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1
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 a school district to coordinate with the
20 department to provide statewide assessments and
21 related materials to a private school upon the
22 department's request; providing school district
23 responsibilities; revising the conditions upon which
24 the Commissioner of Education may base the denial,
25 suspension, or revocation of a private school's
26 participation in the program or the suspension of
27 scholarship fund payment; amending s. 1002.20, F.S.;
28 conforming provisions; providing an effective date.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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

Section 1. Subsection (3), paragraph (a) of subsection (5), paragraph (e) of subsection (7), paragraph (c) of subsection (8), paragraphs (j) and (n) of subsection (9), subsection (10), and paragraphs (a) and (c) of subsection (11) of section 1002.395, Florida Statutes, are amended, and paragraph (p) is added to subsection (9) of that section, to read:

1002.395 Florida Tax Credit Scholarship Program.—

(3) PROGRAM; SCHOLARSHIP ELIGIBILITY.—

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

(b) Contingent upon available funds, ~~1.~~

~~1.~~ a student is eligible for a Florida tax credit scholarship under this section if the student meets one or more of the following criteria:

1. The student qualifies for free or reduced-price school lunches under the National School Lunch Act or is on the direct certification list and:

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

b. Received a scholarship from an eligible nonprofit scholarship-funding organization or from the State of Florida during the previous school year; or

c. Is eligible to enter kindergarten through fifth ~~or~~

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

61 ~~3.2.~~ The A student continues ~~may continue~~ in the
62 scholarship program as long as the student's household income
63 level does not exceed 230 percent of the federal poverty level.

64 ~~4.3.~~ The student, who is a first-time tax credit
65 scholarship recipient, is a sibling of a student who is
66 continuing in the scholarship program and who resides in the
67 same household as the student ~~shall also be eligible as a first-~~
68 ~~time tax credit scholarship recipient~~ if the sibling meets one
69 or more of the criteria specified in subparagraphs ~~subparagraph~~
70 1. and 2. and as long as the student's and sibling's household
71 income level does not exceed 230 percent of the federal poverty
72 level.

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

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

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

81 2. In the 2013-2014 ~~2011-2012~~ state fiscal year and each
82 state fiscal year thereafter, the tax credit cap amount is the
83 tax credit cap amount in the prior state fiscal year. However,
84 in any state fiscal year when the annual tax credit amount for

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

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

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

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

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

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

110 2. Annually administering or making provision for students
111 participating in the scholarship program in grades 3 through 10
112 to take one of the nationally norm-referenced tests identified

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

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

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

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

134
135 The inability of a private school to meet the requirements of
136 this subsection shall constitute a basis for the ineligibility
137 of the private school to participate in the scholarship program
138 as determined by the Department of Education.

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

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

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

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

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

165 2. The sharing and reporting of student learning gain data
166 under this paragraph must be in accordance with requirements of
167 20 U.S.C. s. 1232g, the Family Educational Rights and Privacy
168 Act, and shall be for the sole purpose of creating the annual

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169 report required by subparagraph 1. All parties must preserve the
170 confidentiality of such information as required by law. The
171 annual report must not disaggregate data to a level that will
172 identify individual participating schools, except as required
173 under sub-subparagraph 1.b., or disclose the academic level of
174 individual students.

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

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

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

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197 screening of teachers, and teachers' fingerprinting results and
 198 the corrective action taken by the Department of Education.
 199 (p) Upon the request of a participating private school,
 200 provide at no cost to the school the statewide assessments
 201 administered under s. 1008.22 and any related materials for
 202 administering the assessments. Students at a private school may
 203 be assessed using the statewide assessments if the addition of
 204 those students and the school does not cause the state to exceed
 205 its contractual caps for the number of students tested and the
 206 number of testing sites. The state shall provide the same
 207 materials and support to a private school that it provides to a
 208 public school. A private school that chooses to administer
 209 statewide assessments under s. 1008.22 shall follow the
 210 requirements set forth in ss. 1008.22 and 1008.24, rules adopted
 211 by the State Board of Education to implement those sections, and
 212 district-level testing policies established by the district
 213 school board.

214 (10) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.-

215 (a) Upon the request of any eligible nonprofit
 216 scholarship-funding organization, a school district shall inform
 217 all households within the district receiving free or reduced-
 218 priced meals under the National School Lunch Act of their
 219 eligibility to apply for a tax credit scholarship. The form of
 220 such notice shall be provided by the eligible nonprofit
 221 scholarship-funding organization, and the district shall include
 222 the provided form, if requested by the organization, in any
 223 normal correspondence with eligible households. If an eligible
 224 nonprofit scholarship-funding organization requests a special

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225 communication to be issued to households within the district
226 receiving free or reduced-price meals under the National School
227 Lunch Act, the organization shall reimburse the district for the
228 cost of postage. Such notice is limited to once a year.

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

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

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

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

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

241 to submit information to the district for test administration

242 and enrollment purposes; and

243 5. Provision of any required assistance, monitoring, or
244 investigation at a private school.

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

246 (a)1. The Commissioner of Education shall deny, suspend,
247 or revoke a private school's participation in the scholarship
248 program if it is determined that the private school has failed
249 to comply with the provisions of this section. However, in
250 instances in which the noncompliance is correctable within a
251 reasonable amount of time and in which the health, safety, or
252 welfare of the students is not threatened, the commissioner may

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253 | issue a notice of noncompliance that shall provide the private
254 | school with a timeframe within which to provide evidence of
255 | compliance prior to taking action to suspend or revoke the
256 | private school's participation in the scholarship program.

257 | 2. The Commissioner of Education may deny, suspend, or
258 | revoke a private school's participation in the scholarship
259 | program if the commissioner determines that:

260 | a. An owner or operator of a private school has exhibited
261 | a previous pattern of failure to comply with this section or s.
262 | 1002.421; or

263 | b. An owner or operator of the private school is operating
264 | or has operated an educational institution in this state or
265 | another state or jurisdiction in a manner contrary to the
266 | health, safety, or welfare of the public.

267 |
268 | In making the ~~this~~ determination under this subparagraph, the
269 | commissioner may consider factors that include, but are not
270 | limited to, acts or omissions by an owner or operator that led
271 | to a previous denial or revocation of participation in an
272 | education scholarship program; an owner's or operator's failure
273 | to reimburse the Department of Education or a nonprofit
274 | scholarship-funding organization for scholarship funds
275 | improperly received or retained by a school; imposition of a
276 | prior criminal sanction, ~~or~~ civil fine, administrative fine,
277 | license revocation or suspension, or program eligibility
278 | suspension, termination, or revocation ~~sanction~~ related to an
279 | owner's or operator's management or operation of an educational
280 | institution; or other types of criminal proceedings in which the

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281 owner or operator was found guilty of, regardless of
282 adjudication, or entered a plea of nolo contendere or guilty to,
283 any offense involving fraud, deceit, dishonesty, or moral
284 turpitude.

285 (c) The commissioner may immediately suspend payment of
286 scholarship funds if it is determined that there is probable
287 cause to believe that there is:

288 1. An imminent threat to the health, safety, and welfare
289 of the students;

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

292 ~~3.2.~~ Fraudulent activity on the part of the private
293 school. Notwithstanding s. 1002.22, in incidents of alleged
294 fraudulent activity pursuant to this section, the Department of
295 Education's Office of Inspector General is authorized to release
296 personally identifiable records or reports of students to the
297 following persons or organizations:

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

302 b. A person or entity authorized by a court of competent
303 jurisdiction in compliance with an order of that court or the
304 attorney of record pursuant to a lawfully issued subpoena,
305 consistent with the Family Educational Rights and Privacy Act,
306 20 U.S.C. s. 1232g.

307 c. Any person, entity, or authority issuing a subpoena for
308 law enforcement purposes when the court or other issuing agency

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309 has ordered that the existence or the contents of the subpoena
310 or the information furnished in response to the subpoena not be
311 disclosed, consistent with the Family Educational Rights and
312 Privacy Act, 20 U.S.C. s. 1232g, and 34 C.F.R. s. 99.31.

313
314 The commissioner's order suspending payment pursuant to this
315 paragraph may be appealed pursuant to the same procedures and
316 timelines as the notice of proposed action set forth in
317 paragraph (b).

318 Section 2. Paragraph (b) of subsection (6) of section
319 1002.20, Florida Statutes, is amended to read:

320 1002.20 K-12 student and parent rights.—Parents of public
321 school students must receive accurate and timely information
322 regarding their child's academic progress and must be informed
323 of ways they can help their child to succeed in school. K-12
324 students and their parents are afforded numerous statutory
325 rights including, but not limited to, the following:

326 (6) EDUCATIONAL CHOICE.—

327 (b) Private school choices.—Parents of public school
328 students may seek private school choice options under certain
329 programs.

330 1. Under the McKay Scholarships for Students with
331 Disabilities Program, the parent of a public school student with
332 a disability may request and receive a McKay Scholarship for the
333 student to attend a private school in accordance with ~~the~~
334 ~~provisions of~~ s. 1002.39.

335 2. Under the Florida Tax Credit Scholarship Program, the
336 parent of a student who qualifies for free or reduced-price

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337 | school lunch or who is currently placed, or during the previous
338 | state fiscal year was placed, in foster care as defined in s.
339 | 39.01 may seek a scholarship from an eligible nonprofit
340 | scholarship-funding organization in accordance with ~~the~~
341 | ~~provisions of~~ s. 1002.395.

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