

1                   A bill to be entitled  
2           An act relating to the John M. McKay Scholarships for  
3           Students with Disabilities Program; amending s. 1002.39,  
4           F.S.; authorizing students who receive certain services  
5           under the Voluntary Prekindergarten Education Program to  
6           receive a John M. McKay Scholarship; deleting the  
7           requirement that a student must have spent the prior  
8           school year in attendance at a Florida public school or  
9           the Florida School for the Deaf and the Blind to be  
10          eligible for a scholarship; providing rights that protect  
11          the privacy of student education records; requiring a  
12          pamphlet or handbook explaining student and parent rights;  
13          requiring the Department of Education to recommend  
14          training for school personnel in procedures for safe  
15          restraint of students; requiring a private school to  
16          refund scholarship payment under certain circumstances;  
17          permitting students, including homebound or hospitalized  
18          students with autism spectrum disorder, to receive  
19          scholarship services at locations other than a private  
20          school's site under specified conditions; conforming  
21          provisions; amending s. 1002.20, F.S., relating to student  
22          and parent rights; conforming provisions; providing an  
23          effective date.

24  
25   Be It Enacted by the Legislature of the State of Florida:

26  
27           Section 1. Subsection (2), paragraph (h) of subsection  
28           (3), paragraph (a) of subsection (4), paragraph (a) of

29 subsection (5), paragraph (d) of subsection (8), and paragraphs  
 30 (a), (c), (d), and (e) of subsection (10) of section 1002.39,  
 31 Florida Statutes, are amended, paragraph (g) is added to  
 32 subsection (6), subsections (11), (12), and (13) are renumbered  
 33 as subsections (12), (13), and (14), respectively, and a new  
 34 subsection (11) is added to that section, to read:

35 1002.39 The John M. McKay Scholarships for Students with  
 36 Disabilities Program.--There is established a program that is  
 37 separate and distinct from the Opportunity Scholarship Program  
 38 and is named the John M. McKay Scholarships for Students with  
 39 Disabilities Program.

40 (2) JOHN M. MCKAY SCHOLARSHIP ELIGIBILITY; RIGHTS.--

41 (a) The parent of a public-school student with a  
 42 disability, including a student who received early intervention  
 43 services under the Voluntary Prekindergarten Education Program  
 44 and has a current individual educational plan, who is  
 45 ~~dissatisfied with the student's progress~~ may request and receive  
 46 from the state a John M. McKay Scholarship for the child to  
 47 enroll in and attend a private school in accordance with this  
 48 section if:

49 ~~(a) The student has spent the prior school year in~~  
 50 ~~attendance at a Florida public school or the Florida School for~~  
 51 ~~the Deaf and the Blind. Prior school year in attendance means~~  
 52 ~~that the student was:~~

53 1. ~~Enrolled and reported by a school district for funding~~  
 54 ~~during the preceding October and February Florida Education~~  
 55 ~~Finance Program surveys in kindergarten through grade 12, which~~  
 56 ~~shall include time spent in a Department of Juvenile Justice~~

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57 ~~commitment program if funded under the Florida Education Finance~~  
58 ~~Program;~~

59 ~~2. Enrolled and reported by the Florida School for the~~  
60 ~~Deaf and the Blind during the preceding October and February~~  
61 ~~student membership surveys in kindergarten through grade 12; or~~

62 ~~3. Enrolled and reported by a school district for funding~~  
63 ~~during the preceding October and February Florida Education~~  
64 ~~Finance Program surveys, was at least 4 years old when so~~  
65 ~~enrolled and reported, and was eligible for services under s.~~  
66 ~~1003.21(1) (c).~~

67  
68 ~~However, a dependent child of a member of the United States~~  
69 ~~Armed Forces who transfers to a school in this state from out of~~  
70 ~~state or from a foreign country pursuant to a parent's permanent~~  
71 ~~change of station orders is exempt from this paragraph but must~~  
72 ~~meet all other eligibility requirements to participate in the~~  
73 ~~program.~~

74 ~~(b)~~ the parent has obtained acceptance for admission of  
75 the student to a private school that is eligible for the program  
76 under subsection (8) and has requested from the department a  
77 scholarship at least 60 days prior to the date of the first  
78 scholarship payment. The request must be through a communication  
79 directly to the department in a manner that creates a written or  
80 electronic record of the request and the date of receipt of the  
81 request. The Department of Education must notify the district of  
82 the parent's intent upon receipt of the parent's request.

83 (b) The parent of a student receiving a John M. McKay  
84 Scholarship is entitled to the rights identified in the Family

85 Educational Rights and Privacy Act, 20 U.S.C. s. 1232g, that  
86 protect the privacy of student education records.

87 (3) JOHN M. MCKAY SCHOLARSHIP PROHIBITIONS.--A student is  
88 not eligible for a John M. McKay Scholarship while he or she is:

89 (h) Not having regular and direct contact with his or her  
90 private school teachers at the school's physical location except  
91 as provided in subsection (11).

92 (4) TERM OF JOHN M. MCKAY SCHOLARSHIP.--

93 (a) For purposes of continuity of educational choice, a  
94 John M. McKay Scholarship shall remain in force until the  
95 student enrolls in ~~returns to~~ a public school, graduates from  
96 high school, or reaches the age of 22, whichever occurs first.

97 (5) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.--

98 (a)1. By April 1 of each year and within 10 days after an  
99 individual education plan meeting, a school district shall  
100 notify the parent of the student of all options available  
101 pursuant to this section, inform the parent of the availability  
102 of the department's telephone hotline and Internet website for  
103 additional information on John M. McKay Scholarships, and offer  
104 that student's parent an opportunity to enroll the student in  
105 another public school within the district.

106 2. The parent is not required to accept the offer of  
107 enrolling in another public school in lieu of requesting a John  
108 M. McKay Scholarship to a private school. However, if the parent  
109 chooses the public school option, the student may continue  
110 attending a public school chosen by the parent until the student  
111 graduates from high school.

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112 3. If the parent chooses a public school consistent with  
113 the district school board's choice plan under s. 1002.31, the  
114 school district shall provide transportation to the public  
115 school selected by the parent. The parent is responsible to  
116 provide transportation to a public school chosen that is not  
117 consistent with the district school board's choice plan under s.  
118 1002.31.

119 4. Each parent of a student participating in the  
120 scholarship program shall receive from the school district a  
121 pamphlet or handbook that explains in easily understandable  
122 terms the student and parent rights and responsibilities under  
123 this section. The pamphlet or handbook shall have a tear-off  
124 form for the parent's signature that indicates that the parent  
125 has read and understands these rights and responsibilities. The  
126 tear-off form must be returned to the school the student is  
127 attending with the original form forwarded by the school to the  
128 district school board and a copy retained at the school.

129 (6) DEPARTMENT OF EDUCATION OBLIGATIONS.--The department  
130 shall:

131 (g) Recommend that public school and private school  
132 personnel who interact with students participating in the  
133 scholarship program receive initial and periodic followup  
134 training in procedures for safely restraining such students in  
135 an emergency.

136 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.--To be  
137 eligible to participate in the John M. McKay Scholarships for  
138 Students with Disabilities Program, a private school may be  
139 sectarian or nonsectarian and must:

140 (d) Maintain in this state a physical location where a  
141 scholarship student regularly attends classes or where it  
142 provides case management services under subsection (11).  
143

144 The inability of a private school to meet the requirements of  
145 this subsection shall constitute a basis for the ineligibility  
146 of the private school to participate in the scholarship program  
147 as determined by the department.

148 (10) JOHN M. MCKAY SCHOLARSHIP FUNDING AND PAYMENT.--

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

156 2. In addition, a share of the guaranteed allocation for  
157 exceptional students shall be determined and added to the  
158 calculated amount. The calculation shall be based on the  
159 methodology and the data used to calculate the guaranteed  
160 allocation for exceptional students for each district in chapter  
161 2000-166, Laws of Florida. Except as provided in subparagraphs  
162 3. and 4., the calculation shall be based on the student's  
163 grade, matrix level of services, and the difference between the  
164 2000-2001 basic program and the appropriate level of services  
165 cost factor, multiplied by the 2000-2001 base student allocation  
166 and the 2000-2001 district cost differential for the sending  
167 district. Also, the calculated amount shall include the per-

168 student share of supplemental academic instruction funds,  
169 instructional materials funds, technology funds, and other  
170 categorical funds as provided for such purposes in the General  
171 Appropriations Act.

172 3. The calculated scholarship amount for a student who was  
173 enrolled in the Florida School for the Deaf and the Blind ~~is~~  
174 ~~eligible under subparagraph (2)(a)2.~~ shall be calculated as  
175 provided in subparagraphs 1. and 2. However, the calculation  
176 shall be based on the school district in which the parent  
177 resides at the time of the scholarship request.

178 4. Until the school district completes the matrix required  
179 by paragraph (5)(b), the calculation shall be based on the  
180 matrix that assigns the student to support level I of service as  
181 it existed prior to the 2000-2001 school year. When the school  
182 district completes the matrix, the amount of the payment shall  
183 be adjusted as needed.

184 (c)1. The school district shall report all students who  
185 are attending a private school under this program. The students  
186 with disabilities attending private schools on John M. McKay  
187 Scholarships shall be reported separately from other students  
188 reported for purposes of the Florida Education Finance Program.

189 2. For program participants who were enrolled in the  
190 Florida School for the Deaf and the Blind ~~are eligible under~~  
191 ~~subparagraph (2)(a)2.~~, the school district that is used as the  
192 basis for the calculation of the scholarship amount as provided  
193 in subparagraph (a)3. shall:

194 a. Report to the department all such students who are  
195 attending a private school under this program.

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

199 (d) Following notification on July 1, September 1,  
200 December 1, or February 1 of the number of program participants,  
201 the department shall transfer, from General Revenue funds only,  
202 the amount calculated under paragraph (b) from the school  
203 district's total funding entitlement under the Florida Education  
204 Finance Program and from authorized categorical accounts to a  
205 separate account for the scholarship program for quarterly  
206 disbursement to the parents of participating students. Funds may  
207 not be transferred from any funding provided to the Florida  
208 School for the Deaf and the Blind for program participants ~~who~~  
209 ~~are eligible under subparagraph (2)(a)2.~~ For a student exiting a  
210 Department of Juvenile Justice commitment program who chooses to  
211 participate in the scholarship program, the amount of the John  
212 M. McKay Scholarship calculated pursuant to paragraph (b) shall  
213 be transferred from the school district in which the student  
214 last attended a public school prior to commitment to the  
215 Department of Juvenile Justice. When a student enters the  
216 scholarship program, the department must receive all  
217 documentation required for the student's participation,  
218 including the private school's and student's fee schedules, at  
219 least 30 days before the first quarterly scholarship payment is  
220 made for the student.

221 (e) Upon notification by the department that it has  
222 received the documentation required under paragraph (d), the  
223 Chief Financial Officer shall make scholarship payments in four



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224 equal amounts no later than September 1, November 1, February 1,  
225 and April 1 of each academic year in which the scholarship is in  
226 force. The initial payment shall be made after department  
227 verification of admission acceptance, and subsequent payments  
228 shall be made upon verification of continued enrollment and  
229 attendance at the private school. Payment must be by individual  
230 warrant made payable to the student's parent and mailed by the  
231 department to the private school of the parent's choice, and the  
232 parent shall restrictively endorse the warrant to the private  
233 school for deposit into the account of the private school. If a  
234 participating student withdraws from a private school, the  
235 private school shall refund on a prorated basis the unused  
236 portion of the scholarship payment to the department for  
237 transfer to the separate account for the scholarship program.

238 (11) ALTERNATIVE SITES FOR INSTRUCTION AND SERVICES.--A  
239 student eligible for a scholarship under this section, including  
240 a student with autism spectrum disorder who participates in the  
241 program for students who are homebound or hospitalized, may  
242 receive regular and direct instruction and services from a  
243 private school at a site other than the school's physical  
244 location if the following criteria are met:

245 (a) The student's parent provides a notarized statement  
246 from the medical doctor or psychologist treating the student's  
247 disability which certifies that the student's welfare or the  
248 welfare of other students in the classroom will be jeopardized  
249 if the student is required to regularly attend class at the  
250 school's physical location. The notarized statement must be:

251 1. Annually provided to the department at least 60 days

252 prior to the date of the first scholarship payment for each  
 253 school year.

254 2. Based on an annual review of the student's disability  
 255 by the student's medical doctor or psychologist.

256 (b) The private school serving the student:

257 1. Employs or contracts with a case manager who  
 258 coordinates and monitors the student's instruction and services,  
 259 reviews and maintains the documentation submitted under  
 260 subparagraph 2., and provides the student's parent and private  
 261 school with monthly reports on the student's progress.

262 2. Requires private school employees or contracted  
 263 personnel who provide regular and direct instruction or services  
 264 to a student at a site other than the private school's physical  
 265 location to submit to the case manager documentation of the  
 266 instruction, services, and progress of the student.

267 3. Notifies the department of each student subject to this  
 268 subsection.

269 Section 2. Paragraph (b) of subsection (6) of section  
 270 1002.20, Florida Statutes, is amended to read:

271 1002.20 K-12 student and parent rights.--Parents of public  
 272 school students must receive accurate and timely information  
 273 regarding their child's academic progress and must be informed  
 274 of ways they can help their child to succeed in school. K-12  
 275 students and their parents are afforded numerous statutory  
 276 rights including, but not limited to, the following:

277 (6) EDUCATIONAL CHOICE.--

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278 (b) Private school choices.--Parents of public school  
279 students may seek private school choice options under certain  
280 programs.

281 1. Under the Opportunity Scholarship Program, the parent  
282 of a student in a failing public school may request and receive  
283 an opportunity scholarship for the student to attend a private  
284 school in accordance with the provisions of s. 1002.38.

285 2. Under the McKay Scholarships for Students with  
286 Disabilities Program, the parent of a ~~public school~~ student with  
287 a disability ~~who is dissatisfied with the student's progress~~ may  
288 request and receive a McKay Scholarship for the student to  
289 attend a private school in accordance with the provisions of s.  
290 1002.39.

291 3. Under the corporate income tax credit scholarship  
292 program, the parent of a student who qualifies for free or  
293 reduced-price school lunch may seek a scholarship from an  
294 eligible nonprofit scholarship-funding organization in  
295 accordance with the provisions of s. 220.187.

296 Section 3. This act shall take effect July 1, 2009.