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2 An act relating to scholarships for students
3 with disabilities; amending s. 229.05371, F.S.;
4 creating the John M. McKay Scholarships for
5 Students with Disabilities Program; providing
6 for eligibility; establishing obligations of
7 school districts and the Department of
8 Education; establishing criteria for private
9 school eligibility; establishing obligations of
10 program participants; providing for funding and
11 payment; limiting liability of the state;
12 authorizing the State Board of Education to
13 adopt rules; providing an effective date.

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15 Be It Enacted by the Legislature of the State of Florida:

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17 Section 1. Section 229.05371, Florida Statutes, is
18 amended to read:

19 (Substantial rewording of section. See
20 s. 229.05371, F.S., for present text.)

21 229.05371 The John M. McKay Scholarships for Students
22 with Disabilities Program.--There is established a program
23 that is separate and distinct from the Opportunity Scholarship
24 Program and is named the John M. McKay Scholarships for
25 Students with Disabilities Program, pursuant to this section.

26 (1) THE JOHN M. MCKAY SCHOLARSHIPS FOR STUDENTS WITH
27 DISABILITIES PROGRAM.--The John M. McKay Scholarships for
28 Students with Disabilities Program is established to provide
29 the option to attend a public school other than the one to
30 which assigned, or to provide a scholarship to a private
31 school of choice, for students with disabilities for whom an

1 individual education plan has been written in accordance with
2 rules of the Commissioner of Education or the State Board of
3 Education. Students with disabilities include K-12 students
4 who are mentally handicapped, speech and language impaired,
5 deaf or hard of hearing, visually impaired, dual sensory
6 impaired, physically impaired, emotionally handicapped,
7 specific learning disabled, hospitalized or homebound, or
8 autistic.

9 (2) SCHOLARSHIP ELIGIBILITY.--The parent of a public
10 school student with a disability who is dissatisfied with the
11 student's progress may request and receive from the state a
12 John M. McKay Scholarship for the child to enroll in and
13 attend a private school in accordance with this section if:

14 (a) By assigned school attendance area or by special
15 assignment, the student has spent the prior school year in
16 attendance at a Florida public school. Prior school year in
17 attendance means that the student was enrolled and reported by
18 a school district for funding during the preceding October and
19 February Florida Education Finance Program surveys in
20 kindergarten through grade 12; and

21 (b) The parent has obtained acceptance for admission
22 of the student to a private school that is eligible for the
23 program under subsection (4) and has notified, in writing, the
24 school district of the request for a scholarship at least 60
25 days prior to the date of the first scholarship payment.

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27 This section does not apply to a student who is enrolled in a
28 school operating for the purpose of providing educational
29 services to youth in Department of Juvenile Justice commitment
30 programs. For purposes of continuity of educational choice,
31 the scholarship shall remain in force until the student

1 returns to a public school or graduates from high school.
2 However, at any time, the student's parent may remove the
3 student from the private school and place the student in
4 another private school that is eligible for the program under
5 subsection (4) or in a public school as provided in subsection
6 (3).

7 (3) SCHOOL DISTRICT AND DEPARTMENT OF EDUCATION
8 OBLIGATIONS.--

9 (a) A school district shall timely notify the parent
10 of the student of all options available pursuant to this
11 section and offer that student's parent an opportunity to
12 enroll the student in another public school within the
13 district. The parent is not required to accept this offer in
14 lieu of requesting a John M. McKay Scholarship to a private
15 school. However, if the parent chooses the public school
16 option, the student may continue attending a public school
17 chosen by the parent until the student graduates from high
18 school. If the parent chooses a public school consistent with
19 the school board's choice plan under s. 228.057, the school
20 district will provide transportation to the public school
21 selected by the parent. The parent is responsible to provide
22 transportation to a public school chosen that is not
23 consistent with the school board's choice plan under s.
24 228.057.

25 (b) For a student with disabilities who does not have
26 a matrix of services under s. 236.025, the school district
27 must complete a matrix that assigns the student to one of the
28 levels of service as they existed prior to the 2000-2001
29 school year. The school district must complete the matrix of
30 services for any student who is participating in the John M.
31 McKay Scholarships for Students with Disabilities Program and

1 must notify the Department of Education of the student's
2 matrix level within 30 days after receiving notification by
3 the student's parent of intent to participate in the
4 scholarship program. The Department of Education shall notify
5 the private school of the amount of the scholarship within 10
6 days after receiving the school district's notification of the
7 student's matrix level.

8 (c) If the parent chooses the private school option
9 and the student is accepted by the private school pending the
10 availability of a space for the student, the parent of the
11 student must notify the school district 60 days prior to the
12 first scholarship payment and before entering the private
13 school in order to be eligible for the scholarship when a
14 space becomes available for the student in the private school.

15 (d) The parent of a student may choose, as an
16 alternative, to enroll the student in and transport the
17 student to a public school in an adjacent school district
18 which has available space and has a program with the services
19 agreed to in the student's individual education plan already
20 in place, and that school district shall accept the student
21 and report the student for purposes of the district's funding
22 pursuant to the Florida Education Finance Program.

23 (e) For a student in the district who participates in
24 the John M. McKay Scholarships for Students with Disabilities
25 Program whose parent requests that the student take the
26 statewide assessments under s. 229.57, the district shall
27 provide locations and times to take all statewide assessments.

28 (f) A school district must notify the Department of
29 Education within 10 days after it receives notification of a
30 parent's intent to apply for a scholarship for a student with
31 a disability.

1 (4) PRIVATE SCHOOL ELIGIBILITY.--To be eligible to
2 participate in the John M. McKay Scholarships for Students
3 with Disabilities Program, a private school must be a Florida
4 private school, may be sectarian or nonsectarian, and must:

5 (a) Demonstrate fiscal soundness by being in operation
6 for 1 school year or provide the Department of Education with
7 a statement by a certified public accountant confirming that
8 the private school desiring to participate is insured and the
9 owner or owners have sufficient capital or credit to operate
10 the school for the upcoming year serving the number of
11 students anticipated with expected revenues from tuition and
12 other sources that may be reasonably expected. In lieu of such
13 a statement, a surety bond or letter of credit for the amount
14 equal to the scholarship funds for any quarter may be filed
15 with the department.

16 (b) Notify the Department of Education of its intent
17 to participate in the program under this section by May 1 of
18 the school year preceding the school year in which it intends
19 to participate. The notice must specify the grade levels and
20 services that the private school has available for students
21 with disabilities who are participating in the scholarship
22 program.

23 (c) Comply with the antidiscrimination provisions of
24 42 U.S.C. s. 2000d.

25 (d) Meet state and local health and safety laws and
26 codes.

27 (e) Be academically accountable to the parent for
28 meeting the educational needs of the student.

29 (f) Employ or contract with teachers who hold
30 baccalaureate or higher degrees, or have at least 3 years of
31 teaching experience in public or private schools, or have

1 special skills, knowledge, or expertise that qualifies them to
2 provide instruction in subjects taught.

3 (g) Comply with all state laws relating to general
4 regulation of private schools.

5 (h) Adhere to the tenets of its published disciplinary
6 procedures prior to the expulsion of a scholarship student.

7 (5) OBLIGATION OF PROGRAM PARTICIPANTS.--

8 (a) A parent who applies for a John M. McKay
9 Scholarship is exercising his or her parental option to place
10 his or her child in a private school. The parent must select
11 the private school and apply for the admission of his or her
12 child.

13 (b) The parent must have requested the scholarship at
14 least 60 days prior to the date of the first scholarship
15 payment.

16 (c) Any student participating in the scholarship
17 program must remain in attendance throughout the school year,
18 unless excused by the school for illness or other good cause,
19 and must comply fully with the school's code of conduct.

20 (d) The parent of each student participating in the
21 scholarship program must comply fully with the private
22 school's parental involvement requirements, unless excused by
23 the school for illness or other good cause.

24 (e) If the parent requests that the student
25 participating in the scholarship program take all statewide
26 assessments required pursuant to s. 229.57, the parent is
27 responsible for transporting the student to the assessment
28 site designated by the school district.

29 (f) Upon receipt of a scholarship warrant, the parent
30 to whom the warrant is made must restrictively endorse the
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1 warrant to the private school for deposit into the account of
2 the private school.

3 (g) A participant who fails to comply with this
4 subsection forfeits the scholarship.

5 (6) SCHOLARSHIP FUNDING AND PAYMENT.--

6 (a)1. The maximum scholarship granted for an eligible
7 student with disabilities shall be a calculated amount
8 equivalent to the base student allocation in the Florida
9 Education Finance Program multiplied by the appropriate cost
10 factor for the educational program that would have been
11 provided for the student in the district school to which he or
12 she was assigned, multiplied by the district cost
13 differential.

14 2. In addition, a share of the guaranteed allocation
15 for exceptional students shall be determined and added to the
16 calculated amount. The calculation shall be based on the
17 methodology and the data used to calculate the guaranteed
18 allocation for exceptional students for each district in
19 chapter 2000-166, Laws of Florida. The calculation shall be
20 based on the student's grade, matrix level of services, and
21 the difference between the 2000-2001 basic program and the
22 appropriate level of services cost factor, multiplied by the
23 2000-2001 base student allocation and the 2000-2001 district
24 cost differential for the sending district. Also, the
25 calculated amount shall include the per-student share of
26 Supplemental Academic Instruction funds, instructional
27 materials funds, technology funds, and other categorical funds
28 as provided for such purposes in the General Appropriations
29 Act.

30 (b) The amount of the John M. McKay Scholarship shall
31 be the calculated amount or the amount of the private school's

1 tuition and fees, whichever is less. The amount of any
2 assessment fee required by the participating private school
3 may be paid from the total amount of the scholarship.

4 (c) If the participating private school requires
5 partial payment of tuition prior to the start of the academic
6 year to reserve space for students admitted to the school,
7 that partial payment may be paid by the Department of
8 Education prior to the first quarterly payment of the year in
9 which the John M. McKay Scholarship is awarded, up to a
10 maximum of \$1,000, and deducted from subsequent scholarship
11 payments. If a student decides not to attend the participating
12 private school, the partial reservation payment must be
13 returned to the Department of Education by the participating
14 private school. There is a limit of one reservation payment
15 per student per year.

16 (d) The school district shall report all students who
17 are attending a private school under this program. The
18 students with disabilities attending private schools on John
19 M. McKay Scholarships shall be reported separately from other
20 students reported for purposes of the Florida Education
21 Finance Program.

22 (e) Following notification on July 1, September 1,
23 December 1, or February 1 of the number of program
24 participants, the Department of Education shall transfer, from
25 General Revenue funds only, the amount calculated under
26 paragraph (b) from the school district's total funding
27 entitlement under the Florida Education Finance Program and
28 from authorized categorical accounts to a separate account for
29 the scholarship program for quarterly disbursement to the
30 parents of participating students. When a student enters the
31 scholarship program, the Department of Education must receive

1 all documentation required for the student's participation,
2 including the private school's and student's fee schedules, at
3 least 30 days before the first quarterly scholarship payment
4 is made for the student. The Department of Education may not
5 make any retroactive payments.

6 (f) Upon proper documentation reviewed and approved by
7 the Department of Education, the Comptroller shall make
8 scholarship payments in four equal amounts no later than
9 September 1, November 1, February 1, and April 15 of each
10 academic year in which the scholarship is in force. The
11 initial payment shall be made after Department of Education
12 verification of admission acceptance, and subsequent payments
13 shall be made upon verification of continued enrollment and
14 attendance at the private school. Payment must be by
15 individual warrant made payable to the student's parent and
16 mailed by the Department of Education to the private school of
17 the parent's choice, and the parent shall restrictively
18 endorse the warrant to the private school for deposit into the
19 account of the private school.

20 (7) LIABILITY.--No liability shall arise on the part
21 of the state based on the award or use of a John M. McKay
22 Scholarship.

23 (8) RULES.--The State Board of Education may adopt
24 rules pursuant to ss. 120.536(1) and 120.54 to administer this
25 section. However, the inclusion of eligible private schools
26 within options available to Florida public school students
27 does not expand the regulatory authority of the state, its
28 officers, or any school district to impose any additional
29 regulation of private schools beyond those reasonably
30 necessary to enforce requirements expressly set forth in this
31 section.

1 Section 2. This act shall take effect upon becoming a
2 law.
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