



Choice & Innovation Subcommittee

Tuesday, March 18, 2014

12:30 PM – 2:30 PM

306 HOB

Meeting Packet

**Will Weatherford
Speaker**

**Michael Bileca
Chair**



AGENDA

Choice & Innovation Subcommittee
Tuesday, March 18, 2014
12:30 p.m. – 2:30 p.m.
306 HOB

- I. Call to Order/Roll Call
- II. Opening Remarks
- III. Consideration of the following bill:
 - HB 7099 Tax Credit Programs by Finance & Tax Subcommittee, Workman
- IV. Closing Remarks and Adjournment

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Choice & Innovation Subcommittee

Start Date and Time: Tuesday, March 18, 2014 12:30 pm
End Date and Time: Tuesday, March 18, 2014 02:30 pm
Location: 306 HOB
Duration: 2.00 hrs

Consideration of the following bill(s):

HB 7099 Tax Credit Scholarship Programs by Finance & Tax Subcommittee, Workman

Pursuant to rule 7.12, the deadline for amendments to bills on the agenda by a member who is not a member of the subcommittee shall be 6:00 pm, Monday, March 17, 2014.

By request of the Chair, all subcommittee members are asked to have amendments to bills on the agenda submitted by 6:00 pm, Monday, March 17, 2014.

NOTICE FINALIZED on 03/14/2014 15:54 by Gilliam.Ann



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Choice & Innovation
2 Subcommittee

3 Representative Diaz, M. offered the following:

Amendment

6 Remove lines 528-532 and insert:

7 (p) Must maintain the surety bond or letter of credit
8 required by subsection (16). The amount of the surety bond or
9 letter of credit may be adjusted quarterly to equal the actual
10 amount of undisbursed funds based upon submission by the
11 organization of a statement from a certified public accountant
12 verifying the amount of undisbursed funds. The requirements of
13 this paragraph are waived if the cost of acquiring a surety bond
14 or letter of credit exceeds the average 10 year cost by 200
15 percent.



Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Choice & Innovation
2 Subcommittee
3 Representative Diaz, M. offered the following:

4
5 **Amendment**
6 Remove lines 578-582
7



Amendment No. 3

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Choice & Innovation
 2 Subcommittee
 3 Representative Diaz, M. offered the following:

Amendment

Remove lines 656-692 and insert:

4
5
6
7 4. A description of the geographic region the organization
8 intends to serve and an analysis of the demand and unmet need
9 for eligible students in that area.

10 5. The organization's organizational chart.

11 6. A description of the criteria and methodology that will
12 be used to evaluate scholarship eligibility.

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

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



Amendment No. 3

17 9. A copy of the organization's policies on conflict of
18 interest and whistleblowers.

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

22 (b) In addition to the information required by paragraph
23 (a)1.-9., an application for renewal must include:

24 1. A surety bond or letter of credit equal to the amount of
25 undisbursed donations held by the organization based on the
26 annual report submitted pursuant to paragraph (6) (m). The amount
27 of the surety bond or letter of credit must be at least \$100,000
28 but not to exceed \$25 million.

29 2. The organization's completed Internal Revenue Service
30 Form 990 submitted no later than November 30 of the year before
31 the school year that the organization intends to offer the
32 scholarships, notwithstanding the September 1 application
33 deadline.

34 3. A copy of the statutorily required audit to the
35 Department of Education and Auditor General.

36 4. An annual report that includes:

37 a. The number of students who completed applications, by
38 county and by grade.

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



Amendment No. 3

41 c. The number of students who received funding for
42 scholarships within each funding category, by county and by
43 grade.

44 d. The amount of funds received, the amount of funds
45 distributed in scholarships, and an accounting of remaining
46 funds and the obligation of those funds.

47 e. A detailed accounting of how the organization spent the
48 administrative funds allowable under paragraph (6)(j).
49
50



Amendment No. 4

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Choice & Innovation
 2 Subcommittee
 3 Representative Diaz, M. offered the following:

Amendment

Remove lines 1021-1025



Amendment No. 5

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Choice & Innovation
 2 Subcommittee
 3 Representative Diaz, M. offered the following:

Amendment

6 Remove lines 1130-1150 and insert:

7 limit is \$401.45 million.

8 (b) In the state fiscal year immediately following the
 9 first state fiscal year in which the sum of annual tax credit
 10 amounts under ss. 1002.395 and 1002.396 is equal to or greater
 11 than 90 percent of the limit set forth in paragraph (a), the
 12 limit is \$490.95 million.

13 (c) In the state fiscal year immediately following the
 14 first state fiscal year in which the sum of annual tax credit
 15 amounts under ss. 1002.395 and 1002.396 is equal to or greater
 16 than 90 percent of the limit set forth in paragraph (b), the
 17 limit is \$602.75 million.



Amendment No. 5

18 (d) In the state fiscal year immediately following the
19 first state fiscal year in which the sum of annual tax credit
20 amounts under ss. 1002.395 and 1002.396 is equal to or greater
21 than 90 percent of the limit set forth in paragraph (c), the
22 limit is \$742.55 million.

23 (e) In the state fiscal year immediately following the
24 first state fiscal year in which the sum of annual tax credit
25 amounts under ss. 1002.395 and 1002.396 is equal to or greater
26 than 90 percent of the limit set forth in paragraph (d), the
27 limit is \$917.45 million.

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29

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7099 PCB FTSC 14-02 Tax Credit Scholarship Programs
SPONSOR(S): Finance & Tax Subcommittee, Workman
TIED BILLS: **IDEN./SIM. BILLS:** SB 1620

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Finance & Tax Subcommittee	11 Y, 7 N	Flieger	Langston
1) Choice & Innovation Subcommittee		Beagle <i>GB</i>	Fudge <i>RF</i>

SUMMARY ANALYSIS

The bill revises the Florida Tax Credit Scholarship program's student eligibility criteria, scholarship amounts, tax credit availability, and scholarship-funding organization (SFO) accountability standards. It also creates a new Florida Sales Tax Credit Scholarship program that allows dealers who collect state sales and use tax to receive tax credits for making donations to SFOs. The administrative provisions of the new program will parallel those of the existing 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 by 4% so that the maximum is 84% of the Florida Education Finance Program per-student funding amount. 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 2016-2017:

- o The amount is reduced by 12% for household incomes between 200% and 215%
- o The amount is reduced by 26% for household incomes between 215% and 230%
- o The amount is reduced by 40% for household incomes between 230% and 245%
- o The amount is reduced by 50% for household incomes between 245% and 260%

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. In consultation with the Department of Revenue and Chief Financial Officer, the Department of Education will review and provide recommendations for approval or disapproval of each application. The State Board of Education will give final approval or disapproval. The initial application must include a surety bond for an amount equal to 25% of their anticipated fund donations, which will be adjusted annually thereafter to equal the amount of undispersed donations. A renewal application must include a copy of the SFO's IRS Form 990, annual audit, and an annual report regarding donations, expenditures, scholarship applications, and scholarship recipients.

Both tax credit scholarship programs will operate under a combined tax cap. Credits may be approved under either program until the sum of the credits for both programs reach the combined cap. Assuming that each year the annual tax credit amount is at least 90% of the prior year's cap, the bill increases the combined cap by approximately \$30 million over that in current law in each year from FYs 2014-15 through 2017-18. The bill also allows tax credits for both programs to be transferred between affiliated corporate entities.

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 \$3.7 million higher in FY 2014-15, compared to current law, and lower by \$1.9 million, \$35.9 million, \$48.3 million and \$62.8 million in fiscal years ending 2016, 2017, 2018, and 2019, respectively.

The bill takes effect July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

History of the Florida Tax Credit Scholarship Program

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.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

The Legislature initially capped the FTC Program at \$50 million in tax credits per state fiscal year,⁴ but expanded the cap to \$88 million in 2003.⁵ Beginning in FY 2008-09, the cap was increased by \$30 million to \$118 million.⁶ Until 2009, tax credits under the program were only available against the state's corporate income tax liability.⁷ In 2009, the Legislature expanded the revenue sources against which tax credits can be claimed to include the insurance premium tax.⁸ 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,⁹ self-accrued sales tax liabilities of direct pay permit holders;¹⁰ and alcoholic beverage taxes on beer, wine, and spirits.¹¹ 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.

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 2011-12.¹² 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.

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.¹³

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 Section 5, ch. 2001-225, L.O.F.

⁵ Section 9, ch. 2003-391, L.O.F.

⁶ Section 1, ch. 2008-241, L.O.F.

⁷ See s. 3, ch. 2009-108, L.O.F.

⁸ *Id.*; a premium tax pursuant to s. 624.509, F.S.

⁹ Section 211.0251, F.S.

¹⁰ Section 212.1831, F.S.

¹¹ 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.

¹² Section 1, ch. 2010-24, L.O.F.

¹³ 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)

Scholarship Funding Organizations

SFOs are charitable organizations exempt from federal income tax¹⁴ that administer the receipt of contributions and distribution of scholarship awards.¹⁵ 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.¹⁶ Similarly, a taxpayer making a contribution may not designate a specific child or group of children as the beneficiaries of the scholarship.¹⁷ 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 expenses. No more than one-third of the funds available for administrative expense may be used for expenses related to recruitment of contributions.¹⁸

To become an SFO, any non-profit organization must apply to the Department of Education (DOE). 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. DOE requires additional quarterly reports from each SFO 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.¹⁹

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.²⁰ 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.²¹ DOE may terminate eligibility if the private school fails to meet requirements.²²

Student Eligibility

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 Act²³ or is on the direct certification list²⁴ and:

- Was counted as a full-time student during the previous state fiscal year for purposes of state per-student funding;

¹⁴ Section 1002.395(2)(f), F.S.; s. 501(c)(3) of the Internal Revenue Code.

¹⁵ Section 1002.395(6), F.S.

¹⁶ Section 1002.395(6), F.S.

¹⁷ Section 1002.395(2)(e), F.S.

¹⁸ Section 1002.395(6), F.S.

¹⁹ Section 1002.395(6), F.S.

²⁰ Section 1002.421, F.S.

²¹ Section 1002.395(8), F.S.

²² Section 1002.395(9), F.S.

²³ 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).

²⁴ "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.

- 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.²⁵ 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.²⁶ Foster care is a placement with a foster family or in a group home.²⁷ An out-of-home placement that is not foster care typically refers to a placement with a relative.²⁸ 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.²⁹ 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 recipient, as long as the student's and the sibling's household income level does not exceed 230 percent of the federal poverty level.³⁰

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.

Student Scholarship Amounts

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 2013-2014 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.³¹ 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

²⁵ Section 1002.395(3)(b)1. – 2., F.S.; *see also* s. 39.01(31), F.S.

²⁶ Rule 65C-30.001(91), F.A.C.

²⁷ Section 39.01(31), F.S.

²⁸ 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).

²⁹ Section 1002.395(3)(b)2., F.S.

³⁰ Section 1002.395(3)(b)3., F.S.

³¹ 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.³²

	Award Per Student	Student Scholarships	Awarded Scholarships	Maximum Tax Credit Cap	Tax Credits Approved ³³
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

Student Eligibility

Beginning in FY 2014-2015, the prior public school attendance requirement for students whose household income is below 185% of the federal poverty level is removed. Beginning in FY 2016-2017, the maximum household income for eligibility is increased to 260% of the federal poverty level. Students with household incomes between 185% and 260% 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% 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

The bill increases the maximum scholarship limit from 80 percent to 84 percent of the unweighted FEFP funding amount.

In concert with the FY 2016-2017 increase in maximum household income for eligibility discussed above, the bill creates a new tiered phasedown of the maximum per-student scholarship amount. For

³² 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).

³³ Email from Department of Revenue on file with House Finance and Tax.

household incomes between 200% and 215% of the federal poverty line, the maximum is reduced by 12%. For household incomes between 215% and 230%, the maximum is reduced by 26%. For household incomes between 230% and 245%, the maximum is reduced by 40%. Finally, for household incomes between 245% and the newly increased maximum of 260% the amount is reduced by 50%.

Scholarship Funding Organization Accountability

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 or renewal 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.

The application is required to 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% of anticipated donations. 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. This bond or letter of credit will be adjusted on an annual basis thereafter to equal the amount of undispersed donations based on annual audits reviewed by DOE.

Applications for renewal by an SFO that operated the prior year must also include the organization's IRS Form 990³⁴, 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 shall revert to DOR for redistribution to eligible SFOs.

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.³⁵

Tax Credits

The bill creates a new section of statute, s. 1002.396, F.S., establishing the Sales Tax Credit Scholarship Program, which allows sales tax dealers to receive credit against their sales and use tax liability³⁶ under ch. 212, F.S., for donations made to SFOs participating in the new program. The Sales Tax Credit Scholarship Program will operate separately from the existing FTC Program; however, many of the administrative requirements for both programs are the same, e.g., student, private school, and SFO eligibility and scholarship prohibitions.

The bill also establishes, in newly created s. 1002.397, F.S., a unified tax credit cap for the new Sales Tax Credit Scholarship Program and FTC Program. DOR may approve tax credits under either program until the sum of such approvals under both programs combined reaches the limits specified in the bill.

The cap is set at \$390 million in fiscal year 2014-2015, which is \$32.2 million above the cap level expected to apply under current law. In subsequent years, the cap can increase sequentially to \$475 million, \$590 million, \$730 million, and \$873.6 million. The amount of credits approved each year will be required to reach 90% of the new combined cap in each year to trigger an increase in the subsequent

³⁴ 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.

³⁵ The new offenses include any felony and numerous misdemeanor-level financial crimes

³⁶ Credits may not be allowed against rental car surcharge liability under ch. 212, F.S.

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 2014-2015 through 2017-2018, the cap is expected to be approximately \$30 million above the levels expected under current law. By FY 2018-2019 the applicable cap will be \$873.6 million, which is equal to that expected under current law.

Additionally, taxpayers and dealers will be able to transfer tax credits received under both tax credit scholarship programs 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 and dealers 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.

Notification

The bill also 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.

Rulemaking

The bill grants emergency rulemaking authority to DOR and DOE.

B. SECTION DIRECTORY:

Section 1. Amends s. 212.1831, F.S., allowing credits to be granted against sales and use tax liability under the new Sales Tax Credit Scholarship Program.

Section 2. Amends s. 213.053, F.S., revising confidentiality requirements for the Department of Revenue.

Section 3. Amends s. 1002.395, F.S., making various changes to the Tax Credit Scholarship Program.

Section 4. Creates s. 1002.396, F.S., creating the Sales Tax Scholarship Program.

Section 5. Creates s. 1002.397, F.S., creating a new combined cap for tax credits approved under the two scholarship programs.

Section 6. Amending s. 1002.421, F.S., conforming a cross reference.

Section 7. 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 8. Granting emergency rulemaking authority to the Department of Revenue and Department of Education.

Section 9. Providing an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference estimated that the bill's impact on General Revenue will be - \$32.2 million, -\$27.7 million, -\$30.9 million, -\$31.1 million, and zero, in the fiscal years ending 2015, 2016, 2017, 2018, and 2019, respectively.

2. Expenditures:

See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

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.

D. FISCAL COMMENTS:

Staff has estimated the total 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 2018-2019, 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 \$1.9 million, \$35.9 million, \$48.3 million and \$62.8 million in fiscal years ending 2016, 2017, 2018, and 2019, respectively.

	2014-15	2015-16	2016-17	2017-18	2018-19
Table 1: Total Program Impacts—Current Law (\$ in millions)					
Revenue Impact	(\$357.8)	(\$447.3)	(\$559.1)	(\$698.9)	(\$873.6)
FEFP Savings	\$415.0	\$489.6	\$608.7	\$758.4	\$944.8
Net State Savings	\$57.2	\$42.3	\$49.6	\$59.5	\$71.3

Table 2: Total Program Impacts—Proposed Law					
Revenue Impact	(\$390.0)	(\$475.0)	(\$590.0)	(\$730.0)	(\$873.6)
FEFP savings	\$450.8	\$515.4	\$603.7	\$741.2	\$882.1
Net State Savings	\$60.8	\$40.4	\$13.7	\$11.2	\$8.5

Table 3: Change in Total Program Impacts					
Revenue Impact	(\$32.2)	(\$27.7)	(\$30.9)	(\$31.1)	\$0.0
FEFP Savings	\$35.9	\$25.8	(\$4.9)	(\$17.1)	(\$62.8)
Net State Savings	\$3.7	(\$1.9)	(\$35.9)	(\$48.3)	(\$62.8)

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

The Florida Sales Tax Scholarship Program created by this bill allows for dealers of sales and use tax to receive credits against their tax liability in exchange for donations to SFOs which may in turn provide scholarships to students who choose to attend sectarian schools. Sales and use tax collections by dealers become state funds at the moment of collection.³⁷

B. RULE-MAKING AUTHORITY:

The bill grants emergency rulemaking authority to both DOE and DOR.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 6, 2014, the Finance and Tax Subcommittee adopted 6 amendments and reported the proposed committee bill favorably. The amendments:

- Clarified that only credits are only allowed against sales and use tax liability under ch. 212, F.S., not the rental car surcharge.
- Clarified that students who are eligible under the foster care or out-of-home care criterion will remain eligible under graduation or reaching 21 years of age, whichever occurs first, regardless of household income.
- Allows an SFO which has operated under the current Tax Credit Scholarship Program to receive the administrative allowance for donations received through the new sales tax program
- Clarifies the SFO application deadline.
- Replaces terminology throughout to make clear that the donations to the new program are made by sales tax dealers.
-

This analysis is drafted to the bill as amended.

1 A bill to be entitled
2 An act relating to tax credit scholarship programs;
3 amending s. 212.1831, F.S.; providing a credit against
4 the sales and use tax for contributions to nonprofit
5 scholarship-funding organizations; providing
6 requirements and procedure for claiming credits;
7 amending s. 213.053, F.S.; authorizing the Department
8 of Revenue to provide a copy of a letter approving a
9 taxpayer or dealer for a specified tax credit;
10 amending s. 1002.395, F.S.; revising definitions;
11 revising eligibility requirements for the Florida Tax
12 Credit Scholarship Program; revising the tax credit
13 cap amount applicable to the program; requiring the
14 department to provide a copy of a letter approving a
15 taxpayer for a specified tax credit to the eligible
16 nonprofit scholarship-funding organization;
17 authorizing certain entities to convey, transfer, or
18 assign certain tax credits; revising the disqualifying
19 offenses for nonprofit scholarship-funding
20 organization owners and operators; revising priority
21 for new applicants; authorizing the use of certain
22 contributions by nonprofit scholarship-funding
23 organizations for professional development; requiring
24 nonprofit scholarship-funding organizations to
25 maintain a surety bond or letter of credit and to
26 adjust the bond or letter of credit annually as

27 required by the Department of Education; requiring
 28 parental authorization for access to income
 29 eligibility information; revising limitations on
 30 annual scholarship amounts; providing for reductions
 31 in scholarship amounts based on household income;
 32 providing initial and renewal application requirements
 33 and an approval process for nonprofit scholarship-
 34 funding organizations; requiring the State Board of
 35 Education to adopt rules; creating s. 1002.396, F.S.;
 36 providing legislative findings; providing definitions;
 37 establishing the Florida Sales Tax Credit Scholarship
 38 Program; providing eligibility requirements for a tax
 39 credit scholarship; providing application requirements
 40 and procedures for tax credits; providing for
 41 carryforward; authorizing certain entities to convey,
 42 transfer, or assign tax credits upon providing
 43 notification to and receiving approval from the
 44 Department of Revenue; providing obligations of
 45 eligible nonprofit scholarship-funding organizations;
 46 providing responsibilities for parents and students
 47 participating in the program; providing requirements
 48 for eligible private schools; providing obligations of
 49 the Department of Education, school districts, and the
 50 Commissioner of Education; providing for the amount
 51 and payment of scholarships; providing for the
 52 administration of the program; requiring the

53 Department of Revenue and the State Board of Education
 54 to adopt rules; providing requirements for the deposit
 55 of eligible contributions; providing for the
 56 disposition of credits if one or more relevant
 57 provisions are determined to be unconstitutional;
 58 providing requirements for nonprofit scholarship-
 59 funding organizations; creating s. 1002.397, F.S.;
 60 providing a cap on the amount of tax credits that may
 61 be approved annually under the Florida Tax Credit
 62 Scholarship Program and the Florida Sales Tax Credit
 63 Scholarship Program; requiring the Department of
 64 Revenue to publish the cap on its website; amending s.
 65 1002.421, F.S.; requiring private schools
 66 participating in the Florida Sales Tax Credit
 67 Scholarship Program to comply with specified
 68 requirements; requiring certain scholarship-funding
 69 organizations to provide a copy of a surety bond or
 70 letter of credit and to adjust the amount of the
 71 surety bond or letter of credit as specified;
 72 authorizing the Department of Revenue and the
 73 Department of Education to adopt emergency rules;
 74 providing an effective date.

75

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

77

78 Section 1. Section 212.1831, Florida Statutes, is amended

79 to read:

80 212.1831 Credit for contributions to eligible nonprofit
81 scholarship-funding organizations.—

82 (1) There is allowed a credit of 100 percent of an
83 eligible contribution made to an eligible nonprofit scholarship-
84 funding organization under s. 1002.395 against any tax imposed
85 by the state and due under this chapter from a direct pay permit
86 holder as a result of the direct pay permit held pursuant to s.
87 212.183. For purposes of the distributions of tax revenue under
88 s. 212.20, the department shall disregard any tax credits
89 allowed under this subsection ~~section~~ to ensure that any
90 reduction in tax revenue received that is attributable to the
91 tax credits results only in a reduction in distributions to the
92 General Revenue Fund. The provisions of ss. ~~s.~~ 1002.395 and
93 1002.397 apply to the credit authorized by this subsection
94 ~~section~~.

95 (2) There is allowed a credit of 100 percent of an
96 eligible contribution made to an eligible nonprofit scholarship-
97 funding organization under s. 1002.396 against any tax imposed
98 by the state and due under this chapter, except the surcharge
99 imposed by s. 212.0606. For purposes of the distributions of tax
100 revenue under s. 212.20, the department shall disregard any tax
101 credits allowed under this subsection to ensure that any
102 reduction in tax revenue received that is attributable to the
103 tax credits results only in a reduction in distributions to the
104 General Revenue Fund. The credits against the state sales tax

105 authorized under s. 1002.396 shall be deducted from sales and
 106 use tax remitted by the dealer to the department by electronic
 107 funds transfer and may only be deducted on a sales and use tax
 108 return initiated through electronic data interchange. The dealer
 109 shall separately state the credit on the electronic return. The
 110 net amount of tax due and payable must be remitted by electronic
 111 funds transfer. A dealer may only obtain a credit under this
 112 subsection using the method described in this subsection. A
 113 dealer is not authorized to obtain a credit by applying for a
 114 refund. Sections 1002.396 and 1002.397 apply to credits granted
 115 under this subsection.

116 Section 2. Paragraph (cc) is added to subsection (8) of
 117 section 213.053, Florida Statutes, to read:

118 213.053 Confidentiality and information sharing.—

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

121 (cc) For purposes of notification that a tax credit has
 122 been reserved, a copy of a letter of approval issued by the
 123 department to a taxpayer or dealer for an allocation of a tax
 124 credit to an eligible nonprofit scholarship-funding organization
 125 selected by the taxpayer or dealer in an application for a tax
 126 credit authorized under s. 1002.395 or s. 1002.396.

127
 128 Disclosure of information under this subsection shall be
 129 pursuant to a written agreement between the executive director
 130 and the agency. Such agencies, governmental or nongovernmental,

131 shall be bound by the same requirements of confidentiality as
 132 the Department of Revenue. Breach of confidentiality is a
 133 misdemeanor of the first degree, punishable as provided by s.
 134 775.082 or s. 775.083.

135 Section 3. Paragraph (f) of subsection (2), paragraph (b)
 136 of subsection (3), paragraph (b) of subsection (4), paragraphs
 137 (a), (b), (c), and (d) of subsection (5), subsection (6),
 138 paragraph (e) of subsection (8), paragraphs (d) and (o) of
 139 subsection (9), and paragraph (a) of subsection (12) of section
 140 1002.395, Florida Statutes, are amended, paragraphs (h) through
 141 (j) of subsection (2) are redesignated as paragraphs (i) through
 142 (k), respectively, and a new paragraph (h) is added to that
 143 subsection, paragraph (g) is added to subsection (7), paragraph
 144 (q) is added to subsection (9), and subsection (16) is added to
 145 that section, to read:

146 1002.395 Florida Tax Credit Scholarship Program.—

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

148 (f) "Eligible nonprofit scholarship-funding organization"
 149 means a charitable organization that:

150 1. Is exempt from federal income tax pursuant to s.
 151 501(c)(3) of the Internal Revenue Code;

152 2. Is a Florida entity formed under chapter 607, chapter
 153 608, or chapter 617 and whose principal office is located in the
 154 state; and

155 3. Complies with subsections ~~the provisions of subsection~~
 156 (6) and (16).

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

162 (3) PROGRAM; SCHOLARSHIP ELIGIBILITY.—

163 (b) Contingent upon available funds, a student is eligible
 164 for a Florida tax credit scholarship under this section if the
 165 student meets one or more of the following criteria:

166 1. For the 2014-2015 and 2015-2016 school years, the
 167 student qualifies for free or reduced-price school lunches under
 168 the National School Lunch Act or is on the direct certification
 169 list ~~and:~~

170 ~~a. Was counted as a full-time equivalent student during~~
 171 ~~the previous state fiscal year for purposes of state per-student~~
 172 ~~funding;~~

173 ~~b. Received a scholarship from an eligible nonprofit~~
 174 ~~scholarship-funding organization or from the State of Florida~~
 175 ~~during the previous school year; or~~

176 ~~c. Is eligible to enter kindergarten through fifth grade.~~

177 2. The student is currently placed, or during the previous
 178 state fiscal year was placed, in foster care or in out-of-home
 179 care as defined in s. 39.01. A student who initially receives a
 180 scholarship based on eligibility under this subparagraph remains
 181 eligible until the student graduates from high school or turns
 182 21 years of age, whichever occurs first, regardless of the

183 student's household income level.

184 3. For the 2014-2015 and 2015-2016 school years, the
 185 student continues in the scholarship program as long as the
 186 student's household income level does not exceed 230 percent of
 187 the federal poverty level. A sibling of a student who is
 188 continuing in the scholarship program under this subparagraph is
 189 eligible for a scholarship as long as the student resides in the
 190 same household as the sibling.

191 4. For the 2016-2017 school year and thereafter, the
 192 student is on the direct certification list or the student's
 193 household income level does not exceed 185 percent of the
 194 federal poverty level.

195 5. For the 2016-2017 school year and thereafter, the
 196 student's household income level is greater than 185 percent of
 197 the federal poverty level, but does not exceed 260 percent of
 198 the federal poverty level, and the student:

199 a. Spent the previous school year in attendance at a
 200 public school in the state and was enrolled and reported by the
 201 school district for funding during October and February for
 202 purposes of the Florida Education Finance Program surveys;

203 b. Is eligible to enter kindergarten or first grade; or

204 c. Received a scholarship from an eligible nonprofit
 205 scholarship-funding organization or the state during the
 206 previous school year ~~The student, who is a first-time tax-credit~~
 207 ~~scholarship recipient, is a sibling of a student who is~~
 208 ~~continuing in the scholarship program and who resides in the~~

209 ~~same household as the student if the sibling meets one or more~~
 210 ~~of the criteria specified in subparagraphs 1. and 2. and as long~~
 211 ~~as the student's and sibling's household income level does not~~
 212 ~~exceed 230 percent of the federal poverty level.~~

213 (4) SCHOLARSHIP PROHIBITIONS.—A student is not eligible
 214 for a scholarship while he or she is:

215 (b) Receiving a scholarship from another eligible
 216 nonprofit scholarship-funding organization under this section or
 217 s. 1002.396;

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

219 (a)~~1.~~ The tax credit cap amount is provided in s. 1002.397
 220 ~~\$229 million in the 2012-2013 state fiscal year.~~

221 ~~2. In the 2013-2014 state fiscal year and each state~~
 222 ~~fiscal year thereafter, the tax credit cap amount is the tax~~
 223 ~~credit cap amount in the prior state fiscal year. However, in~~
 224 ~~any state fiscal year when the annual tax credit amount for the~~
 225 ~~prior state fiscal year is equal to or greater than 90 percent~~
 226 ~~of the tax credit cap amount applicable to that state fiscal~~
 227 ~~year, the tax credit cap amount shall increase by 25 percent.~~
 228 ~~The department shall publish on its website information~~
 229 ~~identifying the tax credit cap amount when it is increased~~
 230 ~~pursuant to this subparagraph.~~

231 (b) A taxpayer may submit an application to the department
 232 for a tax credit or credits under one or more of s. 211.0251, s.
 233 212.1831(1) ~~212.1831~~, s. 220.1875, s. 561.1211, or s. 624.51055.

234 1. The taxpayer shall specify in the application each tax

235 for which the taxpayer requests a credit and the applicable
236 taxable year for a credit under s. 220.1875 or s. 624.51055 or
237 the applicable state fiscal year for a credit under s. 211.0251,
238 s. 212.1831(1) ~~212.1831~~, or s. 561.1211. The department shall
239 approve tax credits on a first-come, first-served basis and must
240 obtain the division's approval before ~~prior to~~ approving a tax
241 credit under s. 561.1211.

242 2. Within 10 days after approving an application, the
243 department shall provide a copy of its approval letter to the
244 eligible nonprofit scholarship-funding organization specified by
245 the taxpayer in the application.

246 (c) If a tax credit approved under paragraph (b) is not
247 fully used within the specified state fiscal year for credits
248 under s. 211.0251, s. 212.1831(1) ~~212.1831~~, or s. 561.1211 or
249 against taxes due for the specified taxable year for credits
250 under s. 220.1875 or s. 624.51055 because of insufficient tax
251 liability on the part of the taxpayer, the unused amount may be
252 carried forward for a period not to exceed 5 years. However, any
253 taxpayer that seeks to carry forward an unused amount of tax
254 credit must submit an application to the department for approval
255 of the carryforward tax credit in the year that the taxpayer
256 intends to use the carryforward. The department must obtain the
257 division's approval prior to approving the carryforward of a tax
258 credit under s. 561.1211.

259 (d) A taxpayer may not convey, assign, or transfer an
260 approved tax credit or a carryforward tax credit to another

261 entity unless all of the assets of the taxpayer are conveyed,
 262 assigned, or transferred in the same transaction. However, a tax
 263 credit under s. 211.0251, s. 212.1831(1), s. 220.1875, s.
 264 561.1211, or s. 624.51055 may be conveyed, transferred, or
 265 assigned between members of an affiliated group of corporations
 266 if the type of tax credit under s. 211.0251, s. 212.1831(1), s.
 267 220.1875, s. 561.1121, or s. 624.51055 remains the same. A
 268 taxpayer must notify the department of the intent to convey,
 269 transfer, or assign a tax credit to another member within an
 270 affiliated group of corporations. The amount conveyed,
 271 transferred, or assigned is available to another member of the
 272 affiliated group of corporations upon approval by the
 273 department. The department must obtain the division's approval
 274 before approving a conveyance, transfer, or assignment of a tax
 275 credit under s. 561.1211.

276 (6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING
 277 ORGANIZATIONS.—An eligible nonprofit scholarship-funding
 278 organization:

279 (a) Must comply with the antidiscrimination provisions of
 280 42 U.S.C. s. 2000d.

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

283 1. All owners and operators as defined in subparagraph
 284 (2)(i)1. ~~(2)(h)1.~~ are, before ~~upon~~ employment or engagement to
 285 provide services, subject to level 2 background screening as
 286 provided under chapter 435. The fingerprints for the background

287 screening must be electronically submitted to the Department of
288 Law Enforcement and can be taken by an authorized law
289 enforcement agency or by an employee of the eligible nonprofit
290 scholarship-funding organization or a private company who is
291 trained to take fingerprints. However, the complete set of
292 fingerprints of an owner or operator may not be taken by the
293 owner or operator. The results of the state and national
294 criminal history check shall be provided to the Department of
295 Education for screening under chapter 435. The cost of the
296 background screening may be borne by the eligible nonprofit
297 scholarship-funding organization or the owner or operator.

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

313 the fingerprints shall be retained by the Department of Law
314 Enforcement under subparagraph 3.

315 3. ~~All~~ Fingerprints submitted to the Department of Law
316 Enforcement as required by this paragraph must be retained by
317 the Department of Law Enforcement in a manner approved by rule
318 and entered in the statewide automated biometric identification
319 system authorized by s. 943.05(2)(b). The fingerprints must
320 thereafter be available for all purposes and uses authorized for
321 arrest fingerprints entered in the statewide automated biometric
322 identification system pursuant to s. 943.051.

323 4. The Department of Law Enforcement shall search all
324 arrest fingerprints received under s. 943.051 against the
325 fingerprints retained in the statewide automated biometric
326 identification system under subparagraph 3. Any arrest record
327 that is identified with an owner's or operator's fingerprints
328 must be reported to the Department of Education. The Department
329 of Education shall participate in this search process by paying
330 an annual fee to the Department of Law Enforcement and by
331 informing the Department of Law Enforcement of any change in the
332 employment, engagement, or association status of the owners or
333 operators whose fingerprints are retained under subparagraph 3.
334 The Department of Law Enforcement shall adopt a rule setting the
335 amount of the annual fee to be imposed upon the Department of
336 Education for performing these services and establishing the
337 procedures for the retention of owner and operator fingerprints
338 and the dissemination of search results. The fee may be borne by

339 the owner or operator of the nonprofit scholarship-funding
 340 organization.

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

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

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

- 359 a. Any authorizing statutes, if the offense was a felony.
- 360 b. This chapter, if the offense was a felony.
- 361 c. Section 409.920, relating to Medicaid provider fraud.
- 362 d. Section 409.9201, relating to Medicaid fraud.
- 363 e. Section 741.28, relating to domestic violence.
- 364 f. Section 817.034, relating to fraudulent acts through

365 mail, wire, radio, electromagnetic, photoelectronic, or
 366 photooptical systems.

367 g. Section 817.234, relating to false and fraudulent
 368 insurance claims.

369 h. Section 817.505, relating to patient brokering.

370 i. Section 817.568, relating to criminal use of personal
 371 identification information.

372 j. Section 817.60, relating to obtaining a credit card
 373 through fraudulent means.

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

376 l. Section 831.01, relating to forgery.

377 m. Section 831.02, relating to uttering forged
 378 instruments.

379 n. Section 831.07, relating to forging bank bills, checks,
 380 drafts, or promissory notes.

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

383 p. Section 831.30, relating to fraud in obtaining
 384 medicinal drugs.

385 q. Section 831.31, relating to the sale, manufacture,
 386 delivery, or possession with the intent to sell, manufacture, or
 387 deliver any counterfeit controlled substance, if the offense was
 388 a felony.

389 (c) Must not have an owner or operator who owns or
 390 operates an eligible private school that is participating in the

391 scholarship program or the scholarship program established in s.
 392 1002.396.

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

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

399 (e) Must give first priority to eligible students who
 400 received a scholarship from an eligible nonprofit scholarship-
 401 funding organization or from the State of Florida during the
 402 previous school year. Beginning in the 2016-2017 school year, an
 403 eligible nonprofit scholarship-funding organization shall give
 404 priority to new applicants whose household income levels do not
 405 exceed 185 percent of the federal poverty level or who are in
 406 foster care or out-of-home care.

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

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

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

415 (i)~~(h)~~ Must allow an eligible student to attend any
 416 eligible private school and must allow a parent to transfer a

417 scholarship during a school year to any other eligible private
 418 school of the parent's choice.

419 (j)~~(i)~~1. May use up to 3 percent of eligible contributions
 420 received during the state fiscal year in which such
 421 contributions are collected for administrative expenses if the
 422 organization has operated under this section or s. 1002.396 for
 423 at least 3 state fiscal years and did not have any negative
 424 financial findings in its most recent audit under paragraph (m)
 425 ~~(l)~~. Such administrative expenses must be reasonable and
 426 necessary for the organization's management and distribution of
 427 eligible contributions under this section. Administrative
 428 expenses may also include professional development to support
 429 participating schools. Up to ~~No more than~~ one-third of the funds
 430 authorized for administrative expenses under this subparagraph
 431 may be used for expenses related to the recruitment of
 432 contributions from taxpayers.

433 2. Must expend for annual or partial-year scholarships an
 434 amount equal to or greater than 75 percent of the net eligible
 435 contributions remaining after administrative expenses during the
 436 state fiscal year in which such contributions are collected. No
 437 more than 25 percent of such net eligible contributions may be
 438 carried forward to the following state fiscal year. Any amounts
 439 carried forward shall be expended for annual or partial-year
 440 scholarships in the following state fiscal year. Net eligible
 441 contributions remaining on June 30 of each year that are in
 442 excess of the 25 percent that may be carried forward shall be

443 returned to the State Treasury for deposit in the General
444 Revenue Fund.

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

449 (k)~~(j)~~ Must maintain separate accounts for scholarship
450 funds and operating funds.

451 (l)~~(k)~~ With the prior approval of the Department of
452 Education, may transfer funds to another eligible nonprofit
453 scholarship-funding organization if additional funds are
454 required to meet scholarship demand at the receiving nonprofit
455 scholarship-funding organization. A transfer is ~~shall be~~ limited
456 to the greater of \$500,000 or 20 percent of the total
457 contributions received by the nonprofit scholarship-funding
458 organization making the transfer. All transferred funds must be
459 deposited by the receiving nonprofit scholarship-funding
460 organization into its scholarship accounts. All transferred
461 amounts received by any nonprofit scholarship-funding
462 organization must be separately disclosed in the annual
463 financial and compliance audit required in this section.

464 (m)~~(l)~~ Must provide to the Auditor General and the
465 Department of Education an annual financial and compliance audit
466 of its accounts and records conducted by an independent
467 certified public accountant and in accordance with rules adopted
468 by the Auditor General. The audit must be conducted in

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469 compliance with generally accepted auditing standards and must
470 include a report on financial statements presented in accordance
471 with generally accepted accounting principles set forth by the
472 American Institute of Certified Public Accountants for not-for-
473 profit organizations and a determination of compliance with the
474 statutory eligibility and expenditure requirements set forth in
475 this section. Audits must be provided to the Auditor General and
476 the Department of Education within 180 days after completion of
477 the eligible nonprofit scholarship-funding organization's fiscal
478 year.

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

484 (o)~~(n)~~1.a. Must participate in the joint development of
485 agreed-upon procedures to be performed by an independent
486 certified public accountant as required under paragraph (8) (e)
487 if the scholarship-funding organization provided more than
488 \$250,000 in scholarship funds to an eligible private school
489 under this section during the 2009-2010 state fiscal year. The
490 agreed-upon procedures must uniformly apply to all private
491 schools and must determine, at a minimum, whether the private
492 school has been verified as eligible by the Department of
493 Education under paragraph (9) (c); has an adequate accounting
494 system, system of financial controls, and process for deposit

495 and classification of scholarship funds; and has properly
 496 expended scholarship funds for education-related expenses.
 497 During the development of the procedures, the participating
 498 scholarship-funding organizations shall specify guidelines
 499 governing the materiality of exceptions that may be found during
 500 the accountant's performance of the procedures. The procedures
 501 and guidelines shall be provided to private schools and the
 502 Commissioner of Education by March 15, 2011.

503 b. Must participate in a joint review of the agreed-upon
 504 procedures and guidelines developed under sub-subparagraph a.,
 505 by February 2013 and biennially thereafter, if the scholarship-
 506 funding organization provided more than \$250,000 in scholarship
 507 funds to an eligible private school under this section during
 508 the state fiscal year preceding the biennial review. If the
 509 procedures and guidelines are revised, the revisions must be
 510 provided to private schools and the Commissioner of Education by
 511 March 15, 2013, and biennially thereafter.

512 c. Must monitor the compliance of a private school with
 513 paragraph (8)(e) if the scholarship-funding organization
 514 provided the majority of the scholarship funding to the school.
 515 For each private school subject to paragraph (8)(e), the
 516 appropriate scholarship-funding organization shall notify the
 517 Commissioner of Education by October 30, 2011, and annually
 518 thereafter of:

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

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

523 2. Must seek input from the accrediting associations that
 524 are members of the Florida Association of Academic Nonpublic
 525 Schools when jointly developing the agreed-upon procedures and
 526 guidelines under sub-subparagraph 1.a. and conducting a review
 527 of those procedures and guidelines under sub-subparagraph 1.b.

528 (p) Must maintain the surety bond or letter of credit
 529 required by subparagraph (16) (a)4. and adjust the bond or letter
 530 of credit annually to equal the amount of undisbursed donations
 531 as required by the Department of Education pursuant to paragraph
 532 (9) (q).

533
 534 ~~Any and all~~ Information and documentation provided to the
 535 Department of Education and the Auditor General relating to the
 536 identity of a taxpayer that provides an eligible contribution
 537 under this section shall remain confidential at all times in
 538 accordance with s. 213.053.

539 (7) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
 540 PARTICIPATION.—

541 (g) The parent must authorize the scholarship funding
 542 organization to access information needed for income eligibility
 543 determination and verification held by other state or federal
 544 agencies, including the Department of Revenue, the Department of
 545 Children and Families, the Department of Education, the
 546 Department of Economic Opportunity, and the Agency for Health

547 Care Administration.

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

551 (e) Annually contract with an independent certified public
 552 accountant to perform the agreed-upon procedures developed under
 553 paragraph (6) (o) ~~(6) (n)~~ and produce a report of the results if
 554 the private school receives more than \$250,000 in funds from
 555 scholarships awarded under this section in the 2010-2011 state
 556 fiscal year or a state fiscal year thereafter. A private school
 557 subject to this paragraph must submit the report by September
 558 15, 2011, and annually thereafter to the scholarship-funding
 559 organization that awarded the majority of the school's
 560 scholarship funds. The agreed-upon procedures must be conducted
 561 in accordance with attestation standards established by the
 562 American Institute of Certified Public Accountants.

563
 564 The inability of a private school to meet the requirements of
 565 this subsection shall constitute a basis for the ineligibility
 566 of the private school to participate in the scholarship program
 567 as determined by the Department of Education.

568 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The Department of
 569 Education shall:

570 (d) Annually verify the eligibility of expenditures as
 571 provided in paragraph (6) (d) using the audit required by
 572 paragraph (6) (m) ~~(6) (l)~~.

573 (o) Provide a process to match the direct certification
 574 list with the scholarship application data submitted by any
 575 nonprofit scholarship-funding organization eligible to receive
 576 the 3-percent administrative allowance under paragraph (6)(j)
 577 ~~(6)(i)~~.

578 (g) On an annual basis, require each nonprofit
 579 scholarship-funding organization to adjust surety bond or letter
 580 of credit amounts to equal the amount of undisbursed donations
 581 held by that organization based on the annual audit provided
 582 pursuant to paragraph (6)(m).

583 (12) SCHOLARSHIP AMOUNT AND PAYMENT.—

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

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

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

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

597 ~~(III) For the 2011-2012 state fiscal year and thereafter,~~
 598 the limit shall be determined by multiplying the unweighted FTE

599 | funding amount in that state fiscal year by the percentage used
 600 | to determine the limit in the prior state fiscal year. However,
 601 | in each state fiscal year that the tax credit cap amount
 602 | increases pursuant to s. 1002.397 ~~subparagraph (5)(a)2.~~, the
 603 | prior year percentage shall be increased by 4 percentage points
 604 | and the increased percentage shall be used to determine the
 605 | limit for that state fiscal year. If the percentage so
 606 | calculated reaches 84 ~~80~~ percent in a state fiscal year, no
 607 | further increase in the percentage is allowed and the limit
 608 | shall be 84 ~~80~~ percent of the unweighted FTE funding amount for
 609 | that state fiscal year and thereafter.

610 | b. For a scholarship awarded to a student enrolled in a
 611 | Florida public school that is located outside the district in
 612 | which the student resides or in a lab school as defined in s.
 613 | 1002.32, the limit shall be \$500.

614 | 2. For the 2014-2015 and 2015-2016 state fiscal years, the
 615 | annual limit for a scholarship under sub-subparagraph 1.a. shall
 616 | be reduced by:

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

620 | b. Fifty percent if the student's household income level
 621 | is equal to or greater than 215 percent, but equal to or less
 622 | than 230 percent, of the federal poverty level.

623 | 3. For the 2016-2017 state fiscal year and thereafter, the
 624 | annual limit for a scholarship under sub-subparagraph 1.a. shall

625 be reduced by:

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

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

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

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

638 (16) NONPROFIT SCHOLARSHIP-FUNDING ORGANIZATIONS;
 639 APPLICATION.—In order to participate in the scholarship program
 640 created by this section or the scholarship program created by s.
 641 1002.396, a nonprofit scholarship-funding organization must
 642 submit an application for initial approval or renewal to the
 643 Office of Independent Education and Parental Choice no later
 644 than September 1 of each year, before the school year for which
 645 the nonprofit scholarship-funding organization intends to offer
 646 scholarships.

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

648 1. A copy of the organization's incorporation documents
 649 and registration with the Division of Corporations of the
 650 Department of State.

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

654 3. A description of the financial plan that demonstrates
 655 sufficient funds to operate throughout the school year.

656 4. A copy of a surety bond or letter of credit in an
 657 amount equal to 25 percent of the scholarship funds anticipated
 658 for each school year.

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

662 6. The organization's organizational chart.

663 7. A description of the criteria and methodology that will
 664 be used to evaluate scholarship eligibility.

665 8. A description of the application process, including
 666 deadlines and any associated fees.

667 9. A description of the deadlines for attendance
 668 verification and scholarship payments.

669 10. A copy of the organization's policies on conflict of
 670 interest and whistleblowers.

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

673 1. The organization's completed Internal Revenue Service
 674 Form 990 submitted no later than November 30 of the year before
 675 the year that the organization intends to offer the
 676 scholarships, notwithstanding the September 1 application

677 deadline.

678 2. A copy of the statutorily required audit to the

679 Department of Education and Auditor General.

680 3. An annual report that includes:

681 a. The number of students who completed applications, by

682 county and by grade.

683 b. The number of students who were approved for

684 scholarships, by county and by grade.

685 c. The number of students who received funding for

686 scholarships within each funding category, by county and by

687 grade.

688 d. The amount of funds received, the amount of funds

689 distributed in scholarships, and an accounting of remaining

690 funds and the obligation of those funds.

691 e. A detailed accounting of how the organization spent the

692 administrative funds allowable under paragraph (6)(j).

693 (c) In consultation with the Department of Revenue and the

694 Chief Financial Officer, the Office of Independent Education and

695 Parental Choice shall review the application. The Department of

696 Education shall notify the organization in writing of any

697 deficiencies within 30 days after receipt of the application,

698 and allow the organization 30 days to correct any deficiencies.

699 (d) Within 30 days after receipt of the finalized

700 application by the Office of Independent Education and Parental

701 Choice, the Commissioner of Education shall recommend approval

702 or disapproval of the application to the State Board of

703 Education. The State Board of Education shall consider the
704 application and recommendation at the next scheduled meeting,
705 adhering to appropriate meeting notice requirements. If the
706 State Board of Education disapproves the organization's
707 application, it shall provide the organization with a written
708 explanation of that determination. The State Board of
709 Education's action is not subject to chapter 120.

710 (e) If the State Board of Education disapproves the
711 renewal of a nonprofit scholarship-funding organization, the
712 organization must notify the affected eligible students and
713 parents of the decision within 15 days after disapproval. An
714 eligible student affected by the disapproval of an
715 organization's participation remains eligible under this section
716 until the end of the school year in which the organization was
717 disapproved. The student must apply and be accepted by another
718 eligible nonprofit scholarship-funding organization for the
719 upcoming school year. The student shall be given priority in
720 accordance with paragraph (6) (f).

721 (f) All remaining funds held by a nonprofit scholarship-
722 funding organization that is disapproved for participation shall
723 revert to the Department of Revenue for redistribution to other
724 eligible nonprofit scholarship-funding organizations.

725 (g) A nonprofit scholarship-funding organization is
726 considered a renewing organization if it maintains continuous
727 approval and participation in the program. An organization that
728 chooses not to participate for 1 year or more or is disapproved

729 to participate for 1 year or more must submit an application for
 730 initial approval in order to participate in the program again.

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

740 Section 4. Section 1002.396, Florida Statutes, is created
 741 to read:

742 1002.396 Florida Sales Tax Credit Scholarship Program.—

743 (1) FINDINGS AND PURPOSE.—

744 (a) The Legislature finds that:

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

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

752 3. Ensuring that all parents regardless of means may
 753 exercise and enjoy their basic right to educate their children
 754 as they see fit is a valid public purpose that the Legislature

755 may promote using its sovereign power to determine subjects of
 756 taxation and exemptions from taxation.

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

761 (b) The purpose of this section is to:

762 1. Enable registered sales tax dealers to make private,
 763 voluntary contributions to nonprofit scholarship-funding
 764 organizations in order to promote the general welfare.

765 2. Provide registered sales tax dealers who wish to help
 766 parents with limited resources exercise their basic right to
 767 educate their children as they see fit with a means to do so.

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

771 4. Enable children in the state to achieve a greater level
 772 of excellence in their education.

773 5. Improve the quality of education in the state by
 774 expanding educational opportunities for children and by creating
 775 incentives for schools to achieve excellence.

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

777 (a) "Annual tax credit amount" means, for any state fiscal
 778 year, the sum of the amount of tax credits approved under
 779 paragraph (5) (b).

780 (b) "Department" means the Department of Revenue.

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

787 (d) "Eligible contribution" means a monetary contribution
 788 from a registered sales tax dealer, subject to the restrictions
 789 provided in this section, to an eligible nonprofit scholarship-
 790 funding organization. The registered sales tax dealer making the
 791 contribution may not designate a specific child as the
 792 beneficiary of the contribution.

793 (e) "Eligible nonprofit scholarship-funding organization"
 794 means a charitable organization that:

795 1. Is exempt from federal income tax pursuant to s.
 796 501(c)(3) of the Internal Revenue Code;

797 2. Is a Florida entity formed under chapter 607, chapter
 798 608, or chapter 617 whose principal office is located in the
 799 state; and

800 3. Complies with the provisions of subsections (6) and
 801 (16).

802 (f) "Eligible private school" means a private school, as
 803 defined in s. 1002.01(2), located in the state that offers an
 804 education to students in any grades K-12 and meets the
 805 requirements provided in subsection (8).

806 (g) "Owner or operator" includes:

807 1. An owner, president, officer, or director of an
 808 eligible nonprofit scholarship-funding organization or a person
 809 with equivalent decisionmaking authority over an eligible
 810 nonprofit scholarship-funding organization.

811 2. An owner, operator, superintendent, or principal of an
 812 eligible private school or a person with equivalent
 813 decisionmaking authority over an eligible private school.

814 (h) "Registered sales tax dealer" means a person
 815 registered with the department under chapter 212 to collect and
 816 remit sales or use tax.

817 (i) "Tax credit cap amount" means the maximum annual tax
 818 credit amount that the department may approve in a state fiscal
 819 year.

820 (j) "Unweighted FTE funding amount" means the statewide
 821 average total funds per unweighted full-time equivalent funding
 822 amount that is incorporated by reference in the General
 823 Appropriations Act, or any subsequent special appropriations
 824 act, for the applicable state fiscal year.

825 (3) PROGRAM; SCHOLARSHIP ELIGIBILITY.-

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

828 (b) Contingent upon available funds, a student is eligible
 829 for a tax credit scholarship under this section if the student
 830 meets one or more of the criteria provided in s. 1002.395(3)(b).

831 (4) SCHOLARSHIP PROHIBITIONS.-If a student is ineligible
 832 for a tax credit scholarship under s. 1002.395 for any reason

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833 provided in s. 1002.395(4), the student is not eligible for a
834 scholarship under this section.

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

836 (a) The tax credit cap amount is provided in s. 1002.397.

837 (b) A registered sales tax dealer may submit an
838 application to the department for a tax credit or credits under
839 s. 212.1831(2). The registered sales tax dealer shall specify in
840 the application the applicable state fiscal year for such
841 credits. The department shall approve such tax credits on a
842 first-come, first-served basis. Within 10 days after approving
843 an application, the department must provide a copy of its
844 approval letter to the eligible nonprofit scholarship-funding
845 organization specified by the registered sales tax dealer in the
846 application.

847 (c) If a tax credit approved under paragraph (b) is not
848 fully used within the specified state fiscal year, the unused
849 amount may be carried forward for a period not to exceed 5
850 years. However, any registered sales tax dealer that seeks to
851 carry forward an unused amount of tax credit must submit an
852 application to the department for approval of the carryforward
853 tax credit in the year that the registered sales tax dealer
854 intends to use the carryforward.

855 (d) A registered sales tax dealer may not convey, assign,
856 or transfer an approved tax credit or a carryforward tax credit
857 to another entity unless all of the assets of the registered
858 sales tax dealer are conveyed, assigned, or transferred in the

859 same transaction. However, a tax credit granted under this
 860 section may be conveyed, transferred, or assigned between
 861 members of an affiliated group of corporations. A registered
 862 sales tax dealer must notify the department of its intent to
 863 convey, transfer, or assign a tax credit to another member of
 864 the affiliated group of corporations. The amount conveyed,
 865 transferred, or assigned is available to another member of the
 866 affiliated group of corporations upon approval by the
 867 department.

868 (e) Within any state fiscal year, a registered sales tax
 869 dealer may rescind all or part of a tax credit approved under
 870 paragraph (b). The amount rescinded shall become available for
 871 that state fiscal year to another eligible taxpayer or
 872 registered sales tax dealer as approved by the department if the
 873 registered sales tax dealer receives notice from the department
 874 that the rescindment has been accepted by the department. Any
 875 amount rescinded under this paragraph shall become available to
 876 an eligible taxpayer or registered sales tax dealer on a first-
 877 come, first-served basis based on tax credit applications
 878 received after the date the rescindment is accepted by the
 879 department.

880 (6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING
 881 ORGANIZATIONS.—An eligible nonprofit scholarship-funding
 882 organization participating in the scholarship program
 883 established by this section has the same obligations as provided
 884 in s. 1002.395(6).

885 (7) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
 886 PARTICIPATION.—Each parent and each student participating in the
 887 program has the same obligations and responsibilities as
 888 provided in s. 1002.395(7).

889 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—An
 890 eligible private school may be sectarian or nonsectarian and
 891 must comply with all of the requirements provided in s.
 892 1002.395(8).

893 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The Department of
 894 Education shall:

895 (a) Annually, by March 15, submit to the department and
 896 division a list of eligible nonprofit scholarship-funding
 897 organizations that meet the requirements of paragraph (2)(e).

898 (b) Annually verify the eligibility of nonprofit
 899 scholarship-funding organizations that meet the requirements of
 900 paragraph (2)(e).

901 (c) Annually verify the eligibility of private schools
 902 that meet the requirements of subsection (8).

903 (d) Annually verify the eligibility of expenditures as
 904 provided in s. 1002.395(6)(d) using an audit as required by s.
 905 1002.395(6)(m).

906 (e) Establish a toll-free hotline that provides parents
 907 and private schools with information on participation in the
 908 scholarship program.

909 (f) Establish a process by which individuals may notify
 910 the Department of Education of any violation by a parent,

911 private school, or school district of state laws relating to
 912 program participation. The Department of Education shall conduct
 913 an inquiry of any written complaint of a violation of this
 914 section, or make a referral to the appropriate agency for an
 915 investigation, if the complaint is signed by the complainant and
 916 is legally sufficient. A complaint is legally sufficient if it
 917 contains ultimate facts that show that a violation of this
 918 section or any rule adopted by the State Board of Education has
 919 occurred. In order to determine legal sufficiency, the
 920 Department of Education may require supporting information or
 921 documentation from the complainant. A department inquiry is not
 922 subject to chapter 120.

923 (g) Require an annual, notarized, sworn compliance
 924 statement by participating private schools certifying compliance
 925 with state laws and shall retain such records.

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

929 (i) Maintain a list of nationally norm-referenced tests
 930 identified for purposes of satisfying the testing requirement in
 931 s. 1002.395(8)(c)2. The tests must meet industry standards of
 932 quality in accordance with State Board of Education rule.

933 (j) Select an independent research organization, which may
 934 be a public or private entity or university, to which
 935 participating private schools must report the scores of
 936 participating students on the nationally norm-referenced tests

937 or the statewide assessments administered by the private school
 938 in grades 3 through 10.

939 1. The independent research organization must annually
 940 report to the Department of Education on the year-to-year
 941 learning gains of participating students:

942 a. On a statewide basis. The report shall also include, to
 943 the extent possible, a comparison of these learning gains to the
 944 statewide learning gains of public school students with
 945 socioeconomic backgrounds similar to those of students
 946 participating in the scholarship program. To minimize costs and
 947 reduce time required for the independent research organization's
 948 analysis and evaluation, the Department of Education shall
 949 conduct analyses of matched students from public school
 950 assessment data and calculate control group learning gains using
 951 an agreed-upon methodology outlined in the contract with the
 952 independent research organization; and

953 b. According to each participating private school in which
 954 there are at least 30 participating students who have scores for
 955 tests administered during or after the 2009-2010 school year for
 956 2 consecutive years at that private school.

957 2. The sharing and reporting of student learning gain data
 958 under this paragraph must be in accordance with the requirements
 959 of 20 U.S.C. s. 1232g, the Family Educational Rights and Privacy
 960 Act, and shall be for the sole purpose of creating the annual
 961 report required by subparagraph 1. All parties must preserve the
 962 confidentiality of such information as required by law. The

963 annual report must not disaggregate data to a level that
 964 identifies individual participating schools, except as required
 965 under sub-subparagraph 1.b., or disclose the academic level of
 966 individual students.

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

969 (k) Notify an eligible nonprofit scholarship-funding
 970 organization of any of the organization's identified students
 971 who are receiving educational scholarships pursuant to this
 972 chapter.

973 (l) Notify an eligible nonprofit scholarship-funding
 974 organization of any of the organization's identified students
 975 who are receiving tax credit scholarships from other eligible
 976 nonprofit scholarship-funding organizations.

977 (m) Require quarterly reports by an eligible nonprofit
 978 scholarship-funding organization regarding the number of
 979 students participating in the scholarship program, the private
 980 schools at which the students are enrolled, and other
 981 information deemed necessary by the Department of Education.

982 (n)1. Conduct site visits to private schools participating
 983 in the Florida Sales Tax Credit Scholarship Program. The purpose
 984 of the site visits is solely to verify the information reported
 985 by the schools concerning the enrollment and attendance of
 986 students, the credentials of teachers, background screening of
 987 teachers, and teachers' fingerprinting results. The Department
 988 of Education may not make more than seven site visits each year;

1989 however, the department may make additional site visits at any
 1990 time to any school that has received a notice of noncompliance
 1991 or a notice of proposed action within the previous 2 years.

1992 2. Annually, by December 15, report to the Governor, the
 1993 President of the Senate, and the Speaker of the House of
 1994 Representatives the Department of Education's actions with
 1995 respect to implementing accountability in the scholarship
 1996 program under this section and s. 1002.421; any substantiated
 1997 allegations or violations of law or rule by an eligible private
 1998 school under this program concerning the enrollment and
 1999 attendance of students, the credentials of teachers, background
 1000 screening of teachers, and teachers' fingerprinting results; and
 1001 the corrective action taken by the Department of Education.

1002 (o) Provide a process to match the direct certification
 1003 list with the scholarship application data submitted by any
 1004 nonprofit scholarship-funding organization eligible to receive
 1005 the 3-percent administrative allowance under s. 1002.395(6)(j).

1006 (p) Upon the request of a participating private school,
 1007 provide at no cost to the school the statewide assessments
 1008 administered under s. 1008.22 and any related materials for
 1009 administering the assessments. Students at a private school may
 1010 be assessed using the statewide assessments if the addition of
 1011 those students and the school does not cause the state to exceed
 1012 its contractual caps for the number of students tested and the
 1013 number of testing sites. The state shall provide the same
 1014 materials and support to a private school that it provides to a

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1015 public school. A private school that chooses to administer
1016 statewide assessments under s. 1008.22 shall follow the
1017 requirements set forth in ss. 1008.22 and 1008.24, rules adopted
1018 by the State Board of Education to implement those sections, and
1019 district-level testing policies established by the district
1020 school board.

1021 (g) On an annual basis, require each scholarship funding
1022 organization to adjust surety bond or letter of credit amounts
1023 to equal the amount of undisbursed donations held by that
1024 organization based on the annual audit provided pursuant to s.
1025 1002.395(6) (m).

1026 (10) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.-

1027 (a) Upon the request of any eligible nonprofit
1028 scholarship-funding organization, a school district shall inform
1029 all households within the district receiving free or reduced-
1030 priced meals under the National School Lunch Act of their
1031 eligibility to apply for a tax credit scholarship. The form of
1032 such notice shall be provided by the eligible nonprofit
1033 scholarship-funding organization, and the district shall include
1034 the provided form, if requested by the organization, in any
1035 normal correspondence with eligible households. If an eligible
1036 nonprofit scholarship-funding organization requests a special
1037 communication to be issued to households within the district
1038 receiving free or reduced-price meals under the National School
1039 Lunch Act, the organization shall reimburse the district for the
1040 cost of postage. Such notice is limited to once a year.

1041 (b) Upon the request of the Department of Education, a
 1042 school district shall coordinate with the department to provide
 1043 to a participating private school the statewide assessments
 1044 administered under s. 1008.22 and any related materials for
 1045 administering the assessments. A school district is responsible
 1046 for implementing test administrations at a participating private
 1047 school, including the:

1048 1. Provision of training for private school staff on test
 1049 security and assessment administration procedures;

1050 2. Distribution of testing materials to a private school;

1051 3. Retrieval of testing materials from a private school;

1052 4. Provision of the required format for a private school
 1053 to submit information to the district for test administration
 1054 and enrollment purposes; and

1055 5. Provision of any required assistance, monitoring, or
 1056 investigation at a private school.

1057 (11) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.-
 1058 The Commissioner of Education has all the powers and is subject
 1059 to the same limitations as provided in s. 1002.395(11) with
 1060 regard to the denial, suspension, or revocation of participation
 1061 in the scholarship program established by this section.

1062 (12) SCHOLARSHIP AMOUNT AND PAYMENT.-

1063 (a) The amount of a scholarship provided to a student for
 1064 a single school year by an eligible nonprofit scholarship-
 1065 funding organization from eligible contributions shall be for
 1066 total costs authorized under s. 1002.395(6)(d), not to exceed

1067 annual limits, which shall be determined pursuant to s.
 1068 1002.395(12) (a).

1069 (b) Payment of the scholarship by the eligible nonprofit
 1070 scholarship-funding organization shall be by individual warrant
 1071 made payable to the student's parent. If the parent chooses that
 1072 his or her child attend an eligible private school, the warrant
 1073 must be delivered by the eligible nonprofit scholarship-funding
 1074 organization to the private school of the parent's choice, and
 1075 the parent shall restrictively endorse the warrant to the
 1076 private school. An eligible nonprofit scholarship-funding
 1077 organization shall ensure that the parent to whom the warrant is
 1078 made restrictively endorses the warrant to the private school
 1079 for deposit into the account of the private school.

1080 (c) An eligible nonprofit scholarship-funding organization
 1081 shall obtain verification from the private school of a student's
 1082 continued attendance at the school for each period covered by a
 1083 scholarship payment.

1084 (d) Payment of the scholarship shall be made by the
 1085 eligible nonprofit scholarship-funding organization at least
 1086 quarterly.

1087 (13) ADMINISTRATION; RULES.-

1088 (a) The department and the Department of Education shall
 1089 develop a cooperative agreement to assist in the administration
 1090 of this section.

1091 (b) The department shall adopt rules necessary to
 1092 administer this section, including rules establishing

1093 application forms, procedures governing the approval of tax
 1094 credits, and procedures to be followed by registered sales tax
 1095 dealers when claiming approved tax credits on their returns.

1096 (c) The State Board of Education shall adopt rules to
 1097 administer the responsibilities of the Department of Education
 1098 and the Commissioner of Education under this section.

1099 (14) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.—All eligible
 1100 contributions received by an eligible nonprofit scholarship-
 1101 funding organization shall be deposited in a manner consistent
 1102 with s. 17.57(2).

1103 (15) PRESERVATION OF CREDIT.—If a provision or portion of
 1104 this section or s. 212.1831 or the application thereof to a
 1105 person or circumstance is held unconstitutional by a court or is
 1106 otherwise declared invalid, the unconstitutionality or
 1107 invalidity shall not affect a credit earned under s. 212.1831 by
 1108 a registered sales tax dealer with respect to a contribution
 1109 paid to an eligible nonprofit scholarship-funding organization
 1110 before the date of a determination of unconstitutionality or
 1111 invalidity. Such credit shall be allowed at such time and in
 1112 such a manner as if a determination of unconstitutionality or
 1113 invalidity had not been made if nothing in this subsection by
 1114 itself or in combination with another provision of law results
 1115 in the allowance of a credit to a registered sales tax dealer in
 1116 excess of \$1 of credit for each dollar paid to an eligible
 1117 nonprofit scholarship-funding organization.

1118 (16) NONPROFIT SCHOLARSHIP-FUNDING ORGANIZATIONS.—In order

1119 to participate in the scholarship program created by this
 1120 section, a nonprofit scholarship-funding organization must
 1121 comply with the obligations and requirements provided in s.
 1122 1002.395(16).

1123 Section 5. Section 1002.397, Florida Statutes, is created
 1124 to read:

1125 1002.397 Scholarship Funding Tax Credit Cap Limits.-

1126 (1) The sum of the tax credit amounts approved under ss.
 1127 1002.395 and 1002.396 by the Department of Revenue may not
 1128 exceed the following annual limits:

1129 (a) Beginning in the 2014-2015 state fiscal year, the
 1130 limit is \$390 million.

1131 (b) In the state fiscal year immediately following the
 1132 first state fiscal year in which the sum of annual tax credit
 1133 amounts under ss. 1002.395 and 1002.396 is equal to or greater
 1134 than 90 percent of the limit set forth in paragraph (a), the
 1135 limit is \$475 million.

1136 (c) In the state fiscal year immediately following the
 1137 first state fiscal year in which the sum of annual tax credit
 1138 amounts under ss. 1002.395 and 1002.396 is equal to or greater
 1139 than 90 percent of the limit set forth in paragraph (b), the
 1140 limit is \$590 million.

1141 (d) In the state fiscal year immediately following the
 1142 first state fiscal year in which the sum of annual tax credit
 1143 amounts under ss. 1002.395 and 1002.396 is equal to or greater
 1144 than 90 percent of the limit set forth in paragraph (c), the

1145 limit is \$730 million.

1146 (e) In the state fiscal year immediately following the
 1147 first state fiscal year in which the sum of annual tax credit
 1148 amounts under ss. 1002.395 and 1002.396 is equal to or greater
 1149 than 90 percent of the limit set forth in paragraph (d), the
 1150 limit is \$873.6 million.

1151 (f) For each state fiscal year following the fiscal year
 1152 in which the limit in paragraph (e) has been reached, the limit
 1153 is the same as the limit in the previous state fiscal year.
 1154 However, for any state fiscal year in which the sum of annual
 1155 tax credit amounts under ss. 1002.395 and 1002.396 is equal to
 1156 or greater than 90 percent of the limit applicable to that state
 1157 fiscal year, the limit shall increase by 25 percent for the
 1158 immediately subsequent state fiscal year.

1159 (2) The Department of Revenue shall publish the annual tax
 1160 credit amount limit for ss. 1002.395 and 1002.396 on its website
 1161 and shall update the limit upon each increase.

1162 Section 6. Subsection (1) of section 1002.421, Florida
 1163 Statutes, is amended to read:

1164 1002.421 Accountability of private schools participating
 1165 in state school choice scholarship programs.-

1166 (1) A Florida private school participating in the Florida
 1167 Tax Credit Scholarship Program established pursuant to s.
 1168 1002.395, the Florida Sales Tax Credit Scholarship Program
 1169 established pursuant to s. 1002.396, or an educational
 1170 scholarship program established pursuant to this chapter must

1171 | comply with all requirements of this section in addition to
 1172 | private school requirements outlined in s. 1002.42, specific
 1173 | requirements identified within respective scholarship program
 1174 | laws, and other provisions of state ~~Florida~~ law that apply to
 1175 | private schools.

1176 | Section 7. A scholarship funding organization whose
 1177 | application for participation in the program established by s.
 1178 | 1002.395, Florida Statutes, was approved before July 1, 2014,
 1179 | shall, by August 1, 2014, provide a copy of a surety bond or
 1180 | letter of credit to the Office of Independent Education and
 1181 | Parental Choice and thereafter adjust the amount of the surety
 1182 | bond or letter of credit as required by the Department of
 1183 | Education in accordance with s. 1002.395(9)(q), Florida
 1184 | Statutes.

1185 | Section 8. The Department of Revenue and the Department of
 1186 | Education may, and all conditions are deemed met to, adopt
 1187 | emergency rules pursuant to ss. 120.536(1) and 120.54, Florida
 1188 | Statutes, to administer this act.

1189 | Section 9. This act shall take effect July 1, 2014.