

By the Committee on Education Innovation and  
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.

17  
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 in chapter  
13 6A-6, Florida Administrative Code. The term "students with  
14 disabilities" includes students who are mentally handicapped,  
15 speech and language impaired, deaf or hard of hearing,  
16 visually impaired, physically impaired, emotionally  
17 handicapped, specific learning disabled, homebound or  
18 hospitalized, dual sensory impaired, or autistic.

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

21 (Substantial rewording of section. See  
22 s. 229.05371, F.S., for present text.)  
23 229.05371 Scholarships to public or private school of  
24 choice for students with disabilities.--

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

1       (2) SCHOLARSHIP ELIGIBILITY.--The parent of a public  
2 school student with a disability who is dissatisfied with the  
3 student's progress may request and receive from the state a  
4 scholarship for the child to enroll in and attend a private  
5 school in accordance with this section if:

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

9           (b) The parent has obtained acceptance for admission  
10 of the student to a private school that is eligible for the  
11 program under subsection (4) and has notified, in writing, the  
12 school district of the request for a scholarship at least 60  
13 days prior to the date of the first scholarship payment. Prior  
14 school year in attendance means that the student was in  
15 attendance and reported by a school district for funding as a  
16 student with a disability for the preceding October or  
17 February Florida Education Finance Program surveys in  
18 kindergarten through grade 12.

19  
20 This section does not apply to a student who is enrolled in a  
21 school operating for the purpose of providing educational  
22 services to youth in Department of Juvenile Justice commitment  
23 programs. For purposes of continuity of educational choice,  
24 the scholarship shall remain in force until the student  
25 returns to a public school or graduates from high school.  
26 However, at any time, the student's parent may remove the  
27 student from the private school and place the student in  
28 another private school that is eligible for the program under  
29 subsection (4) or a public school as provided in subsection  
30 (3).

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1           (3) SCHOOL DISTRICT AND DEPARTMENT OF EDUCATION  
2 OBLIGATIONS.--  
3           (a) A school district shall timely notify the parent  
4 of the student of all options available pursuant to this  
5 section and offer that student's parent an opportunity to  
6 enroll the student in another public school within the  
7 district. The parent is not required to accept this offer in  
8 lieu of requesting a scholarship to a private school. However,  
9 if the parent chooses the public school option, the student  
10 may continue attending a public school chosen by the parent  
11 until the student graduates from high school. If the parent  
12 chooses a public school consistent with the school board's  
13 choice plan under s. 228.057, the school district will provide  
14 transportation to the public school selected by the parent.  
15 The parent is responsible to provide transportation to a  
16 public school chosen that is not consistent with the school  
17 board's choice plan under s. 228.057.  
18           (b) For a student with disabilities who does not have  
19 a matrix of services under s. 236.025, the school district  
20 must complete a matrix that assigns the student to one of the  
21 levels of service as they existed prior to the 2000-2001  
22 school year. The school district must complete the matrix of  
23 services for any student who is participating in the  
24 scholarship program for students with disabilities and must  
25 notify the Department of Education of the student's matrix  
26 level within 30 days after receiving notification by the  
27 student's parent of intent to participate in the scholarship  
28 program. The Department of Education shall notify the private  
29 school of the amount of the scholarship within 10 days after  
30 receiving the school district's notification of the student's  
31 matrix level.

1       (c) If the parent chooses the private school option  
2 and the student is accepted by the private school pending the  
3 availability of a space for the student, the parent of the  
4 student must notify the school district prior to entry into  
5 the private school in order to be eligible for the scholarship  
6 when a space becomes available for the student in the private  
7 school.

8       (d) The parent of a student may choose, as an  
9 alternative, to enroll the student in and transport the  
10 student to a public school in an adjacent school district  
11 which has available space and has a program with the services  
12 agreed to in the student's individual education plan already  
13 in place, and that school district shall accept the student  
14 and report the student for purposes of the district's funding  
15 pursuant to the Florida Education Finance Program.

16       (e) For a student in the district who participates in  
17 the scholarship program for students with disabilities whose  
18 parent requests that the student take the statewide  
19 assessments under s. 229.57, the district shall provide  
20 locations and times to take all statewide assessments.

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

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

29       (a) Demonstrate fiscal soundness by being in operation  
30 for 1 school year or provide the Department of Education with  
31 a statement by a certified public accountant confirming that

1 the private school desiring to participate is insured and the  
2 owner or owners have sufficient capital or credit to operate  
3 the school for the upcoming year serving the number of  
4 students anticipated with expected revenues from tuition and  
5 other sources that may be reasonably expected. In lieu of such  
6 a statement, a surety bond or letter of credit for the amount  
7 equal to the scholarship funds for any quarter may be filed  
8 with the department.

9 (b) Notify the Department of Education of its intent  
10 to participate in the program under this section by May 1 of  
11 the school year preceding the school year in which it intends  
12 to participate. The notice must specify the grade levels and  
13 services that the private school has available for students  
14 with disabilities who are participating in the scholarship  
15 program.

16 (c) Comply with the antidiscrimination provisions of  
17 42 U.S.C. s. 2000d.

18 (d) Meet state and local health and safety laws and  
19 codes.

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

22 (f) Employ or contract with teachers who hold  
23 baccalaureate or higher degrees, or have at least 3 years of  
24 teaching experience in public or private schools, or have  
25 special skills, knowledge, or expertise that qualifies them to  
26 provide instruction in subjects taught.

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

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

31 (5) OBLIGATION OF PROGRAM PARTICIPANTS.--

1       (a) A parent who applies for a scholarship for a  
2 student with a disability is exercising his or her parental  
3 option to place his or her child in a private school. The  
4 parent must select the private school and apply for the  
5 admission of his or her child.

6       (b) The parent must have requested the scholarship at  
7 least 60 days prior to the date of the first scholarship  
8 payment.

9       (c) Any student participating in the scholarship  
10 program for students with disabilities must remain in  
11 attendance throughout the school year, unless excused by the  
12 school for illness or other good cause, and must comply fully  
13 with the school's code of conduct.

14       (d) The parent of each student participating in the  
15 scholarship program for students with disabilities must comply  
16 fully with the private school's parental involvement  
17 requirements, unless excused by the school for illness or  
18 other good cause.

19       (e) If the parent requests that the student  
20 participating in the scholarship program for students with  
21 disabilities take all statewide assessments required pursuant  
22 to s. 229.57, the parent is responsible for transporting the  
23 student to the assessment site designated by the school  
24 district.

25       (f) Upon receipt of a scholarship warrant, the parent  
26 to whom the warrant is made must restrictively endorse the  
27 warrant to the private school for deposit into the account of  
28 the private school.

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

31       (6) SCHOLARSHIP FUNDING AND PAYMENT.--

1       (a)1. The maximum scholarship granted for an eligible  
2 student with disabilities shall be a calculated amount  
3 equivalent to the base student allocation in the Florida  
4 Education Finance Program multiplied by the appropriate cost  
5 factor for the educational program that would have been  
6 provided for the student in the district school to which he or  
7 she was assigned, multiplied by the district cost  
8 differential. In addition, the calculated amount shall include  
9 the per-student share of instructional materials funds,  
10 technology funds, and other categorical funds as provided for  
11 such purposes in the General Appropriations Act.

12       2. If the General Appropriations Act does not specify  
13 a program cost factor for the program to which a student is  
14 assigned, based upon completion of a matrix of services for  
15 the student, a program cost factor shall be calculated using  
16 the following procedure:

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

23       b. Second, the historical cost factor ratio for the  
24 program to which a student is assigned and for which a  
25 scholarship entitlement is being calculated shall be  
26 multiplied by the Level 5 program cost factor defined in the  
27 General Appropriations Act for the school year for which the  
28 scholarship entitlement is being calculated.

29       (b) The amount of the scholarship for students with  
30 disabilities shall be the calculated amount or the amount of  
31 the private school's tuition and fees, whichever is less. The



1 amount of any assessment fee required by the participating  
2 private school may be paid from the total amount of the  
3 scholarship.

4 (c) The school district shall report all students who  
5 are attending a private school under this program. The  
6 students with disabilities attending private schools on  
7 scholarships shall be reported separately from other students  
8 reported for purposes of the Florida Education Finance  
9 Program.

10 (d) Following notification on July 1, September 1,  
11 December 1, or February 1 of the number of program  
12 participants, the Department of Education shall transfer, from  
13 General Revenue funds only, the amount calculated under  
14 paragraph (b) from the school district's total funding  
15 entitlement under the Florida Education Finance Program and  
16 from authorized categorical accounts to a separate account for  
17 the scholarship program for quarterly disbursement to the  
18 parents of participating students. When a student enters the  
19 scholarship program, the Department of Education must receive  
20 all documentation required for the student's participation,  
21 including the private school's and student's fee schedules, at  
22 least 30 days before the first quarterly scholarship payment  
23 is made for the student. The Department of Education may not  
24 make any retroactive payments and may not prorate payments.

25 (e) Upon proper documentation reviewed and approved by  
26 the Department of Education, the Comptroller shall make  
27 scholarship payments in four equal amounts no later than  
28 September 1, November 1, February 1, and April 1 of each  
29 academic year in which the scholarship is in force. The  
30 initial payment shall be made after Department of Education  
31 verification of admission acceptance, and subsequent payments

1 shall be made upon verification of continued enrollment and  
2 attendance at the private school. Payment must be by  
3 individual warrant made payable to the student's parent and  
4 mailed by the Department of Education to the private school of  
5 the parent's choice, and the parent shall restrictively  
6 endorse the warrant to the private school for deposit into the  
7 account of the private school.

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

11 (8) RULES.--The State Board of Education may adopt  
12 rules pursuant to ss. 120.536(1) and 120.54 to administer this  
13 section. However, the inclusion of eligible private schools  
14 within options available to Florida public school students  
15 does not expand the regulatory authority of the state, its  
16 officers, or any school district to impose any additional  
17 regulation of private schools beyond those reasonably  
18 necessary to enforce requirements expressly set forth in this  
19 section.

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

22 228.121 Nonresident tuition fee; tuition fee  
23 exemptions.--

24 (3) No tuition shall be charged pupils who are  
25 homeless children as defined in s. 228.041~~(36)~~~~(35)~~; pupils  
26 whose parent, parents, or guardian are in the federal military  
27 service or are civilian employees, the cost of whose education  
28 is provided in part or in whole by federal subsidy to  
29 state-supported schools; or pupils whose parent, parents, or  
30 guardian are migratory agricultural workers. No tuition shall  
31 be charged pupils who reside in residential care facilities

1 operated by the Department of Children and Family Services and  
2 who receive their education under s. 230.23(4)(n).

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

5 230.2316 Dropout prevention.--

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

7 (d)1. "Second chance schools" means school district  
8 programs provided through cooperative agreements between the  
9 Department of Juvenile Justice, private providers, state or  
10 local law enforcement agencies, or other state agencies for  
11 students who have been disruptive or violent or who have  
12 committed serious offenses. As partnership programs, second  
13 chance schools are eligible for waivers by the Commissioner of  
14 Education from chapters 230-235 and 239 and State Board of  
15 Education rules that prevent the provision of appropriate  
16 educational services to violent, severely disruptive, or  
17 delinquent students in small nontraditional settings or in  
18 court-adjudicated settings.

19 2. School districts seeking to enter into a  
20 partnership with a private entity or public entity to operate  
21 a second chance school for disruptive students may apply to  
22 the Department of Education for startup grants from the  
23 Department of Education. These grants must be available for 1  
24 year and must be used to offset the startup costs for  
25 implementing such programs off public school campuses. General  
26 operating funds must be generated through the appropriate  
27 programs of the Florida Education Finance Program. Grants  
28 approved under this program shall be for the full operation of  
29 the school by a private nonprofit or for-profit provider or  
30 the public entity. This program must operate under rules

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1 adopted by the Department of Education and must be implemented  
2 to the extent funded by the Legislature.

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

6 a. The student is a habitual truant as defined in s.  
7 228.041(29)~~(28)~~.

8 b. The student's excessive absences have detrimentally  
9 affected the student's academic progress and the student may  
10 have unique needs that a traditional school setting may not  
11 meet.

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

14 d. The student has been identified as at risk of  
15 dropping out of school.

16 4. A student who is habitually truant may be assigned  
17 to a second chance school only if the case staffing committee,  
18 established pursuant to s. 984.12, determines that such  
19 placement could be beneficial to the student and the criteria  
20 included in subparagraph 2. are met.

21 5. A student may be assigned to a second chance school  
22 if the school district in which the student resides has a  
23 second chance school and if the student meets one of the  
24 following criteria:

25 a. The student habitually exhibits disruptive behavior  
26 in violation of the code of student conduct adopted by the  
27 school board.

28 b. The student interferes with the student's own  
29 learning or the educational process of others and requires  
30 attention and assistance beyond that which the traditional  
31 program can provide, or, while the student is under the

1 jurisdiction of the school either in or out of the classroom,  
2 frequent conflicts of a disruptive nature occur.

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

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

9 (II) Includes violence;

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

11 (IV) Is harassment or verbal abuse of school personnel  
12 or other students.

13 6. Prior to assignment of students to second chance  
14 schools, school boards are encouraged to use alternative  
15 programs, such as in-school suspension, which provide  
16 instruction and counseling leading to improved student  
17 behavior, a reduction in the incidence of truancy, and the  
18 development of more effective interpersonal skills.

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

24 8. Students who exhibit academic and social progress  
25 and who wish to return to a traditional school shall complete  
26 a character development and law education program, as provided  
27 in s. 233.0612, and demonstrate preparedness to reenter the  
28 regular school setting prior to reentering a traditional  
29 school.

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

1           230.23161 Educational services in Department of  
2 Juvenile Justice programs.--

3           (5) A school day for any student serviced in a  
4 Department of Juvenile Justice program shall be the same as  
5 specified in s. 228.041(13). Educational services shall be  
6 provided at times of the day most appropriate for the juvenile  
7 justice program. School programming in juvenile justice  
8 detention, commitment, and rehabilitation programs shall be  
9 made available by the local school district during the  
10 juvenile justice school year, as defined in s.  
11 228.041(44)~~(43)~~.

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

15           232.246 General requirements for high school  
16 graduation.--

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

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

26           2. One credit in performing fine arts to be selected  
27 from music, dance, drama, painting, or sculpture. A course in  
28 any art form, in addition to painting or sculpture, that  
29 requires manual dexterity, or a course in speech and debate,  
30 may be taken to satisfy the high school graduation requirement  
31

1 for one credit in performing arts pursuant to this  
2 subparagraph; or

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

6  
7 Such credit for practical arts career education or exploratory  
8 career education or for performing fine arts shall be made  
9 available in the 9th grade, and students shall be scheduled  
10 into a 9th grade course as a priority.

11 (7) No student may be granted credit toward high  
12 school graduation for enrollment in the following courses or  
13 programs:

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

16 (c) More than three credits in practical arts family  
17 and consumer sciences classes as defined in s.  
18 228.041(23)(~~22~~)(a).

19 Section 7. Paragraph (a) of subsection (7) of section  
20 240.116, Florida Statutes, is amended to read:

21 240.116 Articulated acceleration.--

22 (7)(a) It is the intent of the Legislature to provide  
23 articulated acceleration mechanisms for students who are in  
24 home education programs, as defined in s. 228.041(35)(~~34~~),  
25 consistent with the educational opportunities available to  
26 public and private secondary school students. Home education  
27 students may participate in dual enrollment, vocational dual  
28 enrollment, early admission, and credit by examination. Credit  
29 earned by home education students through dual enrollment  
30 shall apply toward the completion of a home education program  
31 that meets the requirements of s. 232.0201.

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

3           414.125 Learnfare program.--

4           (1) The department shall reduce the temporary cash  
5 assistance for a participant's eligible dependent child or for  
6 an eligible teenage participant who has not been exempted from  
7 education participation requirements and who has been  
8 identified as a habitual truant, pursuant to s.

9 228.041~~(29)~~(28). The temporary cash assistance must be  
10 reinstated after a subsequent grading period in which the  
11 child has substantially improved the child's attendance. Good  
12 cause exemptions from the rule of unexcused absences include  
13 the following:

14           (a) The student is expelled from school and  
15 alternative schooling is not available.

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

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

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

22  
23 Within 10 days after sanction notification, the participant  
24 parent of a dependent child or the teenage participant may  
25 file an internal fair hearings process review procedure  
26 appeal, and no sanction shall be imposed until the appeal is  
27 resolved.

28           Section 9. This act shall take effect upon becoming a  
29 law.

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31