

Committee Substitute for  
Committee Substitute for Senate Bill No. 1180

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

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

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

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

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

(1) THE JOHN M. MCKAY SCHOLARSHIPS FOR STUDENTS WITH DISABILITIES PROGRAM.—The John M. McKay Scholarships for Students with Disabilities Program is established to provide the option to attend a public school other than the one to which assigned, or to provide a scholarship to a private school of choice, for students with disabilities for whom an individual education plan has been written in accordance with rules of the Commissioner of Education or the State Board of Education. Students with disabilities include K-12 students who are mentally handicapped, speech and language impaired, deaf or hard of hearing, visually impaired, dual sensory impaired, physically impaired, emotionally handicapped, specific learning disabled, hospitalized or homebound, or autistic.

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

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

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

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

(3) SCHOOL DISTRICT AND DEPARTMENT OF EDUCATION OBLIGATIONS.—

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

(b) For a student with disabilities who does not have a matrix of services under s. 236.025, the school district must complete a matrix that assigns the student to one of the levels of service as they existed prior to the 2000-2001 school year. The school district must complete the matrix of services for any student who is participating in the John M. McKay Scholarships for Students with Disabilities Program and must notify the Department of Education of the student's matrix level within 30 days after receiving notification by the student's parent of intent to participate in the scholarship program. The Department of Education shall notify the private school of the amount of the scholarship within 10 days after receiving the school district's notification of the student's matrix level.

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

(d) The parent of a student may choose, as an alternative, to enroll the student in and transport the student to a public school in an adjacent school district which has available space and has a program with the services

agreed to in the student's individual education plan already in place, and that school district shall accept the student and report the student for purposes of the district's funding pursuant to the Florida Education Finance Program.

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

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

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

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

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

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

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

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

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

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

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

(5) OBLIGATION OF PROGRAM PARTICIPANTS.—

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

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

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

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

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

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

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

(6) SCHOLARSHIP FUNDING AND PAYMENT.—

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

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

(b) The amount of the John M. McKay Scholarship shall be the calculated amount or the amount of the private school's tuition and fees, whichever is less. The amount of any assessment fee required by the participating private school may be paid from the total amount of the scholarship.

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

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

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

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

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

(8) RULES.—The State Board of Education may adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section. However, the inclusion of eligible private schools within options available to Florida public school students does not expand the regulatory authority of the state, its officers,

or any school district to impose any additional regulation of private schools beyond those reasonably necessary to enforce requirements expressly set forth in this section.

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

Approved by the Governor May 30, 2001.

Filed in Office Secretary of State May 30, 2001.