of classroom instruction a student devotes to the nonpartisan civic literacy practicum to implement his or her plan of involvement toward meeting the community service requirements of the Florida Bright Futures Scholarship Program.

The bill requires the SBE to designate on an annual basis each public school in the state which provides students with high-quality civic learning, including civic-engagement skills, as a Freedom School. The SBE must establish the criteria for a school’s designation as a Freedom School, which must include:

- The extent to which strategies to develop high-quality civic learning, including civic-engagement skills, are integrated into the classroom using best instructional practices.
- The scope of integration of high-quality civic learning, including civic-engagement skills, across the school’s curricula.
- The extent to which the school supports interdisciplinary, teacher-led professional learning communities to support continuous improvement in instruction and student achievement.
- The minimum percentage of students graduating with a standard high school diploma who must successfully complete a civic literacy practicum and earn community service hours.

The creation of a civic literacy practicum may promote civic literacy in Florida and create an additional pathway for students to fulfill the community service requirements of state and local academic awards.

The bill takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

21 According to the Florida Department of Education, the State Board of Education should be granted explicit rulemaking authority to develop criteria and processes required in the bill. Florida Department of Education, 2021 Legislative Bill Analysis for SB 146 (Jan. 28, 2021).
D. State Tax or Fee Increases:
None.

E. Other Constitutional Issues:
None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:
None.

B. Private Sector Impact:
None.

C. Government Sector Impact:

The bill has no impact on state revenues or expenditures. There may be costs for a school district to incorporate a nonpartisan civic literacy practicum into a school’s curriculum for the high school United States Government course. However, the nonpartisan civic literacy practicum is not required and a school district will only experience these costs if the district chooses to incorporate the practicum into its curriculum for the course.

The Department of Education estimates that compliance with the requirements of the bill relating to the civic literacy practicum and criteria for a school designation would require two additional staff at a cost of $152,939.22

VI. Technical Deficiencies:
None.

VII. Related Issues:
None.

VIII. Statutes Affected:
This bill creates section 1003.44 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.
By Senator Brandes

A bill to be entitled
An act relating to civic education; amending s. 1003.44, F.S.; requiring the Commissioner of Education to develop minimum criteria for a nonpartisan civic literacy practicum for high school students, beginning with a specified school year; requiring the commissioner to develop a certain process for use by district school boards; specifying criteria for the civic literacy practicum; authorizing students to apply the hours they devote to practicum activities to certain community service requirements; requiring school districts accept nonpartisan civic literacy practicum activities and hours in requirements for certain awards; requiring the State Board of Education to designate certain high schools as Freedom Schools; requiring the state board to establish criteria for such designation; providing an effective date.

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

Section 1. Present subsection (5) of section 1003.44, Florida Statutes, is redesignated as subsection (6), and a new subsection (5) is added to that section, to read:

1003.44 Patriotic programs; rules.—
(5) (a) In order to help students evaluate the roles, rights, and responsibilities of United States citizens and determine methods of active participation in society, government, and the political system, the commissioner shall develop minimum criteria for a nonpartisan civic literacy practicum that may be incorporated into a school’s curriculum for the high school United States Government course required by s. 1003.4282(3)(d), beginning with the 2022-2023 school year. The commissioner also shall develop a process by which a district school board can verify that a student successfully completed a practicum meeting those criteria.

1. The criteria must require a student to do all of the following:
   a. Identify a civic issue that impacts his or her community.
   b. Rigorously research the issue from multiple perspectives and develop a plan for his or her personal involvement in addressing the issue.
   c. Create a portfolio to evaluate and reflect upon his or her experience and the outcomes or likely outcomes of his or her involvement. A portfolio must, at minimum, include research, evidence, and a written plan of involvement.

2. A civic literacy practicum must be nonpartisan, focus on addressing at least one community issue, and promote a student’s ability to consider differing points of view and engage in civil discourse with individuals who hold an opposing opinion.

(b) The hours outside of classroom instruction which a student devotes to the nonpartisan civic literacy practicum to implement his or her plan of involvement may be counted toward meeting the community service requirements of the Florida Bright Futures Scholarship Program. School districts must include and accept nonpartisan civic literacy practicum activities and hours in requirements for academic awards, especially those awards that include community service as a criterion or selection.
(c) The State Board of Education shall annually designate each public school in this state which provides students with high-quality civic learning, including civic-engagement skills, as a Freedom School. The state board shall establish the criteria for a school’s designation as a Freedom School. The criteria must include all of the following:

1. The extent to which strategies to develop high-quality civic learning, including civic-engagement skills, are integrated into the classroom using best instructional practices.

2. The scope of integration of high-quality civic learning, including civic-engagement skills, across the school’s curricula.

3. The extent to which the school supports interdisciplinary, teacher-led professional learning communities to support continuous improvement in instruction and student achievement.

4. The minimum percentage of students graduating with a standard high school diploma who must successfully complete a civic literacy practicum and earn community service hours as provided in this subsection.

Section 2. This act shall take effect July 1, 2021.
I. Summary:

SB 282 requires a moment of silence to be set aside for students during each school day. The bill directs the principal of each public school to require teachers in first-period classrooms in all grades to set aside one to two minutes daily for a moment of silence, during which students may not interfere with other students’ participation.

The bill has no impact on state revenues or expenditures.

The bill takes effect July 1, 2021.

II. Present Situation:

District school boards may set aside up to two minutes for silent prayer or meditation at the start of each school day or each school week in the public schools in the district.¹

Fourteen states require a moment of silence or a period for contemplation or prayer during each school day.² An additional eighteen states authorize the school district, school, or classroom to observe a period of silence or prayer during each school day.³

---

¹ Section 1003.45, F.S., added in s. 1, ch. 80-336, L.O.F.
III. **Effect of Proposed Changes:**

SB 282 amends s. 1003.45, F.S., to require a moment of silence be set aside for students during each school day and state legislative findings for the value of a moment of daily reflection.

The bill directs the principal of each public school to require teachers in first-period classrooms in all grades to set aside one to two minutes daily\(^4\) for a moment of silence, during which students may not interfere with other students’ participation.

The bill provides that a teacher:

- May not make suggestions as to the nature of any reflection that a student may engage in during the moment of silence.
- Must encourage parents to discuss the moment of silence with their children and to make suggestions as to the best use of this time.

The bill takes effect July 1, 2021.

IV. **Constitutional Issues:**

A. **Municipality/County Mandates Restrictions:**

None.

B. **Public Records/Open Meetings Issues:**

None.

C. **Trust Funds Restrictions:**

None.

D. **State Tax or Fee Increases:**

None.

E. **Other Constitutional Issues:**

None.

V. **Fiscal Impact Statement:**

A. **Tax/Fee Issues:**

None.

---

\(^4\) One to two minutes daily accumulates to three to six hours of instructional time over the course of the school year. Florida Department of Education, *Agency Legislative Bill Analysis for SB 282* (2021), at 3-4.
B. **Private Sector Impact:**

None.

C. **Government Sector Impact:**

None.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends section 1003.45 of the Florida Statutes.

IX. **Additional Information:**

A. **Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. **Amendments:**

None.
A bill to be entitled
An act relating to moments of silence in public
schools; amending s. 1003.45, F.S.; providing
legislative findings; requiring that public school
principals require certain teachers to set aside time
for a moment of silence at the beginning of each
school day; specifying the duration of the required
moment of silence; prohibiting teachers from making
suggestions as to the nature of any reflection that a
student may engage in during the moment of silence;
deleting a provision authorizing district school
boards to provide a brief period of silent prayer or
meditation; requiring certain teachers to encourage
parents or guardians to discuss the moment of silence
with their children and to make suggestions as to the
best use of this time; providing an effective date.

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

Section 1. Section 1003.45, Florida Statutes, is amended to
read:

1003.45 Permitting study of the Bible and religion;
requiring a moment of silence permitting brief meditation
period.—

(1) The district school board may install in the public
schools in the district a secular program of education
including, but not limited to, an objective study of the Bible
and of religion.

(2) The Legislature finds that in today’s hectic society
too few persons are able to experience even a moment of quiet
reflection before plunging headlong into the activities of daily
life. Young persons are particularly affected by the absence of
an opportunity for a moment of quiet reflection. The Legislature
finds that our youth, and society as a whole, would be well
served if students in the public schools were afforded a moment
of silence at the beginning of each school day.

(3) The principal of each public school shall require
teachers in first-period classrooms in all grades to set aside
at least 1 minute, but district school board may provide that a
brief period, not more than to exceed 2 minutes, daily— for a
moment the purpose of silence, during which students may not
interfere with other students’ participation. A teacher may not
make suggestions as to the nature of any reflection that a
student may engage in during the moment of silence silent prayer
or meditation be set aside at the start of each school day or
each school week in the public schools in the district.

(4) Each first-period classroom teacher shall encourage
parents or guardians to discuss the moment of silence with their
children and to make suggestions as to the best use of this
time.

Section 2. This act shall take effect July 1, 2021.
I. Summary:

SB 200 authorizes a parent to request that his or her K-12 public school student be retained, for the 2021-2022 school year, in the grade level to which the student was assigned at the beginning of the 2020-21 school year. Specifically the bill requires:

- Parents to submit a retention request in writing to the school district superintendent by June 1, 2021.
- The superintendent to grant the retention request if timely filed, but authorizes the superintendent to grant a late request.
- School districts to administer a midyear assessment to a student retained under this act to evaluate the student’s progress. The student must also participate in the statewide standardized assessments and other assessments required by law.
- That a retained student may qualify for whole-grade or midyear promotion, or subject matter acceleration.
- School districts to report to the Department of Education the number of retained students under this act.

The bill has no impact on state revenues or expenditures.

The bill takes effect upon becoming a law.
II. **Present Situation:**

**Student Progression**

Each district school board must establish a plan for student progression from one grade to another based on the student’s mastery of the Next Generation Sunshine State Standards.\(^1\) The plan must, among other things:\(^2\)

- Emphasize student reading proficiency in grades K-3 and provide targeted instructional support for students with identified deficiencies.
- Use results of statewide, standardized assessments and end-of-course assessments to advise high school students of any identified deficiencies and to provide appropriate preparatory instruction.
- Provide for timely information to a student’s teacher and parent evaluation results of progress monitoring in grades K-12.
- Provide requirements and notification procedures regarding student participation in whole-grade promotion, midyear promotion, or subject-matter acceleration.

**Statewide Standardized Assessments**

The primary purpose of the student assessment program is to provide student academic achievement and learning gains data to students, parents, and schools. The program is designed to, in part:\(^3\)

- Assess the achievement level and annual learning gains of each student in English Language Arts and mathematics and the achievement level in all other subjects assessed.
- Identify the educational strengths and needs of students and the readiness of students to be promoted to the next grade level or to graduate from high school.

Each student must participate in the statewide, standardized assessment program in grades 3 through 10.\(^4\) Students who do not achieve a Level 3 or above on the statewide, standardized English Language Arts (ELA) assessment, the statewide, standardized Mathematics assessment, or the Algebra I EOC assessment must be evaluated to determine the nature of the student’s difficulty, the areas of academic need, and strategies for providing academic supports to improve the student’s performance.\(^5\)

Any student in kindergarten through grade 3 who exhibits a substantial deficiency\(^6\) in reading must be provided interventions immediately following the identification of the reading deficiency.\(^7\)

---

\(^{1}\) Sections 1003.41 and 1008.25, F.S. The plan must focus specifically on ELA, math, science, and social studies standards.

\(^{2}\) Section 1008.25(2), F.S.

\(^{3}\) Section 1008.22(1), F.S.

\(^{4}\) Sections 1008.22, F.S and 1008.25(4)(a), F.S.

\(^{5}\) Section 1008.25(4)(a), F.S.

\(^{6}\) Determination of a substantial deficiency is based upon screening, diagnostic, progress monitoring, or assessment data; statewide assessments; or teacher observations Section 1008.25(5)(a), F.S. School districts are required determine the criteria used by the district to identify K-3 students with a substantial deficiency in reading. Rule 6A-10.053(9)(c)3., F.A.C.

\(^{7}\) Section 1008.25(5)(a), F.S.
**Student Retention**

Florida law specifies that no student may be assigned to a grade level based solely on age or other factors that constitute social promotion.\(^8\)

To be promoted to grade 4, a student must score a Level 2 or higher on the statewide, standardized ELA assessment required for grade 3.\(^9\) The student must be retained if the student’s reading deficiency is not remedied by the end of grade 3, by scoring a Level 2 or higher on the statewide, standardized assessment required for grade 3.\(^10\)

The district school board may only exempt students from mandatory retention in grade 3 for good cause. A student who is promoted to grade 4 with a good cause exemption must be provided intensive reading instruction and intervention. Good cause exemptions are limited to students in grade 3 and relate to limited English proficiency students, students with disabilities, the use of alternative assessments or portfolios, and students previously retained in grades K-3.\(^11\)

In the 2018-2019 school year, 28,436 students were promoted to grade 4 based on a good cause exemption.\(^12\)

Based on data from the Florida Department of Education,\(^13\) there was an overall 43 percent reduction in statewide K-12 student retention rates for the 2019-20 school year compared to the previous 5-year average. Students in grade 3 had the most significant reduction in retention rates, with a 77 percent reduction in grade 3 student retentions in 2019-20 compared to the previous 5-year average.

---

\(^8\) Section 1008.25(6)(a), F.S.
\(^9\) Section 1008.25(5)(b), F.S.
\(^10\) Id.
\(^11\) Section 1008.25(6)(b), F.S.

COVID-19 Public Health Emergency

In response to the COVID-19 emergency, the Florida Department of Education (DOE) issued an Executive Order (EO), which cancelled remaining K-12 state assessments for the 2019-2020 school year. The EO also authorized school districts and other educational entities to evaluate students for promotion, graduation, and final course grades for the 2019-2020 school year as though those assessments which were cancelled did not exist.

Resulting guidance relating to the cancellation of state assessments specified that, because the Grade 3 ELA FSA was a key component districts used to make promotion decisions, and such data would not be available due to the cancellation of statewide assessments for the 2019-2020 school year, promotion decisions should be made in consultation with parents, teachers, and school leaders based on the students’ classroom performance and progress monitoring data.

Additionally, state-level guidance suggested that promotion decisions should be made in consultation with parents, teachers, and school leaders based on the students’ classroom performance and progress monitoring data. Therefore, the guidance specified that parents should have the ability to request retention of their child in the current grade for the 2020-2021 year.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>K</td>
<td>6,894</td>
<td>3.40%</td>
<td>4,710</td>
<td>2.33%</td>
<td>32%</td>
</tr>
<tr>
<td>1</td>
<td>7,647</td>
<td>3.63%</td>
<td>4,830</td>
<td>2.34%</td>
<td>37%</td>
</tr>
<tr>
<td>2</td>
<td>4,941</td>
<td>2.31%</td>
<td>2,862</td>
<td>1.38%</td>
<td>42%</td>
</tr>
<tr>
<td>3</td>
<td>16,841</td>
<td>7.55%</td>
<td>3,805</td>
<td>1.74%</td>
<td>77%</td>
</tr>
<tr>
<td>4</td>
<td>2,289</td>
<td>1.06%</td>
<td>669</td>
<td>0.32%</td>
<td>71%</td>
</tr>
<tr>
<td>5</td>
<td>1,464</td>
<td>0.68%</td>
<td>521</td>
<td>0.24%</td>
<td>64%</td>
</tr>
<tr>
<td>6</td>
<td>2,621</td>
<td>1.25%</td>
<td>1,719</td>
<td>0.77%</td>
<td>34%</td>
</tr>
<tr>
<td>7</td>
<td>3,525</td>
<td>1.70%</td>
<td>2,370</td>
<td>1.09%</td>
<td>33%</td>
</tr>
<tr>
<td>8</td>
<td>5,445</td>
<td>2.61%</td>
<td>4,260</td>
<td>1.94%</td>
<td>22%</td>
</tr>
<tr>
<td>9</td>
<td>7,714</td>
<td>3.60%</td>
<td>4,670</td>
<td>2.14%</td>
<td>39%</td>
</tr>
<tr>
<td>10</td>
<td>8,776</td>
<td>4.21%</td>
<td>6,115</td>
<td>2.89%</td>
<td>30%</td>
</tr>
<tr>
<td>11</td>
<td>7,852</td>
<td>4.06%</td>
<td>4,651</td>
<td>2.36%</td>
<td>41%</td>
</tr>
<tr>
<td>12</td>
<td>11,351</td>
<td>5.83%</td>
<td>8,270</td>
<td>4.08%</td>
<td>27%</td>
</tr>
<tr>
<td>Total</td>
<td>87,360</td>
<td>3.21%</td>
<td>49,452</td>
<td>1.80%</td>
<td>43%</td>
</tr>
</tbody>
</table>

18 Id.
III. **Effect of Proposed Changes:**

SB 200 authorizes a parent to request that his or her K-12 public school student be retained, for the 2021-2022 school year, in the grade level to which the student was assigned at the beginning of the 2020-21 school year.” Specifically the bill requires:

- Parents to submit a retention request in writing to the school district superintendent June 1, 2021.
- The superintendent to grant the retention request if timely filed, but authorizes the superintendent to grant a late request.
- School districts to administer a midyear assessment to a student retained under this act to evaluate the student’s progress. The student must also participate in the statewide standardized assessments and other assessments required by law.
- That a retained student may qualify for whole-grade or midyear promotion, or subject matter acceleration.
- School districts to report to the Department of Education the number of retained students under this act.

The bill specifies that a parent who wishes for his or her student to be retained must submit a retention request in writing to the school district superintendent. Only retention requests received by the superintendent on or before June 1, 2021, must be considered. The superintendent must grant a timely filed retention request; it is at the discretion of the superintendent to grant a late request.

The bill requires school districts to administer a midyear assessment to a student retained under this act to evaluate the student’s progress to mastery of the Next Generation Sunshine State Standards. The student must also participate in statewide standardized assessments and any other assessments required by law.

The bill specifies that a retained student may qualify for whole-grade promotion, midyear promotion, or subject-matter acceleration during the 2021-2022 school year. If the student does qualify the parent may request the school district promote his or her student accordingly or request his or her student be retained pursuant to the parent’s retention request. School districts must grant all such requests.

The bill requires school districts to report to the Department of Education the number of students retained pursuant to this act for all or part of the 2021-2022 school year.

The bill may likely provide parents with greater authority to determine that their child should be retained in the 2021-2022 school year. However, this authority is granted only for the 2021-2022 school year, unless extended by legislative action.

The bill takes effect upon becoming a law.
IV. **Constitutional Issues:**

A. Municipality/County Mandates Restrictions:
   
   None.

B. Public Records/Open Meetings Issues:
   
   None.

C. Trust Funds Restrictions:
   
   None.

D. State Tax or Fee Increases:
   
   None.

E. Other Constitutional Issues:
   
   None.

V. **Fiscal Impact Statement:**

A. Tax/Fee Issues:
   
   None.

B. Private Sector Impact:
   
   None.

C. Government Sector Impact:
   
   None.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

The bill creates an unnumbered section of Florida Law.
IX. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.
The Committee on Education (Berman) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Notwithstanding s. 1008.25, Florida Statutes, a parent may request to retain his or her K-8 public school student in the grade level to which the student was assigned at the beginning of the 2020-2021 school year for the 2021-2022 school year.

(1) A parent who wishes for his or her student to be retained under this act shall submit a retention request in
writing to the school district superintendent. Only requests received by the superintendent on or before June 30, 2021, must be considered. A school district superintendent who timely receives such a request shall grant the request. A school district superintendent who receives such a written request after the deadline for receipt may grant the request upon his or her discretion.

(2) A student retained at the request of a parent pursuant to this act may not qualify for midyear promotion pursuant to s. 1002.3105, Florida Statutes, and shall remain in the grade in which he or she was retained until the student qualifies for promotion at the end of the school year.

(3) By June 30, 2022, school districts shall report to the Department of Education the number of students retained pursuant to this act for all or part of the 2021-2022 school year.

Section 2. This act shall take effect upon becoming a law.

=============== T I T L E A M E N D M E N T ===============
And the title is amended as follows:
Delete everything before the enacting clause and insert:
A bill to be entitled An act relating to student retention; authorizing a parent to request that his or her student be retained in a grade level for a specified school year; requiring such request to be submitted in a specified manner; requiring school district superintendents to grant such requests if they are timely received; authorizing school district superintendents to grant
requests that are not timely received; requiring a
retained student to remain in the grade in which he or
she was retained in until the student qualifies for
promotion at the end of the school year; requiring
school districts to report certain data to the
Department of Education by a specified date; providing
an effective date.
By Senator Berman

A bill to be entitled An act relating to student retention; authorizing a parent to request that his or her student be retained in a grade level for a specified school year; requiring such request to be submitted in a specified manner; requiring school district superintendents to grant such requests if they are timely received; authorizing school district superintendents to grant requests that are not timely received; requiring school districts to administer a certain assessment to specified students; requiring such students to participate in the assessment; clarifying that specified students may qualify for midyear promotion; authorizing a parent to request such promotion or to request that his or her student continue to be retained; requiring school districts to approve such requests; requiring school districts to report certain data to the Department of Education by a specified date; providing for future repeal; providing an effective date.

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

Section 1. Notwithstanding s. 1008.25, Florida Statutes, a parent may choose to retain his or her K-12 public school student in the grade level to which the student was assigned at the beginning of the 2020-2021 school year for the 2021-2022 school year. (1) A parent who wishes for his or her student to be retained under this act shall submit a retention request in writing to the school district superintendent. Only requests received by the superintendent on or before June 1, 2021, must be considered. A school district superintendent who timely receives such a request shall grant the request. A school district superintendent who receives such a written request after the deadline for receipt may grant the request upon his or her discretion. (2) School districts shall administer a midyear assessment to a student retained pursuant to this act. Such assessment shall evaluate the student’s progression to mastery of the standards imposed under s. 1003.41, Florida Statutes. A student retained pursuant to this act shall participate in such midyear assessment, the statewide, standardized assessments administered under s. 1008.22, Florida Statutes, and any other statewide educational tests required by law. (3) A student for whom a parent requests retention may qualify for whole-grade promotion, midyear promotion, or subject-matter acceleration pursuant to s. 1002.3105, Florida Statutes, during the 2021-2022 school year. In such case, the parent may request that the school district promote his or her student accordingly or that his or her student be retained pursuant to the parent’s retention request. School districts shall grant all such requests. (4) By June 1, 2022, school districts shall report to the Department of Education the number of students retained pursuant to this act for all or part of the 2021-2022 school year. (5) This act shall stand repealed on June 30, 2022, unless reviewed and saved from repeal through reenactment by the...
Section 2. This act shall take effect upon becoming a law.