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1
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 unused
11 amounts of tax credits to be carried forward;
12 providing application requirements; providing
13 limitations on conveying, assigning, or transferring
14 tax credits; revising provisions governing the
15 rescission of taxpayer tax credits; deleting a
16 prohibition against claiming certain multiple tax
17 credits; specifying additional obligations for
18 eligible nonprofit scholarship-funding organizations
19 relating to development and review of certain
20 accounting procedures and guidelines; providing
21 reporting requirements; limiting private school
22 participation eligibility to certain grades; requiring
23 private schools to annually contract with accountants
24 to perform certain procedures; providing reporting and
25 procedural requirements; revising certain obligations
26 of the Department of Education; specifying additional
27 requirements for certain independent research
28 organizations; providing responsibilities of the
29 Department of Education; deleting certain requirements

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

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59 a credit against certain alcoholic beverage taxes for
60 certain contributions; requiring the Department of
61 Revenue to disregard certain tax credits for certain
62 purposes; providing for application; amending ss.
63 220.02, 220.186, 624.51055, 1001.10, 1002.20, 1002.23,
64 1002.39, 1002.421, 1006.061, 1012.315, and 1012.796,
65 F.S.; conforming cross-references to changes made by
66 the act; authorizing the Department of Revenue to
67 adopt emergency rules; providing an appropriation to
68 the Department of Revenue to implement the act;
69 providing effective dates.

70

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

72

73 Section 1. Section 220.187, Florida Statutes, is
74 transferred, renumbered as section 1002.395, Florida Statutes,
75 and amended to read:

76 1002.395 ~~220.187~~ Florida Tax Credit Scholarship Program
77 ~~Credits for contributions to nonprofit scholarship funding~~
78 ~~organizations.~~—

79 (1) FINDINGS AND PURPOSE.—

80 (a) The Legislature finds that:

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

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

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88 3. Ensuring that all parents, regardless of means, may
89 exercise and enjoy their basic right to educate their children
90 as they see fit is a valid public purpose that the Legislature
91 may promote using its sovereign power to determine subjects of
92 taxation and exemptions from taxation.

93 4. Expanding educational opportunities and the healthy
94 competition they promote are critical to improving the quality
95 of education in the state and to ensuring that all children
96 receive the high-quality education to which they are entitled.

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

98 1. Enable taxpayers to make private, voluntary
99 contributions to nonprofit scholarship-funding organizations in
100 order to promote the general welfare.

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

104 3. Promote the general welfare by expanding educational
105 opportunities for children of families that have limited
106 financial resources.

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

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

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

113 (a) "Annual tax credit amount" means, for any state fiscal
114 year, the sum of the amount of tax credits approved under
115 paragraph (5) (b), including tax credits to be taken under s.
116 220.1875 or s. 624.51055, which are approved for a taxpayer

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117 whose taxable year begins on or after January 1 of the calendar
118 year preceding the start of the applicable state fiscal year.

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

120 (c)~~(b)~~ "Direct certification list" means the certified list
121 of children who qualify for the Food Stamp Program, the
122 Temporary Assistance to Needy Families Program, or the Food
123 Distribution Program on Indian Reservations provided to the
124 Department of Education by the Department of Children and Family
125 Services.

126 (d) "Division" means the Division of Alcoholic Beverages
127 and Tobacco of the Department of Business and Professional
128 Regulation.

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

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

137 1. Is exempt from federal income tax pursuant to s.
138 501(c)(3) of the Internal Revenue Code;

139 2. Is a Florida entity formed under chapter 607, chapter
140 608, or chapter 617 and whose principal office is located in the
141 state; and

142 3. Complies with the provisions of subsection (6).

143 (g)~~(e)~~ "Eligible private school" means a private school, as
144 defined in s. 1002.01(2), located in Florida which offers an
145 education to students in any grades K-12 and that meets the

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146 requirements in subsection (8).

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

148 1. An owner, president, officer, or director of an eligible
149 nonprofit scholarship-funding organization or a person with
150 equivalent decisionmaking authority over an eligible nonprofit
151 scholarship-funding organization.

152 2. An owner, operator, superintendent, or principal of an
153 eligible private school or a person with equivalent
154 decisionmaking authority over an eligible private school.

155 (i) "Tax credit cap amount" means the maximum annual tax
156 credit amount that the department may approve in a state fiscal
157 year.

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

163 (3) PROGRAM; SCHOLARSHIP ELIGIBILITY.—

164 (a) The Florida Tax Credit Scholarship Program is
165 established.

166 (b) Contingent upon available funds:

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

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

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

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

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

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

185 3. A sibling of a student who is continuing in the
186 scholarship program and who resides in the same household as the
187 student shall also be eligible as a first-time tax credit
188 scholarship recipient if the sibling meets one or more of the
189 criteria specified in subparagraph 1. and as long as the
190 student's and sibling's household income level does not exceed
191 230 ~~200~~ percent of the federal poverty level.

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

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

199 (a) Enrolled in a school operating for the purpose of
200 providing educational services to youth in Department of
201 Juvenile Justice commitment programs;

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

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204 (c) Receiving an educational scholarship pursuant to
205 chapter 1002;

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

208 (e) Participating in a private tutoring program pursuant to
209 s. 1002.43;

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

214 (g) Enrolled in the Florida School for the Deaf and the
215 Blind.

216 (5) ~~AUTHORIZATION TO GRANT SCHOLARSHIP FUNDING TAX CREDITS;~~
217 ~~LIMITATIONS ON INDIVIDUAL AND TOTAL CREDITS.—~~

218 (a) 1. The tax credit cap amount is \$140 million in the
219 2010-2011 state fiscal year.

220 2. In the 2011-2012 state fiscal year and each state fiscal
221 year thereafter, the tax credit cap amount is the tax credit cap
222 amount in the prior state fiscal year. However, in any state
223 fiscal year when the annual tax credit amount for the prior
224 state fiscal year is equal to or greater than 90 percent of the
225 tax credit cap amount applicable to that state fiscal year, the
226 tax credit cap amount shall increase by 25 percent. The
227 department shall publish on its website information identifying
228 the tax credit cap amount when it is increased pursuant to this
229 subparagraph. There is allowed a credit of 100 percent of an
230 eligible contribution against any tax due for a taxable year
231 under this chapter. However, such a credit may not exceed 75
232 percent of the tax due under this chapter for the taxable year,

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233 ~~after the application of any other allowable credits by the~~
234 ~~taxpayer. The credit granted by this section shall be reduced by~~
235 ~~the difference between the amount of federal corporate income~~
236 ~~tax taking into account the credit granted by this section and~~
237 ~~the amount of federal corporate income tax without application~~
238 ~~of the credit granted by this section.~~

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

252 (c) If a tax credit approved under paragraph (b) is not
253 fully used within the specified state fiscal year for credits
254 under s. 211.0251, s. 212.1831, or s. 561.1211 or against taxes
255 due for the specified taxable year for credits under s. 220.1875
256 or s. 624.51055 because of insufficient tax liability on the
257 part of the taxpayer, the unused amount may be carried forward
258 for a period not to exceed 3 years. However, any taxpayer that
259 seeks to carry forward an unused amount of tax credit must
260 submit an application to the department for approval of the
261 carryforward tax credit in the year that the taxpayer intends to

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262 use the carryforward. The department must obtain the division's
263 approval prior to approving the carryforward of a tax credit
264 under s. 561.1211. A taxpayer who files a Florida consolidated
265 return as a member of an affiliated group pursuant to s.
266 220.131(1) may be allowed the credit on a consolidated return
267 basis; however, the total credit taken by the affiliated group
268 is subject to the limitation established under paragraph (a).

269 (d) A taxpayer may not convey, assign, or transfer an
270 approved tax credit or a carryforward tax credit to another
271 entity unless all of the assets of the taxpayer are conveyed,
272 assigned, or transferred in the same transaction.

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

290 ~~(e) A taxpayer who is eligible to receive the credit~~

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291 ~~provided for in s. 624.51055 is not eligible to receive the~~
292 ~~credit provided by this section.~~

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

296 (a) Must comply with the antidiscrimination provisions of
297 42 U.S.C. s. 2000d.

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

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

315 2. Every 5 years following employment or engagement to
316 provide services or association with an eligible nonprofit
317 scholarship-funding organization, each owner or operator must
318 meet level 2 screening standards as described in s. 435.04, at
319 which time the nonprofit scholarship-funding organization shall

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320 request the Department of Law Enforcement to forward the
321 fingerprints to the Federal Bureau of Investigation for level 2
322 screening. If the fingerprints of an owner or operator are not
323 retained by the Department of Law Enforcement under subparagraph
324 3., the owner or operator must electronically file a complete
325 set of fingerprints with the Department of Law Enforcement. Upon
326 submission of fingerprints for this purpose, the eligible
327 nonprofit scholarship-funding organization shall request that
328 the Department of Law Enforcement forward the fingerprints to
329 the Federal Bureau of Investigation for level 2 screening, and
330 the fingerprints shall be retained by the Department of Law
331 Enforcement under subparagraph 3.

332 3. Beginning July 1, 2007, all fingerprints submitted to
333 the Department of Law Enforcement as required by this paragraph
334 must be retained by the Department of Law Enforcement in a
335 manner approved by rule and entered in the statewide automated
336 fingerprint identification system authorized by s. 943.05(2)(b).
337 The fingerprints must thereafter be available for all purposes
338 and uses authorized for arrest fingerprint cards entered in the
339 statewide automated fingerprint identification system pursuant
340 to s. 943.051.

341 4. Beginning July 1, 2007, the Department of Law
342 Enforcement shall search all arrest fingerprint cards received
343 under s. 943.051 against the fingerprints retained in the
344 statewide automated fingerprint identification system under
345 subparagraph 3. Any arrest record that is identified with an
346 owner's or operator's fingerprints must be reported to the
347 Department of Education. The Department of Education shall
348 participate in this search process by paying an annual fee to

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349 the Department of Law Enforcement and by informing the
350 Department of Law Enforcement of any change in the employment,
351 engagement, or association status of the owners or operators
352 whose fingerprints are retained under subparagraph 3. The
353 Department of Law Enforcement shall adopt a rule setting the
354 amount of the annual fee to be imposed upon the Department of
355 Education for performing these services and establishing the
356 procedures for the retention of owner and operator fingerprints
357 and the dissemination of search results. The fee may be borne by
358 the owner or operator of the nonprofit scholarship-funding
359 organization.

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

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

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

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

373 1. Tuition and fees for an eligible private school; or

374 2. Transportation to a Florida public school that is
375 located outside the district in which the student resides or to
376 a lab school as defined in s. 1002.32.

377 (e) Must give priority to eligible students who received a

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378 scholarship from an eligible nonprofit scholarship-funding
379 organization or from the State of Florida during the previous
380 school year.

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

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

387 (h) Must allow an eligible student to attend any eligible
388 private school and must allow a parent to transfer a scholarship
389 during a school year to any other eligible private school of the
390 parent's choice.

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

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

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

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

419 (j) Must maintain separate accounts for scholarship funds
420 and operating funds.

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

434 (l) Must provide to the Auditor General and the Department
435 of Education an annual financial and compliance audit of its

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436 accounts and records conducted by an independent certified
437 public accountant and in accordance with rules adopted by the
438 Auditor General. The audit must be conducted in compliance with
439 generally accepted auditing standards and must include a report
440 on financial statements presented in accordance with generally
441 accepted accounting principles set forth by the American
442 Institute of Certified Public Accountants for not-for-profit
443 organizations and a determination of compliance with the
444 statutory eligibility and expenditure requirements set forth in
445 this section. Audits must be provided to the Auditor General and
446 the Department of Education within 180 days after completion of
447 the eligible nonprofit scholarship-funding organization's fiscal
448 year.

449 (m) Must prepare and submit quarterly reports to the
450 Department of Education pursuant to paragraph (9) (m). In
451 addition, an eligible nonprofit scholarship-funding organization
452 must submit in a timely manner any information requested by the
453 Department of Education relating to the scholarship program.

454 (n)1.a. Must participate in the joint development of
455 agreed-upon procedures to be performed by an independent
456 certified public accountant as required under paragraph (8) (e)
457 if the scholarship-funding organization provided more than
458 \$250,000 in scholarship funds to an eligible private school
459 under this section during the 2009-2010 state fiscal year. The
460 agreed-upon procedures must uniformly apply to all private
461 schools and must determine, at a minimum, whether the private
462 school has been verified as eligible by the Department of
463 Education under paragraph (9) (c); has an adequate accounting
464 system, system of financial controls, and process for deposit

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465 and classification of scholarship funds; and has properly
466 expended scholarship funds for education-related expenses.
467 During the development of the procedures, the participating
468 scholarship-funding organizations shall specify guidelines
469 governing the materiality of exceptions that may be found during
470 the accountant's performance of the procedures. The procedures
471 and guidelines shall be provided to private schools and the
472 Commissioner of Education by March 15, 2011.

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

482 c. Must monitor the compliance of a private school with
483 paragraph (8) (e) if the scholarship-funding organization
484 provided the majority of the scholarship funding to the school.
485 For each private school subject to paragraph (8) (e), the
486 appropriate scholarship-funding organization shall notify the
487 Commissioner of Education by October 30, 2011, and annually
488 thereafter of:

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

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

493 2. Must seek input from the accrediting associations that

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494 are members of the Florida Association of Academic Nonpublic
495 Schools when jointly developing the agreed-upon procedures and
496 guidelines under sub-subparagraph 1.a. and conducting a review
497 of those procedures and guidelines under sub-subparagraph 1.b.
498

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

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

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

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

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

514 (d) Each parent and each student has an obligation to the
515 private school to comply with the private school's published
516 policies.

517 (e) The parent shall ensure that the student participating
518 in the scholarship program takes the norm-referenced assessment
519 offered by the private school. The parent may also choose to
520 have the student participate in the statewide assessments
521 pursuant to s. 1008.22. If the parent requests that the student
522 participating in the scholarship program take statewide

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523 assessments pursuant to s. 1008.22, the parent is responsible
524 for transporting the student to the assessment site designated
525 by the school district.

526 (f) Upon receipt of a scholarship warrant from the eligible
527 nonprofit scholarship-funding organization, the parent to whom
528 the warrant is made must restrictively endorse the warrant to
529 the private school for deposit into the account of the private
530 school. The parent may not designate any entity or individual
531 associated with the participating private school as the parent's
532 attorney in fact to endorse a scholarship warrant. A participant
533 who fails to comply with this paragraph forfeits the
534 scholarship.

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

537 (a) Comply with all requirements for private schools
538 participating in state school choice scholarship programs
539 pursuant to s. 1002.421.

540 (b) Provide to the eligible nonprofit scholarship-funding
541 organization, upon request, all documentation required for the
542 student's participation, including the private school's and
543 student's fee schedules.

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

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

548 2. Annually administering or making provision for students
549 participating in the scholarship program in grades 3 through 10
550 to take one of the nationally norm-referenced tests identified
551 by the Department of Education. Students with disabilities for

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552 whom standardized testing is not appropriate are exempt from
553 this requirement. A participating private school must report a
554 student's scores to the parent and to the independent research
555 organization selected by the Department of Education as
556 described in paragraph (9)(j).

557 3. Cooperating with the scholarship student whose parent
558 chooses to have the student participate in the statewide
559 assessments pursuant to s. 1008.22.

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

563 (e) Annually contract with an independent certified public
564 accountant to perform the agreed-upon procedures developed under
565 paragraph (6)(n) and produce a report of the results if the
566 private school receives more than \$250,000 in funds from
567 scholarships awarded under this section in the 2010-2011 state
568 fiscal year or a state fiscal year thereafter. A private school
569 subject to this paragraph must submit the report by September
570 15, 2011, and annually thereafter to the scholarship-funding
571 organization that awarded the majority of the school's
572 scholarship funds. The agreed-upon procedures must be conducted
573 in accordance with attestation standards established by the
574 American Institute of Certified Public Accountants.

575
576 The inability of a private school to meet the requirements of
577 this subsection shall constitute a basis for the ineligibility
578 of the private school to participate in the scholarship program
579 as determined by the Department of Education.

580 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The Department of

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581 Education shall:

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

585 (b) Annually verify the eligibility of nonprofit
586 scholarship-funding organizations that meet the requirements of
587 paragraph (2) (f) ~~(d)~~.

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

590 (d) Annually verify the eligibility of expenditures as
591 provided in paragraph (6) (d) using the audit required by
592 paragraph (6) (l).

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

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

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

613 (h) Cross-check the list of participating scholarship
614 students with the public school enrollment lists to avoid
615 duplication.

616 (i) Maintain a list of nationally norm-referenced tests
617 identified for purposes of satisfying the testing requirement in
618 subparagraph (8)(c)2. The tests must meet industry standards of
619 quality in accordance with State Board of Education rule.

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

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

628 a. On a statewide basis. The report shall also include, to
629 the extent possible, a comparison of these learning gains to the
630 statewide learning gains of public school students with
631 socioeconomic backgrounds similar to those of students
632 participating in the scholarship program. ~~The independent~~
633 research organization must analyze and report student
634 performance data in a manner that protects the rights of
635 students and parents as mandated in 20 U.S.C. s. 1232g, the
636 Family Educational Rights and Privacy Act, and must not
637 disaggregate data to a level that will disclose the academic
638 level of individual students or of individual schools. ~~To the~~

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639 ~~extent possible, the independent research organization must~~
640 ~~accumulate historical performance data on students from the~~
641 ~~Department of Education and private schools to describe baseline~~
642 ~~performance and to conduct longitudinal studies. To minimize~~
643 ~~costs and reduce time required for the independent research~~
644 ~~organization's third-party analysis and evaluation, the~~
645 Department of Education shall conduct analyses of matched
646 students from public school assessment data and calculate
647 control group learning gains using an agreed-upon methodology
648 outlined in the contract with the independent research
649 organization; and ~~third-party evaluator~~

650 b. According to each participating private school in which
651 there are at least 30 participating students who have scores for
652 tests administered during or after the 2009-2010 school year for
653 2 consecutive years at that private school.

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

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

666 (k) Notify an eligible nonprofit scholarship-funding
667 organization of any of the organization's identified students

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668 who are receiving educational scholarships pursuant to chapter
669 1002.

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

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

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

688 2. Annually, by December 15, report to the Governor, the
689 President of the Senate, and the Speaker of the House of
690 Representatives the Department of Education's actions with
691 respect to implementing accountability in the scholarship
692 program under this section and s. 1002.421, any substantiated
693 allegations or violations of law or rule by an eligible private
694 school under this program concerning the enrollment and
695 attendance of students, the credentials of teachers, background
696 screening of teachers, and teachers' fingerprinting results and

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697 the corrective action taken by the Department of Education.

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

702 (10) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.—Upon
703 the request of any eligible nonprofit scholarship-funding
704 organization, a school district shall inform all households
705 within the district receiving free or reduced-priced meals under
706 the National School Lunch Act of their eligibility to apply for
707 a tax credit scholarship. The form of such notice shall be
708 provided by the eligible nonprofit scholarship-funding
709 organization, and the district shall include the provided form,
710 if requested by the organization, in any normal correspondence
711 with eligible households. If an eligible nonprofit scholarship-
712 funding organization requests a special communication to be
713 issued to households within the district receiving free or
714 reduced-price meals under the National School Lunch Act, the
715 organization shall reimburse the district for the cost of
716 postage. Such notice is limited to once a year.

717 (11) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.—

718 (a)1. The Commissioner of Education shall deny, suspend, or
719 revoke a private school's participation in the scholarship
720 program if it is determined that the private school has failed
721 to comply with the provisions of this section. However, in
722 instances in which the noncompliance is correctable within a
723 reasonable amount of time and in which the health, safety, or
724 welfare of the students is not threatened, the commissioner may
725 issue a notice of noncompliance that shall provide the private

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726 school with a timeframe within which to provide evidence of
727 compliance prior to taking action to suspend or revoke the
728 private school's participation in the scholarship program.

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

749 (b) The commissioner's determination is subject to the
750 following:

751 1. If the commissioner intends to deny, suspend, or revoke
752 a private school's participation in the scholarship program, the
753 Department of Education shall notify the private school of such
754 proposed action in writing by certified mail and regular mail to

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755 the private school's address of record with the Department of
756 Education. The notification shall include the reasons for the
757 proposed action and notice of the timelines and procedures set
758 forth in this paragraph.

759 2. The private school that is adversely affected by the
760 proposed action shall have 15 days from receipt of the notice of
761 proposed action to file with the Department of Education's
762 agency clerk a request for a proceeding pursuant to ss. 120.569
763 and 120.57. If the private school is entitled to a hearing under
764 s. 120.57(1), the Department of Education shall forward the
765 request to the Division of Administrative Hearings.

766 3. Upon receipt of a request referred pursuant to this
767 paragraph, the director of the Division of Administrative
768 Hearings shall expedite the hearing and assign an administrative
769 law judge who shall commence a hearing within 30 days after the
770 receipt of the formal written request by the division and enter
771 a recommended order within 30 days after the hearing or within
772 30 days after receipt of the hearing transcript, whichever is
773 later. Each party shall be allowed 10 days in which to submit
774 written exceptions to the recommended order. A final order shall
775 be entered by the agency within 30 days after the entry of a
776 recommended order. The provisions of this subparagraph may be
777 waived upon stipulation by all parties.

778 (c) The commissioner may immediately suspend payment of
779 scholarship funds if it is determined that there is probable
780 cause to believe that there is:

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

783 2. Fraudulent activity on the part of the private school.

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784 Notwithstanding s. 1002.22, in incidents of alleged fraudulent
785 activity pursuant to this section, the Department of Education's
786 Office of Inspector General is authorized to release personally
787 identifiable records or reports of students to the following
788 persons or organizations:

789 a. A court of competent jurisdiction in compliance with an
790 order of that court or the attorney of record in accordance with
791 a lawfully issued subpoena, consistent with the Family
792 Educational Rights and Privacy Act, 20 U.S.C. s. 1232g.

793 b. A person or entity authorized by a court of competent
794 jurisdiction in compliance with an order of that court or the
795 attorney of record pursuant to a lawfully issued subpoena,
796 consistent with the Family Educational Rights and Privacy Act,
797 20 U.S.C. s. 1232g.

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

804
805 The commissioner's order suspending payment pursuant to this
806 paragraph may be appealed pursuant to the same procedures and
807 timelines as the notice of proposed action set forth in
808 paragraph (b).

809 (12) SCHOLARSHIP AMOUNT AND PAYMENT.—

810 (a) 1. Except as provided in subparagraph 2., the amount of
811 a scholarship provided to any student for any single school year
812 by an eligible nonprofit scholarship-funding organization from

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813 eligible contributions shall be for total costs authorized under
814 paragraph (6) (d), not to exceed ~~the following~~ annual limits,
815 which shall be determined as follows:

816 a.1. Three thousand nine hundred fifty dollars For a
817 scholarship awarded to a student enrolled in an eligible private
818 school: ~~for~~

819 (I) For the 2009-2010 state fiscal year, the limit shall be
820 \$3,950 ~~the 2008-2009 state fiscal year and each fiscal year~~
821 ~~thereafter.~~

822 (II) For the 2010-2011 state fiscal year, the limit shall
823 be 60 percent of the unweighted FTE funding amount for that
824 year.

825 (III) For the 2011-2012 state fiscal year and thereafter,
826 the limit shall be determined by multiplying the unweighted FTE
827 funding amount in that state fiscal year by the percentage used
828 to determine the limit in the prior state fiscal year. However,
829 in each state fiscal year that the tax credit cap amount
830 increases pursuant to subparagraph (5) (a)2., the prior year
831 percentage shall be increased by 4 percentage points and the
832 increased percentage shall be used to determine the limit for
833 that state fiscal year. If the percentage so calculated reaches
834 80 percent in a state fiscal year, no further increase in the
835 percentage is allowed and the limit shall be 80 percent of the
836 unweighted FTE funding amount for that state fiscal year and
837 thereafter.

838 b.2. Five hundred dollars For a scholarship awarded to a
839 student enrolled in a Florida public school that is located
840 outside the district in which the student resides or in a lab
841 school as defined in s. 1002.32, the limit shall be \$500.

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

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

847 b. Fifty percent if the student's household income level is
848 equal to or greater than 215 percent, but equal to or less than
849 230 percent, of the federal poverty level.

850 (b) Payment of the scholarship by the eligible nonprofit
851 scholarship-funding organization shall be by individual warrant
852 made payable to the student's parent. If the parent chooses that
853 his or her child attend an eligible private school, the warrant
854 must be delivered by the eligible nonprofit scholarship-funding
855 organization to the private school of the parent's choice, and
856 the parent shall restrictively endorse the warrant to the
857 private school. An eligible nonprofit scholarship-funding
858 organization shall ensure that the parent to whom the warrant is
859 made restrictively endorsed the warrant to the private school
860 for deposit into the account of the private school.

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

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

868 (13) ADMINISTRATION; RULES.—

869 ~~(a) If the credit granted pursuant to this section is not~~
870 ~~fully used in any one year because of insufficient tax liability~~

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871 ~~on the part of the corporation, the unused amount may be carried~~
872 ~~forward for a period not to exceed 3 years; however, any~~
873 ~~taxpayer that seeks to carry forward an unused amount of tax~~
874 ~~credit must submit an application for allocation of tax credits~~
875 ~~or carryforward credits as required in paragraph (d) in the year~~
876 ~~that the taxpayer intends to use the carryforward. This~~
877 ~~carryforward applies to all approved contributions made after~~
878 ~~January 1, 2002. A taxpayer may not convey, assign, or transfer~~
879 ~~the credit authorized by this section to another entity unless~~
880 ~~all of the assets of the taxpayer are conveyed, assigned, or~~
881 ~~transferred in the same transaction.~~

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

885 ~~(a)(e)~~ The department, the division, and the Department of
886 Education shall develop a cooperative agreement to assist in the
887 administration of this section.

888 ~~(b)(d)~~ The department shall adopt rules necessary to
889 administer this section and ss. 211.0251, 212.1831, 220.1875,
890 561.1211, and 624.51055, including rules establishing
891 application forms, and procedures and governing the approval
892 allocation of tax credits and carryforward tax credits under
893 subsection (5), and procedures to be followed by taxpayers when
894 claiming approved tax credits on their returns this section on a
895 first-come, first-served basis.

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

898 ~~(d)(e)~~ The State Board of Education shall adopt rules
899 pursuant to ss. 120.536(1) and 120.54 to administer the

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900 responsibilities ~~this section as it relates to the roles~~ of the
901 Department of Education and the Commissioner of Education under
902 this section.

903 (14) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.—All eligible
904 contributions received by an eligible nonprofit scholarship-
905 funding organization shall be deposited in a manner consistent
906 with s. 17.57(2).

907 (15) PRESERVATION OF CREDIT.—If any provision or portion of
908 this section, s. 211.0251, s. 212.1831, s. 220.1875, s.
909 561.1211, or s. 624.51055 subsection (5) or the application
910 thereof to any person or circumstance is held unconstitutional
911 by any court or is otherwise declared invalid, the
912 unconstitutionality or invalidity shall not affect any credit
913 earned under s. 211.0251, s. 212.1831, s. 220.1875, s. 561.1211,
914 or s. 624.51055 subsection (5) by any taxpayer with respect to
915 any contribution paid to an eligible nonprofit scholarship-
916 funding organization before the date of a determination of
917 unconstitutionality or invalidity. Such credit shall be allowed
918 at such time and in such a manner as if a determination of
919 unconstitutionality or invalidity had not been made, provided
920 that nothing in this subsection by itself or in combination with
921 any other provision of law shall result in the allowance of any
922 credit to any taxpayer in excess of one dollar of credit for
923 each dollar paid to an eligible nonprofit scholarship-funding
924 organization.

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

927 211.0251 Credit for contributions to eligible nonprofit
928 scholarship-funding organizations.—There is allowed a credit of

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929 100 percent of an eligible contribution made to an eligible
930 nonprofit scholarship-funding organization under s. 1002.395
931 against any tax due under s. 211.02 or s. 211.025. However, a
932 credit allowed under this section may not exceed 50 percent of
933 the tax due on the return the credit is taken. For purposes of
934 the distributions of tax revenue under s. 211.06, the department
935 shall disregard any tax credits allowed under this section to
936 ensure that any reduction in tax revenue received which is
937 attributable to the tax credits results only in a reduction in
938 distributions to the General Revenue Fund. The provisions of s.
939 1002.395 apply to the credit authorized by this section.

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

942 212.1831 Credit for contributions to eligible nonprofit
943 scholarship-funding organizations.—There is allowed a credit of
944 100 percent of an eligible contribution made to an eligible
945 nonprofit scholarship-funding organization under s. 1002.395
946 against any tax imposed by the state and due under this chapter
947 from a direct pay permit holder as a result of the direct pay
948 permit held pursuant to s. 212.183. For purposes of the
949 distributions of tax revenue under s. 212.20, the department
950 shall disregard any tax credits allowed under this section to
951 ensure that any reduction in tax revenue received that is
952 attributable to the tax credits results only in a reduction in
953 distributions to the General Revenue Fund. The provisions of s.
954 1002.395 apply to the credit authorized by this section.

955 Section 4. Paragraph (u) of subsection (8) of section
956 213.053, Florida Statutes, is amended to read:

957 213.053 Confidentiality and information sharing.—

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

960 (u) Information relative to ss. 211.0251, 212.1831,
961 220.1875, 561.1211, 624.51055, and 1002.395 ~~s. 220.187~~ to the
962 Department of Education and the Division of Alcoholic Beverages
963 and Tobacco in the conduct of ~~its~~ official business.

964
965 Disclosure of information under this subsection shall be
966 pursuant to a written agreement between the executive director
967 and the agency. Such agencies, governmental or nongovernmental,
968 shall be bound by the same requirements of confidentiality as
969 the Department of Revenue. Breach of confidentiality is a
970 misdemeanor of the first degree, punishable as provided by s.
971 775.082 or s. 775.083.

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

974 220.02 Legislative intent.—

975 (8) It is the intent of the Legislature that credits
976 against either the corporate income tax or the franchise tax be
977 applied in the following order: those enumerated in s. 631.828,
978 those enumerated in s. 220.191, those enumerated in s. 220.181,
979 those enumerated in s. 220.183, those enumerated in s. 220.182,
980 those enumerated in s. 220.1895, those enumerated in s. 221.02,
981 those enumerated in s. 220.184, those enumerated in s. 220.186,
982 those enumerated in s. 220.1845, those enumerated in s. 220.19,
983 those enumerated in s. 220.185, those enumerated in s. 220.1875
984 ~~220.187~~, those enumerated in s. 220.192, those enumerated in s.
985 220.193, and those enumerated in s. 288.9916.

986 Section 6. Paragraph (a) of subsection (1) of section

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987 220.13, Florida Statutes, is amended to read:

988 220.13 "Adjusted federal income" defined.—

989 (1) The term "adjusted federal income" means an amount
990 equal to the taxpayer's taxable income as defined in subsection
991 (2), or such taxable income of more than one taxpayer as
992 provided in s. 220.131, for the taxable year, adjusted as
993 follows:

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

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

1000 2. The amount of interest which is excluded from taxable
1001 income under s. 103(a) of the Internal Revenue Code or any other
1002 federal law, less the associated expenses disallowed in the
1003 computation of taxable income under s. 265 of the Internal
1004 Revenue Code or any other law, excluding 60 percent of any
1005 amounts included in alternative minimum taxable income, as
1006 defined in s. 55(b)(2) of the Internal Revenue Code, if the
1007 taxpayer pays tax under s. 220.11(3).

1008 3. In the case of a regulated investment company or real
1009 estate investment trust, an amount equal to the excess of the
1010 net long-term capital gain for the taxable year over the amount
1011 of the capital gain dividends attributable to the taxable year.

1012 4. That portion of the wages or salaries paid or incurred
1013 for the taxable year which is equal to the amount of the credit
1014 allowable for the taxable year under s. 220.181. This
1015 subparagraph shall expire on the date specified in s. 290.016

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1016 for the expiration of the Florida Enterprise Zone Act.

1017 5. That portion of the ad valorem school taxes paid or
1018 incurred for the taxable year which is equal to the amount of
1019 the credit allowable for the taxable year under s. 220.182. This
1020 subparagraph shall expire on the date specified in s. 290.016
1021 for the expiration of the Florida Enterprise Zone Act.

1022 6. The amount of emergency excise tax paid or accrued as a
1023 liability to this state under chapter 221 which tax is
1024 deductible from gross income in the computation of taxable
1025 income for the taxable year.

1026 7. That portion of assessments to fund a guaranty
1027 association incurred for the taxable year which is equal to the
1028 amount of the credit allowable for the taxable year.

1029 8. In the case of a nonprofit corporation which holds a
1030 pari-mutuel permit and which is exempt from federal income tax
1031 as a farmers' cooperative, an amount equal to the excess of the
1032 gross income attributable to the pari-mutuel operations over the
1033 attributable expenses for the taxable year.

1034 9. The amount taken as a credit for the taxable year under
1035 s. 220.1895.

1036 10. Up to nine percent of the eligible basis of any
1037 designated project which is equal to the credit allowable for
1038 the taxable year under s. 220.185.

1039 11. The amount taken as a credit for the taxable year under
1040 s. 220.1875 ~~220.187~~. The addition in this subparagraph is
1041 intended to ensure that the same amount is not allowed for the
1042 tax purposes of this state as both a deduction from income and a
1043 credit against the tax. This addition is not intended to result
1044 in adding the same expense back to income more than once.

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1045 12. The amount taken as a credit for the taxable year under
1046 s. 220.192.

1047 13. The amount taken as a credit for the taxable year under
1048 s. 220.193.

1049 14. Any portion of a qualified investment, as defined in s.
1050 288.9913, which is claimed as a deduction by the taxpayer and
1051 taken as a credit against income tax pursuant to s. 288.9916.

1052 Section 7. The amendment to s. 220.13(1)(a)11., Florida
1053 Statutes, made by this act is intended to be clarifying and
1054 remedial in nature and shall apply retroactively to tax credits
1055 under s. 220.187, Florida Statutes, between January 1, 2002, and
1056 June 30, 2010, for taxes due under chapter 220, Florida
1057 Statutes, and prospectively to tax credits under s. 220.1875,
1058 Florida Statutes.

1059 Section 8. Subsection (2) of section 220.186, Florida
1060 Statutes, is amended to read:

1061 220.186 Credit for Florida alternative minimum tax.—

1062 (2) The credit pursuant to this section shall be the amount
1063 of the excess, if any, of the tax paid based upon taxable income
1064 determined pursuant to s. 220.13(2)(k) over the amount of tax
1065 which would have been due based upon taxable income without
1066 application of s. 220.13(2)(k), before application of this
1067 credit without application of any credit under s. 220.1875
1068 ~~220.187~~.

1069 Section 9. Section 220.1875, Florida Statutes, is created
1070 to read:

1071 220.1875 Credit for contributions to eligible nonprofit
1072 scholarship-funding organizations.—

1073 (1) There is allowed a credit of 100 percent of an eligible

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1074 contribution made to an eligible nonprofit scholarship-funding
1075 organization under s. 1002.395 against any tax due for a taxable
1076 year under this chapter. However, such a credit may not exceed
1077 75 percent of the tax due under this chapter for the taxable
1078 year, after the application of any other allowable credits by
1079 the taxpayer. The credit granted by this section shall be
1080 reduced by the difference between the amount of federal
1081 corporate income tax taking into account the credit granted by
1082 this section and the amount of federal corporate income tax
1083 without application of the credit granted by this section.

1084 (2) A taxpayer who files a Florida consolidated return as a
1085 member of an affiliated group pursuant to s. 220.131(1) may be
1086 allowed the credit on a consolidated return basis; however, the
1087 total credit taken by the affiliated group is subject to the
1088 limitation established under subsection (1).

1089 (3) The provisions of s. 1002.395 apply to the credit
1090 authorized by this section.

1091 Section 10. Section 561.1211, Florida Statutes, is created
1092 to read:

1093 561.1211 Credit for contributions to eligible nonprofit
1094 scholarship-funding organizations.—There is allowed a credit of
1095 100 percent of an eligible contribution made to an eligible
1096 nonprofit scholarship-funding organization under s. 1002.395
1097 against any tax due under s. 563.05, s. 564.06, or s. 565.12,
1098 except excise taxes imposed on wine produced by manufacturers in
1099 this state from products grown in this state. However, a credit
1100 allowed under this section may not exceed 90 percent of the tax
1101 due on the return the credit is taken. For purposes of the
1102 distributions of tax revenue under ss. 561.121 and 564.06(10),

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1103 the division shall disregard any tax credits allowed under this
1104 section to ensure that any reduction in tax revenue received
1105 that is attributable to the tax credits results only in a
1106 reduction in distributions to the General Revenue Fund. The
1107 provisions of s. 1002.395 apply to the credit authorized by this
1108 section.

1109 Section 11. Section 624.51055, Florida Statutes, is amended
1110 to read:

1111 624.51055 Credit for contributions to eligible nonprofit
1112 scholarship-funding organizations.—

1113 (1) There is allowed a credit of 100 percent of an eligible
1114 contribution made to an eligible nonprofit scholarship-funding
1115 organization under s. 1002.395 ~~as provided in s. 220.187~~ against
1116 any tax due for a taxable year under s. 624.509(1). However,
1117 such a credit may not exceed 75 percent of the tax due under s.
1118 624.509(1) after deducting from such tax deductions for
1119 assessments made pursuant to s. 440.51; credits for taxes paid
1120 under ss. 175.101 and 185.08; credits for income taxes paid
1121 under chapter 220; credits for the emergency excise tax paid
1122 under chapter 221; and the credit allowed under s. 624.509(5),
1123 as such credit is limited by s. 624.509(6). An insurer claiming
1124 a credit against premium tax liability under this section shall
1125 not be required to pay any additional retaliatory tax levied
1126 pursuant to s. 624.5091 as a result of claiming such credit.
1127 Section 624.5091 does not limit such credit in any manner.

1128 (2) The provisions of s. 1002.395 ~~220.187~~ apply to the
1129 credit authorized by this section.

1130 Section 12. Subsections (4) and (5) of section 1001.10,
1131 Florida Statutes, are amended to read:

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1132 1001.10 Commissioner of Education; general powers and
1133 duties.—

1134 (4) The Department of Education shall provide technical
1135 assistance to school districts, charter schools, the Florida
1136 School for the Deaf and the Blind, and private schools that
1137 accept scholarship students under ~~s. 220.187~~ or s. 1002.39 or s.
1138 1002.395 in the development of policies, procedures, and
1139 training related to employment practices and standards of
1140 ethical conduct for instructional personnel and school
1141 administrators, as defined in s. 1012.01.

1142 (5) The Department of Education shall provide authorized
1143 staff of school districts, charter schools, the Florida School
1144 for the Deaf and the Blind, and private schools that accept
1145 scholarship students under ~~s. 220.187~~ or s. 1002.39 or s.
1146 1002.395 with access to electronic verification of information
1147 from the following employment screening tools:

1148 (a) The Professional Practices' Database of Disciplinary
1149 Actions Against Educators; and

1150 (b) The Department of Education's Teacher Certification
1151 Database.

1152
1153 This subsection does not require the department to provide these
1154 staff with unlimited access to the databases. However, the
1155 department shall provide the staff with access to the data
1156 necessary for performing employment history checks of the
1157 instructional personnel and school administrators included in
1158 the databases.

1159 Section 13. Paragraph (b) of subsection (6) of section
1160 1002.20, Florida Statutes, is amended to read:

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1161 1002.20 K-12 student and parent rights.—Parents of public
1162 school students must receive accurate and timely information
1163 regarding their child’s academic progress and must be informed
1164 of ways they can help their child to succeed in school. K-12
1165 students and their parents are afforded numerous statutory
1166 rights including, but not limited to, the following:

1167 (6) EDUCATIONAL CHOICE.—

1168 (b) *Private school choices*.—Parents of public school
1169 students may seek private school choice options under certain
1170 programs.

1171 1. Under the Opportunity Scholarship Program, the parent of
1172 a student in a failing public school may request and receive an
1173 opportunity scholarship for the student to attend a private
1174 school in accordance with the provisions of s. 1002.38.

1175 2. Under the McKay Scholarships for Students with
1176 Disabilities Program, the parent of a public school student with
1177 a disability who is dissatisfied with the student’s progress may
1178 request and receive a McKay Scholarship for the student to
1179 attend a private school in accordance with the provisions of s.
1180 1002.39.

1181 3. Under the Florida Tax Credit Scholarship Program, the
1182 parent of a student who qualifies for free or reduced-price
1183 school lunch may seek a scholarship from an eligible nonprofit
1184 scholarship-funding organization in accordance with the
1185 provisions of s. 1002.395 ~~220.187~~.

1186 Section 14. Paragraph (e) of subsection (2) of section
1187 1002.23, Florida Statutes, is amended to read:

1188 1002.23 Family and School Partnership for Student
1189 Achievement Act.—

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1190 (2) To facilitate meaningful parent and family involvement,
1191 the Department of Education shall develop guidelines for a
1192 parent guide to successful student achievement which describes
1193 what parents need to know about their child's educational
1194 progress and how they can help their child to succeed in school.
1195 The guidelines shall include, but need not be limited to:

1196 (e) Educational choices, as provided for in s. 1002.20(6),
1197 and Florida tax credit scholarships, as provided for in s.
1198 1002.395 ~~220.187~~;

1199 Section 15. Paragraph (b) of subsection (3) of section
1200 1002.39, Florida Statutes, is amended to read:

1201 1002.39 The John M. McKay Scholarships for Students with
1202 Disabilities Program.—There is established a program that is
1203 separate and distinct from the Opportunity Scholarship Program
1204 and is named the John M. McKay Scholarships for Students with
1205 Disabilities Program.

1206 (3) JOHN M. MCKAY SCHOLARSHIP PROHIBITIONS.—A student is
1207 not eligible for a John M. McKay Scholarship while he or she is:

1208 (b) Receiving a Florida tax credit scholarship under s.
1209 1002.395 ~~220.187~~;

1210 Section 16. Subsections (1) and (4) of section 1002.421,
1211 Florida Statutes, are amended to read:

1212 1002.421 Accountability of private schools participating in
1213 state school choice scholarship programs.—

1214 (1) A Florida private school participating in the Florida
1215 Tax Credit Scholarship Program established pursuant to s.
1216 1002.395 ~~220.187~~ or an educational scholarship program
1217 established pursuant to this chapter must comply with all
1218 requirements of this section in addition to private school

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1219 requirements outlined in s. 1002.42, specific requirements
1220 identified within respective scholarship program laws, and other
1221 provisions of Florida law that apply to private schools.

1222 (4) A private school that accepts scholarship students
1223 under ~~s. 220.187~~ or s. 1002.39 or s. 1002.395 must:

1224 (a) Disqualify instructional personnel and school
1225 administrators, as defined in s. 1012.01, from employment in any
1226 position that requires direct contact with students if the
1227 personnel or administrators are ineligible for such employment
1228 under s. 1012.315.

1229 (b) Adopt policies establishing standards of ethical
1230 conduct for instructional personnel and school administrators.
1231 The policies must require all instructional personnel and school
1232 administrators, as defined in s. 1012.01, to complete training
1233 on the standards; establish the duty of instructional personnel
1234 and school administrators to report, and procedures for
1235 reporting, alleged misconduct by other instructional personnel
1236 and school administrators which affects the health, safety, or
1237 welfare of a student; and include an explanation of the
1238 liability protections provided under ss. 39.203 and 768.095. A
1239 private school, or any of its employees, may not enter into a
1240 confidentiality agreement regarding terminated or dismissed
1241 instructional personnel or school administrators, or personnel
1242 or administrators who resign in lieu of termination, based in
1243 whole or in part on misconduct that affects the health, safety,
1244 or welfare of a student, and may not provide the instructional
1245 personnel or school administrators with employment references or
1246 discuss the personnel's or administrators' performance with
1247 prospective employers in another educational setting, without

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1248 disclosing the personnel's or administrators' misconduct. Any
1249 part of an agreement or contract that has the purpose or effect
1250 of concealing misconduct by instructional personnel or school
1251 administrators which affects the health, safety, or welfare of a
1252 student is void, is contrary to public policy, and may not be
1253 enforced.

1254 (c) Before employing instructional personnel or school
1255 administrators in any position that requires direct contact with
1256 students, conduct employment history checks of each of the
1257 personnel's or administrators' previous employers, screen the
1258 personnel or administrators through use of the educator
1259 screening tools described in s. 1001.10(5), and document the
1260 findings. If unable to contact a previous employer, the private
1261 school must document efforts to contact the employer.

1262
1263 The department shall suspend the payment of funds under ss.
1264 ~~220.187~~ and 1002.39 and 1002.395 to a private school that
1265 knowingly fails to comply with this subsection, and shall
1266 prohibit the school from enrolling new scholarship students, for
1267 1 fiscal year and until the school complies.

1268 Section 17. Section 1006.061, Florida Statutes, is amended
1269 to read:

1270 1006.061 Child abuse, abandonment, and neglect policy.—Each
1271 district school board, charter school, and private school that
1272 accepts scholarship students under ~~s. 220.187~~ or s. 1002.39 or
1273 s. 1002.395 shall:

1274 (1) Post in a prominent place in each school a notice that,
1275 pursuant to chapter 39, all employees and agents of the district
1276 school board, charter school, or private school have an

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1277 affirmative duty to report all actual or suspected cases of
1278 child abuse, abandonment, or neglect; have immunity from
1279 liability if they report such cases in good faith; and have a
1280 duty to comply with child protective investigations and all
1281 other provisions of law relating to child abuse, abandonment,
1282 and neglect. The notice shall also include the statewide toll-
1283 free telephone number of the central abuse hotline.

1284 (2) Post in a prominent place at each school site and on
1285 each school's Internet website, if available, the policies and
1286 procedures for reporting alleged misconduct by instructional
1287 personnel or school administrators which affects the health,
1288 safety, or welfare of a student; the contact person to whom the
1289 report is made; and the penalties imposed on instructional
1290 personnel or school administrators who fail to report suspected
1291 or actual child abuse or alleged misconduct by other
1292 instructional personnel or school administrators.

1293 (3) Require the principal of the charter school or private
1294 school, or the district school superintendent, or the
1295 superintendent's designee, at the request of the Department of
1296 Children and Family Services, to act as a liaison to the
1297 Department of Children and Family Services and the child
1298 protection team, as defined in s. 39.01, when in a case of
1299 suspected child abuse, abandonment, or neglect or an unlawful
1300 sexual offense involving a child the case is referred to such a
1301 team; except that this does not relieve or restrict the
1302 Department of Children and Family Services from discharging its
1303 duty and responsibility under the law to investigate and report
1304 every suspected or actual case of child abuse, abandonment, or
1305 neglect or unlawful sexual offense involving a child.

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

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

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

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

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

(b) Section 394.4593, relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.

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

(d) Section 782.04, relating to murder.

(e) Section 782.07, relating to manslaughter, aggravated manslaughter of an elderly person or disabled adult, aggravated manslaughter of a child, or aggravated manslaughter of an

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1335 officer, a firefighter, an emergency medical technician, or a
1336 paramedic.

1337 (f) Section 784.021, relating to aggravated assault.

1338 (g) Section 784.045, relating to aggravated battery.

1339 (h) Section 784.075, relating to battery on a detention or
1340 commitment facility staff member or a juvenile probation
1341 officer.

1342 (i) Section 787.01, relating to kidnapping.

1343 (j) Section 787.02, relating to false imprisonment.

1344 (k) Section 787.025, relating to luring or enticing a
1345 child.

1346 (l) Section 787.04(2), relating to leading, taking,
1347 enticing, or removing a minor beyond the state limits, or
1348 concealing the location of a minor, with criminal intent pending
1349 custody proceedings.

1350 (m) Section 787.04(3), relating to leading, taking,
1351 enticing, or removing a minor beyond the state limits, or
1352 concealing the location of a minor, with criminal intent pending
1353 dependency proceedings or proceedings concerning alleged abuse
1354 or neglect of a minor.

1355 (n) Section 790.115(1), relating to exhibiting firearms or
1356 weapons at a school-sponsored event, on school property, or
1357 within 1,000 feet of a school.

1358 (o) Section 790.115(2)(b), relating to possessing an
1359 electric weapon or device, destructive device, or other weapon
1360 at a school-sponsored event or on school property.

1361 (p) Section 794.011, relating to sexual battery.

1362 (q) Former s. 794.041, relating to sexual activity with or
1363 solicitation of a child by a person in familial or custodial

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1364 authority.
1365 (r) Section 794.05, relating to unlawful sexual activity
1366 with certain minors.
1367 (s) Section 794.08, relating to female genital mutilation.
1368 (t) Chapter 796, relating to prostitution.
1369 (u) Chapter 800, relating to lewdness and indecent
1370 exposure.
1371 (v) Section 806.01, relating to arson.
1372 (w) Section 810.14, relating to voyeurism.
1373 (x) Section 810.145, relating to video voyeurism.
1374 (y) Section 812.014(6), relating to coordinating the
1375 commission of theft in excess of \$3,000.
1376 (z) Section 812.0145, relating to theft from persons 65
1377 years of age or older.
1378 (aa) Section 812.019, relating to dealing in stolen
1379 property.
1380 (bb) Section 812.13, relating to robbery.
1381 (cc) Section 812.131, relating to robbery by sudden
1382 snatching.
1383 (dd) Section 812.133, relating to carjacking.
1384 (ee) Section 812.135, relating to home-invasion robbery.
1385 (ff) Section 817.563, relating to fraudulent sale of
1386 controlled substances.
1387 (gg) Section 825.102, relating to abuse, aggravated abuse,
1388 or neglect of an elderly person or disabled adult.
1389 (hh) Section 825.103, relating to exploitation of an
1390 elderly person or disabled adult.
1391 (ii) Section 825.1025, relating to lewd or lascivious
1392 offenses committed upon or in the presence of an elderly person

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1393 or disabled person.

1394 (jj) Section 826.04, relating to incest.

1395 (kk) Section 827.03, relating to child abuse, aggravated
1396 child abuse, or neglect of a child.

1397 (ll) Section 827.04, relating to contributing to the
1398 delinquency or dependency of a child.

1399 (mm) Section 827.071, relating to sexual performance by a
1400 child.

1401 (nn) Section 843.01, relating to resisting arrest with
1402 violence.

1403 (oo) Chapter 847, relating to obscenity.

1404 (pp) Section 874.05, relating to causing, encouraging,
1405 soliciting, or recruiting another to join a criminal street
1406 gang.

1407 (qq) Chapter 893, relating to drug abuse prevention and
1408 control, if the offense was a felony of the second degree or
1409 greater severity.

1410 (rr) Section 916.1075, relating to sexual misconduct with
1411 certain forensic clients and reporting of such sexual
1412 misconduct.

1413 (ss) Section 944.47, relating to introduction, removal, or
1414 possession of contraband at a correctional facility.

1415 (tt) Section 985.701, relating to sexual misconduct in
1416 juvenile justice programs.

1417 (uu) Section 985.711, relating to introduction, removal, or
1418 possession of contraband at a juvenile detention facility or
1419 commitment program.

1420 (2) Any misdemeanor offense prohibited under any of the
1421 following statutes:

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1422 (a) Section 784.03, relating to battery, if the victim of
1423 the offense was a minor.

1424 (b) Section 787.025, relating to luring or enticing a
1425 child.

1426 (3) Any criminal act committed in another state or under
1427 federal law which, if committed in this state, constitutes an
1428 offense prohibited under any statute listed in subsection (1) or
1429 subsection (2).

1430 (4) Any delinquent act committed in this state or any
1431 delinquent or criminal act committed in another state or under
1432 federal law which, if committed in this state, qualifies an
1433 individual for inclusion on the Registered Juvenile Sex Offender
1434 List under s. 943.0435(1)(a)1.d.

1435 Section 19. Paragraph (e) of subsection (1) of section
1436 1012.796, Florida Statutes, is amended to read:

1437 1012.796 Complaints against teachers and administrators;
1438 procedure; penalties.—

1439 (1)

1440 (e) If allegations arise against an employee who is
1441 certified under s. 1012.56 and employed in an educator-
1442 certificated position in any public school, charter school or
1443 governing board thereof, or private school that accepts
1444 scholarship students under ~~s. 220.187~~ or s. 1002.39 or s.
1445 1002.395, the school shall file in writing with the department a
1446 legally sufficient complaint within 30 days after the date on
1447 which the subject matter of the complaint came to the attention
1448 of the school. A complaint is legally sufficient if it contains
1449 ultimate facts that show a violation has occurred as provided in
1450 s. 1012.795 and defined by rule of the State Board of Education.

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1451 The school shall include all known information relating to the
1452 complaint with the filing of the complaint. This paragraph does
1453 not limit or restrict the power and duty of the department to
1454 investigate complaints, regardless of the school's untimely
1455 filing, or failure to file, complaints and followup reports.

1456 Section 20. The Department of Revenue is authorized and all
1457 conditions are deemed met, to adopt emergency rules pursuant to
1458 ss. 120.536(1) and 120.54, Florida Statutes, to administer the
1459 provisions of this act. The emergency rules shall remain in
1460 effect for 6 months after the rules are adopted and the rules
1461 may be renewed during the pendency of procedures to adopt
1462 permanent rules addressing the subject of the emergency rules.

1463 Section 21. For the 2010-2011 fiscal year, the sum of
1464 \$140,494 in nonrecurring funds from the General Revenue Fund is
1465 appropriated to the Department of Revenue for purposes of
1466 implementing the provisions of this act.

1467 Section 22. Except as otherwise expressly provided in this
1468 act, this act shall take effect July 1, 2010.