

By Senators Negron, Altman, Storms, Peaden, Oelrich, Lawson, Gaetz, Lynn, Fasano, and Siplin

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1 A bill to be entitled
2 An act relating to the Florida Tax Credit Scholarship
3 Program; transferring, renumbering, and amending s.
4 220.187, F.S.; revising definitions; making operation
5 of the program contingent upon available funds;
6 revising certain eligibility criteria; revising tax
7 credit grant provisions; specifying a tax credit cap;
8 providing for increasing the tax credit cap under
9 certain circumstances; providing application
10 procedures and requirements; providing for
11 carryforward of unused amounts of tax credits;
12 providing application requirements; providing
13 limitations on conveying, assigning, or transferring
14 tax credits; revising taxpayer tax credit rescission
15 provisions; deleting a prohibition against claiming
16 certain multiple tax credits; specifying additional
17 obligations for eligible nonprofit scholarship-funding
18 organizations relating to development and review of
19 certain accountant procedures and guidelines;
20 providing reporting requirements; limiting private
21 school participation eligibility to certain grades;
22 requiring private schools to annually contract with
23 accountants to perform certain procedures; providing
24 reporting and procedural requirements; revising
25 Department of Education obligations; specifying
26 additional requirements for certain independent
27 research organizations; providing responsibilities of
28 the Department of Education; deleting certain
29 requirements for independent research organizations;

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30 authorizing the Commissioner of Education to deny,
31 suspend, or revoke private school program
32 participation under certain circumstances; providing
33 requirements and criteria; revising limitations on
34 annual amounts of scholarships provided; deleting
35 certain corporate tax credit carryforward authority;
36 revising certain rulemaking authority; revising
37 preservation of tax credit severability provisions;
38 creating s. 211.0251, F.S.; providing for a credit
39 against the oil and gas production tax for certain
40 program contributions; requiring the Department of
41 Revenue to disregard certain tax credits for certain
42 purposes; providing application; creating s. 212.1831,
43 F.S.; providing for a credit against sales and use tax
44 for certain program contributions; requiring the
45 Department of Revenue to disregard certain tax credits
46 for certain purposes; providing application; amending
47 s. 213.053, F.S.; expanding authority of the
48 Department of Revenue to disclose certain information;
49 amending s. 220.13, F.S.; revising the determination
50 of additions to adjusted federal income; providing
51 intent; providing for construction of certain
52 provisions; providing for retroactive application;
53 creating s. 220.1875, F.S.; providing for a credit
54 against the corporate income tax for certain program
55 contributions; providing limitations; providing for
56 adjustments; providing application; creating s.
57 561.1211, F.S.; providing for a credit against certain
58 alcoholic beverage taxes for certain contributions;

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59 requiring the Department of Revenue to disregard
60 certain tax credits for certain purposes; providing
61 application; amending ss. 220.02, 220.186, 624.51055,
62 1001.10, 1002.20, 1002.23, 1002.39, 1002.421,
63 1006.061, 1012.315, and 1012.796, F.S.; conforming
64 cross-references to changes made by the act; providing
65 effective dates.

66
67 Be It Enacted by the Legislature of the State of Florida:

68
69 Section 1. Section 220.187, Florida Statutes, is
70 transferred, renumbered as section 1002.395, Florida Statutes,
71 and amended to read:

72 1002.395 ~~220.187~~ Florida Tax Credit Scholarship Program
73 ~~Credits for contributions to nonprofit scholarship-funding~~
74 ~~organizations.-~~

75 (1) FINDINGS AND PURPOSE.-

76 (a) The Legislature finds that:

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

79 2. Expanding educational opportunities and improving the
80 quality of educational services within the state are valid
81 public purposes that the Legislature may promote using its
82 sovereign power to determine subjects of taxation and exemptions
83 from taxation.

84 3. Ensuring that all parents, regardless of means, may
85 exercise and enjoy their basic right to educate their children
86 as they see fit is a valid public purpose that the Legislature
87 may promote using its sovereign power to determine subjects of

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88 taxation and exemptions from taxation.

89 4. Expanding educational opportunities and the healthy
90 competition they promote are critical to improving the quality
91 of education in the state and to ensuring that all children
92 receive the high-quality education to which they are entitled.

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

94 1. Enable taxpayers to make private, voluntary
95 contributions to nonprofit scholarship-funding organizations in
96 order to promote the general welfare.

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

100 3. Promote the general welfare by expanding educational
101 opportunities for children of families that have limited
102 financial resources.

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

105 5. Improve the quality of education in this state, both by
106 expanding educational opportunities for children and by creating
107 incentives for schools to achieve excellence.

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

109 (a) "Annual tax credit amount" means the sum of the amount
110 of tax credits approved under paragraph (5) (b), including tax
111 credits to be taken under s. 220.1875 that are approved for a
112 taxpayer whose taxable year began during the applicable calendar
113 year, added to the amount of carryforward tax credits approved
114 under paragraph (5) (c).

115 (b) ~~(a)~~ "Department" means the Department of Revenue.

116 (c) ~~(b)~~ "Direct certification list" means the certified list

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117 of children who qualify for the Food Stamp Program, the
118 Temporary Assistance to Needy Families Program, or the Food
119 Distribution Program on Indian Reservations provided to the
120 Department of Education by the Department of Children and Family
121 Services.

122 (d) "Division" means the Division of Alcoholic Beverages
123 and Tobacco of the Department of Business and Professional
124 Regulation.

125 (e)~~(e)~~ "Eligible contribution" means a monetary
126 contribution from a taxpayer, subject to the restrictions
127 provided in this section, to an eligible nonprofit scholarship-
128 funding organization. The taxpayer making the contribution may
129 not designate a specific child as the beneficiary of the
130 contribution.

131 (f)~~(d)~~ "Eligible nonprofit scholarship-funding
132 organization" means a charitable organization that:

- 133 1. Is exempt from federal income tax pursuant to s.
134 501(c)(3) of the Internal Revenue Code;
- 135 2. Is a Florida entity formed under chapter 607, chapter
136 608, or chapter 617 and whose principal office is located in the
137 state; and
- 138 3. Complies with the provisions of subsection (6).

139 (g)~~(e)~~ "Eligible private school" means a private school, as
140 defined in s. 1002.01(2), located in Florida which offers an
141 education to students in any grades K-12 and that meets the
142 requirements in subsection (8).

143 (h)~~(f)~~ "Owner or operator" includes:

- 144 1. An owner, president, officer, or director of an eligible
145 nonprofit scholarship-funding organization or a person with

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146 equivalent decisionmaking authority over an eligible nonprofit
147 scholarship-funding organization.

148 2. An owner, operator, superintendent, or principal of an
149 eligible private school or a person with equivalent
150 decisionmaking authority over an eligible private school.

151 (i) "Tax credit cap amount" means the maximum annual tax
152 credit amount that the department may approve for a calendar
153 year.

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

159 (3) PROGRAM; SCHOLARSHIP ELIGIBILITY.—

160 (a) The Florida Tax Credit Scholarship Program is
161 established.

162 (b) Contingent upon available funds:

163 1. A student is eligible for a Florida tax credit
164 scholarship under this section ~~or s. 624.51055~~ if the student
165 qualifies for free or reduced-price school lunches under the
166 National School Lunch Act or is on the direct certification list
167 and:

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

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

174 c. ~~(c)~~ Is eligible to enter kindergarten or first grade; or

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175 d.~~(d)~~ Is currently placed, or during the previous state
176 fiscal year was placed, in foster care as defined in s. 39.01.

177 2. ~~Contingent upon available funds,~~ A student may continue
178 in the scholarship program as long as the student's household
179 income level does not exceed 230 ~~200~~ percent of the federal
180 poverty level.

181 3. A sibling of a student who is continuing in the
182 scholarship program and who resides in the same household as the
183 student shall also be eligible as a first-time tax credit
184 scholarship recipient if the sibling meets one or more of the
185 criteria specified in subparagraph 1. and as long as the
186 student's and sibling's household income level does not exceed
187 230 ~~200~~ percent of the federal poverty level.

188 (c) Household income for purposes of a student who is
189 currently in foster care as defined in s. 39.01 shall consist
190 only of the income that may be considered in determining whether
191 he or she qualifies for free or reduced-price school lunches
192 under the National School Lunch Act.

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

195 (a) Enrolled in a school operating for the purpose of
196 providing educational services to youth in Department of
197 Juvenile Justice commitment programs;

198 (b) Receiving a scholarship from another eligible nonprofit
199 scholarship-funding organization under this section;

200 (c) Receiving an educational scholarship pursuant to
201 chapter 1002;

202 (d) Participating in a home education program as defined in
203 s. 1002.01(1);

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204 (e) Participating in a private tutoring program pursuant to
205 s. 1002.43;

206 (f) Participating in a virtual school, correspondence
207 school, or distance learning program that receives state funding
208 pursuant to the student's participation unless the participation
209 is limited to no more than two courses per school year; or

210 (g) Enrolled in the Florida School for the Deaf and the
211 Blind.

212 (5) ~~AUTHORIZATION TO GRANT SCHOLARSHIP FUNDING TAX CREDITS;~~
213 ~~LIMITATIONS ON INDIVIDUAL AND TOTAL CREDITS.-~~

214 (a) 1. The tax credit cap amount is \$118 million for the
215 2009 calendar year and each calendar year thereafter except as
216 provided in subparagraph 2.

217 2. In any calendar year, if the annual tax credit amount is
218 equal to or greater than 90 percent of the tax credit cap amount
219 applicable to that calendar year, the tax credit cap amount
220 shall increase by 25 percent and shall apply to the following
221 calendar year and each calendar year thereafter. The department
222 shall publish on its website information identifying the tax
223 credit cap amount when it is increased pursuant to this
224 subparagraph. ~~There is allowed a credit of 100 percent of an~~
225 ~~eligible contribution against any tax due for a taxable year~~
226 ~~under this chapter. However, such a credit may not exceed 75~~
227 ~~percent of the tax due under this chapter for the taxable year,~~
228 ~~after the application of any other allowable credits by the~~
229 ~~taxpayer. The credit granted by this section shall be reduced by~~
230 ~~the difference between the amount of federal corporate income~~
231 ~~tax taking into account the credit granted by this section and~~
232 ~~the amount of federal corporate income tax without application~~

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233 ~~of the credit granted by this section.~~

234 (b) A taxpayer may submit an application to the department
235 for a tax credit or credits under one or more of s. 211.0251, s.
236 212.1831, s. 220.1875, s. 561.1211, or s. 624.51055. The
237 taxpayer shall specify in the application each tax for which the
238 taxpayer requests a credit and the applicable taxable year for a
239 credit under s. 220.1875 or the applicable calendar year for a
240 credit under s. 211.0251, s. 212.1831, s. 561.1211, or s.
241 624.51055. The department shall approve tax credits on a first-
242 come, first-served basis and must obtain the division's approval
243 prior to approving a tax credit under s. 561.1211. ~~For each~~
244 ~~state fiscal year, the total amount of tax credits and~~
245 ~~carryforward of tax credits which may be granted under this~~
246 ~~section and s. 624.51055 is \$118 million.~~

247 (c) If a tax credit approved under paragraph (b) is not
248 fully used in any one year because of insufficient tax liability
249 on the part of the taxpayer, the unused amount may be carried
250 forward for a period not to exceed 3 years; however, any
251 taxpayer that seeks to carry forward an unused amount of tax
252 credit must submit an application to the department for approval
253 of the carryforward tax credit in the year that the taxpayer
254 intends to use the carryforward. The department must obtain the
255 division's approval prior to approving the carryforward of a tax
256 credit under s. 561.1211. ~~A taxpayer who files a Florida~~
257 ~~consolidated return as a member of an affiliated group pursuant~~
258 ~~to s. 220.131(1) may be allowed the credit on a consolidated~~
259 ~~return basis; however, the total credit taken by the affiliated~~
260 ~~group is subject to the limitation established under paragraph~~
261 ~~(a).~~

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262 (d) A taxpayer may not convey, assign, or transfer an
263 approved tax credit or carryforward tax credit to another entity
264 unless all of the assets of the taxpayer are conveyed, assigned,
265 or transferred in the same transaction.

266 ~~(e)~~ ~~(d) Effective for tax years beginning January 1, 2006, A~~
267 taxpayer may rescind all or part of a ~~its allocated~~ tax credit
268 approved under paragraph (b) this section. The amount rescinded
269 shall become available for ~~purposes of the cap for~~ that calendar
270 ~~state fiscal~~ year ~~under this section~~ to another ~~an~~ eligible
271 taxpayer as approved by the department if the taxpayer receives
272 notice from the department that the rescindment has been
273 accepted by the department and the taxpayer has not previously
274 rescinded any or all of its tax credits approved ~~credit~~
275 ~~allocation~~ under paragraph (b) this section more than once in
276 the previous 3 tax years. The department must obtain the
277 division's approval prior to accepting the rescindment of a tax
278 credit under s. 561.1211. Any amount rescinded under this
279 paragraph shall become available to an eligible taxpayer on a
280 first-come, first-served basis based on tax credit applications
281 received after the date the rescindment is accepted by the
282 department.

283 ~~(e) A taxpayer who is eligible to receive the credit~~
284 ~~provided for in s. 624.51055 is not eligible to receive the~~
285 ~~credit provided by this section.~~

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

289 (a) Must comply with the antidiscrimination provisions of
290 42 U.S.C. s. 2000d.

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

293 1. All owners and operators as defined in subparagraph
294 (2) (h) ~~(f)~~ 1. are, upon employment or engagement to provide
295 services, subject to level 2 background screening as provided
296 under chapter 435. The fingerprints for the background screening
297 must be electronically submitted to the Department of Law
298 Enforcement and can be taken by an authorized law enforcement
299 agency or by an employee of the eligible nonprofit scholarship-
300 funding organization or a private company who is trained to take
301 fingerprints. However, the complete set of fingerprints of an
302 owner or operator may not be taken by the owner or operator. The
303 results of the state and national criminal history check shall
304 be provided to the Department of Education for screening under
305 chapter 435. The cost of the background screening may be borne
306 by the eligible nonprofit scholarship-funding organization or
307 the owner or operator.

308 2. Every 5 years following employment or engagement to
309 provide services or association with an eligible nonprofit
310 scholarship-funding organization, each owner or operator must
311 meet level 2 screening standards as described in s. 435.04, at
312 which time the nonprofit scholarship-funding organization shall
313 request the Department of Law Enforcement to forward the
314 fingerprints to the Federal Bureau of Investigation for level 2
315 screening. If the fingerprints of an owner or operator are not
316 retained by the Department of Law Enforcement under subparagraph
317 3., the owner or operator must electronically file a complete
318 set of fingerprints with the Department of Law Enforcement. Upon
319 submission of fingerprints for this purpose, the eligible

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320 nonprofit scholarship-funding organization shall request that
321 the Department of Law Enforcement forward the fingerprints to
322 the Federal Bureau of Investigation for level 2 screening, and
323 the fingerprints shall be retained by the Department of Law
324 Enforcement under subparagraph 3.

325 3. Beginning July 1, 2007, all fingerprints submitted to
326 the Department of Law Enforcement as required by this paragraph
327 must be retained by the Department of Law Enforcement in a
328 manner approved by rule and entered in the statewide automated
329 fingerprint identification system authorized by s. 943.05(2)(b).
330 The fingerprints must thereafter be available for all purposes
331 and uses authorized for arrest fingerprint cards entered in the
332 statewide automated fingerprint identification system pursuant
333 to s. 943.051.

334 4. Beginning July 1, 2007, the Department of Law
335 Enforcement shall search all arrest fingerprint cards received
336 under s. 943.051 against the fingerprints retained in the
337 statewide automated fingerprint identification system under
338 subparagraph 3. Any arrest record that is identified with an
339 owner's or operator's fingerprints must be reported to the
340 Department of Education. The Department of Education shall
341 participate in this search process by paying an annual fee to
342 the Department of Law Enforcement and by informing the
343 Department of Law Enforcement of any change in the employment,
344 engagement, or association status of the owners or operators
345 whose fingerprints are retained under subparagraph 3. The
346 Department of Law Enforcement shall adopt a rule setting the
347 amount of the annual fee to be imposed upon the Department of
348 Education for performing these services and establishing the

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349 procedures for the retention of owner and operator fingerprints
350 and the dissemination of search results. The fee may be borne by
351 the owner or operator of the nonprofit scholarship-funding
352 organization.

353 5. A nonprofit scholarship-funding organization whose owner
354 or operator fails the level 2 background screening shall not be
355 eligible to provide scholarships under this section.

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

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

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

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

370 (e) Must give priority to eligible students who received a
371 scholarship from an eligible nonprofit scholarship-funding
372 organization or from the State of Florida during the previous
373 school year.

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

377 (g) May not restrict or reserve scholarships for use at a

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378 particular private school or provide scholarships to a child of
379 an owner or operator.

380 (h) Must allow an eligible student to attend any eligible
381 private school and must allow a parent to transfer a scholarship
382 during a school year to any other eligible private school of the
383 parent's choice.

384 (i)1. May use up to 3 percent of eligible contributions
385 received during the state fiscal year in which such
386 contributions are collected for administrative expenses if the
387 organization has operated under this section for at least 3
388 state fiscal years and did not have any negative financial
389 findings in its most recent audit under paragraph (1). Such
390 administrative expenses must be reasonable and necessary for the
391 organization's management and distribution of eligible
392 contributions under this section. No more than one-third of the
393 funds authorized for administrative expenses under this
394 subparagraph may be used for expenses related to the recruitment
395 of contributions from taxpayers.

396 2. Must expend for annual or partial-year scholarships an
397 amount equal to or greater than 75 percent of the net eligible
398 contributions remaining after administrative expenses during the
399 state fiscal year in which such contributions are collected. No
400 more than 25 percent of such net eligible contributions may be
401 carried forward to the following state fiscal year. Any amounts
402 carried forward shall be expended for annual or partial-year
403 scholarships in the following state fiscal year. Net eligible
404 contributions remaining on June 30 of each year that are in
405 excess of the 25 percent that may be carried forward shall be
406 returned to the State Treasury for deposit in the General

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407 Revenue Fund.

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

412 (j) Must maintain separate accounts for scholarship funds
413 and operating funds.

414 (k) With the prior approval of the Department of Education,
415 may transfer funds to another eligible nonprofit scholarship-
416 funding organization if additional funds are required to meet
417 scholarship demand at the receiving nonprofit scholarship-
418 funding organization. A transfer shall be limited to the greater
419 of \$500,000 or 20 percent of the total contributions received by
420 the nonprofit scholarship-funding organization making the
421 transfer. All transferred funds must be deposited by the
422 receiving nonprofit scholarship-funding organization into its
423 scholarship accounts. All transferred amounts received by any
424 nonprofit scholarship-funding organization must be separately
425 disclosed in the annual financial and compliance audit required
426 in this section.

427 (l) Must provide to the Auditor General and the Department
428 of Education an annual financial and compliance audit of its
429 accounts and records conducted by an independent certified
430 public accountant and in accordance with rules adopted by the
431 Auditor General. The audit must be conducted in compliance with
432 generally accepted auditing standards and must include a report
433 on financial statements presented in accordance with generally
434 accepted accounting principles set forth by the American
435 Institute of Certified Public Accountants for not-for-profit

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436 organizations and a determination of compliance with the
437 statutory eligibility and expenditure requirements set forth in
438 this section. Audits must be provided to the Auditor General and
439 the Department of Education within 180 days after completion of
440 the eligible nonprofit scholarship-funding organization's fiscal
441 year.

442 (m) Must prepare and submit quarterly reports to the
443 Department of Education pursuant to paragraph (9) (m). In
444 addition, an eligible nonprofit scholarship-funding organization
445 must submit in a timely manner any information requested by the
446 Department of Education relating to the scholarship program.

447 (n)1.a. Must participate in the joint development of
448 agreed-upon procedures to be performed by an independent
449 certified public accountant as required under paragraph (8) (e)
450 if the scholarship-funding organization provided more than
451 \$250,000 in scholarship funds to an eligible private school
452 under this section during the 2009-2010 state fiscal year. The
453 agreed-upon procedures must uniformly apply to all private
454 schools and must determine, at a minimum, whether the private
455 school has been verified as eligible by the Department of
456 Education under paragraph (9) (c); has an adequate accounting
457 system, system of financial controls, and process for deposit
458 and classification of scholarship funds; and has properly
459 expended scholarship funds for education-related expenses.
460 During the development of the procedures, the participating
461 scholarship-funding organizations shall specify guidelines
462 governing the materiality of exceptions that may be found during
463 the accountant's performance of the procedures. The procedures
464 and guidelines shall be provided to private schools and the

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465 Commissioner of Education by March 15, 2011.

466 b. Must participate in a joint review of the agreed-upon
467 procedures and guidelines developed under sub-subparagraph a.,
468 by February 2013 and biennially thereafter, if the scholarship-
469 funding organization provided more than \$250,000 in scholarship
470 funds to an eligible private school under this section during
471 the state fiscal year preceding the biennial review. If the
472 procedures and guidelines are revised, the revisions must be
473 provided to private schools and the Commissioner of Education by
474 March 15, 2013, and biennially thereafter.

475 c. Must monitor the compliance of a private school with
476 paragraph (8)(e) if the scholarship-funding organization
477 provided the majority of the scholarship funding to the school.
478 For each private school subject to paragraph (8)(e), the
479 appropriate scholarship-funding organization shall notify the
480 Commissioner of Education by October 30, 2011, and annually
481 thereafter of:

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

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

486 2. Must seek input from the accrediting associations that
487 are members of the Florida Association of Academic Nonpublic
488 Schools when jointly developing the agreed-upon procedures and
489 guidelines under sub-subparagraph 1.a. and conducting a review
490 of those procedures and guidelines under sub-subparagraph 1.b.

491
492 Any and all information and documentation provided to the
493 Department of Education and the Auditor General relating to the

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494 identity of a taxpayer that provides an eligible contribution
495 under this section shall remain confidential at all times in
496 accordance with s. 213.053.

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

499 (a) The parent must select an eligible private school and
500 apply for the admission of his or her child.

501 (b) The parent must inform the child's school district when
502 the parent withdraws his or her child to attend an eligible
503 private school.

504 (c) Any student participating in the scholarship program
505 must remain in attendance throughout the school year unless
506 excused by the school for illness or other good cause.

507 (d) Each parent and each student has an obligation to the
508 private school to comply with the private school's published
509 policies.

510 (e) The parent shall ensure that the student participating
511 in the scholarship program takes the norm-referenced assessment
512 offered by the private school. The parent may also choose to
513 have the student participate in the statewide assessments
514 pursuant to s. 1008.22. If the parent requests that the student
515 participating in the scholarship program take statewide
516 assessments pursuant to s. 1008.22, the parent is responsible
517 for transporting the student to the assessment site designated
518 by the school district.

519 (f) Upon receipt of a scholarship warrant from the eligible
520 nonprofit scholarship-funding organization, the parent to whom
521 the warrant is made must restrictively endorse the warrant to
522 the private school for deposit into the account of the private

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523 school. The parent may not designate any entity or individual
524 associated with the participating private school as the parent's
525 attorney in fact to endorse a scholarship warrant. A participant
526 who fails to comply with this paragraph forfeits the
527 scholarship.

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

530 (a) Comply with all requirements for private schools
531 participating in state school choice scholarship programs
532 pursuant to s. 1002.421.

533 (b) Provide to the eligible nonprofit scholarship-funding
534 organization, upon request, all documentation required for the
535 student's participation, including the private school's and
536 student's fee schedules.

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

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

541 2. Annually administering or making provision for students
542 participating in the scholarship program in grades 3 through 10
543 to take one of the nationally norm-referenced tests identified
544 by the Department of Education. Students with disabilities for
545 whom standardized testing is not appropriate are exempt from
546 this requirement. A participating private school must report a
547 student's scores to the parent and to the independent research
548 organization selected by the Department of Education as
549 described in paragraph (9)(j).

550 3. Cooperating with the scholarship student whose parent
551 chooses to have the student participate in the statewide

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552 assessments pursuant to s. 1008.22.

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

556 (e) Annually contract with an independent certified public
557 accountant to perform the agreed-upon procedures developed under
558 paragraph (6) (n) and produce a report of the results if the
559 private school receives more than \$250,000 in funds from
560 scholarships awarded under this section in the 2010-2011 state
561 fiscal year or a state fiscal year thereafter. A private school
562 subject to this paragraph must submit the report by September
563 15, 2011, and annually thereafter to the scholarship-funding
564 organization that awarded the majority of the school's
565 scholarship funds. The agreed-upon procedures must be conducted
566 in accordance with attestation standards established by the
567 American Institute of Certified Public Accountants.

568
569 The inability of a private school to meet the requirements of
570 this subsection shall constitute a basis for the ineligibility
571 of the private school to participate in the scholarship program
572 as determined by the Department of Education.

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

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

578 (b) Annually verify the eligibility of nonprofit
579 scholarship-funding organizations that meet the requirements of
580 paragraph (2) (f) ~~(d)~~.

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

583 (d) Annually verify the eligibility of expenditures as
584 provided in paragraph (6) (d) using the audit required by
585 paragraph (6) (1).

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

589 (f) Establish a process by which individuals may notify the
590 Department of Education of any violation by a parent, private
591 school, or school district of state laws relating to program
592 participation. The Department of Education shall conduct an
593 inquiry of any written complaint of a violation of this section,
594 or make a referral to the appropriate agency for an
595 investigation, if the complaint is signed by the complainant and
596 is legally sufficient. A complaint is legally sufficient if it
597 contains ultimate facts that show that a violation of this
598 section or any rule adopted by the State Board of Education has
599 occurred. In order to determine legal sufficiency, the
600 Department of Education may require supporting information or
601 documentation from the complainant. A department inquiry is not
602 subject to the requirements of chapter 120.

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

606 (h) Cross-check the list of participating scholarship
607 students with the public school enrollment lists to avoid
608 duplication.

609 (i) Maintain a list of nationally norm-referenced tests

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610 identified for purposes of satisfying the testing requirement in
611 subparagraph (8)(c)2. The tests must meet industry standards of
612 quality in accordance with State Board of Education rule.

613 (j) Select an independent research organization, which may
614 be a public or private entity or university, to which
615 participating private schools must report the scores of
616 participating students on the nationally norm-referenced tests
617 administered by the private school in grades 3 through 10.

618 1. The independent research organization must annually
619 report to the Department of Education on the year-to-year
620 learning gains ~~improvements~~ of participating students:

621 a. On a statewide basis. The report shall also include, to
622 the extent possible, a comparison of these learning gains to the
623 statewide learning gains of public school students with
624 socioeconomic backgrounds similar to those of students
625 participating in the scholarship program. ~~The independent~~
626 ~~research organization must analyze and report student~~
627 ~~performance data in a manner that protects the rights of~~
628 ~~students and parents as mandated in 20 U.S.C. s. 1232g, the~~
629 ~~Family Educational Rights and Privacy Act, and must not~~
630 ~~disaggregate data to a level that will disclose the academic~~
631 ~~level of individual students or of individual schools. To the~~
632 ~~extent possible, the independent research organization must~~
633 ~~accumulate historical performance data on students from the~~
634 ~~Department of Education and private schools to describe baseline~~
635 ~~performance and to conduct longitudinal studies. To minimize~~
636 ~~costs and reduce time required for~~ the independent research
637 organization's ~~third-party~~ analysis and evaluation, the
638 Department of Education shall conduct analyses of matched

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639 students from public school assessment data and calculate
640 control group learning gains using an agreed-upon methodology
641 outlined in the contract with the independent research
642 organization ~~third party evaluator~~; and

643 b. According to each participating private school in which
644 there are at least 30 participating students who have scores for
645 tests administered during or after the 2009-2010 school year for
646 2 consecutive years at that private school.

647 2. The sharing and reporting of student learning gain data
648 under this paragraph must be in accordance with requirements of
649 20 U.S.C. s. 1232g, the Family Educational Rights and Privacy
650 Act, and shall be for the sole purpose of creating the annual
651 report required by subparagraph 1 conducting the evaluation. All
652 parties must preserve the confidentiality of such information as
653 required by law. The annual report must not disaggregate data to
654 a level that will identify individual participating schools,
655 except as required under sub-subparagraph 1.b., or disclose the
656 academic level of individual students.

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

659 (k) Notify an eligible nonprofit scholarship-funding
660 organization of any of the organization's identified students
661 who are receiving educational scholarships pursuant to chapter
662 1002.

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

667 (m) Require quarterly reports by an eligible nonprofit

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668 scholarship-funding organization regarding the number of
669 students participating in the scholarship program, the private
670 schools at which the students are enrolled, and other
671 information deemed necessary by the Department of Education.

672 (n)1. Conduct random site visits to private schools
673 participating in the Florida Tax Credit Scholarship Program. The
674 purpose of the site visits is solely to verify the information
675 reported by the schools concerning the enrollment and attendance
676 of students, the credentials of teachers, background screening
677 of teachers, and teachers' fingerprinting results. The
678 Department of Education may not make more than seven random site
679 visits each year and may not make more than one random site
680 visit each year to the same private school.

681 2. Annually, by December 15, report to the Governor, the
682 President of the Senate, and the Speaker of the House of
683 Representatives the Department of Education's actions with
684 respect to implementing accountability in the scholarship
685 program under this section and s. 1002.421, any substantiated
686 allegations or violations of law or rule by an eligible private
687 school under this program concerning the enrollment and
688 attendance of students, the credentials of teachers, background
689 screening of teachers, and teachers' fingerprinting results and
690 the corrective action taken by the Department of Education.

691 (o) Provide a process to match the direct certification
692 list with the scholarship application data submitted by any
693 nonprofit scholarship-funding organization eligible to receive
694 the 3-percent administrative allowance under paragraph (6)(i).

695 (10) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.—Upon
696 the request of any eligible nonprofit scholarship-funding

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697 organization, a school district shall inform all households
698 within the district receiving free or reduced-priced meals under
699 the National School Lunch Act of their eligibility to apply for
700 a tax credit scholarship. The form of such notice shall be
701 provided by the eligible nonprofit scholarship-funding
702 organization, and the district shall include the provided form,
703 if requested by the organization, in any normal correspondence
704 with eligible households. If an eligible nonprofit scholarship-
705 funding organization requests a special communication to be
706 issued to households within the district receiving free or
707 reduced-price meals under the National School Lunch Act, the
708 organization shall reimburse the district for the cost of
709 postage. Such notice is limited to once a year.

710 (11) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.-

711 (a)1. The Commissioner of Education shall deny, suspend, or
712 revoke a private school's participation in the scholarship
713 program if it is determined that the private school has failed
714 to comply with the provisions of this section. However, in
715 instances in which the noncompliance is correctable within a
716 reasonable amount of time and in which the health, safety, or
717 welfare of the students is not threatened, the commissioner may
718 issue a notice of noncompliance that shall provide the private
719 school with a timeframe within which to provide evidence of
720 compliance prior to taking action to suspend or revoke the
721 private school's participation in the scholarship program.

722 2. The Commissioner of Education may deny, suspend, or
723 revoke a private school's participation in the scholarship
724 program if the commissioner determines that an owner or operator
725 of the private school is operating or has operated an

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726 educational institution in this state or another state or
727 jurisdiction in a manner contrary to the health, safety, or
728 welfare of the public. In making this determination, the
729 commissioner may consider factors that include, but are not
730 limited to, acts or omissions by an owner or operator that led
731 to a previous denial or revocation of participation in an
732 education scholarship program; an owner's or operator's failure
733 to reimburse the Department of Education for scholarship funds
734 improperly received or retained by a school; imposition of a
735 prior criminal or civil administrative sanction related to an
736 owner's or operator's management or operation of an educational
737 institution; or other types of criminal proceedings in which the
738 owner or operator was found guilty of, regardless of
739 adjudication, or entered a plea of nolo contendere or guilty to,
740 any offense involving fraud, deceit, dishonesty, or moral
741 turpitude.

742 (b) The commissioner's determination is subject to the
743 following:

744 1. If the commissioner intends to deny, suspend, or revoke
745 a private school's participation in the scholarship program, the
746 Department of Education shall notify the private school of such
747 proposed action in writing by certified mail and regular mail to
748 the private school's address of record with the Department of
749 Education. The notification shall include the reasons for the
750 proposed action and notice of the timelines and procedures set
751 forth in this paragraph.

752 2. The private school that is adversely affected by the
753 proposed action shall have 15 days from receipt of the notice of
754 proposed action to file with the Department of Education's

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755 agency clerk a request for a proceeding pursuant to ss. 120.569
756 and 120.57. If the private school is entitled to a hearing under
757 s. 120.57(1), the Department of Education shall forward the
758 request to the Division of Administrative Hearings.

759 3. Upon receipt of a request referred pursuant to this
760 paragraph, the director of the Division of Administrative
761 Hearings shall expedite the hearing and assign an administrative
762 law judge who shall commence a hearing within 30 days after the
763 receipt of the formal written request by the division and enter
764 a recommended order within 30 days after the hearing or within
765 30 days after receipt of the hearing transcript, whichever is
766 later. Each party shall be allowed 10 days in which to submit
767 written exceptions to the recommended order. A final order shall
768 be entered by the agency within 30 days after the entry of a
769 recommended order. The provisions of this subparagraph may be
770 waived upon stipulation by all parties.

771 (c) The commissioner may immediately suspend payment of
772 scholarship funds if it is determined that there is probable
773 cause to believe that there is:

774 1. An imminent threat to the health, safety, and welfare of
775 the students; or

776 2. Fraudulent activity on the part of the private school.
777 Notwithstanding s. 1002.22, in incidents of alleged fraudulent
778 activity pursuant to this section, the Department of Education's
779 Office of Inspector General is authorized to release personally
780 identifiable records or reports of students to the following
781 persons or organizations:

782 a. A court of competent jurisdiction in compliance with an
783 order of that court or the attorney of record in accordance with

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

786 b. A person or entity authorized by a court of competent
787 jurisdiction in compliance with an order of that court or the
788 attorney of record pursuant to a lawfully issued subpoena,
789 consistent with the Family Educational Rights and Privacy Act,
790 20 U.S.C. s. 1232g.

791 c. Any person, entity, or authority issuing a subpoena for
792 law enforcement purposes when the court or other issuing agency
793 has ordered that the existence or the contents of the subpoena
794 or the information furnished in response to the subpoena not be
795 disclosed, consistent with the Family Educational Rights and
796 Privacy Act, 20 U.S.C. s. 1232g, and 34 C.F.R. s. 99.31.

797
798 The commissioner's order suspending payment pursuant to this
799 paragraph may be appealed pursuant to the same procedures and
800 timelines as the notice of proposed action set forth in
801 paragraph (b).

802 (12) SCHOLARSHIP AMOUNT AND PAYMENT.—

803 (a) 1. Except as provided in subparagraph 2., the amount of
804 a scholarship provided to any student for any single school year
805 by an eligible nonprofit scholarship-funding organization from
806 eligible contributions shall be for total costs authorized under
807 paragraph (6) (d), not to exceed the following annual limits:

808 a.1. Three thousand nine hundred fifty dollars For a
809 scholarship awarded to a student enrolled in an eligible private
810 school for:

811 (I) State fiscal year 2009-2010, \$3,950 ~~the 2008-2009 state~~
812 ~~fiscal year and each fiscal year thereafter.~~

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813 (II) State fiscal year 2010-2011, 65 percent of the
814 unweighted FTE funding amount for that year.

815 (III) State fiscal year 2011-2012, 70 percent of the
816 unweighted FTE funding amount for that year.

817 (IV) State fiscal year 2012-2013, 75 percent of the
818 unweighted FTE funding amount for that year.

819 (V) State fiscal year 2013-2014 and each state fiscal year
820 thereafter, 80 percent of the unweighted FTE funding amount for
821 the applicable year.

822 ~~b.2. Five hundred dollars~~ For a scholarship awarded to a
823 student enrolled in a Florida public school that is located
824 outside the district in which the student resides or in a lab
825 school as defined in s. 1002.32, \$500.

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

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

831 b. Fifty percent if the student's household income level is
832 equal to or greater than 215 percent, but equal to or less than
833 230 percent, of the federal poverty level.

834 (b) Payment of the scholarship by the eligible nonprofit
835 scholarship-funding organization shall be by individual warrant
836 made payable to the student's parent. If the parent chooses that
837 his or her child attend an eligible private school, the warrant
838 must be delivered by the eligible nonprofit scholarship-funding
839 organization to the private school of the parent's choice, and
840 the parent shall restrictively endorse the warrant to the
841 private school. An eligible nonprofit scholarship-funding

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842 organization shall ensure that the parent to whom the warrant is
843 made restrictively endorsed the warrant to the private school
844 for deposit into the account of the private school.

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

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

852 (13) ADMINISTRATION; RULES.—

853 ~~(a) If the credit granted pursuant to this section is not~~
854 ~~fully used in any one year because of insufficient tax liability~~
855 ~~on the part of the corporation, the unused amount may be carried~~
856 ~~forward for a period not to exceed 3 years; however, any~~
857 ~~taxpayer that seeks to carry forward an unused amount of tax~~
858 ~~credit must submit an application for allocation of tax credits~~
859 ~~or carryforward credits as required in paragraph (d) in the year~~
860 ~~that the taxpayer intends to use the carryforward. This~~
861 ~~carryforward applies to all approved contributions made after~~
862 ~~January 1, 2002. A taxpayer may not convey, assign, or transfer~~
863 ~~the credit authorized by this section to another entity unless~~
864 ~~all of the assets of the taxpayer are conveyed, assigned, or~~
865 ~~transferred in the same transaction.~~

866 ~~(b) An application for a tax credit pursuant to this~~
867 ~~section shall be submitted to the department on forms~~
868 ~~established by rule of the department.~~

869 (a) ~~(e)~~ The department, division, and the Department of
870 Education shall develop a cooperative agreement to assist in the

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871 administration of this section.

872 (b)~~(d)~~ The department shall adopt rules necessary to
 873 administer this section and ss. 211.0251, 212.1831, 220.1875,
 874 561.1211, and 624.51055, including rules establishing
 875 application forms, and procedures and governing the approval
 876 allocation of tax credits and carryforward tax credits under
 877 subsection (5), and procedures to be followed by taxpayers when
 878 claiming approved tax credits on their returns ~~this section on a~~
 879 ~~first-come, first-served basis.~~

880 (c) The division shall adopt rules necessary to administer
 881 its responsibilities under this section and s. 561.1211.

882 (d)~~(e)~~ The State Board of Education shall adopt rules
 883 ~~pursuant to ss. 120.536(1) and 120.54~~ to administer the
 884 responsibilities ~~this section as it relates to the roles of the~~
 885 Department of Education and the Commissioner of Education under
 886 this section.

887 (14) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.—All eligible
 888 contributions received by an eligible nonprofit scholarship-
 889 funding organization shall be deposited in a manner consistent
 890 with s. 17.57(2).

891 (15) PRESERVATION OF CREDIT.—If any provision or portion of
 892 this section, s. 211.0251, s. 212.1831, s. 220.1875, s.
 893 561.1211, or s. 624.51055 ~~subsection (5)~~ or the application
 894 thereof to any person or circumstance is held unconstitutional
 895 by any court or is otherwise declared invalid, the
 896 unconstitutionality or invalidity shall not affect any credit
 897 earned under s. 211.0251, s. 212.1831, s. 220.1875, s. 561.1211,
 898 or s. 624.51055 ~~subsection (5)~~ by any taxpayer with respect to
 899 any contribution paid to an eligible nonprofit scholarship-

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900 funding organization before the date of a determination of
901 unconstitutionality or invalidity. Such credit shall be allowed
902 at such time and in such a manner as if a determination of
903 unconstitutionality or invalidity had not been made, provided
904 that nothing in this subsection by itself or in combination with
905 any other provision of law shall result in the allowance of any
906 credit to any taxpayer in excess of one dollar of credit for
907 each dollar paid to an eligible nonprofit scholarship-funding
908 organization.

909 Section 2. Effective January 1, 2011, section 211.0251,
910 Florida Statutes, is created to read:

911 211.0251 Credit for contributions to eligible nonprofit
912 scholarship-funding organizations.—There is allowed a credit of
913 100 percent of an eligible contribution made to an eligible
914 nonprofit scholarship-funding organization under s. 1002.395
915 against any tax due under s. 211.02 or s. 211.025. For purposes
916 of the distributions of tax revenue under s. 211.06, the
917 department shall disregard any tax credits allowed under this
918 section to ensure that any reduction in tax revenue received
919 which is attributable to the tax credits results only in a
920 reduction in distributions to the General Revenue Fund. The
921 provisions of s. 1002.395 apply to the credit authorized by this
922 section.

923 Section 3. Effective January 1, 2011, section 212.1831,
924 Florida Statutes, is created to read:

925 212.1831 Credit for contributions to eligible nonprofit
926 scholarship-funding organizations.—There is allowed a credit of
927 100 percent of an eligible contribution made to an eligible
928 nonprofit scholarship-funding organization under s. 1002.395

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929 against any tax due under this chapter from a direct pay permit
930 holder as a result of the direct pay permit held pursuant to s.
931 212.183. For purposes of the distributions of tax revenue under
932 s. 212.20, the department shall disregard any tax credits
933 allowed under this section to ensure that any reduction in tax
934 revenue received that is attributable to the tax credits results
935 only in a reduction in distributions to the General Revenue
936 Fund. The provisions of s. 1002.395 apply to the credit
937 authorized by this section.

938 Section 4. Paragraph (u) of subsection (8) of section
939 213.053, Florida Statutes, is amended to read:

940 213.053 Confidentiality and information sharing.—

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

943 (u) Information relative to ss. 211.0251, 212.1831,
944 220.1875, 624.51055, and 1002.395 ~~s. 220.187~~ to the Department
945 of Education and the Division of Alcoholic Beverages and Tobacco
946 in the conduct of ~~its~~ official business.

947
948 Disclosure of information under this subsection shall be
949 pursuant to a written agreement between the executive director
950 and the agency. Such agencies, governmental or nongovernmental,
951 shall be bound by the same requirements of confidentiality as
952 the Department of Revenue. Breach of confidentiality is a
953 misdemeanor of the first degree, punishable as provided by s.
954 775.082 or s. 775.083.

955 Section 5. Subsection (8) of section 220.02, Florida
956 Statutes, is amended to read:

957 220.02 Legislative intent.—

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958 (8) It is the intent of the Legislature that credits
959 against either the corporate income tax or the franchise tax be
960 applied in the following order: those enumerated in s. 631.828,
961 those enumerated in s. 220.191, those enumerated in s. 220.181,
962 those enumerated in s. 220.183, those enumerated in s. 220.182,
963 those enumerated in s. 220.1895, those enumerated in s. 221.02,
964 those enumerated in s. 220.184, those enumerated in s. 220.186,
965 those enumerated in s. 220.1845, those enumerated in s. 220.19,
966 those enumerated in s. 220.185, those enumerated in s. 220.1875
967 ~~220.187~~, those enumerated in s. 220.192, those enumerated in s.
968 220.193, and those enumerated in s. 288.9916.

969 Section 6. Paragraph (a) of subsection (1) of section
970 220.13, Florida Statutes, is amended to read:

971 220.13 "Adjusted federal income" defined.—

972 (1) The term "adjusted federal income" means an amount
973 equal to the taxpayer's taxable income as defined in subsection
974 (2), or such taxable income of more than one taxpayer as
975 provided in s. 220.131, for the taxable year, adjusted as
976 follows:

977 (a) *Additions*.—There shall be added to such taxable income:

978 1. The amount of any tax upon or measured by income,
979 excluding taxes based on gross receipts or revenues, paid or
980 accrued as a liability to the District of Columbia or any state
981 of the United States which is deductible from gross income in
982 the computation of taxable income for the taxable year.

983 2. The amount of interest which is excluded from taxable
984 income under s. 103(a) of the Internal Revenue Code or any other
985 federal law, less the associated expenses disallowed in the
986 computation of taxable income under s. 265 of the Internal

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987 Revenue Code or any other law, excluding 60 percent of any
988 amounts included in alternative minimum taxable income, as
989 defined in s. 55(b)(2) of the Internal Revenue Code, if the
990 taxpayer pays tax under s. 220.11(3).

991 3. In the case of a regulated investment company or real
992 estate investment trust, an amount equal to the excess of the
993 net long-term capital gain for the taxable year over the amount
994 of the capital gain dividends attributable to the taxable year.

995 4. That portion of the wages or salaries paid or incurred
996 for the taxable year which is equal to the amount of the credit
997 allowable for the taxable year under s. 220.181. This
998 subparagraph shall expire on the date specified in s. 290.016
999 for the expiration of the Florida Enterprise Zone Act.

1000 5. That portion of the ad valorem school taxes paid or
1001 incurred for the taxable year which is equal to the amount of
1002 the credit allowable for the taxable year under s. 220.182. This
1003 subparagraph shall expire on the date specified in s. 290.016
1004 for the expiration of the Florida Enterprise Zone Act.

1005 6. The amount of emergency excise tax paid or accrued as a
1006 liability to this state under chapter 221 which tax is
1007 deductible from gross income in the computation of taxable
1008 income for the taxable year.

1009 7. That portion of assessments to fund a guaranty
1010 association incurred for the taxable year which is equal to the
1011 amount of the credit allowable for the taxable year.

1012 8. In the case of a nonprofit corporation which holds a
1013 pari-mutuel permit and which is exempt from federal income tax
1014 as a farmers' cooperative, an amount equal to the excess of the
1015 gross income attributable to the pari-mutuel operations over the

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1016 attributable expenses for the taxable year.

1017 9. The amount taken as a credit for the taxable year under
1018 s. 220.1895.

1019 10. Up to nine percent of the eligible basis of any
1020 designated project which is equal to the credit allowable for
1021 the taxable year under s. 220.185.

1022 11. The amount taken as a credit for the taxable year under
1023 s. 220.1875 ~~220.187~~. The addition in this subparagraph is
1024 intended to ensure that the same amount is not allowed for the
1025 tax purposes of this state as both a deduction from income and a
1026 credit against the tax. This addition is not intended to result
1027 in adding the same expense back to income more than once.

1028 12. The amount taken as a credit for the taxable year under
1029 s. 220.192.

1030 13. The amount taken as a credit for the taxable year under
1031 s. 220.193.

1032 14. Any portion of a qualified investment, as defined in s.
1033 288.9913, which is claimed as a deduction by the taxpayer and
1034 taken as a credit against income tax pursuant to s. 288.9916.

1035 Section 7. The amendment to s. 220.13(1)(a)11., Florida
1036 Statutes, made by this act is intended to be clarifying and
1037 remedial in nature and shall apply retroactively to tax credits
1038 under s. 220.187, Florida Statutes, between January 1, 2002, and
1039 June 30, 2010, for taxes due under chapter 220, Florida
1040 Statutes, and prospectively to tax credits under s. 220.1875,
1041 Florida Statutes.

1042 Section 8. Subsection (2) of section 220.186, Florida
1043 Statutes, is amended to read:

1044 220.186 Credit for Florida alternative minimum tax.—

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1045 (2) The credit pursuant to this section shall be the amount
1046 of the excess, if any, of the tax paid based upon taxable income
1047 determined pursuant to s. 220.13(2)(k) over the amount of tax
1048 which would have been due based upon taxable income without
1049 application of s. 220.13(2)(k), before application of this
1050 credit without application of any credit under s. 220.1875
1051 ~~220.187~~.

1052 Section 9. Section 220.1875, Florida Statutes, is created
1053 to read:

1054 220.1875 Credit for contributions to eligible nonprofit
1055 scholarship-funding organizations.-

1056 (1) There is allowed a credit of 100 percent of an eligible
1057 contribution made to an eligible nonprofit scholarship-funding
1058 organization under s. 1002.395 against any tax due for a taxable
1059 year under this chapter. However, such a credit may not exceed
1060 75 percent of the tax due under this chapter for the taxable
1061 year, after the application of any other allowable credits by
1062 the taxpayer. The credit granted by this section shall be
1063 reduced by the difference between the amount of federal
1064 corporate income tax taking into account the credit granted by
1065 this section and the amount of federal corporate income tax
1066 without application of the credit granted by this section.

1067 (2) A taxpayer who files a Florida consolidated return as a
1068 member of an affiliated group pursuant to s. 220.131(1) may be
1069 allowed the credit on a consolidated return basis; however, the
1070 total credit taken by the affiliated group is subject to the
1071 limitation established under subsection (1).

1072 (3) The provisions of s. 1002.395 apply to the credit
1073 authorized by this section.

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1074 Section 10. Section 561.1211, Florida Statutes, is created
1075 to read:

1076 561.1211 Credit for contributions to eligible nonprofit
1077 scholarship-funding organizations.—There is allowed a credit of
1078 100 percent of an eligible contribution made to an eligible
1079 nonprofit scholarship-funding organization under s. 1002.395
1080 against any tax due under s. 563.05, s. 564.06, or s. 565.12.
1081 For purposes of the distributions of tax revenue under ss.
1082 561.12(1)(a) and 564.06(10), the division shall disregard any
1083 tax credits allowed under this section to ensure that any
1084 reduction in tax revenue received that is attributable to the
1085 tax credits results only in a reduction in distributions to the
1086 General Revenue Fund. The provisions of s. 1002.395 apply to the
1087 credit authorized by this section.

1088 Section 11. Section 624.51055, Florida Statutes, is amended
1089 to read:

1090 624.51055 Credit for contributions to eligible nonprofit
1091 scholarship-funding organizations.—

1092 (1) There is allowed a credit of 100 percent of an eligible
1093 contribution made to an eligible nonprofit scholarship-funding
1094 organization under s. 1002.395 ~~as provided in s. 220.187~~ against
1095 any tax due for a taxable year under s. 624.509(1). However,
1096 such a credit may not exceed 75 percent of the tax due under s.
1097 624.509(1) after deducting from such tax deductions for
1098 assessments made pursuant to s. 440.51; credits for taxes paid
1099 under ss. 175.101 and 185.08; credits for income taxes paid
1100 under chapter 220; credits for the emergency excise tax paid
1101 under chapter 221; and the credit allowed under s. 624.509(5),
1102 as such credit is limited by s. 624.509(6). An insurer claiming

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1103 a credit against premium tax liability under this section shall
1104 not be required to pay any additional retaliatory tax levied
1105 pursuant to s. 624.5091 as a result of claiming such credit.
1106 Section 624.5091 does not limit such credit in any manner.

1107 (2) The provisions of s. 1002.395 ~~220.187~~ apply to the
1108 credit authorized by this section.

1109 Section 12. Subsections (4) and (5) of section 1001.10,
1110 Florida Statutes, are amended to read:

1111 1001.10 Commissioner of Education; general powers and
1112 duties.—

1113 (4) The Department of Education shall provide technical
1114 assistance to school districts, charter schools, the Florida
1115 School for the Deaf and the Blind, and private schools that
1116 accept scholarship students under ~~s. 220.187~~ or s. 1002.39 or s.
1117 1002.395 in the development of policies, procedures, and
1118 training related to employment practices and standards of
1119 ethical conduct for instructional personnel and school
1120 administrators, as defined in s. 1012.01.

1121 (5) The Department of Education shall provide authorized
1122 staff of school districts, charter schools, the Florida School
1123 for the Deaf and the Blind, and private schools that accept
1124 scholarship students under ~~s. 220.187~~ or s. 1002.39 or s.
1125 1002.395 with access to electronic verification of information
1126 from the following employment screening tools:

1127 (a) The Professional Practices' Database of Disciplinary
1128 Actions Against Educators; and

1129 (b) The Department of Education's Teacher Certification
1130 Database.

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1132 This subsection does not require the department to provide these
1133 staff with unlimited access to the databases. However, the
1134 department shall provide the staff with access to the data
1135 necessary for performing employment history checks of the
1136 instructional personnel and school administrators included in
1137 the databases.

1138 Section 13. Paragraph (b) of subsection (6) of section
1139 1002.20, Florida Statutes, is amended to read:

1140 1002.20 K-12 student and parent rights.—Parents of public
1141 school students must receive accurate and timely information
1142 regarding their child's academic progress and must be informed
1143 of ways they can help their child to succeed in school. K-12
1144 students and their parents are afforded numerous statutory
1145 rights including, but not limited to, the following:

1146 (6) EDUCATIONAL CHOICE.—

1147 (b) *Private school choices.*—Parents of public school
1148 students may seek private school choice options under certain
1149 programs.

1150 1. Under the Opportunity Scholarship Program, the parent of
1151 a student in a failing public school may request and receive an
1152 opportunity scholarship for the student to attend a private
1153 school in accordance with the provisions of s. 1002.38.

1154 2. Under the McKay Scholarships for Students with
1155 Disabilities Program, the parent of a public school student with
1156 a disability who is dissatisfied with the student's progress may
1157 request and receive a McKay Scholarship for the student to
1158 attend a private school in accordance with the provisions of s.
1159 1002.39.

1160 3. Under the Florida Tax Credit Scholarship Program, the

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1161 parent of a student who qualifies for free or reduced-price
1162 school lunch may seek a scholarship from an eligible nonprofit
1163 scholarship-funding organization in accordance with the
1164 provisions of s. 1002.395 ~~220.187~~.

1165 Section 14. Paragraph (e) of subsection (2) of section
1166 1002.23, Florida Statutes, is amended to read:

1167 1002.23 Family and School Partnership for Student
1168 Achievement Act.—

1169 (2) To facilitate meaningful parent and family involvement,
1170 the Department of Education shall develop guidelines for a
1171 parent guide to successful student achievement which describes
1172 what parents need to know about their child's educational
1173 progress and how they can help their child to succeed in school.
1174 The guidelines shall include, but need not be limited to:

1175 (e) Educational choices, as provided for in s. 1002.20(6),
1176 and Florida tax credit scholarships, as provided for in s.
1177 1002.395 ~~220.187~~;

1178 Section 15. Paragraph (b) of subsection (3) of section
1179 1002.39, Florida Statutes, is amended to read:

1180 1002.39 The John M. McKay Scholarships for Students with
1181 Disabilities Program.—There is established a program that is
1182 separate and distinct from the Opportunity Scholarship Program
1183 and is named the John M. McKay Scholarships for Students with
1184 Disabilities Program.

1185 (3) JOHN M. MCKAY SCHOLARSHIP PROHIBITIONS.—A student is
1186 not eligible for a John M. McKay Scholarship while he or she is:

1187 (b) Receiving a Florida tax credit scholarship under s.
1188 1002.395 ~~220.187~~;

1189 Section 16. Subsections (1) and (4) of section 1002.421,

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1190 Florida Statutes, are amended to read:

1191 1002.421 Accountability of private schools participating in
1192 state school choice scholarship programs.—

1193 (1) A Florida private school participating in the Florida
1194 Tax Credit Scholarship Program established pursuant to s.
1195 1002.395 ~~220.187~~ or an educational scholarship program
1196 established pursuant to this chapter must comply with all
1197 requirements of this section in addition to private school
1198 requirements outlined in s. 1002.42, specific requirements
1199 identified within respective scholarship program laws, and other
1200 provisions of Florida law that apply to private schools.

1201 (4) A private school that accepts scholarship students
1202 under ~~s. 220.187~~ or s. 1002.39 or s. 1002.395 must:

1203 (a) Disqualify instructional personnel and school
1204 administrators, as defined in s. 1012.01, from employment in any
1205 position that requires direct contact with students if the
1206 personnel or administrators are ineligible for such employment
1207 under s. 1012.315.

1208 (b) Adopt policies establishing standards of ethical
1209 conduct for instructional personnel and school administrators.
1210 The policies must require all instructional personnel and school
1211 administrators, as defined in s. 1012.01, to complete training
1212 on the standards; establish the duty of instructional personnel
1213 and school administrators to report, and procedures for
1214 reporting, alleged misconduct by other instructional personnel
1215 and school administrators which affects the health, safety, or
1216 welfare of a student; and include an explanation of the
1217 liability protections provided under ss. 39.203 and 768.095. A
1218 private school, or any of its employees, may not enter into a

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1219 confidentiality agreement regarding terminated or dismissed
1220 instructional personnel or school administrators, or personnel
1221 or administrators who resign in lieu of termination, based in
1222 whole or in part on misconduct that affects the health, safety,
1223 or welfare of a student, and may not provide the instructional
1224 personnel or school administrators with employment references or
1225 discuss the personnel's or administrators' performance with
1226 prospective employers in another educational setting, without
1227 disclosing the personnel's or administrators' misconduct. Any
1228 part of an agreement or contract that has the purpose or effect
1229 of concealing misconduct by instructional personnel or school
1230 administrators which affects the health, safety, or welfare of a
1231 student is void, is contrary to public policy, and may not be
1232 enforced.

1233 (c) Before employing instructional personnel or school
1234 administrators in any position that requires direct contact with
1235 students, conduct employment history checks of each of the
1236 personnel's or administrators' previous employers, screen the
1237 personnel or administrators through use of the educator
1238 screening tools described in s. 1001.10(5), and document the
1239 findings. If unable to contact a previous employer, the private
1240 school must document efforts to contact the employer.

1241
1242 The department shall suspend the payment of funds under ss.
1243 ~~220.187~~ and 1002.39 and 1002.395 to a private school that
1244 knowingly fails to comply with this subsection, and shall
1245 prohibit the school from enrolling new scholarship students, for
1246 1 fiscal year and until the school complies.

1247 Section 17. Section 1006.061, Florida Statutes, is amended

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1248 to read:

1249 1006.061 Child abuse, abandonment, and neglect policy.—Each
1250 district school board, charter school, and private school that
1251 accepts scholarship students under ~~s. 220.187~~ or s. 1002.39 or
1252 s. 1002.395 shall:

1253 (1) Post in a prominent place in each school a notice that,
1254 pursuant to chapter 39, all employees and agents of the district
1255 school board, charter school, or private school have an
1256 affirmative duty to report all actual or suspected cases of
1257 child abuse, abandonment, or neglect; have immunity from
1258 liability if they report such cases in good faith; and have a
1259 duty to comply with child protective investigations and all
1260 other provisions of law relating to child abuse, abandonment,
1261 and neglect. The notice shall also include the statewide toll-
1262 free telephone number of the central abuse hotline.

1263 (2) Post in a prominent place at each school site and on
1264 each school's Internet website, if available, the policies and
1265 procedures for reporting alleged misconduct by instructional
1266 personnel or school administrators which affects the health,
1267 safety, or welfare of a student; the contact person to whom the
1268 report is made; and the penalties imposed on instructional
1269 personnel or school administrators who fail to report suspected
1270 or actual child abuse or alleged misconduct by other
1271 instructional personnel or school administrators.

1272 (3) Require the principal of the charter school or private
1273 school, or the district school superintendent, or the
1274 superintendent's designee, at the request of the Department of
1275 Children and Family Services, to act as a liaison to the
1276 Department of Children and Family Services and the child

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1277 protection team, as defined in s. 39.01, when in a case of
1278 suspected child abuse, abandonment, or neglect or an unlawful
1279 sexual offense involving a child the case is referred to such a
1280 team; except that this does not relieve or restrict the
1281 Department of Children and Family Services from discharging its
1282 duty and responsibility under the law to investigate and report
1283 every suspected or actual case of child abuse, abandonment, or
1284 neglect or unlawful sexual offense involving a child.

1285
1286 The Department of Education shall develop, and publish on the
1287 department's Internet website, sample notices suitable for
1288 posting in accordance with subsections (1) and (2).

1289 Section 18. Section 1012.315, Florida Statutes, is amended
1290 to read:

1291 1012.315 Disqualification from employment.—A person is
1292 ineligible for educator certification, and instructional
1293 personnel and school administrators, as defined in s. 1012.01,
1294 are ineligible for employment in any position that requires
1295 direct contact with students in a district school system,
1296 charter school, or private school that accepts scholarship
1297 students under ~~s. 220.187~~ or s. 1002.39 or s. 1002.395, if the
1298 person, instructional personnel, or school administrator has
1299 been convicted of:

1300 (1) Any felony offense prohibited under any of the
1301 following statutes:

1302 (a) Section 393.135, relating to sexual misconduct with
1303 certain developmentally disabled clients and reporting of such
1304 sexual misconduct.

1305 (b) Section 394.4593, relating to sexual misconduct with

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1306 certain mental health patients and reporting of such sexual
1307 misconduct.

1308 (c) Section 415.111, relating to adult abuse, neglect, or
1309 exploitation of aged persons or disabled adults.

1310 (d) Section 782.04, relating to murder.

1311 (e) Section 782.07, relating to manslaughter, aggravated
1312 manslaughter of an elderly person or disabled adult, aggravated
1313 manslaughter of a child, or aggravated manslaughter of an
1314 officer, a firefighter, an emergency medical technician, or a
1315 paramedic.

1316 (f) Section 784.021, relating to aggravated assault.

1317 (g) Section 784.045, relating to aggravated battery.

1318 (h) Section 784.075, relating to battery on a detention or
1319 commitment facility staff member or a juvenile probation
1320 officer.

1321 (i) Section 787.01, relating to kidnapping.

1322 (j) Section 787.02, relating to false imprisonment.

1323 (k) Section 787.025, relating to luring or enticing a
1324 child.

1325 (l) Section 787.04(2), relating to leading, taking,
1326 enticing, or removing a minor beyond the state limits, or
1327 concealing the location of a minor, with criminal intent pending
1328 custody proceedings.

1329 (m) Section 787.04(3), relating to leading, taking,
1330 enticing, or removing a minor beyond the state limits, or
1331 concealing the location of a minor, with criminal intent pending
1332 dependency proceedings or proceedings concerning alleged abuse
1333 or neglect of a minor.

1334 (n) Section 790.115(1), relating to exhibiting firearms or

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1335 weapons at a school-sponsored event, on school property, or
1336 within 1,000 feet of a school.

1337 (o) Section 790.115(2)(b), relating to possessing an
1338 electric weapon or device, destructive device, or other weapon
1339 at a school-sponsored event or on school property.

1340 (p) Section 794.011, relating to sexual battery.

1341 (q) Former s. 794.041, relating to sexual activity with or
1342 solicitation of a child by a person in familial or custodial
1343 authority.

1344 (r) Section 794.05, relating to unlawful sexual activity
1345 with certain minors.

1346 (s) Section 794.08, relating to female genital mutilation.

1347 (t) Chapter 796, relating to prostitution.

1348 (u) Chapter 800, relating to lewdness and indecent
1349 exposure.

1350 (v) Section 806.01, relating to arson.

1351 (w) Section 810.14, relating to voyeurism.

1352 (x) Section 810.145, relating to video voyeurism.

1353 (y) Section 812.014(6), relating to coordinating the
1354 commission of theft in excess of \$3,000.

1355 (z) Section 812.0145, relating to theft from persons 65
1356 years of age or older.

1357 (aa) Section 812.019, relating to dealing in stolen
1358 property.

1359 (bb) Section 812.13, relating to robbery.

1360 (cc) Section 812.131, relating to robbery by sudden
1361 snatching.

1362 (dd) Section 812.133, relating to carjacking.

1363 (ee) Section 812.135, relating to home-invasion robbery.

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- 1364 (ff) Section 817.563, relating to fraudulent sale of
1365 controlled substances.
- 1366 (gg) Section 825.102, relating to abuse, aggravated abuse,
1367 or neglect of an elderly person or disabled adult.
- 1368 (hh) Section 825.103, relating to exploitation of an
1369 elderly person or disabled adult.
- 1370 (ii) Section 825.1025, relating to lewd or lascivious
1371 offenses committed upon or in the presence of an elderly person
1372 or disabled person.
- 1373 (jj) Section 826.04, relating to incest.
- 1374 (kk) Section 827.03, relating to child abuse, aggravated
1375 child abuse, or neglect of a child.
- 1376 (ll) Section 827.04, relating to contributing to the
1377 delinquency or dependency of a child.
- 1378 (mm) Section 827.071, relating to sexual performance by a
1379 child.
- 1380 (nn) Section 843.01, relating to resisting arrest with
1381 violence.
- 1382 (oo) Chapter 847, relating to obscenity.
- 1383 (pp) Section 874.05, relating to causing, encouraging,
1384 soliciting, or recruiting another to join a criminal street
1385 gang.
- 1386 (qq) Chapter 893, relating to drug abuse prevention and
1387 control, if the offense was a felony of the second degree or
1388 greater severity.
- 1389 (rr) Section 916.1075, relating to sexual misconduct with
1390 certain forensic clients and reporting of such sexual
1391 misconduct.
- 1392 (ss) Section 944.47, relating to introduction, removal, or

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1393 possession of contraband at a correctional facility.

1394 (tt) Section 985.701, relating to sexual misconduct in
1395 juvenile justice programs.

1396 (uu) Section 985.711, relating to introduction, removal, or
1397 possession of contraband at a juvenile detention facility or
1398 commitment program.

1399 (2) Any misdemeanor offense prohibited under any of the
1400 following statutes:

1401 (a) Section 784.03, relating to battery, if the victim of
1402 the offense was a minor.

1403 (b) Section 787.025, relating to luring or enticing a
1404 child.

1405 (3) Any criminal act committed in another state or under
1406 federal law which, if committed in this state, constitutes an
1407 offense prohibited under any statute listed in subsection (1) or
1408 subsection (2).

1409 (4) Any delinquent act committed in this state or any
1410 delinquent or criminal act committed in another state or under
1411 federal law which, if committed in this state, qualifies an
1412 individual for inclusion on the Registered Juvenile Sex Offender
1413 List under s. 943.0435(1)(a)1.d.

1414 Section 19. Paragraph (e) of subsection (1) of section
1415 1012.796, Florida Statutes, is amended to read:

1416 1012.796 Complaints against teachers and administrators;
1417 procedure; penalties.—

1418 (1)

1419 (e) If allegations arise against an employee who is
1420 certified under s. 1012.56 and employed in an educator-
1421 certificated position in any public school, charter school or

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1422 governing board thereof, or private school that accepts
1423 scholarship students under ~~s. 220.187~~ or s. 1002.39 or s.
1424 1002.395, the school shall file in writing with the department a
1425 legally sufficient complaint within 30 days after the date on
1426 which the subject matter of the complaint came to the attention
1427 of the school. A complaint is legally sufficient if it contains
1428 ultimate facts that show a violation has occurred as provided in
1429 s. 1012.795 and defined by rule of the State Board of Education.
1430 The school shall include all known information relating to the
1431 complaint with the filing of the complaint. This paragraph does
1432 not limit or restrict the power and duty of the department to
1433 investigate complaints, regardless of the school's untimely
1434 filing, or failure to file, complaints and followup reports.

1435 Section 20. Except as otherwise expressly provided in this
1436 act, this act shall take effect July 1, 2010.