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1 A bill to be entitled

2 An act relating to tax credit scholarship programs;
3 amending s. 212.1831, F.S.; creating a credit against
4 the sales and use tax; amending s. 213.053, F.S.;
5 revising taxpayer confidentiality rules; amending s.
6 1002.395, F.S.; revising student eligibility criteria;
7 allowing transfer of tax credits among affiliated
8 corporations; increasing the number of disqualifying
9 offenses for scholarship-funding organization owners
10 and operators; revising priority for new applicants;
11 requiring parental authorization for access to income
12 eligibility information; increasing the scholarship
13 amount limit per student; providing for a reduction in
14 scholarship amounts based on household income;
15 requiring additional information for initial approval
16 and renewal of scholarship-funding organization
17 participation; creating an application and approval
18 evaluation process; creating s. 1002.396, F.S.;
19 establishing the Florida Sales Tax Credit Scholarship
20 Program; duplicating provisions of the Florida Tax
21 Credit Scholarship Program; creating s. 1002.397,
22 F.S.; establishing a combined tax credit cap for the
23 Florida Tax Credit Scholarship Program and Florida
24 Sales Tax Credit Scholarship Program; establishing a
25 schedule of combined tax credit cap amounts; amending
26 s. 1002.421, F.S.; revising a reference; providing

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27 that scholarship-funding organizations approved for
28 participation prior to July 1, 2014, must provide a
29 copy of a surety bond or letter of credit by August 1,
30 2014; providing rulemaking authority; providing an
31 effective date.

32
33 Be It Enacted by the Legislature of the State of Florida:

34
35 Section 1. Section 212.1831, Florida Statutes, is amended
36 to read:

37 212.1831 Credit for contributions to eligible nonprofit
38 scholarship-funding organizations.—

39 (1) There is allowed a credit of 100 percent of an eligible
40 contribution made to an eligible nonprofit scholarship-funding
41 organization under s. 1002.395 against any tax imposed by the
42 state and due under this chapter from a direct pay permit holder
43 as a result of the direct pay permit held pursuant to s.
44 212.183. For purposes of the distributions of tax revenue under
45 s. 212.20, the department shall disregard any tax credits
46 allowed under this subsection to ensure that any reduction in
47 tax revenue received that is attributable to the tax credits
48 results only in a reduction in distributions to the General
49 Revenue Fund. The provisions of ss. 1002.395 and 1002.397 apply
50 to the credit authorized by this subsection.

51 (2) There is allowed a credit of 100 percent of an
52 eligible contribution made to an eligible nonprofit scholarship-

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53 funding organization under s. 1002.396 against any tax imposed
54 by the state and due under this chapter. For purposes of the
55 distributions of tax revenue under s. 212.20, the department
56 shall disregard any tax credits allowed under this subsection to
57 ensure that any reduction in tax revenue received that is
58 attributable to the tax credits results only in a reduction in
59 distributions to the General Revenue Fund. The credits against
60 the state sales tax authorized pursuant to s. 1002.396 shall be
61 deducted from any sales and use tax remitted by the dealer to
62 the department by electronic funds transfer and may only be
63 deducted on a sales and use tax return initiated through
64 electronic data interchange. The dealer shall separately state
65 the credit on the electronic return. The net amount of tax due
66 and payable must be remitted by electronic funds transfer. A
67 dealer may only obtain a credit using the method described in
68 this subparagraph. A dealer is not authorized to obtain a credit
69 by applying for a refund. The provisions of ss. 1002.396 and
70 1002.397 apply to credits granted under this subsection.

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

73 213.053 Confidentiality and information sharing.—

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

76 (cc) For purposes of notification that a tax credit has
77 been reserved, a copy of a letter of approval issued by the
78 department to a taxpayer for an allocation of a tax credit to

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79 the eligible nonprofit scholarship-funding organization selected
80 by the taxpayer in an application for a tax credit authorized
81 under ss. 1002.395 or 1002.396.

82
83 Disclosure of information under this subsection shall be
84 pursuant to a written agreement between the executive director
85 and the agency. Such agencies, governmental or nongovernmental,
86 shall be bound by the same requirements of confidentiality as
87 the Department of Revenue. Breach of confidentiality is a
88 misdemeanor of the first degree, punishable as provided by s.
89 775.082 or s. 775.083.

90 Section 3. Paragraph (f) of subsection (2), paragraph (b)
91 of subsection (3), paragraph (b) of subsection (4), paragraphs
92 (a), (b), (c), and (d) of subsection (5), paragraphs (b), (c),
93 (e), and (i) of subsection (6), paragraph (e) of subsection (8),
94 paragraphs (d) and (o) of subsection (9), and paragraph (a) of
95 subsection (12) of section 1002.395, Florida Statutes, are
96 amended, and paragraph (h) is added to subsection (2),
97 paragraphs (h) and (p) are added to subsection (6), paragraph
98 (g) is added to subsection (7), paragraph (q) is added to
99 subsection (9), and subsection (16) of that section are created
100 to read:

101 1002.395 Florida Tax Credit Scholarship Program.—

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

103 (f) "Eligible nonprofit scholarship-funding organization"
104 means a charitable organization that:

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105 1. Is exempt from federal income tax pursuant to s.
106 501(c)(3) of the Internal Revenue Code;

107 2. Is a Florida entity formed under chapter 607, chapter
108 608, or chapter 617 and whose principal office is located in the
109 state; and

110 3. Complies with the provisions of subsections (6) and
111 (16).

112 (h) "Household income" has the same meaning as provided in
113 the Eligibility Guidelines for free and reduced price meals for
114 the National School Lunch Program in 7 C.F.R. Part 210.

115 (3) PROGRAM; SCHOLARSHIP ELIGIBILITY.—

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

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

123 ~~a. Was counted as a full-time equivalent student during~~
124 ~~the previous state fiscal year for purposes of state per-student~~
125 ~~funding;~~

126 ~~b. Received a scholarship from an eligible nonprofit~~
127 ~~scholarship-funding organization or from the State of Florida~~
128 ~~during the previous school year; or~~

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

130 2. The student is currently placed, or during the previous

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131 state fiscal year was placed, in foster care or in out-of-home
132 care as defined in s. 39.01. A student eligible for a
133 scholarship under this subparagraph remains eligible until the
134 student graduates from high school or turns 21 years of age,
135 whichever occurs later.

136 3. For the 2014-2015 and 2015-2016 school years, the
137 student continues in the scholarship program as long as the
138 student's household income level does not exceed 230 percent of
139 the federal poverty level.

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

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

147 a. the student spent the prior school year in attendance at
148 a public school in the state and was enrolled and reported by
149 the school district for funding during October and February for
150 purposes of the Florida Education Finance Program membership
151 surveys; or

152 b. the student is eligible to enter kindergarten or first
153 grade. ~~The student, who is a first-time tax credit scholarship~~
154 ~~recipient, is a sibling of a student who is continuing in the~~
155 ~~scholarship program and who resides in the same household as the~~
156 ~~student if the sibling meets one or more of the criteria~~

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~~specified in subparagraphs 1. and 2. and as long as the student's and sibling's household income level does not exceed 230 percent of the federal poverty level.~~

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

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

(5) SCHOLARSHIP FUNDING TAX CREDITS; LIMITATIONS.—

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

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

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

1. The taxpayer shall specify in the application each tax for which the taxpayer requests a credit and the applicable

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183 taxable year for a credit under s. 220.1875 or s. 624.51055 or
184 the applicable state fiscal year for a credit under s. 211.0251,
185 s. 212.1831(1), or s. 561.1211. The department shall approve tax
186 credits on a first-come, first-served basis and must obtain the
187 division's approval prior to approving a tax credit under s.
188 561.1211.

189 2. Within 10 days after approving an application, the
190 department must provide a copy of its approval letter to the
191 eligible nonprofit scholarship funding organization specified by
192 the taxpayer in the application.

193 (c) If a tax credit approved under paragraph (b) is not
194 fully used within the specified state fiscal year for credits
195 under s. 211.0251, s. 212.1831(1), or s. 561.1211 or against
196 taxes due for the specified taxable year for credits under s.
197 220.1875 or s. 624.51055 because of insufficient tax liability
198 on the part of the taxpayer, the unused amount may be carried
199 forward for a period not to exceed 5 years. However, any
200 taxpayer that seeks to carry forward an unused amount of tax
201 credit must submit an application to the department for approval
202 of the carryforward tax credit in the year that the taxpayer
203 intends to use the carryforward. The department must obtain the
204 division's approval prior to approving the carryforward of a tax
205 credit under s. 561.1211.

206 (d) A taxpayer may not convey, assign, or transfer an
207 approved tax credit or a carryforward tax credit to another
208 entity unless all of the assets of the taxpayer are conveyed,

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assigned, or transferred in the same transaction. However, a tax credit may be conveyed, transferred, or assigned between the members of an affiliated group of corporations if the type of tax credit under s. 211.0251, s. 212.1831(1), s. 220.1875, s. 561.1211, or s. 624.51055 remains the same. A taxpayer must notify the department of the intent to convey, transfer, or assign a tax credit to another member within an affiliated group of corporations. The amount conveyed, transferred, or assigned is available to another member of the affiliated group of corporations upon approval by the department. The department must obtain the division's approval before approving the conveyed, transferred, or assigned tax credit under s. 561.1211.

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

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

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

1. All owners and operators as defined in subparagraph (2)(i)~~(h)~~1. are, prior to ~~upon~~ employment or engagement to provide services, subject to level 2 background screening as provided under chapter 435. The fingerprints for the background screening must be electronically submitted to the Department of Law Enforcement and can be taken by an authorized law enforcement agency or by an employee of the eligible nonprofit

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235 scholarship-funding organization or a private company who is
236 trained to take fingerprints. However, the complete set of
237 fingerprints of an owner or operator may not be taken by the
238 owner or operator. The results of the state and national
239 criminal history check shall be provided to the Department of
240 Education for screening under chapter 435. The cost of the
241 background screening may be borne by the eligible nonprofit
242 scholarship-funding organization or the owner or operator.

243 2. Every 5 years following employment or engagement to
244 provide services or association with an eligible nonprofit
245 scholarship-funding organization, each owner or operator must
246 meet level 2 screening standards as described in s. 435.04, at
247 which time the nonprofit scholarship-funding organization shall
248 request the Department of Law Enforcement to forward the
249 fingerprints to the Federal Bureau of Investigation for level 2
250 screening. If the fingerprints of an owner or operator are not
251 retained by the Department of Law Enforcement under subparagraph
252 3., the owner or operator must electronically file a complete
253 set of fingerprints with the Department of Law Enforcement. Upon
254 submission of fingerprints for this purpose, the eligible
255 nonprofit scholarship-funding organization shall request that
256 the Department of Law Enforcement forward the fingerprints to
257 the Federal Bureau of Investigation for level 2 screening, and
258 the fingerprints shall be retained by the Department of Law
259 Enforcement under subparagraph 3.

260 3. All fingerprints submitted to the Department of Law

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Enforcement as required by this paragraph must be retained by the Department of Law Enforcement in a manner approved by rule and entered in the statewide automated biometric identification system authorized by s. 943.05(2)(b). The fingerprints must thereafter be available for all purposes and uses authorized for arrest fingerprints entered in the statewide automated biometric identification system pursuant to s. 943.051.

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

5. A nonprofit scholarship-funding organization whose

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owner or operator fails the level 2 background screening is
~~shall not be~~ ineligible to provide scholarships under this
section.

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

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

a. Any authorizing statutes, if the offense was a felony.

b. This chapter, if the offense was a felony.

c. Section 409.920, relating to Medicaid provider fraud.

d. Section 409.9201, relating to Medicaid fraud.

e. Section 741.28, relating to domestic violence.

f. Section 817.034, relating to fraudulent acts through
mail, wire, radio, electromagnetic, photoelectronic, or
photooptical systems.

g. Section 817.234, relating to false and fraudulent

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313 insurance claims.

314 h. Section 817.505, relating to patient brokering.

315 i. Section 817.568, relating to criminal use of personal
316 identification information.

317 j. Section 817.60, relating to obtaining a credit card
318 through fraudulent means.

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

321 l. Section 831.01, relating to forgery.

322 m. Section 831.02, relating to uttering forged instruments.

323 n. Section 831.07, relating to forging bank bills, checks,
324 drafts, or promissory notes.

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

327 p. Section 831.30, relating to fraud in obtaining medicinal
328 drugs.

329 q. Section 831.31, relating to the sale, manufacture,
330 delivery, or possession with the intent to sell, manufacture, or
331 deliver any counterfeit controlled substance, if the offense was
332 a felony.

333 (c) Must not have an owner or operator who owns or
334 operates an eligible private school that is participating in the
335 scholarship program or the scholarship program established in s.
336 1002.396.

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

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339 funding organization or from the State of Florida during the
340 previous school year. Beginning in 2016-2017, an eligible
341 nonprofit scholarship-funding organization must give priority to
342 new applicants whose household incomes do not exceed 185 percent
343 of the federal poverty level or who are in foster care or out-
344 of-home care.

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

347 (j) ~~(i)~~1. May use up to 3 percent of eligible
348 contributions received during the state fiscal year in which
349 such contributions are collected for administrative expenses if
350 the organization has operated under this section for at least 3
351 state fiscal years and did not have any negative financial
352 findings in its most recent audit under paragraph (1). Such
353 administrative expenses must be reasonable and necessary for the
354 organization's management and distribution of eligible
355 contributions under this section. Administrative expenses may
356 also include professional development to support participating
357 schools. No more than one-third of the funds authorized for
358 administrative expenses under this subparagraph may be used for
359 expenses related to the recruitment of contributions from
360 taxpayers.

361 2. Must expend for annual or partial-year scholarships an
362 amount equal to or greater than 75 percent of the net eligible
363 contributions remaining after administrative expenses during the
364 state fiscal year in which such contributions are collected. No

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more than 25 percent of such net eligible contributions may be carried forward to the following state fiscal year. Any amounts carried forward shall be expended for annual or partial-year scholarships in the following state fiscal year. Net eligible contributions remaining on June 30 of each year that are in excess of the 25 percent that may be carried forward shall be returned to the State Treasury for deposit in the General Revenue Fund.

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

(p) Each scholarship funding organization must maintain the surety bond or letter of credit required by subparagraph (16) (a)3. and adjust the bond or letter of credit annually to equal the amount of undisbursed donations as required by the Department of Education pursuant to paragraph (9) (q).

Any and all information and documentation provided to the Department of Education and the Auditor General relating to the identity of a taxpayer that provides an eligible contribution under this section shall remain confidential at all times in accordance with s. 213.053.

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

(g) The parent must authorize the scholarship funding

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organization to access information needed for income eligibility determination and verification held by other federal or state agencies, including the Department of Revenue, Department of Children and Family Services, Department of Education, Department of Economic Opportunity and the Agency for Health Care Administration.

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

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

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

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417 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The Department of
418 Education shall:

419 (d) Annually verify the eligibility of expenditures as
420 provided in paragraph (6) (d) using the audit required by
421 paragraph (6) ~~(1)~~ (m).

422 (o) Provide a process to match the direct certification
423 list with the scholarship application data submitted by any
424 nonprofit scholarship-funding organization eligible to receive
425 the 3-percent administrative allowance under paragraph (6) (j)
426 ~~(i)~~.

427 (q) On an annual basis, require each scholarship funding
428 organization to adjust surety bond or letter of credit amounts
429 to equal the amount of undisbursed donations held by that
430 organization based on the annual audit provided pursuant to
431 paragraph (6) (m).

432 (12) SCHOLARSHIP AMOUNT AND PAYMENT.—

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

439 1. a. For a scholarship awarded to a student enrolled in
440 an eligible private school:

441 ~~(1) For the 2009-2010 state fiscal year, the limit shall~~
442 ~~be \$3,950.~~

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

446 ~~(III) For the 2011-2012 state fiscal year and thereafter,~~
447 the limit shall be determined by multiplying the unweighted FTE
448 funding amount in that state fiscal year by the percentage used
449 to determine the limit in the prior state fiscal year. However,
450 in each state fiscal year that the tax credit cap amount
451 increases pursuant to s. 1002.397 ~~subparagraph (5)(a)2.~~, the
452 prior year percentage shall be increased by 4 percentage points
453 and the increased percentage shall be used to determine the
454 limit for that state fiscal year. If the percentage so
455 calculated reaches 84 ~~80~~ percent in a state fiscal year, no
456 further increase in the percentage is allowed and the limit
457 shall be 84 ~~80~~ percent of the unweighted FTE funding amount for
458 that state fiscal year and thereafter.

459 b. For a scholarship awarded to a student enrolled in a
460 Florida public school that is located outside the district in
461 which the student resides or in a lab school as defined in s.
462 1002.32, the limit shall be \$500.

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

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

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

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

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

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

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

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

(16) NONPROFIT SCHOLARSHIP-FUNDING ORGANIZATIONS.— In order to participate in the scholarship programs created by this section or s. 1002.396, a nonprofit scholarship-funding organization must submit an application for initial approval or renewal to the Office of Independent Education and Parental Choice no later than September 1 each year, prior to the year the scholarship funding organization intends to offer the scholarships.

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495 (a) An application for initial approval must, at a minimum,
496 include:

497 1. A copy of the organization's incorporation documents and
498 registration with the Florida Division of Corporations, Office
499 of the Secretary of State.

500 2. A copy of the organization's IRS Determination Letter as
501 a 501(c)3.

502 2. A description of the financial plan that demonstrates
503 sufficient funds to operate through the school year.

504 3. A copy of a surety bond or letter of credit in an amount
505 equal to 25 percent of the scholarship funds anticipated for
506 each school year.

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

510 5. The scholarship funding organization's organizational
511 chart.

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

514 8. A description of the application process, including
515 deadlines and any associated fees.

516 9. A description of the deadlines for attendance
517 verification and scholarship payments.

518 10. A copy of the scholarship funding organization's
519 policies on conflict of interest and whistleblowers.

520 (b) In addition to the information required by paragraph

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521 (a), an application for renewal must, at a minimum, include:

522 1. The organization's completed IRS Form 990 shall be
523 submitted no later than November 30 of the year prior to the
524 year the scholarship-funding organization intends to offer the
525 scholarships, notwithstanding the September 1 application
526 deadline.

527 2. A copy of the statutorily required audit to the
528 Department of Education and Auditor General.

529 3. An annual report that includes:

530 a. the number of students who completed applications, by
531 county and by grade;

532 b. the number of students who were approved for
533 scholarships, by county and by grade;

534 c. the number of students who received funding for
535 scholarships within each funding category as defined in sub-sub-
536 paragraph (12)(a)1.a.III, by county and by grade;

537 d. the amount of funds received, the amount of funds
538 distributed in scholarships, and an accounting of remaining
539 funds and the obligation of those funds; and

540 e. a detailed accounting of how the scholarship funding
541 organization spent the administrative funds allowable under
542 paragraph (6)(j).

543 (c) In consultation with the Department of Revenue and the
544 Chief Financial Officer, the Office of Independent Education and
545 Parental Choice shall review the application. The Department of
546 Education shall notify the scholarship funding organization, in

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547 writing, of any deficiencies within 30 days after receipt of the
548 application, and allow the scholarship funding organization 30
549 days to correct any deficiencies.

550 (d) Within 30 days after receipt of the finalized
551 application by the Office of Independent Education and Parental
552 Choice, the Commissioner of Education shall recommend approval
553 or disapproval of the application to the state board. The state
554 board shall consider the recommendation and the application at
555 the next scheduled meeting, adhering to appropriate meeting
556 notice requirements. If the state board disapproves the
557 scholarship funding organization's application, it shall provide
558 the organization with a written explanation for that
559 determination. The state board's action is not subject to the
560 provisions of the Administrative Procedure Act.

561 (e) If the State Board of Education disapproves the renewal
562 of a scholarship funding organization, the scholarship funding
563 organization must notify the affected eligible students and
564 parents of the decision within 15 calendar days of the
565 disapproval. An eligible student affected by a disapproval of a
566 scholarship funding organization's participation remains
567 eligible under this section until the end of the school year in
568 which the scholarship funding organization was disapproved. The
569 student must apply and be accepted by another eligible
570 scholarship funding organization for the upcoming school year.
571 Such student shall be given priority in accordance with
572 paragraph (7)(f).

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573 (f) All funds remaining held by a scholarship funding
574 organization that is disapproved for participation shall revert
575 to the Department of Revenue for redistribution to other
576 eligible scholarship funding organizations.

577 (g) A scholarship funding organization is considered a
578 renewing organization if it maintains continuous approval and
579 participation in the program. An organization that chooses not
580 to participate for one year or is disapproved to participate for
581 one year must submit an application for initial approval in
582 order to participate in the program again.

583 (h) The state board shall adopt rules providing guidelines
584 for receiving, reviewing, and approving applications for new and
585 renewing scholarship funding organizations. The rules shall
586 include a process for compiling input and recommendations from
587 the Chief Financial Officer, the Department of Revenue and the
588 Department of Education. The rules shall also require that the
589 scholarship funding organization make a brief presentation to
590 assist the state board in its decision.

591 Section 4. Section 1002.396, Florida Statutes, is created
592 to read:

593 1002.396 Florida Sales Tax Credit Scholarship Program.—

594 (1) FINDINGS AND PURPOSE.—

595 (a) The Legislature finds that:

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

598 2. Expanding educational opportunities and improving the

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599 quality of educational services within the state are valid
600 public purposes that the Legislature may promote using its
601 sovereign power to determine subjects of taxation and exemptions
602 from taxation.

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

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

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

613 1. Enable taxpayers to make private, voluntary
614 contributions to nonprofit scholarship-funding organizations in
615 order to promote the general welfare.

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

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

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

624 5. Improve the quality of education in this state, both by

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625 expanding educational opportunities for children and by creating
626 incentives for schools to achieve excellence.

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

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

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

632 (c) "Direct certification list" means the certified list
633 of children who qualify for the food assistance program, the
634 Temporary Assistance to Needy Families Program, or the Food
635 Distribution Program on Indian Reservations provided to the
636 Department of Education by the Department of Children and Family
637 Services.

638 (d) "Eligible contribution" means a monetary contribution
639 from a taxpayer, subject to the restrictions provided in this
640 section, to an eligible nonprofit scholarship-funding
641 organization. The taxpayer making the contribution may not
642 designate a specific child as the beneficiary of the
643 contribution.

644 (e) "Eligible nonprofit scholarship-funding organization"
645 means a charitable organization that:

646 1. Is exempt from federal income tax pursuant to s.
647 501(c)(3) of the Internal Revenue Code;

648 2. Is a Florida entity formed under chapter 607, chapter
649 608, or chapter 617 and whose principal office is located in the
650 state; and

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651 3. Complies with the provisions of subsections (6) and
652 (16).

653 (f) "Eligible private school" means a private school, as
654 defined in s. 1002.01(2), located in Florida which offers an
655 education to students in any grades K-12 and that meets the
656 requirements in subsection (8).

657 (g) "Owner or operator" includes:

658 1. An owner, president, officer, or director of an
659 eligible nonprofit scholarship-funding organization or a person
660 with equivalent decisionmaking authority over an eligible
661 nonprofit scholarship-funding organization.

662 2. An owner, operator, superintendent, or principal of an
663 eligible private school or a person with equivalent
664 decisionmaking authority over an eligible private school.

665 (h) "Tax credit cap amount" means the maximum annual tax
666 credit amount that the department may approve in a state fiscal
667 year.

668 (i) "Unweighted FTE funding amount" means the statewide
669 average total funds per unweighted full-time equivalent funding
670 amount that is incorporated by reference in the General
671 Appropriations Act, or any subsequent special appropriations
672 act, for the applicable state fiscal year.

673 (3) PROGRAM; SCHOLARSHIP ELIGIBILITY.—

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

676 (b) Contingent upon available funds, a student is eligible

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677 for a tax credit scholarship under this section if the student
678 meets one or more of the criteria listed in s. 1002.395(3)(b).

679 (4) SCHOLARSHIP PROHIBITIONS.—A student is not eligible
680 for a scholarship under this section if he or she satisfies any
681 of the criteria listed in s. 1002.395(4).

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

683 (a) The tax credit cap is as provided in s. 1002.397.

684 (b) A taxpayer may submit an application to the department
685 for a tax credit or credits under s. 212.0831(2). The taxpayer
686 shall specify in the application the applicable state fiscal
687 year for such credits. The department shall approve such tax
688 credits on a first-come, first-served basis. Within 10 days
689 after approving an application, the department must provide a
690 copy of its approval letter to the eligible nonprofit
691 scholarship-funding organization specified by the taxpayer in
692 the application.

693 (c) If a tax credit approved under paragraph (b) is not
694 fully used within the specified state fiscal year, the unused
695 amount may be carried forward for a period not to exceed 5
696 years. However, any taxpayer that seeks to carry forward an
697 unused amount of tax credit must submit an application to the
698 department for approval of the carryforward tax credit in the
699 year that the taxpayer intends to use the carryforward.

700 (d) A taxpayer may not convey, assign, or transfer an
701 approved tax credit or a carryforward tax credit to another
702 entity unless all of the assets of the taxpayer are conveyed,

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703 assigned, or transferred in the same transaction. However, a tax
704 credit granted under this section may be conveyed, transferred,
705 or assigned between the members of an affiliated group of
706 corporations. A taxpayer must notify the department of the
707 intent to convey, transfer, or assign a tax credit to another
708 member within an affiliated group of corporations. The amount
709 conveyed, transferred, or assigned is available to another
710 member of the affiliated group of corporations upon approval by
711 the department.

712 (e) Within any state fiscal year, a taxpayer may rescind
713 all or part of a tax credit approved under paragraph (b). The
714 amount rescinded shall become available for that state fiscal
715 year to another eligible taxpayer as approved by the department
716 if the taxpayer receives notice from the department that the
717 rescindment has been accepted by the department. Any amount
718 rescinded under this paragraph shall become available to an
719 eligible taxpayer on a first-come, first-served basis based on
720 tax credit applications received after the date the rescindment
721 is accepted by the department.

722 (6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING
723 ORGANIZATIONS.—The provisions of s. 1002.395(6) apply to each
724 eligible nonprofit scholarship-funding organization
725 participating in the scholarship program established by this
726 section.

727 (7) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
728 PARTICIPATION.— Each parent and each student has the same

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obligations and responsibilities as imposed by s. 1002.395(7).

(8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—An eligible private school may be sectarian or nonsectarian and must comply with all of the requirements imposed by s. 1002.395(8).

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

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

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

(c) Annually verify the eligibility of private schools that meet the requirements of s. 1002.395(8).

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

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

(f) Establish a process by which individuals may notify the Department of Education of any violation by a parent, private school, or school district of state laws relating to program participation. The Department of Education shall conduct an inquiry of any written complaint of a violation of this

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755 section, or make a referral to the appropriate agency for an
756 investigation, if the complaint is signed by the complainant and
757 is legally sufficient. A complaint is legally sufficient if it
758 contains ultimate facts that show that a violation of this
759 section or any rule adopted by the State Board of Education has
760 occurred. In order to determine legal sufficiency, the
761 Department of Education may require supporting information or
762 documentation from the complainant. A department inquiry is not
763 subject to the requirements of chapter 120.

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

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

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

774 (j) Select an independent research organization, which may
775 be a public or private entity or university, to which
776 participating private schools must report the scores of
777 participating students on the nationally norm-referenced tests
778 or the statewide assessments administered by the private school
779 in grades 3 through 10.

780 1. The independent research organization must annually

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781 report to the Department of Education on the year-to-year
782 learning gains of participating students:

783 a. On a statewide basis. The report shall also include, to
784 the extent possible, a comparison of these learning gains to the
785 statewide learning gains of public school students with
786 socioeconomic backgrounds similar to those of students
787 participating in the scholarship program. To minimize costs and
788 reduce time required for the independent research organization's
789 analysis and evaluation, the Department of Education shall
790 conduct analyses of matched students from public school
791 assessment data and calculate control group learning gains using
792 an agreed-upon methodology outlined in the contract with the
793 independent research organization; and

794 b. According to each participating private school in which
795 there are at least 30 participating students who have scores for
796 tests administered during or after the 2009-2010 school year for
797 2 consecutive years at that private school.

798 2. The sharing and reporting of student learning gain data
799 under this paragraph must be in accordance with requirements of
800 20 U.S.C. s. 1232g, the Family Educational Rights and Privacy
801 Act, and shall be for the sole purpose of creating the annual
802 report required by subparagraph 1. All parties must preserve the
803 confidentiality of such information as required by law. The
804 annual report must not disaggregate data to a level that will
805 identify individual participating schools, except as required
806 under sub-subparagraph 1.b., or disclose the academic level of

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individual students.

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

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

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

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

(n)1. Conduct site visits to private schools participating in the Florida Sales Tax Credit Scholarship Program. The purpose of the site visits is solely to verify the information reported by the schools concerning the enrollment and attendance of students, the credentials of teachers, background screening of teachers, and teachers' fingerprinting results. The Department of Education may not make more than seven site visits each year; however, the department may make additional site visits at any time to any school that has received a notice of noncompliance or a notice of proposed action within the previous 2 years.

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833 2. Annually, by December 15, report to the Governor, the
834 President of the Senate, and the Speaker of the House of
835 Representatives the Department of Education's actions with
836 respect to implementing accountability in the scholarship
837 program under this section and s. 1002.421, any substantiated
838 allegations or violations of law or rule by an eligible private
839 school under this program concerning the enrollment and
840 attendance of students, the credentials of teachers, background
841 screening of teachers, and teachers' fingerprinting results and
842 the corrective action taken by the Department of Education.

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

847 (p) Upon the request of a participating private school,
848 provide at no cost to the school the statewide assessments
849 administered under s. 1008.22 and any related materials for
850 administering the assessments. Students at a private school may
851 be assessed using the statewide assessments if the addition of
852 those students and the school does not cause the state to exceed
853 its contractual caps for the number of students tested and the
854 number of testing sites. The state shall provide the same
855 materials and support to a private school that it provides to a
856 public school. A private school that chooses to administer
857 statewide assessments under s. 1008.22 shall follow the
858 requirements set forth in ss. 1008.22 and 1008.24, rules adopted

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859 by the State Board of Education to implement those sections, and
860 district-level testing policies established by the district
861 school board.

862 (q) On an annual basis, require each scholarship funding
863 organization to adjust surety bond or letter of credit amounts
864 to equal the amount of undisbursed donations held by that
865 organization based on the annual audit provided pursuant to s.
866 1002.395(6)(m).

867 (10) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.—

868 (a) Upon the request of any eligible nonprofit
869 scholarship-funding organization, a school district shall inform
870 all households within the district receiving free or reduced-
871 priced meals under the National School Lunch Act of their
872 eligibility to apply for a tax credit scholarship. The form of
873 such notice shall be provided by the eligible nonprofit
874 scholarship-funding organization, and the district shall include
875 the provided form, if requested by the organization, in any
876 normal correspondence with eligible households. If an eligible
877 nonprofit scholarship-funding organization requests a special
878 communication to be issued to households within the district
879 receiving free or reduced-price meals under the National School
880 Lunch Act, the organization shall reimburse the district for the
881 cost of postage. Such notice is limited to once a year.

882 (b) Upon the request of the Department of Education, a
883 school district shall coordinate with the department to provide
884 to a participating private school the statewide assessments

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administered under s. 1008.22 and any related materials for administering the assessments. A school district is responsible for implementing test administrations at a participating private school, including the:

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

2. Distribution of testing materials to a private school;

3. Retrieval of testing materials from a private school;

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

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

(11) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.—

The Commissioner of Education shall have all the powers and is subject to the same limitations as provided by s. 1002.395(11) to deny, suspend, or revoke participation in the scholarship program established by this section.

(12) SCHOLARSHIP AMOUNT AND PAYMENT.—

(a) The amount of a scholarship provided to any student for any single school year by an eligible nonprofit scholarship-funding organization from eligible contributions shall be for total costs authorized under s. 1002.395(6)(d), not to exceed annual limits, which shall be determined pursuant to the provisions of s. 1002.395(12)(a).

(b) Payment of the scholarship by the eligible nonprofit

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scholarship-funding organization shall be by individual warrant made payable to the student's parent. If the parent chooses that his or her child attend an eligible private school, the warrant must be delivered by the eligible nonprofit scholarship-funding organization to the private school of the parent's choice, and the parent shall restrictively endorse the warrant to the private school. An eligible nonprofit scholarship-funding organization shall ensure that the parent to whom the warrant is made restrictively endorsed the warrant to the private school for deposit into the account of the private school.

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

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

(13) ADMINISTRATION; RULES.—

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

(b) The department shall adopt rules necessary to administer this section, including rules establishing application forms, procedures governing the approval of tax credits and procedures to be followed by taxpayers when claiming approved tax credits on their returns.

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

940 (14) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.—All eligible
941 contributions received by an eligible nonprofit scholarship-
942 funding organization shall be deposited in a manner consistent
943 with s. 17.57(2).

944 (15) PRESERVATION OF CREDIT.—If any provision or portion
945 of this section or s. 212.1831 or the application thereof to any
946 person or circumstance is held unconstitutional by any court or
947 is otherwise declared invalid, the unconstitutionality or
948 invalidity shall not affect any credit earned under s. 212.1831
949 by any taxpayer with respect to any contribution paid to an
950 eligible nonprofit scholarship-funding organization before the
951 date of a determination of unconstitutionality or invalidity.
952 Such credit shall be allowed at such time and in such a manner
953 as if a determination of unconstitutionality or invalidity had
954 not been made, provided that nothing in this subsection by
955 itself or in combination with any other provision of law shall
956 result in the allowance of any credit to any taxpayer in excess
957 of one dollar of credit for each dollar paid to an eligible
958 nonprofit scholarship-funding organization.

959 (16) NONPROFIT SCHOLARSHIP-FUNDING ORGANIZATIONS.—In order
960 to participate in the scholarship program created by this
961 section, a nonprofit scholarship-funding organization must
962 comply with all of the obligations and provisions of s.

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963 1002.395(16).

964 Section 5. Section 1002.397, Florida Statutes, is created
965 to read:

966 1002.397 Scholarship Funding Tax Credit Cap Limits.—The sum
967 of the tax credit caps under ss. 1002.395 and 1002.396 in a
968 state fiscal year shall not exceed the following limits. The
969 Department of Revenue may approve annual tax credit amounts
970 under either ss. 1002.395 or 1002.396 until the sum of such
971 approvals under both sections combined reaches the following
972 limits:

973 (1) The limit is \$390 million beginning in the 2014-2015
974 state fiscal year.

975 (2) In the state fiscal year immediately subsequent to the
976 first state fiscal year in which the sum of annual tax credit
977 amounts under ss. 1002.395 and 1002.396 is equal to or greater
978 than 90 percent of the limit set forth in subsection (1), the
979 limit shall be \$475 million.

980 (3) In the state fiscal year immediately subsequent to the
981 first state fiscal year in which the sum of annual tax credit
982 amounts under ss. 1002.395 and 1002.396 is equal to or greater
983 than 90 percent of the limit set forth in subsection (2), the
984 limit shall be \$590 million.

985 (4) In the state fiscal year immediately subsequent to the
986 first state fiscal year in which the sum of annual tax credit
987 amounts under ss. 1002.395 and 1002.396 is equal to or greater
988 than 90 percent of the limit set forth in subsection (3), the

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limit shall be \$730 million.

(5) In the state fiscal year immediately subsequent to the first state fiscal year in which the sum of annual tax credit amounts under ss. 1002.395 and 1002.396 is equal to or greater than 90 percent of the limit set forth in subsection (4), the limit shall be \$873.6 million.

(6) For each state fiscal year following the fiscal year in which the limit in subsection (5) has been reached, the limit is the same as the limit in the prior state fiscal year. However, for any state fiscal year in which the sum of annual tax credit amounts under ss. 1002.395 and 1002.396 is equal to or greater than 90 percent of the limit applicable to that state fiscal year, the limit shall increase by 25 percent for the immediately subsequent state fiscal year. The Department of Revenue shall publish information on its website information identifying the limit amount when it is increased pursuant to this section.

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

1002.421 Accountability of private schools participating in state school choice scholarship programs.—

(1) A Florida private school participating in the Florida Tax Credit Scholarship Program established pursuant to s. 1002.395, the Florida Sales Tax Credit Scholarship Program established pursuant to s. 1002.396, or an educational scholarship program established pursuant to this chapter must comply with all requirements of this section in addition to

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private school requirements outlined in s. 1002.42, specific requirements identified within respective scholarship program laws, and other provisions of Florida law that apply to private schools.

Section 7. Any scholarship funding organization whose application for participation in the program established by s. 1002.395 was approved prior to July 1, 2014, shall, by August 1, 2014, provide a copy of a surety bond or letter of credit to the Office of Independent Education and Parental Choice and thereafter adjust the amount of the surety bond or letter of credit as required by the Department of Education in accordance with s. 1002.395(9)(q).

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

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