

By the Committee on Education

304-855C-04

1 A bill to be entitled
2 An act relating to accountability of the John
3 M. McKay Scholarships for Students with
4 Disabilities Program; amending s. 1002.39, F.S;
5 revising the definition of an eligible student;
6 revising the definition of prior school year in
7 attendance; revising the eligibility
8 requirements of the program to extend the term
9 of the scholarship; prohibiting certain
10 students from receiving a scholarship; revising
11 the parental notification requirements;
12 authorizing certain scholarship students to
13 participate in a distance learning or
14 correspondence course under certain
15 circumstances; providing a definition of timely
16 parental notification; providing requirements
17 for district school boards with respect to
18 completing and making changes to the matrix of
19 services for scholarship students; requiring
20 school districts to provide parental
21 notification related to reassessments; revising
22 requirements that a participating private
23 school demonstrate fiscal soundness; requiring
24 a surety bond; providing an exception;
25 requiring annual registration of private
26 schools; providing requirements for
27 documentation and notice; providing additional
28 requirements for participating private schools;
29 requiring annual sworn and notarized compliance
30 statements to be filed with the department;
31 requiring specific documentation for

1 participating scholarship students; requiring
2 that the private school maintain a physical
3 location in this state; requiring that
4 information be made available to potential
5 scholarship students and the department;
6 requiring scholarship students to participate
7 in assessments; requiring notification to
8 parents regarding student skill levels;
9 requiring notification to the department
10 regarding changes in information; requiring
11 notification to local health departments;
12 requiring fingerprinting of all private school
13 owners, employees, and contractors who are in
14 direct contact with students by a time certain;
15 specifying the personnel who are authorized to
16 take fingerprints; providing for the costs of
17 fingerprinting, criminal records checks, and
18 processing; requiring that the results of
19 fingerprint and criminal records checks be
20 forwarded to the owner of a private school and
21 the Department of Education; prohibiting a
22 private school from acting as an attorney in
23 fact for the parent of a scholarship student or
24 endorsing scholarship warrants on behalf of a
25 parent; prohibiting participating private
26 schools from sending or directing scholarship
27 funds to parents of a scholarship student who
28 receives instruction at home; prohibiting a
29 participating school from being a
30 correspondence or distance learning school;
31 prohibiting a participating school from

1 accepting students pending verification of
2 information; authorizing a participating
3 private school to request, and the department
4 to grant, closed-enrollment status for a
5 school; prohibiting the parent of a scholarship
6 student from designating a participating
7 private school as the parent's attorney in fact
8 to sign a scholarship warrant; clarifying that
9 the school district must report to the
10 department the students who are attending a
11 private school under the program; establishing
12 additional obligations of the Department of
13 Education; requiring the department to review,
14 approve, and verify information and review
15 background checks; requiring the department to
16 determine the eligibility of a private school
17 to participate in the program; requiring the
18 department to publish an on-line list of
19 current eligible private schools; requiring the
20 department to deny or refuse to renew the
21 registration of a private school for failing to
22 meet certain requirements; requiring the
23 department to issue a notice of noncompliance
24 for minor violations; providing for an
25 emergency order revoking the registration of a
26 private school for failing to satisfy the
27 requirements in the notice; requiring the
28 Department of Education to immediately revoke
29 the registration of a private school for
30 certain other violations; requiring the
31 department to revoke the scholarship for a

1 participant for failing to comply with
2 statutory requirements or for engaging in
3 specified practices; requiring the department
4 to conduct investigations of legally sufficient
5 complaints of violations; authorizing the
6 department to require supporting information or
7 documentation; authorizing the Department of
8 Education to change the matrix of services
9 under certain circumstances; providing for
10 audits by the Auditor General or an independent
11 certified public accountant; providing
12 requirements for the audits; requiring the
13 State Board of Education to adopt rules;
14 specifying the required rules; requiring the
15 State Board of Education to initiate the
16 adoption of rules by a time certain and report
17 to the Legislature; providing an effective
18 date.

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

21

22 Section 1. Subsections (1), (2), (3), (4), and (5) and
23 paragraphs (d) and (e) of subsection (6) of section 1002.39,
24 Florida Statutes, are amended, present subsections (7) and (8)
25 of that section are redesignated as subsections (9) and (10),
26 respectively, and amended, and new subsections (7) and (8) are
27 added to that section, to read:

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1002.39 The John M. McKay Scholarships for Students
with Disabilities Program.--There is established a program
that is separate and distinct from the Opportunity Scholarship

1 Program and is named the John M. McKay Scholarships for
2 Students with Disabilities Program, pursuant to this section.

3 (1) THE JOHN M. MCKAY SCHOLARSHIPS FOR STUDENTS WITH
4 DISABILITIES PROGRAM.--The John M. McKay Scholarships for
5 Students with Disabilities Program is established to provide
6 the option to attend a public school other than the one to
7 which assigned, or to provide a scholarship to a private
8 school of choice, for students with disabilities for whom an
9 individual education plan has been written in accordance with
10 rules of the State Board of Education. Students with
11 disabilities include K-12 students who are documented as
12 having mental retardation, a mentally handicapped, speech or
13 and language impairment, a impaired, deaf or hard of hearing
14 impairment, including deafness, a visual impairment, including
15 blindness, a, visually impaired, dual sensory impairment, a
16 physical impairment, a serious emotional disturbance,
17 including an emotional handicap, a impaired, physically
18 impaired, emotionally handicapped, specific learning
19 disability, including, but not limited to, dyslexia,
20 dyscalculia, or developmental aphasia, a traumatic brain
21 injury disabled, hospitalized or homebound, or autism
22 autistic.

23 (2) SCHOLARSHIP ELIGIBILITY; PROHIBITIONS.--

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

29 1.(a) By assigned school attendance area or by special
30 assignment, the student has spent the prior school year in
31 attendance at a Florida public school. Prior school year in

1 attendance means that the student was enrolled and reported as
2 an exceptional student with a disability, as defined in s.
3 1003.01(3), with an individual education plan by a school
4 district for funding during the preceding school year,
5 including the October and February Florida Education Finance
6 Program surveys in kindergarten through grade 12.

7 2.(b) The parent has obtained acceptance for admission
8 of the student to a private school that is eligible for the
9 program under subsection (4) and has notified the Department
10 of Education ~~school district~~ of the request for a scholarship
11 at least 60 days prior to the date of the first scholarship
12 payment. The parental notification must be through a
13 communication directly to the ~~district or through the~~
14 Department of Education ~~to the district~~ in a manner that
15 creates a written or electronic record of the notification and
16 the date of receipt of the notification. The Department of
17 Education must notify the district of the parent's intent,
18 upon receipt of the parent's notification.

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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 reaches the age of 22 ~~graduates~~
26 ~~from high school~~. However, at any time, the student's parent
27 may remove the student from the private school and place the
28 student in another private school that is eligible for the
29 program under subsection (4) or in a public school as provided
30 in subsection (3).

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1 (b) A student is not eligible to receive a scholarship
2 under this section if he or she:

3 1. Receives a scholarship from an eligible scholarship
4 funding organization under s. 220.187.

5 2. Receives an opportunity scholarship under s.
6 1002.38.

7 3. Participates in a home education program as defined
8 in s. 1002.01(1).

9 4. Receives instruction from a correspondence school
10 or participates in distance learning courses.

11 5. Does not have regular and direct contact with his
12 or her private school teachers at the school's physical
13 location.

14 6. Is enrolled in a school operating for the purpose
15 of providing educational services to youth in commitment
16 programs of the Department of Juvenile Justice.

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18 Notwithstanding the prohibition set forth in subparagraph 4.,
19 a student who receives a John M. McKay Scholarship may
20 participate in a distance learning course or a course offered
21 by a correspondence school, the tuition and other costs of
22 which are not paid by scholarship funds provided under this
23 section.

24 (3) SCHOOL DISTRICT AND DEPARTMENT OF EDUCATION
25 OBLIGATIONS.--

26 (a) The Department of Education ~~A school district~~
27 shall timely notify the parent of each public school ~~the~~
28 student of all options available pursuant to this section and
29 offer that student's parent an opportunity to enroll the
30 student in another public school within the district. The
31 parent is not required to accept this offer in lieu of

1 requesting a John M. McKay Scholarship to a private school.
2 However, if the parent chooses the public school option, the
3 student may continue attending a public school chosen by the
4 parent until the student graduates from high school. If the
5 parent chooses a public school consistent with the district
6 school board's choice plan under s. 1002.31, the school
7 district shall provide transportation to the public school
8 selected by the parent. The parent is responsible to provide
9 transportation to a public school chosen that is not
10 consistent with the district school board's choice plan under
11 s. 1002.31. For purposes of this paragraph, timely
12 notification means notification no later than April 1 of each
13 school year.

14 (b)1. For a student with disabilities who does not
15 have a matrix of services under s. 1011.62(1)(e), the school
16 district must complete a matrix that assigns the student to
17 one of the levels of service as they existed prior to the
18 2000-2001 school year.

19 2.a. The school district must complete the matrix of
20 services for any student who is participating in the John M.
21 McKay Scholarships for Students with Disabilities Program and
22 must notify the Department of Education of the student's
23 matrix level within 30 days after receiving notification by
24 the Department of Education of the parent's ~~student's parent~~
25 ~~of~~ intent to participate in the scholarship program. The
26 nature and intensity of the services indicated in the matrix
27 must be consistent with the services described in the
28 student's individual education plan.

29 b. A school district may change a matrix of services
30 only if the change is to:
31

1 (I) Correct a technical, typographical, or calculation
2 error; or

3 (II) Align the matrix of services with the student's
4 individual education plan completed by the public school
5 district for use in the public school prior to the student
6 enrolling in or attending a private school.

7 3. The Department of Education shall notify the
8 private school of the amount of the scholarship within 10 days
9 after receiving the school district's notification of the
10 student's matrix level.

11 4. Within 10 school days after it receives
12 notification of a parent's intent to apply for a McKay
13 Scholarship, a district school board must notify the student's
14 parent if the matrix has not been completed and provide the
15 parent with the date for completion of the matrix required in
16 this paragraph.

17 (c) If the parent chooses the private school option
18 and the student is accepted by the private school pending the
19 availability of a space for the student, the parent of the
20 student must notify the Department of Education ~~school~~
21 ~~district~~ 60 days prior to the first scholarship payment and
22 before entering the private school in order to be eligible for
23 the scholarship when a space becomes available for the student
24 in the private school.

25 (d) The parent of a student may choose, as an
26 alternative, to enroll the student in and transport the
27 student to a public school in an adjacent school district
28 which has available space and has a program with the services
29 agreed to in the student's individual education plan already
30 in place, and that school district shall accept the student
31 and report the student to the Department of Education for

1 purposes of the district's funding pursuant to the Florida
2 Education Finance Program.

3 (e) For a student in the district who participates in
4 the John M. McKay Scholarships for Students with Disabilities
5 Program whose parent requests that the student take the
6 statewide assessments under s. 1008.22, the district shall
7 provide locations and times to take all statewide assessments.

8 (f) ~~A school district must notify~~ The Department of
9 Education must notify the school district upon receipt of the
10 ~~within 10 days after it receives~~ notification of a parent's
11 intent to apply for a scholarship for a student with a
12 disability. A school district must provide the student's
13 parent with the student's matrix level within 10 school days
14 after its completion.

15 (g) A school district shall provide notification to
16 parents of the availability of a reassessment of each student
17 who receives a McKay Scholarship at least every 3 years.

18 (4) PRIVATE SCHOOL ELIGIBILITY; REGISTRATION;
19 PROHIBITIONS.--

20 (a) To be eligible to participate in the John M. McKay
21 Scholarships for Students with Disabilities Program, a private
22 school must be a Florida private school as defined in s.
23 1002.01(2), may be sectarian or nonsectarian, and must:

24 1.(a) Demonstrate fiscal soundness by filing with
25 ~~being in operation for 1 school year or provide~~ the Department
26 of Education ~~with~~ a surety bond for the amount equal to the
27 scholarship amount for each quarter of the school year. The
28 surety bond must be filed at the time of the private school's
29 initial registration and at each renewal period thereafter for
30 a total of 3 years. This requirement does not apply to an
31 eligible private school that:

1 a. Participates in the program for a total of 3 years
2 or longer; and

3 b. Has had no action taken by the Department of
4 Education against the private school for any violation of this
5 section during the 3-year period.

6
7 However, any private school that was subject to an action
8 taken by the department for any violation of this section
9 shall, at the time of renewal and for 2 years thereafter, file
10 a surety bond with the department.

11 2. Annually register with the Department of Education.
12 Each owner or administrator of a private school must provide
13 the following information:

14 a. The legal business and trade name, mailing address,
15 and business location of the private school;

16 b. The full name, address, and telephone number of
17 each owner or administrator of the private school;

18 c. A notification of the private school's intent to
19 participate in the program under this section. The notice must
20 specify the grade levels and services that the private school
21 has available for students with disabilities who are
22 participating in the scholarship program.~~statement by a~~
23 ~~certified public accountant confirming that the private school~~
24 ~~desiring to participate is insured and the owner or owners~~
25 ~~have sufficient capital or credit to operate the school for~~
26 ~~the upcoming year serving the number of students anticipated~~
27 ~~with expected revenues from tuition and other sources that may~~
28 ~~be reasonably expected. In lieu of such a statement, a surety~~
29 ~~bond or letter of credit for the amount equal to the~~
30 ~~scholarship funds for any quarter may be filed with the~~
31 ~~department.~~

1 ~~(b) Notify the Department of Education of its intent~~
2 ~~to participate in the program under this section. The notice~~
3 ~~must specify the grade levels and services that the private~~
4 ~~school has available for students with disabilities who are~~
5 ~~participating in the scholarship program.~~

6 3.(c) Comply with the antidiscrimination provisions of
7 42 U.S.C. s. 2000d.

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

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

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

17 7.(g) Comply with all state laws relating to general
18 regulation of private schools, including, but not limited to,
19 s. 1002.42.

20 8.(h) Publish and adhere to the tenets of its adopted
21 ~~published~~ disciplinary procedures prior to the expulsion of a
22 scholarship student.

23 9. Provide the Department of Education with all
24 documentation required for each scholarship student's
25 participation in the scholarship program, including, but not
26 limited to:

27 a. The private school's fee schedule, including, but
28 not limited to, fees for services, tuition, and instructional
29 materials, and each individual scholarship student's schedule
30 of fees and charges, at least 30 days before the first
31 quarterly scholarship payment is made for the student; and

1 b. The enrollment and attendance information,
2 including an on-line attendance verification form, for each
3 scholarship student at the private school, prior to each
4 scholarship payment.

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6 The on-line attendance form must be documented each quarter by
7 a notarized statement that is signed by the private school and
8 the parents of each McKay scholarship student in attendance at
9 the private school. The private school must send this
10 documentation to the Department of Education each quarter.

11 10. Maintain a physical location in this state where a
12 scholarship student regularly attends classes.

13 11.a. Advertise or notify potential McKay Scholarship
14 students and parents of the specific types of disabilities
15 school personnel are qualified to work with and the
16 qualifications of school personnel, and provide this
17 information to the Department of Education.

18 b. Discuss with the parent those parts of the
19 student's individual education plan that can be met by the
20 private school.

21 12. Require each McKay Scholarship student to
22 participate at least annually in a student assessment which as
23 determined by the private school will demonstrate the
24 student's skill level to the student's parents.

25 13. Notify the student's parent at least annually
26 about the student's skill level on a student assessment that
27 is determined by the private school.

28 14. Notify the Department of Education of any change
29 in the school's registered name or location prior to any such
30 change and notify the Department of Education within 15 days
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1 after any other change in the registration information
2 submitted to the department.

3 15. Notify each local health department within 15 days
4 after establishing operations at a physical location or
5 address and within 3 days after discovering any ongoing health
6 code violation that has not yet been remedied in full.

7 16. Annually complete and file with the Department of
8 Education a sworn and notarized compliance statement in a form
9 and timeline specified by the department.

10 17.a. Complete and file, with the Department of Law
11 Enforcement for state processing and a criminal records check
12 and with the Federal Bureau of Investigation for federal
13 processing and a criminal records check, a complete set of
14 fingerprints for each person who is employed at or under
15 contract with the private school and who is in direct contact
16 with students.

17 b. All required fingerprints must be filed with the
18 specified authorities within 5 business days after employment
19 or signature of contract.

20 c. The fingerprints required under this section shall
21 be taken by an authorized law enforcement officer or an
22 employee of the private school who is trained to take
23 fingerprints. The costs of fingerprinting, criminal records
24 checks, and processing shall be borne by the employee or the
25 private school.

26 d. The results of the criminal records check required
27 under this subparagraph shall be forwarded by the Department
28 of Law Enforcement and the Federal Bureau of Investigation to
29 the owner of the private school for use in employment
30 decisions and to the Department of Education.

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1 18. In addition to the requirements for fingerprinting
2 and criminal records checks in s. 1002.42, complete and file
3 with the Federal Bureau of Investigation for federal
4 processing and a criminal records check a complete set of
5 fingerprints for each person who is an owner or administrator
6 of the private school or who establishes, purchases, or
7 otherwise becomes an owner of the private school. The results
8 of the criminal records checks required under this
9 subparagraph and s. 1002.42 shall be forwarded by the
10 Department of Law Enforcement and the Federal Bureau of
11 Investigation to the Department of Education and to the owner
12 of the private school.

13 (b) A private school participating in the John M.
14 McKay Scholarships for Students with Disabilities Program may
15 not:

16 1. Act as attorney in fact for parents of a
17 scholarship student under the authority of a power of attorney
18 executed by such parents, or under any other authority, to
19 endorse scholarship warrants on behalf of parents.

20 2. Send or direct McKay Scholarship funds to parents
21 of a scholarship student who receives instruction at home.

22 3. Be a correspondence school or distance learning
23 school.

24 4. Accept a McKay scholarship student until the sworn
25 and notarized compliance statement has been completed,
26 submitted to, and independently verified by the Department of
27 Education.

28 (c) A participating private school may request that
29 the school be listed by the Department of Education with a
30 closed-enrollment status in the McKay Scholarship program if
31 the school is no longer accepting new students with McKay

1 Scholarships. However, the private school is subject to all
2 the requirements under this section and all applicable rules
3 adopted by the State Board of Education if the private school
4 is serving a student with a McKay Scholarship. The private
5 school must provide a written request for closed-enrollment
6 status to the Department of Education. The Department of
7 Education may grant closed-enrollment status to a
8 participating private school. However, closed-enrollment
9 status may not be granted for longer than 1 school year.

10 (5) OBLIGATION OF PROGRAM PARTICIPANTS.--

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

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

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

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

27 (e) If the parent requests that the student
28 participating in the scholarship program take all statewide
29 assessments required pursuant to s. 1008.22, the parent is
30 responsible for transporting the student to the assessment
31 site designated by the school district.

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

5 (g) The parent of a student participating in the
6 scholarship program may not designate any participating
7 private school as the parent's attorney in fact to sign a
8 scholarship warrant.

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

11 (6) SCHOLARSHIP FUNDING AND PAYMENT.--

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

18 (e) Following notification on July 1, September 1,
19 December 1, or February 1 of the number of program
20 participants, the Department of Education shall transfer, from
21 General Revenue funds only, the amount calculated under
22 paragraph (b) from the school district's total funding
23 entitlement under the Florida Education Finance Program and
24 from authorized categorical accounts to a separate account for
25 the scholarship program for quarterly disbursement to the
26 parents of participating students. When a student enters the
27 scholarship program, the Department of Education must receive
28 all documentation required for the student's participation,
29 including, but not limited to, the private school's and
30 student's fee schedules, at least 30 days before the first
31

1 quarterly scholarship payment is made for the student. The
2 Department of Education may not make any retroactive payments.

3 (7) OBLIGATIONS OF THE DEPARTMENT OF EDUCATION.--

4 (a) The Department of Education shall perform the
5 following duties:

6 1. Review and approve all documentation required for
7 each scholarship student's participation, including, without
8 limitation, the private school's schedule and the student's
9 fee schedule.

10 2. Verify the admission acceptance of each scholarship
11 student to an eligible private school prior to the initial
12 scholarship payment.

13 3. Verify, prior to each scholarship payment, the
14 enrollment and attendance of each scholarship student at the
15 private school and that the scholarship student is not:

16 a. Receiving a scholarship under s. 220.187 or s.
17 1002.38.

18 b. Participating in a home education program as
19 defined in s. 1002.01(1).

20 c. Participating in instruction delivered by a
21 correspondence school or distance learning courses, except as
22 specifically permitted in paragraph (2)(b).

23 d. Enrolled in a school operating for the purpose of
24 providing education services to youth in commitment programs
25 of the Department of Juvenile Justice.

26 e. Currently or prospectively enrolled in a public
27 school in the state, if the student has a scholarship to
28 attend a private school.

29 4. Administer and prescribe an annual sworn and
30 notarized compliance statement for each participating private

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1 school and independently verify the information provided by
2 each participating private school.

3 5. Review all results of the background checks
4 performed pursuant to subsection (4).

5 6. Determine the eligibility of a private school to
6 accept McKay scholarship students, based upon independent
7 verification that the private school meets all the
8 requirements in this section and all applicable rules adopted
9 by the State Board of Education.

10 7. Publish a current, on-line list of eligible private
11 schools.

12 8. Include each eligible private school on the on-line
13 list of eligible private schools within 10 days after the
14 private school is determined as eligible to participate in the
15 McKay scholarship program.

16 9. Remove immediately from the on-line list of
17 eligible private schools any school that is denied renewal of
18 registration as an eligible private school, as provided for in
19 paragraph (b).

20 10. Remove immediately from the on-line list of
21 eligible private schools any school with a revoked
22 registration, as provided for in paragraphs (b) and (c).

23 (b) The Department of Education shall deny or refuse
24 to renew the registration of any private school if it
25 determines that the private school or any of its owners or
26 administrators has failed to meet the requirements for initial
27 application or renewal as provided in this section.

28 (c) The Department of Education shall issue a notice
29 of noncompliance pursuant to s. 120.695 to any participating
30 private school that violates any of the provisions of this
31 section or the rules of the State Board of Education, if the

1 violation is a minor violation as defined in s. 120.695. If a
2 private school fails to satisfy the requirements specified in
3 the notice of noncompliance within 30 days after its receipt
4 by the school, the Department of Education shall issue an
5 emergency order revoking the registration of the participating
6 private school. The Department of Education shall issue an
7 emergency order to immediately revoke the registration of a
8 participating private school for a violation that is not a
9 minor violation as defined in s. 120.695.

10 (d) The Department of Education shall revoke the
11 scholarship for a participant who fails to comply with the
12 requirements in subsection (5) or who:

13 1. Receives a scholarship under s. 220.187 or s.
14 1002.38.

15 2. Participates in a home education program as defined
16 in s. 1002.01(1).

17 3. Participates in instruction delivered by a
18 correspondence school or distance learning courses, except as
19 specifically permitted in paragraph (2)(b).

20 4. Does not have regular and direct contact with the
21 student's private school teachers at the school's physical
22 location.

23 5. Enrolls in a school operating for the purpose of
24 providing educational services to youth in commitment programs
25 of the Department of Juvenile Justice.

26 (e) The Department of Education shall conduct an
27 investigation of any written complaint of a violation of this
28 section if the complaint is signed by the complainant and is
29 legally sufficient. A complaint is legally sufficient if it
30 contains ultimate facts that show that a violation of this
31 section or any rule adopted by the State Board of Education

1 has occurred. In order to determine legal sufficiency, the
2 Department of Education may require supporting information or
3 documentation.

4 (f) The Department of Education may not change a
5 matrix of services completed by a school district. However,
6 the department may make the following changes for a matrix for
7 a student if the school district has identified the error but
8 has failed to make a correction in a timely manner:

9 1. A correction to a technical, typographical, or
10 calculation error; or

11 2. A change to align the matrix of services with the
12 student's individual education plan completed by the school
13 district for use in the public school prior to the student
14 enrolling in or attending a private school.

15
16 The department must report any change made under this
17 paragraph to the school district and the parent of the
18 student.

19 (8) OBLIGATIONS OF THE AUDITOR

20 GENERAL.--Notwithstanding any other law to the contrary, the
21 Auditor General must annually audit the Florida Education
22 Finance Program (FEFP) for each school district participating
23 in the John M. McKay Scholarships for Students with
24 Disabilities Program. The audit shall include a review of a
25 sample of the warrants used to pay for the scholarships, as
26 well as random site visits to participating private schools in
27 order to verify student enrollment and other information
28 reported by the private schools. In lieu of conducting these
29 audits, the Auditor General may contract with an independent
30 certified public accountant to annually conduct an audit of a
31 small sample of participating private schools, including, but

1 not limited to, a review of a sample of the warrants used to
2 pay for the scholarships, as well as random site visits to
3 participating private schools in order to verify student
4 enrollment and other information reported by the private
5 schools.

6 (9)~~(7)~~ LIABILITY.--No liability shall arise on the
7 part of the state based on the award or use of a John M. McKay
8 Scholarship.

9 (10)~~(8)~~ RULES.--The State Board of Education shall ~~may~~
10 adopt rules pursuant to ss. 120.536(1) and 120.54 to
11 administer this section, including, without limitation, rules
12 for:-

13 (a) Administering the annual sworn and notarized
14 compliance statement to all participating private schools;

15 (b) Establishing procedures for schools to request
16 closed-enrollment and active status;

17 (c) Establishing forms for changes to a matrix by a
18 school district and the department;

19 (d) Implementing the requirement that a private school
20 timely notify the Department of Education of material changes
21 to the school's registration information;

22 (e) Establishing attendance-verification procedures
23 and forms; and

24 (f) Establishing procedures for determining student
25 eligibility and approving scholarships.

26
27 The rules related to the annual sworn and notarized compliance
28 statement shall establish a deadline for the receipt of the
29 initial sworn and notarized compliance statement from the
30 private school and shall enumerate the items to be included in
31 the statement. The rules shall enumerate the items to be

1 included in a subsequent annual sworn and notarized compliance
2 statement that is required in January of each year from the
3 private school. However, the inclusion of eligible private
4 schools within options available to Florida public school
5 students does not expand the regulatory authority of the
6 state, its officers, or any school district to impose any
7 additional regulation of private schools beyond those
8 reasonably necessary to enforce requirements expressly set
9 forth in this section.

10 Section 2. The State Board of Education shall initiate
11 the adoption of rules required by this act 10 days after the
12 effective date of this act. The State Board of Education shall
13 report to the presiding officers of the Legislature by
14 December 1, 2004, on the status of the rulemaking required by
15 this act.

16 Section 3. This act shall take effect upon becoming a
17 law.

18 *****

19
20 SENATE SUMMARY

21 Revises various provisions governing the John M. McKay
22 Scholarships for Students with Disabilities Program.
23 Revises the eligibility requirements for the program.
24 Requires a school district to reevaluate a student's
25 eligibility for the program. Requires that private
26 schools participating in the program demonstrate fiscal
27 soundness and annually register with the Department of
28 Education. Requires screening of school personnel who
29 have direct contact with students. Provides procedures by
30 which a participating private school can be placed on
31 closed-enrollment status. Authorizes the department to
issue notices of noncompliance or revoke the registration
of a private school. Authorizes the department to conduct
investigations. Requires the State Board of Education to
adopt rules. (See bill for details.)