

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

.
.
.

1 Representative(s) [Sobel](#) offered the following:

2
3 **Amendment to Senate Amendment (074810) (with title**
4 **amendment)**

5 On page 78, between line(s) 15 and 16,
6 insert:

7 Section 35. Subsections (1), (2), (3), (4), and (5) and
8 paragraphs (a), (d), and (e) of subsection (6) of section
9 1002.39, Florida Statutes, are amended, present subsections (7)
10 and (8) of that section are redesignated as subsections (9) and
11 (10), respectively, and amended, and new subsections (7) and (8)
12 are added to that section, to read:

13 1002.39 The John M. McKay Scholarships for Students with
14 Disabilities Program.--There is established a program that is
15 separate and distinct from the Opportunity Scholarship Program

259625

Amendment No. (for drafter's use only)

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

18 (1) THE JOHN M. MCKAY SCHOLARSHIPS FOR STUDENTS WITH
19 DISABILITIES PROGRAM.--The John M. McKay Scholarships for
20 Students with Disabilities Program is established to provide the
21 option to attend a public school other than the one to which
22 assigned, or to provide a scholarship to a private school of
23 choice, for students with disabilities for whom an individual
24 education plan has been written in accordance with rules of the
25 State Board of Education. Students with disabilities include K-
26 12 students who are documented as having mental retardation; a
27 speech or language impairment; a hearing impairment, including
28 deafness; a visual impairment, including blindness; a dual
29 sensory impairment; a physical impairment; a serious emotional
30 disturbance, including an emotional handicap; a specific
31 learning disability, including, but not limited to, dyslexia,
32 dyscalculia, or developmental aphasia; a traumatic brain injury;
33 or autism ~~mentally handicapped, speech and language impaired,~~
34 ~~deaf or hard of hearing, visually impaired, dual sensory~~
35 ~~impaired, physically impaired, emotionally handicapped, specific~~
36 ~~learning disabled, hospitalized or homebound, or autistic.~~

37 (2) SCHOLARSHIP ELIGIBILITY; PROHIBITIONS.--

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

259625

5/6/2005 2:20:20 PM

Amendment No. (for drafter's use only)

43 1.(a) By assigned school attendance area or by special
44 assignment, the student has spent the prior school year in
45 attendance at a Florida public school or the Florida School for
46 the Deaf and the Blind. Prior school year in attendance means
47 that the student was:

48 a. Enrolled and reported by a school district for funding
49 during the preceding October and February Florida Education
50 Finance Program surveys in kindergarten through grade 12; or-

51 b. Enrolled and reported by the Florida School for the
52 Deaf and the Blind during the preceding October and February
53 student membership surveys in kindergarten through grade 12.
54 Prior school year in attendance does not include the period of
55 time that the student was enrolled in a school operating for the
56 purposes of providing educational services to youth in a
57 commitment program of the Department of Juvenile Justice.

58 However, this subparagraph ~~paragraph~~ does not apply to a
59 dependent child of a member of the United States Armed Forces
60 who transfers to a school in this state from out of state or
61 from a foreign country pursuant to a parent's permanent change
62 of station orders. A dependent child of a member of the United
63 States Armed Forces who transfers to a school in this state from
64 out of state or from a foreign country pursuant to a parent's
65 permanent change of station orders must meet all other
66 eligibility requirements to participate in the program.

67 2.(b) The parent has obtained acceptance for admission of
68 the student to a private school that is eligible for the program
69 under subsection (4) and has notified the Department of

259625

5/6/2005 2:20:20 PM

Amendment No. (for drafter's use only)

70 Education school district of the request for a scholarship at
71 least 60 days prior to the date of the first scholarship
72 payment. The parental notification must be through a
73 communication directly to the ~~district or through the~~ Department
74 of Education ~~to the district~~ in a manner that creates a written
75 or electronic record of the notification and the date of receipt
76 of the notification. The Department of Education must notify the
77 district of the parent's intent, upon receipt of the parent's
78 notification.

79
80 ~~This section does not apply to a student who is enrolled in a~~
81 ~~school operating for the purpose of providing educational~~
82 ~~services to youth in Department of Juvenile Justice commitment~~
83 ~~programs.~~ For purposes of continuity of educational choice, the
84 scholarship shall remain in force until the student returns to a
85 public school or graduates from high school or reaches the age
86 of 22, whichever occurs first. However, at any time, the
87 student's parent may remove the student from the private school
88 and place the student in another private school that is eligible
89 for the program under subsection (4) or in a public school as
90 provided in subsection (3).

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

93 1. Receives a scholarship from an eligible scholarship-
94 funding organization under s. 220.187.

95 2. Receives an opportunity scholarship under s. 1002.38.

259625

5/6/2005 2:20:20 PM

Amendment No. (for drafter's use only)

96 3. Participates in a home education program as defined in
97 s. 1002.01(1).

98 4. Receives instruction from a correspondence school or a
99 private tutoring program as described in s. 1002.43, or
100 participates in distance learning courses.

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

103 6. Is enrolled in a school operating for the purpose of
104 providing educational services to youth in commitment programs
105 of the Department of Juvenile Justice.

106
107 Notwithstanding the prohibition set forth in subparagraph 4., a
108 student who receives a John M. McKay Scholarship may participate
109 in a distance learning course, a private tutoring program, or a
110 course offered by a correspondence school, the tuition and other
111 costs of which are not paid by scholarship funds provided under
112 this section.

113 (3) SCHOOL DISTRICT AND DEPARTMENT OF EDUCATION
114 OBLIGATIONS.--

115 (a) The Department of Education ~~A school district~~ shall
116 timely notify the parent of each public school ~~the~~ student of
117 all options available pursuant to this section and offer that
118 student's parent an opportunity to enroll the student in another
119 public school within the district. The parent is not required to
120 accept this offer in lieu of requesting a John M. McKay
121 Scholarship to a private school. However, if the parent chooses
122 the public school option, the student may continue attending a

259625

5/6/2005 2:20:20 PM

Amendment No. (for drafter's use only)

123 public school chosen by the parent until the student graduates
124 from high school. If the parent chooses a public school
125 consistent with the district school board's choice plan under s.
126 1002.31, the school district shall provide transportation to the
127 public school selected by the parent. The parent is responsible
128 to provide transportation to a public school chosen that is not
129 consistent with the district school board's choice plan under s.
130 1002.31. For purposes of this paragraph, timely notification
131 means notification no later than April 1 of each school year.

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

137 2.a. The school district must complete the matrix of
138 services for any student who is participating in the John M.
139 McKay Scholarships for Students with Disabilities Program and
140 must notify the Department of Education of the student's matrix
141 level within 30 days after receiving notification by the
142 Department of Education of the parent's ~~the student's parent of~~
143 intent to participate in the scholarship program. The nature and
144 intensity of the services indicated in the matrix must be
145 consistent with the services described in the student's
146 individual education plan.

147 b. A school district may change a matrix of services only
148 if the change is to:

259625

5/6/2005 2:20:20 PM

Amendment No. (for drafter's use only)

149 (I) Correct a technical, typographical, or calculation
150 error; or

151 (II) Align the matrix of services with the student's
152 individual education plan completed by the public school
153 district for use in the public school prior to the student
154 enrolling in or attending a private school.

155 3. The Department of Education shall notify the private
156 school of the amount of the scholarship within 10 days after
157 receiving the school district's notification of the student's
158 matrix level.

159 4. Within 10 school days after it receives notification of
160 a parent's intent to apply for a McKay Scholarship, a district
161 school board must notify the student's parent if the matrix has
162 not been completed and provide the parent with the date for
163 completion of the matrix required in this paragraph.

164 (c) If the parent chooses the private school option and
165 the student is accepted by the private school pending the
166 availability of a space for the student, the parent of the
167 student must notify the Department of Education ~~school district~~
168 60 days prior to the first scholarship payment and before
169 entering the private school in order to be eligible for the
170 scholarship when a space becomes available for the student in
171 the private school.

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

259625

5/6/2005 2:20:20 PM

Amendment No. (for drafter's use only)

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

180 (e) For a student in the district who participates in the
181 John M. McKay Scholarships for Students with Disabilities
182 Program whose parent requests that the student take the
183 statewide assessments under s. 1008.22, the district shall
184 provide locations and times to take all statewide assessments.

185 (f) ~~A school district must notify~~ The Department of
186 Education must notify the school district upon receipt of the
187 ~~within 10 days after it receives~~ notification of a parent's
188 intent to apply for a scholarship for a student with a
189 disability. A school district must provide the student's parent
190 with the student's matrix level within 10 school days after its
191 completion.

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

195 (4) PRIVATE SCHOOL ELIGIBILITY; REGISTRATION;
196 PROHIBITIONS.--

197 (a) To be eligible to participate in the John M. McKay
198 Scholarships for Students with Disabilities Program, a private
199 school must be a Florida private school as defined in s.
200 1002.01(2), may be sectarian or nonsectarian, and must:

201 1.(a) Demonstrate fiscal soundness by being in operation
202 for at least 3 school years or obtaining a surety bond or letter

259625

5/6/2005 2:20:20 PM

Amendment No. (for drafter's use only)

203 of credit for the amount equal to the scholarship funds for any
204 quarter and filing the surety bond or letter of credit with 1
205 school year or provide the Department of Education.

206 2. Annually register with the Department of Education.
207 Each owner or administrator of a private school must provide the
208 following information:

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

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

213 c. A notification of the private school's intent to
214 participate in the program under this section. The notice must
215 specify the grade levels and services that the private school
216 has available for students with disabilities who are
217 participating in the scholarship program. with a statement by a
218 certified public accountant confirming that the private school
219 desiring to participate is insured and the owner or owners have
220 sufficient capital or credit to operate the school for the
221 upcoming year serving the number of students anticipated with
222 expected revenues from tuition and other sources that may be
223 reasonably expected. In lieu of such a statement, a surety bond
224 or letter of credit for the amount equal to the scholarship
225 funds for any quarter may be filed with the department.

226 (b) Notify the Department of Education of its intent to
227 participate in the program under this section. The notice must
228 specify the grade levels and services that the private school

259625

5/6/2005 2:20:20 PM

Amendment No. (for drafter's use only)

229 ~~has available for students with disabilities who are~~
230 ~~participating in the scholarship program.~~

231 3.(e) Comply with the antidiscrimination provisions of 42
232 U.S.C. s. 2000d.

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

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

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

242 7.(g) Comply with all state laws relating to general
243 regulation of private schools, including, but not limited to, s.
244 1002.42.

245 8.(h) Publish and adhere to the tenets of its adopted
246 ~~published~~ disciplinary procedures prior to the expulsion of a
247 scholarship student.

248 9. Provide the Department of Education with all
249 documentation required for each scholarship student's
250 participation in the scholarship program, including, but not
251 limited to:

252 a. The private school's fee schedule, including, but not
253 limited to, fees for services, tuition, and instructional
254 materials, and each individual scholarship student's schedule of

259625

5/6/2005 2:20:20 PM

Amendment No. (for drafter's use only)

255 fees and charges, at least 30 days before the first quarterly
256 scholarship payment is made for the student; and

257 b. The enrollment and attendance information, including an
258 on-line attendance verification form, for each scholarship
259 student at the private school, prior to each scholarship
260 payment.

261
262 The on-line attendance form must be documented each quarter by a
263 notarized statement that is signed by the private school and the
264 parents of each McKay Scholarship student in attendance at the
265 private school. The private school must maintain the completed
266 notarized statements at the private school for each academic
267 year. The completed notarized statements must be open to the
268 Department of Education upon request.

269 10. Maintain in this state a physical location where a
270 scholarship student regularly attends classes.

271 11.a. Advertise or notify potential McKay Scholarship
272 students and parents of the specific types of disabilities
273 served by the school, and provide this information to the
274 Department of Education.

275 b. Review with the parent the student's individual
276 education plan.

277 12. Require each McKay Scholarship student to participate
278 at least annually in a student assessment which, as determined
279 by the private school in consultation with the student's parent
280 or guardian, will demonstrate the student's skill level to the
281 student's parents.

259625

5/6/2005 2:20:20 PM

Amendment No. (for drafter's use only)

282 13. Notify the student's parent at least annually about
283 the student's skill level on a student assessment that is
284 determined by the private school.

285 14. Notify the Department of Education of any change in
286 the school's registered name or location prior to any such
287 change and notify the Department of Education within 15 days
288 after any other change in the registration information submitted
289 to the department.

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

294 16. Annually complete and file with the Department of
295 Education a sworn and notarized compliance statement in a form
296 and by a deadline specified in rules adopted by the State Board
297 of Education.

298 17. Accept scholarship students on a religion-neutral
299 basis. A private school may not discriminate against a student
300 on the basis of the religion of the student, the parent, or the
301 private school.

302 (b) A private school participating in the John M. McKay
303 Scholarships for Students with Disabilities Program must ensure
304 that all personnel who are hired or contracted to provide
305 services to fill positions requiring direct contact with
306 students in the private school, and all owners of a private
307 school, shall, upon employment, engagement to provide services,
308 or assumption of a position of ownership, a position of

259625

5/6/2005 2:20:20 PM

Amendment No. (for drafter's use only)

309 decisionmaking authority, or a position having access to
310 scholarship funds, undergo background screening pursuant to s.
311 943.0542 by electronically filing with the Department of Law
312 Enforcement a complete set of fingerprints taken by an
313 authorized law enforcement agency or an employee of the private
314 school, a public school, or a private company who is trained to
315 take fingerprints. However, the complete set of fingerprints of
316 an owner of an eligible private school may not be taken by the
317 owner. These fingerprints must be electronically submitted to
318 the Department of Law Enforcement for state processing, which
319 shall in turn submit the fingerprints to the Federal Bureau of
320 Investigation for federal processing. The private school shall
321 screen the background results pursuant to s. 435.04 and timely
322 report to the Department of Education any person described in
323 this paragraph who fails to meet level 2 screening standards
324 pursuant to s. 435.04 or any person described in this paragraph
325 who has been convicted of a crime involving moral turpitude. The
326 Department of Education shall verify the information reported by
327 the private school. Any person described in this paragraph who
328 is found through fingerprint processing to have been convicted
329 of a crime involving moral turpitude or fails to meet level 2
330 screening standards pursuant to s. 435.04 may not be employed or
331 engaged to provide services in any position in the private
332 school requiring direct contact with students and may not assume
333 an ownership position, a position of decisionmaking authority,
334 or a position having access to scholarship funds. The cost of

259625

5/6/2005 2:20:20 PM

Amendment No. (for drafter's use only)

335 the background screening may be borne by the private school, the
336 employee, the person engaged to provide services, or the owner.

337 1. Every 5 years each person described in this paragraph
338 must meet level 2 screening requirements as described in s.
339 435.04, at which time the private school shall request the
340 Department of Law Enforcement pursuant to s. 943.0542 to forward
341 the fingerprints to the Federal Bureau of Investigation for
342 level 2 screening. If the fingerprints of a person described in
343 this paragraph are not retained by the Department of Law
344 Enforcement under subparagraph 2., the person must file a
345 complete set of fingerprints with the private school. Upon
346 submission of fingerprints for this purpose, the private school
347 shall request that the Department of Law Enforcement forward the
348 fingerprints to the Federal Bureau of Investigation for level 2
349 screening, and the fingerprints must be retained by the
350 Department of Law Enforcement under subparagraph 2. The cost of
351 the state and federal criminal history check required by level 2
352 screening may be borne by the private school, the employee, the
353 person engaged to provide services, or the owner. Under penalty
354 of perjury, each person described in this paragraph must agree
355 to inform the private school immediately if convicted of any
356 disqualifying offense while in a capacity with the private
357 school as described in this paragraph.

358 2. Effective December 15, 2005, all fingerprints submitted
359 to the Department of Law Enforcement as required by this
360 paragraph shall be retained by the Department of Law Enforcement
361 in a manner provided by rule and entered in the statewide

259625

5/6/2005 2:20:20 PM

Amendment No. (for drafter's use only)

362 automated fingerprint identification system authorized by s.
363 943.05(2)(b). Such fingerprints shall thereafter be available
364 for all purposes and uses authorized for arrest fingerprint
365 cards entered in the statewide automated fingerprint
366 identification system under s. 943.051.

367 3. Effective December 15, 2005, the Department of Law
368 Enforcement shall search all arrest fingerprint cards received
369 under s. 943.051 against the fingerprints retained in the
370 statewide automated fingerprint identification system under
371 subparagraph 2. Any arrest record that is identified with the
372 fingerprints of a person described in this paragraph must be
373 reported to the eligible private school. The eligible private
374 school shall notify the Department of Education if the arrest
375 record reported to the private school results in a person
376 failing to meet the level 2 requirements. An eligible private
377 school that fails to report this information shall be
378 immediately suspended from the program. Each eligible private
379 school shall participate in this search process by paying an
380 annual fee to the Department of Law Enforcement and by informing
381 the Department of Law Enforcement of any change in the status or
382 place of employment or engagement of services of its personnel
383 as described in this paragraph whose fingerprints are retained
384 under subparagraph 2. The Department of Law Enforcement shall
385 adopt a rule setting the amount of the annual fee to be imposed
386 upon each private school for performing these searches and
387 establishing the procedures for the retention of private school
388 personnel fingerprints and the dissemination of search results.

259625

5/6/2005 2:20:20 PM

Amendment No. (for drafter's use only)

389 The fee may be borne by the private school, the employee, the
390 person engaged to provide services, or the owner.

391 4. If it is found that a person described in this
392 paragraph does not meet the level 2 requirements, the eligible
393 private school shall be immediately suspended from participating
394 in the program and shall remain suspended until final resolution
395 of any appeals. An eligible private school that employs or
396 engages to provide services with a person described in this
397 paragraph who fails to meet level 2 screening standards or has
398 been convicted of a crime involving moral turpitude may not
399 participate in this program. The Department of Law Enforcement
400 shall provide the Department of Education with the results of
401 the state and national records checks provided to the qualified
402 entity at each private school as provided in s. 943.0542.

403 (c) A private school participating in the John M. McKay
404 Scholarships for Students with Disabilities Program may not:

405 1. Act as attorney in fact for parents of a scholarship
406 student under the authority of a power of attorney executed by
407 such parents, or under any other authority, to endorse
408 scholarship warrants on behalf of parents.

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

411 3. Be a correspondence school or distance learning school.

412 4. Operate as a private tutoring program as defined in s.
413 1002.43.

259625

5/6/2005 2:20:20 PM

Amendment No. (for drafter's use only)

414 5. Accept a McKay Scholarship student until the sworn and
415 notarized compliance statement has been completed, submitted to,
416 and independently verified by the Department of Education.

417 (d) A participating private school may request that the
418 school be listed by the Department of Education with a closed-
419 enrollment status in the McKay Scholarship program if the school
420 is no longer accepting new students with McKay Scholarships. As
421 used in this paragraph, the term "closed-enrollment status"
422 means that the private school is no longer accepting any new
423 student with a McKay Scholarship. However, the private school is
424 subject to all the requirements under this section and all
425 applicable rules adopted by the State Board of Education if the
426 private school is serving a student with a McKay Scholarship.
427 The private school must provide a written request for closed-
428 enrollment status to the Department of Education. The Department
429 of Education may grant closed-enrollment status to a
430 participating private school. However, closed-enrollment status
431 may not be granted for longer than 1 school year.

432 (e) If a participating private school becomes subject to
433 an action taken by the Department of Education for a violation
434 of this section, the private school:

435 1. Shall file a surety bond with the Department of
436 Education after the date on which the action was taken for such
437 violation but before receiving the next quarterly scholarship
438 payment;

259625

5/6/2005 2:20:20 PM

Amendment No. (for drafter's use only)

439 2. Shall file a surety bond with the Department of
440 Education for 2 additional consecutive years after the date the
441 bond was filed under subparagraph 1.; and

442 3. May not accept new scholarship students until the
443 Department of Education determines that the private school is in
444 compliance with each requirement in this section and in all
445 rules of the State Board of Education.

446 (5) OBLIGATION OF PROGRAM PARTICIPANTS.--

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

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

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

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

462 (e) If the parent requests that the student participating
463 in the scholarship program take all statewide assessments
464 required pursuant to s. 1008.22, the parent is responsible for

259625

5/6/2005 2:20:20 PM

Amendment No. (for drafter's use only)

465 transporting the student to the assessment site designated by
466 the school district.

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

471 (g) The parent of a student participating in the
472 scholarship program may not designate any participating private
473 school as the parent's attorney in fact to sign a scholarship
474 warrant.

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

477 (6) SCHOLARSHIP FUNDING AND PAYMENT.--

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

485 2. In addition, a share of the guaranteed allocation for
486 exceptional students shall be determined and added to the
487 calculated amount. The calculation shall be based on the
488 methodology and the data used to calculate the guaranteed
489 allocation for exceptional students for each district in chapter
490 2000-166, Laws of Florida. Except as provided in subparagraph
491 4. 3-, the calculation shall be based on the student's grade,

259625

5/6/2005 2:20:20 PM

Amendment No. (for drafter's use only)

492 matrix level of services, and the difference between the 2000-
493 2001 basic program and the appropriate level of services cost
494 factor, multiplied by the 2000-2001 base student allocation and
495 the 2000-2001 district cost differential for the sending
496 district. Also, the calculated amount shall include the per-
497 student share of supplemental academic instruction funds,
498 instructional materials funds, technology funds, and other
499 categorical funds as provided for such purposes in the General
500 Appropriations Act.

501 3. The calculated scholarship amount for a student who has
502 spent the prior school year in attendance at the Florida School
503 for the Deaf and the Blind shall be calculated as provided in
504 subparagraphs 1. and 2. However, the calculation shall be based
505 on the school district in which the parent resides at the time
506 that the intent is filed by the parent.

507 4.3. Until the school district completes the matrix
508 required by paragraph (3)(b), the calculation shall be based on
509 the matrix that assigns the student to support level I of
510 service as it existed prior to the 2000-2001 school year. When
511 the school district completes the matrix, the amount of the
512 payment shall be adjusted as needed.

513 (d)1. The school district shall report to the Department
514 of Education all students who are attending a private school
515 under this program. The students with disabilities attending
516 private schools on John M. McKay Scholarships shall be reported
517 separately from other students reported for purposes of the
518 Florida Education Finance Program.

259625

5/6/2005 2:20:20 PM

Amendment No. (for drafter's use only)

519 2. For program participants who are eligible under sub-
520 subparagraph (2)(a)1.b., the school district, which is used as
521 the basis for the calculation of the scholarship amount as
522 provided in subparagraph (6)(a)3., shall:

523 a. Report to the Department of Education all such students
524 who are attending a private school under this program; and

525 b. Be held harmless for such students from the weighted
526 enrollment ceiling for group 2 programs in s. 1011.62(1)(d)3.a.
527 during the first school year in which the students are reported.

528 (e) Following notification on July 1, September 1,
529 December 1, or February 1 of the number of program participants,
530 the Department of Education shall transfer, from General Revenue
531 funds only, the amount calculated under paragraph (b) from the
532 school district's total funding entitlement under the Florida
533 Education Finance Program and from authorized categorical
534 accounts to a separate account for the scholarship program for
535 quarterly disbursement to the parents of participating students.
536 Funds may not be transferred from any funding provided to the
537 Florida School for the Deaf and the Blind for program
538 participants who are eligible under sub-subparagraph (2)(a)1.b.
539 When a student enters the scholarship program, the Department of
540 Education must receive all documentation required for the
541 student's participation, including, but not limited to, the
542 private school's and student's fee schedules, at least 30 days
543 before the first quarterly scholarship payment is made for the
544 student. The Department of Education may not make any
545 retroactive payments.

259625

5/6/2005 2:20:20 PM

Amendment No. (for drafter's use only)

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

547 (a) The Department of Education shall perform the
548 following duties:

549 1. Review for compliance all documentation required for
550 each scholarship student's participation, including, without
551 limitation, the private school's schedule and the student's fee
552 schedule.

553 2. Verify the admission acceptance of each scholarship
554 student to an eligible private school prior to the initial
555 scholarship payment.

556 3. Verify, prior to each scholarship payment, the
557 enrollment and attendance of each scholarship student at the
558 private school and that the scholarship student is not:

559 a. Receiving a scholarship under s. 220.187 or s. 1002.38.

560 b. Participating in a home education program as defined in
561 s. 1002.01(1).

562 c. Participating in instruction delivered by a
563 correspondence school, private tutoring program as defined in s.
564 1002.43, or distance learning courses, except as specifically
565 permitted in paragraph (2)(b).

566 d. Enrolled in a school operating for the purpose of
567 providing education services to youth in commitment programs of
568 the Department of Juvenile Justice.

569 e. Currently enrolled in a public school in the state, if
570 the student has a scholarship to attend a private school.

571 4. Administer and prescribe an annual sworn and notarized
572 compliance statement for each participating private school and

259625

5/6/2005 2:20:20 PM

Amendment No. (for drafter's use only)

573 independently verify the information provided by each
574 participating private school.

575 5. Review and verify the results of the background checks
576 reported by the private school pursuant to subsection (4) for
577 each person who fails to meet level 2 screening standards or who
578 has been convicted of a crime involving moral turpitude.

579 6. Determine the eligibility of a private school to accept
580 McKay Scholarship students, based upon independent verification
581 that the private school meets all the requirements in this
582 section and all applicable rules adopted by the State Board of
583 Education.

584 7. Publish a current, on-line list of eligible private
585 schools.

586 8. Include each eligible private school on the on-line
587 list of eligible private schools within 10 days after the
588 private school is determined to be eligible to participate in
589 the McKay Scholarship program.

590 9. Remove immediately from the on-line list of eligible
591 private schools any school that is determined by the Department
592 of Education to be an ineligible private school, as provided for
593 in paragraph (b).

594 10. Remove immediately from the on-line list of eligible
595 private schools any school that is determined by the Department
596 of Education to be an ineligible school, as provided for in
597 paragraphs (b) and (c).

598 (b) The Department of Education shall deny or refuse to
599 allow the participation of any private school if it determines

259625

5/6/2005 2:20:20 PM

Amendment No. (for drafter's use only)

600 that the private school or any of its owners or administrators
601 has failed to meet the requirements for initial application or
602 renewal as provided in this section.

603 (c) The Department of Education shall issue a notice of
604 noncompliance pursuant to s. 120.695 to any participating
605 private school that violates any of the provisions of this
606 section or the rules of the State Board of Education, if the
607 violation is a minor violation as defined in s. 120.695. If a
608 private school fails to satisfy the requirements specified in
609 the notice of noncompliance within 30 days after its receipt by
610 the school, the Department of Education shall issue an emergency
611 order revoking the registration of the participating private
612 school. The Department of Education shall issue an emergency
613 order to immediately revoke the registration of a participating
614 private school for a violation that is not a minor violation as
615 defined in s. 120.695.

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

619 1. Receives a scholarship under s. 220.187 or s. 1002.38.

620 2. Participates in a home education program as defined in
621 s. 1002.01(1).

622 3. Participates in instruction delivered by a
623 correspondence school, a private tutoring program as defined in
624 s. 1002.43, or distance learning courses, except as specifically
625 permitted in paragraph (2)(b).

259625

5/6/2005 2:20:20 PM

Amendment No. (for drafter's use only)

626 4. Does not have regular and direct contact with the
627 student's private school teachers at the school's physical
628 location.

629 5. Enrolls in a school operating for the purpose of
630 providing educational services to youth in commitment programs
631 of the Department of Juvenile Justice.

632 (e) The Department of Education shall conduct an
633 investigation of any written complaint of a violation of this
634 section if the complaint is signed by the complainant and is
635 legally sufficient. A complaint is legally sufficient if it
636 contains ultimate facts that show that a violation of this
637 section or any rule adopted by the State Board of Education has
638 occurred. In order to determine legal sufficiency, the
639 Department of Education may require supporting information or
640 documentation. The Department of Education may investigate any
641 complaint, including, but not limited to, anonymous complaints.

642 (f) The Department of Education may not change a matrix of
643 services completed by a school district. However, the department
644 may make the following changes for a matrix for a student if the
645 school district has identified the error but has failed to make
646 a correction in a timely manner:

647 1. A correction to a technical, typographical, or
648 calculation error; or

649 2. A change to align the matrix of services with the
650 student's individual education plan completed by the school
651 district for use in the public school prior to the student's
652 enrolling in or attending a private school.

259625

5/6/2005 2:20:20 PM

Amendment No. (for drafter's use only)

653
654 The department must report any change made under this paragraph
655 to the school district and the parent of the student.

656 (8) OBLIGATIONS OF THE AUDITOR GENERAL.--Notwithstanding
657 any other law to the contrary, the Auditor General must include
658 in the operational audit of the Department of Education the John
659 M. McKay Scholarships for Students with Disabilities Program.
660 The Auditor General must include in the audit a review of a
661 sample of the warrants used to pay for the scholarships, as well
662 as random site visits to private schools participating in the
663 John M. McKay Scholarships for Students with Disabilities
664 Program. The purpose of the site visits is solely to verify the
665 information reported by the schools concerning the enrollment
666 and attendance of students, the credentials of teachers,
667 background screening of teachers, and fingerprinting results of
668 teachers, which information is required by rules of the State
669 Board of Education or subsection (4). The Auditor General may
670 not make more than one random site visit each year to the same
671 private school, and each random site visit must be based upon
672 probable cause of a violation of this section or other
673 applicable laws.

674 (9)(7) LIABILITY.--No liability shall arise on the part of
675 the state based on the award or use of a John M. McKay
676 Scholarship.

677 (10)(8) RULES.--The State Board of Education shall adopt
678 rules pursuant to ss. 120.536(1) and 120.54 to administer this
679 section, including rules that school districts must use to

259625

5/6/2005 2:20:20 PM

Amendment No. (for drafter's use only)

680 expedite the development of a matrix of services based on a
681 current individual education plan from another state or a
682 foreign country for a transferring student with a disability who
683 is a dependent child of a member of the United States Armed
684 Forces. The rules must identify the appropriate school district
685 personnel who must complete the matrix of services. For
686 purposes of these rules, a transferring student with a
687 disability is one who was previously enrolled as a student with
688 a disability in an out-of-state or an out-of-country public or
689 private school or agency program and who is transferring from
690 out of state or from a foreign country pursuant to a parent's
691 permanent change of station orders. The rules must include
692 provisions for:

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

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

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

699 (d) Implementing the requirement that a private school
700 timely notify the Department of Education of material changes to
701 the school's registration information;

702 (e) Establishing attendance-verification procedures and
703 forms; and

704 (f) Establishing procedures for determining student
705 eligibility and approving scholarships.
706

259625

5/6/2005 2:20:20 PM

Amendment No. (for drafter's use only)

707 The rules related to the annual sworn and notarized compliance
708 statement shall establish a deadline for the receipt of the
709 initial sworn and notarized compliance statement from the
710 private school and shall enumerate the items to be included in
711 the statement. The rules shall enumerate the items to be
712 included in a subsequent annual sworn and notarized compliance
713 statement that is required in January of each year from the
714 private school. However, the inclusion of eligible private
715 schools within options available to Florida public school
716 students does not expand the regulatory authority of the state,
717 its officers, or any school district to impose any additional
718 regulation of private schools beyond those reasonably necessary
719 to enforce requirements expressly set forth in this section.

720

721

722 ===== T I T L E A M E N D M E N T =====

723 On page 85, line(s) 14, after "programs;"

724 insert:

725 amending s. 1002.39, F.S., relating to the John M. McKay
726 Scholarships for Students with Disabilities Program; revising
727 the definition of an eligible student; revising the eligibility
728 requirements of the program; revising requirements for
729 scholarship funding and payments; providing reporting
730 requirements for school districts; holding a school district
731 harmless from a specified student enrollment ceiling;
732 prohibiting the transfer of funds to the Florida School for the
733 Deaf and the Blind under certain circumstances; extending the

259625

5/6/2005 2:20:20 PM

Amendment No. (for drafter's use only)

734 term of the scholarship; prohibiting certain students from
735 receiving a scholarship; revising the parental notification
736 requirements; authorizing certain scholarship students to
737 participate in a distance learning or correspondence course or a
738 private tutoring program under certain circumstances; providing
739 a definition of timely parental notification; providing
740 requirements for district school boards with respect to
741 completing and making changes to the matrix of services for
742 scholarship students; requiring school districts to provide
743 parental notification related to reassessments; revising
744 requirements that a participating private school demonstrate
745 fiscal soundness; requiring annual registration of private
746 schools; providing requirements for documentation and notice;
747 providing additional requirements for participating private
748 schools; requiring annual sworn and notarized compliance
749 statements to be filed with the department; requiring specific
750 documentation for participating scholarship students; requiring
751 that the private school maintain a physical location in this
752 state; requiring that information be made available to potential
753 scholarship students and the department; requiring scholarship
754 students to participate in assessments; requiring notification
755 to parents regarding student skill levels; requiring
756 notification to the department regarding changes in information;
757 requiring notification to local health departments; prohibiting
758 discrimination on the basis of religion by a private school;
759 requiring certain individuals to undergo level 2 background
760 screening requirements pursuant to s. 943.0542, F.S.; requiring

259625

5/6/2005 2:20:20 PM

Amendment No. (for drafter's use only)

761 the Department of Education to verify the background screening
762 information provided by the private school; providing for the
763 Department of Law Enforcement to retain and search fingerprint
764 records; providing for an annual fee as provided by rule of the
765 Department of Law Enforcement; requiring that costs of
766 background checks to be borne by certain parties; requiring the
767 Department of Law Enforcement to provide the Department of
768 Education with information related to background screening;
769 prohibiting a private school from acting as an attorney in fact
770 for the parent of a scholarship student or endorsing scholarship
771 warrants on behalf of a parent; prohibiting participating
772 private schools from sending or directing scholarship funds to
773 parents of a scholarship student who receives instruction at
774 home; prohibiting a participating school from being a private
775 tutoring program or a correspondence or distance learning
776 school; requiring a private school that is subject to
777 enforcement action by the department for certain violations to
778 file certain surety bonds and, pending compliance with certain
779 laws, cease accepting new scholarship students; prohibiting a
780 participating school from accepting students pending
781 verification of information; authorizing a participating private
782 school to request, and the department to grant, closed-
783 enrollment status for a school; requiring a private school that
784 is subject to enforcement action by the department for certain
785 violations to file certain surety bonds and, pending compliance
786 with certain laws, cease accepting new scholarship students;
787 prohibiting the parent of a scholarship student from designating

259625

5/6/2005 2:20:20 PM

Amendment No. (for drafter's use only)

788 a participating private school as the parent's attorney in fact
789 to sign a scholarship warrant; clarifying that the school
790 district must report to the department the students who are
791 attending a private school under the program; establishing
792 additional obligations of the Department of Education; requiring
793 the department to review, approve, and verify information;
794 requiring the department to determine the eligibility of a
795 private school to participate in the program; requiring the
796 department to publish an on-line list of current eligible
797 private schools; requiring the department to deny or refuse to
798 allow the participation of a private school for failing to meet
799 certain requirements; requiring the department to issue a notice
800 of noncompliance for minor violations; providing for an
801 emergency order revoking the registration of a private school
802 for failing to satisfy the requirements in the notice; requiring
803 the Department of Education to immediately revoke the
804 registration of a private school for certain other violations;
805 requiring the department to revoke the scholarship for a
806 participant for failing to comply with statutory requirements or
807 for engaging in specified practices; requiring the department to
808 conduct investigations of legally sufficient complaints of
809 violations; authorizing the department to require supporting
810 information or documentation; authorizing the Department of
811 Education to change the matrix of services under certain
812 circumstances; providing for audits by the Auditor General;
813 providing requirements for the audits; requiring the State Board
814 of Education to adopt rules; specifying the required rules;

259625

5/6/2005 2:20:20 PM