

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative Goodlette offered the following:

3 **Amendment to Amendment (308089) (with title amendment)**

4 Remove line(s) 476-897 and insert:

5 this section is \$88 million. However, effective for tax years  
6 beginning January 1, 2004, at least 1 percent of the total  
7 statewide amount authorized for tax credits shall be reserved  
8 for taxpayers who meet the definition of a small business  
9 provided in s. 288.703(1) at the time of application.

10 (c) A taxpayer who files a Florida consolidated return as  
11 a member of an affiliated group pursuant to s. 220.131(1) may be  
12 allowed the credit on a consolidated return basis; however, the  
13 total credit taken by the affiliated group is subject to the  
14 limitation established under paragraph (a).

15 (d) Effective for tax years beginning January 1, 2004, a  
16 taxpayer may rescind all or part of its allocated tax credit

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17 under this section. The amount of the rescindment shall become  
18 available for purposes of the cap for that state fiscal year  
19 under this section to an eligible taxpayer as approved by the  
20 department if the taxpayer receives notice from the department  
21 that the rescindment has been accepted by the department, the  
22 taxpayer has rescinded its tax credit prior to the conclusion of  
23 the taxpayer's tax year, and the taxpayer has not previously  
24 rescinded any or all of its tax credit allocation under this  
25 section more than once in the previous 3 tax years. Any amount  
26 rescinded under this paragraph shall become available to an  
27 eligible taxpayer on a first-come, first-served basis based on  
28 tax credit applications received after the date the rescindment  
29 is accepted by the department.

30 (4) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING  
31 ORGANIZATIONS.--An eligible nonprofit scholarship-funding  
32 organization participating in the scholarship program  
33 established in this section shall have the following  
34 obligations:

35 (a) An eligible nonprofit scholarship-funding organization  
36 shall provide corporate tax credit scholarships, from eligible  
37 contributions, to qualified students for:

38 1. Tuition or textbook expenses for, or transportation to,  
39 an eligible private ~~nonpublic~~ school. At least 75 percent of  
40 each the scholarship funding must be used to pay tuition  
41 expenses; or

42 2. Transportation expenses to a Florida public school that  
43 is located outside the district in which the student resides or  
44 to a lab school as defined in s. 1002.32.

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45 (b) An eligible nonprofit scholarship-funding organization  
46 shall give priority to qualified students who received a  
47 scholarship from an eligible nonprofit scholarship-funding  
48 organization during the previous school year.

49 (c) An eligible nonprofit scholarship-funding organization  
50 shall not provide a scholarship to a student who is receiving an  
51 opportunity scholarship pursuant to s. 1002.38 or a John M.  
52 McKay Scholarship pursuant to s. 1002.39. In addition, an  
53 eligible nonprofit scholarship-funding organization shall not  
54 provide a scholarship to a student who is receiving a corporate  
55 tax credit scholarship from another eligible nonprofit  
56 scholarship-funding organization.

57 (d)(e) The amount of a scholarship provided to any child  
58 for any single school year by an all eligible nonprofit  
59 scholarship-funding organization ~~organizations~~ from eligible  
60 contributions shall not exceed the following annual limits:

61 1. Three thousand five hundred dollars for a scholarship  
62 awarded to a student enrolled in an eligible private ~~nonpublic~~  
63 school.

64 2. Five hundred dollars for a scholarship awarded to a  
65 student enrolled in a Florida public school that is located  
66 outside the district in which the student resides or in a lab  
67 school as defined in s. 1002.32.

68 (e)(d) The amount of an eligible contribution which may be  
69 accepted by an eligible nonprofit scholarship-funding  
70 organization is limited to the amount needed to provide  
71 scholarships for qualified students which the organization has

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72 identified and for which vacancies in eligible private ~~nonpublic~~  
73 schools have been identified.

74 (f)(e) An eligible nonprofit scholarship-funding  
75 organization that receives an eligible contribution must spend  
76 100 percent of the eligible contribution to provide scholarships  
77 in the same state fiscal year in which the contribution was  
78 received. No portion of eligible contributions may be used for  
79 administrative expenses. All interest accrued from contributions  
80 must be used for scholarships.

81 (g) An eligible nonprofit scholarship-funding organization  
82 must maintain separate accounts for scholarship funds and  
83 operating funds.

84 (h) An eligible nonprofit scholarship-funding organization  
85 may transfer funds to another eligible nonprofit scholarship-  
86 funding organization when additional funds are required to meet  
87 scholarship demand. The scholarship-funding organization  
88 transferring funds must request approval for the transfer from  
89 the Department of Education and provide documentation to support  
90 the transfer, including a listing of the scholarships to be  
91 funded from the transfer. The Department of Education shall  
92 verify the listing of students to receive scholarships from the  
93 transfer. No funds may be transferred unless matching eligible  
94 scholarship recipients can be identified by the scholarship-  
95 funding organization receiving the transfer.

96 (i)(f) An eligible nonprofit scholarship-funding  
97 organization that receives eligible contributions must provide  
98 to the Auditor General and the Department of Education an annual  
99 financial and compliance audit of its accounts and records

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100 conducted by an independent certified public accountant and in  
101 accordance with rules adopted by the Auditor General. The audit  
102 must be conducted in compliance with generally accepted auditing  
103 standards and must include a report on financial statements  
104 presented in accordance with Generally Accepted Accounting  
105 Principles set forth by the American Institute of Certified  
106 Public Accountants for not-for-profit organizations and a  
107 determination of compliance with the statutory eligibility and  
108 expenditure requirements set forth in this section. Audits must  
109 be provided to the Auditor General and the Department of  
110 Education within 180 days after completion of the nonprofit  
111 scholarship-funding organization's fiscal year.

112 (j)(g) An eligible nonprofit scholarship-funding  
113 organization shall obtain verification from the private school  
114 of a student's continued attendance at the school prior to each  
115 scholarship payment. Payment of the scholarship shall be made by  
116 the eligible nonprofit scholarship-funding organization no less  
117 frequently than on a quarterly basis. Payment of the scholarship  
118 by the eligible nonprofit scholarship-funding organization shall  
119 be by individual warrant or check made payable to the student's  
120 parent. If the parent chooses for his or her child to attend an  
121 eligible private ~~nonpublic~~ school, the warrant or check must be  
122 mailed by the eligible nonprofit scholarship-funding  
123 organization to the private ~~nonpublic~~ school of the parent's  
124 choice, and the parent shall restrictively endorse the warrant  
125 or check to the private ~~nonpublic~~ school. An eligible nonprofit  
126 scholarship-funding organization shall ensure that, upon receipt  
127 of a scholarship warrant or check, the parent to whom the

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128 warrant or check is made restrictively endorses the warrant or  
129 check to the private nonpublic school of the parent's choice for  
130 deposit into the account of the private nonpublic school.

131 (k) An eligible nonprofit scholarship-funding organization  
132 must prepare and submit quarterly reports to the Department of  
133 Education pursuant to subsection (7). In addition, an eligible  
134 nonprofit scholarship-funding organization must submit in a  
135 timely manner any information requested by the Department of  
136 Education relating to the scholarship program.

137 (l) An eligible nonprofit scholarship-funding organization  
138 must verify the income of all applicants participating in the  
139 scholarship program each year with independent income  
140 documentation.

141 (m)1. An owner or operator of an eligible nonprofit  
142 scholarship-funding organization must, within 5 days after  
143 assuming ownership or decisionmaking authority, file with the  
144 Department of Law Enforcement a complete set of fingerprints for  
145 state processing for a criminal background check and the  
146 Department of Law Enforcement shall in turn submit the  
147 fingerprints to the Federal Bureau of Investigation for federal  
148 processing for a background check. The costs of fingerprinting  
149 and the background check shall not be borne by the state.

150 2. The results of a criminal background check shall be  
151 reported to the owner or operator of the eligible nonprofit  
152 scholarship-funding organization and to the Department of  
153 Education.

154 3. A nonprofit scholarship-funding organization whose  
155 owner or operator has been convicted of a crime involving moral

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156 turpitude or a crime that bears upon the fitness of the owner or  
157 operator to have responsibility for the safety and well-being of  
158 children shall not be eligible to provide scholarships under  
159 this section.

160 (n) A nonprofit scholarship-funding organization whose  
161 owner or operator in the last 7 years has filed for personal  
162 bankruptcy or corporate bankruptcy in a corporation in which he  
163 or she owned more than 20 percent of the corporation shall not  
164 be eligible to provide scholarships under this section.

165 (o) An owner or operator of an eligible nonprofit  
166 scholarship-funding organization is prohibited from owning or  
167 operating an eligible private school that is participating in  
168 the scholarship program.

169 (p) An eligible nonprofit scholarship-funding organization  
170 shall report to the Department of Education any private school  
171 that is not in compliance with the requirements of the  
172 scholarship program. The eligible nonprofit scholarship-funding  
173 organization shall not provide additional scholarship funds to a  
174 parent for a student to attend the private school until a  
175 determination is made by the Commissioner of Education that the  
176 school is in compliance with the requirements of the scholarship  
177 program.

178 (q) An eligible nonprofit scholarship-funding organization  
179 must comply with the antidiscrimination provisions of 42 U.S.C.  
180 s. 2000d.

181 (r) An eligible nonprofit scholarship-funding organization  
182 shall allow a qualified student to attend any eligible private  
183 school and shall allow a parent to transfer a scholarship during

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184 a school year to any other eligible private school of the  
185 parent's choice.

186 (s) An eligible nonprofit scholarship-funding organization  
187 must provide a scholarship to a qualified student on a first-  
188 come, first-served basis unless the student qualifies for  
189 priority pursuant to paragraph (b). An eligible nonprofit  
190 scholarship-funding organization may not target scholarships to  
191 a particular private school or provide scholarships to a child  
192 of an owner or operator.

193 (5) ~~PARENT~~ OBLIGATIONS OF PARENTS AND STUDENTS.--

194 (a) As a condition for scholarship payment pursuant to  
195 paragraph (4)~~(j)(g)~~, if the parent chooses for his or her child  
196 to attend an eligible private nonpublic school, the parent must  
197 inform the child's school district within 15 days after such  
198 decision.

199 (b) Upon receipt of a scholarship warrant or check from  
200 the eligible nonprofit scholarship-funding organization, the  
201 parent to whom the warrant or check is made must restrictively  
202 endorse the warrant or check to the private school for deposit  
203 into the account of the private school. A private school may not  
204 act as attorney in fact for parents of a scholarship student  
205 under the authority of a power of attorney executed by such  
206 parents or under any other authority allowing endorsement of  
207 scholarship warrants on behalf of parents. If a parent refuses  
208 to restrictively endorse a warrant to which a private school is  
209 entitled, that student's scholarship shall be forfeited  
210 immediately.

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211 (c) Any student participating in the scholarship program  
212 must remain in attendance throughout the school year unless  
213 excused by the school for illness or other good cause and must  
214 comply fully with the school's code of conduct.

215 (d) The parent of a student participating in the  
216 scholarship program must comply fully with the private school's  
217 parental involvement requirements unless excused by the school  
218 for illness or other good cause.

219 (e) The parent of a student participating in the  
220 scholarship program must ensure that the student participates in  
221 the nationally norm-referenced testing required by this section.  
222 Students with disabilities for whom standardized testing is not  
223 appropriate are exempt from this requirement.

224 (f) A participant in the scholarship program who fails to  
225 comply with this subsection forfeits the scholarship.

226 (6) ELIGIBLE PRIVATE ~~NONPUBLIC~~ SCHOOL OBLIGATIONS.--An  
227 eligible private ~~nonpublic~~ school must:

228 (a) Demonstrate fiscal soundness by being in operation for  
229 2 or more consecutive school years or obtain one school year or  
230 provide the Department of Education with a statement by a  
231 certified public accountant confirming that the nonpublic school  
232 desiring to participate is insured and the owner or owners have  
233 sufficient capital or credit to operate the school for the  
234 upcoming year serving the number of students anticipated with  
235 expected revenues from tuition and other sources that may be  
236 reasonably expected. In lieu of such a statement, a surety bond  
237 or letter of credit for the amount equal to the scholarship  
238 funds for any quarter to may be filed with the Department of

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239 Education. The surety bond or letter of credit shall serve to  
240 secure expenditures of scholarship funds should such funds be  
241 found to have been used for unlawful purposes. However, if  
242 during the school year a private school exhibits financial  
243 difficulty or is otherwise not in compliance with this section,  
244 the Commissioner of Education may impose additional requirements  
245 on the private school, which may include additional security  
246 bonding.

247 (b) Notify the Department of Education of its intent to  
248 participate in the scholarship program. The notice must specify  
249 the grade levels that the private school has available for  
250 students participating in the scholarship program.

251 (c)(b) Comply with the antidiscrimination provisions of 42  
252 U.S.C. s. 2000d.

253 (d)(e) Meet state and local health and safety laws and  
254 codes, including, but not limited to, laws pertaining to:

255 1. Fire safety.

256 2. Building codes.

257 (e)(d) Comply with all state laws relating to general  
258 regulation of private nonpublic schools, including, but not  
259 limited to, laws pertaining to:

260 1. Annual private school survey required in s. 1002.42(2).

261 2. Retention of records required in s. 1002.42(3).

262 3. Attendance records and reports required in s.

263 1003.23(2).

264 4. School-entry health examinations and immunizations  
265 required in s. 1003.22.

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266 5. Attendance requirements prescribed in ss. 1003.01(13)  
267 and 1003.21(1).

268 (f) Employ or contract with teachers who hold  
269 baccalaureate or higher degrees, have at least 3 years of  
270 teaching experience in public or private schools, or have  
271 special skills, knowledge, or expertise that qualifies them to  
272 provide instruction in subjects taught.

273 (g) Annually administer or make provision for students  
274 participating in the scholarship program to take the Iowa Test  
275 of Basic Skills, the Stanford-9, or subsequent versions of these  
276 tests, or an assessment identified by the Department of  
277 Education under subsection (7). A participating private school  
278 must report a student's scores to the parent and to the  
279 independent private research organization selected by the  
280 Department of Education pursuant to subsection (7).

281 (h) Within 60 days after employment, for any individual  
282 with direct student contact with corporate tax credit  
283 scholarship students, file with the Department of Law  
284 Enforcement a complete set of fingerprints for state processing  
285 for a criminal background check. The Department of Law  
286 Enforcement shall in turn submit the fingerprints to the Federal  
287 Bureau of Investigation for federal processing for a background  
288 check. An "individual with direct student contact with corporate  
289 tax credit scholarship students" means any individual who:

290 1. Is employed by a private school in any capacity,  
291 including an individual employed as a child care provider, a  
292 teacher, or another member of school personnel, and who is  
293 responsible for the provision of care, treatment, education,

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294 training, instruction, supervision, or recreation of corporate  
295 tax credit scholarship students;

296 2. Is the owner or operator of the private school  
297 accepting corporate tax credit scholarship students; or

298 3. Has unsupervised access to a corporate tax credit  
299 scholarship student for whom the private school is responsible.

300

301 The costs of fingerprinting and the background check shall not  
302 be borne by the state. The results of a criminal background  
303 check for private school owners shall be reported to the  
304 Department of Education. The owner or operator of the private  
305 school shall receive the results of a criminal background check  
306 for all other persons subject to the private school background  
307 check requirements and immediately report to the Department of  
308 Education any individual with direct student contact with  
309 corporate tax credit scholarship students who has failed the  
310 Level 2 background check. Employment of such an individual shall  
311 cause a private school to be ineligible for participation in the  
312 scholarship program. An individual holding a valid Florida  
313 teaching certificate who has been fingerprinted pursuant to s.  
314 1012.32 shall not be required to comply with the provisions of  
315 this paragraph.

316 (i) Annually comply with the requirements of the  
317 Department of Education to complete a notarized sworn compliance  
318 statement certifying compliance with state laws pursuant to  
319 subsection (7).

320 (j) Notify the Department of Education and the eligible  
321 nonprofit scholarship-funding organization if any participating

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322 student is receiving a warrant or check from more than one  
323 eligible nonprofit scholarship-funding organization.

324 (k) Comply with all applicable state agency rules relating  
325 to private schools.

326 (l) Publish and report, as part of the annual database  
327 survey form and notarized statement of compliance required  
328 pursuant to s. 1002.42(2), to the Department of Education and  
329 distribute to the scholarship applicants:

330 1. Whether the private school is accredited by an in-state  
331 or regional accrediting association that is validated by a  
332 third-party accreditor at the state or national level which has  
333 been in existence at least 3 years.

334 2. The name of the accrediting association that accredits  
335 the private school.

336 3. Whether the private school is in the process of  
337 receiving candidate status.

338  
339 The inability of a private school to meet the requirements of  
340 this subsection shall constitute a basis for the ineligibility  
341 of the private school to participate in the scholarship program  
342 as determined by the Department of Education.

343 (7) DEPARTMENT OF EDUCATION, COMMISSIONER OF EDUCATION,  
344 AND STATE BOARD OF EDUCATION OBLIGATIONS; RESPONSIBILITIES.--

345 (a) The Department of Education shall:

346 1. Annually submit to the Department of Revenue, by March  
347 15, a list of eligible nonprofit scholarship-funding  
348 organizations that meet the requirements of paragraph (2)(c).

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- 349       2. Annually verify the eligibility of nonprofit  
350 scholarship-funding organizations that meet the requirements of  
351 paragraph (2)(c).
- 352       3. Annually verify the eligibility of private schools that  
353 meet the requirements of paragraph (2)(d).
- 354       4. Annually verify the eligibility of expenditures as  
355 provided in subsection (4).
- 356       5. Establish a toll-free hotline that provides parents,  
357 private schools, and nonprofit scholarship-funding organizations  
358 with information on participation in the scholarship program.
- 359       6. Establish a process by which individuals may notify the  
360 Department of Education of any violation by a private school or  
361 nonprofit scholarship-funding organization of state laws  
362 relating to scholarship program participation. The department  
363 shall conduct an investigation of any written complaint of a  
364 violation of this section if the complaint is signed by the  
365 complainant and is legally sufficient. A complaint is legally  
366 sufficient if it contains ultimate facts that show that a  
367 violation of this section or any rule adopted by the State Board  
368 of Education or other state agency has occurred. In order to  
369 determine legal sufficiency, the Department of Education may  
370 require supporting information or documentation from the  
371 complainant. In addition, the department is authorized to  
372 investigate anonymous complaints.
- 373       7. Require annual completion of a notarized sworn  
374 compliance statement by participating private schools certifying  
375 compliance with state laws and retain such records.

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376 8. Identify all nationally norm-referenced tests that are  
377 comparable to the norm-referenced test portions of the Florida  
378 Comprehensive Assessment Test (FCAT).

379 9. Select an independent private research organization to  
380 which participating private schools must report the scores of  
381 participating students on the assessments administered by the  
382 private school under paragraph (6)(g). The independent private  
383 research organization must annually report to the Department of  
384 Education on the year-to-year improvements of the participating  
385 students. The independent private research organization must  
386 analyze and report student performance data, including student  
387 scores by grade level, in a manner that protects the rights of  
388 students and parents as mandated in 20 U.S.C. s. 1232g and must  
389 not disaggregate data to a level that will disclose the academic  
390 level of individuals or of individual schools. To the extent  
391 possible, the independent private research organization must  
392 accumulate historical performance data on students from the  
393 Department of Education and private schools to describe baseline  
394 performance and to conduct longitudinal studies. To minimize  
395 costs and reduce time required for third-party analysis and  
396 evaluation, the Department of Education shall conduct analyses  
397 of matched students from public school assessment data and  
398 calculate control group learning gains using an agreed upon  
399 methodology outlined in the contract with the third-party  
400 evaluator. The sharing of student data must be in accordance  
401 with the Family Educational Rights and Privacy Act requirements  
402 and shall be for the sole purpose of conducting the evaluation.

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403 All parties must preserve the confidentiality of such  
404 information.

405 10. Provide a private school profile on-line for those  
406 private schools participating in the scholarship program.

407 11. Notify an eligible nonprofit scholarship-funding  
408 organization of any of the organization's identified students  
409 who are receiving an opportunity scholarship pursuant to s.  
410 1002.38 or a John M. McKay Scholarship pursuant to s. 1002.39.

411 12. Notify an eligible nonprofit scholarship-funding  
412 organization of any of the organization's identified students  
413 who are receiving a corporate tax credit scholarship from  
414 another eligible nonprofit scholarship-funding organization.

415 13. Require quarterly reports by an eligible nonprofit  
416 scholarship-funding organization regarding the number of  
417 students participating in the scholarship program, the private  
418 schools at which the students are enrolled, and other  
419 information deemed necessary by the Department of Education.

420 14. Regularly cross-check the list of participating  
421 scholarship students with the public school enrollment lists to  
422 avoid duplication.

423 (b) The Commissioner of Education shall revoke the  
424 eligibility of a nonprofit scholarship-funding organization,  
425 private school, or student to participate in the scholarship  
426 program for noncompliance with this section.

427  
428 ===== T I T L E A M E N D M E N T =====

429 Remove line(s) 997-1021 and insert:

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430 provision of a scholarship; requiring a separate account for  
431 scholarship funds; authorizing transfer of funds between  
432 scholarship-funding organizations; specifying audit  
433 requirements; requiring quarterly scholarship payments and  
434 reports; requiring income verification; requiring fingerprinting  
435 and criminal background checks; providing restrictions on  
436 scholarship-funding organization ownership or operation;  
437 providing for reporting of noncompliant private schools;  
438 providing parent and student obligations; prohibiting power of  
439 attorney for endorsing scholarship checks; revising requirements  
440 for private school fiscal soundness; providing additional  
441 private school obligations, including compliance with specified  
442 laws, employment of qualified teachers, and provision of student  
443 testing; requiring fingerprinting and criminal background  
444 checks; requiring annual completion of a notarized sworn  
445 compliance statement; providing Department of Education and  
446 Commissioner of Education obligations and responsibilities,  
447 including verification of eligibility of program participants,  
448 investigation of violations, selection of a research  
449 organization to analyze student performance data, and revocation  
450 of eligibility to participate in the scholarship program;  
451 requiring

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