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1 A bill to be entitled
2 An act relating to the Florida Tax Credit Scholarship
3 Program; amending s. 1002.395, F.S.; revising student
4 eligibility requirements for participation in the
5 program; increasing the tax credit cap amount
6 applicable to the program; revising provisions
7 relating to the reporting of test scores by private
8 schools participating in the program; providing that a
9 private school may choose to offer and administer
10 statewide assessments at the school; revising
11 Department of Education duties relating to the
12 reporting of test scores and site visits; requiring a
13 school district to provide statewide assessments and
14 related materials to a school that makes such request;
15 revising the conditions upon which the Commissioner of
16 Education may base the denial, suspension, or
17 revocation of a private school's participation in the
18 program or the suspension of scholarship fund payment;
19 amending s. 1002.20, F.S.; conforming provisions to
20 changes made by the act; providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:
23

24 Section 1. Subsection (3), paragraph (a) of subsection
25 (5), paragraph (e) of subsection (7), paragraph (c) of
26 subsection (8), paragraphs (j) and (n) of subsection (9),
27 subsection (10), and paragraphs (a) and (c) of subsection (11)
28 of section 1002.395, Florida Statutes, are amended to read:

29 | 1002.395 Florida Tax Credit Scholarship Program.—
 30 | (3) PROGRAM; SCHOLARSHIP ELIGIBILITY.—
 31 | (a) The Florida Tax Credit Scholarship Program is
 32 | established.
 33 | (b) Contingent upon available funds:
 34 | 1. A student is eligible for a Florida tax credit
 35 | scholarship under this section if the student:
 36 | a. Qualifies for free or reduced-price school lunches
 37 | under the National School Lunch Act or is on the direct
 38 | certification list; or and:
 39 | ~~a. Was counted as a full-time equivalent student during~~
 40 | ~~the previous state fiscal year for purposes of state per student~~
 41 | ~~funding;~~
 42 | ~~b. Received a scholarship from an eligible nonprofit~~
 43 | ~~scholarship funding organization or from the State of Florida~~
 44 | ~~during the previous school year;~~
 45 | ~~e. Is eligible to enter kindergarten or first grade; or~~
 46 | b.d. Is currently placed, or during the previous state
 47 | fiscal year was placed, in foster care as defined in s. 39.01.
 48 | 2. A student may continue in the scholarship program as
 49 | long as the student's household income level does not exceed 230
 50 | percent of the federal poverty level.
 51 | 3. A sibling of a student who is continuing in the
 52 | scholarship program and who resides in the same household as the
 53 | student shall also be eligible as a first-time tax credit
 54 | scholarship recipient if the sibling meets at least one ~~or more~~
 55 | of the criteria specified in subparagraph 1. and as long as the
 56 | student's and sibling's household income level does not exceed

57 | 230 percent of the federal poverty level.

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

63 | (5) SCHOLARSHIP FUNDING TAX CREDITS; LIMITATIONS.—

64 | (a)1. The tax credit cap amount is \$250 ~~\$140~~ million in
 65 | the 2012-2013 ~~2010-2011~~ state fiscal year.

66 | 2. In the 2013-2014 ~~2011-2012~~ state fiscal year and each
 67 | state fiscal year thereafter, the tax credit cap amount is the
 68 | tax credit cap amount in the prior state fiscal year. However,
 69 | in any state fiscal year when the annual tax credit amount for
 70 | the prior state fiscal year is equal to or greater than 90
 71 | percent of the tax credit cap amount applicable to that state
 72 | fiscal year, the tax credit cap amount shall increase by 25
 73 | percent. The department shall publish on its website information
 74 | identifying the tax credit cap amount when it is increased
 75 | pursuant to this subparagraph.

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

78 | (e) The parent shall ensure that the student participating
 79 | in the scholarship program takes the norm-referenced assessment
 80 | offered by the private school. The parent may also choose to
 81 | have the student participate in the statewide assessments
 82 | pursuant to s. 1008.22. If the parent requests that the student
 83 | participating in the scholarship program take statewide
 84 | assessments pursuant to s. 1008.22 and the private school has

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85 not chosen to offer and administer the statewide assessments,
86 the parent is responsible for transporting the student to the
87 assessment site designated by the school district.

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

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

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

95 2. Annually administering or making provision for students
96 participating in the scholarship program in grades 3 through 10
97 to take one of the nationally norm-referenced tests identified
98 by the Department of Education. Students with disabilities for
99 whom standardized testing is not appropriate are exempt from
100 this requirement. A participating private school must report a
101 student's scores to the parent. A participating private school
102 must annually report the scores of all participating students
103 and to the independent research organization ~~selected~~ by the
104 date established by the Department of Education as described in
105 paragraph (9)(j).

106 3. Cooperating with the scholarship student whose parent
107 chooses to have the student participate in the statewide
108 assessments pursuant to s. 1008.22 or, if a private school
109 chooses to offer the statewide assessments, administering the
110 assessments at the school.

111

112 The inability of a private school to meet the requirements of

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113 | this subsection shall constitute a basis for the ineligibility
114 | of the private school to participate in the scholarship program
115 | as determined by the Department of Education.

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

118 | (j) Select an independent research organization, which may
119 | be a public or private entity or university, to which
120 | participating private schools must report the scores of
121 | participating students on the nationally norm-referenced tests
122 | administered by the private school in grades 3 through 10.

123 | 1. The Department of Education shall establish a date by
124 | which participating private schools must report the scores of
125 | students to the independent research organization.

126 | ~~2.1.~~ The independent research organization must annually
127 | report to the Department of Education on the year-to-year
128 | learning gains of participating students:

129 | a. On a statewide basis. The report shall also include, to
130 | the extent possible, a comparison of these learning gains to the
131 | statewide learning gains of public school students with
132 | socioeconomic backgrounds similar to those of students
133 | participating in the scholarship program. To minimize costs and
134 | reduce time required for the independent research organization's
135 | analysis and evaluation, the Department of Education shall
136 | conduct analyses of matched students from public school
137 | assessment data and calculate control group learning gains using
138 | an agreed-upon methodology outlined in the contract with the
139 | independent research organization; and

140 | b. According to each participating private school in which

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141 | there are at least 30 participating students who have scores for
142 | tests administered during or after the 2009-2010 school year for
143 | 2 consecutive years at that private school.

144 | ~~3.2.~~ The sharing and reporting of student learning gain
145 | data under this paragraph must be in accordance with
146 | requirements of 20 U.S.C. s. 1232g, the Family Educational
147 | Rights and Privacy Act, and shall be for the sole purpose of
148 | creating the annual report required by subparagraph 2. ~~4.~~ All
149 | parties must preserve the confidentiality of such information as
150 | required by law. The annual report must not disaggregate data to
151 | a level that will identify individual participating schools,
152 | except as required under sub-subparagraph 2.b. ~~1.b.~~, or disclose
153 | the academic level of individual students.

154 | ~~4.3.~~ The annual report required by subparagraph 2. ~~4.~~
155 | shall be published by the Department of Education on its
156 | website.

157 | (n)1. Conduct ~~random~~ site visits, as necessary, to private
158 | schools participating in the Florida Tax Credit Scholarship
159 | Program. The purpose of the site visits is solely to verify the
160 | information reported by the schools concerning the enrollment
161 | and attendance of students, the credentials of teachers,
162 | background screening of teachers, and teachers' fingerprinting
163 | results. ~~The Department of Education may not make more than~~
164 | ~~seven random site visits each year and may not make more than~~
165 | ~~one random site visit each year to the same private school.~~

166 | 2. Annually, by December 15, report to the Governor, the
167 | President of the Senate, and the Speaker of the House of
168 | Representatives the Department of Education's actions with

169 | respect to implementing accountability in the scholarship
 170 | program under this section and s. 1002.421, any substantiated
 171 | allegations or violations of law or rule by an eligible private
 172 | school under this program concerning the enrollment and
 173 | attendance of students, the credentials of teachers, background
 174 | screening of teachers, and teachers' fingerprinting results and
 175 | the corrective action taken by the Department of Education.

176 | (10) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.—

177 | (a) Upon the request of any eligible nonprofit
 178 | scholarship-funding organization, a school district shall inform
 179 | all households within the district receiving free or reduced-
 180 | priced meals under the National School Lunch Act of their
 181 | eligibility to apply for a tax credit scholarship. The form of
 182 | such notice shall be provided by the eligible nonprofit
 183 | scholarship-funding organization, and the district shall include
 184 | the provided form, if requested by the organization, in any
 185 | normal correspondence with eligible households. If an eligible
 186 | nonprofit scholarship-funding organization requests a special
 187 | communication to be issued to households within the district
 188 | receiving free or reduced-price meals under the National School
 189 | Lunch Act, the organization shall reimburse the district for the
 190 | cost of postage. Such notice is limited to once a year.

191 | (b) Upon the request of a private school participating in
 192 | the scholarship program, a school district shall provide to the
 193 | school the statewide assessments required under s. 1008.22 and
 194 | any related materials for administering the assessments.

195 | (11) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.—

196 | (a)1. The Commissioner of Education shall deny, suspend,

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197 or revoke a private school's participation in the scholarship
198 program if it is determined that the private school has failed
199 to comply with the provisions of this section. However, in
200 instances in which the noncompliance is correctable within a
201 reasonable amount of time and in which the health, safety, or
202 welfare of the students is not threatened, the commissioner may
203 issue a notice of noncompliance that shall provide the private
204 school with a timeframe within which to provide evidence of
205 compliance prior to taking action to suspend or revoke the
206 private school's participation in the scholarship program.

207 2. The Commissioner of Education may deny, suspend, or
208 revoke a private school's participation in the scholarship
209 program if the commissioner determines that an owner or operator
210 of the private school is operating or has operated an
211 educational institution in this state or another state or
212 jurisdiction in a manner contrary to the health, safety, or
213 welfare of the public. In making this determination, the
214 commissioner may consider factors that include, but are not
215 limited to, acts or omissions by an owner or operator that led
216 to a previous denial or revocation of participation in an
217 education scholarship program; an owner's or operator's failure
218 to reimburse the Department of Education or an eligible
219 nonprofit scholarship-funding organization for scholarship funds
220 improperly received or retained by a school; imposition of a
221 prior criminal sanction, ~~or~~ civil fine, administrative fine,
222 license revocation or suspension, or program eligibility
223 suspension, termination, or revocation ~~sanction~~ related to an
224 owner's or operator's management or operation of an educational

225 institution; or other types of criminal proceedings in which the
 226 owner or operator was found guilty of, regardless of
 227 adjudication, or entered a plea of nolo contendere or guilty to,
 228 any offense involving fraud, deceit, dishonesty, or moral
 229 turpitude.

230 (c) The commissioner may immediately suspend payment of
 231 scholarship funds if it is determined that there is probable
 232 cause to believe that there is:

233 1. An imminent threat to the health, safety, and welfare
 234 of the students;

235 2. A previous pattern of failure to comply with this
 236 section or s. 1002.421; or

237 3.2. Fraudulent activity on the part of the private
 238 school. Notwithstanding s. 1002.22, in incidents of alleged
 239 fraudulent activity pursuant to this section, the Department of
 240 Education's Office of Inspector General is authorized to release
 241 personally identifiable records or reports of students to the
 242 following persons or organizations:

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

247 b. A person or entity authorized by a court of competent
 248 jurisdiction in compliance with an order of that court or the
 249 attorney of record pursuant to a lawfully issued subpoena,
 250 consistent with the Family Educational Rights and Privacy Act,
 251 20 U.S.C. s. 1232g.

252 c. Any person, entity, or authority issuing a subpoena for

253 law enforcement purposes when the court or other issuing agency
 254 has ordered that the existence or the contents of the subpoena
 255 or the information furnished in response to the subpoena not be
 256 disclosed, consistent with the Family Educational Rights and
 257 Privacy Act, 20 U.S.C. s. 1232g, and 34 C.F.R. s. 99.31.

258
 259 The commissioner's order suspending payment pursuant to this
 260 paragraph may be appealed pursuant to the same procedures and
 261 timelines as the notice of proposed action set forth in
 262 paragraph (b).

263 Section 2. Paragraph (b) of subsection (6) of section
 264 1002.20, Florida Statutes, is amended to read:

265 1002.20 K-12 student and parent rights.—Parents of public
 266 school students must receive accurate and timely information
 267 regarding their child's academic progress and must be informed
 268 of ways they can help their child to succeed in school. K-12
 269 students and their parents are afforded numerous statutory
 270 rights including, but not limited to, the following:

271 (6) EDUCATIONAL CHOICE.—

272 (b) Private school choices.—Parents of public school
 273 students may seek private school choice options under certain
 274 programs.

275 1. Under the McKay Scholarships for Students with
 276 Disabilities Program, the parent of a public school student with
 277 a disability may request and receive a McKay Scholarship for the
 278 student to attend a private school in accordance with ~~the~~
 279 ~~provisions of~~ s. 1002.39.

280 2. Under the Florida Tax Credit Scholarship Program, the

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281 parent of a student who qualifies for free or reduced-price
282 school lunch or who is currently placed, or during the previous
283 state fiscal year was placed, in foster care as defined in s.
284 39.01 may seek a scholarship from an eligible nonprofit
285 scholarship-funding organization in accordance with ~~the~~
286 ~~provisions of~~ s. 1002.395.

287 Section 3. This act shall take effect July 1, 2012.