

By the Council for Lifelong Learning and Committee on  
Education Innovation and Representative Meador

1                                   A bill to be entitled  
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.

26  
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 instructional materials funds, technology funds, and other  
27 categorical funds as provided for such purposes in the General  
28 Appropriations Act.

29 (b) The amount of the John M. McKay Scholarship shall  
30 be the calculated amount or the amount of the private school's  
31 tuition and fees, whichever is less. The amount of any

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

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

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

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



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

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

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

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

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