

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 site
12 visits; requiring the department to provide at no cost
13 statewide assessments and related materials to a
14 school that makes such a request; providing conditions
15 under which statewide assessments may be administered
16 at a private school; requiring a private school to
17 follow statutory requirements, State Board of
18 Education rules, and district testing policies;
19 requiring the department to publish an accountability
20 report; requiring a school district to coordinate with
21 the department to provide statewide assessments and
22 related materials to a private school upon the
23 department's request; providing school district
24 responsibilities; revising the conditions upon which
25 the Commissioner of Education may base the denial,
26 suspension, or revocation of a private school's
27 participation in the program or the suspension of

28 scholarship fund payment; amending s. 1002.20, F.S.;

29 conforming provisions; providing an effective date.

30

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

32

33 Section 1. Subsection (3), paragraph (a) of subsection

34 (5), paragraph (e) of subsection (7), paragraph (c) of

35 subsection (8), paragraphs (j) and (n) of subsection (9),

36 subsection (10), and paragraphs (a) and (c) of subsection (11)

37 of section 1002.395, Florida Statutes, are amended, and

38 paragraph (p) is added to subsection (9) of that section, to

39 read:

40 1002.395 Florida Tax Credit Scholarship Program.—

41 (3) PROGRAM; SCHOLARSHIP ELIGIBILITY.—

42 (a) The Florida Tax Credit Scholarship Program is

43 established.

44 (b) Contingent upon available funds, ~~+~~

45 ~~1.~~ a student is eligible for a Florida tax credit

46 scholarship under this section if the student meets one or more

47 of the following criteria:

48 1. The student qualifies for free or reduced-price school

49 lunches under the National School Lunch Act or is on the direct

50 certification list and:

51 a. Was counted as a full-time equivalent student during

52 the previous state fiscal year for purposes of state per-student

53 funding;

54 b. Received a scholarship from an eligible nonprofit

55 scholarship-funding organization or from the State of Florida

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56 during the previous school year; or

57 c. Is eligible to enter kindergarten through fifth ~~or~~
58 ~~first grade.~~

59 ~~2.d.~~ The student is currently placed, or during the
60 previous state fiscal year was placed, in foster care as defined
61 in s. 39.01.

62 ~~3.2.~~ The A student continues ~~may continue~~ in the
63 scholarship program as long as the student's household income
64 level does not exceed 230 percent of the federal poverty level.

65 ~~4.3.~~ The student, who is a first-time tax credit
66 scholarship recipient, is a sibling of a student who is
67 continuing in the scholarship program and who resides in the
68 same household as the student ~~shall also be eligible as a first-~~
69 ~~time tax credit scholarship recipient~~ if the sibling meets one
70 or more of the criteria specified in subparagraphs ~~subparagraph~~
71 1. and 2. and as long as the student's and sibling's household
72 income level does not exceed 230 percent of the federal poverty
73 level.

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

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

80 (a)1. The tax credit cap amount is \$229 ~~\$140~~ million in
81 the 2012-2013 ~~2010-2011~~ state fiscal year.

82 2. In the 2013-2014 ~~2011-2012~~ state fiscal year and each
83 state fiscal year thereafter, the tax credit cap amount is the

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84 tax credit cap amount in the prior state fiscal year. However,
85 in any state fiscal year when the annual tax credit amount for
86 the prior state fiscal year is equal to or greater than 90
87 percent of the tax credit cap amount applicable to that state
88 fiscal year, the tax credit cap amount shall increase by 25
89 percent. The department shall publish on its website information
90 identifying the tax credit cap amount when it is increased
91 pursuant to this subparagraph.

92 (7) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
93 PARTICIPATION.—

94 (e) The parent shall ensure that the student participating
95 in the scholarship program takes the norm-referenced assessment
96 offered by the private school. The parent may also choose to
97 have the student participate in the statewide assessments
98 pursuant to s. 1008.22. If the parent requests that the student
99 participating in the scholarship program take statewide
100 assessments pursuant to s. 1008.22 and the private school has
101 not chosen to offer and administer the statewide assessments,
102 the parent is responsible for transporting the student to the
103 assessment site designated by the school district.

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

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

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

111 2. Annually administering or making provision for students

112 participating in the scholarship program in grades 3 through 10
113 to take one of the nationally norm-referenced tests identified
114 by the Department of Education or the statewide assessments
115 pursuant to s. 1008.22. Students with disabilities for whom
116 standardized testing is not appropriate are exempt from this
117 requirement. A participating private school must report a
118 student's scores to the parent. A participating private school
119 must annually report by August 15 the scores of all
120 participating students ~~and~~ to the independent research
121 organization ~~selected by the Department of Education as~~
122 described in paragraph (9)(j).

123 3. Cooperating with the scholarship student whose parent
124 chooses to have the student participate in the statewide
125 assessments pursuant to s. 1008.22 or, if a private school
126 chooses to offer the statewide assessments, administering the
127 assessments at the school.

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

131 b. A participating private school must submit a request in
132 writing to the Department of Education by March 1 of each year
133 in order to administer the statewide assessments in the
134 subsequent school year.

135
136 The inability of a private school to meet the requirements of
137 this subsection shall constitute a basis for the ineligibility
138 of the private school to participate in the scholarship program
139 as determined by the Department of Education.

140 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The Department of
141 Education shall:

142 (j) Select an independent research organization, which may
143 be a public or private entity or university, to which
144 participating private schools must report the scores of
145 participating students on the nationally norm-referenced tests
146 or the statewide assessments administered by the private school
147 in grades 3 through 10.

148 1. The independent research organization must annually
149 report to the Department of Education on the year-to-year
150 learning gains of participating students:

151 a. On a statewide basis. The report shall also include, to
152 the extent possible, a comparison of these learning gains to the
153 statewide learning gains of public school students with
154 socioeconomic backgrounds similar to those of students
155 participating in the scholarship program. To minimize costs and
156 reduce time required for the independent research organization's
157 analysis and evaluation, the Department of Education shall
158 conduct analyses of matched students from public school
159 assessment data and calculate control group learning gains using
160 an agreed-upon methodology outlined in the contract with the
161 independent research organization; and

162 b. According to each participating private school in which
163 there are at least 30 participating students who have scores for
164 tests administered during or after the 2009-2010 school year for
165 2 consecutive years at that private school.

166 2. The sharing and reporting of student learning gain data
167 under this paragraph must be in accordance with requirements of

168 20 U.S.C. s. 1232g, the Family Educational Rights and Privacy
169 Act, and shall be for the sole purpose of creating the annual
170 report required by subparagraph 1. All parties must preserve the
171 confidentiality of such information as required by law. The
172 annual report must not disaggregate data to a level that will
173 identify individual participating schools, except as required
174 under sub-subparagraph 1.b., or disclose the academic level of
175 individual students.

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

178 (n)1. Conduct ~~random~~ site visits to private schools
179 participating in the Florida Tax Credit Scholarship Program. The
180 purpose of the site visits is solely to verify the information
181 reported by the schools concerning the enrollment and attendance
182 of students, the credentials of teachers, background screening
183 of teachers, and teachers' fingerprinting results. The
184 Department of Education may not make more than seven ~~random~~ site
185 visits each year; however, the department may make additional
186 site visits at any time to any school that has received a notice
187 of noncompliance or a notice of proposed action within the
188 previous 2 years ~~and may not make more than one random site~~
189 ~~visit each year to the same private school.~~

190 2. Annually, by December 15, report to the Governor, the
191 President of the Senate, and the Speaker of the House of
192 Representatives the Department of Education's actions with
193 respect to implementing accountability in the scholarship
194 program under this section and s. 1002.421, any substantiated
195 allegations or violations of law or rule by an eligible private

196 school under this program concerning the enrollment and
197 attendance of students, the credentials of teachers, background
198 screening of teachers, and teachers' fingerprinting results and
199 the corrective action taken by the Department of Education.

200 (p) Upon the request of a participating private school,
201 provide at no cost to the school the statewide assessments
202 administered under s. 1008.22 and any related materials for
203 administering the assessments. Students at a private school may
204 be assessed using the statewide assessments if the addition of
205 those students and the school does not cause the state to exceed
206 its contractual caps for the number of students tested and the
207 number of testing sites. The state shall provide the same
208 materials and support to a private school that it provides to a
209 public school. A private school that chooses to administer
210 statewide assessments under s. 1008.22 shall follow the
211 requirements set forth in ss. 1008.22 and 1008.24, rules adopted
212 by the State Board of Education to implement those sections, and
213 district-level testing policies established by the district
214 school board. The department shall publish an accountability
215 report that presents the results of the student assessments at
216 private schools that choose to participate in the statewide
217 student assessment program.

218 (10) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.—

219 (a) Upon the request of any eligible nonprofit
220 scholarship-funding organization, a school district shall inform
221 all households within the district receiving free or reduced-
222 priced meals under the National School Lunch Act of their
223 eligibility to apply for a tax credit scholarship. The form of

224 such notice shall be provided by the eligible nonprofit
225 scholarship-funding organization, and the district shall include
226 the provided form, if requested by the organization, in any
227 normal correspondence with eligible households. If an eligible
228 nonprofit scholarship-funding organization requests a special
229 communication to be issued to households within the district
230 receiving free or reduced-price meals under the National School
231 Lunch Act, the organization shall reimburse the district for the
232 cost of postage. Such notice is limited to once a year.

233 (b) Upon the request of the Department of Education, a
234 school district shall coordinate with the department to provide
235 to a participating private school the statewide assessments
236 administered under s. 1008.22 and any related materials for
237 administering the assessments. A school district is responsible
238 for implementing test administrations at a participating private
239 school, including the:

240 1. Provision of training for private school staff on test
241 security and assessment administration procedures;

242 2. Distribution of testing materials to a private school;

243 3. Retrieval of testing materials from a private school;

244 4. Provision of the required format for a private school

245 to submit information to the district for test administration
246 and enrollment purposes; and

247 5. Provision of any required assistance, monitoring, or
248 investigation at a private school.

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

250 (a)1. The Commissioner of Education shall deny, suspend,
251 or revoke a private school's participation in the scholarship

252 program if it is determined that the private school has failed
253 to comply with the provisions of this section. However, in
254 instances in which the noncompliance is correctable within a
255 reasonable amount of time and in which the health, safety, or
256 welfare of the students is not threatened, the commissioner may
257 issue a notice of noncompliance that shall provide the private
258 school with a timeframe within which to provide evidence of
259 compliance prior to taking action to suspend or revoke the
260 private school's participation in the scholarship program.

261 2. The Commissioner of Education may deny, suspend, or
262 revoke a private school's participation in the scholarship
263 program if the commissioner determines that:

264 a. An owner or operator of a private school has exhibited
265 a previous pattern of failure to comply with this section or s.
266 1002.421; or

267 b. An owner or operator of the private school is operating
268 or has operated an educational institution in this state or
269 another state or jurisdiction in a manner contrary to the
270 health, safety, or welfare of the public.

271
272 In making ~~the this~~ determination under this subparagraph, the
273 commissioner may consider factors that include, but are not
274 limited to, acts or omissions by an owner or operator that led
275 to a previous denial or revocation of participation in an
276 education scholarship program; an owner's or operator's failure
277 to reimburse the Department of Education or a nonprofit
278 scholarship-funding organization for scholarship funds
279 improperly received or retained by a school; imposition of a

280 prior criminal sanction, ~~or~~ civil fine, administrative fine,
 281 license revocation or suspension, or program eligibility
 282 suspension, termination, or revocation ~~sanction~~ related to an
 283 owner's or operator's management or operation of an educational
 284 institution; or other types of criminal proceedings in which the
 285 owner or operator was found guilty of, regardless of
 286 adjudication, or entered a plea of nolo contendere or guilty to,
 287 any offense involving fraud, deceit, dishonesty, or moral
 288 turpitude.

289 (c) The commissioner may immediately suspend payment of
 290 scholarship funds if it is determined that there is probable
 291 cause to believe that there is:

292 1. An imminent threat to the health, safety, and welfare
 293 of the students;

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

296 ~~3.2.~~ Fraudulent activity on the part of the private
 297 school. Notwithstanding s. 1002.22, in incidents of alleged
 298 fraudulent activity pursuant to this section, the Department of
 299 Education's Office of Inspector General is authorized to release
 300 personally identifiable records or reports of students to the
 301 following persons or organizations:

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

306 b. A person or entity authorized by a court of competent
 307 jurisdiction in compliance with an order of that court or the

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308 attorney of record pursuant to a lawfully issued subpoena,
309 consistent with the Family Educational Rights and Privacy Act,
310 20 U.S.C. s. 1232g.

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

317

318 The commissioner's order suspending payment pursuant to this
319 paragraph may be appealed pursuant to the same procedures and
320 timelines as the notice of proposed action set forth in
321 paragraph (b).

322 Section 2. Paragraph (b) of subsection (6) of section
323 1002.20, Florida Statutes, is amended to read:

324 1002.20 K-12 student and parent rights.—Parents of public
325 school students must receive accurate and timely information
326 regarding their child's academic progress and must be informed
327 of ways they can help their child to succeed in school. K-12
328 students and their parents are afforded numerous statutory
329 rights including, but not limited to, the following:

330 (6) EDUCATIONAL CHOICE.—

331 (b) Private school choices.—Parents of public school
332 students may seek private school choice options under certain
333 programs.

334 1. Under the McKay Scholarships for Students with
335 Disabilities Program, the parent of a public school student with

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336 a disability may request and receive a McKay Scholarship for the
337 student to attend a private school in accordance with ~~the~~
338 ~~provisions of s. 1002.39.~~

339 2. Under the Florida Tax Credit Scholarship Program, the
340 parent of a student who qualifies for free or reduced-price
341 school lunch or who is currently placed, or during the previous
342 state fiscal year was placed, in foster care as defined in s.
343 39.01 may seek a scholarship from an eligible nonprofit
344 scholarship-funding organization in accordance with ~~the~~
345 ~~provisions of s. 1002.395.~~

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