

1                   A bill to be entitled  
2           An act relating to education; amending s. 220.187, F.S.,  
3           relating to the Corporate Income Tax Credit Scholarship  
4           Program; providing legislative findings; revising program  
5           purposes; defining the term "parent"; providing that  
6           specified students who have been in educational programs  
7           of the Department of Juvenile Justice or in foster care  
8           are eligible for participation in the scholarship program;  
9           providing income criteria for continuation of scholarships  
10          for students in foster care; providing for eligibility of  
11          siblings of certain students; revising provisions relating  
12          to the amount and authorized uses of a scholarship;  
13          revising provisions relating to the expenditure of  
14          contributions received during the fiscal year; revising  
15          limits on scholarship amounts and payments; providing for  
16          preserving certain credits if a court finds certain  
17          provisions are invalid; amending s. 1002.39, F.S.,  
18          relating to the John M. McKay Scholarships for Students  
19          with Disabilities Program; revising scholarship  
20          ineligibility and private school eligibility provisions to  
21          exempt certain students from regular class attendance  
22          requirements under certain circumstances; revising  
23          Department of Education obligations relating to cross-  
24          check of student enrollment; providing private school  
25          requirements relating to discovery of duplicative  
26          enrollment and penalties or appeals under certain  
27          circumstances; requiring a private school to maintain a  
28          physical location in this state where case management

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29 services are provided to students subject to the regular  
30 class attendance exemption; requiring a private school to  
31 employ a case manager for such students; specifying case  
32 manager qualifications and responsibilities; specifying  
33 the timeframe for parents to provide documentation for the  
34 regular class attendance exemption; creating s. 1008.346,  
35 F.S.; providing legislative intent and findings; requiring  
36 the Commissioner of Education to develop a program to  
37 improve failing schools; providing requirements concerning  
38 the program; providing for the creation of an advisory  
39 council; providing for membership and duties of the  
40 council; requiring that the commissioner consult with the  
41 Office of Program Policy Analysis and Government  
42 Accountability and certain district community assessment  
43 teams concerning the program; providing for coordination  
44 and consistency with strategic planning initiatives of the  
45 Department of Education or the State Board of Education;  
46 requiring an annual report concerning implementation of  
47 the program; providing an effective date.

48  
49 Be It Enacted by the Legislature of the State of Florida:

50  
51 Section 1. Subsections (1) and (3), paragraphs (d) and (i)  
52 of subsection (6), and paragraphs (a) and (c) of subsection (11)  
53 of section 220.187, Florida Statutes, are amended, paragraph (f)  
54 is added to subsection (2), and subsection (14) is added to that  
55 section, to read:

56 220.187 Credits for contributions to nonprofit

57 scholarship-funding organizations.--

58 (1) FINDINGS AND PURPOSE.--

59 (a) The Legislature finds that:

60 1. It has the inherent power to determine subjects of  
 61 taxation for general or particular public purposes.

62 2. Expanding educational opportunities and improving the  
 63 quality of educational services in this state and ensuring that  
 64 all parents, regardless of means, may exercise and enjoy their  
 65 basic right to educate their children as they see fit are valid  
 66 public purposes that the Legislature may promote using its  
 67 sovereign power to determine subjects of taxation and exemptions  
 68 from taxation.

69 3. The existence of programs that provide expanded  
 70 educational opportunities in this state has not been shown to  
 71 reduce funding to or otherwise harm public schools in this  
 72 state, and, to the contrary, per-student funding in public  
 73 schools has risen each year since the inception of such programs  
 74 in 1999.

75 4. Expanded educational opportunities and the healthy  
 76 competition that such opportunities promote are critical to  
 77 improving the quality of education in this state and to ensuring  
 78 that all children receive the high-quality education to which  
 79 they are entitled.

80 (b) The purpose of this section is to:

81 1.(a) Enable taxpayers to make ~~Encourage~~ private,  
 82 voluntary contributions to nonprofit scholarship-funding  
 83 organizations in order to promote the general welfare.

84 2. Provide a means for taxpayers to voluntarily help

85 parents having limited resources exercise their basic right to  
 86 educate their children as they see fit.

87 3.-(b) Promote the general welfare by expanding ~~Expand~~  
 88 educational opportunities for children of families that have  
 89 limited financial resources.

90 4.-(e) Enable children in this state to achieve a greater  
 91 level of excellence in their education.

92 5. Improve the quality of education in this state by  
 93 expanding educational opportunities for children and creating  
 94 incentives for schools to achieve excellence.

95 (2) DEFINITIONS.--As used in this section, the term:

96 (f) "Parent" has the same meaning as in s. 1000.21.

97 (3) PROGRAM; SCHOLARSHIP ELIGIBILITY.--

98 (a) The Corporate Income Tax Credit Scholarship Program is  
 99 established. A student is eligible for a corporate income tax  
 100 credit scholarship if the student qualifies for free or reduced-  
 101 price school lunches under the National School Lunch Act and:

102 1.-(a) Was counted as a full-time equivalent student during  
 103 the previous state fiscal year for purposes of state per-student  
 104 funding;

105 2. Was counted as a full-time equivalent student at any  
 106 time during the previous state fiscal year in an educational  
 107 program of the Department of Juvenile Justice under s. 1003.52  
 108 for purposes of state per-student funding;

109 3.-(b) Received a scholarship from an eligible nonprofit  
 110 scholarship-funding organization or from the State of Florida  
 111 during the previous school year; or

112 4.-(e) Is eligible to enter kindergarten or first grade; or

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

115 (b) Contingent upon available funds, a student may  
 116 continue in the scholarship program as long as the student's  
 117 family income level does not exceed 200 percent of the federal  
 118 poverty level. Family income for purposes of a student who is  
 119 currently in foster care as defined in s. 39.01 consists only of  
 120 the income that may be considered in determining whether he or  
 121 she qualifies for free or reduced-price school lunches under the  
 122 National School Lunch Act. A sibling of a student who is  
 123 continuing in the program is eligible as a first-time corporate  
 124 income tax credit scholarship recipient if the sibling resides  
 125 in the same household as the student and the student's and  
 126 sibling's family income level does not exceed 200 percent of the  
 127 federal poverty level.

128 (6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING  
 129 ORGANIZATIONS.--An eligible nonprofit scholarship-funding  
 130 organization:

131 (d) Must provide scholarships, from eligible  
 132 contributions, to eligible students for:

133 1. Tuition, ~~or~~ textbook expenses, or registration fees  
 134 for, or transportation to, an eligible private school. The  
 135 amount of the scholarship shall be the maximum allowed by law or  
 136 the amount of the private school's textbook expenses and  
 137 published tuition and registration fees, whichever is less ~~At~~  
 138 ~~least 75 percent of the scholarship funding must be used to pay~~  
 139 ~~tuition expenses; or~~

140 2. Transportation expenses to a Florida public school that

141 is located outside the district in which the student resides or  
 142 to a lab school as defined in s. 1002.32.

143 (i) Must expend for annual or partial-year scholarships in  
 144 a fiscal year at least 75 percent of the eligible scholarship  
 145 contributions received in that fiscal year. Up to 25 percent of  
 146 the eligible scholarship contributions received in a fiscal year  
 147 may be carried forward to the succeeding fiscal year; however,  
 148 any amounts carried forward must be expended for ~~obligate, in~~  
 149 ~~the same fiscal year in which the contribution was received, 100~~  
 150 ~~percent of the eligible contribution to provide annual or~~  
 151 ~~partial-year scholarships; however, up to 25 percent of the~~  
 152 ~~total contribution may be carried forward for expenditure in~~  
 153 such succeeding the following state fiscal year. A scholarship-  
 154 funding organization must, before granting a scholarship for an  
 155 academic year, document each scholarship student's eligibility  
 156 for that academic year. A scholarship-funding organization may  
 157 not grant multiyear scholarships in one approval process. No  
 158 portion of eligible contributions may be used for administrative  
 159 expenses. All interest accrued from contributions must be used  
 160 for scholarships.

161  
 162 Any and all information and documentation provided to the  
 163 Department of Education and the Auditor General relating to the  
 164 identity of a taxpayer that provides an eligible contribution  
 165 under this section shall remain confidential at all times in  
 166 accordance with s. 213.053.

167 (11) SCHOLARSHIP AMOUNT AND PAYMENT.--

168 (a) The amount of a scholarship provided to any student

169 for any single school year by an eligible nonprofit scholarship-  
 170 funding organization from eligible contributions may ~~shall~~ not  
 171 exceed the following annual limits:

172 1. Three thousand seven hundred fifty dollars for a  
 173 scholarship awarded to a student enrolled in kindergarten  
 174 through grade 5 in an eligible private school.

175 2. Four thousand dollars for a scholarship awarded to a  
 176 student enrolled in grades 6 through 8 in an eligible private  
 177 school.

178 3. Four thousand two hundred fifty dollars for a  
 179 scholarship awarded to a student enrolled in grades 9 through 12  
 180 in an eligible private school.

181 4.2. Five hundred dollars for a scholarship awarded to a  
 182 student enrolled in a Florida public school that is located  
 183 outside the district in which the student resides or in a lab  
 184 school as defined in s. 1002.32.

185 (c) An eligible nonprofit scholarship-funding organization  
 186 shall obtain verification from the private school of a student's  
 187 continued attendance at the school for ~~prior to~~ each period  
 188 covered by a scholarship payment.

189 (14) PRESERVATION OF CREDIT.--If a court determines that a  
 190 provision or portion of subsection (5), or the application of a  
 191 provision or portion of subsection (5), is unconstitutional or  
 192 otherwise invalid, the court's determination does not affect any  
 193 credit earned by a taxpayer under subsection (5) for a  
 194 contribution made to an eligible nonprofit scholarship-funding  
 195 organization before the date of the court's determination. Such  
 196 a credit shall be allowed at such time and in such a manner as

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197 if the court had not made such a determination of  
198 unconstitutionality or invalidity. However, this subsection does  
199 not, by itself or in combination with any other law, authorize  
200 any result that allows a taxpayer to receive a credit of more  
201 than one dollar for each dollar such taxpayer contributed to an  
202 eligible nonprofit scholarship-funding organization.

203 Section 2. Paragraph (h) of subsection (3), paragraph (e)  
204 of subsection (6), and subsection (8) of section 1002.39,  
205 Florida Statutes, are amended, and paragraph (g) is added to  
206 subsection (9) of that section, to read:

207 1002.39 The John M. McKay Scholarships for Students with  
208 Disabilities Program.--There is established a program that is  
209 separate and distinct from the Opportunity Scholarship Program  
210 and is named the John M. McKay Scholarships for Students with  
211 Disabilities Program.

212 (3) JOHN M. MCKAY SCHOLARSHIP PROHIBITIONS.--A student is  
213 not eligible for a John M. McKay Scholarship while he or she is:

214 (h) Not having regular and direct contact with his or her  
215 private school teachers at the school's physical location unless  
216 the following criteria are met:

217 1. The student's primary care physician, a medical doctor  
218 treating the student's disability, or a clinical psychologist  
219 treating the student's disability provides a notarized, sworn  
220 statement to the department certifying that the student's  
221 welfare or the welfare of other students in the classroom will  
222 be jeopardized if the student is required to regularly attend  
223 class at the school's physical location.

224 2. The student's primary care physician, a medical doctor



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225 treating the student's disability, or a clinical psychologist  
226 treating the student's disability annually reviews the student's  
227 case and recertifies to the department by May 1 that the  
228 student's welfare or the welfare of other students in the  
229 classroom will be jeopardized if the student is required to  
230 regularly attend class at the school's physical location.

231  
232 A student who received a scholarship in the 2006-2007 or 2007-  
233 2008 school year and who demonstrates that he or she met the  
234 criteria of subparagraph 1. is eligible, despite a lack of such  
235 contact in one or both of such school years, to receive a  
236 scholarship beginning in the 2008-2009 school year.

237 (6) DEPARTMENT OF EDUCATION OBLIGATIONS.--The department  
238 shall:

239 (e) Cross-check the list of participating scholarship  
240 students with the public school enrollment lists ~~prior to each~~  
241 ~~scholarship payment~~ to avoid duplication in accordance with the  
242 following deadlines:

243 1. For the scholarship payment due no later than September  
244 1 under paragraph (10)(e), the department shall complete the  
245 cross-check within 21 days after the opening date adopted under  
246 s. 1001.42(4)(f) for public schools in the school district in  
247 which the scholarship student resides.

248 2. For all other scholarship payments under paragraph  
249 (10)(e), the department shall complete the cross-check before  
250 each payment.

251  
252 The department shall send a written notice via certified mail to

253 a private school within 7 business days after discovering a  
 254 duplication. Within 7 business days after receipt of the  
 255 department's notice of duplication, the private school shall  
 256 respond by returning the duplicative warrant to the department  
 257 or providing the department with documentation evidencing the  
 258 scholarship recipient's attendance at the private school. If a  
 259 private school does not provide such a response, the  
 260 Commissioner of Education shall suspend future scholarship  
 261 payments to the private school until the response is provided.  
 262 An order by the commissioner suspending payment under this  
 263 paragraph may be appealed under the same procedures and  
 264 timeframes as the notice of proposed action set forth in  
 265 paragraph (7) (b).

266 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.--To be  
 267 eligible to participate in the John M. McKay Scholarships for  
 268 Students with Disabilities Program:7

269 (a) A private school may be sectarian or nonsectarian and  
 270 must:

271 1.(a) Comply with all requirements for private schools  
 272 participating in state school choice scholarship programs  
 273 pursuant to s. 1002.421.

274 2.(b) Provide to the department all documentation required  
 275 for a student's participation, including the private school's  
 276 and student's fee schedules, at least 30 days before the first  
 277 quarterly scholarship payment is made for the student.

278 3.(c) Be academically accountable to the parent for  
 279 meeting the educational needs of the student by:

280 a.1- Providing to the parent, at a minimum, an annual

281 ~~annually providing to the parent a written report explanation~~ of  
282 the student's progress.

283 ~~b.2-~~ Cooperating with the scholarship student whose parent  
284 chooses to participate in the statewide assessments pursuant to  
285 s. 1008.22.

286 ~~4.(d)~~ Maintain in this state a physical location where a  
287 scholarship student:

288 a. Regularly attends classes; or

289 b. Receives case management services if the student is  
290 exempt from regular class attendance under subparagraph (3)(h)1.  
291 or subparagraph (3)(h)2.

292 (b) A private school that enrolls a student who is exempt  
293 from regular class attendance under subparagraph (3)(h)1. or  
294 subparagraph (3)(h)2. must:

295 1. Employ or contract with a case manager who has special  
296 skills, knowledge, or expertise that qualifies him or her to  
297 provide assistance to the student with disabilities and the  
298 student's parent.

299 2. Require each employee or contractor who provides  
300 regular and direct instruction or services to a student at a  
301 site other than the private school's physical location to submit  
302 to the case manager documentation of the instruction, services,  
303 and progress of the student.

304 3. Ensure that the case manager is responsible for  
305 coordinating instruction and services, monitoring service  
306 delivery, reviewing and maintaining the documentation submitted  
307 by employees or contractors hired to provide services to a  
308 student at a site other than the private school's physical

309 location, and providing to the parent and the school a quarterly  
 310 report on the student's progress.

311 4. Notify the department of the students enrolled in the  
 312 school who are exempt from regular class attendance under  
 313 subparagraph (3) (h)1. or subparagraph (3) (h)2.

314  
 315 The inability of a private school to meet the requirements of  
 316 this subsection constitutes ~~shall constitute~~ a basis for the  
 317 ineligibility of the private school to participate in the  
 318 scholarship program as determined by the department.

319 (9) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM  
 320 PARTICIPATION.--A parent who applies for a John M. McKay  
 321 Scholarship is exercising his or her parental option to place  
 322 his or her child in a private school.

323 (g) The parent of a student with disabilities who  
 324 qualifies to receive case management services under sub-  
 325 subparagraph (8) (a)4.b. shall provide the documentation required  
 326 under subparagraph (3) (h)1. or subparagraph (3) (h)2. to the  
 327 department at least 60 days before the first scholarship  
 328 payment.

329 Section 3. Section 1008.346, Florida Statutes, is created  
 330 to read:

331 1008.346 Strategic program to improve schools failing to  
 332 make adequate progress.--

333 (1) The Legislature intends that the state develop and  
 334 implement a comprehensive strategic program to facilitate the  
 335 improvement of schools that are failing to make adequate  
 336 progress based on the school performance grading categories

337 established by law. The Legislature finds that achieving  
338 meaningful and lasting progress in these schools will take a  
339 number of years. Thus, the Legislature intends that the program  
340 developed under this section include a multiyear design and  
341 implementation schedule and provide measurable goals and  
342 objectives for these schools.

343 (2) In coordination with the responsibilities prescribed  
344 in s. 1008.345, the Commissioner of Education shall develop and  
345 submit to the President of the Senate and the Speaker of the  
346 House of Representatives by February 1, 2009, a multifaceted  
347 program of policies and practices directed specifically toward  
348 schools in the "F" grade category under s. 1008.34. At a  
349 minimum, the program must:

350 (a) Include an assessment of the extent to which new  
351 policies, or enhancements to existing policies, in the following  
352 areas would facilitate improvement at these schools:

- 353 1. Capital improvements to school facilities;  
354 2. Incentives to encourage outstanding faculty and staff  
355 to transfer to these schools;  
356 3. Equipment and supplies;  
357 4. Technology infrastructure, hardware, or software;  
358 5. Incentives to encourage parents and other family  
359 members to participate in a child's education; and  
360 6. Mentoring and other forms of participation by members  
361 of the community.

362 (b) Include a suggested order of priority and schedule for  
363 adopting, funding, and implementing policies and practices over  
364 a 5-year period.

365 (c) Specify those elements of the program that can be  
366 accomplished within existing statutory authority and those  
367 requiring new statutory authority.

368 (d) Include specific recommendations for action by the  
369 Legislature.

370 (3) The commissioner shall create an advisory council in  
371 accordance with s. 20.052 that is comprised of at least two  
372 teachers, two staff persons, and two parents of students from  
373 one or more schools that are failing to make adequate progress  
374 based on the school performance grading categories and any other  
375 individuals the commissioner deems appropriate. The advisory  
376 council shall assist the commissioner in developing and  
377 implementing the program required by this section and in  
378 annually notifying the parents of students in failing schools  
379 who qualify for free or reduced-price lunches under the National  
380 School Lunch Act of the availability of scholarships under s.  
381 220.187. Such notice must be provided in sufficient time to  
382 allow the parent to apply and have his or her child approved for  
383 a scholarship.

384 (4) In developing and implementing the program, the  
385 commissioner shall consult with the district community  
386 assessment teams assigned under s. 1008.345(6)(d) and with the  
387 Office of Program Policy Analysis and Government Accountability.

388 (5) The program shall be developed in coordination with,  
389 and shall be consistent with, other strategic planning  
390 initiatives of the Department of Education or the State Board of  
391 Education.

392 (6) The Commissioner of Education shall report annually to

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393 | the Governor, the President of the Senate, and the Speaker of  
394 | the House of Representatives on the implementation of the  
395 | program.

396 |       Section 4. This act shall take effect July 1, 2008.