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LEGISLATIVE ACTION

Senate

House

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Floor: 1/AD/2R

03/09/2012 11:27 AM

Senator Benacquisto moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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



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14 established.

15 (b) Contingent upon available funds, ~~÷~~

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

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

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

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

28 c. Is eligible to enter kindergarten through fifth ~~or first~~
29 ~~grade.~~ ~~or~~

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

33 ~~3.2.~~ The A student continues ~~may continue~~ in the
34 scholarship program as long as the student's household income
35 level does not exceed 230 percent of the federal poverty level.

36 ~~4.3.~~ The student, who is a first-time tax credit
37 scholarship recipient, is a sibling of a student who is
38 continuing in the scholarship program and who resides in the
39 same household as the student ~~shall also be eligible as a first-~~
40 ~~time tax credit scholarship recipient~~ if the sibling meets one
41 or more of the criteria specified in subparagraphs ~~subparagraph~~
42 1. and 2. and as long as the student's and sibling's household



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43 income level does not exceed 230 percent of the federal poverty
44 level.

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

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

51 (a)1. The tax credit cap amount is \$229 ~~\$140~~ million in the
52 2012-2013 ~~2010-2011~~ state fiscal year.

53 2. In the 2013-2014 ~~2011-2012~~ state fiscal year and each
54 state fiscal year thereafter, the tax credit cap amount is the
55 tax credit cap amount in the prior state fiscal year. However,
56 in any state fiscal year when the annual tax credit amount for
57 the prior state fiscal year is equal to or greater than 90
58 percent of the tax credit cap amount applicable to that state
59 fiscal year, the tax credit cap amount shall increase by 25
60 percent. The department shall publish on its website information
61 identifying the tax credit cap amount when it is increased
62 pursuant to this subparagraph.

63 (7) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
64 PARTICIPATION.—

65 (e) The parent shall ensure that the student participating
66 in the scholarship program takes the norm-referenced assessment
67 offered by the private school. The parent may also choose to
68 have the student participate in the statewide assessments
69 pursuant to s. 1008.22. If the parent requests that the student
70 participating in the scholarship program take statewide
71 assessments pursuant to s. 1008.22 and the private school has



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72 not chosen to offer and administer the statewide assessments,
73 the parent is responsible for transporting the student to the
74 assessment site designated by the school district.

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

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

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

81 2. Annually administering or making provision for students
82 participating in the scholarship program in grades 3 through 10
83 to take one of the nationally norm-referenced tests identified
84 by the Department of Education or the statewide assessments
85 pursuant to s. 1008.22. Students with disabilities for whom
86 standardized testing is not appropriate are exempt from this
87 requirement. A participating private school must report a
88 student's scores to the parent. A participating private school
89 must annually report by August 15 the scores of all
90 participating students ~~and to the independent research~~
91 ~~organization selected by the Department of Education as~~
92 described in paragraph (9) (j).

93 3. Cooperating with the scholarship student whose parent
94 chooses to have the student participate in the statewide
95 assessments pursuant to s. 1008.22 or, if a private school
96 chooses to offer the statewide assessments, administering the
97 assessments at the school.

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



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101 b. A participating private school must submit a request in
102 writing to the Department of Education by March 1 of each year
103 in order to administer the statewide assessments in the
104 subsequent school year.
105

106 The inability of a private school to meet the requirements of
107 this subsection shall constitute a basis for the ineligibility
108 of the private school to participate in the scholarship program
109 as determined by the Department of Education.

110 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The Department of
111 Education shall:

112 (j) Select an independent research organization, which may
113 be a public or private entity or university, to which
114 participating private schools must report the scores of
115 participating students on the nationally norm-referenced tests
116 or the statewide assessments administered by the private school
117 in grades 3 through 10.

118 1. The independent research organization must annually
119 report to the Department of Education on the year-to-year
120 learning gains of participating students:

121 a. On a statewide basis. The report shall also include, to
122 the extent possible, a comparison of these learning gains to the
123 statewide learning gains of public school students with
124 socioeconomic backgrounds similar to those of students
125 participating in the scholarship program. To minimize costs and
126 reduce time required for the independent research organization's
127 analysis and evaluation, the Department of Education shall
128 conduct analyses of matched students from public school
129 assessment data and calculate control group learning gains using



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130 an agreed-upon methodology outlined in the contract with the
131 independent research organization; and

132 b. According to each participating private school in which
133 there are at least 30 participating students who have scores for
134 tests administered during or after the 2009-2010 school year for
135 2 consecutive years at that private school.

136 2. The sharing and reporting of student learning gain data
137 under this paragraph must be in accordance with requirements of
138 20 U.S.C. s. 1232g, the Family Educational Rights and Privacy
139 Act, and shall be for the sole purpose of creating the annual
140 report required by subparagraph 1. All parties must preserve the
141 confidentiality of such information as required by law. The
142 annual report must not disaggregate data to a level that will
143 identify individual participating schools, except as required
144 under sub-subparagraph 1.b., or disclose the academic level of
145 individual students.

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

148 (n)1. Conduct ~~random~~ site visits to private schools
149 participating in the Florida Tax Credit Scholarship Program. The
150 purpose of the site visits is solely to verify the information
151 reported by the schools concerning the enrollment and attendance
152 of students, the credentials of teachers, background screening
153 of teachers, and teachers' fingerprinting results. The
154 Department of Education may not make more than seven ~~random~~ site
155 visits each year; however, the department may make additional
156 site visits at any time to any school that has received a notice
157 of noncompliance or a notice of proposed action within the
158 previous 2 years ~~and may not make more than one random site~~



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159 ~~visit each year to the same private school.~~

160 2. Annually, by December 15, report to the Governor, the
161 President of the Senate, and the Speaker of the House of
162 Representatives the Department of Education's actions with
163 respect to implementing accountability in the scholarship
164 program under this section and s. 1002.421, any substantiated
165 allegations or violations of law or rule by an eligible private
166 school under this program concerning the enrollment and
167 attendance of students, the credentials of teachers, background
168 screening of teachers, and teachers' fingerprinting results and
169 the corrective action taken by the Department of Education.

170 (p) Upon the request of a participating private school,
171 provide at no cost to the school the statewide assessments
172 administered under s. 1008.22 and any related materials for
173 administering the assessments. Students at a private school may
174 be assessed using the statewide assessments if the addition of
175 those students and the school does not cause the state to exceed
176 its contractual caps for the number of students tested and the
177 number of testing sites. The state shall provide the same
178 materials and support to a private school that it provides to a
179 public school. A private school that chooses to administer
180 statewide assessments under s. 1008.22 shall follow the
181 requirements set forth in ss. 1008.22 and 1008.24, rules adopted
182 by the State Board of Education to implement those sections, and
183 district-level testing policies established by the district
184 school board.

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

186 (a) Upon the request of any eligible nonprofit scholarship-
187 funding organization, a school district shall inform all



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188 households within the district receiving free or reduced-priced
189 meals under the National School Lunch Act of their eligibility
190 to apply for a tax credit scholarship. The form of such notice
191 shall be provided by the eligible nonprofit scholarship-funding
192 organization, and the district shall include the provided form,
193 if requested by the organization, in any normal correspondence
194 with eligible households. If an eligible nonprofit scholarship-
195 funding organization requests a special communication to be
196 issued to households within the district receiving free or
197 reduced-price meals under the National School Lunch Act, the
198 organization shall reimburse the district for the cost of
199 postage. Such notice is limited to once a year.

200 (b) Upon the request of the Department of Education, a
201 school district shall coordinate with the department to provide
202 to a participating private school the statewide assessments
203 administered under s. 1008.22 and any related materials for
204 administering the assessments. A school district is responsible
205 for implementing test administrations at a participating private
206 school, including the:

- 207 1. Provision of training for private school staff on test
208 security and assessment administration procedures;
209 2. Distribution of testing materials to a private school;
210 3. Retrieval of testing materials from a private school;
211 4. Provision of the required format for a private school to
212 submit information to the district for test administration and
213 enrollment purposes; and
214 5. Provision of any required assistance, monitoring, or
215 investigation at a private school.

216 (11) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.-



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217 (a)1. The Commissioner of Education shall deny, suspend, or
218 revoke a private school's participation in the scholarship
219 program if it is determined that the private school has failed
220 to comply with the provisions of this section. However, in
221 instances in which the noncompliance is correctable within a
222 reasonable amount of time and in which the health, safety, or
223 welfare of the students is not threatened, the commissioner may
224 issue a notice of noncompliance that shall provide the private
225 school with a timeframe within which to provide evidence of
226 compliance prior to taking action to suspend or revoke the
227 private school's participation in the scholarship program.

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

231 a. An owner or operator of a private school has exhibited a
232 previous pattern of failure to comply with this section or s.
233 1002.421; or

234 b. An owner or operator of the private school is operating
235 or has operated an educational institution in this state or
236 another state or jurisdiction in a manner contrary to the
237 health, safety, or welfare of the public.

238
239 In making the ~~this~~ determination under this subparagraph, the
240 commissioner may consider factors that include, but are not
241 limited to, acts or omissions by an owner or operator that led
242 to a previous denial or revocation of participation in an
243 education scholarship program; an owner's or operator's failure
244 to reimburse the Department of Education or a nonprofit
245 scholarship-funding organization for scholarship funds



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246 improperly received or retained by a school; imposition of a
247 prior criminal sanction, ~~or~~ civil fine, administrative fine,
248 license revocation or suspension, or program eligibility
249 suspension, termination, or revocation ~~sanction~~ related to an
250 owner's or operator's management or operation of an educational
251 institution; or other types of criminal proceedings in which the
252 owner or operator was found guilty of, regardless of
253 adjudication, or entered a plea of nolo contendere or guilty to,
254 any offense involving fraud, deceit, dishonesty, or moral
255 turpitude.

256 (c) The commissioner may immediately suspend payment of
257 scholarship funds if it is determined that there is probable
258 cause to believe that there is:

259 1. An imminent threat to the health, safety, and welfare of
260 the students;

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

263 3.2. Fraudulent activity on the part of the private school.
264 Notwithstanding s. 1002.22, in incidents of alleged fraudulent
265 activity pursuant to this section, the Department of Education's
266 Office of Inspector General is authorized to release personally
267 identifiable records or reports of students to the following
268 persons or organizations:

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

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



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275 attorney of record pursuant to a lawfully issued subpoena,
276 consistent with the Family Educational Rights and Privacy Act,
277 20 U.S.C. s. 1232g.

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

284

285 The commissioner's order suspending payment pursuant to this
286 paragraph may be appealed pursuant to the same procedures and
287 timelines as the notice of proposed action set forth in
288 paragraph (b).

289 Section 2. Paragraph (b) of subsection (6) of section
290 1002.20, Florida Statutes, is amended to read:

291 1002.20 K-12 student and parent rights.—Parents of public
292 school students must receive accurate and timely information
293 regarding their child's academic progress and must be informed
294 of ways they can help their child to succeed in school. K-12
295 students and their parents are afforded numerous statutory
296 rights including, but not limited to, the following:

297 (6) EDUCATIONAL CHOICE.—

298 (b) *Private school choices.*—Parents of public school
299 students may seek private school choice options under certain
300 programs.

301 1. Under the McKay Scholarships for Students with
302 Disabilities Program, the parent of a public school student with
303 a disability may request and receive a McKay Scholarship for the



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304 student to attend a private school in accordance with ~~the~~
305 ~~provisions of~~ s. 1002.39.

306 2. Under the Florida Tax Credit Scholarship Program, the
307 parent of a student who qualifies for free or reduced-price
308 school lunch or who is currently placed, or during the previous
309 state fiscal year was placed, in foster care as defined in s.
310 39.01 may seek a scholarship from an eligible nonprofit
311 scholarship-funding organization in accordance with ~~the~~
312 ~~provisions of~~ s. 1002.395.

313 Section 3. This act shall take effect upon becoming a law.
314

315 ===== T I T L E A M E N D M E N T =====

316 And the title is amended as follows:

317 Delete everything before the enacting clause
318 and insert:

319 A bill to be entitled

320 An act relating to the Florida Tax Credit Scholarship
321 Program; amending s. 1002.395, F.S.; revising student
322 eligibility requirements for participation in the
323 program; increasing the tax credit cap amount
324 applicable to the program; revising provisions
325 relating to the reporting of test scores by private
326 schools participating in the program; providing that a
327 private school may choose to offer and administer
328 statewide assessments at the school; revising
329 Department of Education duties relating to site
330 visits; requiring the department to provide at no cost
331 statewide assessments and related materials to a
332 school that makes such a request; providing conditions



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333 under which statewide assessments may be administered
334 at a private school; requiring a private school to
335 follow statutory requirements, State Board of
336 Education rules, and district testing policies;
337 requiring a school district to coordinate with the
338 department to provide statewide assessments and
339 related materials to a private school upon the
340 department's request; providing school district
341 responsibilities; revising the conditions upon which
342 the Commissioner of Education may base the denial,
343 suspension, or revocation of a private school's
344 participation in the program or the suspension of
345 scholarship fund payment; amending s. 1002.20, F.S.;
346 conforming provisions; providing an effective date.