

By Senator Bean

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1                   A bill to be entitled  
2       An act relating to the Education Savings Account  
3       Program; creating s. 1002.387, F.S.; defining terms;  
4       specifying criteria for student eligibility and  
5       student ineligibility for the program; authorizing a  
6       parent to direct a financial institution trustee of  
7       his or her child's account to use funds for specified  
8       costs of attending specified private schools or  
9       programs, for participating in a dual enrollment  
10      program, or to make a contribution to the child's  
11      college savings plan or to a contract under the  
12      Stanley G. Tate Florida Prepaid College Program;  
13      requiring a financial institution to transfer an  
14      account to another participating financial institution  
15      upon the request of a parent as provided by the Chief  
16      Financial Officer by rule; providing for the  
17      distribution of unspent program funds; requiring a  
18      parent to apply for the program to the Department of  
19      Education; specifying responsibilities of a parent or  
20      student for using funds in an account to attend a  
21      private school or private virtual school; requiring  
22      certain students to take norm-referenced tests  
23      required by the department; specifying  
24      responsibilities of a parent or student for using  
25      funds in an account to hire a private tutor or private  
26      tutoring program and for participating in a dual  
27      enrollment program; specifying eligibility criteria  
28      for private schools, private tutors, private tutoring  
29      programs, and private postsecondary institutions to

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30        participate in the program; providing that all public  
31        postsecondary institutions are eligible to participate  
32        in the program; providing duties of the department;  
33        requiring the department to process student  
34        applications, submit a list of eligible institutions  
35        to participating financial institutions, notify the  
36        financial institutions of students approved to  
37        participate in the program, and submit a report to the  
38        Governor and the Legislature by specified dates;  
39        providing duties of the Chief Financial Officer;  
40        requiring the Chief Financial Officer to provide a  
41        list of participating financial institutions to the  
42        department by a specified date each year and to make  
43        payments to the accounts of participating students in  
44        specified situations; providing obligations of  
45        financial institutions; limiting the fees that may be  
46        charged by a financial institution for its services  
47        under the program; requiring a financial institution  
48        to make timely quarterly payments directly to a  
49        private school, private tutor, private tutoring  
50        program, or postsecondary institution or to a selected  
51        college savings plan or the Stanley G. Tate Florida  
52        Prepaid College Program; requiring a financial  
53        institution to notify the department of the identity  
54        of certain students at specified dates; requiring a  
55        financial institution to annually notify the Chief  
56        Financial Officer of its intent to continue to  
57        participate in, or intent to withdraw from, the  
58        program; requiring a financial institution to provide

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59 advance notice to the Chief Financial Officer and  
60 parents of students participating in the program  
61 before withdrawing from the program; specifying  
62 criteria and procedures by which the Commissioner of  
63 Education may deny, suspend, or revoke a private  
64 school's participation in the program; specifying  
65 procedures by which a private school may challenge the  
66 decision of the commissioner to deny, suspend, or  
67 revoke the school's participation in the program;  
68 requiring the director of the Division of  
69 Administrative Hearings to expedite a hearing in  
70 certain situations; authorizing the commissioner to  
71 order participating financial institutions to  
72 immediately suspend payments from a student's account  
73 to a participating private school under certain  
74 circumstances; providing for appeal against a payment  
75 suspension; authorizing the Office of Inspector  
76 General of the department to release otherwise  
77 confidential student information under certain  
78 circumstances involving allegations of fraudulent  
79 activity under the program; specifying a formula to be  
80 used in determining the amount of annual payments made  
81 to a student's account under the program; providing  
82 for the random selection of applicants to the program  
83 who are attending a home education program or a  
84 private school; providing a calculation to determine  
85 the number of such students who may participate in the  
86 program; authorizing the Legislative Budget Commission  
87 to transfer funds in excess of amounts required to

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88 fully fund the accounts of all participating students  
89 to the Florida Education Finance Program; requiring  
90 the department and the Department of Financial  
91 Services to develop an agreement to assist in the  
92 administration of the program; requiring the State  
93 Board of Education to adopt rules for the Department  
94 of Education and the commissioner to administer the  
95 program; requiring the Chief Financial Officer to  
96 adopt rules to administer its responsibilities under  
97 the program; providing for the enrollment period and  
98 for the number of eligible students for the 2017-2018  
99 school year; requiring the department to randomly  
100 select participating students in specified situations;  
101 authorizing the state board to adopt emergency rules  
102 for the department and the commissioner to implement  
103 the program; providing an effective date.  
104

105 WHEREAS, the Legislature finds that it has a duty to  
106 provide for a high-quality education for all children residing  
107 in this state, and

108 WHEREAS, the Legislature finds that it has a duty to  
109 provide for the establishment, maintenance, and operation of  
110 institutions of higher learning, and

111 WHEREAS, a high-quality education for children is  
112 facilitated by parents' involvement in educational choices for  
113 their children, competition among schools and other learning  
114 environments, and the measurement and evaluation of student  
115 learning gains, and

116 WHEREAS, the Legislature finds that competition between

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117 public schools and private schools will enhance the quality of  
118 education at public schools by encouraging innovation,  
119 flexibility, and efficiency, and

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

124 WHEREAS, the Legislature finds that, under the right to  
125 religious freedom in the State Constitution, the state may not  
126 prohibit a person from using private funds to pay the cost of  
127 private schooling or tutoring at an institution having any  
128 religious affiliation, NOW, THEREFORE,

129

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

131

132 Section 1. Section 1002.387, Florida Statutes, is created  
133 to read:

134 1002.387 Education Savings Account Program.—

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

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

139 (b) "College savings plan" means a qualified tuition plan  
140 under s. 529 of the Internal Revenue Code which allows the  
141 establishment of an account for a beneficiary for the purpose of  
142 paying the beneficiary's eligible college expenses.

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

144 (d) "Eligible private postsecondary institution" means a  
145 private postsecondary institution that is a member of the

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146 Independent Colleges and Universities of Florida and is located  
147 in this state.

148 (e) "Eligible private school" means a private school that  
149 offers an education to students in kindergarten through grade  
150 12, is located in this state, and meets the requirements in  
151 subsection (6).

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

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

155 (2) ELIGIBLE STUDENTS.—

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

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

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

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

164 4. Attends a home education program or a private school and  
165 was randomly selected to participate in the program pursuant to  
166 subsection (13).

167 (b) A student remains eligible for the program until he or  
168 she graduates from high school and as long as the student does  
169 not enroll in a public school, a charter school, or a virtual  
170 instruction program, excluding the Florida Virtual School, which  
171 receives state funding as a result of the student's  
172 participation.

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

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175 (a) Is enrolled in a school operating to provide  
176 educational services to youth in a commitment program for the  
177 Department of Juvenile Justice;

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

181 (c) Is enrolled in the Florida School for the Deaf and the  
182 Blind; or

183 (d) Is receiving an educational scholarship pursuant to  
184 chapter 1002.

185 (4) PARENT AND STUDENT OPTIONS.—

186 (a) A parent may direct a financial institution trustee of  
187 his or her child's account to use the funds in such account, in  
188 whole or in combination, to:

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

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

193 3. Pay a private tutor or private tutoring program  
194 qualified under s. 1002.43 for supplemental educational  
195 services;

196 4. Pay the cost of tuition, books, or fees for the child to  
197 enroll in a dual enrollment program at a public postsecondary  
198 institution;

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

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

203 7. Make a payment toward the purchase of a contract under

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204 the Stanley G. Tate Florida Prepaid College Program in s.  
205 1009.98.

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

209 (c) Within 3 months after his or her child graduates from  
210 high school or no longer participates in the program, a parent  
211 may direct the trustee to donate any unspent funds in the  
212 account to any private school, private virtual school, private  
213 tutor, private tutoring program, or public or private  
214 postsecondary institution identified in subparagraphs (a)1.-

215 (a)5. or to the school district for the county in which the  
216 child last resided before the child's participation in the  
217 program was terminated. If a parent fails to identify an  
218 institution to which the trustee must donate the funds, the  
219 trustee must donate the funds to the school district for the  
220 county in which the child last resided before the child's  
221 participation in the program was terminated.

222 (5) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM  
223 PARTICIPATION.—

224 (a) A parent must annually apply to the department on  
225 behalf of his or her child during the annual enrollment period.  
226 As part of the enrollment, the parent must identify the  
227 educational option chosen to meet the compulsory attendance  
228 requirements of state law whether through attendance at a  
229 private school or private virtual school, enrollment in a home  
230 education program under s. 1002.41, or a private tutoring  
231 program under s. 1002.43.

232 (b)1. If a parent elects for his or her child to attend an



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233 eligible private school or private virtual school, the parent or  
234 the child must:

235 a. Select an eligible private school or private virtual  
236 school and apply for admission;

237 b. Inform the child's school district when the parent  
238 withdraws the child to attend the private school or private  
239 virtual school;

240 c. Remain in attendance in the selected school throughout  
241 the school year unless excused by the school for illness or  
242 other good cause;

243 d. Comply with the school's published policies;

244 e. Ensure that the child participating in the program takes  
245 the nationally norm-referenced tests administered by the school  
246 which are required by the department. The parent may also choose  
247 to have the child participate in a statewide assessment pursuant  
248 to s. 1008.22. If the parent requests that the child take a  
249 statewide assessment, the parent is responsible for transporting  
250 the child to the testing site designated by the school district;  
251 and

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

254 2. A parent who chooses to comply with the compulsory  
255 attendance requirements by enrolling his or her child in a  
256 private school or private virtual school may also choose to  
257 enroll the child in a dual enrollment program through a public  
258 postsecondary institution or an eligible private postsecondary  
259 institution and use funds from the child's account for such  
260 purpose. The parent and child must register and apply for  
261 admission during the institution's registration or application

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262 period and are responsible for paying the balance of tuition and  
263 fees which is not covered by payments from the child's account.

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

267 2. A parent who chooses to comply with the compulsory  
268 attendance requirements by enrolling his or her child in a home  
269 education program may also choose to enroll the child in a dual  
270 enrollment program through a public postsecondary institution or  
271 an eligible private postsecondary institution and use funds from  
272 the child's account for such purpose. The parent and child must  
273 register and apply for admission during the institution's  
274 registration or application period and are responsible for  
275 paying the balance of tuition and fees which is not covered by  
276 payments from the child's account.

277 (d)1. If a parent elects for his or her child to receive an  
278 education from an eligible private tutor or private tutoring  
279 program, the parent and the child must comply with this chapter.

280 2. A parent who chooses to comply with the compulsory  
281 attendance requirements through the use of a private tutor or  
282 private tutoring program may also choose to enroll his or her  
283 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 purpose. The parent and child must register and apply for  
287 admission 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 payments from the child's account.

290 (e) If a parent elects to use any portion of his or her

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291 child's account as payment for private tutoring through an  
292 eligible supplemental educational services provider, the parent  
293 is responsible for payments to the provider which are not  
294 covered by the child's account.

295 (f) If a parent elects for his or her child to participate  
296 in dual enrollment at a public postsecondary institution or an  
297 eligible private postsecondary institution, the parent or the  
298 child must:

299 1. Register and apply for admission during the  
300 institution's registration or application period.

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

303 3. Remain in attendance in the postsecondary institution  
304 throughout the school year unless excused by the institution for  
305 illness or other good cause.

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

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

309 (g) If a parent elects to use any of the funds in his or  
310 her child's account to make a contribution to a college savings  
311 plan, the parent must comply with all federal and state laws  
312 related to contributions to a college savings plan.

313 (h) If a parent elects to use any of the funds in his or  
314 her child's account toward the purchase of a contract under the  
315 Stanley G. Tate Florida Prepaid College Program, the parent must  
316 comply with all rules and requirements of the program and is  
317 responsible for payments in excess of the funds in the account.

318  
319 A child may return to the public school system at any time and

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320 quarterly payments to the child's account shall cease. The  
321 parent of a child who chooses to return to the public school  
322 system is responsible for the payment of any outstanding balance  
323 owed to the private school, private virtual school, private  
324 tutor, private tutoring program, public postsecondary  
325 institution, or private postsecondary education institution  
326 which was in excess of the funds in the account when payments to  
327 the account ceased.

328 (6) EDUCATIONAL INSTITUTION ELIGIBILITY AND OBLIGATIONS.-

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

331 1. Is accredited by the Southern Association of Colleges  
332 and Schools or is eligible to participate in the Florida Tax  
333 Credit Scholarship Program or the John M. McKay Scholarships for  
334 Students with Disabilities Program; and

335 2. Complies with rules adopted by the State Board of  
336 Education for participation in the program.

337 (b) A private virtual school is eligible to participate in  
338 the program, whether sectarian or nonsectarian, if the school:

339 1. Is approved by the department to participate in the  
340 school district virtual instruction program under s. 1002.45;  
341 and

342 2. Complies with rules adopted by the State Board of  
343 Education for participation in the program.

344 (c) A private tutor or private tutoring program is eligible  
345 to participate in the program if the private tutor or private  
346 tutoring program:

347 1. Is qualified under s. 1002.43;

348 2. Complies with rules adopted by the State Board of

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349 Education for participation in the program; and

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

352 (d) All public postsecondary institutions are eligible to  
353 participate in the program and must comply with rules adopted by  
354 the State Board of Education for participation in the program.

355 (e) A private postsecondary institution is eligible to  
356 participate in the program, whether sectarian or nonsectarian,  
357 if the institution is a member of the Independent Colleges and  
358 Universities of Florida and complies with rules adopted by the  
359 State Board of Education for participation in the program.

360 (7) DEPARTMENT OF EDUCATION OBLIGATIONS.—The Department of  
361 Education shall:

362 (a) Establish an annual enrollment period and a process in  
363 which a parent may apply to enroll his or her child in the  
364 program. The enrollment period must begin by January 1 and end  
365 by March 1 before the school year in which funding for the  
366 child's account is sought. All applications must be processed by  
367 May 1 of each year.

368 (b) Randomly select students attending a home education  
369 program or private school who are eligible under subparagraph  
370 (2) (a) 4. to participate in the program if the appropriation to  
371 the program is sufficient to fully fund the accounts of all  
372 other applicants but is insufficient to fully fund the accounts  
373 of all applicants who are attending a home education program or  
374 private school.

375 (c) Annually verify the eligibility of private schools,  
376 private virtual schools, private tutors, private tutoring  
377 programs, and postsecondary institutions to participate in the

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378 program and publish a list of eligible schools, tutors, tutoring  
379 programs, and postsecondary institutions.

380 (d) Annually, by March 15, submit to participating  
381 financial institutions a list of eligible private schools,  
382 private virtual schools, private tutors, private tutoring  
383 programs, and private postsecondary institutions.

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

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

390 (g) Establish a process by which a person may notify the  
391 department of any violation of laws or rules relating to  
392 participation in the program. The department shall conduct an  
393 inquiry of all signed, written, and legally sufficient  
394 complaints that allege a violation of this section, or must make  
395 a referral to the appropriate agency for an investigation. A  
396 complaint is legally sufficient if it states ultimate facts  
397 showing that this section or a rule adopted under this section  
398 has been violated.

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

403 (i) Compare the list of students participating in the  
404 program with the public school enrollment lists to avoid  
405 duplicate payments.

406 (j) Maintain a list of nationally norm-referenced tests

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407 identified by the department which must be administered by a  
408 participating private school or private virtual school to  
409 students participating in the program. The tests must meet  
410 industry standards of quality under rules of the State Board of  
411 Education.

412 (k) Select an independent research organization, which may  
413 be a public or private entity or university, to which  
414 participating private schools and private virtual schools must  
415 report the scores of participating students on the nationally  
416 norm-referenced tests administered by the schools in grades 3  
417 through 10.

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

420 a. The year-to-year learning gains of students in the  
421 program;

422 b. To the extent possible, a comparison of the learning  
423 gains of students in the program to the statewide learning gains  
424 of public school students having backgrounds similar to those of  
425 the students in the program. In order to minimize the costs and  
426 time that the independent research organization requires for  
427 analysis and evaluation, the department shall conduct analyses  
428 of assessment data from matched students in public schools and  
429 shall calculate learning gains of control groups using a  
430 methodology outlined in the contract with the independent  
431 research organization; and

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

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436       2. The sharing and reporting of the learning gains of  
437 students pursuant to this paragraph must be in accordance with  
438 s. 20 U.S.C. s. 1232g, the Family Educational Rights and Privacy  
439 Act, and may be for the sole purpose of creating the annual  
440 report required by subparagraph 1. The department and the  
441 independent research organization shall preserve the  
442 confidentiality of such information as required by law. The  
443 organization may not disaggregate data in its annual report to a  
444 level that will identify individual participating schools,  
445 except as required under sub-subparagraph 1.c., or disclose the  
446 academic level of individual students.

447       3. The department shall publish the annual report on its  
448 website.

449       (1) Conduct random site visits to private schools, private  
450 tutors, private tutoring programs, and private postsecondary  
451 institutions participating in the program. During a site visit,  
452 the department may conduct only activities to verify the  
453 information reported by the schools concerning the enrollment  
454 and attendance of students, the credentials of teachers, and the  
455 results of criminal history record checks of teachers.

456       (m) Annually, by December 15, submit a report to the  
457 Governor, the President of the Senate, and the Speaker of the  
458 House of Representatives describing the implementation of  
459 accountability mechanisms for the program; identifying any  
460 violations of a law or rule governing the program concerning the  
461 enrollment and attendance of students, the credentials of  
462 teachers, or the background screening of teachers; and  
463 describing the corrective actions taken by the department  
464 relating to violations of a law or rule governing the program.



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465 (8) CHIEF FINANCIAL OFFICER OBLIGATIONS.—The Chief  
466 Financial Officer shall:

467 (a) Process applications from financial institutions  
468 applying to participate in the program.

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

471 (c) Conduct random audits of financial institutions  
472 participating in the program to ensure compliance with this  
473 section.

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

476 (e) Upon notice from the department, make payments to the  
477 accounts of participating students in four equal installments by  
478 September 1, November 1, February 1, and April 1.

479 (9) OBLIGATIONS OF FINANCIAL INSTITUTIONS.—

480 (a) A financial institution must apply to the Chief  
481 Financial Officer for approval to participate in the program.  
482 The Chief Financial Officer must approve the application of a  
483 financial institution if the institution agrees to do all of the  
484 following:

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

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

488 3. Make timely quarterly payments directly to the eligible  
489 private school, private virtual school, private tutor, private  
490 tutoring program, or eligible private postsecondary institution  
491 selected by the parent. The amount of the quarterly payment to  
492 these institutions may not exceed:

493 a. The amount of the state quarterly payment to the

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494 financial institution, less the financial institution's fees; or

495 b. The reported tuition and fee schedule provided to the  
496 department for the educational institution.

497 4. Make timely quarterly payments directly to a public  
498 postsecondary institution selected by the parent for the payment  
499 of books, tuition, and fees charged for a student's  
500 participation in a dual enrollment program. The amount of the  
501 quarterly payment to these institutions may not exceed:

502 a. The amount of the state quarterly payment to the  
503 financial institution, less the financial institution's fees; or

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

506 5. Make timely quarterly payments directly to the selected  
507 college savings plan or the Stanley G. Tate Florida Prepaid  
508 College Program. The amount of such quarterly payment may not  
509 exceed the amount of the state quarterly payment to the  
510 financial institution, less the financial institution's fees.

511 6. Notify the department by February 1, July 1, September  
512 1, and December 1 of the identity of students who have accounts  
513 with the institution under this section.

514 (b) A participating financial institution must annually  
515 notify the Chief Financial Officer of its intent to continue  
516 participating in or its intent to withdraw from the program. A  
517 financial institution must provide 180 days' notice to the Chief  
518 Financial Officer and to the parents of students having an  
519 account at the institution before it may withdraw from the  
520 program. The institution must also transfer each account to  
521 another participating institution selected by a parent or to  
522 another participating institution randomly selected by the Chief

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523 Financial Officer if the parent fails to make a timely  
524 selection.

525 (10) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.-

526 (a)1. The Commissioner of Education shall deny, suspend, or  
527 revoke the participation of a private school, private virtual  
528 school, private tutor, or private tutoring program in the  
529 program if the commissioner determines that the school, tutor,  
530 or tutoring program has failed to comply with this section or  
531 the rules of the department adopted under this section. However,  
532 if the noncompliance is correctable within a reasonable amount  
533 of time and the health, safety, or welfare of the students is  
534 not threatened, the commissioner may issue a notice of  
535 noncompliance that shall provide the school, tutor, or tutoring  
536 program with a timeframe within which to show evidence of  
537 compliance before action may be taken to suspend or revoke the  
538 school's, tutor's, or tutoring program's participation in the  
539 program.

540 2. The commissioner may deny, suspend, or revoke a private  
541 school's participation in the program if the commissioner  
542 determines that an owner or operator of the private school is  
543 operating or has operated an educational institution in this  
544 state or another state in a manner that is contrary to the  
545 health, safety, or welfare of the public. In making this  
546 determination, the commissioner may consider factors including,  
547 but not limited to, acts or omissions by the owner or operator  
548 which led to a previous denial or revocation of participation in  
549 an education scholarship program or an education savings account  
550 program; an owner's or operator's failure to reimburse a  
551 student's account for funds improperly received or retained by a

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552 school; imposition of a prior criminal or civil administrative  
553 sanction related to an owner's or operator's management or  
554 operation of an educational institution; or the existence of  
555 other types of criminal proceedings in which the owner or  
556 operator was found guilty of, regardless of adjudication, or  
557 entered a plea of nolo contendere or guilty to any offense  
558 involving fraud, deceit, dishonesty, or moral turpitude.

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

562 1. The department must notify the private school of the  
563 proposed action in writing by certified mail and regular mail to  
564 the private school's address of record with the department. The  
565 notice shall state the reasons for the proposed action and  
566 notice of the timelines and procedures set forth in this  
567 paragraph.

568 2. The private school that is adversely affected by the  
569 proposed action has 15 days after receipt of the notice of  
570 proposed action to file with the clerk of the department a  
571 request for a proceeding pursuant to ss. 120.569 and 120.57. If  
572 the private school is entitled to a hearing under s. 120.57(1),  
573 the department shall forward the request to the Division of  
574 Administrative Hearings.

575 3. Upon receipt of a request for a proceeding referred  
576 pursuant to this paragraph, the director of the Division of  
577 Administrative Hearings shall expedite the hearing and assign an  
578 administrative law judge who shall commence a hearing within 30  
579 days after the receipt of the formal written request from the  
580 department and enter a recommended order within 30 days after

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581 the hearing or within 30 days after receipt of the hearing  
582 transcript, whichever is later. Each party may submit written  
583 exceptions to the recommended order within 10 days after the  
584 recommended order is entered. The department shall enter a final  
585 order within 30 days after the entry of the recommended order.  
586 The provisions of this subparagraph may be waived upon  
587 stipulation by all parties.

588 (c) The commissioner may order participating financial  
589 institutions to suspend payment of funds from accounts to a  
590 private school if the commissioner finds that probable cause of  
591 any of the following exists:

592 1. An imminent threat to the health, safety, and welfare of  
593 a student; or

594 2. Fraudulent activity on the part of the private school.  
595

596 The commissioner's order suspending payment pursuant to this  
597 paragraph may be appealed pursuant to the same procedures and  
598 timelines as the notice of proposed action set forth in  
599 paragraph (b).

600 (11) AUTHORIZED RELEASE OF CONFIDENTIAL INFORMATION.-  
601 Notwithstanding s. 1002.22, in incidents of alleged fraudulent  
602 activity relating to participation in the program, the Office of  
603 Inspector General of the department may release personally  
604 identifiable records or reports of students to the following  
605 persons or organizations:

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

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610 (b) A person or entity authorized by a court of competent  
611 jurisdiction in compliance with an order of that court or the  
612 attorney of record pursuant to a lawfully issued subpoena,  
613 consistent with the Family Educational Rights and Privacy Act,  
614 20 U.S.C. s. 1232g.

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

621 (12) EDUCATION SAVINGS ACCOUNT AMOUNT.—The total amount of  
622 payments to a participating student's account for a single  
623 school year shall be equal to 40 percent of the base student  
624 allocation under the Florida Education Finance Program  
625 multiplied by the appropriate cost factor for the educational  
626 program that would have been provided for the student in the  
627 district school to which he or she was assigned, multiplied by  
628 the district cost differential plus the per-student share of  
629 instructional materials funds and other categorical funds as  
630 appropriated in the General Appropriations Act.

631 (13) RANDOM SELECTION OF PROGRAM PARTICIPANTS.—By April 1  
632 of each year, the department shall randomly select applicants to  
633 participate in the program who are in home education programs  
634 and private schools and who did not participate in the program  
635 during the prior school year. The number of spaces available for  
636 these students shall equal the number of students who enrolled  
637 in the program during the annual enrollment period and were  
638 counted as full-time equivalent students at a public school

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639 during the previous state fiscal year for purposes of state per-  
640 student funding. For purposes of this calculation, the number of  
641 new participants in the program who were public school students  
642 does not include kindergarten and first grade students and  
643 siblings of other students participating in the program.

644 (14) LEGISLATIVE BUDGET COMMISSION.—Each quarter the  
645 Legislative Budget Commission may transfer any funds  
646 appropriated for the program in excess of amounts required to  
647 fully fund the accounts of all participating students to the  
648 Florida Education Finance Program.

649 (15) ADMINISTRATION; RULES.—

650 (a) The department and the Department of Financial Services  
651 shall develop a cooperative agreement to assist in the  
652 administration of this section.

653 (b) The State Board of Education shall adopt rules  
654 necessary for the department and the Commissioner of Education  
655 to administer this section, including rules relating to the  
656 establishment of the enrollment period, enrollment forms, and  
657 reporting requirements for financial institutions and schools.

658 (c) The Chief Financial Officer shall adopt rules necessary  
659 to administer this section, including rules relating to the  
660 eligibility and auditing of participating financial  
661 institutions.

662 Section 2. Enrollment period for the 2017-2018 school  
663 year.—

664 (1) Notwithstanding s. 1002.387(7), Florida Statutes, the  
665 enrollment period to participate in the Education Savings  
666 Account Program for the 2017-2018 school year is July 1 through  
667 July 31. The number of students who may participate is limited

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668 to the number of participants specified in the General  
669 Appropriations Act.

670 (2) Notwithstanding s. 1002.387(2), Florida Statutes, the  
671 students eligible to participate in the Education Savings  
672 Account Program during the 2017-2018 school year are limited to  
673 students identified in s. 1002.387(2)a.1. and 3., Florida  
674 Statutes.

675 (3) If the Department of Education receives more  
676 applications for eligible students during the enrollment period  
677 for the 2017-2018 school year than the number specified in the  
678 General Appropriations Act, the department shall randomly select  
679 the students who may participate in the program.

680 (4) (a) The State Board of Education may adopt emergency  
681 rules for the department and the Commissioner of Education to  
682 implement the program.

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

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