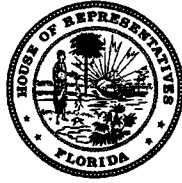




Education Appropriations Subcommittee

Meeting Packet

**March 28, 2014
9:00 a.m. – 1:00 p.m.
Morris Hall**



The Florida House of Representatives
APPROPRIATIONS COMMITTEE

Education Appropriations Subcommittee

Will Weatherford
Speaker

Erik Fresen
Chair

MEETING AGENDA



Morris Hall

March 28, 2014

- I. Meeting Called To Order**
- II. Opening Remarks by Chair**
- III. Consideration of the following proposed committee bill:**
PCB EDAS 14-03 - Educational Choice Programs
- IV. Closing Remarks**
- V. Meeting Adjourned**

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB EDAS 14-03 Educational Choice
SPONSOR(S): Education Appropriations Subcommittee
TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Education Appropriations Subcommittee		Seifert 	Heflin 

SUMMARY ANALYSIS

The bill increase educational choice options by revising the Florida Tax Credit Scholarship program's student eligibility criteria, scholarship amounts, tax credit availability, and scholarship-funding organization (SFO) accountability standards; and creating the Florida Personal Learning Scholarship Account program.

The bill removes the prior public attendance requirement for students whose household income is below 185% of the federal poverty level. Beginning in FY 2016-17, new eligibility is created for students whose household income is greater than 185% but does not exceed 260% of the federal poverty level and who are eligible to enter kindergarten or first grade, or attended public school in the prior year. SFOs are required to serve all new applicants at or below 185% of the federal poverty level before serving students above 185%.

The bill increases the maximum per-student scholarship amount to 82% of the Florida Education Finance Program per-student funding amount beginning with the 2016-17 state fiscal year. Although eligibility is extended to students with higher household incomes, the bill establishes a means-tested, tiered phasedown of the maximum per-student scholarship amount, beginning in FY 2016-17

The bill strengthens the SFO application, approval, and renewal processes for program participation by requiring additional financial, organizational, and operational documentation in the application, thereby increasing SFO accountability.

Assuming that each year the annual tax credit amount is at least 90% of the prior year's cap, the bill increases the cap by approximately \$30.0 million over that in current law in each year from FYs 2014-15 through 2018-19. The bill also allows tax credits to be transferred between affiliated corporate entities and allows credits against corporate income tax and insurance premium tax to be taken against the estimated payments made by a corporation throughout its taxable year.

Staff estimates that, while the program as revised by this bill will produce net savings to the state over the next five years (i.e., expenditure savings greater than revenue losses) the net savings will be substantially reduced, compared to current law. Net savings are estimated to be \$3.3 million higher in FY 2014-15, compared to current law, and lower by \$1.7 million, \$21.3 million, \$30.4 million and \$40.4 million in fiscal years ending 2016, 2017, 2018, and 2019, respectively.

The bill also establishes the Florida Personal Learning Scholarship Account Program (scholarship) to provide parents of students with disabilities more flexibility to customize their child's education. The bill establishes eligibility criteria and authorizes scholarship funding organizations to establish scholarships to reimburse parents for eligible educational services on behalf of their child.

Account funding is calculated using the same calculation as the John M. McKay Scholarships for Students with Disabilities Program.

Additionally, the bill repeals statutory provisions authorizing the issuance of a special high school diploma to students with disabilities.

The changes in the annual tax credit cap amounts for the tax credit scholarship program result in a negative impact to the General Revenue Fund of \$30 million for each of the FYs 2014-15 through 2018-19. There is an additional indeterminate negative fiscal impact related to the authority to adjust estimated payments against corporate income and insurance premium taxes for tax credits earned under the program. The estimated state funding impact associated with the Florida Personal Learning Scholarship Account Program is \$8.8 million, which is provided in the FEFP in the House proposed GAA. See Fiscal Analysis & Economic Impact Statement.

The bill takes effect July 1, 2014

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: pcb03.EDAS.DOCX

DATE: 3/26/2014

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Florida Tax Credit Scholarship Program

Tax Credits

Present Situation

The Florida Tax Credit Scholarship Program (FTC Program) provides scholarships to eligible low-income students for private school tuition and fees or transportation expenses to a Florida public school located outside of the school district in which the student resides or developmental research laboratory school.¹ The FTC Program is funded with contributions to private nonprofit scholarship-funding organizations (SFOs) from taxpayers who receive a tax credit for use against their liability for corporate income tax; insurance premium tax; severance taxes on oil and gas production; self-accrued sales tax liabilities of direct pay permit holders; or alcoholic beverage taxes on beer, wine, and spirits.² The tax credit is equal to 100 percent of the eligible contributions made.³

During the 2012-13 school year, scholarships in the amount of \$206.9 million were awarded to a total of 51,075 students enrolled in 1,338 participating Florida private schools.⁴

Effect of Proposed Changes

The bill authorizes credits against corporate income tax and insurance premium tax to be taken against the estimated payments made by a corporation throughout its taxable year. The bill requires a copy of the letter approving a taxpayer or dealer's tax credit application be provided by DOR to the SFO designated in the letter to receive a donation. The bill revises the confidentiality provisions of s. 213.053, F.S., to allow this letter to be provided.

Scholarship Funding Organizations

Present Situation

SFOs are charitable organizations exempt from federal income tax⁵ that administer the receipt of contributions and distribution of scholarship awards.⁶ Scholarships must be provided for eligible students on a first-come, first-serve basis, unless the student qualifies for priority consideration. An SFO may not restrict or reserve scholarships for use at a particular private school or for the child of an operator or owner of a private school or SFO.⁷ Similarly, a taxpayer making a contribution may not designate a specific child or group of children as the beneficiaries of the scholarship.⁸ If the SFO has been in operation for three years and does not have any negative financial findings, the SFO may use up to three percent of the contributions received for reasonable and necessary administrative

¹ Section 1002.395(3), (5), and (6)(d), F.S.

² Section 1002.395(1) and (5), F.S.

³ Sections 220.1875 and 1002.395(5), F.S.

⁴ Florida Department of Education, *Fast Facts and Program Statistics*, available at, http://www.floridaschoolchoice.org/Information/CTC/files/Fast_Facts_FTC.pdf (last accessed February 14, 2014)

⁵ Section 1002.395(2)(f), F.S.; s. 501(c)(3) of the Internal Revenue Code.

⁶ Section 1002.395(6), F.S.

⁷ Section 1002.395(6), F.S.

⁸ Section 1002.395(2)(e), F.S.

expenses. No more than one-third of the funds available for administrative expense may be used for expenses related to recruitment of contributions.⁹

Any non-profit organization may apply to the Department of Education (DOE) to become an SFO. Among other things, all owners and operators of the organization must pass a level 2 background check upon beginning employment there and every 5 years thereafter. Once approved, an SFO must provide to the Auditor General and DOE an annual financial and compliance audit of its accounts and records conducted by an independent certified public accountant and in accordance with rules adopted by the Auditor General. SFOs must submit to DOE quarterly reports regarding the number of students participating and the schools at which they are enrolled. SFOs must expend at least 75 percent of donations remaining after administrative costs as scholarship payments each year. Any amounts carried forward to the next year must be spent in that year.¹⁰

Effect of Proposed Changes

The bill creates a new application process for organizations that wish to become SFOs. In order to participate, organizations must submit an application for initial approval to DOE's Office of Independent Education and Parental Choice by September 1 of the year prior to the year in which that SFO intends to begin offering scholarship funding. After consultation with the DOR and Chief Financial Officer, the Commissioner of Education provides a recommendation for each application to the State Board of Education, which will have final approval or disapproval responsibility. Approved SFOs must annually submit a renewal application to maintain eligibility to participate in the tax credit scholarship programs.

The initial application must include a copy of a SFO's incorporation documents and organizational chart, a description of the organization's financial plan and intended area of operation, and descriptions of the organization's intended operational procedure. Each SFO is also required to include with its initial application a copy of a surety bond or letter of credit for the amount equal to 25 percent of anticipated donations or \$100,000, whichever is greater. This bond or letter of credit may be adjusted on a quarterly basis thereafter to equal the amount of undispersed donations based upon a statement from a certified public account verifying the amount. The surety bond or letter of credit requirement is waived if the cost of acquiring such bond or letter exceeds the average 10-year cost by 200 percent.

The renewal application must include a surety bond or letter of credit equal to the amount of undispersed funds, with a minimum amount of \$100,000 and a maximum of \$25 million; the organization's IRS Form 990;¹¹ an annual audit; and an annual report regarding donations, administrative expenditures, scholarship applications, and scholarship recipients. Any funds held by a SFO whose application for renewal is denied revert to DOR for redistribution to eligible SFOs.

SFOs already approved as of July 1, 2014, will have until August 1, 2014, to provide a copy of a surety bond or letter of credit. If such an SFO does not have undispersed donations, the bond or letter of credit must be 25 percent of anticipated donations or \$100,000, whichever is greater. Those with undispersed donations must have a bond or letter of credit in an amount equal to undisbursed donations, not to exceed \$25 million.

The allowable uses of the administrative allowance are expanded to include professional development to support participating schools.

The bill strengthens the background check requirements for owners and operators of SFOs by adding a number of additional disqualifying offenses.¹²

⁹ Section 1002.395(6), F.S.

¹⁰ Section 1002.395(6), F.S.

¹¹ This is an informational return for tax exempt organizations. The deadline for submitting the form 990 is extended until November 30 instead of September 1.

¹² The new offenses include any felony and numerous misdemeanor-level financial crimes

Participating Private Schools

Private schools participating in the program must provide documentation of financial stability and comply with federal antidiscrimination law and all state laws regulating private schools.¹³ To be eligible for participation in the program, a private school must demonstrate fiscal soundness, provide information on academic results, and meet DOE and SFO reporting requirements.¹⁴ DOE may terminate eligibility if the private school fails to meet requirements.¹⁵

Student Eligibility

Present Situation

A student is eligible for a FTC Program scholarship if he or she qualifies for free or reduced-price school lunches under the National School Lunch Act¹⁶ or is on the direct certification list¹⁷ and:

- Was counted as a full-time student during the previous state fiscal year for purposes of state per-student funding;
- Received a scholarship from an eligible nonprofit SFO or the State of Florida during the previous school year; or
- Is eligible to enter kindergarten through fifth grade.

Eligibility is also provided to students who are placed, or during the previous state fiscal year were placed, in foster care, regardless of household income.¹⁸ Out-of-home care more generally refers to any case in which a child is removed from the home of the parent, whether it is placement in foster care or with a relative or other care giver.¹⁹ Foster care is a placement with a foster family or in a group home.²⁰ An out-of-home placement that is not foster care typically refers to a placement with a relative.²¹ Students placed in out-of-home care that is not foster care are not currently eligible for an FTC Program scholarship.

Contingent upon available funds, a student does not lose his or her scholarship due to a change in the economic status of the student's parents unless the parents' household income exceeds 230 percent of the federal poverty guidelines.²² A sibling of a scholarship student who continues to participate in the program and resides in the same household as the student is also eligible as a first-time scholarship

¹³ Section 1002.421, F.S.

¹⁴ Section 1002.395(8), F.S.

¹⁵ Section 1002.395(9), F.S.

¹⁶ The National School Lunch Program is a federally funded program administered by the United States Department of Agriculture that assists schools and other agencies in providing nutritious meals to children at reasonable prices. 42 U.S.C. s. 1758(b). In Florida, the Florida Department of Agriculture and Consumer Services, Division of Food, Nutrition, and Wellness administers the program. Chapter 595, F.S.; Florida Department of Agriculture and Consumer Services, *National School Lunch Program*, <http://www.freshfromflorida.com/Divisions-Offices/Food-Nutrition-and-Wellness/Nutrition-Programs/National-School-Lunch-Program> (last visited Sept. 5, 2013).

¹⁷ "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 (DOE) by the Department of Children and Family Services. Section 1002.395(2)(c), F.S.

¹⁸ Section 1002.395(3)(b)1. – 2., F.S.; *see also* s. 39.01(31), F.S.

¹⁹ Rule 65C-30.001(91), F.A.C.

²⁰ Section 39.01(31), F.S.

²¹ Ch. 39, F.S.; *see chs.* 65C-13 (Licensed Out-Of-Home Care), 65C-15 (Child-Placing Agencies), 65C-28 (Out-Of-Home Care), 65C-29 (Protective Investigations), and 65C-30, F.A.C. (General Child Welfare Provisions). Foster caregivers must be licensed. Relative caregivers are not licensed. All out-of-home placements made by the Department of Children and Families, both foster care and placement with relatives, are court ordered. Legal custody is transferred from the parent to the relative or other care giver. A DCF caseworker is assigned to monitor the placement. Caregivers and other people in the home must have background checks. *Id.*; Telephone interview with Department of Children and Families staff (Jan. 29, 2014).

²² Section 1002.395(3)(b)2., F.S.

recipient, as long as the student's and the sibling's household income level does not exceed 230 percent of the federal poverty level.²³

A student is not eligible for a scholarship if enrolled in a school providing educational services to youth in Department of Juvenile Justice commitment programs, is receiving a scholarship from another SFO, is receiving another scholarship pursuant to ch. 1002, F.S., is being home-schooled, is participating in certain private tutoring programs, is participating in a state-funded virtual school, correspondence program, or distance learning program beyond two courses per year, or is enrolled in the Florida School for the Deaf and the Blind.

Effect of Proposed Changes

Beginning in FY 2014-15, the prior public school attendance requirement for students whose household income is below 185 percent of the federal poverty level is removed. Beginning in FY 2016-17, the maximum household income for eligibility is increased to 260 percent of the federal poverty level. Students with household incomes between 185 percent and 260 percent of the federal poverty level are required to have spent the prior school year in public school unless they are entering kindergarten or first grade.

The bill adds eligibility for students placed in out-of-home care that is not foster care. This change enables students who are placed with a relative or other caregiver to receive a scholarship. Students in foster or another out-of-home care placement will remain eligible for the program until age 21 or graduation, whichever comes first. Additionally, they will be allowed to apply to enter the program at any time.

The bill requires SFOs to give priority among new applicants to those students with household incomes below 185 percent of the federal poverty level and to students in foster or out-of-home care. Students who received a scholarship in the prior year will continue to receive priority over any new applicants.

In order to comply with the expanded household income requirements, parents of students who wish to participate must authorize the SFO to access information held by other state or federal agencies necessary for verification of income.

Student Scholarship Amounts

Present Situation

The maximum scholarship award to each individual student is set at a percentage of the unweighted Florida Education Finance Program (FEFP) student funding in the General Appropriations Act. The percentage for FY 2013-14 is 72 percent, or \$4,880 per student. Thereafter, the scholarship amount increases by four percentage points each fiscal year the tax credit amounts meet or exceed 90 percent of the tax credit cap. The percentage will stop increasing upon reaching 80 percent, and from that year forward, the scholarship limit will be 80 percent of the unweighted FEFP funding amount.²⁴ The maximum limit for a scholarship awarded to a student for enrollment in a Florida public school that is located outside the district in which the student resides or in a lab school as defined in s. 1002.32, F.S., is \$500.

A student's actual scholarship is further dependent upon the student's household income level. For students with household income levels above 215 percent, but equal to or less than 230 percent of the federal poverty level, the scholarship amount is 50 percent of the maximum award. The amount increases to 75 percent of the maximum award for students with household income that is more than

²³ Section 1002.395(3)(b)3., F.S.

²⁴ Section 1002.395(12)(a), F.S.

200 percent but less than 215 percent of the federal poverty level. For students with a household income of 200 percent of the federal poverty level or below, the full scholarship award is available.

The following table shows the history of the program and historical tax credit information.²⁵

	Award Per Student	Student Scholarships	Awarded Scholarships	Maximum Tax Credit Cap	Tax Credits Approved ²⁶
FY 2001-02	\$3,500			\$50,000,000	
FY 2002-03	\$3,500	15,585	\$50,000,000	\$50,000,000	\$47,686,000
FY 2003-04	\$3,500	11,550	\$40,000,000	\$88,000,000	\$47,579,000
FY 2004-05	\$3,500	10,549	\$36,655,500	\$88,000,000	\$47,560,000
FY 2005-06	\$3,500	15,123	\$46,745,482	\$88,000,000	\$80,323,071
FY 2006-07	\$3,750	17,819	\$59,300,655	\$88,000,000	\$87,123,000
FY 2007-08	\$3,750	21,493	\$73,450,691	\$88,000,000	\$85,611,140
FY 2008-09	\$3,950	24,871	\$88,626,463	\$118,000,000	\$97,415,847
FY 2009-10	\$3,950	28,927	\$106,049,940	\$118,000,000	\$111,773,617
FY 2010-11	\$4,106	34,550	\$129,474,868	\$140,000,000	\$136,321,200
FY 2011-12	\$4,011	40,248	\$147,481,308	\$175,000,000	\$174,459,107
FY 2012-13	\$4,335	51,075	\$206,974,102	\$229,000,000	\$229,000,000

Effect of Proposed Changes

The bill increases the maximum scholarship limit from 80 percent to 82 percent of the unweighted FEFP funding amount beginning with the 2016-2017 state fiscal year.

In concert with the FY 2016-17 increase in maximum household income for eligibility discussed above, the bill creates a new tiered phasedown of the maximum per-student scholarship amount. For household incomes between 200 percent and 215 percent of the federal poverty line, the maximum is reduced by 12 percent. For household incomes between 215 percent and 230 percent, the maximum is reduced by 26 percent. For household incomes between 230 percent and 245 percent, the maximum is reduced by 40 percent. Finally, for household incomes between 245 percent and the newly increased maximum of 260 percent the amount is reduced by 50 percent.

Tax Credit Cap

Present Situation

The Legislature initially capped the FTC Program at \$50 million in tax credits per state fiscal year,²⁷ but expanded the cap to \$88 million in 2003.²⁸ Beginning in FY 2008-09, the cap was increased by \$30 million to \$118 million.²⁹ Until 2009, tax credits under the program were only available against the state's corporate income tax liability.³⁰ In 2009, the Legislature expanded the revenue sources against which tax credits can be claimed to include the insurance premium tax.³¹ The insurance premium tax is imposed on insurance premiums written in Florida and paid by insurance companies. In 2010, the revenue sources against which tax credits can be claimed were further expanded to include severance taxes on oil and gas production,³² self-accrued sales tax liabilities of direct pay permit holders,³³ and

²⁵ Florida Department of Education, *Fast Facts and Program Statistics*, available at, http://www.floridaschoolchoice.org/Information/CTC/files/ctc_fast_facts.pdf. (last accessed 2/14/2014).

²⁶ Email from Department of Revenue on file with House Finance and Tax.

²⁷ Section 5, ch. 2001-225, L.O.F.

²⁸ Section 9, ch. 2003-391, L.O.F.

²⁹ Section 1, ch. 2008-241, L.O.F.

³⁰ See s. 3, ch. 2009-108, L.O.F.

³¹ *Id.*; a premium tax pursuant to s. 624.509, F.S.

³² Section 211.0251, F.S.

³³ Section 212.1831, F.S.

alcoholic beverage taxes on beer, wine, and spirits.³⁴ Tax credits received under this program may not be transferred, with an exception for transactions where all of the assets of a taxpayer who has received a credit are being transferred.³⁵

The Legislature also increased the tax credit cap to \$140 million, beginning in FY 2010-11, and authorized the cap to increase by 25 percent for the subsequent year whenever credits approved by Department of Revenue (DOR) in the prior fiscal year exceeded 90 percent of the tax credit cap for that year, beginning in FY 2011-12.³⁶ In 2012, the Legislature increased the cap for FY 2012-13 to \$229 million, an additional \$10.25 million increase over the 25 percent increase provided by statute.

Effect of Proposed Changes

The bill increases the cap to \$387.8 million in FY 2014-15, which is \$30.0 million above the cap expected to apply under current law. In subsequent years, the cap can increase sequentially to \$477.3 million, \$589.1 million, \$728.9 million, and \$903.8 million. The amount of credits approved each year will be required to reach 90 percent of the new cap in each year to trigger an increase in the subsequent year. Past experience suggests that the above stated levels will be achieved during the next five years. If so, then in each of the FYs 2014-15 through 2018-19, the cap is expected to be approximately \$30.0 million above the levels expected under current law.

Additionally, taxpayers will be able to transfer tax credits received so long as the transfer is between members of an affiliated group of corporations. The transferred tax credit must be applied against the same tax as it was to be applied against prior to the transfer. Taxpayers must notify the DOR (who in turn notifies the Division of Alcoholic Beverages and Tobacco for credits against excise taxes on alcoholic beverages) of their intent to transfer a credit, and the credit is not available until DOR approves the transfer.

Education of Students with Disabilities

Present Situation

The federal Individuals with Disabilities Education Act provides (IDEA) grants to assist states in providing a free appropriate public education (FAPE) to all children with disabilities residing in the state aged three to 21.³⁷ A FAPE must include special education services that are provided by the public school system at no cost to the parent, which meet the standards of the state and are in conformity with the student's individual educational plan (IEP).³⁸

The IDEA requires states to have policies and procedures in place to identify, locate, and evaluate all children with disabilities in the state who need special education and related services. These policies and procedures are known as "child find." State child find activities must include policies for identifying not only public school children, but also homeless, migrant, and private school children with disabilities.³⁹

In Florida, children with disabilities are referred to as exceptional students. The disabilities that qualify a student as exceptional are an intellectual disability; autism spectrum disorder; a speech impairment; a language impairment; an orthopedic or other health impairment; a traumatic brain injury; a visual impairment; an emotional or behavioral disability; a specific learning disability, including dyslexia,

³⁴ Sections 211.0251, 212.1831, and 561.1211, F.S., direct DOR and the Department of Business and Professional Regulation to disregard tax credits accordingly for purposes of the distributions of tax revenue under ss. 211.06, 212.20, 561.12(1)(a) and 564.06(10), F.S., so that only amounts distributed to the General Revenue Fund are reduced.

³⁵ Section 1002.395(5)(d), F.S.

³⁶ Section 1, ch. 2010-24, L.O.F.

³⁷ 20 U.S.C. s.1400 et. seq., as amended by P.L. 108-446; 34 C.F.R. s. 300.17.

³⁸ 34 C.F.R. s. 300.17 and 34 C.F.R. s. 300.34 (a); rules 6A-6.03028(1) and 6A-6.03411(1)(p), F.A.C.

³⁹ 34 C.F.R. ss. 300.111, 300.131, and 303.321.

dyscalculia, or developmental aphasia; deafness, hard of hearing, or dual sensory impairment; or developmental delays from birth through five years old or if the student is hospitalized or homebound.⁴⁰

Special education services are specially designed instruction and related services necessary for an exceptional student to benefit from education. Such services may include transportation; diagnostic and evaluation services; social services; physical and occupational therapy; speech and language pathology services; job placement; orientation and mobility training; brailists, typists, and readers for the blind; interpreters and auditory amplification; services provided by a certified listening and spoken language specialist; rehabilitation counseling; transition services; mental health services; guidance and career counseling; specified materials, assistive technology devices, and other specialized equipment; and other such services identified in State Board of Education rules.⁴¹

Students may be referred for an evaluation for exceptional student education (ESE) services by their parents or by school staff and evaluations must be completed within 60 days of such referral.⁴² With few exceptions,⁴³ prior to referring a student for evaluation as a student with a disability, school districts must conduct classroom observations; vision and hearing screenings; review anecdotal, social, psychological, medical, and achievement data; and use a problem solving/response to instruction or intervention (PS/RtI) method to develop and implement evidenced based general education interventions to address the student's academic or behavioral issues.⁴⁴ If the school-based team determines that general education interventions are not sufficiently effective, a referral for evaluation is made. A student may not be evaluated for ESE eligibility without the prior informed consent of the parent. A team of professionals and the student's parent (i.e., eligibility staffing committee) review the evaluation results to determine if the student meets the requirements for eligibility under one or more state board rules and if there is evidence of a need for special education and related services.⁴⁵

If a student is found eligible for an ESE program, an IEP is developed for the student.⁴⁶ An IEP team must meet to develop a plan to address the student's needs.⁴⁷ The multidisciplinary team includes school and district staff, and other experts who have knowledge or expertise regarding the student, if necessary.⁴⁸ Parents also participate in the development of the plans, which may not be implemented until the parent provides consent for initial placement in the ESE program.⁴⁹ The IEP must be completed within 30 calendar days following the determination of a student's eligibility for special education services.⁵⁰ An IEP must be reviewed at least annually, and may be revised if necessary.⁵¹

A FAPE must be provided in the least restrictive environment (LRE). To be in compliance with the LRE requirement, states must educate students with disabilities with their nondisabled peers to the maximum extent appropriate. Special classes, special schooling, or other removal of the student from the regular education environment should only occur if the nature and severity of his or her disability is such that an appropriate education in regular classes cannot be achieved satisfactorily.⁵² IDEA authorizes instruction to be provided in one or more of the following settings:

⁴⁰ Sections 1003.01(3)(a) and 1003.21(1)(e), F.S.

⁴¹ Section 1003.01(3)(b), F.S.

⁴² Section 1003.57(1)(c), F.S.; rule 6A-6.0331(3), F.A.C.

⁴³ For children below mandatory school attendance age and who are not yet enrolled in kindergarten, the general education intervention requirements are not applicable. However, these children are required to have existing social, psychological, and medical data reviewed with a health screening, if necessary; and vision and hearing screenings are required to rule out sensory deficits. Additional screenings may be conducted, if warranted. Rule 6A-6.0331(2), F.A.C.

⁴⁴ Rule 6A-6.0331(1), (3), and (6), F.A.C.

⁴⁵ Rule 6A-6.0331(3)-(6), F.A.C.

⁴⁶ Rule 6A-6.03028(3), F.A.C.

⁴⁷ Rules 6A-6.03028(3), F.A.C.

⁴⁸ Rules 6A-6.03028(3)(c), F.A.C.

⁴⁹ Rule 6A-6.0331(4) and (9), F.A.C.

⁵⁰ Rule 6A-6.03028(3)(f), F.A.C.

⁵¹ Rule 6A-6.03028(3)(j), F.A.C.

⁵² 34 C.F.R. s. 300.114(a)(2); s. 1003.57(1)(a), F.S.; rule 6A-6.03028(3)(i), F.A.C.

- Regular class.
- Special class.
- Special day school or residential school.
- Special class in a hospital or facility operated by a noneducational agency.
- Individual instruction in a hospital.
- Home instruction.⁵³

The LRE must be considered during the development of the student's IEP.⁵⁴

Funding for Students with Disabilities

Services for exceptional education students are funded primarily through the Florida Education Finance Program (FEFP) using basic funding, an ESE Guaranteed Allocation, and two weighted cost factors. FEFP funds are calculated by multiplying the number of full-time equivalent (FTE) students in each of the funded education programs by the cost factors to obtain weighted FTE students. Weighted FTE students are then multiplied by a base student allocation and by a district cost differential. Program cost factors are determined by the Legislature and represent relative cost differences among the FEFP programs. Generally speaking, funding generated by a particular exceptional student reflects the severity of his or her disability and resulting educational needs.⁵⁵

Exceptional education cost factors are determined by using a matrix of services to document the services that each exceptional student will receive. In order to generate funds using one of the two weighted cost factors, a matrix of services must be completed at the time of the student's initial placement into an ESE program and at least once every three years.⁵⁶ The program cost factors for exceptional students for use in the 2013-14 fiscal year are:

- Kindergarten and Grades 1, 2 and 3 with ESE Services -- cost factor 1.125.
- Grades 4, 5, 6, 7 and 8 with ESE Services -- cost factor 1.000.
- Grades 9, 10, 11 and 12 with ESE Services -- cost factor 1.011.
- Support Level IV -- cost factor 3.558.
- Support Level V -- cost factor 5.089.⁵⁷

ESE services for students below support levels IV and V are considered basic programs and are assigned the same cost factor weighting as regular education students. These students generate FTE funding using the appropriate basic program weight for their grade level and the ESE Guaranteed Allocation provides for the additional services needed by these students. Students funded at support levels IV and V have more severe disabilities and, therefore, receive greater weighting.⁵⁸

McKay Scholarship Funding

The John M. McKay Scholarships for Students with Disabilities Program (McKay Program) provides scholarships for eligible students with disabilities to attend an eligible public or private school of their choice.⁵⁹ The maximum scholarship granted for an eligible student is equivalent to the base student allocation in the FEFP multiplied by the appropriate cost factor for the educational program that would have been provided for the student in the district school to which he or she was assigned, multiplied by the district cost differential. In addition, a share of the ESE guaranteed allocation is added to this amount based on the calculation for the ESE guaranteed allocation provided in the 2000 General

⁵³ 34 C.F.R. ss. 300.103, 300.104, 300.114, 300.115, and 300.116; s. 1003.57(1)(a), F.S.; rule 6A-6.03028(3)(i), F.A.C.

⁵⁴ *L.G. et al. v. School Bd. Of Palm Beach County, Fla.*, 512 F. Supp.2d 1240, 1247-1249 (S.D. Fla. 2007).

⁵⁵ Section 1011.62(1), F.S.; Florida Department of Education, 2013-14 Funding for Florida School Districts, at 1, 13-14, and 19 (2013), available at <http://www.fldoe.org/fefp/pdf/fefpdist.pdf> [hereinafter *2013-14 Funding for Florida School Districts*].

⁵⁶ Section 1011.62(1)(e)a.-b., F.S.

⁵⁷ Section 1011.62(1)(c) and (e), F.S.

⁵⁸ *Id.*

⁵⁹ Section 1002.39(1), F.S.

Appropriations Act. The calculation is based upon the student's grade level, matrix level of services, and the difference between the FY 2000-2001 basic program and the appropriate level of services cost factor, multiplied by the FY 2000-2001 base student allocation and the FY 2000-2001 district cost differential for the sending district. The calculated amount includes the per-student share of supplemental academic instruction funds, instructional materials funds, technology funds, and other categorical funds. The calculation is based upon the school district in which the parent resides at the time of the scholarship request.⁶⁰

Each student's scholarship is either the calculated amount or the amount of the private school's tuition and fees, whichever is less.⁶¹ Each school district must report scholarship recipients attending a private school to DOE, separately from other students.⁶² DOE must transfer, from General Revenue funds only, the applicable scholarship amount from the school district's total FEFP funding entitlement and categorical accounts to a separate account for the scholarship program for quarterly disbursement (on July 1, September 1, December 1, or February 1) to the parents of participating students.⁶³

Parents of students entering the scholarship program must submit to DOE 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.⁶⁴ Upon notification from DOE that this documentation has been received, the Chief Financial Officer must make scholarship payments in four equal amounts no later than the quarterly transfer dates. The initial payment is made after DOE verification of admission acceptance, and subsequent payments are 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 DOE to the private school of the parent's choice, and the parent must restrictively endorse the warrant to the private school for deposit into the account of the private school.⁶⁵ Subsequent to each scholarship payment, DOE must request from the Department of Financial Services a sample of endorsed warrants to review and confirm compliance with endorsement requirements.⁶⁶

Step Up for Students is currently the only SFO authorized to award FTC scholarships. DOE has approved A.A.A. Scholarship Foundation, Life is Energy Scholarship Foundation, and Rotary Club of Spring Hill Scholarship Fund to begin funding scholarships in the the 2014-15 school year.⁶⁷

Home Education Student Evaluations

Among other things, the parent of a student enrolled in a home education program must keep a log of educational instruction and services that is made contemporaneously with delivery of the instruction and services and samples of any writings, worksheets, workbooks, or creative materials used or developed by the student. The portfolio must be preserved by the parent for two years and made available for inspection by the district school superintendent, or designee, upon 15 days' written notice.⁶⁸

⁶⁰ Section 1002.39(10)(a), F.S. Until the school district completes the matrix of services, the calculation is based on the matrix that assigns the student to support level I of service as it existed prior to the 2000-2001 school year. When the school district completes the matrix, the amount of the payment is adjusted as needed. The scholarship amount for a student eligible under s. 504 of the Rehabilitation Act of 1973 is based upon the student's existing FEFP program cost factor. *Id.*

⁶¹ Section 1002.39(10)(b), F.S. The amount of any assessment fee required by the participating private school may be paid from the total amount of the scholarship. *Id.*

⁶² Section 1002.39(10)(c), F.S.

⁶³ Section 1002.39(10)(d), F.S.

⁶⁴ *Id.*

⁶⁵ Section 1002.39(10)(e), F.S.

⁶⁶ Section 1002.39(10)(f), F.S.

⁶⁷ Florida Department of Education, *FTC Program Scholarship Funding Organizations*, <https://www.floridaschoolchoice.org/Information/cte/SFO.asp> (last visited March 6, 2014).

⁶⁸ Section 1002.41(1)(b), F.S.

Additionally, the parent of a home education student must provide for an annual educational evaluation which documents the student's demonstration of educational progress at a level commensurate with his or her ability, which may include:

- Evaluation of the student's work portfolio by a certified teacher selected by the parent;
- Any nationally normed student achievement test administered by a certified teacher;
- A statewide, standardized assessment administered by a certified teacher, at a location and under testing conditions approved by the school district;
- Evaluation by a licensed psychologist or school psychologist; or
- Any other valid measurement tool mutually agreed upon by the district school superintendent of the district in which the student resides and the student's parent.⁶⁹

The district school superintendent must review and accept the results of the annual educational evaluation. If a student fails to make educational progress, the superintendent must notify his or her parent in writing. The parent has one year from the date of receipt of such notice to provide remedial instruction to the student. If the student, upon reevaluation, does not demonstrate educational progress at the end of the probationary period, the home education program must be discontinued.⁷⁰

Regular School Attendance

The law requires all children who have attained the age of six years or who will have attained the age of six years by February 1 of any school year or who are older than six years of age but who have not attained the age of 16 years, to attend school.⁷¹ Each parent of a child within the compulsory attendance age is responsible for the child's school attendance.⁷² Compliance with compulsory school attendance requirements, i.e., "regular school attendance," may be achieved by attendance in:

- A public school;
- A private, parochial, religious, or denominational school;
- A home education program; or
- A private tutoring program.⁷³

Effect of Proposed Changes

The bill establishes the Florida Personal Learning Scholarship (scholarship) Account program to enable parents of students with disabilities to customize their child's education using a wide range of instructional services. The parent of a student who resides in this state may request and receive a scholarship if the student is:

- Eligible to enroll kindergarten through 5th grade or received an account in the previous school year;
- Identified as having autism,⁷⁴ cerebral palsy,⁷⁵ down syndrome,⁷⁶ an intellectual disability,⁷⁷ Prader-Willi syndrome,⁷⁸ or Spina bifida,⁷⁹ or for a student in kindergarten, as a high-risk child,⁸⁰

⁶⁹ Section 1002.41(1)(c), F.S.

⁷⁰ Section 1002.41(2), F.S.

⁷¹ Section 1003.21(1), F.S.

⁷² Section 1003.24, F.S.

⁷³ Section 1003.01(13), F.S.

⁷⁴ "Autism" means a pervasive, neurologically based developmental disability of extended duration which causes severe learning, communication, and behavior disorders with age of onset during infancy or childhood. Section 393.063(3), F.S.

⁷⁵ "Cerebral palsy" is a group of disabling symptoms of extended duration which results from damage to the developing brain that may occur before, during, or after birth and results in loss or impairment of control over voluntary muscles. Section 393.063(4), F.S.

⁷⁶ "Down syndrome" is a disorder caused by the presence of an extra chromosome 21. Section 393.063(13), F.S.

⁷⁷ "Intellectual disability" is significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior which manifests before the age of 18 and can reasonably be expected to continue indefinitely. Section 393.063(21), F.S.

- by the school district in which he or she resides and the district has completed an IEP written in accordance with rules of the state board; and
- Assigned to FEFP matrix support levels IV or V.

At least 60 calendar days prior to one of the payment transfer dates, i.e., May 1, July 1, September 1, or December 1, parents must apply for an account to an eligible SFO. If the student does not already have a qualifying IEP, the parent must request that the school district in which he or she resides evaluate the student and prepare an IEP, which must be completed within 30 calendar days. Upon completion of the IEP, the school district must provide the parent with an estimate of the amount of funds the student may receive in the account. Once a student is determined to be eligible for a scholarship, the SFO establishes an account for the student. The parent must register the student's participation in an account with the school district, which participation satisfies regular school attendance requirements. School districts are not responsible for providing a FAPE to a student who receives a scholarship, unless the student enrolls in public school. Students receiving a scholarship are treated as a unilateral parent placement for purposes of state and federal law, excluding preparation of the IEP.

Allowable Expenditures

Parents first procure allowable services for the student and then must apply for reimbursement of expenses. Expenditures are reimbursed only after the SFO verifies the expenditure was made in compliance with the program. Funds from the account may be used for:

- Specialized instructional services.
- Tuition and fees for instructional services from a private school that is eligible to participate in the McKay Program or FTC Program.
- Private tutoring.
- Curriculum.
- Tuition and fees for virtual instruction⁸¹ or DOE-approved online courses.⁸²
- Costs for the annual home education evaluation.
- The \$25 scholarship application fee.
- Services such as applied behavior analysis, speech-language pathology, occupational therapy, or physical therapy.
- An advanced payment contract purchased through the Stanley G. Tate Florida Prepaid College Program for the benefit of the eligible student.

Specialized instructional service providers must be approved by DOE and include service providers utilized by the Agency for Persons with Disabilities and those authorized by DOE to provide services to students with disabilities enrolled in the Voluntary Prekindergarten Education program. A private school must be participating in the McKay Program or FTC Program.

⁷⁸ "Prader-Willi syndrome" is an inherited condition typified by neonatal hypotonia with failure to thrive, hyperphagia or an excessive drive to eat which leads to obesity usually at 18 to 36 months of age, mild to moderate intellectual disability, hypogonadism, short stature, mild facial dysmorphism, and a characteristic neurobehavior. Section 393.063(25), F.S.

⁷⁹ "Spina bifida" is a medical diagnosis of spina bifida cystica or myelomeningocele. Section 393.063(36), F.S.

⁸⁰ A "high-risk child" is a child from 3 to 5 years of age with a developmental delay in cognition, language, or physical development. Section 393.063(20)(a), F.S.

⁸¹ Participating students may enroll in virtual instruction provided by a DOE approved virtual instruction provider or the Florida Virtual School. *See* ss. 1002.45 and 1002.37, F.S.

⁸² Two types of approved online course may be used under the bill- Florida approved courses and college credit for online courses. Florida approved courses include massive open online courses (MOOC) or remedial education associated with courses measured by statewide assessments approved by DOE. MOOCs may be authorized in Algebra I, biology, geometry, and civics. Such course may be used to satisfy promotion or high school graduation requirements. *See* s. 1003.499, F.S. Beginning in the 2015-2016 school year, students will be able to earn college credit for online courses, including MOOCs, prior to initial enrollment at a postsecondary institution. *See* s. 1004.0961, F.S.

Scholarship Funding

Scholarship funding is calculated using the same calculation as the McKay Program. In order to enable DOE to calculate funding for a student's scholarship, the student's school district of residence must report him or her for FEFP funding. Students receiving a scholarship must be reported separately from students attending district public schools, but are included in the districts' FEFP allocation. DOE must transfer the funding quarterly to an SFO. The SFO must maintain separate accounts for each eligible student, verify qualifying expenditures, and reimburse the parent for eligible services provided to the student. When requesting reimbursement for services, the parent must submit receipts or other relevant supporting documentation and an affidavit stating compliance with expenditure requirements.

Any unused funds are rolled over to the next fiscal year, unless the student returns to public school, is determined ineligible for the program based upon reevaluation of the IEP or an annual evaluation of educational progress, graduates from high school, or attains age 22, whichever occurs first. If an account is terminated, remaining funds revert to the state.

Program Accountability

The SFO must verify that expenditures are permissible before reimbursing parents for services. Participating SFOs must submit quarterly reports to DOE regarding students served, services reimbursed, and providers used. SFOs must provide the Auditor General and DOE with an annual financial and compliance audit of its accounts and records conducted by an independent certified public accountant. DOE must approve instructional services providers, monitor program compliance, and establish a complaint process and adjudicate complaints.

The bill requires participating students to undergo an annual educational evaluation that is similar to that required for home education students. Parents must participate in annual IEP reviews and may not receive any rebate or refund from service providers. The state is not liable for any claim arising from the award or use of a scholarship.

High School Graduation

Present Situation

The three graduation credentials available to students with disabilities are the standard high school diploma,⁸³ the certificate of completion,⁸⁴ and the special high school diploma.⁸⁵

Standard High School Diploma

Florida public high school students have four options for obtaining a standard high school diploma -- a Traditional 4-year, 24-credit option,⁸⁶ an 18-credit graduation option,⁸⁷ or completion of an International Baccalaureate (IB) or Advanced International Certificate of Education (AICE) program.⁸⁸ In order to earn a standard diploma, students must earn a 2.0 Grade Point Average (GPA), complete one course online, complete the credit requirements, and pass the 10th grade Florida Comprehensive Assessment Test in Reading and the statewide, standardized Algebra I end-of-course assessment.⁸⁹ A student with a disability whom the IEP team determines that the statewide, standardized assessments cannot accurately measure the student's abilities, taking into consideration all allowable accommodations,

⁸³ Section 1003.4282, F.S.

⁸⁴ Section 1003.428(7)(b), F.S.

⁸⁵ Section 1003.438, F.S.

⁸⁶ Section 1003.428, F.S.

⁸⁷ Sections 1002.3105(5), F.S. and 1003.429, F.S. (2012).

⁸⁸ Section 1003.428(1), F.S.

⁸⁹ Sections 1003.4282(3) and 1003.438, F.S.

must have assessment results waived for the purpose of receiving a course grade and a standard high school diploma. Such waiver must be designated on the student's transcript.⁹⁰

Certificate of Completion

Generally, a certificate of completion may be awarded to students who obtain the required number of credits for graduation without passing required assessments or satisfying the 2.0 grade point average requirement. A student with a disability who does not qualify for an assessment waiver may exit school with a certificate of completion. Any student who is otherwise entitled to a certificate of completion, whether general education or disabled, may elect to remain in school as either a full-time or a part-time student for up to one additional year and receive special instruction designed to remedy his or her identified deficiencies.⁹¹ Because they are entitled to a FAPE until age 22, a student with a disability who does not qualify for a waiver or exemption may choose to remain in school until achieving a standard diploma or reaching age 22, whichever occurs first.⁹²

Special Diploma

A student who has an intellectual disability; an autism spectrum disorder; a language impairment; an orthopedic or other health impairment; a traumatic brain injury; an emotional or behavioral disability; a specific learning disability, including dyslexia, dyscalculia, or developmental aphasia; or a student who is deaf, hard of hearing, or dual sensory impaired may be awarded a special diploma.⁹³ Each district school board must prescribe specific graduation requirements that such students must meet to achieve a special diploma. District requirements must be based on the completion of basic, vocational, and ESE courses.⁹⁴

Effect of Proposed Changes

The bill repeals statutory provisions authorizing issuance of a special diploma to students with disabilities. Any student who entered 9th grade as of the 2013-14 academic year may continue to pursue and be awarded a special diploma if requirements are met.⁹⁵ Thus, students with disabilities entering 9th grade in the 2014-15 academic year and thereafter must either satisfy requirements for a standard diploma or receive a certificate of completion.

B. SECTION DIRECTORY:

Section 1. Amends s. 213.053, F.S., revising confidentiality requirements for the Department of Revenue.

Section 2. Amends s. 1002.395, F.S., making various changes to the Tax Credit Scholarship Program.

Section 3. Providing that any scholarship funding organization approved prior to July 1, 2014, shall have until August 1, 2014, to comply with the new requirements for maintaining a surety bond or letter of credit.

Section 4. Creates s. 1002.411, F.S., relating to Florida Personal Learning Scholarship Accounts Program.

Section 5. Amends s. 1003.01(13), F.S., relating to the definitions of "regular school attendance."

⁹⁰ Section 1008.22(3)(c), F.S.

⁹¹ Section 1003.428(7)(b), F.S.

⁹² Rule 6A-6.03028(1), F.A.C.

⁹³ Section 1003.438, F.S.

⁹⁴ Rule 6A-1.09961, F.A.C.

⁹⁵ See ss. 11.2421 and 11.2425, F.S. The repeal of any statute by the annual adoption and enactment of Florida Statutes does not affect any right accrued before such repeal or any civil remedy where a suit is pending. Section 11.2425, F.S.

Section 6. Amends s. 11.45, F.S., relating to authority of the Auditor General.

Section 7. Repeals s. 1003.438, F.S., relating to special high school graduation requirements for certain exceptional students.

Section 8. Amends s. 120.81, F.S., relating to rulemaking exceptions.

Section 9. Provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

Because there is little to no data available on home school or private school children who might qualify for a Personal Learning Scholarship Account Program under the bill, assumptions were made based upon the number of students in public school that would meet the criteria to qualify for an account. That ratio of qualified students was then applied to the total home school population of 75,801 and the private school population of 320,423. The private school population was then adjusted for the students currently receiving funding through the McKay Program. Based upon this methodology, the number of qualified home school students in kindergarten through 5th grade is estimated at 432 at an estimated cost of \$5.2 million. The number of qualified private school students in kindergarten through 5th grade is 300 at an estimated cost of \$3.6 million. Thus, the total estimated cost of the program is \$8.8 million, which is provided in the FEFP in the House proposed General Appropriations Act. These costs were based on an average of the actual 2012-13 McKay Program payments made for the students that would be eligible to receive an account.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Staff estimates changes in the annual tax credit cap amounts for the tax credit scholarship program result in a negative impact to the General Revenue Fund of (\$30.0) million, (\$30.0) million, (\$30.0) million, (\$30.0) million, and (\$30.2), in the fiscal years ending 2015, 2016, 2017, 2018, and 2019, respectively. There is an additional indeterminate negative fiscal impact related to the authority to adjust estimated payments against corporate income and insurance premium taxes for tax credits earned under the program.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The tax credit cap increase will allow more taxpayers to make eligible contributions to SFOs and therefore more taxpayers will receive a dollar for dollar reduction in their state tax liabilities. In addition SFOs may charge parents of students participating in the Florida Personal Learning Scholarship Account a \$25 application fee.

D. FISCAL COMMENTS:

Staff has estimated the total Florida Tax Credit Scholarship Program impacts on both revenue and FEFP expenditures under current law (Table 1) and the proposed law (Table 2). Table 3 displays the

estimated change in total program impacts as a result of the bill. Under the bill, expenditure savings are expected to continue as fewer students will require funding within the FEFP. The tables indicate that under both current and proposed law, the FEFP savings from the program are expected to exceed the revenue losses due to tax credits through FY 2018-19, though the net savings are expected to be lower as a result of the bill. Table 3 shows the net positive savings to the state are reduced by \$1.7 million, \$21.3 million, \$30.4 million and \$40.4 million in fiscal years ending 2016, 2017, 2018, and 2019, respectively.

	2014-15	2015-16	2016-17	2017-18	2018-19
Table 1: Program Impacts Under the Current Law (Baseline)					
Revenue impact in millions	(\$357.8)	(\$447.3)	(\$559.1)	(\$698.9)	(\$873.6)
FEFP savings based on current revenue cap	\$415.0	\$489.6	\$608.7	\$758.4	\$944.8
Net State Savings in Millions	\$57.2	\$42.3	\$49.6	\$59.5	\$71.3

	2014-15	2015-16	2016-17	2017-18	2018-19
Table 2: Program Impacts Under the Bill					
Revenue impact in millions	(\$387.8)	(\$477.3)	(\$589.1)	(\$728.9)	(\$903.8)
FEFP savings based on revised revenue cap	\$448.3	\$517.9	\$617.4	\$758.0	\$934.6
Net State Savings in Millions	\$60.5	\$40.6	\$28.3	\$29.1	\$30.8

	2014-15	2015-16	2016-17	2017-18	2018-19
Table 3: Program Impacts: Proposed vs. Current					
Revenue impact in millions	(\$30.0)	(\$30.0)	(\$30.0)	(\$30.0)	(\$30.2)
FEFP savings based on revised revenue cap	\$33.3	\$28.3	\$8.7	(\$0.4)	(\$10.2)
Net State Savings in Millions	\$3.3	(\$1.7)	(\$21.3)	(\$30.4)	(\$40.4)

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

In *Bush v. Holmes*, the Florida Supreme Court distinguished other publicly funded educational choice programs, such as a program designed to meet the unique educational needs of students with disabilities, from the Opportunity Scholarship Program, which it found unconstitutional.⁹⁶

B. RULE-MAKING AUTHORITY:

The bill directs the State Board of Education to adopt rules to implement the Florida Personal Learning Scholarship Account program, including any rules necessary to coordinate the respective responsibilities of DOE, district school boards, and SFOs regarding the funding and administration of accounts; criteria, timelines, and a reporting format for quarterly reports by SFOs; and a standard application form to be used by parents and SFOs.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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A bill to be entitled

An act relating to educational choice; amending s. 213.053, F.S.; authorizing the Department of Revenue to provide a copy of a letter approving a taxpayer or dealer for a specified tax credit; amending s. 1002.395, F.S.; revising definitions; revising eligibility requirements for the Florida Tax Credit Scholarship Program; revising the cap on the amount of tax credits that may be approved annually under the program; requiring the Department of Revenue to publish the cap on its website; requiring the Department of Revenue to provide a copy of a letter approving a taxpayer for a specified tax credit to the eligible nonprofit scholarship-funding organization; authorizing certain entities to convey, transfer, or assign certain tax credits; providing for the calculation of underpayment of estimated corporate income taxes and tax installment payments for taxes on insurance premiums and assessments and the determination of whether penalties or interest shall be imposed for such underpayment; revising the disqualifying offenses for nonprofit scholarship-funding organization owners and operators; revising priority for new applicants; authorizing the use of certain contributions by nonprofit scholarship-funding organizations for professional development; requiring

27 | nonprofit scholarship-funding organizations to
 28 | maintain a surety bond or letter of credit and to
 29 | adjust the bond or letter of credit quarterly based
 30 | upon a statement from a certified public accountant;
 31 | providing an exception; requiring parental
 32 | authorization for access to income eligibility
 33 | information; revising limitations on annual
 34 | scholarship amounts; providing for reductions in
 35 | scholarship amounts based on household income;
 36 | providing initial and renewal application requirements
 37 | and an approval process for nonprofit scholarship-
 38 | funding organizations; requiring the State Board of
 39 | Education to adopt rules; creating s. 1002.411, F.S.;
 40 | establishing the Florida Personal Learning Scholarship
 41 | Account Program; providing definitions; providing
 42 | student eligibility criteria for receipt of a Florida
 43 | Personal Learning Scholarship Account; providing
 44 | parent and student responsibilities for program
 45 | participation; specifying allowable expenditures of
 46 | account funds; requiring an annual evaluation of each
 47 | participating student's educational progress and
 48 | school district review of the evaluation; specifying
 49 | that parents are responsible for procuring educational
 50 | services for a participating student; specifying that
 51 | school districts are not obligated to provide a free
 52 | appropriate public education for participating

53 students; prohibiting participating students from
 54 having multiple accounts or participating in school
 55 choice scholarship programs; authorizing a nonprofit
 56 scholarship-funding organization to establish accounts
 57 for eligible students; specifying duties of nonprofit
 58 scholarship-funding organizations for administration
 59 and funding of accounts, annual audits, and quarterly
 60 reporting; specifying Department of Education duties
 61 regarding approved service providers, oversight of
 62 nonprofit scholarship-funding organizations,
 63 investigation and adjudication of complaints, and
 64 reporting by nonprofit scholarship-funding
 65 organizations; specifying school district duties
 66 regarding initial evaluations and individual
 67 educational plan development and review; providing a
 68 calculation for funding accounts; requiring school
 69 districts to report participating students to the
 70 Department of Education for funding; requiring
 71 quarterly transfer of funds by the department to
 72 nonprofit scholarship-funding organizations; providing
 73 for the carryforward of funds remaining in an account
 74 at the end of a fiscal year; specifying the conditions
 75 under which an account is terminated and providing for
 76 the reversion of funds; exempting the state from
 77 liability regarding the award or use of accounts;
 78 requiring rulemaking; amending s. 1003.01, F.S.;

79 revising the definition of the term "regular school
 80 attendance" to add participation in the Florida
 81 Personal Learning Scholarship Account Program;
 82 amending s. 11.45, F.S.; authorizing the Auditor
 83 General to conduct audits of the accounts and records
 84 of nonprofit scholarship-funding organizations
 85 participating in the Florida Personal Learning
 86 Scholarship Account Program; repealing s. 1003.438,
 87 F.S., relating to special high school graduation
 88 requirements for certain exceptional students;
 89 amending s. 120.81, F.S.; correcting cross-references;
 90 providing an effective date.

91

92 Be It Enacted by the Legislature of the State of Florida:

93

94 Section 1. Paragraph (cc) is added to subsection (8) of
 95 section 213.053, Florida Statutes, to read:

96 213.053 Confidentiality and information sharing.—

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

99 (cc) For purposes of notification that a tax credit has
 100 been reserved, a copy of a letter of approval issued by the
 101 department to a taxpayer or dealer for an allocation of a tax
 102 credit to an eligible nonprofit scholarship-funding organization
 103 selected by the taxpayer or dealer in an application for a tax
 104 credit authorized under s. 1002.395.

105
 106 Disclosure of information under this subsection shall be
 107 pursuant to a written agreement between the executive director
 108 and the agency. Such agencies, governmental or nongovernmental,
 109 shall be bound by the same requirements of confidentiality as
 110 the Department of Revenue. Breach of confidentiality is a
 111 misdemeanor of the first degree, punishable as provided by s.
 112 775.082 or s. 775.083.

113 Section 2. Paragraph (f) of subsection (2), subsection
 114 (3), subsection (5), subsection (6), paragraph (e) of subsection
 115 (8), paragraphs (d) and (o) of subsection (9), and paragraph (a)
 116 of subsection (12) of section 1002.395, Florida Statutes, are
 117 amended, paragraphs (h) through (j) of subsection (2) are
 118 redesignated as paragraphs (i) through (k), respectively, and a
 119 new paragraph (h) is added to that subsection, paragraph (g) is
 120 added to subsection (7), and subsection (16) is added to that
 121 section, to read:

122 1002.395 Florida Tax Credit Scholarship Program.—

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

124 (f) "Eligible nonprofit scholarship-funding organization"
 125 means a charitable organization that:

126 1. Is exempt from federal income tax pursuant to s.
 127 501(c)(3) of the Internal Revenue Code;

128 2. Is a Florida entity formed under chapter 607, chapter
 129 608, or chapter 617 and whose principal office is located in the
 130 state; and

131 3. Complies with subsections ~~the provisions of subsection~~
 132 (6) and (16).

133 (h) "Household income" has the same meaning as the term
 134 "income" is defined in the Income Eligibility Guidelines for
 135 free and reduced price meals under the National School Lunch
 136 Program in 7 C.F.R. part 210 as published in the Federal
 137 Register by the United States Department of Agriculture.

138 (3) PROGRAM; SCHOLARSHIP ELIGIBILITY.—

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

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

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

148 ~~a. Was counted as a full time equivalent student during~~
 149 ~~the previous state fiscal year for purposes of state per student~~
 150 ~~funding;~~

151 ~~b. Received a scholarship from an eligible nonprofit~~
 152 ~~scholarship funding organization or from the State of Florida~~
 153 ~~during the previous school year; or~~

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

155 2. The student is currently placed, or during the previous
 156 state fiscal year was placed, in foster care or in out-of-home

157 care as defined in s. 39.01; ~~or-~~

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

161 ~~4. The student, who is a first time tax credit scholarship~~
 162 ~~recipient, is a sibling of a student who is continuing in the~~
 163 ~~scholarship program and who resides in the same household as the~~
 164 ~~student if the sibling meets one or more of the criteria~~
 165 ~~specified in subparagraphs 1. and 2. and as long as the~~
 166 ~~student's and sibling's household income level does not exceed~~
 167 ~~230 percent of the federal poverty level.~~

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

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

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

178 3. The student's household income level is greater than
 179 185 percent of the federal poverty level but does not exceed 260
 180 percent of the federal poverty level and the student:

181 a. Spent the previous school year in attendance at a
 182 public school in the state and was enrolled and reported by the

183 school district for funding during October and February for
 184 purposes of the Florida Education Finance Program surveys;
 185 b. Is eligible to enter kindergarten or grade 1; or
 186 c. Received a scholarship from an eligible nonprofit
 187 scholarship-funding organization or the state during the
 188 previous school year.

189
 190 A student who initially receives a scholarship based on
 191 eligibility under subparagraph (b)2. or subparagraph (c)2.
 192 remains eligible until the student graduates from high school or
 193 turns 21 years of age, whichever occurs first, regardless of the
 194 student's household income level. A sibling of a student who is
 195 participating in the scholarship program under this subsection
 196 is eligible for a scholarship if the student resides in the same
 197 household as the sibling.

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

199 (a)1. Beginning in the 2014-2015 state fiscal year, the
 200 tax credit cap amount is \$387.80 million.

201 2. In the state fiscal year immediately following the
 202 first state fiscal year in which the tax credit cap amount is
 203 equal to or greater than 90 percent of the tax credit cap amount
 204 set forth in subparagraph 1., the tax credit cap amount is
 205 \$477.30 million.

206 3. In the state fiscal year immediately following the
 207 first state fiscal year in which the tax credit cap amount is
 208 equal to or greater than 90 percent of the tax credit cap amount

209 set forth in subparagraph 2., the tax credit cap amount is
 210 \$589.10 million.

211 4. In the state fiscal year immediately following the
 212 first state fiscal year in which the tax credit cap amount is
 213 equal to or greater than 90 percent of the tax credit cap amount
 214 set forth in subparagraph 3., the tax credit cap amount is
 215 \$728.90 million.

216 5. In the state fiscal year immediately following the
 217 first state fiscal year in which the tax credit cap amount is
 218 equal to or greater than 90 percent of the tax credit cap amount
 219 set forth in subparagraph 4., the tax credit cap amount is
 220 \$903.80 million.

221 6. For each state fiscal year following the fiscal year in
 222 which the tax credit cap amount in subparagraph 5. has been
 223 reached, the tax credit cap amount is the same as the tax credit
 224 cap amount in the previous state fiscal year. However, for any
 225 state fiscal year in which the tax credit cap amount is equal to
 226 or greater than 90 percent of the tax credit cap amount
 227 applicable to that state fiscal year, the tax credit cap amount
 228 shall increase by 25 percent for the immediately subsequent
 229 state fiscal year.

230 7. The Department of Revenue shall publish the tax credit
 231 cap amount on its website and shall update the tax credit cap
 232 amount upon each increase ~~The tax credit cap amount is \$229~~
 233 ~~million in the 2012 2013 state fiscal year.~~

234 ~~2. In the 2013 2014 state fiscal year and each state~~

235 ~~fiscal year thereafter, the tax credit cap amount is the tax~~
 236 ~~credit cap amount in the prior state fiscal year. However, in~~
 237 ~~any state fiscal year when the annual tax credit amount for the~~
 238 ~~prior state fiscal year is equal to or greater than 90 percent~~
 239 ~~of the tax credit cap amount applicable to that state fiscal~~
 240 ~~year, the tax credit cap amount shall increase by 25 percent.~~
 241 ~~The department shall publish on its website information~~
 242 ~~identifying the tax credit cap amount when it is increased~~
 243 ~~pursuant to this subparagraph.~~

244 (b) A taxpayer may submit an application to the department
 245 for a tax credit or credits under one or more of s. 211.0251, s.
 246 212.1831, s. 220.1875, s. 561.1211, or s. 624.51055.

247 1. The taxpayer shall specify in the application each tax
 248 for which the taxpayer requests a credit and the applicable
 249 taxable year for a credit under s. 220.1875 or s. 624.51055 or
 250 the applicable state fiscal year for a credit under s. 211.0251,
 251 s. 212.1831, or s. 561.1211. The department shall approve tax
 252 credits on a first-come, first-served basis and must obtain the
 253 division's approval before ~~prior to~~ approving a tax credit under
 254 s. 561.1211.

255 2. Within 10 days after approving an application, the
 256 department shall provide a copy of its approval letter to the
 257 eligible nonprofit scholarship-funding organization specified by
 258 the taxpayer in the application.

259 (c) If a tax credit approved under paragraph (b) is not
 260 fully used within the specified state fiscal year for credits

261 under s. 211.0251, s. 212.1831, or s. 561.1211 or against taxes
 262 due for the specified taxable year for credits under s. 220.1875
 263 or s. 624.51055 because of insufficient tax liability on the
 264 part of the taxpayer, the unused amount may be carried forward
 265 for a period not to exceed 5 years. However, any taxpayer that
 266 seeks to carry forward an unused amount of tax credit must
 267 submit an application to the department for approval of the
 268 carryforward tax credit in the year that the taxpayer intends to
 269 use the carryforward. The department must obtain the division's
 270 approval prior to approving the carryforward of a tax credit
 271 under s. 561.1211.

272 (d) A taxpayer may not convey, assign, or transfer an
 273 approved tax credit or a carryforward tax credit to another
 274 entity unless all of the assets of the taxpayer are conveyed,
 275 assigned, or transferred in the same transaction. However, a tax
 276 credit under s. 211.0251, s. 212.1831, s. 220.1875, s. 561.1211,
 277 or s. 624.51055 may be conveyed, transferred, or assigned
 278 between members of an affiliated group of corporations if the
 279 type of tax credit under s. 211.0251, s. 212.1831, s. 220.1875,
 280 s. 561.1211, or s. 624.51055 remains the same. A taxpayer must
 281 notify the department of its intent to convey, transfer, or
 282 assign a tax credit to another member within an affiliated group
 283 of corporations. The amount conveyed, transferred, or assigned
 284 is available to another member of the affiliated group of
 285 corporations upon approval by the department. The department
 286 must obtain the division's approval before approving a

287 conveyance, transfer, or assignment of a tax credit under s.
 288 561.1211.

289 (e) Within any state fiscal year, a taxpayer may rescind
 290 all or part of a tax credit approved under paragraph (b). The
 291 amount rescinded shall become available for that state fiscal
 292 year to another eligible taxpayer as approved by the department
 293 if the taxpayer receives notice from the department that the
 294 rescindment has been accepted by the department. The department
 295 must obtain the division's approval prior to accepting the
 296 rescindment of a tax credit under s. 561.1211. Any amount
 297 rescinded under this paragraph shall become available to an
 298 eligible taxpayer on a first-come, first-served basis based on
 299 tax credit applications received after the date the rescindment
 300 is accepted by the department.

301 (f) For purposes of calculating the underpayment of
 302 estimated corporate income taxes pursuant to s. 220.34 and tax
 303 installment payments for taxes on insurance premiums or
 304 assessments under s. 624.5092, the final tax amount due is the
 305 amount after credits earned under s. 220.1875 or s. 624.51055
 306 for contributions to eligible nonprofit scholarship-funding
 307 organizations are deducted.

308 1. For purposes of determining if a penalty or interest
 309 shall be imposed for underpayment of an installment of estimated
 310 tax under s. 220.34(2)(d)1. by a taxpayer earning a credit under
 311 s. 220.1875, the tax computed at the rates applicable to the
 312 taxable year shall be reduced by the amount of any credit earned

313 | under s. 220.1875 during the taxable year.

314 | 2. For insurers earning a credit under s. 624.51055, the
 315 | net tax due as reported on the return for the preceding year
 316 | under s. 624.5092(2)(b) shall be reduced by the amount of any
 317 | credit earned under s. 624.51055 during the current taxable year
 318 | before being multiplied by 27 percent.

319 | (6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING
 320 | ORGANIZATIONS.—An eligible nonprofit scholarship-funding
 321 | organization:

322 | (a) Must comply with the antidiscrimination provisions of
 323 | 42 U.S.C. s. 2000d.

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

326 | 1. All owners and operators as defined in subparagraph
 327 | (2)(i)1. ~~(2)(h)1.~~ are, before ~~upon~~ employment or engagement to
 328 | provide services, subject to level 2 background screening as
 329 | provided under chapter 435. The fingerprints for the background
 330 | screening must be electronically submitted to the Department of
 331 | Law Enforcement and can be taken by an authorized law
 332 | enforcement agency or by an employee of the eligible nonprofit
 333 | scholarship-funding organization or a private company who is
 334 | trained to take fingerprints. However, the complete set of
 335 | fingerprints of an owner or operator may not be taken by the
 336 | owner or operator. The results of the state and national
 337 | criminal history check shall be provided to the Department of
 338 | Education for screening under chapter 435. The cost of the

339 background screening may be borne by the eligible nonprofit
 340 scholarship-funding organization or the owner or operator.

341 2. Every 5 years following employment or engagement to
 342 provide services or association with an eligible nonprofit
 343 scholarship-funding organization, each owner or operator must
 344 meet level 2 screening standards as described in s. 435.04, at
 345 which time the nonprofit scholarship-funding organization shall
 346 request the Department of Law Enforcement to forward the
 347 fingerprints to the Federal Bureau of Investigation for level 2
 348 screening. If the fingerprints of an owner or operator are not
 349 retained by the Department of Law Enforcement under subparagraph
 350 3., the owner or operator must electronically file a complete
 351 set of fingerprints with the Department of Law Enforcement. Upon
 352 submission of fingerprints for this purpose, the eligible
 353 nonprofit scholarship-funding organization shall request that
 354 the Department of Law Enforcement forward the fingerprints to
 355 the Federal Bureau of Investigation for level 2 screening, and
 356 the fingerprints shall be retained by the Department of Law
 357 Enforcement under subparagraph 3.

358 3. ~~All~~ Fingerprints submitted to the Department of Law
 359 Enforcement as required by this paragraph must be retained by
 360 the Department of Law Enforcement in a manner approved by rule
 361 and entered in the statewide automated biometric identification
 362 system authorized by s. 943.05(2)(b). The fingerprints must
 363 thereafter be available for all purposes and uses authorized for
 364 arrest fingerprints entered in the statewide automated biometric

365 identification system pursuant to s. 943.051.

366 4. The Department of Law Enforcement shall search all
 367 arrest fingerprints received under s. 943.051 against the
 368 fingerprints retained in the statewide automated biometric
 369 identification system under subparagraph 3. Any arrest record
 370 that is identified with an owner's or operator's fingerprints
 371 must be reported to the Department of Education. The Department
 372 of Education shall participate in this search process by paying
 373 an annual fee to the Department of Law Enforcement and by
 374 informing the Department of Law Enforcement of any change in the
 375 employment, engagement, or association status of the owners or
 376 operators whose fingerprints are retained under subparagraph 3.
 377 The Department of Law Enforcement shall adopt a rule setting the
 378 amount of the annual fee to be imposed upon the Department of
 379 Education for performing these services and establishing the
 380 procedures for the retention of owner and operator fingerprints
 381 and the dissemination of search results. The fee may be borne by
 382 the owner or operator of the nonprofit scholarship-funding
 383 organization.

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

388 6. A nonprofit scholarship-funding organization whose
 389 owner or operator in the last 7 years has filed for personal
 390 bankruptcy or corporate bankruptcy in a corporation of which he

391 or she owned more than 20 percent shall not be eligible to
 392 provide scholarships under this section.

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

- 402 a. Any authorizing statutes, if the offense was a felony.
- 403 b. This chapter, if the offense was a felony.
- 404 c. Section 409.920, relating to Medicaid provider fraud.
- 405 d. Section 409.9201, relating to Medicaid fraud.
- 406 e. Section 741.28, relating to domestic violence.
- 407 f. Section 817.034, relating to fraudulent acts through
 408 mail, wire, radio, electromagnetic, photoelectronic, or
 409 photooptical systems.
- 410 g. Section 817.234, relating to false and fraudulent
 411 insurance claims.
- 412 h. Section 817.505, relating to patient brokering.
- 413 i. Section 817.568, relating to criminal use of personal
 414 identification information.
- 415 j. Section 817.60, relating to obtaining a credit card
 416 through fraudulent means.

417 k. Section 817.61, relating to fraudulent use of credit
 418 cards, if the offense was a felony.

419 l. Section 831.01, relating to forgery.

420 m. Section 831.02, relating to uttering forged
 421 instruments.

422 n. Section 831.07, relating to forging bank bills, checks,
 423 drafts, or promissory notes.

424 o. Section 831.09, relating to uttering forged bank bills,
 425 checks, drafts, or promissory notes.

426 p. Section 831.30, relating to fraud in obtaining
 427 medicinal drugs.

428 q. Section 831.31, relating to the sale, manufacture,
 429 delivery, or possession with the intent to sell, manufacture, or
 430 deliver any counterfeit controlled substance, if the offense was
 431 a felony.

432 (c) Must not have an owner or operator who owns or
 433 operates an eligible private school that is participating in the
 434 scholarship program.

435 (d) Must provide scholarships, from eligible
 436 contributions, to eligible students for the cost of:

- 437 1. Tuition and fees for an eligible private school; or
- 438 2. Transportation to a Florida public school that is
 439 located outside the district in which the student resides or to
 440 a lab school as defined in s. 1002.32.

441 (e) Must give first priority to eligible students who
 442 received a scholarship from an eligible nonprofit scholarship-

443 funding organization or from the State of Florida during the
 444 previous school year. Beginning in the 2016-2017 school year, an
 445 eligible nonprofit scholarship-funding organization shall give
 446 priority to new applicants whose household income levels do not
 447 exceed 185 percent of the federal poverty level or who are in
 448 foster care or out-of-home care.

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

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

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

457 (i)~~(h)~~ Must allow an eligible student to attend any
 458 eligible private school and must allow a parent to transfer a
 459 scholarship during a school year to any other eligible private
 460 school of the parent's choice.

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

469 contributions under this section. Administrative expenses may
470 also include professional development to support participating
471 schools. Up to ~~no more than~~ one-third of the funds authorized
472 for administrative expenses under this subparagraph may be used
473 for expenses related to the recruitment of contributions from
474 taxpayers.

475 2. Must expend for annual or partial-year scholarships an
476 amount equal to or greater than 75 percent of the net eligible
477 contributions remaining after administrative expenses during the
478 state fiscal year in which such contributions are collected. No
479 more than 25 percent of such net eligible contributions may be
480 carried forward to the following state fiscal year. Any amounts
481 carried forward shall be expended for annual or partial-year
482 scholarships in the following state fiscal year. Net eligible
483 contributions remaining on June 30 of each year that are in
484 excess of the 25 percent that may be carried forward shall be
485 returned to the State Treasury for deposit in the General
486 Revenue Fund.

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

491 (k) ~~(j)~~ Must maintain separate accounts for scholarship
492 funds and operating funds.

493 (l) ~~(k)~~ With the prior approval of the Department of
494 Education, may transfer funds to another eligible nonprofit

495 scholarship-funding organization if additional funds are
 496 required to meet scholarship demand at the receiving nonprofit
 497 scholarship-funding organization. A transfer is ~~shall be~~ limited
 498 to the greater of \$500,000 or 20 percent of the total
 499 contributions received by the nonprofit scholarship-funding
 500 organization making the transfer. All transferred funds must be
 501 deposited by the receiving nonprofit scholarship-funding
 502 organization into its scholarship accounts. All transferred
 503 amounts received by any nonprofit scholarship-funding
 504 organization must be separately disclosed in the annual
 505 financial and compliance audit required in this section.

506 (m) ~~(1)~~ Must provide to the Auditor General and the
 507 Department of Education an annual financial and compliance audit
 508 of its accounts and records conducted by an independent
 509 certified public accountant and in accordance with rules adopted
 510 by the Auditor General. The audit must be conducted in
 511 compliance with generally accepted auditing standards and must
 512 include a report on financial statements presented in accordance
 513 with generally accepted accounting principles set forth by the
 514 American Institute of Certified Public Accountants for not-for-
 515 profit organizations and a determination of compliance with the
 516 statutory eligibility and expenditure requirements set forth in
 517 this section. Audits must be provided to the Auditor General and
 518 the Department of Education within 180 days after completion of
 519 the eligible nonprofit scholarship-funding organization's fiscal
 520 year.

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

526 (o)~~(n)~~1.a. Must participate in the joint development of
 527 agreed-upon procedures to be performed by an independent
 528 certified public accountant as required under paragraph (8) (e)
 529 if the scholarship-funding organization provided more than
 530 \$250,000 in scholarship funds to an eligible private school
 531 under this section during the 2009-2010 state fiscal year. The
 532 agreed-upon procedures must uniformly apply to all private
 533 schools and must determine, at a minimum, whether the private
 534 school has been verified as eligible by the Department of
 535 Education under paragraph (9) (c); has an adequate accounting
 536 system, system of financial controls, and process for deposit
 537 and classification of scholarship funds; and has properly
 538 expended scholarship funds for education-related expenses.
 539 During the development of the procedures, the participating
 540 scholarship-funding organizations shall specify guidelines
 541 governing the materiality of exceptions that may be found during
 542 the accountant's performance of the procedures. The procedures
 543 and guidelines shall be provided to private schools and the
 544 Commissioner of Education by March 15, 2011.

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

547 by February 2013 and biennially thereafter, if the scholarship-
 548 funding organization provided more than \$250,000 in scholarship
 549 funds to an eligible private school under this section during
 550 the state fiscal year preceding the biennial review. If the
 551 procedures and guidelines are revised, the revisions must be
 552 provided to private schools and the Commissioner of Education by
 553 March 15, 2013, and biennially thereafter.

554 c. Must monitor the compliance of a private school with
 555 paragraph (8)(e) if the scholarship-funding organization
 556 provided the majority of the scholarship funding to the school.
 557 For each private school subject to paragraph (8)(e), the
 558 appropriate scholarship-funding organization shall notify the
 559 Commissioner of Education by October 30, 2011, and annually
 560 thereafter of:

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

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

565 2. Must seek input from the accrediting associations that
 566 are members of the Florida Association of Academic Nonpublic
 567 Schools when jointly developing the agreed-upon procedures and
 568 guidelines under sub-subparagraph 1.a. and conducting a review
 569 of those procedures and guidelines under sub-subparagraph 1.b.

570 (p) Must maintain the surety bond or letter of credit
 571 required by subsection (16). The amount of the surety bond or
 572 letter of credit may be adjusted quarterly to equal the actual

573 amount of undisbursed funds based upon submission by the
 574 organization of a statement from a certified public accountant
 575 verifying the amount of undisbursed funds. The requirements of
 576 this paragraph are waived if the cost of acquiring a surety bond
 577 or letter of credit exceeds the average 10-year cost of
 578 acquiring a surety bond or letter of credit by 200 percent.

579
 580 ~~Any and all~~ Information and documentation provided to the
 581 Department of Education and the Auditor General relating to the
 582 identity of a taxpayer that provides an eligible contribution
 583 under this section shall remain confidential at all times in
 584 accordance with s. 213.053.

585 (7) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
 586 PARTICIPATION.—

587 (g) The parent must authorize the nonprofit scholarship-
 588 funding organization to access information needed for income
 589 eligibility determination and verification held by other state
 590 or federal agencies, including the Department of Revenue, the
 591 Department of Children and Families, the Department of
 592 Education, the Department of Economic Opportunity, and the
 593 Agency for Health Care Administration.

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

597 (e) Annually contract with an independent certified public
 598 accountant to perform the agreed-upon procedures developed under

599 paragraph (6) (o) ~~(6) (n)~~ and produce a report of the results if
 600 the private school receives more than \$250,000 in funds from
 601 scholarships awarded under this section in the 2010-2011 state
 602 fiscal year or a state fiscal year thereafter. A private school
 603 subject to this paragraph must submit the report by September
 604 15, 2011, and annually thereafter to the scholarship-funding
 605 organization that awarded the majority of the school's
 606 scholarship funds. The agreed-upon procedures must be conducted
 607 in accordance with attestation standards established by the
 608 American Institute of Certified Public Accountants.

609
 610 The inability of a private school to meet the requirements of
 611 this subsection shall constitute a basis for the ineligibility
 612 of the private school to participate in the scholarship program
 613 as determined by the Department of Education.

614 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The Department of
 615 Education shall:

616 (d) Annually verify the eligibility of expenditures as
 617 provided in paragraph (6) (d) using the audit required by
 618 paragraph (6) (m) ~~(6) (l)~~.

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

624 (12) SCHOLARSHIP AMOUNT AND PAYMENT.—

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

631 1.a. For a scholarship awarded to a student enrolled in an
 632 eligible private school~~+~~

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

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

638 ~~(III) For the 2011-2012 state fiscal year and thereafter,~~
 639 the limit shall be determined by multiplying the unweighted FTE
 640 funding amount in that state fiscal year by the percentage used
 641 to determine the limit in the prior state fiscal year. However,
 642 in each state fiscal year that the tax credit cap amount
 643 increases pursuant to paragraph (5) (a) ~~subparagraph (5) (a) 2.~~,
 644 the prior year percentage shall be increased by 4 percentage
 645 points and the increased percentage shall be used to determine
 646 the limit for that state fiscal year. If the percentage so
 647 calculated reaches 80 percent in a state fiscal year, no further
 648 increase in the percentage is allowed and the limit shall be 80
 649 percent of the unweighted FTE funding amount for that state
 650 fiscal year and thereafter. Beginning in the 2016-2017 state

651 fiscal year, the amount of a scholarship awarded to a student
 652 enrolled in an eligible private school shall be equal to 82
 653 percent of the unweighted FTE funding amount for that state
 654 fiscal year and thereafter.

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

659 2. For the 2014-2015 and 2015-2016 state fiscal years, the
 660 annual limit for a scholarship under sub-subparagraph 1.a. shall
 661 be reduced by:

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

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

668 3. For the 2016-2017 state fiscal year and thereafter, the
 669 annual limit for a scholarship under sub-subparagraph 1.a. shall
 670 be reduced by:

671 a. Twelve percent if the student's household income level
 672 is greater than or equal to 200 percent, but less than 215
 673 percent, of the federal poverty level.

674 b. Twenty-six percent if the student's household income
 675 level is greater than or equal to 215 percent, but less than 230
 676 percent, of the federal poverty level.

677 c. Forty percent if the student's household income level
 678 is greater than or equal to 230 percent, but less than 245
 679 percent, of the federal poverty level.

680 d. Fifty percent if the student's household income level
 681 is greater than or equal to 245 percent, but less than or equal
 682 to 260 percent, of the federal poverty level.

683 (16) NONPROFIT SCHOLARSHIP-FUNDING ORGANIZATIONS;
 684 APPLICATION.—In order to participate in the scholarship program
 685 created by this section, a nonprofit scholarship-funding
 686 organization must submit an application for initial approval or
 687 renewal to the Office of Independent Education and Parental
 688 Choice no later than September 1 of each year before the school
 689 year for which the organization intends to offer scholarships.

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

691 1. A copy of the organization's incorporation documents
 692 and registration with the Division of Corporations of the
 693 Department of State.

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

697 3. A description of the organization's financial plan that
 698 demonstrates sufficient funds to operate throughout the school
 699 year.

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

- 703 5. The organization's organizational chart.
- 704 6. A description of the criteria and methodology that the
- 705 organization will use to evaluate scholarship eligibility.
- 706 7. A description of the application process, including
- 707 deadlines and any associated fees.
- 708 8. A description of the deadlines for attendance
- 709 verification and scholarship payments.
- 710 9. A copy of the organization's policies on conflict of
- 711 interest and whistleblowers.
- 712 10. A copy of a surety bond or letter of credit in an
- 713 amount equal to 25 percent of the scholarship funds anticipated
- 714 for each school year or \$100,000, whichever is greater.
- 715 (b) In addition to the information required by
- 716 subparagraphs (a)1.-9., an application for renewal must include:
- 717 1. A surety bond or letter of credit equal to the amount
- 718 of undisbursed donations held by the organization based on the
- 719 annual report submitted pursuant to paragraph (6) (m). The amount
- 720 of the surety bond or letter of credit must be at least
- 721 \$100,000, but not more than \$25 million.
- 722 2. The organization's completed Internal Revenue Service
- 723 Form 990 submitted no later than November 30 of the year before
- 724 the school year that the organization intends to offer the
- 725 scholarships, notwithstanding the September 1 application
- 726 deadline.
- 727 3. A copy of the statutorily required audit to the
- 728 Department of Education and Auditor General.

- 729 4. An annual report that includes:
- 730 a. The number of students who completed applications, by
- 731 county and by grade.
- 732 b. The number of students who were approved for
- 733 scholarships, by county and by grade.
- 734 c. The number of students who received funding for
- 735 scholarships within each funding category, by county and by
- 736 grade.
- 737 d. The amount of funds received, the amount of funds
- 738 distributed in scholarships, and an accounting of remaining
- 739 funds and the obligation of those funds.
- 740 e. A detailed accounting of how the organization spent the
- 741 administrative funds allowable under paragraph (6)(j).
- 742 (c) In consultation with the Department of Revenue and the
- 743 Chief Financial Officer, the Office of Independent Education and
- 744 Parental Choice shall review the application. The Department of
- 745 Education shall notify the organization in writing of any
- 746 deficiencies within 30 days after receipt of the application and
- 747 allow the organization 30 days to correct any deficiencies.
- 748 (d) Within 30 days after receipt of the finalized
- 749 application by the Office of Independent Education and Parental
- 750 Choice, the Commissioner of Education shall recommend approval
- 751 or disapproval of the application to the State Board of
- 752 Education. The State Board of Education shall consider the
- 753 application and recommendation at the next scheduled meeting,
- 754 adhering to appropriate meeting notice requirements. If the

755 State Board of Education disapproves the organization's
 756 application, it shall provide the organization with a written
 757 explanation of that determination. The State Board of
 758 Education's action is not subject to chapter 120.

759 (e) If the State Board of Education disapproves the
 760 renewal of a nonprofit scholarship-funding organization, the
 761 organization must notify the affected eligible students and
 762 parents of the decision within 15 days after disapproval. An
 763 eligible student affected by the disapproval of an
 764 organization's participation remains eligible under this section
 765 until the end of the school year in which the organization was
 766 disapproved. The student must apply and be accepted by another
 767 eligible nonprofit scholarship-funding organization for the
 768 upcoming school year. The student shall be given priority in
 769 accordance with paragraph (6) (f).

770 (f) All remaining funds held by a nonprofit scholarship-
 771 funding organization that is disapproved for participation shall
 772 revert to the Department of Revenue for redistribution to other
 773 eligible nonprofit scholarship-funding organizations.

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

780 (h) The State Board of Education shall adopt rules

781 providing guidelines for receiving, reviewing, and approving
 782 applications for new and renewing nonprofit scholarship-funding
 783 organizations. The rules shall include a process for compiling
 784 input and recommendations from the Chief Financial Officer, the
 785 Department of Revenue, and the Department of Education. The
 786 rules shall also require that the nonprofit scholarship-funding
 787 organization make a brief presentation to assist the State Board
 788 of Education in its decision.

789 Section 3. A nonprofit scholarship-funding organization
 790 whose application for participation in the program established
 791 by s. 1002.395, Florida Statutes, was approved before July 1,
 792 2014, shall, by August 1, 2014, provide a copy of a surety bond
 793 or letter of credit meeting the requirements of s. 1002.395(16),
 794 Florida Statutes, to the Office of Independent Education and
 795 Parental Choice.

796 Section 4. Section 1002.411, Florida Statutes, is created
 797 to read:

798 1002.411 Florida Personal Learning Scholarship Account
 799 Program.—

800 (1) FLORIDA PERSONAL LEARNING SCHOLARSHIP ACCOUNT
 801 PROGRAM.—The Florida Personal Learning Scholarship Account
 802 Program is established to enable parents of students with
 803 disabilities to customize their child's education using a wide
 804 range of instructional services.

805 (2) DEFINITIONS.—

806 (a) "Approved provider" means a provider of specialized

807 instructional services approved by the department, individuals
 808 providing services through the Agency for Persons with
 809 Disabilities, and providers approved pursuant to s. 1002.66.

810 (b) "Certified teacher" means a teacher who holds a valid
 811 Florida professional certificate issued pursuant to s. 1012.56
 812 to teach academic subjects at the elementary or secondary level.

813 (c) "Curriculum" means a complete course of study for a
 814 particular content area or grade level, including any required
 815 supplemental materials.

816 (d) "Eligible student" or "participating student" means a
 817 student with a disability who is eligible for, or is
 818 participating in, the Florida Personal Learning Scholarship
 819 Account Program, as applicable.

820 (e) "Student with a disability" means a student in
 821 kindergarten through grade 5 who has autism, cerebral palsy,
 822 Down syndrome, an intellectual disability, Prader-Willi
 823 syndrome, or spina bifida, as defined in s. 393.063. For a
 824 student in kindergarten, the term also means a high-risk child
 825 as defined in s. 393.063(20)(a).

826 (3) FLORIDA PERSONAL LEARNING SCHOLARSHIP ACCOUNT
 827 ELIGIBILITY.—The parent of a student who resides in this state
 828 may request and receive a Florida Personal Learning Scholarship
 829 Account if:

830 (a) The student is eligible to enter kindergarten or grade
 831 1 through grade 5 or received a Florida Personal Learning
 832 Scholarship Account established pursuant to this section in the

833 previous school year;

834 (b) The student has been identified as a student with a
 835 disability by the school district in which he or she resides and
 836 the district has completed an individual educational plan
 837 written in accordance with rules of the State Board of
 838 Education; and

839 (c) The student is assigned to matrix Support Level IV or
 840 Support Level V pursuant to s. 1011.62(1).

841

842 For a student who is a first-time applicant, an administrative
 843 or a judicial proceeding may not be pending regarding the
 844 contents of the student's individual educational plan. For a
 845 student who is applying to renew a current Florida Personal
 846 Learning Scholarship Account, the existence of a pending
 847 administrative or judicial proceeding about a subsequent
 848 individual educational plan does not affect continued
 849 eligibility for an account.

850 (4) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
 851 PARTICIPATION.--

852 (a) To receive a Florida Personal Learning Scholarship
 853 Account, the parent of an eligible student must:

854 1. No later than 60 days before one of the payment
 855 transfer dates specified in paragraph (8)(d), submit an
 856 application to an eligible nonprofit scholarship-funding
 857 organization in order to receive that payment and, if the
 858 student does not already have an active individual educational

859 plan, request an annual educational evaluation from the school
 860 district in which the student resides; and

861 2. Obtain an individual educational plan in accordance
 862 with subsection (7) no later than 30 days before one of the
 863 payment transfer dates specified in paragraph (8) (d) in order to
 864 receive that payment.

865 (b) To maintain eligibility in the Florida Personal
 866 Learning Scholarship Account Program, the parent of an eligible
 867 student must:

868 1. Register the student's participation in the program
 869 with the school district in which the student resides and
 870 release the school district from all obligations to educate the
 871 student.

872 2. Participate in the initial development of the
 873 individual educational plan and the annual review of the plan
 874 under subsection (7).

875 3. Submit eligible expenses to the nonprofit scholarship-
 876 funding organization designated by the parent for reimbursement
 877 of qualifying expenditures. Reimbursement requests must be
 878 supported by documentation of services rendered, such as
 879 receipts or invoices, and accompanied by an affidavit signed by
 880 the parent certifying his or her compliance with the
 881 requirements of this section. Eligible expenses include:

882 a. Specialized instructional services by an approved
 883 provider.

884 b. Tuition and fees for instructional services from an

885 eligible private school under s. 1002.39(8) or s. 1002.395(8).

886 c. Private tutoring pursuant to s. 1002.43.

887 d. Tuition and fees for enrollment in a virtual education
888 program provided by an approved virtual education provider
889 pursuant to s. 1002.37 or s. 1002.45 or in an approved online
890 course offered pursuant to s. 1003.499 or s. 1004.0961.

891 e. Curriculum.

892 f. Costs incurred to comply with the annual educational
893 evaluation required in this paragraph.

894 g. The fee authorized by paragraph (5)(a).

895 h. Services such as applied behavior analysis as defined
896 in s. 627.6686, speech-language pathology as defined in s.
897 468.1125, occupational therapy as defined in s. 468.203, and
898 physical therapy as defined in s. 486.021.

899 i. An advanced payment contract purchased through the
900 Stanley G. Tate Florida Prepaid College Program for the benefit
901 of the eligible student.

902 4. Maintain a portfolio of records and materials that
903 consists of:

904 a. A log of educational instruction and services that is
905 made contemporaneously with delivery of the instruction and
906 services and that designates by title any reading materials
907 used.

908 b. Samples of writings, worksheets, workbooks, or creative
909 materials used or developed by the student.

910

911 The portfolio must be preserved by the parent for 2 years and
 912 made available for inspection by the district school
 913 superintendent, or his or her designee, upon 15 days' written
 914 notice. This subparagraph does not require the district school
 915 superintendent to inspect the portfolio.

916 5. Provide for an annual educational evaluation which
 917 documents the student's demonstration of educational progress at
 918 a level commensurate with his or her ability, which may include:

919 a. Evaluation of the student's work portfolio by a
 920 certified teacher selected by the parent;

921 b. Any nationally normed student achievement test
 922 administered by a certified teacher;

923 c. A statewide, standardized assessment administered by a
 924 certified teacher, at a location and under testing conditions
 925 approved by the school district;

926 d. Evaluation by an individual holding a valid, active
 927 license pursuant to the provisions of s. 490.003(7) or (8); or

928 e. Any other valid measurement tool mutually agreed upon
 929 by the school superintendent of the district in which the
 930 student resides and the student's parent.

931 (c) The district school superintendent must review and
 932 accept the results of the annual educational evaluation of a
 933 participating student. If the student does not demonstrate
 934 educational progress at a level commensurate with his or her
 935 ability, the district school superintendent must notify the
 936 parent, in writing, that such progress has not been achieved. If

937 the student remains eligible for a Florida Personal Learning
 938 Scholarship Account, the parent has 1 year after the date of
 939 receipt of the written notification to provide remedial
 940 instruction to the student. At the end of the 1-year
 941 probationary period, the student must be reevaluated pursuant to
 942 subparagraph (b)5. Continued participation in the Florida
 943 Personal Learning Scholarship Account Program is contingent upon
 944 the student's demonstrating educational progress commensurate
 945 with his or her ability at the end of the probationary period.

946 (d) The parent is responsible for procuring the services
 947 necessary to educate the student. Once the student receives a
 948 Florida Personal Learning Scholarship Account, the district
 949 school board is not obligated to provide the student with a free
 950 appropriate public education. For purposes of s. 1003.57 and the
 951 Individuals with Disabilities Education Act, a participating
 952 student has only those rights that apply to all other
 953 unilaterally parentally placed students, except that, when
 954 requested by the parent, school district personnel must develop
 955 an individual educational plan in accordance with subsection
 956 (7).

957 (e) The parent is responsible for the payment of all
 958 eligible expenses in excess of the amount in the Florida
 959 Personal Learning Scholarship Account in accordance with the
 960 terms agreed to between the parent and the providers and may not
 961 receive any refund or rebate of any expenditures made in
 962 accordance with subparagraph (b)3.

963 (f) A student is eligible for only one Florida Personal
 964 Learning Scholarship Account and may not receive a scholarship
 965 under part III of this chapter.

966 (5) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING
 967 ORGANIZATIONS.—A nonprofit scholarship-funding organization
 968 participating in the Florida Tax Credit Scholarship Program
 969 under s. 1002.395 may establish Florida Personal Learning
 970 Scholarship Accounts for eligible students. An eligible
 971 nonprofit scholarship-funding organization must:

972 (a) Receive applications and determine student eligibility
 973 in accordance with the requirements of this section. Once an
 974 application is approved, the nonprofit scholarship-funding
 975 organization must provide the department with information on the
 976 student to enable the school district to report the student for
 977 funding in accordance with subsection (8). A nonprofit
 978 scholarship-funding organization may charge the parent of an
 979 eligible student up to a \$25 fee to establish the Florida
 980 Personal Learning Scholarship Account but may not receive any
 981 other fees.

982 (b) Establish and maintain separate accounts for each
 983 eligible student.

984 (c) Verify qualifying expenditures before receipt of the
 985 quarterly distribution by the department.

986 (d) Return any unused funds to the department when a
 987 student is no longer eligible for a Florida Personal Learning
 988 Scholarship Account.

989 (e) Provide to the Auditor General and the department an
 990 annual financial and compliance audit of its accounts and
 991 records conducted by an independent certified public accountant
 992 in accordance with rules adopted by the Auditor General. The
 993 audit must be conducted in compliance with generally accepted
 994 auditing standards and must include a report on financial
 995 statements presented in accordance with generally accepted
 996 accounting principles set forth by the American Institute of
 997 Certified Public Accountants for not-for-profit organizations
 998 and a determination of compliance with the requirements provided
 999 in this section. Audits must be provided to the Auditor General
 1000 and the Department of Education within 180 days after completion
 1001 of the nonprofit scholarship-funding organization's fiscal year.
 1002 If a nonprofit scholarship-funding organization does not submit
 1003 an annual audit, the Auditor General shall conduct the audit
 1004 required by this paragraph.

1005 (f) Prepare and submit quarterly reports to the department
 1006 pursuant to paragraph (6) (f). In addition, a nonprofit
 1007 scholarship-funding organization must submit in a timely manner
 1008 any information requested by the department relating to the
 1009 Florida Personal Learning Scholarship Account Program.

1010 (6) DEPARTMENT OF EDUCATION OBLIGATIONS.—The department
 1011 must:

1012 (a) Maintain a list of approved providers.

1013 (b) Require each eligible nonprofit scholarship-funding
 1014 organization to verify eligible expenditures as provided in

1015 subparagraph (4)(b)3. before reimbursement.

1016 (c) Investigate any written complaint of a violation of
 1017 this section in accordance with the process established by s.
 1018 1002.395(9)(f).

1019 (d) Notify an eligible nonprofit scholarship-funding
 1020 organization of any of the organization's identified students
 1021 who are receiving educational scholarships pursuant to part III
 1022 of this chapter.

1023 (e) Notify an eligible nonprofit scholarship-funding
 1024 organization of any of the organization's identified students
 1025 who have established a Florida Personal Learning Scholarship
 1026 Account with another eligible nonprofit scholarship-funding
 1027 organization or who have been reported for funding by a school
 1028 district or the Florida Virtual School.

1029 (f) Require quarterly reports by an eligible nonprofit
 1030 scholarship-funding organization regarding the number of
 1031 students participating in the program, the providers of services
 1032 to students, and other information deemed necessary by the
 1033 department.

1034 (7) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.-

1035 (a) Upon the request of a parent submitted at least 60
 1036 days before a payment transfer date specified in paragraph
 1037 (8)(d), the school district in which the student resides shall
 1038 conduct an initial evaluation of a student in accordance with s.
 1039 1003.57. If a determination is made that the student has a
 1040 disability and needs special education and related services, an

1041 individual educational plan must be developed.

1042 (b) Evaluations and individual educational plans must be
 1043 completed within the timeframes set forth in rules of the State
 1044 Board of Education. If a student has been identified as a
 1045 student with a disability under the Individuals with
 1046 Disabilities Education Act pursuant to a current evaluation team
 1047 report but the student does not have an individual educational
 1048 plan because the student is not currently enrolled in a public
 1049 school, the school district shall prepare an individual
 1050 educational plan for the student.

1051 (c) Upon completion of a student's individual educational
 1052 plan, the school district shall provide the parent with an
 1053 estimate of the approximate amount of funds that the student may
 1054 receive in a Florida Personal Learning Scholarship Account.

1055 (d) The school district in which an eligible student
 1056 resides must:

1057 1. Review the annual educational evaluation in accordance
 1058 with paragraph (4) (c).

1059 2. Annually review the individual educational plan of each
 1060 student with a Florida Personal Learning Scholarship Account in
 1061 consultation with the personnel of providers of the services
 1062 selected by the parent for the student under subparagraph
 1063 (4) (b) 3.

1064 (e) The school district developing the individual
 1065 educational plan is not obligated to provide a participating
 1066 student with a free appropriate public education. However, if,

1067 | at any time, a parent of a participating student decides to
 1068 | enroll the student in the school district, the school district
 1069 | must provide the student with a free appropriate public
 1070 | education.

1071 | (8) FLORIDA PERSONAL LEARNING SCHOLARSHIP ACCOUNT FUNDING
 1072 | AND PAYMENT.—

1073 | (a) The maximum amount granted for an eligible student
 1074 | with disabilities shall be calculated in accordance with s.
 1075 | 1002.39(10)(a).

1076 | (b) The school district shall report to the department for
 1077 | funding all students who are receiving a Florida Personal
 1078 | Learning Scholarship Account. These students must be reported
 1079 | separately from other students reported for purposes of the
 1080 | Florida Education Finance Program.

1081 | (c) Following notification on July 1, September 1,
 1082 | December 1, or February 1 of the number of Florida Personal
 1083 | Learning Scholarship Account Program participants, the
 1084 | department shall transfer, from general revenue funds only, the
 1085 | amount calculated under paragraph (a) from the school district's
 1086 | total funding entitlement under the Florida Education Finance
 1087 | Program and from authorized categorical accounts to a separate
 1088 | account for the Florida Personal Learning Scholarship Account
 1089 | Program for quarterly disbursement to the nonprofit scholarship-
 1090 | funding organization for participating students.

1091 | (d) After the department verifies the establishment of a
 1092 | Florida Personal Learning Scholarship Account for a

1093 participating student by the nonprofit scholarship-funding
 1094 organization, the department shall make payments to the
 1095 nonprofit scholarship-funding organization selected by the
 1096 parent in four equal amounts no later than September 1, November
 1097 1, February 1, and April 1 of each academic year in which the
 1098 account is in force.

1099 (e) Any funds remaining in a Florida Personal Learning
 1100 Scholarship Account for an eligible student are carried forward
 1101 to the next fiscal year until termination of the account. A
 1102 Florida Personal Learning Scholarship Account shall be
 1103 terminated if the student enrolls in and is reported for funding
 1104 in any public educational program under s. 1000.04(1), (3), or
 1105 (4); is determined ineligible for a Florida Personal Learning
 1106 Scholarship Account under this section; graduates from high
 1107 school; or reaches 22 years of age, whichever occurs first. Once
 1108 an account is terminated, all remaining funds revert to the
 1109 state.

1110 (9) LIABILITY.—No liability shall arise on the part of the
 1111 state based on the award or use of a Florida Personal Learning
 1112 Scholarship Account.

1113 (10) RULES.—The State Board of Education shall adopt rules
 1114 to implement this section, including rules necessary to
 1115 coordinate the respective responsibilities of the department,
 1116 school districts, and nonprofit scholarship-funding
 1117 organizations regarding the funding and administration of
 1118 Florida Personal Learning Scholarship Accounts; criteria,

1119 timelines, and a reporting format for quarterly reports by
 1120 nonprofit scholarship-funding organizations; and a standard
 1121 application form to be used by parents and nonprofit
 1122 scholarship-funding organizations.

1123 Section 5. Subsection (13) of section 1003.01, Florida
 1124 Statutes, is amended to read:

1125 1003.01 Definitions.—As used in this chapter, the term:

1126 (13) "Regular school attendance" means the actual
 1127 attendance of a student during the school day as defined by law
 1128 and rules of the State Board of Education. Regular attendance
 1129 within the intent of s. 1003.21 may be achieved by ~~attendance~~
 1130 ~~in~~:

1131 (a) Attendance in a public school supported by public
 1132 funds;

1133 (b) Attendance in a parochial, religious, or
 1134 denominational school;

1135 (c) Attendance in a private school supported in whole or
 1136 in part by tuition charges or by endowments or gifts;

1137 (d) Participation in a home education program under s.
 1138 1002.41; ~~that meets the requirements of chapter 1002; or~~

1139 (e) Attendance in a private tutoring program under s.
 1140 1002.43; or

1141 (f) Participation in the Florida Personal Learning
 1142 Scholarship Account Program under s. 1002.411 ~~that meets the~~
 1143 ~~requirements of chapter 1002.~~

1144 Section 6. Paragraph (y) is added to subsection (3) of

1145 section 11.45, Florida Statutes, to read:
 1146 11.45 Definitions; duties; authorities; reports; rules.—
 1147 (3) AUTHORITY FOR AUDITS AND OTHER ENGAGEMENTS.—The
 1148 Auditor General may, pursuant to his or her own authority, or at
 1149 the direction of the Legislative Auditing Committee, conduct
 1150 audits or other engagements as determined appropriate by the
 1151 Auditor General of:
 1152 (y) The accounts and records of a nonprofit scholarship-
 1153 funding organization participating in the Florida Personal
 1154 Learning Scholarship Account Program established by s. 1002.411.
 1155 Section 7. Section 1003.438, Florida Statutes, is
 1156 repealed.
 1157 Section 8. Paragraph (c) of subsection (1) of section
 1158 120.81, Florida Statutes, is amended to read:
 1159 120.81 Exceptions and special requirements; general
 1160 areas.—
 1161 (1) EDUCATIONAL UNITS.—
 1162 (c) Notwithstanding s. 120.52(16), any tests, test scoring
 1163 criteria, or testing procedures relating to student assessment
 1164 which are developed or administered by the Department of
 1165 Education pursuant to s. 1003.4282 ~~1003.428~~, ~~s. 1003.429~~, ~~s.~~
 1166 ~~1003.438~~, s. 1008.22, or s. 1008.25, or any other statewide
 1167 educational tests required by law, are not rules.
 1168 Section 9. This act shall take effect July 1, 2014.