

1 A bill to be entitled
2 An act relating to the Education Savings Account Program;
3 creating s. 1002.385, F.S.; providing definitions;
4 specifying criteria for students who are eligible to
5 participate in the program; identifying certain students
6 who may not participate in the program; providing that a
7 parent may direct a financial institution trustee of his
8 or her child's account to use the funds for specified
9 costs of attending a private school or participating in a
10 dual enrollment program or to make a contribution to the
11 child's college savings plan or a payment to a contract
12 under the Stanley G. Tate Florida Prepaid College Program;
13 requiring a financial institution to transfer an account
14 to another participating financial institution upon the
15 request of a parent as provided by the Chief Financial
16 Officer by rule; authorizing a parent to direct the
17 trustee to donate unspent funds in an account when a
18 student graduates from high school or when the student's
19 participation in the program is terminated; requiring the
20 trustee to donate the unspent funds to the student's
21 school district if a selection is not timely made;
22 requiring a parent to apply to the Department of Education
23 for his or her child to participate in the program;
24 specifying responsibilities of a parent or student for
25 using funds in an account to attend a private school or
26 private virtual school; requiring a student who
27 participates in the program and attends a private school
28 or private virtual school to take norm-referenced

29 | assessment tests required by the Department of Education;
30 | specifying responsibilities of a parent or student for
31 | using funds in an account to hire a private tutor or
32 | private tutoring program; specifying responsibilities of a
33 | parent or student for using funds in an account to
34 | participate in a dual enrollment program; specifying
35 | eligibility criteria for private schools, private tutors,
36 | private tutoring programs, and private postsecondary
37 | institutions to participate in the program; providing that
38 | all state postsecondary institutions are eligible to
39 | participate in the program; requiring that the Department
40 | of Education establish an enrollment period for the
41 | program, process student applications by certain date,
42 | verify the eligibility of private schools, private virtual
43 | schools, private tutors, private tutoring programs, and
44 | postsecondary institutions, publish a list of eligible
45 | private schools, submit the list to participating
46 | financial institutions by a certain date, notify the
47 | participating financial institutions of certain students,
48 | establish a toll-free hotline for certain information,
49 | establish a process for reporting to the department
50 | violations of law relating to the program, require
51 | participating private schools, private virtual schools,
52 | private tutors, private tutoring programs, and
53 | postsecondary institutions to certify compliance with the
54 | requirements of the program, compare the list of
55 | participating students with the public school enrollment
56 | lists, maintain a list of nationally norm-referenced

57 | assessment tests, select an independent research
58 | organization that must make annual reports relating to the
59 | learning gains of students in the program, publish certain
60 | annual reports on its website, conduct random visits to
61 | certain schools, and issue a report to the Governor, the
62 | President of the Senate, and the Speaker of the House of
63 | Representatives; requiring that the Chief Financial
64 | Officer process applications from financial institutions
65 | to participate in the program, provide a list of
66 | participating financial institutions to the department by
67 | a certain date each year, conduct random audits of
68 | participating financial institutions, revoke the
69 | eligibility of a financial institutions for violations of
70 | law relating to the program, and make payments to the
71 | accounts of participating students in specified
72 | situations; requiring financial institutions to apply to
73 | the Chief Financial Officer to participate in the program;
74 | providing that a participating financial institution
75 | serves as a trustee for a student's account; limiting the
76 | fees that may be charged by a financial institution for
77 | its services under the program; requiring a financial
78 | institution to make timely quarterly payments directly to
79 | a private school, private tutor, private tutoring program,
80 | or postsecondary institution; requiring a financial
81 | institution to make timely quarterly payments to a
82 | selected college savings plan or the Stanley G. Tate
83 | Florida Prepaid College Program; requiring a financial
84 | institution to notify the department of the identity of

85 | certain students at certain dates; requiring a financial
86 | institution to annually notify the Chief Financial Officer
87 | of its intent to continue to participate in, or intent to
88 | withdraw from, the program; requiring a financial
89 | institution to provide advance notice to the Chief
90 | Financial Officer and parents of students participating in
91 | the program before withdrawing from the program;
92 | specifying criteria and procedures by which the
93 | Commissioner of Education may deny, suspend, or revoke a
94 | private school's participation in the program; specifying
95 | procedures by which a private school may challenge the
96 | decision of the Commissioner of Education to deny,
97 | suspend, or revoke the school's participation in the
98 | program; requiring the director of the Division of
99 | Administrative Hearings to expedite a hearing in certain
100 | situations; authorizing the Commissioner of Education to
101 | order participating financial institutions to immediately
102 | suspend payments from a student's account to a
103 | participating private school under certain circumstances;
104 | providing for appeal against a payment suspension;
105 | authorizing the Office of Inspector General of the
106 | Department of Education to release otherwise confidential
107 | student information under certain circumstances involving
108 | allegations of fraudulent activity under the program;
109 | specifying a formula to be used in determining the amount
110 | of annual payments made to a student's account under the
111 | program; providing for the random selection of applicants
112 | to the program who are attending a home education program

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113 or a private school; providing a calculation to determine
114 the number of such students who may participate in the
115 program; authorizing the Legislative Budget Commission to
116 transfer funds in excess of amounts required to fully fund
117 the accounts of all participating students to the Florida
118 Education Finance Program; requiring the department and
119 the Department of Financial Services to develop an
120 agreement to assist in the administration of the program;
121 requiring the State Board of Education to adopt rules for
122 the Department of Education and the Commissioner of
123 Education to administer the program; requiring the Chief
124 Financial Officer to adopt rules to administer its
125 responsibilities under the program; providing for the
126 enrollment period and for the number of eligible students
127 for the 2011-2012 school year; requiring the department to
128 randomly select participating students in specified
129 situations; authorizing the State Board of Education to
130 adopt emergency rules for the department and the
131 Commissioner of Education to implement the program;
132 providing an effective date.

133
134 WHEREAS, the Legislature finds that it has a duty to
135 provide for a high-quality education for all children residing
136 within this state, and

137 WHEREAS, the Legislature finds that it has a duty to
138 provide for the establishment, maintenance, and operation of
139 institutions of higher learning, and

140 WHEREAS, a high-quality education for children is

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141 facilitated by parental involvement in educational choices for
 142 their children, competition among schools and other learning
 143 environments, and the measurement and evaluation of student
 144 learning gains, and

145 WHEREAS, the Legislature finds that competition between
 146 public schools and private schools will enhance the quality of
 147 education at public schools by encouraging innovation,
 148 flexibility, and efficiency, and

149 WHEREAS, providing a child with an opportunity to attend a
 150 public school or with funds to pay for private schooling or
 151 tutoring enables the child to access the high-quality education
 152 best suited for his or her specific needs, and

153 WHEREAS, the Legislature finds that under the right to
 154 religious freedom in the State Constitution, the state may not
 155 prohibit a person from using private funds to pay the cost of
 156 private schooling or tutoring at an institution having any
 157 religious affiliation, NOW, THEREFORE,

158
 159 Be It Enacted by the Legislature of the State of Florida:

160
 161 Section 1. Section 1002.385, Florida Statutes, is created
 162 to read:

163 1002.385 Education Savings Account Program.—

164 (1) DEFINITIONS.—As used in this section, the term:

165 (a) "Account" means an education savings account belonging
 166 to a student who is participating in, or who participated in,
 167 the program. Funds in an account are private funds.

168 (b) "College savings plan" means a qualified tuition plan

169 under s. 529 of the Internal Revenue Code which allows the
 170 establishment of an account for a beneficiary for the purpose of
 171 paying the beneficiary's eligible college expenses.

172 (c) "Department" means the Department of Education.

173 (d) "Eligible private postsecondary institution" means a
 174 private postsecondary institution that is a member of the
 175 Independent Colleges and Universities of Florida and is located
 176 in the state.

177 (e) "Eligible private school" means a private school that
 178 offers an education to students in any grade of kindergarten
 179 through grade 12, is located in this state, and meets the
 180 requirements in subsection (6).

181 (f) "Financial institution" has the same meaning as
 182 defined in s. 655.005.

183 (g) "Program" means the Education Savings Account Program.

184 (2) ELIGIBLE STUDENTS.—

185 (a) A student is eligible to receive funds under the
 186 program if the student resides in this state and:

187 1. Is eligible to enter kindergarten or first grade;

188 2. Is the sibling of a student who participates in the
 189 program and who resides in the same household;

190 3. Was counted as a full-time equivalent student during
 191 the previous state fiscal year for purposes of state per-student
 192 funding; or

193 4. Attends a home education program or a private school
 194 and was randomly selected to participate in the program pursuant
 195 to subsection (13).

196 (b) A student remains eligible for the program until he or

197 she graduates from high school and as long as the student does
 198 not enroll in a public school, charter school, or a virtual
 199 instruction program, excluding the Florida Virtual School, which
 200 receives state funding as a result of the student's
 201 participation.

202 (3) INELIGIBLE STUDENTS.—A student may not participate in
 203 the program if he or she:

204 (a) Is enrolled in a school operating for the purpose of
 205 providing educational services to youth in a commitment program
 206 for the Department of Juvenile Justice;

207 (b) Participates in a virtual school, correspondence
 208 school, or distance learning program that receives state funding
 209 for the student's participation;

210 (c) Is enrolled in the Florida School for the Deaf and the
 211 Blind; or

212 (d) Is receiving an educational scholarship pursuant to
 213 chapter 1002.

214 (4) PARENT AND STUDENT OPTIONS.—

215 (a) A parent may direct the trustee to use the funds in
 216 his or her child's account, in whole or in combination, to:

217 1. Pay the tuition and fees for the child to attend an
 218 eligible private school;

219 2. Pay the tuition and fees for the child to attend an
 220 eligible private virtual school;

221 3. Pay a private tutor or private tutoring program
 222 qualified under s. 1002.43 for supplemental educational
 223 services;

224 4. Pay the cost of tuition, books, or fees for the child

225 to enroll in a dual enrollment program at a state postsecondary
 226 institution;

227 5. Pay the cost of tuition, books, or fees for the child
 228 to enroll in a dual enrollment program at an eligible private
 229 postsecondary institution;

230 6. Contribute to the child's college savings plan; or

231 7. Make a payment toward the purchase of a contract under
 232 the Stanley G. Tate Florida Prepaid College Program in s.
 233 1009.98.

234 (b) A parent may direct the trustee to transfer the
 235 account to another financial institution participating in the
 236 program as provided by the Chief Financial Officer by rule.

237 (c) Within 3 months after the child graduates from high
 238 school or no longer participates in the program, a parent may
 239 direct the trustee to donate any unspent funds in the account to
 240 any institution identified in subparagraphs 1.-5. or to the
 241 school district for the county in which the child last resided
 242 before the child's participation in the program was terminated.
 243 If a parent fails to identify an institution to which the
 244 trustee must donate the funds, the trustee shall donate the
 245 funds to the school district for the county in which the child
 246 last resided before the child's participation in the program was
 247 terminated.

248 (5) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
 249 PARTICIPATION.—

250 (a) A parent must annually apply to the department on
 251 behalf of the child during the annual enrollment period. As part
 252 of the enrollment, the parent must identify the educational

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253 option chosen to meet the compulsory attendance requirements of
254 state law whether through attendance at a private school or
255 private virtual school, enrollment in a home education program
256 under s. 1002.41, or a private tutoring program under s.
257 1002.43.

258 (b)1. If a parent elects for the child to attend an
259 eligible private school or private virtual school, the parent or
260 the child must:

261 a. Select an eligible private school or private virtual
262 school and apply for admission.

263 b. Inform the child's school district when the parent
264 withdraws the child to attend the private school or private
265 virtual school.

266 c. Remain in attendance in the selected school throughout
267 the school year unless excused by the school for illness or
268 other good cause.

269 d. Comply with the school's published policies.

270 e. Ensure that the child participating in the program
271 takes the nationally norm-referenced assessment tests
272 administered by the school which are required by the department.
273 The parent may also choose to have the child participate in a
274 statewide assessment test pursuant to s. 1008.22. If the parent
275 requests that the child take a statewide assessment test, the
276 parent is responsible for transporting the child to the testing
277 site designated by the school district.

278 f. Pay the balance of the school's tuition and fees in
279 excess of the funds in the child's account.

280 2. A parent who chooses to comply with the compulsory

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281 attendance requirements by enrolling his or her child in a
282 private school or private virtual school may also choose to
283 enroll the child in a dual enrollment program through a public
284 postsecondary institution or an eligible private postsecondary
285 institution and use funds from the child's account for such
286 purposes. The parent and child must register and apply for
287 admissions during the institution's registration or application
288 period and are responsible for paying the balance of tuition and
289 fees which is not covered by the payments from the child's
290 account.

291 (c)1. If a parent elects for his or her child to
292 participate in a home education program, the parent and child
293 must comply with s. 1002.41.

294 2. A parent who chooses to comply with the compulsory
295 attendance requirements by enrolling his or her child in a home
296 education program may also choose to enroll the child in a dual
297 enrollment program through a public postsecondary institution or
298 an eligible private postsecondary institution and use funds from
299 the child's account for such purpose. The parent and child must
300 register and apply for admissions during the institution's
301 registration or application period and are responsible for
302 paying the balance of tuition and fees which is not covered by
303 payments from the child's account.

304 (d)1. If a parent elects for the child to receive an
305 education from an eligible private tutor or private tutoring
306 program, the parent and the child must comply with this chapter.

307 2. A parent who chooses to comply with the compulsory
308 attendance requirements through use of a private tutor or

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309 private tutoring program may also choose to enroll his or her
310 child in a dual enrollment program through a public
311 postsecondary institution or an eligible private postsecondary
312 institution and use funds from the child's account for such
313 purpose. The parent and child must register and apply for
314 admissions during the institution's registration or application
315 period and are responsible for paying the balance of tuition and
316 fees which is not covered by payments from the child's account.

317 (e) If a parent elects to use any portion of his or her
318 child's account as payment for private tutoring through an
319 eligible supplemental educational services provider, the parent
320 is responsible for payments to the provider which are not
321 covered by the child's account.

322 (f) If a parent elects for the child to participate in
323 dual enrollment at a state postsecondary institution or an
324 eligible private postsecondary institution, the parent or the
325 child must:

326 1. Register or apply for admission during the
327 institution's registration or application period.

328 2. Inform the child's school district when the parent
329 withdraws the child to attend the postsecondary institution.

330 3. Remain in attendance in the postsecondary institution
331 throughout the school year unless excused by the institution for
332 illness or other good cause.

333 4. Comply with the institution's published policies.

334 5. Pay the balance of the postsecondary institution's
335 tuition and fees in excess of the funds in the child's account.

336 (g) If a parent elects to use any of the funds in the

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337 child's account to make a contribution to a college savings
338 plan, the parent must comply with all federal and state laws
339 related to contributions to college savings plan.

340 (h) If a parent elects to use any of the funds in the
341 child's account toward the purchase of a contract under the
342 Stanley G. Tate Florida Prepaid College Program, the parent must
343 comply with all rules and requirements of the program and is
344 responsible for payments in excess of the funds in the account.

345
346 A child may return to the public school system at any time and
347 quarterly payments to the child's account shall cease. The
348 parent of a child who chooses to return to the public school
349 system is responsible for the payment of any outstanding balance
350 owed to the private school, private virtual school, private
351 tutor, private tutoring program, state postsecondary
352 institution, or private postsecondary education institution
353 which was in excess of the funds in the account when payments to
354 the account ceased.

355 (6) EDUCATIONAL INSTITUTION ELIGIBILITY AND OBLIGATIONS.-

356 (a) A private school is eligible to participate in the
357 program, whether sectarian or nonsectarian, if the school:

358 1. Is accredited by the Southern Association of Colleges
359 and Schools or is eligible to participate in the Tax Credit
360 Scholarship Program or the John M. McKay Scholarships for
361 Students with Disabilities Program; and

362 2. Complies with rules adopted by the department for
363 participation in the program.

364 (b) A private virtual school is eligible to participate in

365 the program, whether sectarian or nonsectarian, if the school:

366 1. Is approved by the department to participate in the
 367 school district virtual instruction program under s. 1002.45;

368 and

369 2. Complies with rules adopted by the department for
 370 participation in the program.

371 (c) A private tutor or private tutoring program is
 372 eligible to participate in the program if the private tutor or
 373 private tutoring program:

374 1. Is qualified under s. 1002.43;

375 2. Complies with rules adopted by the department for
 376 participation in the program; and

377 3. Is a supplemental educational services provider under
 378 the federal Elementary and Secondary Education Act.

379 (d) All state postsecondary institutions are eligible to
 380 participate in the program and must comply with rules adopted by
 381 the department for participation in the program.

382 (e) A private postsecondary institution is eligible to
 383 participate in the program, whether sectarian or nonsectarian,
 384 if the institution is a member of the Independent Colleges and
 385 Universities of Florida and complies with rules adopted by the
 386 department for participation in the program.

387 (7) DEPARTMENT OF EDUCATION OBLIGATIONS.—The Department of
 388 Education shall:

389 (a) Establish an annual enrollment period and a process in
 390 which a parent may apply to enroll his or her child in the
 391 program. The enrollment period shall begin by January 1 and end
 392 by March 1 before the school year in which funding for the

393 child's account is sought. All applications must be processed by
 394 May 1 of each year.

395 (b) Randomly select students attending a home education
 396 program, private school, or private virtual school who are
 397 eligible under subparagraph (2)(a)4. to participate in the
 398 program if the appropriation to the program is sufficient to
 399 fully fund the accounts of all other applicants but is
 400 insufficient to fully fund the accounts of all applicants who
 401 are attending a home education program or private school.

402 (c) Annually verify the eligibility of private schools,
 403 private virtual schools, private tutors, private tutoring
 404 programs, and postsecondary institutions to participate in the
 405 program and publish a list of eligible schools, tutors, tutoring
 406 programs, and postsecondary institutions.

407 (d) Annually, by March 15, submit to participating
 408 financial institutions a list of eligible private schools,
 409 private virtual schools, private tutors, private tutoring
 410 programs, and private postsecondary institutions.

411 (e) Notify participating financial institutions of
 412 students who are approved to participate in the program. The
 413 notice must be made annually, by May 1, after the department
 414 processes all applications to participate in the program.

415 (f) Establish a toll-free hotline that provides parents
 416 and private schools with information on the program.

417 (g) Establish a process by which a person may notify the
 418 department of any violation of laws or rules relating to
 419 participation in the program. The department shall conduct an
 420 inquiry of all signed, written, and legally sufficient

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421 complaints that allege a violation of this section, or must make
422 a referral to the appropriate agency for an investigation. A
423 complaint is legally sufficient if it states ultimate facts
424 showing that this section or a rule adopted under this section
425 has been violated.

426 (h) Require participating private schools and private
427 virtual schools to annually certify compliance with the
428 requirements of the program. The certification must be made in a
429 sworn and notarized statement by the head of the private school.

430 (i) Compare the list of students participating in the
431 program with the public school enrollment lists to avoid
432 duplicate payments.

433 (j) Maintain a list of nationally norm-referenced
434 assessment tests identified by the department which must be
435 administered by a participating private school or private
436 virtual school to students participating in the program. The
437 tests must meet industry standards of quality under rules of the
438 State Board of Education.

439 (k) Select an independent research organization, which may
440 be a public or private entity or university, to which
441 participating private schools and private virtual schools must
442 report the scores of participating students on the nationally
443 norm-referenced assessment tests administered by the schools in
444 grades 3 through 10.

445 1. The independent research organization must annually
446 issue a report to the department which includes:

447 a. The year-to-year learning gains of students in the
448 program;

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449 b. To the extent possible, a comparison of the learning
450 gains of students in the program to the statewide learning gains
451 of public school students having backgrounds similar to those of
452 the students in the program. In order to minimize the costs and
453 time that the independent research organization requires for
454 analysis and evaluation, the department shall conduct analyses
455 of assessment data from matched students in public schools and
456 shall calculate learning gains of control groups using a
457 methodology outlined in the contract with the independent
458 research organization; and

459 c. The aggregate year-to-year learning gains of students
460 in the program in each participating private school in which
461 there are at least 30 participating students having scores for
462 tests for 2 consecutive years at that private school.

463 2. The sharing and reporting of the learning gains of
464 students pursuant to this paragraph must be in accordance with
465 s. 20 U.S.C. s. 1232g, the Family Educational Rights and Privacy
466 Act, and may be for the sole purpose of creating the annual
467 report required by subparagraph 1. The department and the
468 independent research organization shall preserve the
469 confidentiality of such information as required by law. The
470 organization may not disaggregate data in its annual report to a
471 level that will identify individual participating schools,
472 except as required under sub-subparagraph 1.c., or disclose the
473 academic level of individual students.

474 3. The department shall publish the annual report on its
475 website.

476 (1) Conduct random site visits to private schools, private

477 tutors, private tutoring programs, and private postsecondary
478 institutions participating in the program. During a site visit,
479 the department may conduct only activities to verify the
480 information reported by the schools concerning the enrollment
481 and attendance of students, the credentials of teachers, and the
482 results of criminal history record checks of teachers.

483 (m) Annually, by December 15, issue a report to the
484 Governor, the President of the Senate, and the Speaker of the
485 House of Representatives describing the implementation of
486 accountability mechanisms for the program; identifying any
487 violations of a law or rule governing the program concerning the
488 enrollment and attendance of students, the credentials of
489 teachers, or the background screening of teachers; and
490 describing the corrective actions taken by the department
491 relating to violations of a law or rule governing the program.

492 (8) CHIEF FINANCIAL OFFICER OBLIGATIONS.—The Chief
493 Financial Officer shall:

494 (a) Process applications from financial institutions
495 applying to participate in the program.

496 (b) Provide a list of participating financial institutions
497 to the department by March 1 each year.

498 (c) Conduct random audits of financial institutions
499 participating in the program to ensure compliance with this
500 section.

501 (d) Revoke the eligibility of a financial institution that
502 fails to comply with its obligations under this section.

503 (e) Upon notice from the department, make payments to the
504 accounts of participating students in four equal installments by

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505 September 1, November 1, February 1, and April 1.

506 (9) OBLIGATIONS OF FINANCIAL INSTITUTIONS.—

507 (a) A financial institution must apply to the Chief
508 Financial Officer for approval to participate in the program.
509 The Chief Financial Officer shall approve the application of a
510 financial institution if the institution agrees to:

511 1. Serve as a trustee of the funds in a student's account.

512 2. Limit its fees imposed on each account to 3 percent or
513 less of each payment it makes from an account.

514 3. Make timely quarterly payments directly to the eligible
515 private school, private virtual school, private tutor, private
516 tutoring program, or eligible private postsecondary institution
517 selected by the parent. The amount of the quarterly payment to
518 these institutions may not exceed:

519 a. The amount of the state quarterly payment to the
520 financial institution, less the financial institution's fees.

521 b. The reported tuition and fee schedule provided to the
522 department for the educational institution.

523 4. Make timely quarterly payments directly to a state
524 postsecondary institution selected by the parent for the payment
525 of books, tuition, and fees charged for a student's
526 participation in a dual enrollment program. The amount of the
527 quarterly payment to these institutions may not exceed:

528 a. The amount of the state quarterly payment to the
529 financial institution, less the financial institution's fees.

530 b. The full cost of books, tuition, and fees charged for
531 the student's participation in the dual enrollment program.

532 5. Make timely quarterly payments directly to the selected

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533 college savings plan or the Stanley G. Tate Florida Prepaid
534 College Program. The amount of such quarterly payment may not
535 exceed the amount of the state quarterly payment to the
536 financial institution, less the financial institution's fees.

537 6. Notify the department by February 1, July 1, September
538 1, and December 1 of the identity of students who have accounts
539 with the institution under this section.

540 (b) A participating financial institution must annually
541 notify the Chief Financial Officer of its intent to continue
542 participating in or its intent to withdraw from the program. A
543 financial institution must provide 180 days' notice to the Chief
544 Financial Officer and to the parents of students having an
545 account at the institution before it may withdraw from the
546 program. The institution must also transfer each account to
547 another participating institution selected by a parent or to
548 another participating institution randomly selected by the Chief
549 Financial Officer if the parent fails to timely make a
550 selection.

551 (10) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.—

552 (a)1. The Commissioner of Education shall deny, suspend,
553 or revoke the participation of a private school, private virtual
554 school, private tutor, or private tutoring program in the
555 program if the commissioner determines that the school, tutor,
556 or tutoring program has failed to comply with this section or
557 the rules of the department adopted under this section. However,
558 if the noncompliance is correctable within a reasonable amount
559 of time and the health, safety, or welfare of the students is
560 not threatened, the commissioner may issue a notice of

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561 noncompliance that shall provide the school, tutor, or tutoring
562 program with a timeframe within which to show evidence of
563 compliance before action may be taken to suspend or revoke the
564 private school's participation in the program.

565 2. The commissioner may deny, suspend, or revoke a private
566 school's participation in the program if the commissioner
567 determines that an owner or operator of the private school is
568 operating or has operated an educational institution in this
569 state or another state in a manner that is contrary to the
570 health, safety, or welfare of the public. In making this
571 determination, the commissioner may consider factors, including,
572 but not limited to, acts or omissions by the owner or operator
573 which led to a previous denial or revocation of participation in
574 an education scholarship program or an education savings account
575 program; an owner's or operator's failure to reimburse a
576 student's account for funds improperly received or retained by a
577 school; imposition of a prior criminal or civil administrative
578 sanction related to an owner's or operator's management or
579 operation of an educational institution; or the existence of
580 other types of criminal proceedings in which the owner or
581 operator was found guilty of, regardless of adjudication, or
582 entered a plea of nolo contendere or guilty to any offense
583 involving fraud, deceit, dishonesty, or moral turpitude.

584 (b) The commissioner's determination to deny, suspend, or
585 revoke a private school's participation in the program is
586 subject to the following:

587 1. The department must notify the private school of the
588 proposed action in writing by certified mail and regular mail to

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589 the private school's address of record with the department. The
590 notice shall state the reasons for the proposed action and
591 notice of the timelines and procedures set forth in this
592 paragraph.

593 2. The private school that is adversely affected by the
594 proposed action has 15 days following receipt of the notice of
595 proposed action to file with the clerk of the department a
596 request for a proceeding pursuant to ss. 120.569 and 120.57. If
597 the private school is entitled to a hearing under s. 120.57(1),
598 the department shall forward the request to the Division of
599 Administrative Hearings.

600 3. Upon receipt of a request referred pursuant to this
601 paragraph, the director of the Division of Administrative
602 Hearings shall expedite the hearing and assign an administrative
603 law judge who shall commence a hearing within 30 days after the
604 receipt of the formal written request from the department and
605 enter a recommended order within 30 days after the hearing or
606 within 30 days after receipt of the hearing transcript,
607 whichever is later. Each party may submit written exceptions to
608 the recommended order within 10 days after the recommended order
609 is entered. The department shall enter a final order within 30
610 days after the entry of the recommended order. The provisions of
611 this subparagraph may be waived upon stipulation by all parties.

612 (c) The commissioner may order participating financial
613 institutions to suspend payment of funds from accounts to a
614 private school if the commissioner finds that probable cause of
615 any of the following exists:

616 1. An imminent threat to the health, safety, and welfare

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617 of a student.

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

619

620 The commissioner's order suspending payment pursuant to this
621 paragraph may be appealed pursuant to the same procedures and
622 timelines as the notice of proposed action set forth in
623 paragraph (b).

624 (11) AUTHORIZED RELEASE OF CONFIDENTIAL INFORMATION.—

625 Notwithstanding s. 1002.22, in incidents of alleged fraudulent
626 activity relating to participation in the program, the Office of
627 Inspector General of the department may release personally
628 identifiable records or reports of students to the following
629 persons or organizations:

630 (a) A court of competent jurisdiction in compliance with
631 an order of that court or the attorney of record in accordance
632 with a lawfully issued subpoena, consistent with the Family
633 Educational Rights and Privacy Act, 20 U.S.C. s. 1232g.

634 (b) A person or entity authorized by a court of competent
635 jurisdiction in compliance with an order of that court or the
636 attorney of record pursuant to a lawfully issued subpoena,
637 consistent with the Family Educational Rights and Privacy Act,
638 20 U.S.C. s. 1232g.

639 (c) A person, entity, or authority issuing a subpoena for
640 law enforcement purposes if the court or other issuing agency
641 has ordered that the existence or the contents of the subpoena
642 or the information furnished in response to the subpoena not be
643 disclosed, consistent with the Family Educational Rights and
644 Privacy Act, 20 U.S.C. s. 1232g, and 34 C.F.R. s. 99.31.

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645 (12) EDUCATION SAVINGS ACCOUNT AMOUNT.—The total amount of
646 payments to a participating student's account for a single
647 school year shall be equal to 50 percent of the base student
648 allocation under the Florida Education Finance Program
649 multiplied by the appropriate cost factor for the educational
650 program that would have been provided for the student in the
651 district school to which he or she was assigned, multiplied by
652 the district cost differential plus the per-student share of
653 instructional materials funds and other categorical funds as
654 appropriated in the General Appropriations Act.

655 (13) RANDOM SELECTION OF PROGRAM PARTICIPANTS.—By April 1
656 of each year, the department shall randomly select applicants to
657 participate in the program who are in home education programs
658 and private schools and who did not participate in the program
659 during the prior school year. The number of spaces available for
660 these students shall equal the number of students who enrolled
661 in the program during the annual enrollment period and were
662 counted as full-time equivalent students at a public school
663 during the previous state fiscal year for purposes of state per-
664 student funding. For purposes of this calculation, the number of
665 new participants in the program who were public school students
666 does not include kindergarten and first grade students and
667 siblings of other students participating in the program.

668 (14) LEGISLATIVE BUDGET COMMISSION.—Each quarter the
669 Legislative Budget Commission may transfer any funds
670 appropriated for the program in excess of amounts required to
671 fully fund the accounts of all participating students to the
672 Florida Education Finance Program.

673 (15) ADMINISTRATION; RULES.—

674 (a) The department and the Department of Financial
 675 Services shall develop a cooperative agreement to assist in the
 676 administration of this section.

677 (b) The State Board of Education shall adopt rules
 678 necessary for the department and the Commissioner of Education
 679 to administer this section, including rules relating to the
 680 establishment of the enrollment period, enrollment forms, and
 681 reporting requirements for financial institutions and schools.

682 (c) The Chief Financial Officer shall adopt rules
 683 necessary to administer this section, including rules relating
 684 to the eligibility and auditing of participating financial
 685 institutions.

686 Section 2. Enrollment period for the 2011-2012 school
 687 year.—

688 (1) Notwithstanding s. 1002.385(7), Florida Statutes, the
 689 enrollment period to participate in the Education Savings
 690 Account Program for the 2011-2012 school year is July 1 through
 691 July 31. The number of students who may participate is limited
 692 to the number of participants specified in the General
 693 Appropriations Act.

694 (2) Notwithstanding s. 1002.385(2), Florida Statutes, the
 695 students eligible to participate in the education savings
 696 account program during the 2011-2012 school year are limited to
 697 students identified in s. 1002.385(2)a.1. and 3., Florida
 698 Statutes.

699 (3) If the Department of Education receives more
 700 applications for eligible students during the enrollment period

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701 for the 2011-2012 school year than the number specified in the
702 General Appropriations Act, the department shall randomly select
703 students who may participate in the program.

704 (4) (a) The State Board of Education may adopt emergency
705 rules for the department and the Commissioner of Education to
706 implement the program.

707 (b) The Chief Financial Officer may adopt emergency rules
708 to implement the program.

709 Section 3. This act shall take effect upon becoming a law.