

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>      </u>	(Y/N)
ADOPTED AS AMENDED	<u>      </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>      </u>	(Y/N)
FAILED TO ADOPT	<u>      </u>	(Y/N)
WITHDRAWN	<u>      </u>	(Y/N)
OTHER	<u>      </u>	

1 Committee/Subcommittee hearing bill: Finance & Tax Committee  
 2 Representative Corcoran offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause and insert:

3  
 4  
 5 Section 1. Subsection (3), paragraph (a) of subsection (5),  
 6 paragraph (e) of subsection (7), paragraph (c) of subsection  
 7 (8), paragraphs (j) and (n) of subsection (9), subsection (10),  
 8 and paragraphs (a) and (c) of subsection (11) of section  
 9 1002.395, Florida Statutes, are amended, and paragraph (p) is  
 10 added to subsection (9) of that section, to read:

11 1002.395 Florida Tax Credit Scholarship Program.—

12 (3) PROGRAM; SCHOLARSHIP ELIGIBILITY.—

13 (a) The Florida Tax Credit Scholarship Program is  
 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:  
 18

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

36        ~~4.3.~~ A sibling of a student who is continuing in the  
37 scholarship program and who resides in the same household as the  
38 student shall also be eligible as a first-time tax credit  
39 scholarship recipient if the sibling meets one or more of the  
40 criteria specified in subparagraphs ~~subparagraph~~ 1. and 2. and  
41 as long as the student's and sibling's household income level  
42 does exceed not 230 percent of the federal poverty level.

43            (c) Household income for purposes of a student who is  
44 currently in foster care as defined in s. 39.01 shall consist  
45 only of the income that may be considered in determining whether

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46 he or she qualifies for free or reduced-price school lunches  
47 under the National School Lunch Act.

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

49 (a)1. The tax credit cap amount is \$229 ~~\$140~~ million in the  
50 2012-2013 ~~2010-2011~~ state fiscal year.

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

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

63 (e) The parent shall ensure that the student participating  
64 in the scholarship program takes the norm-referenced assessment  
65 offered by the private school. The parent may also choose to  
66 have the student participate in the statewide assessments  
67 pursuant to s. 1008.22. If the parent requests that the student  
68 participating in the scholarship program take statewide  
69 assessments pursuant to s. 1008.22 and the private school has  
70 not chosen to offer and administer the statewide assessments,  
71 the parent is responsible for transporting the student to the  
72 assessment site designated by the school district.

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

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

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

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

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

96 a. A participating private school must submit a request in  
97 writing to the Department of Education by March 1 each year in  
98 order to administer the statewide assessments in the subsequent  
99 school year.

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

103  
104 The inability of a private school to meet the requirements of  
105 this subsection shall constitute a basis for the ineligibility  
106 of the private school to participate in the scholarship program  
107 as determined by the Department of Education.

108        (9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The Department of  
109 Education shall:

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

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

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

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128 an agreed-upon methodology outlined in the contract with the  
129 independent research organization; and

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

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

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

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

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156 ~~action within the previous two years and may not make more than~~  
157 ~~one random site visit each year to the same private school.~~

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

168 (p) Upon the request of a participating private school,  
169 provide at no cost to the school the statewide assessments  
170 required under s. 1008.22 and any related materials for  
171 administering the assessments.

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

173 (a) Upon the request of any eligible nonprofit scholarship-  
174 funding organization, a school district shall inform all  
175 households within the district receiving free or reduced-priced  
176 meals under the National School Lunch Act of their eligibility  
177 to apply for a tax credit scholarship. The form of such notice  
178 shall be provided by the eligible nonprofit scholarship-funding  
179 organization, and the district shall include the provided form,  
180 if requested by the organization, in any normal correspondence  
181 with eligible households. If an eligible nonprofit scholarship-  
182 funding organization requests a special communication to be  
183 issued to households within the district receiving free or

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184 reduced-price meals under the National School Lunch Act, the  
185 organization shall reimburse the district for the cost of  
186 postage. Such notice is limited to once a year.

187 (b) Upon the request of the Department of Education, a  
188 school district shall coordinate with the Department of  
189 Education to provide the statewide assessments required under s.  
190 1008.22 and any related materials for administering the  
191 assessments to a participating private school.

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

193 (a)1. The Commissioner of Education shall deny, suspend, or  
194 revoke a private school's participation in the scholarship  
195 program if it is determined that the private school has failed  
196 to comply with the provisions of this section. However, in  
197 instances in which the noncompliance is correctable within a  
198 reasonable amount of time and in which the health, safety, or  
199 welfare of the students is not threatened, the commissioner may  
200 issue a notice of noncompliance that shall provide the private  
201 school with a timeframe within which to provide evidence of  
202 compliance prior to taking action to suspend or revoke the  
203 private school's participation in the scholarship program.

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

207 a. An owner or operator of a private school has exhibited a  
208 previous pattern of failure to comply with the provisions of  
209 this section or s. 1002.421, or;

210 b. An owner or operator of the private school is operating  
211 or has operated an educational institution in this state or



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212 another state or jurisdiction in a manner contrary to the  
213 health, safety, or welfare of the public. In making the ~~this~~  
214 determination under this subparagraph, the commissioner may  
215 consider factors that include, but are not limited to, acts or  
216 omissions by an owner or operator that led to a previous denial  
217 or revocation of participation in an education scholarship  
218 program; an owner's or operator's failure to reimburse the  
219 Department of Education or a scholarship-funding organization  
220 for scholarship funds improperly received or retained by a  
221 school; imposition of a prior criminal sanction, ~~or~~ civil fine,  
222 administrative fine, license revocation or suspension, or  
223 program eligibility suspension, termination, or revocation  
224 ~~sanction~~ related to an owner's or operator's management or  
225 operation of an educational institution; or other types of  
226 criminal proceedings in which the owner or operator was found  
227 guilty of, regardless of adjudication, or entered a plea of nolo  
228 contendere or guilty to, any offense involving fraud, deceit,  
229 dishonesty, or moral turpitude.

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

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

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

237 3.2.—Fraudulent activity on the part of the private school.  
238 Notwithstanding s. 1002.22, in incidents of alleged fraudulent  
239 activity pursuant to this section, the Department of Education's

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240 Office of Inspector General is authorized to release personally  
241 identifiable records or reports of students to the following  
242 persons or organizations:

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

247 b. A person or entity authorized by a court of competent  
248 jurisdiction in compliance with an order of that court or the  
249 attorney of record pursuant to a lawfully issued subpoena,  
250 consistent with the Family Educational Rights and Privacy Act,  
251 20 U.S.C. s. 1232g.

252 c. Any person, entity, or authority issuing a subpoena for  
253 law enforcement purposes when the court or other issuing agency  
254 has ordered that the existence or the contents of the subpoena  
255 or the information furnished in response to the subpoena not be  
256 disclosed, consistent with the Family Educational Rights and  
257 Privacy Act, 20 U.S.C. s. 1232g, and 34 C.F.R. s. 99.31.  
258 The commissioner's order suspending payment pursuant to this  
259 paragraph may be appealed pursuant to the same procedures and  
260 timelines as the notice of proposed action set forth in  
261 paragraph (b).

262 Section 2. Paragraph (b) of subsection (6) of section  
263 1002.20, Florida Statutes, is amended to read:  
264 1002.20 K-12 student and parent rights.—Parents of public school  
265 students must receive accurate and timely information regarding  
266 their child's academic progress and must be informed of ways  
267 they can help their child to succeed in school. K-12 students

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268 and their parents are afforded numerous statutory rights  
269 including, but not limited to, the following:

270 (6) EDUCATIONAL CHOICE.—

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

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

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

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

287

288

289 -----

290 **T I T L E A M E N D M E N T**

291 Remove lines 12-14 and insert:

292 reporting of test scores and site visits; requiring the  
293 Department of Education to provide at no cost statewide  
294 assessments and related materials to a school that makes such a  
295 request; requiring a school district to coordinate with the

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 859 (2012)

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296 Department of Education to provide statewide assessments and  
297 related materials to a participating private school;

298