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LEGISLATIVE ACTION

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|------------|---|-------|
| Senate     | . | House |
| Comm: RCS  | . |       |
| 04/22/2014 | . |       |
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The Committee on Appropriations (Galvano) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 94 and 95  
insert:

Section 1. Paragraph (c) is added to subsection (1), paragraph (f) of subsection (2), subsection (3), subsection (5), subsection (6), paragraph (e) of subsection (7), paragraphs (c) and (e) of subsection (8), paragraphs (d), (j) and (o) of subsection (9), and paragraph (a) of subsection (12) of section 1002.395, Florida Statutes, are amended, paragraphs (h) through



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11 (j) of subsection (2) are redesignated as paragraphs (i) through  
12 (k), respectively, and a new paragraph (h) is added to that  
13 subsection, paragraph (g) is added to subsection (7), and  
14 subsection (16) is added to that section, to read:

15 1002.395 Florida Tax Credit Scholarship Program.—

16 (1) FINDINGS AND PURPOSE.—

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

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

22 (f) "Eligible nonprofit scholarship-funding organization"  
23 means a state university; or an independent college or  
24 university that is eligible to participate in the William L.  
25 Boyd, IV, Florida Resident Access Grant Program, located and  
26 chartered in this state, is not for profit, and is accredited by  
27 the Commission on Colleges of the Southern Association of  
28 Colleges and Schools; or is a charitable organization that:

29 1. Is exempt from federal income tax pursuant to s.  
30 501(c)(3) of the Internal Revenue Code;

31 2. Is a Florida entity formed under chapter 607, chapter  
32 608, or chapter 617 and whose principal office is located in the  
33 state; and

34 3. Complies with subsections ~~the provisions of subsection~~  
35 (6) and (16).

36 (h) "Household income" has the same meaning as the term  
37 "income" is defined in the Income Eligibility Guidelines for  
38 free and reduced price meals under the National School Lunch  
39 Program in 7 C.F.R. part 210 as published in the Federal



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40 Register by the United States Department of Agriculture.

41 (3) PROGRAM; SCHOLARSHIP ELIGIBILITY.—

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

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

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

51 ~~a. Was counted as a full-time equivalent student during the~~  
52 ~~previous state fiscal year for purposes of state per-student~~  
53 ~~funding;~~

54 ~~b. Received a scholarship from an eligible nonprofit~~  
55 ~~scholarship-funding organization or from the State of Florida~~  
56 ~~during the previous school year; or~~

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

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

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

64 ~~4. The student, who is a first-time tax credit scholarship~~  
65 ~~recipient, is a sibling of a student who is continuing in the~~  
66 ~~scholarship program and who resides in the same household as the~~  
67 ~~student if the sibling meets one or more of the criteria~~  
68 ~~specified in subparagraphs 1. and 2. and as long as the~~



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69 ~~student's and sibling's household income level does not exceed~~  
70 ~~230 percent of the federal poverty level.~~

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

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

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

81  
82 A student who initially receives a scholarship based on  
83 eligibility under subparagraph (b)2. or subparagraph (c)2.  
84 remains eligible until the student graduates from high school or  
85 attains the age of 21 years, whichever occurs first, regardless  
86 of the student's household income level. A sibling of a student  
87 who is participating in the scholarship program under this  
88 subsection is eligible for a scholarship if the student resides  
89 in the same household as the sibling.

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

91 (a)1. The tax credit cap amount is \$229 million in the  
92 2012-2013 state fiscal year.

93 2. In the 2013-2014 state fiscal year and each state fiscal  
94 year thereafter, the tax credit cap amount is the tax credit cap  
95 amount in the prior state fiscal year. However, in any state  
96 fiscal year when the annual tax credit amount for the prior  
97 state fiscal year is equal to or greater than 90 percent of the



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98 tax credit cap amount applicable to that state fiscal year, the  
99 tax credit cap amount shall increase by 25 percent. The  
100 Department of Education and Department of Revenue~~department~~  
101 shall publish on their websites~~its website~~ information  
102 identifying the tax credit cap amount when it is increased  
103 pursuant to this subparagraph.

104 (b) A taxpayer may submit an application to the department  
105 for a tax credit or credits under one or more of s. 211.0251, s.  
106 212.1831, s. 220.1875, s. 561.1211, or s. 624.51055.

107 1. The taxpayer shall specify in the application each tax  
108 for which the taxpayer requests a credit and the applicable  
109 taxable year for a credit under s. 220.1875 or s. 624.51055 or  
110 the applicable state fiscal year for a credit under s. 211.0251,  
111 s. 212.1831, or s. 561.1211. The department shall approve tax  
112 credits on a first-come, first-served basis and must obtain the  
113 division's approval before ~~prior to~~ approving a tax credit under  
114 s. 561.1211.

115 2. Within 10 days after approving an application, the  
116 department shall provide a copy of its approval letter to the  
117 eligible nonprofit scholarship-funding organization specified by  
118 the taxpayer in the application.

119 (c) If a tax credit approved under paragraph (b) is not  
120 fully used within the specified state fiscal year for credits  
121 under s. 211.0251, s. 212.1831, or s. 561.1211 or against taxes  
122 due for the specified taxable year for credits under s. 220.1875  
123 or s. 624.51055 because of insufficient tax liability on the  
124 part of the taxpayer, the unused amount may be carried forward  
125 for a period not to exceed 5 years. However, any taxpayer that  
126 seeks to carry forward an unused amount of tax credit must



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127 submit an application to the department for approval of the  
128 carryforward tax credit in the year that the taxpayer intends to  
129 use the carryforward. The department must obtain the division's  
130 approval prior to approving the carryforward of a tax credit  
131 under s. 561.1211.

132 (d) A taxpayer may not convey, assign, or transfer an  
133 approved tax credit or a carryforward tax credit to another  
134 entity unless all of the assets of the taxpayer are conveyed,  
135 assigned, or transferred in the same transaction. However, a tax  
136 credit under s. 211.0251, s. 212.1831, s. 220.1875, s. 561.1211,  
137 or s. 624.51055 may be conveyed, transferred, or assigned  
138 between members of an affiliated group of corporations if the  
139 type of tax credit under s. 211.0251, s. 212.1831, s. 220.1875,  
140 s. 561.1211, or s. 624.51055 remains the same. A taxpayer shall  
141 notify the department of its intent to convey, transfer, or  
142 assign a tax credit to another member within an affiliated group  
143 of corporations. The amount conveyed, transferred, or assigned  
144 is available to another member of the affiliated group of  
145 corporations upon approval by the department. The department  
146 shall obtain the division's approval before approving a  
147 conveyance, transfer, or assignment of a tax credit under s.  
148 561.1211.

149 (e) Within any state fiscal year, a taxpayer may rescind  
150 all or part of a tax credit approved under paragraph (b). The  
151 amount rescinded shall become available for that state fiscal  
152 year to another eligible taxpayer as approved by the department  
153 if the taxpayer receives notice from the department that the  
154 rescindment has been accepted by the department. The department  
155 must obtain the division's approval prior to accepting the



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156 rescindment of a tax credit under s. 561.1211. Any amount  
157 rescinded under this paragraph shall become available to an  
158 eligible taxpayer on a first-come, first-served basis based on  
159 tax credit applications received after the date the rescindment  
160 is accepted by the department.

161 (f) For purposes of calculating the underpayment of  
162 estimated corporate income taxes pursuant to s. 220.34 and tax  
163 installment payments for taxes on insurance premiums or  
164 assessments under s. 624.5092, the final amount due is the  
165 amount after credits earned under s. 220.1875 or s. 624.51055  
166 for contributions to eligible nonprofit scholarship-funding  
167 organizations are deducted.

168 1. For purposes of determining if a penalty or interest  
169 shall be imposed for underpayment of estimated corporate income  
170 tax pursuant to s. 220.34(2)(d)1., a taxpayer may, after earning  
171 a credit under s. 220.1875, reduce the following estimated  
172 payment in that taxable year by the amount of the credit. This  
173 subparagraph applies to contributions made on or after July 1,  
174 2014.

175 2. For purposes of determining if a penalty under s.  
176 624.5092 shall be imposed, an insurer may, after earning a  
177 credit under s. 624.51055, reduce the following installment  
178 payment of 27 percent of the amount of the net tax due as  
179 reported on the return for the preceding year under s.  
180 624.5092(2)(b) by the amount of the credit. This subparagraph  
181 applies to contributions made on or after July 1, 2014.

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



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185 (a) Must comply with the antidiscrimination provisions of  
186 42 U.S.C. s. 2000d.

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

189 1. All owners and operators as defined in subparagraph  
190 (2)(i)1. ~~(2)(h)1.~~ are, before ~~upon~~ employment or engagement to  
191 provide services, subject to level 2 background screening as  
192 provided under chapter 435. The fingerprints for the background  
193 screening must be electronically submitted to the Department of  
194 Law Enforcement and can be taken by an authorized law  
195 enforcement agency or by an employee of the eligible nonprofit  
196 scholarship-funding organization or a private company who is  
197 trained to take fingerprints. However, the complete set of  
198 fingerprints of an owner or operator may not be taken by the  
199 owner or operator. The results of the state and national  
200 criminal history check shall be provided to the Department of  
201 Education for screening under chapter 435. The cost of the  
202 background screening may be borne by the eligible nonprofit  
203 scholarship-funding organization or the owner or operator.

204 2. Every 5 years following employment or engagement to  
205 provide services or association with an eligible nonprofit  
206 scholarship-funding organization, each owner or operator must  
207 meet level 2 screening standards as described in s. 435.04, at  
208 which time the nonprofit scholarship-funding organization shall  
209 request the Department of Law Enforcement to forward the  
210 fingerprints to the Federal Bureau of Investigation for level 2  
211 screening. If the fingerprints of an owner or operator are not  
212 retained by the Department of Law Enforcement under subparagraph  
213 3., the owner or operator must electronically file a complete





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214 set of fingerprints with the Department of Law Enforcement. Upon  
215 submission of fingerprints for this purpose, the eligible  
216 nonprofit scholarship-funding organization shall request that  
217 the Department of Law Enforcement forward the fingerprints to  
218 the Federal Bureau of Investigation for level 2 screening, and  
219 the fingerprints shall be retained by the Department of Law  
220 Enforcement under subparagraph 3.

221 3. ~~All~~ Fingerprints submitted to the Department of Law  
222 Enforcement as required by this paragraph must be retained by  
223 the Department of Law Enforcement in a manner approved by rule  
224 and entered in the statewide automated biometric identification  
225 system authorized by s. 943.05(2)(b). The fingerprints must  
226 thereafter be available for all purposes and uses authorized for  
227 arrest fingerprints entered in the statewide automated biometric  
228 identification system pursuant to s. 943.051.

229 4. The Department of Law Enforcement shall search all  
230 arrest fingerprints received under s. 943.051 against the  
231 fingerprints retained in the statewide automated biometric  
232 identification system under subparagraph 3. Any arrest record  
233 that is identified with an owner's or operator's fingerprints  
234 must be reported to the Department of Education. The Department  
235 of Education shall participate in this search process by paying  
236 an annual fee to the Department of Law Enforcement and by  
237 informing the Department of Law Enforcement of any change in the  
238 employment, engagement, or association status of the owners or  
239 operators whose fingerprints are retained under subparagraph 3.  
240 The Department of Law Enforcement shall adopt a rule setting the  
241 amount of the annual fee to be imposed upon the Department of  
242 Education for performing these services and establishing the



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243 procedures for the retention of owner and operator fingerprints  
244 and the dissemination of search results. The fee may be borne by  
245 the owner or operator of the nonprofit scholarship-funding  
246 organization.

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

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

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

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

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

266 c. Section 409.920, relating to Medicaid provider fraud.

267 d. Section 409.9201, relating to Medicaid fraud.

268 e. Section 741.28, relating to domestic violence.

269 f. Section 817.034, relating to fraudulent acts through

270 mail, wire, radio, electromagnetic, photoelectronic, or

271 photooptical systems.



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- 272        g. Section 817.234, relating to false and fraudulent  
273 insurance claims.
- 274        h. Section 817.505, relating to patient brokering.
- 275        i. Section 817.568, relating to criminal use of personal  
276 identification information.
- 277        j. Section 817.60, relating to obtaining a credit card  
278 through fraudulent means.
- 279        k. Section 817.61, relating to fraudulent use of credit  
280 cards, if the offense was a felony.
- 281        l. Section 831.01, relating to forgery.
- 282        m. Section 831.02, relating to uttering forged instruments.
- 283        n. Section 831.07, relating to forging bank bills, checks,  
284 drafts, or promissory notes.
- 285        o. Section 831.09, relating to uttering forged bank bills,  
286 checks, drafts, or promissory notes.
- 287        p. Section 831.30, relating to fraud in obtaining medicinal  
288 drugs.
- 289        q. Section 831.31, relating to the sale, manufacture,  
290 delivery, or possession with the intent to sell, manufacture, or  
291 deliver any counterfeit controlled substance, if the offense was  
292 a felony.
- 293        (c) Must not have an owner or operator who owns or operates  
294 an eligible private school that is participating in the  
295 scholarship program.
- 296        (d) Must provide scholarships, from eligible contributions,  
297 to eligible students for the cost of:
- 298            1. Tuition and fees for an eligible private school; or  
299            2. Transportation to a Florida public school that is  
300 located outside the district in which the student resides or to



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301 a lab school as defined in s. 1002.32.

302 (e) Must give first priority to eligible students who  
303 received a scholarship from an eligible nonprofit scholarship-  
304 funding organization or from the State of Florida during the  
305 previous school year. Beginning in the 2016-2017 school year, an  
306 eligible nonprofit scholarship-funding organization shall give  
307 priority to new applicants whose household income levels do not  
308 exceed 185 percent of the federal poverty level or who are in  
309 foster care or out-of-home care.

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

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

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

318 (i) ~~(h)~~ Must allow an eligible student to attend any  
319 eligible private school and must allow a parent to transfer a  
320 scholarship during a school year to any other eligible private  
321 school of the parent's choice.

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



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330 contributions under this section. No funds authorized under this  
331 subparagraph shall be used for lobbying or political activity or  
332 expenses related to lobbying or political activity. Up to ~~No~~  
333 more than one-third of the funds authorized for administrative  
334 expenses under this subparagraph may be used for expenses  
335 related to the recruitment of contributions from taxpayers. In  
336 any year an eligible non-profit scholarship funding organization  
337 is permitted under this subparagraph to use eligible  
338 contributions for administrative expenses, any application fee  
339 charged by the organization for an application for scholarship  
340 shall be expended for scholarships to students.

341 2. Must expend for annual or partial-year scholarships an  
342 amount equal to or greater than 75 percent of the net eligible  
343 contributions remaining after administrative expenses during the  
344 state fiscal year in which such contributions are collected. No  
345 more than 25 percent of such net eligible contributions may be  
346 carried forward to the following state fiscal year. All amounts  
347 carried forward, for audit purposes, must be specifically  
348 identified for particular students, by student name and the name  
349 of the school to which the student is admitted, subject to the  
350 requirements of s. 1002.22, s. 1002.221, 20 U.S.C. s. 1232g, and  
351 the applicable rules and regulations issued pursuant thereto.

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

358 3. Must, before granting a scholarship for an academic



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359 year, document each scholarship student's eligibility for that  
360 academic year. A scholarship-funding organization may not grant  
361 multiyear scholarships in one approval process.

362 (k)~~(j)~~ Must maintain separate accounts for scholarship  
363 funds and operating funds.

364 (l)~~(k)~~ With the prior approval of the Department of  
365 Education, may transfer funds to another eligible nonprofit  
366 scholarship-funding organization if additional funds are  
367 required to meet scholarship demand at the receiving nonprofit  
368 scholarship-funding organization. A transfer is ~~shall be~~ limited  
369 to the greater of \$500,000 or 20 percent of the total  
370 contributions received by the nonprofit scholarship-funding  
371 organization making the transfer. All transferred funds must be  
372 deposited by the receiving nonprofit scholarship-funding  
373 organization into its scholarship accounts. All transferred  
374 amounts received by any nonprofit scholarship-funding  
375 organization must be separately disclosed in the annual  
376 financial and compliance audit required in this section.

377 (m)~~(l)~~ Must provide to the Auditor General and the  
378 Department of Education a report on the results of an annual  
379 financial and compliance audit of its accounts and records  
380 conducted by an independent certified public accountant ~~and~~ in  
381 accordance with auditing standards generally accepted in the  
382 United States, government auditing standards, and rules  
383 promulgated~~adopted~~ by the Auditor General. The audit report~~must~~  
384 ~~be conducted in compliance with generally accepted auditing~~  
385 ~~standards and~~ must include a report on financial statements  
386 presented in accordance with generally accepted accounting  
387 principles ~~set forth by the American Institute of Certified~~



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388 ~~Public Accountants for not-for-profit organizations and a~~  
389 ~~determination of compliance with the statutory eligibility and~~  
390 ~~expenditure requirements set forth in this section. Audit~~  
391 ~~reports~~ Audits must be provided to the Auditor General and the  
392 Department of Education within 180 days after completion of the  
393 eligible nonprofit scholarship-funding organization's fiscal  
394 year. The Auditor General shall review all audit reports  
395 submitted pursuant to this paragraph. The Auditor General shall  
396 request any significant items that were omitted in violation of  
397 a rule adopted by the Auditor General. The items must be  
398 provided within 45 days after the date of the request. If the  
399 scholarship-funding organization does not comply with the  
400 Auditor General's request, the Auditor General shall notify the  
401 Legislative Auditing Committee.

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

407 (o) ~~(n)~~ 1.a. Must participate in the joint development of  
408 agreed-upon procedures to be performed by an independent  
409 certified public accountant as required under paragraph (8) (e)  
410 if the scholarship-funding organization provided more than  
411 \$250,000 in scholarship funds to an eligible private school  
412 under this section during the 2009-2010 state fiscal year. The  
413 agreed-upon procedures must uniformly apply to all private  
414 schools and must determine, at a minimum, whether the private  
415 school has been verified as eligible by the Department of  
416 Education under paragraph (9) (c); has an adequate accounting



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417 system, system of financial controls, and process for deposit  
418 and classification of scholarship funds; and has properly  
419 expended scholarship funds for education-related expenses.  
420 During the development of the procedures, the participating  
421 scholarship-funding organizations shall specify guidelines  
422 governing the materiality of exceptions that may be found during  
423 the accountant's performance of the procedures. The procedures  
424 and guidelines shall be provided to private schools and the  
425 Commissioner of Education by March 15, 2011.

426       b. Must participate in a joint review of the agreed-upon  
427 procedures and guidelines developed under sub-subparagraph a.,  
428 by February 2013 and biennially thereafter, if the scholarship-  
429 funding organization provided more than \$250,000 in scholarship  
430 funds to an eligible private school under this section during  
431 the state fiscal year preceding the biennial review. If the  
432 procedures and guidelines are revised, the revisions must be  
433 provided to private schools and the Commissioner of Education by  
434 March 15, 2013, and biennially thereafter.

435       c. Must monitor the compliance of a private school with  
436 paragraph (8)(e) if the scholarship-funding organization  
437 provided the majority of the scholarship funding to the school.  
438 For each private school subject to paragraph (8)(e), the  
439 appropriate scholarship-funding organization shall notify the  
440 Commissioner of Education by October 30, 2011, and annually  
441 thereafter of:

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

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





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446           2. Must seek input from the accrediting associations that  
447 are members of the Florida Association of Academic Nonpublic  
448 Schools when jointly developing the agreed-upon procedures and  
449 guidelines under sub-subparagraph 1.a. and conducting a review  
450 of those procedures and guidelines under sub-subparagraph 1.b.

451           (p) Must maintain the surety bond or letter of credit  
452 required by subsection (16). The amount of the surety bond or  
453 letter of credit may be adjusted quarterly to equal the actual  
454 amount of undisbursed funds based upon submission by the  
455 organization of a statement from a certified public accountant  
456 verifying the amount of undisbursed funds. The requirements of  
457 this paragraph are waived if the cost of acquiring a surety bond  
458 or letter of credit exceeds the average 10-year cost of  
459 acquiring a surety bond or letter of credit by 200 percent. The  
460 requirements of this paragraph are waived for a state  
461 university; or an independent college or university which is  
462 eligible to participate in the William L. Boyd, IV, Florida  
463 Resident Access Grant Program, located and chartered in this  
464 state, is not for profit, and is accredited by the Commission on  
465 Colleges of the Southern Association of Colleges and Schools.

466           (q) Must provide to the Auditor General any information or  
467 documentation requested in connection with an operational audit  
468 of a scholarship funding organization conducted pursuant to s.  
469 11.45.

470  
471 ~~Any and all~~ Information and documentation provided to the  
472 Department of Education and the Auditor General relating to the  
473 identity of a taxpayer that provides an eligible contribution  
474 under this section shall remain confidential at all times in



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475 accordance with s. 213.053.

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

478 (e) The parent shall ensure that the student participating  
479 in the scholarship program takes the norm-referenced assessment  
480 offered by the private school. The parent may also choose to  
481 have the student participate in the statewide assessments  
482 pursuant to s. 1008.22. If the parent requests that the student  
483 participating in the scholarship program take statewide  
484 assessments pursuant to s. 1008.22 and the private school has  
485 not chosen to offer and administer the statewide assessments,  
486 the private school~~parent~~ is responsible for transporting the  
487 student in a manner as agreed upon by the parent, which may  
488 include but not be limited to transportation by the parent, to  
489 the assessment site designated by the school district, and for  
490 making arrangements for the student to take the assessments at  
491 an assessment site designated by the school district in  
492 accordance with the district's assessment schedule.

493 (g) The parent shall authorize the nonprofit scholarship-  
494 funding organization to access information needed for income  
495 eligibility determination and verification held by other state  
496 or federal agencies, including the Department of Revenue, the  
497 Department of Children and Families, the Department of  
498 Education, the Department of Economic Opportunity, and the  
499 Agency for Health Care Administration.

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

502 (c) Be academically accountable to the parent for meeting  
503 the educational needs of the student by:



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504           1. At a minimum, annually providing to the parent a written  
505 explanation of the student's progress.

506           2. Annually administering or making provision for students  
507 participating in the scholarship program in grades 3 through 10  
508 to take one of the nationally norm-referenced tests identified  
509 by the Department of Education or the statewide assessments  
510 pursuant to s. 1008.22. Students with disabilities for whom  
511 standardized testing is not appropriate are exempt from this  
512 requirement. A participating private school must report a  
513 student's scores to the parent. A participating private school  
514 must annually report by August 15 the scores of all  
515 participating students to the Learning System  
516 Institute~~independent research organization~~ described in  
517 paragraph (9)(j).

518           3. Providing~~Cooperating with~~ the scholarship student whose  
519 parent chooses to have the student participate in the statewide  
520 assessments pursuant to s. 1008.22, transportation in a manner  
521 as agreed upon by the parent, which may include but not limited  
522 to transportation by the parent, to the assessment site  
523 designated by the school district, and making arrangements for  
524 the student to take the assessments at an assessment site  
525 designated by the school district in accordance with the  
526 district's assessment schedule or, if a private school chooses  
527 to offer the statewide assessments, administering the  
528 assessments at the school.

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

532           b. A participating private school must submit a request in



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533 writing to the Department of Education by March 1 of each year  
534 in order to administer the statewide assessments in the  
535 subsequent school year.

536 (e) Annually contract with an independent certified public  
537 accountant to perform the agreed-upon procedures developed under  
538 paragraph (6) (o) ~~(6) (n)~~ and produce a report of the results if  
539 the private school receives more than \$250,000 in funds from  
540 scholarships awarded under this section in the 2010-2011 state  
541 fiscal year or a state fiscal year thereafter. A private school  
542 subject to this paragraph must submit the report by September  
543 15, 2011, and annually thereafter to the scholarship-funding  
544 organization that awarded the majority of the school's  
545 scholarship funds. The agreed-upon procedures must be conducted  
546 in accordance with attestation standards established by the  
547 American Institute of Certified Public Accountants.

548  
549 The inability of a private school to meet the requirements of  
550 this subsection shall constitute a basis for the ineligibility  
551 of the private school to participate in the scholarship program  
552 as determined by the Department of Education.

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

555 (d) Annually verify the eligibility of expenditures as  
556 provided in paragraph (6) (d) using the audit required by  
557 paragraph (6) (m) and s. 11.45(2) (k) ~~(6) (l)~~.

558 (j) Issue a project grant award to the Learning System  
559 Institute at the Florida State University ~~Select an independent~~  
560 ~~research organization, which may be a public or private entity~~  
561 ~~or university~~, to which participating private schools must



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562 report the scores of participating students on the nationally  
563 norm-referenced tests or the statewide assessments administered  
564 by the private school in grades 3 through 10. The project term  
565 is 2 years, and the amount of the project is up to \$500,000 per  
566 year. The project grant award must be reissued in 2 year  
567 intervals in accordance with this paragraph.

568 1. The Learning System Institute ~~independent research~~  
569 ~~organization~~ must annually report to the Department of Education  
570 on the student performance year-to-year learning gains of  
571 participating students:

572 a. On a statewide basis. The report shall also include, to  
573 the extent possible, a comparison of scholarship ~~these students'~~  
574 ~~performance~~ learning gains to the statewide student  
575 ~~performance~~ learning gains of public school students with  
576 socioeconomic backgrounds similar to those of students  
577 participating in the scholarship program. To minimize costs and  
578 reduce time required for the Learning System  
579 ~~Institute's independent research organization's~~ analysis and  
580 evaluation, the Department of Education shall coordinate with  
581 the Learning System Institute to provide data to the Learning  
582 System Institute in order to conduct analyses of matched  
583 students from public school assessment data and calculate  
584 control group student performance ~~learning gains~~ using an agreed-  
585 upon methodology ~~outlined in the contract~~ with the Learning  
586 System Institute ~~independent research organization~~; and

587 b. On an individual school basis. The annual report must  
588 include student performance for each participating private  
589 school in which at least 51 percent of the total enrolled  
590 students in the private school participated in the Florida Tax



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591 Credit Scholarship Program in the prior school year. The report  
592 shall be according~~According~~ to each participating private  
593 school, and for participating students, in which there are at  
594 least 30 participating students who have scores for tests  
595 ~~administered during or after the 2009-2010 school year for 2~~  
596 ~~consecutive years at that private school.~~ If the Learning System  
597 Institute determines that the 30 participating student cell size  
598 may be reduced without disclosing personally identifiable  
599 information, as described in 34 C.F.R. 99.12, of a participating  
600 student, the Learning System Institute may reduce the  
601 participating student cell size, but the cell size must not be  
602 reduced to less than 10 participating students. The department  
603 shall provide each private school's prior school year's student  
604 enrollment information to the Learning System Institute no later  
605 than June 15 of each year, or as requested by the Learning  
606 System Institute.

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

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



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

625 (12) SCHOLARSHIP AMOUNT AND PAYMENT.—

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

632 1.a. For a scholarship awarded to a student enrolled in an  
633 eligible private school:

634 ~~(I) For the 2009-2010 state fiscal year, the limit shall be~~  
635 ~~\$3,950.~~

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

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



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649 increase in the percentage is allowed and the limit shall be 80  
650 percent of the unweighted FTE funding amount for that state  
651 fiscal year and thereafter. Beginning in the 2016-2017 state  
652 fiscal year, the amount of a scholarship awarded to a student  
653 enrolled in an eligible private school shall be equal to 82  
654 percent of the unweighted FTE funding amount for that state  
655 fiscal year and thereafter.

656 b. For a scholarship awarded to a student enrolled in a  
657 Florida public school that is located outside the district in  
658 which the student resides or in a lab school as defined in s.  
659 1002.32, the limit shall be \$500.

660 2. The annual limit for a scholarship under sub-  
661 subparagraph 1.a. shall be reduced by:

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

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

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

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

677 1. A copy of the organization's incorporation documents and





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678 registration with the Division of Corporations of the Department  
679 of State.

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

683 3. A description of the organization's financial plan that  
684 demonstrates sufficient funds to operate throughout the school  
685 year.

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

689 5. The organization's organizational chart.

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

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

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

696 9. A copy of the organization's policies on conflict of  
697 interest and whistleblowers.

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

701 (b) In addition to the information required by  
702 subparagraphs (a)1.-9., an application for renewal must include:

703 1. A surety bond or letter of credit equal to the amount of  
704 undisbursed donations held by the organization based on the  
705 annual report submitted pursuant to paragraph (6) (m). The amount  
706 of the surety bond or letter of credit must be at least



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707 \$100,000, but not more than \$25 million.

708 2. The organization's completed Internal Revenue Service  
709 Form 990 submitted no later than November 30 of the year before  
710 the school year that the organization intends to offer the  
711 scholarships, notwithstanding the September 1 application  
712 deadline.

713 3. A copy of the statutorily required audit to the  
714 Department of Education and Auditor General.

715 4. An annual report that includes:

716 a. The number of students who completed applications, by  
717 county and by grade.

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

720 c. The number of students who received funding for  
721 scholarships within each funding category, by county and by  
722 grade.

723 d. The amount of funds received, the amount of funds  
724 distributed in scholarships, and an accounting of remaining  
725 funds and the obligation of those funds.

726 e. A detailed accounting of how the organization spent the  
727 administrative funds allowable under paragraph (6) (j).

728 (c) In consultation with the Department of Revenue and the  
729 Chief Financial Officer, the Office of Independent Education and  
730 Parental Choice shall review the application. The Department of  
731 Education shall notify the organization in writing of any  
732 deficiencies within 30 days after receipt of the application and  
733 allow the organization 30 days to correct any deficiencies.

734 (d) Within 30 days after receipt of the finalized  
735 application by the Office of Independent Education and Parental



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736 Choice, the Commissioner of Education shall recommend approval  
737 or disapproval of the application to the State Board of  
738 Education. The State Board of Education shall consider the  
739 application and recommendation at the next scheduled meeting,  
740 adhering to appropriate meeting notice requirements. If the  
741 State Board of Education disapproves the organization's  
742 application, it shall provide the organization with a written  
743 explanation of that determination. The State Board of  
744 Education's action is not subject to chapter 120.

745 (e) If the State Board of Education disapproves the renewal  
746 of a nonprofit scholarship-funding organization, the  
747 organization must notify the affected eligible students and  
748 parents of the decision within 15 days after disapproval. An  
749 eligible student affected by the disapproval of an  
750 organization's participation remains eligible under this section  
751 until the end of the school year in which the organization was  
752 disapproved. The student must apply and be accepted by another  
753 eligible nonprofit scholarship-funding organization for the  
754 upcoming school year. The student shall be given priority in  
755 accordance with paragraph (6) (f).

756 (f) All remaining funds held by a nonprofit scholarship-  
757 funding organization that is disapproved for participation must  
758 revert to the Department of Revenue for redistribution to other  
759 eligible nonprofit scholarship-funding organizations.

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



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765 initial approval in order to participate in the program again.

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

775 (i) A state university; or an independent college or  
776 university which is eligible to participate in the William L.  
777 Boyd, IV, Florida Resident Access Grant Program, located and  
778 chartered in this state, is not for profit, and is accredited by  
779 the Commission on Colleges of the Southern Association of  
780 Colleges and Schools, is exempt from the initial or renewal  
781 application process, but must file a registration notice with  
782 the Department of Education to be an eligible nonprofit  
783 scholarship-funding organization. The State Board of Education  
784 shall adopt rules that identify the procedure for filing the  
785 registration notice with the department. The rules must identify  
786 appropriate reporting requirements for fiscal, programmatic, and  
787 performance accountability purposes consistent with this  
788 section, but shall not exceed the requirements for eligible  
789 nonprofit scholarship-funding organizations for charitable  
790 organizations. An nonprofit scholarship-funding organization  
791 that becomes eligible pursuant to this paragraph may begin  
792 providing scholarships to participating students in the 2015-  
793 2016 school year.



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794           Section 2. A nonprofit scholarship-funding organization  
795 whose application for participation in the program established  
796 by s. 1002.395, Florida Statutes, was approved before July 1,  
797 2014, must, by August 1, 2014, provide a copy of a surety bond  
798 or letter of credit meeting the requirements of s. 1002.395(16),  
799 Florida Statutes, to the Office of Independent Education and  
800 Parental Choice.

801           Section 3. Paragraph (k) is added to subsection (2) and  
802 paragraph (y) is added to subsection (3) of section 11.45,  
803 Florida Statutes, and subsection (8) of that section is amended,  
804 to read:

805           11.45 Definitions; duties; authorities; reports; rules.—

806           (2) DUTIES.—The Auditor General shall:

807           (k) Annually conduct operational audits of the accounts and  
808 records of eligible non-profit scholarship-funding organizations  
809 receiving eligible contributions under s. 1002.395, including  
810 any contracts for services with related entities, to determine  
811 compliance with the provisions of that section. Such audits  
812 shall include, but not be limited to, a determination of the  
813 eligible non-profit scholarship funding organization's  
814 compliance with s. 1002.395(6)(j). The Auditor General shall  
815 provide its report on the results of the audits to the Governor,  
816 the President of the Senate, the Speaker of the House, the Chief  
817 Financial Officer, and the Legislative Auditing Committee,  
818 within 30 days of completion of the audit.

819  
820 The Auditor General shall perform his or her duties  
821 independently but under the general policies established by the  
822 Legislative Auditing Committee. This subsection does not limit



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823 the Auditor General's discretionary authority to conduct other  
824 audits or engagements of governmental entities as authorized in  
825 subsection (3).

826 (3) AUTHORITY FOR AUDITS AND OTHER ENGAGEMENTS.—The Auditor  
827 General may, pursuant to his or her own authority, or at the  
828 direction of the Legislative Auditing Committee, conduct audits  
829 or other engagements as determined appropriate by the Auditor  
830 General of:

831 (y) The accounts and records of a nonprofit scholarship-  
832 funding organization participating in a state sponsored  
833 scholarship program authorized by chapter 1002.

834 (8) RULES OF THE AUDITOR GENERAL.—The Auditor General, in  
835 consultation with the Board of Accountancy, shall adopt rules  
836 for the form and conduct of all financial audits performed by  
837 independent certified public accountants pursuant to ss.  
838 215.981, 218.39, 1001.453, 1002.395, 1004.28, and 1004.70. The  
839 rules for audits of local governmental entities, charter  
840 schools, charter technical career centers, and district school  
841 boards must include, but are not limited to, requirements for  
842 the reporting of information necessary to carry out the purposes  
843 of the Local Governmental Entity, Charter School, Charter  
844 Technical Career Center, and District School Board Financial  
845 Emergencies Act as stated in s. 218.501.

846  
847 ===== T I T L E A M E N D M E N T =====

848 And the title is amended as follows:

849 Delete line 2

850 and insert:

851 An act relating to education; amending s. 1002.395,



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852 F.S.; revising purpose; revising definitions; revising  
853 eligibility requirements for the Florida Tax Credit  
854 Scholarship Program; requiring the Department of  
855 Education and Department of Revenue to publish the tax  
856 credit cap on their websites when it is increased;  
857 requiring the Department of Revenue to provide a copy  
858 of a letter approving a taxpayer for a specified tax  
859 credit to the eligible nonprofit scholarship-funding  
860 organization; authorizing certain entities to convey,  
861 transfer, or assign certain tax credits; providing for  
862 the calculation of underpayment of estimated corporate  
863 income taxes and tax installation payments for taxes  
864 on insurance premiums and assessments and the  
865 determination of whether penalties or interest shall  
866 be imposed on the underpayment; revising the  
867 disqualifying offenses for nonprofit scholarship-  
868 funding organization owners and operators; revising  
869 priority for new applicants; allowing a student in  
870 foster care or out-of-home care to apply for a  
871 scholarship at any time; prohibiting use of eligible  
872 contributions from being used for lobbying or  
873 political activity or related expenses; requiring  
874 application fees to be expended for student  
875 scholarships in any year a nonprofit scholarship-  
876 funding organization uses eligible contributions for  
877 administrative expenses; requiring amounts carried  
878 forward to be specifically reserved for particular  
879 students and schools for audit purposes; revising  
880 audit and report requirements for nonprofit



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881 scholarship-funding organizations and Auditor General  
882 review of all reports; requiring nonprofit  
883 scholarship-funding organizations to maintain a surety  
884 bond or letter of credit and to adjust the bond or  
885 letter of credit quarterly based upon a statement from  
886 a certified public accountant; providing exceptions;  
887 requiring the nonprofit scholarship-funding  
888 organization to provide the Auditor General any  
889 information or documentation requested in connection  
890 with an operational audit; requiring a private school  
891 to provide agreed upon transportation and make  
892 arrangements for taking statewide assessments at the  
893 school district testing site and in accordance with  
894 the district's testing schedule if the student chooses  
895 to take the statewide assessment; requiring parental  
896 authorization for access to income eligibility  
897 information; specifying that the independent research  
898 organization is the Learning System Institute at the  
899 Florida State University; identifying grant terms and  
900 payments; revising statewide and individual school  
901 report requirements; revising limitations on annual  
902 scholarship amounts; providing initial and renewal  
903 application requirements and an approval process for a  
904 charitable organization that seeks to be a nonprofit  
905 scholarship-funding organization; requiring the State  
906 Board of Education to adopt rules; providing a  
907 registration notice requirement for public and private  
908 universities to be nonprofit scholarship-funding  
909 organizations; requiring the State Board of Education





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910 to adopt rules; allowing existing nonprofit  
911 scholarship-funding organizations to provide the  
912 required bond at a specified date; amending s. 11.45,  
913 F.S.; authorizing the Auditor General to conduct  
914 audits of the accounts and records of nonprofit  
915 scholarship-funding organizations; creating s.  
916 1002.385,