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

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

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

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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. A student is eligible for a Florida tax credit scholarship under this section if the student:

a. Qualifies for free or reduced-price school lunches under the National School Lunch Act or is on the direct certification list; or 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;~~

~~e. Is eligible to enter kindergarten or first grade; or~~

b.d. Is currently placed, or during the previous state fiscal year was placed, in foster care as defined in s. 39.01.

2. A student may continue in the scholarship program as long as the student's household income level does not exceed 230 percent of the federal poverty level.

3. A sibling of a student who is continuing in the scholarship program and who resides in the same household as the student shall also be eligible as a first-time tax credit scholarship recipient if the sibling meets at least one ~~or more~~ of the criteria specified in subparagraph 1. and as long as the student's and sibling's household income level does not exceed

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230 percent of the federal poverty level.

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

(5) SCHOLARSHIP FUNDING TAX CREDITS; LIMITATIONS.—

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

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

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

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

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

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

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

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

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

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

111  
112 The inability of a private school to meet the requirements of

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

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

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

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

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

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

140 b. According to each participating private school in which

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

(6) EDUCATIONAL CHOICE.—

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

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

2. Under the Florida Tax Credit Scholarship Program, the

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

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