

By Senator Wise

5-00055A-08

20082822__

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
29 services are provided to students subject to the regular

5-00055A-08

20082822__

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 scholarship-
57 funding organizations.--

58 (1) FINDINGS AND PURPOSE.--

5-00055A-08

20082822__

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 state,
72 and, to the contrary, per-student funding in public schools has
73 risen each year since the inception of such programs in 1999.

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

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

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

83 2. Provide a means for taxpayers to voluntarily help
84 parents having limited resources exercise their basic right to
85 educate their children as they see fit.

86 3.-(b) Promote the general welfare by expanding ~~Expand~~
87 educational opportunities for children of families that have

5-00055A-08

20082822__

88 | limited financial resources.

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

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

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

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

96 | (3) PROGRAM; SCHOLARSHIP ELIGIBILITY.--

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

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

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

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

111 | ~~4.(e)~~ Is eligible to enter kindergarten or first grade; or.

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

114 | (b) Contingent upon available funds, a student may continue
115 | in the scholarship program as long as the student's family income
116 | level does not exceed 200 percent of the federal poverty level.

5-00055A-08

20082822__

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

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

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

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

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

141 (i) Must expend for annual or partial-year scholarships in
142 a fiscal year at least 75 percent of the eligible scholarship
143 contributions received in that fiscal year. Up to 25 percent of
144 the eligible scholarship contributions received in a fiscal year
145 may be carried forward to the succeeding fiscal year; however,

5-00055A-08

20082822__

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

159

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

165 (11) SCHOLARSHIP AMOUNT AND PAYMENT.--

166 (a) The amount of a scholarship provided to any student for
167 any single school year by an eligible nonprofit scholarship-
168 funding organization from eligible contributions may ~~shall~~ not
169 exceed the following annual limits:

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

173 2. Four thousand dollars for a scholarship awarded to a
174 student enrolled in grades 6 through 8 in an eligible private

5-00055A-08

20082822__

175 school.

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

179 4.2. Five hundred dollars for a scholarship awarded to a
180 student enrolled in a Florida public school that is located
181 outside the district in which the student resides or in a lab
182 school as defined in s. 1002.32.

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

187 (14) PRESERVATION OF CREDIT.--If a court determines that a
188 provision or portion of subsection (5), or the application of a
189 provision or portion of subsection (5), is unconstitutional or
190 otherwise invalid, the court's determination does not affect any
191 credit earned by a taxpayer under subsection (5) for a
192 contribution made to an eligible nonprofit scholarship-funding
193 organization before the date of the court's determination. Such a
194 credit shall be allowed at such time and in such a manner as if
195 the court had not made such a determination of
196 unconstitutionality or invalidity. However, this subsection does
197 not, by itself or in combination with any other law, authorize
198 any result that allows a taxpayer to receive a credit of more
199 than one dollar for each dollar such taxpayer contributed to an
200 eligible nonprofit scholarship-funding organization.

201 Section 2. Paragraph (h) of subsection (3), paragraph (e)
202 of subsection (6), and subsection (8) of section 1002.39, Florida
203 Statutes, are amended, and paragraph (g) is added to subsection

5-00055A-08

20082822__

204 (9) of that section, to read:

205 1002.39 The John M. McKay Scholarships for Students with
206 Disabilities Program.--There is established a program that is
207 separate and distinct from the Opportunity Scholarship Program
208 and is named the John M. McKay Scholarships for Students with
209 Disabilities Program.

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

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

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

222 2. The student's primary care physician, a medical doctor
223 treating the student's disability, or a clinical psychologist
224 treating the student's disability annually reviews the student's
225 case and recertifies to the department by May 1 that the
226 student's welfare or the welfare of other students in the
227 classroom will be jeopardized if the student is required to
228 regularly attend class at the school's physical location.

229
230 A student who received a scholarship in the 2006-2007 or 2007-
231 2008 school year and who demonstrates that he or she met the
232 criteria of subparagraph 1. is eligible, despite a lack of such

5-00055A-08

20082822__

233 contact in one or both of such school years, to receive a
234 scholarship beginning in the 2008-2009 school year.

235 (6) DEPARTMENT OF EDUCATION OBLIGATIONS.--The department
236 shall:

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

241 1. For the scholarship payment due no later than September
242 1 under paragraph (10) (e), the department shall complete the
243 cross-check within 21 days after the opening date adopted under
244 s. 1001.42(4) (f) for public schools in the school district in
245 which the scholarship student resides.

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

249
250 The department shall send a written notice via certified mail to
251 a private school within 7 business days after discovering a
252 duplication. Within 7 business days after receipt of the
253 department's notice of duplication, the private school shall
254 respond by returning the duplicative warrant to the department or
255 providing the department with documentation evidencing the
256 scholarship recipient's attendance at the private school. If a
257 private school does not provide such a response, the Commissioner
258 of Education shall suspend future scholarship payments to the
259 private school until the response is provided. An order by the
260 commissioner suspending payment under this paragraph may be
261 appealed under the same procedures and timeframes as the notice

5-00055A-08

20082822__

262 of proposed action set forth in paragraph (7) (b).

263 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.--To be
264 eligible to participate in the John M. McKay Scholarships for
265 Students with Disabilities Program:r

266 (a) A private school may be sectarian or nonsectarian and
267 must:

268 1.(a) Comply with all requirements for private schools
269 participating in state school choice scholarship programs
270 pursuant to s. 1002.421.

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

275 3.(e) Be academically accountable to the parent for meeting
276 the educational needs of the student by:

277 a.1. Providing to the parent, at a minimum, an annual
278 annually providing to the parent a written report explanation of
279 the student's progress.

280 b.2. Cooperating with the scholarship student whose parent
281 chooses to participate in the statewide assessments pursuant to
282 s. 1008.22.

283 4.(d) Maintain in this state a physical location where a
284 scholarship student:

285 a. Regularly attends classes; or-

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

289 (b) A private school that enrolls a student who is exempt
290 from regular class attendance under subparagraph (3) (h)1. or

5-00055A-08

20082822__

291 subparagraph (3) (h) 2. must:

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

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

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

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

311
312 The inability of a private school to meet the requirements of
313 this subsection constitutes ~~shall constitute~~ a basis for the
314 ineligibility of the private school to participate in the
315 scholarship program as determined by the department.

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

5-00055A-08

20082822__

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

325 Section 3. Section 1008.346, Florida Statutes, is created
326 to read:

327 1008.346 Strategic program to improve schools failing to
328 make adequate progress.--

329 (1) The Legislature intends that the state develop and
330 implement a comprehensive strategic program to facilitate the
331 improvement of schools that are failing to make adequate progress
332 based on the school performance grading categories established by
333 law. The Legislature finds that achieving meaningful and lasting
334 progress in these schools will take a number of years. Thus, the
335 Legislature intends that the program developed under this section
336 include a multiyear design and implementation schedule and
337 provide measurable goals and objectives for these schools.

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

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

348 1. Capital improvements to school facilities;

5-00055A-08

20082822__

349 2. Incentives to encourage outstanding faculty and staff to
350 transfer to these schools;

351 3. Equipment and supplies;

352 4. Technology infrastructure, hardware, or software;

353 5. Incentives to encourage parents and other family members
354 to participate in a child's education; and

355 6. Mentoring and other forms of participation by members of
356 the community.

357 (b) Include a suggested order of priority and schedule for
358 adopting, funding, and implementing policies and practices over a
359 5-year period.

360 (c) Specify those elements of the program that can be
361 accomplished within existing statutory authority and those
362 requiring new statutory authority.

363 (d) Include specific recommendations for action by the
364 Legislature.

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

5-00055A-08

20082822__

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

382 (5) The program shall be developed in coordination with,
383 and shall be consistent with, other strategic planning
384 initiatives of the Department of Education or the State Board of
385 Education.

386 (6) The Commissioner of Education shall report annually to
387 the Governor, the President of the Senate, and the Speaker of the
388 House of Representatives on the implementation of the program.

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