

By Representative Mealor

1 A bill to be entitled
 2 An act relating to scholarships for students
 3 with disabilities; amending s. 228.041, F.S.;
 4 providing a definition; amending s. 229.05371,
 5 F.S.; creating the scholarship program for
 6 students with disabilities; providing for
 7 eligibility; establishing obligations of school
 8 districts and the Department of Education;
 9 establishing criteria for private school
 10 eligibility; establishing obligations of
 11 program participants; providing for funding and
 12 payment; authorizing the State Board of
 13 Education to adopt rules; amending ss. 228.121,
 14 230.2316, 230.23161, 232.246, 240.116, and
 15 414.125, F.S.; correcting cross references;
 16 providing an effective date.

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 18 Be It Enacted by the Legislature of the State of Florida:
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20 Section 1. Subsection (18) of section 228.041, Florida
 21 Statutes, is amended, subsections (19) through (44) of said
 22 section are renumbered as subsections (20) through (45),
 23 respectively, and a new subsection (19) is added to said
 24 section, to read:

25 228.041 Definitions.--Specific definitions shall be as
 26 follows, and wherever such defined words or terms are used in
 27 the Florida School Code, they shall be used as follows:

28 (18) EXCEPTIONAL STUDENT.--The term "exceptional
 29 student" means any student ~~child or youth~~ who has been
 30 determined eligible for a special program in accordance with
 31 rules of the Commissioner of Education or the State Board of

1 Education. The term "exceptional students" includes students
2 who are gifted and students with disabilities, as defined in
3 subsection (19)~~who are mentally handicapped, speech and~~
4 ~~language impaired, deaf or hard of hearing, visually impaired,~~
5 ~~dual sensory impaired, physically impaired, emotionally~~
6 ~~handicapped, specific learning disabled, hospital and~~
7 ~~homebound, autistic, developmentally delayed children, ages~~
8 ~~birth through 5 years, or children with established~~
9 ~~conditions, ages birth through 2 years.~~

10 (19) STUDENT WITH DISABILITIES.--The term "student
11 with disabilities" means any student who has been determined
12 eligible for a special program pursuant to Rules 6A-6.03012,
13 6A-6.03013, 6A-6.03014, 6A-6.03015, 6A-6.03016, 6A-6.03018,
14 6A-6.03020, 6A-6.03021, 6A-6.03022, and 6A-6.03023, Florida
15 Administrative Code. The term "students with disabilities"
16 includes students who are speech and language impaired, deaf
17 or hard of hearing, visually impaired, physically impaired,
18 emotionally handicapped, specific learning disabled, homebound
19 or hospitalized, dual sensory impaired, or autistic.

20 Section 2. Section 229.05371, Florida Statutes, is
21 amended to read:

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

24 229.05371 Scholarships to public or private school of
25 choice for students with disabilities.--

26 (1) SCHOLARSHIP PROGRAM.--There is established a
27 program, which is separate and distinct from the Opportunity
28 Scholarship Program, to provide scholarships to a public or
29 private school of choice for students with disabilities, as
30 defined in s. 228.041(19), and for whom an individual
31

1 education plan has been written in accordance with rules of
2 the Commissioner of Education or the State Board of Education.

3 (2) SCHOLARSHIP ELIGIBILITY.--The parent of a public
4 school student with a disability whose academic progress in at
5 least two areas has not met expected levels for the previous
6 year, as determined by the student's individual education
7 plan, may request and receive from the state a scholarship for
8 the child to enroll in and attend a private school in
9 accordance with this section if:

10 (a) By assigned school attendance area or by special
11 assignment, the student has spent the prior school year in
12 attendance at a Florida public school; and

13 (b) The parent has obtained acceptance for admission
14 of the student to a private school that is eligible for the
15 program under subsection (4) and has notified the school
16 district of the request for a scholarship at least 60 days
17 prior to the date of the first scholarship payment.

18
19 This section does not apply to a student who is enrolled in a
20 school operating for the purpose of providing educational
21 services to youth in Department of Juvenile Justice commitment
22 programs. For purposes of continuity of educational choice,
23 the scholarship shall remain in force until the student
24 returns to a public school or graduates from high school.
25 However, at any time, the student's parent may remove the
26 student from the private school and place the student in
27 another private school that is eligible for the program under
28 subsection (4) or a public school as provided in paragraph
29 (3)(d).

30 (3) SCHOOL DISTRICT AND DEPARTMENT OF EDUCATION
31 OBLIGATIONS.--

1 (a) A school district shall timely notify the parent
2 of the student of all options available pursuant to this
3 section and offer the student's parent an opportunity to
4 enroll the student in another public school within the
5 district. The parent is not required to accept this offer in
6 lieu of requesting a scholarship to a private school. However,
7 if the parent chooses a public school option, the student may
8 continue attending the public school chosen by the parent
9 until the student graduates from high school. When a parent
10 chooses the public school option, the school district will
11 provide transportation to the public school selected by the
12 parent.

13 (b) For a student with disabilities who does not have
14 a matrix of services under s. 236.025, the school district
15 must complete a matrix that assigns the student to one of the
16 levels of service as they existed prior to the 2000-2001
17 school year. The school district must complete the matrix of
18 services for any student who is participating in the
19 scholarship program for students with disabilities and must
20 notify the Department of Education of the student's matrix
21 level within 30 days after receiving notification by the
22 student's parent of intent to participate in the scholarship
23 program. The Department of Education shall notify the private
24 school of the amount of the scholarship within 10 days after
25 receiving the school district's notification of the student's
26 matrix level.

27 (c) If the parent chooses the private school option
28 and the student is accepted by the private school pending the
29 availability of a space for the student, the parent of the
30 student must notify the school district prior to entry into
31 the private school in order to be eligible for the scholarship

1 when a space becomes available for the student in the private
2 school.

3 (d) The parent of a student may choose, as an
4 alternative, to enroll the student in and transport the
5 student to a public school in an adjacent school district
6 which has available space, and that school district shall
7 accept the student and report the student for purposes of the
8 district's funding pursuant to the Florida Education Finance
9 Program.

10 (e) A school district must notify the Department of
11 Education within 10 days after it receives notification of a
12 parent's intent to apply for a scholarship for a student with
13 a disability.

14 (4) PRIVATE SCHOOL ELIGIBILITY.--To be eligible to
15 participate in the scholarship program for students with
16 disabilities, a private school must be a Florida private
17 school, may be sectarian or nonsectarian, and must:

18 (a) Demonstrate fiscal soundness by being in operation
19 for one school year or provide the Department of Education
20 with a statement by a certified public accountant confirming
21 that the private school desiring to participate is insured and
22 the owner or owners have sufficient capital or credit to
23 operate the school for the upcoming year serving the number of
24 students anticipated with expected revenues from tuition and
25 other sources that may be reasonably expected. In lieu of such
26 a statement, a surety bond or letter of credit for the amount
27 equal to the scholarship funds for any quarter may be filed
28 with the department.

29 (b) Notify the Department of Education of its intent
30 to participate in the program under this section by May 1 of
31 the school year preceding the school year in which it intends

1 to participate. The notice must specify the grade levels and
2 services that the private school has available for students
3 with disabilities who are participating in the scholarship
4 program.

5 (c) Comply with the antidiscrimination provisions of
6 42 U.S.C. s. 2000d.

7 (d) Meet state and local health and safety laws and
8 codes.

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

11 (f) Employ or contract with teachers who hold
12 baccalaureate or higher degrees, or have at least 3 years of
13 teaching experience in public or private schools, or have
14 special skills, knowledge, or expertise that qualifies them to
15 provide instruction in subjects taught.

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

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

20 (5) OBLIGATION OF PROGRAM PARTICIPANTS.--

21 (a) A parent who applies for a scholarship for a
22 student with a disability is exercising his or her parental
23 option to place his or her child in a private school. The
24 parent must select the private school and apply for the
25 admission of his or her child.

26 (b) The parent must have requested the scholarship at
27 least 60 days prior to the date of the first scholarship
28 payment.

29 (c) Any student participating in the scholarship
30 program for students with disabilities must remain in
31 attendance throughout the school year, unless excused by the

1 school for illness or other good cause, and must comply fully
2 with the school's code of conduct.

3 (d) The parent of each student participating in the
4 scholarship program for students with disabilities must comply
5 fully with the private school's parental involvement
6 requirements, unless excused by the school for illness or
7 other good cause.

8 (e) Upon receipt of a scholarship warrant, the parent
9 to whom the warrant is made must restrictively endorse the
10 warrant to the private school for deposit into the account of
11 the private school.

12 (f) A participant who fails to comply with this
13 subsection forfeits the scholarship.

14 (6) SCHOLARSHIP FUNDING AND PAYMENT.--

15 (a)1. The maximum scholarship granted for an eligible
16 student with disabilities shall be a calculated amount
17 equivalent to the base student allocation in the Florida
18 Education Finance Program multiplied by the appropriate cost
19 factor for the educational program that would have been
20 provided for the student in the district school to which he or
21 she was assigned, multiplied by the district cost
22 differential. In addition, the calculated amount shall include
23 the per-student share of instructional materials funds,
24 technology funds, and other categorical funds as provided for
25 such purposes in the General Appropriations Act.

26 2. If the General Appropriations Act does not specify
27 a program cost factor for the program to which a student is
28 assigned, based upon completion of a matrix of services for
29 the student, a program cost factor shall be calculated using
30 the following procedure:

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1 a. First, historical cost factor ratios shall be
2 calculated by dividing the Level 1, Level 2, and Level 3
3 program cost factors by the program cost factor for Level 5
4 for the most recent year for which all five exceptional-child
5 program cost factors were defined in the General
6 Appropriations Act; and

7 b. Second, the historical cost factor ratio for the
8 program to which a student is assigned and for which a
9 scholarship entitlement is being calculated shall be
10 multiplied by the Level 5 program cost factor defined in the
11 General Appropriations Act for the school year for which the
12 scholarship entitlement is being calculated.

13 (b) The amount of the scholarship for students with
14 disabilities shall be the calculated amount or the amount of
15 the private school's tuition and fees, whichever is less. The
16 amount of any assessment fee required by the participating
17 private school may be paid from the total amount of the
18 scholarship.

19 (c) The school district shall report all students who
20 are attending a private school under this program. The
21 students with disabilities attending private schools on
22 scholarships shall be reported separately from other students
23 reported for purposes of the Florida Education Finance
24 Program.

25 (d) Following notification on July 1, September 1,
26 December 1, or February 1 of the number of program
27 participants, the Department of Education shall transfer, from
28 General Revenue funds only, the amount calculated under
29 paragraph (b) from the school district's total funding
30 entitlement under the Florida Education Finance Program and
31 from authorized categorical accounts to a separate account for

1 the scholarship program for quarterly disbursement to the
2 parents of participating students. When a student enters the
3 scholarship program, the Department of Education must receive
4 all documentation required for the student's participation,
5 including the private school's fee schedules, at least 30 days
6 before the first quarterly scholarship payment is made for the
7 student. The Department of Education may not make any
8 retroactive payments and may not prorate payments.

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

23 (7) LIABILITY.--No liability shall arise on the part
24 of the state based on any grant or use of a scholarship for
25 students with disabilities.

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

1 regulation of private schools beyond those reasonably
2 necessary to enforce requirements expressly set forth in this
3 section.

4 Section 3. Subsection (3) of section 228.121, Florida
5 Statutes, is amended to read:

6 228.121 Nonresident tuition fee; tuition fee
7 exemptions.--

8 (3) No tuition shall be charged pupils who are
9 homeless children as defined in s. 228.041~~(36)~~~~(35)~~; pupils
10 whose parent, parents, or guardian are in the federal military
11 service or are civilian employees, the cost of whose education
12 is provided in part or in whole by federal subsidy to
13 state-supported schools; or pupils whose parent, parents, or
14 guardian are migratory agricultural workers. No tuition shall
15 be charged pupils who reside in residential care facilities
16 operated by the Department of Children and Family Services and
17 who receive their education under s. 230.23(4)(n).

18 Section 4. Paragraph (d) of subsection (3) of section
19 230.2316, Florida Statutes, is amended to read:

20 230.2316 Dropout prevention.--

21 (3) STUDENT ELIGIBILITY AND PROGRAM CRITERIA.--

22 (d)1. "Second chance schools" means school district
23 programs provided through cooperative agreements between the
24 Department of Juvenile Justice, private providers, state or
25 local law enforcement agencies, or other state agencies for
26 students who have been disruptive or violent or who have
27 committed serious offenses. As partnership programs, second
28 chance schools are eligible for waivers by the Commissioner of
29 Education from chapters 230-235 and 239 and State Board of
30 Education rules that prevent the provision of appropriate
31 educational services to violent, severely disruptive, or

1 delinquent students in small nontraditional settings or in
2 court-adjudicated settings.

3 2. School districts seeking to enter into a
4 partnership with a private entity or public entity to operate
5 a second chance school for disruptive students may apply to
6 the Department of Education for startup grants from the
7 Department of Education. These grants must be available for 1
8 year and must be used to offset the startup costs for
9 implementing such programs off public school campuses. General
10 operating funds must be generated through the appropriate
11 programs of the Florida Education Finance Program. Grants
12 approved under this program shall be for the full operation of
13 the school by a private nonprofit or for-profit provider or
14 the public entity. This program must operate under rules
15 adopted by the Department of Education and must be implemented
16 to the extent funded by the Legislature.

17 3. A student enrolled in a sixth, seventh, eighth,
18 ninth, or tenth grade class may be assigned to a second chance
19 school if the student meets the following criteria:

20 a. The student is a habitual truant as defined in s.
21 228.041(29)~~(28)~~.

22 b. The student's excessive absences have detrimentally
23 affected the student's academic progress and the student may
24 have unique needs that a traditional school setting may not
25 meet.

26 c. The student's high incidences of truancy have been
27 directly linked to a lack of motivation.

28 d. The student has been identified as at risk of
29 dropping out of school.

30 4. A student who is habitually truant may be assigned
31 to a second chance school only if the case staffing committee,

1 established pursuant to s. 984.12, determines that such
2 placement could be beneficial to the student and the criteria
3 included in subparagraph 2. are met.

4 5. A student may be assigned to a second chance school
5 if the school district in which the student resides has a
6 second chance school and if the student meets one of the
7 following criteria:

8 a. The student habitually exhibits disruptive behavior
9 in violation of the code of student conduct adopted by the
10 school board.

11 b. The student interferes with the student's own
12 learning or the educational process of others and requires
13 attention and assistance beyond that which the traditional
14 program can provide, or, while the student is under the
15 jurisdiction of the school either in or out of the classroom,
16 frequent conflicts of a disruptive nature occur.

17 c. The student has committed a serious offense which
18 warrants suspension or expulsion from school according to the
19 district code of student conduct. For the purposes of this
20 program, "serious offense" is behavior which:

21 (I) Threatens the general welfare of students or
22 others with whom the student comes into contact;

23 (II) Includes violence;

24 (III) Includes possession of weapons or drugs; or

25 (IV) Is harassment or verbal abuse of school personnel
26 or other students.

27 6. Prior to assignment of students to second chance
28 schools, school boards are encouraged to use alternative
29 programs, such as in-school suspension, which provide
30 instruction and counseling leading to improved student
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1 behavior, a reduction in the incidence of truancy, and the
2 development of more effective interpersonal skills.

3 7. Students assigned to second chance schools must be
4 evaluated by the school's local child study team before
5 placement in a second chance school. The study team shall
6 ensure that students are not eligible for placement in a
7 program for emotionally disturbed children.

8 8. Students who exhibit academic and social progress
9 and who wish to return to a traditional school shall complete
10 a character development and law education program, as provided
11 in s. 233.0612, and demonstrate preparedness to reenter the
12 regular school setting prior to reentering a traditional
13 school.

14 Section 5. Subsection (5) of section 230.23161,
15 Florida Statutes, is amended to read:

16 230.23161 Educational services in Department of
17 Juvenile Justice programs.--

18 (5) A school day for any student serviced in a
19 Department of Juvenile Justice program shall be the same as
20 specified in s. 228.041(13). Educational services shall be
21 provided at times of the day most appropriate for the juvenile
22 justice program. School programming in juvenile justice
23 detention, commitment, and rehabilitation programs shall be
24 made available by the local school district during the
25 juvenile justice school year, as defined in s.
26 228.041(44)~~(43)~~.

27 Section 6. Paragraph (h) of subsection (1) and
28 paragraphs (b) and (c) of subsection (7) of section 232.246,
29 Florida Statutes, are amended to read:

30 232.246 General requirements for high school
31 graduation.--

1 (1) Graduation requires successful completion of
2 either a minimum of 24 academic credits in grades 9 through 12
3 or an International Baccalaureate curriculum. The 24 credits
4 shall be distributed as follows:

5 (h)1. One credit in practical arts career education or
6 exploratory career education. Any vocational course as
7 defined in s. 228.041(23)~~(22)~~ may be taken to satisfy the high
8 school graduation requirement for one credit in practical arts
9 or exploratory career education provided in this subparagraph;

10 2. One credit in performing fine arts to be selected
11 from music, dance, drama, painting, or sculpture. A course in
12 any art form, in addition to painting or sculpture, that
13 requires manual dexterity, or a course in speech and debate,
14 may be taken to satisfy the high school graduation requirement
15 for one credit in performing arts pursuant to this
16 subparagraph; or

17 3. One-half credit each in practical arts career
18 education or exploratory career education and performing fine
19 arts, as defined in this paragraph.

20
21 Such credit for practical arts career education or exploratory
22 career education or for performing fine arts shall be made
23 available in the 9th grade, and students shall be scheduled
24 into a 9th grade course as a priority.

25 (7) No student may be granted credit toward high
26 school graduation for enrollment in the following courses or
27 programs:

28 (b) More than one credit in exploratory vocational
29 courses as defined in s. 228.041(23)~~(22)~~(a).

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1 (c) More than three credits in practical arts family
2 and consumer sciences classes as defined in s.
3 228.041(23)~~(22)~~(a).

4 Section 7. Paragraph (a) of subsection (7) of section
5 240.116, Florida Statutes, is amended to read:

6 240.116 Articulated acceleration.--

7 (7)(a) It is the intent of the Legislature to provide
8 articulated acceleration mechanisms for students who are in
9 home education programs, as defined in s. 228.041(35)~~(34)~~,
10 consistent with the educational opportunities available to
11 public and private secondary school students. Home education
12 students may participate in dual enrollment, vocational dual
13 enrollment, early admission, and credit by examination. Credit
14 earned by home education students through dual enrollment
15 shall apply toward the completion of a home education program
16 that meets the requirements of s. 232.0201.

17 Section 8. Subsection (1) of section 414.125, Florida
18 Statutes, is amended to read:

19 414.125 Learnfare program.--

20 (1) The department shall reduce the temporary cash
21 assistance for a participant's eligible dependent child or for
22 an eligible teenage participant who has not been exempted from
23 education participation requirements and who has been
24 identified as a habitual truant, pursuant to s.
25 228.041(29)~~(28)~~. The temporary cash assistance must be
26 reinstated after a subsequent grading period in which the
27 child has substantially improved the child's attendance. Good
28 cause exemptions from the rule of unexcused absences include
29 the following:

30 (a) The student is expelled from school and
31 alternative schooling is not available.

1 (b) No licensed day care is available for a child of
2 teen parents subject to Learnfare.

3 (c) Prohibitive transportation problems exist (e.g.,
4 to and from day care).

5 (d) The teen is over 16 years of age and not expected
6 to graduate from high school by age 20.

7
8 Within 10 days after sanction notification, the participant
9 parent of a dependent child or the teenage participant may
10 file an internal fair hearings process review procedure
11 appeal, and no sanction shall be imposed until the appeal is
12 resolved.

13 Section 9. This act shall take effect upon becoming a
14 law.

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17 HOUSE SUMMARY

18 Defines "students with disabilities." Creates a program
19 to provide scholarships for certain students with
20 disabilities who choose to attend a higher-performing
21 public school or a private school. Provides eligibility
22 requirements for a student to receive a scholarship.
23 Provides for the amount of the scholarship to equal the
24 amount the student would have received under the Florida
25 Education Finance Program or the amount of the private
26 school tuition, whichever is less. Provides requirements
27 for private schools that participate in the scholarship
28 program. Requires that funds be disbursed quarterly to
29 the parent of a scholarship recipient. Authorizes the
30 State Board of Education to adopt rules to administer the
31 program. See bill for details.