

Amendment No.

CHAMBER ACTION

Senate

House

.

1 Representative Donalds offered the following:

2
3 **Amendment (with title amendment)**

4 Remove lines 1041-1044 and insert:

5 Section 5. Paragraph (e) of subsection (2), subsection
6 (8), paragraph (c) of subsection (9), paragraph (a) of
7 subsection (10), and paragraph (a) of subsection (11) of section
8 1002.385, Florida Statutes, are amended to read:

9 1002.385 The Gardiner Scholarship.—

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

11 (e) "Eligible nonprofit scholarship-funding organization"
12 or "organization" means a nonprofit scholarship-funding
13 organization that is approved pursuant to s. 1002.395(15) ~~s.~~

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14 ~~1002.395(16).~~

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

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

21 ~~(b) Provide to the organization, upon request, all~~
22 ~~documentation required for the student's participation,~~
23 ~~including the private school's and student's fee schedules.~~

24 ~~(c) Be academically accountable to the parent for meeting~~
25 ~~the educational needs of the student by:~~

26 ~~1. At a minimum, annually providing to the parent a~~
27 ~~written explanation of the student's progress.~~

28 ~~(b)1.2.~~ Annually administer or make administering or
29 ~~making~~ provision for students participating in the program in
30 grades 3 through 10 to take one of the nationally norm-
31 referenced tests identified by the Department of Education or
32 the statewide assessments pursuant to s. 1008.22. Students with
33 disabilities for whom standardized testing is not appropriate
34 are exempt from this requirement. A participating private school
35 shall report a student's scores to the parent.

36 ~~2.3. Administer Cooperating with the scholarship student~~
37 ~~whose parent chooses to have the student participate in the~~
38 statewide assessments pursuant to s. 1008.22 ~~or~~, if a private

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39 school chooses to offer the statewide assessments, ~~administering~~
40 ~~the assessments at the school.~~

41 ~~a.~~ A participating private school may choose to offer and
42 administer the statewide assessments to all students who attend
43 the private school in grades 3 through 10 and must.

44 ~~b.~~ ~~A participating private school shall~~ submit a request
45 in writing to the Department of Education by March 1 of each
46 year in order to administer the statewide assessments in the
47 subsequent school year.

48 ~~(d)~~ ~~Employ or contract with teachers who have regular and~~
49 ~~direct contact with each student receiving a scholarship under~~
50 ~~this section at the school's physical location.~~

51 ~~(e)~~ ~~Provide a report from an independent certified public~~
52 ~~accountant who performs the agreed-upon procedures developed~~
53 ~~under s. 1002.395(6) (e) if the private school receives more than~~
54 ~~\$250,000 in funds from scholarships awarded under this section~~
55 ~~in a state fiscal year. A private school subject to this~~
56 ~~paragraph must annually submit the report by September 15 to the~~
57 ~~organization that awarded the majority of the school's~~
58 ~~scholarship funds. The agreed-upon procedures must be conducted~~
59 ~~in accordance with attestation standards established by the~~
60 ~~American Institute of Certified Public Accountants.~~

61
62 If a private school fails ~~is unable~~ to meet the requirements of
63 this subsection or s. 1002.421 ~~or has consecutive years of~~

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64 ~~material exceptions listed in the report required under~~
65 ~~paragraph (e),~~ the commissioner may determine that the private
66 school is ineligible to participate in the scholarship program.

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

69 (c) Investigate any written complaint of a violation of
70 this section by a parent, a student, a private school, a public
71 school or a school district, an organization, a provider, or
72 another appropriate party in accordance with the process
73 established by s. 1002.421 ~~s. 1002.395(9)(f)~~.

74 (10) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.—

75 (a) The Commissioner of Education:

76 1. May suspend or revoke program participation or use of
77 program funds by the student or participation or eligibility of
78 an organization, ~~eligible private school,~~ eligible postsecondary
79 educational institution, approved provider, or other party for a
80 violation of this section.

81 2. May determine the length of, and conditions for
82 lifting, a suspension or revocation specified in this
83 subsection.

84 3. May recover unexpended program funds or withhold
85 payment of an equal amount of program funds to recover program
86 funds that were not authorized for use.

87 4. Shall deny or terminate program participation upon a
88 parent's forfeiture of a Gardiner Scholarship pursuant to

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89 subsection (11).

90 (11) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
91 PARTICIPATION.—A parent who applies for program participation
92 under this section is exercising his or her parental option to
93 determine the appropriate placement or the services that best
94 meet the needs of his or her child. The scholarship award for a
95 student is based on a matrix that assigns the student to support
96 Level III services. If a parent receives an IEP and a matrix of
97 services from the school district pursuant to subsection (7),
98 the amount of the payment shall be adjusted as needed, when the
99 school district completes the matrix.

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

104 1. Affirm that the student is enrolled in a program that
105 meets regular school attendance requirements as provided in s.
106 1003.01(13)(b)-(d).

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

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

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

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114 b. Providing an annual evaluation in accordance with s.
115 1002.41(1)(c); or

116 c. Requiring the child to take any preassessments and
117 postassessments selected by the provider if the child is 4 years
118 of age and is enrolled in a program provided by an eligible
119 Voluntary Prekindergarten Education Program provider. A student
120 with disabilities for whom a preassessment and postassessment is
121 not appropriate is exempt from this requirement. A participating
122 provider shall report a student's scores to the parent.

123 4. Affirm that the student remains in good standing with
124 the provider or school if those options are selected by the
125 parent.

126
127 A parent who fails to comply with this subsection forfeits the
128 Gardiner Scholarship.

129 Section 6. Subsections (8) through (14) of section
130 1002.39, Florida Statutes, are renumbered as subsections (7)
131 through (13), respectively, and paragraph (b) of subsection (2),
132 paragraph (h) of subsection (3), and present subsections (6),
133 (7), and (8) of that section are amended to read:

134 1002.39 The John M. McKay Scholarships for Students with
135 Disabilities Program.—There is established a program that is
136 separate and distinct from the Opportunity Scholarship Program
137 and is named the John M. McKay Scholarships for Students with
138 Disabilities Program.

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139 (2) JOHN M. MCKAY SCHOLARSHIP ELIGIBILITY.—The parent of a
140 student with a disability may request and receive from the state
141 a John M. McKay Scholarship for the child to enroll in and
142 attend a private school in accordance with this section if:

143 (b) The parent has obtained acceptance for admission of
144 the student to a private school that is eligible for the program
145 under subsection (7) ~~subsection (8)~~ and has requested from the
146 department a scholarship at least 60 days before the date of the
147 first scholarship payment. The request must be communicated
148 directly to the department in a manner that creates a written or
149 electronic record of the request and the date of receipt of the
150 request. The department must notify the district of the parent's
151 intent upon receipt of the parent's request.

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

154 (h) While he or she is not having regular and direct
155 contact with his or her private school teachers at the school's
156 physical location unless he or she is enrolled in the private
157 school's transition-to-work program pursuant to subsection (9)
158 ~~subsection (10)~~; or

159 (6) DEPARTMENT OF EDUCATION OBLIGATIONS.—The department
160 shall:

161 ~~(a) Establish a toll-free hotline that provides parents~~
162 ~~and private schools with information on participation in the~~
163 ~~John M. McKay Scholarships for Students with Disabilities~~

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164 ~~Program.~~

165 ~~(b) Annually verify the eligibility of private schools~~
166 ~~that meet the requirements of subsection (8).~~

167 ~~(c) Establish a process by which individuals may notify~~
168 ~~the department of any violation by a parent, private school, or~~
169 ~~school district of state laws relating to program participation.~~
170 ~~The department shall conduct an inquiry of any written complaint~~
171 ~~of a violation of this section, or make a referral to the~~
172 ~~appropriate agency for an investigation, if the complaint is~~
173 ~~signed by the complainant and is legally sufficient. A complaint~~
174 ~~is legally sufficient if it contains ultimate facts that show~~
175 ~~that a violation of this section or any rule adopted by the~~
176 ~~State Board of Education has occurred. In order to determine~~
177 ~~legal sufficiency, the department may require supporting~~
178 ~~information or documentation from the complainant. A department~~
179 ~~inquiry is not subject to the requirements of chapter 120.~~

180 ~~(d) Require an annual, notarized, sworn compliance~~
181 ~~statement by participating private schools certifying compliance~~
182 ~~with state laws and shall retain such records.~~

183 ~~(e) cross-check the list of participating scholarship~~
184 ~~students with the public school enrollment lists prior to each~~
185 ~~scholarship payment to avoid duplication.~~

186 ~~(f)1. Conduct random site visits to private schools~~
187 ~~participating in the John M. McKay Scholarships for Students~~
188 ~~with Disabilities Program. The purpose of the site visits is~~

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189 ~~solely to verify the information reported by the schools~~
190 ~~concerning the enrollment and attendance of students, the~~
191 ~~credentials of teachers, background screening of teachers, and~~
192 ~~teachers' fingerprinting results, which information is required~~
193 ~~by rules of the State Board of Education, subsection (8), and s.~~
194 ~~1002.421. The Department of Education may not make more than~~
195 ~~three random site visits each year and may not make more than~~
196 ~~one random site visit each year to the same private school.~~

197 ~~2. Annually, by December 15, report to the Governor, the~~
198 ~~President of the Senate, and the Speaker of the House of~~
199 ~~Representatives the Department of Education's actions with~~
200 ~~respect to implementing accountability in the scholarship~~
201 ~~program under this section and s. 1002.421, any substantiated~~
202 ~~allegations or violations of law or rule by an eligible private~~
203 ~~school under this program concerning the enrollment and~~
204 ~~attendance of students, the credentials of teachers, background~~
205 ~~screening of teachers, and teachers' fingerprinting results and~~
206 ~~the corrective action taken by the Department of Education.~~

207 ~~(7) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.—~~

208 ~~(a) The Commissioner of Education:~~

209 ~~1. Shall deny, suspend, or revoke a private school's~~
210 ~~participation in the scholarship program if it is determined~~
211 ~~that the private school has failed to comply with the provisions~~
212 ~~of this section. However, if the noncompliance is correctable~~
213 ~~within a reasonable amount of time and if the health, safety, or~~

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214 ~~welfare of the students is not threatened, the commissioner may~~
215 ~~issue a notice of noncompliance which provides the private~~
216 ~~school with a timeframe within which to provide evidence of~~
217 ~~compliance before taking action to suspend or revoke the private~~
218 ~~school's participation in the scholarship program.~~

219 ~~2. May deny, suspend, or revoke a private school's~~
220 ~~participation in the scholarship program if the commissioner~~
221 ~~determines that an owner or operator of the private school is~~
222 ~~operating or has operated an educational institution in this~~
223 ~~state or in another state or jurisdiction in a manner contrary~~
224 ~~to the health, safety, or welfare of the public.~~

225 ~~a. In making such a determination, the commissioner may~~
226 ~~consider factors that include, but are not limited to, acts or~~
227 ~~emissions by an owner or operator which led to a previous denial~~
228 ~~or revocation of participation in an education scholarship~~
229 ~~program; an owner's or operator's failure to reimburse the~~
230 ~~Department of Education for scholarship funds improperly~~
231 ~~received or retained by a school; imposition of a prior criminal~~
232 ~~sanction related to an owner's or operator's management or~~
233 ~~operation of an educational institution; imposition of a civil~~
234 ~~fine or administrative fine, license revocation or suspension,~~
235 ~~or program eligibility suspension, termination, or revocation~~
236 ~~related to an owner's or operator's management or operation of~~
237 ~~an educational institution; or other types of criminal~~
238 ~~proceedings in which an owner or operator was found guilty of,~~

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239 ~~regardless of adjudication, or entered a plea of nolo contendere~~
240 ~~or guilty to, any offense involving fraud, deceit, dishonesty,~~
241 ~~or moral turpitude.~~

242 ~~b. For purposes of this subparagraph, the term "owner or~~
243 ~~operator" includes an owner, operator, superintendent, or~~
244 ~~principal of, or a person who has equivalent decisionmaking~~
245 ~~authority over, a private school participating in the~~
246 ~~scholarship program.~~

247 ~~(b) The commissioner's determination is subject to the~~
248 ~~following:~~

249 ~~1. If the commissioner intends to deny, suspend, or revoke~~
250 ~~a private school's participation in the scholarship program, the~~
251 ~~department shall notify the private school of such proposed~~
252 ~~action in writing by certified mail and regular mail to the~~
253 ~~private school's address of record with the department. The~~
254 ~~notification shall include the reasons for the proposed action~~
255 ~~and notice of the timelines and procedures set forth in this~~
256 ~~paragraph.~~

257 ~~2. The private school that is adversely affected by the~~
258 ~~proposed action shall have 15 days from receipt of the notice of~~
259 ~~proposed action to file with the department's agency clerk a~~
260 ~~request for a proceeding pursuant to ss. 120.569 and 120.57. If~~
261 ~~the private school is entitled to a hearing under s. 120.57(1),~~
262 ~~the department shall forward the request to the Division of~~
263 ~~Administrative Hearings.~~

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264 ~~3. Upon receipt of a request referred pursuant to this~~
265 ~~paragraph, the director of the Division of Administrative~~
266 ~~Hearings shall expedite the hearing and assign an administrative~~
267 ~~law judge who shall commence a hearing within 30 days after the~~
268 ~~receipt of the formal written request by the division and enter~~
269 ~~a recommended order within 30 days after the hearing or within~~
270 ~~30 days after receipt of the hearing transcript, whichever is~~
271 ~~later. Each party shall be allowed 10 days in which to submit~~
272 ~~written exceptions to the recommended order. A final order shall~~
273 ~~be entered by the agency within 30 days after the entry of a~~
274 ~~recommended order. The provisions of this subparagraph may be~~
275 ~~waived upon stipulation by all parties.~~

276 ~~(c) The commissioner may immediately suspend payment of~~
277 ~~scholarship funds if it is determined that there is probable~~
278 ~~cause to believe that there is:~~

279 ~~1. An imminent threat to the health, safety, or welfare of~~
280 ~~the students; or~~

281 ~~2. Fraudulent activity on the part of the private school.~~
282 ~~Notwithstanding s. 1002.22, in incidents of alleged fraudulent~~
283 ~~activity pursuant to this section, the Department of Education's~~
284 ~~Office of Inspector General is authorized to release personally~~
285 ~~identifiable records or reports of students to the following~~
286 ~~persons or organizations:~~

287 ~~a. A court of competent jurisdiction in compliance with an~~
288 ~~order of that court or the attorney of record in accordance with~~

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289 ~~a lawfully issued subpoena, consistent with the Family~~
290 ~~Educational Rights and Privacy Act, 20 U.S.C. s. 1232g.~~

291 ~~b. A person or entity authorized by a court of competent~~
292 ~~jurisdiction in compliance with an order of that court or the~~
293 ~~attorney of record pursuant to a lawfully issued subpoena,~~
294 ~~consistent with the Family Educational Rights and Privacy Act,~~
295 ~~20 U.S.C. s. 1232g.~~

296 ~~e. Any person, entity, or authority issuing a subpoena for~~
297 ~~law enforcement purposes when the court or other issuing agency~~
298 ~~has ordered that the existence or the contents of the subpoena~~
299 ~~or the information furnished in response to the subpoena not be~~
300 ~~disclosed, consistent with the Family Educational Rights and~~
301 ~~Privacy Act, 20 U.S.C. s. 1232g, and 34 C.F.R. s. 99.31.~~

302

303 ~~The commissioner's order suspending payment pursuant to this~~
304 ~~paragraph may be appealed pursuant to the same procedures and~~
305 ~~timelines as the notice of proposed action set forth in~~
306 ~~paragraph (b).~~

307 ~~(7)(8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—To be~~
308 ~~eligible to participate in the John M. McKay Scholarships for~~
309 ~~Students with Disabilities Program, a private school may be~~
310 ~~sectarian or nonsectarian and must:~~

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

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314 (b) Provide to the department all documentation required
315 for a student's participation, including the private school's
316 and student's fee schedules, at least 30 days before any
317 quarterly scholarship payment is made for the student pursuant
318 to paragraph (10)(e) ~~paragraph (11)(e)~~. A student is not
319 eligible to receive a quarterly scholarship payment if the
320 private school fails to meet this deadline.

321 ~~(c) Be academically accountable to the parent for meeting~~
322 ~~the educational needs of the student by:~~

323 ~~1. At a minimum, annually providing to the parent a~~
324 ~~written explanation of the student's progress.~~

325 ~~2. Cooperating with the scholarship student whose parent~~
326 ~~chooses to participate in the statewide assessments pursuant to~~
327 ~~s. 1008.22.~~

328 ~~(d) Maintain in this state a physical location where a~~
329 ~~scholarship student regularly attends classes.~~

330
331 If The inability of a private school fails to meet the
332 requirements of this subsection or s. 1002.421, the commissioner
333 may determine that the private school is ineligible shall
334 constitute a basis for the ineligibility of the private school
335 to participate in the scholarship program as determined by the
336 department.

337 Section 7. Subsections (12) through (16) of section
338 1002.395, Florida Statutes, are renumbered as subsections (11)

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339 through (15), respectively, and paragraph (f) of subsection (2),
340 paragraphs (n), (o), and (p) of subsection (6), and present
341 subsections (8), (9), and (11) of that section are amended to
342 read:

343 1002.395 Florida Tax Credit Scholarship Program.—

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

345 (f) "Eligible nonprofit scholarship-funding organization"
346 means a state university; or an independent college or
347 university that is eligible to participate in the William L.
348 Boyd, IV, Florida Resident Access Grant Program, located and
349 chartered in this state, is not for profit, and is accredited by
350 the Commission on Colleges of the Southern Association of
351 Colleges and Schools; or is a charitable organization that:

352 1. Is exempt from federal income tax pursuant to s.
353 501(c)(3) of the Internal Revenue Code;

354 2. Is a Florida entity formed under chapter 605, chapter
355 607, or chapter 617 and whose principal office is located in the
356 state; and

357 3. Complies with subsections (6) and (15) ~~subsections (6)~~
358 ~~and (16)~~.

359 (6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING
360 ORGANIZATIONS.—An eligible nonprofit scholarship-funding
361 organization:

362 (n) Must prepare and submit quarterly reports to the
363 Department of Education pursuant to paragraph (9)(i) ~~paragraph~~

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364 ~~(9) (m)~~. In addition, an eligible nonprofit scholarship-funding
365 organization must submit in a timely manner any information
366 requested by the Department of Education relating to the
367 scholarship program.

368 (o)1.a. Must participate in the joint development of
369 agreed-upon procedures ~~to be performed by an independent~~
370 ~~certified public accountant as required under paragraph (8) (e)~~
371 ~~if the scholarship-funding organization provided more than~~
372 ~~\$250,000 in scholarship funds to an eligible private school~~
373 ~~under this section~~ during the 2009-2010 state fiscal year. The
374 agreed-upon procedures must uniformly apply to all private
375 schools and must determine, at a minimum, whether the private
376 school has been verified as eligible by the Department of
377 Education under s. 1002.421 ~~paragraph (9) (e)~~; has an adequate
378 accounting system, system of financial controls, and process for
379 deposit and classification of scholarship funds; and has
380 properly expended scholarship funds for education-related
381 expenses. During the development of the procedures, the
382 participating scholarship-funding organizations shall specify
383 guidelines governing the materiality of exceptions that may be
384 found during the accountant's performance of the procedures. The
385 procedures and guidelines shall be provided to private schools
386 and the Commissioner of Education by March 15, 2011.

387 b. Must participate in a joint review of the agreed-upon
388 procedures and guidelines developed under sub-subparagraph a.,

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389 by February of each biennium 2013 and biennially thereafter, if
390 the scholarship-funding organization provided more than \$250,000
391 in scholarship funds to an eligible private school under this
392 chapter section during the state fiscal year preceding the
393 biennial review. If the procedures and guidelines are revised,
394 the revisions must be provided to private schools and the
395 Commissioner of Education by March 15 of the year in which the
396 revisions were completed. The revised agreed-upon procedures
397 shall take effect the subsequent school year. For the 2018-2019
398 school year only, the joint review of the agreed-upon procedures
399 must be completed and the revisions submitted to the
400 commissioner no later than September 15, 2018. The revised
401 procedures are applicable to the 2018-2019 school year, 2013,
402 and biennially thereafter.

403 c. Must monitor the compliance of a private school with
404 s. 1002.421(1)(q) paragraph (8)(e) if the scholarship-funding
405 organization provided the majority of the scholarship funding to
406 the school. For each private school subject to s. 1002.421(1)(q)
407 paragraph (8)(e), the appropriate scholarship-funding
408 organization shall annually notify the Commissioner of Education
409 by October 30, ~~2011, and annually thereafter~~ of:

410 (I) A private school's failure to submit a report required
411 under s. 1002.421(1)(q) paragraph (8)(e); or

412 (II) Any material exceptions set forth in the report
413 required under s. 1002.421(1)(q) paragraph (8)(e).

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414 2. Must seek input from the accrediting associations that
415 are members of the Florida Association of Academic Nonpublic
416 Schools and the Department of Education when jointly developing
417 the agreed-upon procedures and guidelines under sub-subparagraph
418 1.a. and conducting a review of those procedures and guidelines
419 under sub-subparagraph 1.b.

420 (p) Must maintain the surety bond or letter of credit
421 required by subsection (15) ~~subsection (16)~~. The amount of the
422 surety bond or letter of credit may be adjusted quarterly to
423 equal the actual amount of undisbursed funds based upon
424 submission by the organization of a statement from a certified
425 public accountant verifying the amount of undisbursed funds. The
426 requirements of this paragraph are waived if the cost of
427 acquiring a surety bond or letter of credit exceeds the average
428 10-year cost of acquiring a surety bond or letter of credit by
429 200 percent. The requirements of this paragraph are waived for a
430 state university; or an independent college or university which
431 is eligible to participate in the William L. Boyd, IV, Florida
432 Resident Access Grant Program, located and chartered in this
433 state, is not for profit, and is accredited by the Commission on
434 Colleges of the Southern Association of Colleges and Schools.

435
436 Information and documentation provided to the Department of
437 Education and the Auditor General relating to the identity of a
438 taxpayer that provides an eligible contribution under this

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439 section shall remain confidential at all times in accordance
440 with s. 213.053.

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

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

447 ~~(b) Provide to the eligible nonprofit scholarship funding~~
448 ~~organization, upon request, all documentation required for the~~
449 ~~student's participation, including the private school's and~~
450 ~~student's fee schedules.~~

451 ~~(c) Be academically accountable to the parent for meeting~~
452 ~~the educational needs of the student by:~~

453 ~~1. At a minimum, annually providing to the parent a~~
454 ~~written explanation of the student's progress.~~

455 ~~(b)1.2.~~ Annually administer or make administering or
456 ~~making~~ provision for students participating in the scholarship
457 program in grades 3 through 10 to take one of the nationally
458 norm-referenced tests identified by the Department of Education
459 or the statewide assessments pursuant to s. 1008.22. Students
460 with disabilities for whom standardized testing is not
461 appropriate are exempt from this requirement. A participating
462 private school must report a student's scores to the parent. A
463 participating private school must annually report by August 15

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464 the scores of all participating students to a state university
465 ~~the Learning System Institute~~ described in paragraph (9) (f)
466 ~~paragraph (9) (j)~~.

467 2. Administer ~~3. Cooperating with the scholarship student~~
468 ~~whose parent chooses to have the student participate in the~~
469 statewide assessments pursuant to s. 1008.22 ~~or~~, if a private
470 school chooses to offer the statewide assessments, ~~administering~~
471 ~~the assessments at the school.~~

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

475 b. ~~A participating private school~~ must submit a request in
476 writing to the Department of Education by March 1 of each year
477 in order to administer the statewide assessments in the
478 subsequent school year.

479 ~~(d) Employ or contract with teachers who have regular and~~
480 ~~direct contact with each student receiving a scholarship under~~
481 ~~this section at the school's physical location.~~

482 ~~(e) Provide a report from an independent certified public~~
483 ~~accountant who performs the agreed-upon procedures developed~~
484 ~~under paragraph (6) (o) if the private school receives more than~~
485 ~~\$250,000 in funds from scholarships awarded under this section~~
486 ~~in a state fiscal year. A private school subject to this~~
487 ~~paragraph must annually submit the report by September 15 to the~~
488 ~~scholarship-funding organization that awarded the majority of~~

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489 ~~the school's scholarship funds. The agreed-upon procedures must~~
490 ~~be conducted in accordance with attestation standards~~
491 ~~established by the American Institute of Certified Public~~
492 ~~Accountants.~~

493

494 If a private school fails ~~is unable~~ to meet the requirements of
495 this subsection or s. 1002.421 ~~or has consecutive years of~~
496 ~~material exceptions listed in the report required under~~
497 ~~paragraph (e)~~, the commissioner may determine that the private
498 school is ineligible to participate in the scholarship program
499 ~~as determined by the Department of Education.~~

500 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The Department of
501 Education shall:

502 (a) Annually submit to the department and division, by
503 March 15, a list of eligible nonprofit scholarship-funding
504 organizations that meet the requirements of paragraph (2) (f).

505 (b) Annually verify the eligibility of nonprofit
506 scholarship-funding organizations that meet the requirements of
507 paragraph (2) (f).

508 ~~(c) Annually verify the eligibility of private schools~~
509 ~~that meet the requirements of subsection (8).~~

510 ~~(c)~~ ~~(d)~~ Annually verify the eligibility of expenditures as
511 provided in paragraph (6) (d) using the audit required by
512 paragraph (6) (m) and s. 11.45(2) (l) ~~s. 11.45(2) (k)~~.

513 ~~(e) Establish a toll-free hotline that provides parents~~

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514 ~~and private schools with information on participation in the~~
515 ~~scholarship program.~~

516 ~~(f) Establish a process by which individuals may notify~~
517 ~~the Department of Education of any violation by a parent,~~
518 ~~private school, or school district of state laws relating to~~
519 ~~program participation. The Department of Education shall conduct~~
520 ~~an inquiry of any written complaint of a violation of this~~
521 ~~section, or make a referral to the appropriate agency for an~~
522 ~~investigation, if the complaint is signed by the complainant and~~
523 ~~is legally sufficient. A complaint is legally sufficient if it~~
524 ~~contains ultimate facts that show that a violation of this~~
525 ~~section or any rule adopted by the State Board of Education has~~
526 ~~occurred. In order to determine legal sufficiency, the~~
527 ~~Department of Education may require supporting information or~~
528 ~~documentation from the complainant. A department inquiry is not~~
529 ~~subject to the requirements of chapter 120.~~

530 ~~(g) Require an annual, notarized, sworn compliance~~
531 ~~statement by participating private schools certifying compliance~~
532 ~~with state laws and shall retain such records.~~

533 ~~(d)(h)~~ Cross-check the list of participating scholarship
534 students with the public school enrollment lists to avoid
535 duplication.

536 ~~(e)(i)~~ Maintain a list of nationally norm-referenced tests
537 identified for purposes of satisfying the testing requirement in
538 subparagraph (8)(b)1 ~~subparagraph (8)(c)2~~. The tests must meet

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539 industry standards of quality in accordance with State Board of
540 Education rule.

541 ~~(f)-(j)~~ Issue a project grant award to a state university
542 ~~the Learning System Institute at the Florida State University,~~
543 to which participating private schools must report the scores of
544 participating students on the nationally norm-referenced tests
545 or the statewide assessments administered by the private school
546 in grades 3 through 10. The project term is 2 years, and the
547 amount of the project is up to \$250,000 ~~\$500,000~~ per year. The
548 project grant award must be reissued in 2-year intervals in
549 accordance with this paragraph.

550 1. The state university ~~Learning System Institute~~ must
551 annually report to the Department of Education on the student
552 performance of participating students:

553 a. On a statewide basis. The report shall also include, to
554 the extent possible, a comparison of scholarship students'
555 performance to the statewide student performance of public
556 school students with socioeconomic backgrounds similar to those
557 of students participating in the scholarship program. To
558 minimize costs and reduce time required for the state
559 university's ~~Learning System Institute's~~ analysis and
560 evaluation, the Department of Education shall coordinate with
561 the state university ~~Learning System Institute~~ to provide data
562 to the state university ~~Learning System Institute~~ in order to
563 conduct analyses of matched students from public school

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564 assessment data and calculate control group student performance
565 using an agreed-upon methodology with the state university
566 ~~Learning System Institute~~; and

567 b. On an individual school basis. The annual report must
568 include student performance for each participating private
569 school in which at least 51 percent of the total enrolled
570 students in the private school participated in the Florida Tax
571 Credit Scholarship Program in the prior school year. The report
572 shall be according to each participating private school, and for
573 participating students, in which there are at least 30
574 participating students who have scores for tests administered.
575 If the state university ~~Learning System Institute~~ determines
576 that the 30-participating-student cell size may be reduced
577 without disclosing personally identifiable information, as
578 described in 34 C.F.R. s. 99.12, of a participating student, the
579 state university ~~Learning System Institute~~ may reduce the
580 participating-student cell size, but the cell size must not be
581 reduced to less than 10 participating students. The department
582 shall provide each private school's prior school year's student
583 enrollment information to the state university ~~Learning System~~
584 ~~Institute~~ no later than June 15 of each year, or as requested by
585 the state university ~~Learning System Institute~~.

586 2. The sharing and reporting of student performance data
587 under this paragraph must be in accordance with requirements of
588 ss. 1002.22 and 1002.221 and 20 U.S.C. s. 1232g, the Family

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589 Educational Rights and Privacy Act, and the applicable rules and
590 regulations issued pursuant thereto, and shall be for the sole
591 purpose of creating the annual report required by subparagraph
592 1. All parties must preserve the confidentiality of such
593 information as required by law. The annual report must not
594 disaggregate data to a level that will identify individual
595 participating schools, except as required under sub-subparagraph
596 1.b., or disclose the academic level of individual students.

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

599 ~~(g)~~ Notify an eligible nonprofit scholarship-funding
600 organization of any of the organization's identified students
601 who are receiving educational scholarships pursuant to chapter
602 1002.

603 ~~(h)~~ Notify an eligible nonprofit scholarship-funding
604 organization of any of the organization's identified students
605 who are receiving tax credit scholarships from other eligible
606 nonprofit scholarship-funding organizations.

607 ~~(i)~~ Require quarterly reports by an eligible nonprofit
608 scholarship-funding organization regarding the number of
609 students participating in the scholarship program, the private
610 schools at which the students are enrolled, and other
611 information deemed necessary by the Department of Education.

612 ~~(n)1. Conduct site visits to private schools participating~~
613 ~~in the Florida Tax Credit Scholarship Program. The purpose of~~

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614 ~~the site visits is solely to verify the information reported by~~
615 ~~the schools concerning the enrollment and attendance of~~
616 ~~students, the credentials of teachers, background screening of~~
617 ~~teachers, and teachers' fingerprinting results. The Department~~
618 ~~of Education may not make more than seven site visits each year,~~
619 ~~however, the department may make additional site visits at any~~
620 ~~time to any school that has received a notice of noncompliance~~
621 ~~or a notice of proposed action within the previous 2 years.~~

622 ~~2. Annually, by December 15, report to the Governor, the~~
623 ~~President of the Senate, and the Speaker of the House of~~
624 ~~Representatives the Department of Education's actions with~~
625 ~~respect to implementing accountability in the scholarship~~
626 ~~program under this section and s. 1002.421, any substantiated~~
627 ~~allegations or violations of law or rule by an eligible private~~
628 ~~school under this program concerning the enrollment and~~
629 ~~attendance of students, the credentials of teachers, background~~
630 ~~screening of teachers, and teachers' fingerprinting results and~~
631 ~~the corrective action taken by the Department of Education.~~

632 ~~(j)(e)~~ Provide a process to match the direct certification
633 list with the scholarship application data submitted by any
634 nonprofit scholarship-funding organization eligible to receive
635 the 3-percent administrative allowance under paragraph (6)(j).

636 ~~(p)~~ Upon the request of a participating private school,
637 provide at no cost to the school the statewide assessments
638 administered under s. 1008.22 and any related materials for

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639 ~~administering the assessments. Students at a private school may~~
640 ~~be assessed using the statewide assessments if the addition of~~
641 ~~those students and the school does not cause the state to exceed~~
642 ~~its contractual caps for the number of students tested and the~~
643 ~~number of testing sites. The state shall provide the same~~
644 ~~materials and support to a private school that it provides to a~~
645 ~~public school. A private school that chooses to administer~~
646 ~~statewide assessments under s. 1008.22 shall follow the~~
647 ~~requirements set forth in ss. 1008.22 and 1008.24, rules adopted~~
648 ~~by the State Board of Education to implement those sections, and~~
649 ~~district-level testing policies established by the district~~
650 ~~school board.~~

651 ~~(11) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.~~

652 ~~(a)1. The Commissioner of Education shall deny, suspend,~~
653 ~~or revoke a private school's participation in the scholarship~~
654 ~~program if it is determined that the private school has failed~~
655 ~~to comply with the provisions of this section. However, in~~
656 ~~instances in which the noncompliance is correctable within a~~
657 ~~reasonable amount of time and in which the health, safety, or~~
658 ~~welfare of the students is not threatened, the commissioner may~~
659 ~~issue a notice of noncompliance that shall provide the private~~
660 ~~school with a timeframe within which to provide evidence of~~
661 ~~compliance prior to taking action to suspend or revoke the~~
662 ~~private school's participation in the scholarship program.~~

663 ~~2. The Commissioner of Education may deny, suspend, or~~

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664 ~~revoke a private school's participation in the scholarship~~
665 ~~program if the commissioner determines that:~~

666 ~~a. An owner or operator of a private school has exhibited~~
667 ~~a previous pattern of failure to comply with this section or s.~~
668 ~~1002.421; or~~

669 ~~b. An owner or operator of the private school is operating~~
670 ~~or has operated an educational institution in this state or~~
671 ~~another state or jurisdiction in a manner contrary to the~~
672 ~~health, safety, or welfare of the public.~~

673
674 ~~In making the determination under this subparagraph, the~~
675 ~~commissioner may consider factors that include, but are not~~
676 ~~limited to, acts or omissions by an owner or operator that led~~
677 ~~to a previous denial or revocation of participation in an~~
678 ~~education scholarship program; an owner's or operator's failure~~
679 ~~to reimburse the Department of Education or a nonprofit~~
680 ~~scholarship-funding organization for scholarship funds~~
681 ~~improperly received or retained by a school; imposition of a~~
682 ~~prior criminal sanction, civil fine, administrative fine,~~
683 ~~license revocation or suspension, or program eligibility~~
684 ~~suspension, termination, or revocation related to an owner's or~~
685 ~~operator's management or operation of an educational~~
686 ~~institution; or other types of criminal proceedings in which the~~
687 ~~owner or operator was found guilty of, regardless of~~
688 ~~adjudication, or entered a plea of nolo contendere or guilty to,~~

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689 ~~any offense involving fraud, deceit, dishonesty, or moral~~
690 ~~turpitude.~~

691 ~~(b) The commissioner's determination is subject to the~~
692 ~~following:~~

693 ~~1. If the commissioner intends to deny, suspend, or revoke~~
694 ~~a private school's participation in the scholarship program, the~~
695 ~~Department of Education shall notify the private school of such~~
696 ~~proposed action in writing by certified mail and regular mail to~~
697 ~~the private school's address of record with the Department of~~
698 ~~Education. The notification shall include the reasons for the~~
699 ~~proposed action and notice of the timelines and procedures set~~
700 ~~forth in this paragraph.~~

701 ~~2. The private school that is adversely affected by the~~
702 ~~proposed action shall have 15 days from receipt of the notice of~~
703 ~~proposed action to file with the Department of Education's~~
704 ~~agency clerk a request for a proceeding pursuant to ss. 120.569~~
705 ~~and 120.57. If the private school is entitled to a hearing under~~
706 ~~s. 120.57(1), the Department of Education shall forward the~~
707 ~~request to the Division of Administrative Hearings.~~

708 ~~3. Upon receipt of a request referred pursuant to this~~
709 ~~paragraph, the director of the Division of Administrative~~
710 ~~Hearings shall expedite the hearing and assign an administrative~~
711 ~~law judge who shall commence a hearing within 30 days after the~~
712 ~~receipt of the formal written request by the division and enter~~
713 ~~a recommended order within 30 days after the hearing or within~~

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714 ~~30 days after receipt of the hearing transcript, whichever is~~
715 ~~later. Each party shall be allowed 10 days in which to submit~~
716 ~~written exceptions to the recommended order. A final order shall~~
717 ~~be entered by the agency within 30 days after the entry of a~~
718 ~~recommended order. The provisions of this subparagraph may be~~
719 ~~waived upon stipulation by all parties.~~

720 ~~(c) The commissioner may immediately suspend payment of~~
721 ~~scholarship funds if it is determined that there is probable~~
722 ~~cause to believe that there is:~~

723 ~~1. An imminent threat to the health, safety, and welfare~~
724 ~~of the students;~~

725 ~~2. A previous pattern of failure to comply with this~~
726 ~~section or s. 1002.421; or~~

727 ~~3. Fraudulent activity on the part of the private school.~~
728 ~~Notwithstanding s. 1002.22, in incidents of alleged fraudulent~~
729 ~~activity pursuant to this section, the Department of Education's~~
730 ~~Office of Inspector General is authorized to release personally~~
731 ~~identifiable records or reports of students to the following~~
732 ~~persons or organizations:~~

733 ~~a. A court of competent jurisdiction in compliance with an~~
734 ~~order of that court or the attorney of record in accordance with~~
735 ~~a lawfully issued subpoena, consistent with the Family~~
736 ~~Educational Rights and Privacy Act, 20 U.S.C. s. 1232g.~~

737 ~~b. A person or entity authorized by a court of competent~~
738 ~~jurisdiction in compliance with an order of that court or the~~

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739 ~~attorney of record pursuant to a lawfully issued subpoena,~~
740 ~~consistent with the Family Educational Rights and Privacy Act,~~
741 ~~20 U.S.C. s. 1232g.~~

742 ~~e. Any person, entity, or authority issuing a subpoena for~~
743 ~~law enforcement purposes when the court or other issuing agency~~
744 ~~has ordered that the existence or the contents of the subpoena~~
745 ~~or the information furnished in response to the subpoena not be~~
746 ~~disclosed, consistent with the Family Educational Rights and~~
747 ~~Privacy Act, 20 U.S.C. s. 1232g, and 34 C.F.R. s. 99.31.~~

748
749 ~~The commissioner's order suspending payment pursuant to this~~
750 ~~paragraph may be appealed pursuant to the same procedures and~~
751 ~~timelines as the notice of proposed action set forth in~~
752 ~~paragraph (b).~~

753 Section 8. Contingent upon CS/HB 7055 or similar
754 legislation in the 2018 Regular Session of the Legislature or an
755 extension thereof failing to become law, for the 2018-2019
756 fiscal year, the sum of \$950,000 in recurring funds from the
757 General Revenue Fund is appropriated to the Department of
758 Education to implement the additional oversight requirements
759 pursuant to s. 1002.421, Florida Statutes, and the sum of
760 \$250,000 in recurring funds from the General Revenue Fund is
761 appropriated to the Department of Education to issue a
762 competitive grant award pursuant to s. 1002.395(9), Florida
763 Statutes.

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764 Section 9. Upon this act becoming law, the Department of
765 Revenue may, and all conditions are deemed met to, adopt
766 emergency rules pursuant to ss. 120.536(1) and 120.54, Florida
767 Statutes, to administer this act.

768

769

770

T I T L E A M E N D M E N T

771

Remove line 72 and insert:

772

program; amending s. 1002.385, F.S.; revising eligible

773

expenditures for the Gardiner Scholarship Program;

774

conforming provisions to changes made by the act;

775

amending s. 1002.39, F.S.; conforming provisions to

776

changes made by the act; amending s. 1002.395, F.S.;

777

revising the requirements for an annual report of

778

certain student data for the Florida Tax Credit

779

Scholarship Program; conforming provisions to changes

780

made by the act; providing a contingent appropriation;

781

authorizing the Department of Revenue to

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