



424452

LEGISLATIVE ACTION

Senate	.	House
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Floor: 1/AD/3R	.	Floor: C
04/29/2010 05:16 PM	.	04/30/2010 12:46 PM
	.	

Senator Gardiner moved the following:

Senate Amendment (with title amendment)

Delete lines 25 - 277

and insert:

Section 1. Subsection (2), paragraph (a) of subsection (7), and paragraphs (a), (c), and (d) of subsection (10) of section 1002.39, Florida Statutes, are amended to read:

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 Program and is named the John M. McKay Scholarships for Students with Disabilities Program.

(2) JOHN M. MCKAY SCHOLARSHIP ELIGIBILITY.—The parent of a



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14 ~~public school~~ student with a disability ~~who is dissatisfied with~~
15 ~~the student's progress~~ may request and receive from the state a
16 John M. McKay Scholarship for the child to enroll in and attend
17 a private school in accordance with this section if:

18 (a) The student has:

19 1. Received specialized instructional services under the
20 Voluntary Prekindergarten Education Program pursuant to s.
21 1002.66 during the previous school year and the student has a
22 current individual educational plan developed by the local
23 school board in accordance with rules of the State Board of
24 Education for the John M. McKay Scholarships for Students with
25 Disabilities Program;

26 2. Spent the prior school year in attendance at a Florida
27 public school or the Florida School for the Deaf and the Blind.
28 For purposes of this subparagraph, prior school year in
29 attendance means that the student was+

30 1. enrolled and reported by:

31 a. A school district for funding during the preceding
32 October and February Florida Education Finance Program surveys
33 in kindergarten through grade 12, which includes ~~shall include~~
34 time spent in a Department of Juvenile Justice commitment
35 program if funded under the Florida Education Finance Program;

36 ~~b.2. Enrolled and reported by~~ The Florida School for the
37 Deaf and the Blind during the preceding October and February
38 student membership surveys in kindergarten through grade 12; or

39 ~~c.3. Enrolled and reported by~~ A school district for funding
40 during the preceding October and February Florida Education
41 Finance Program surveys, was at least 4 years of age ~~old~~ when so
42 enrolled and reported, and was eligible for services under s.



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43 1003.21(1)(e); ~~or-~~

44 3. Been enrolled and reported by a school district for
45 funding, during the October and February Florida Education
46 Finance Program surveys, in any of the 5 years prior to the
47 2010-2011 fiscal year; has a current individualized educational
48 plan developed by the district school board in accordance with
49 rules of the State Board of Education for the John M. McKay
50 Scholarship Program no later than June 30, 2011; and receives a
51 first-time John M. McKay scholarship for the 2011-2012 school
52 year. Upon request of the parent, the local school district
53 shall complete a matrix of services as required in subparagraph
54 (5)(b)1. for a student requesting a current individualized
55 educational plan in accordance with the provisions of this
56 subparagraph.

57
58 However, a dependent child of a member of the United States
59 Armed Forces who transfers to a school in this state from out of
60 state or from a foreign country due to ~~pursuant to~~ a parent's
61 permanent change of station orders is exempt from this paragraph
62 but must meet all other eligibility requirements to participate
63 in the program.

64 (b) The parent has obtained acceptance for admission of the
65 student to a private school that is eligible for the program
66 under subsection (8) and has requested from the department a
67 scholarship at least 60 days before ~~prior to~~ the date of the
68 first scholarship payment. The request must be communicated
69 ~~through a communication~~ directly to the department in a manner
70 that creates a written or electronic record of the request and
71 the date of receipt of the request. The department ~~of Education~~



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72 must notify the district of the parent's intent upon receipt of
73 the parent's request.

74 (7) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.—

75 (a) The Commissioner of Education:

76 1. Shall deny, suspend, or revoke a private school's
77 participation in the scholarship program if it is determined
78 that the private school has failed to comply with the provisions
79 of this section. However, ~~if in instances in which~~ the
80 noncompliance is correctable within a reasonable amount of time
81 and ~~if in which~~ the health, safety, or welfare of the students
82 is not threatened, the commissioner may issue a notice of
83 noncompliance which provides ~~shall provide~~ the private school
84 with a timeframe within which to provide evidence of compliance
85 before ~~prior to~~ taking action to suspend or revoke the private
86 school's participation in the scholarship program.

87 2. May deny, suspend, or revoke a private school's
88 participation in the scholarship program if the commissioner
89 determines that an owner or operator of the private school is
90 operating or has operated an educational institution in this
91 state or in another state or jurisdiction in a manner contrary
92 to the health, safety, or welfare of the public.

93 a. In making such a determination, the commissioner may
94 consider factors that include, but are not limited to, acts or
95 omissions by an owner or operator which led to a previous denial
96 or revocation of participation in an education scholarship
97 program; an owner's or operator's failure to reimburse the
98 Department of Education for scholarship funds improperly
99 received or retained by a school; imposition of a prior criminal
100 sanction related to an owner's or operator's management or



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101 operation of an educational institution; imposition of a civil
102 fine or administrative fine, license revocation or suspension,
103 or program eligibility suspension, termination, or revocation
104 related to an owner's or operator's management or operation of
105 an educational institution; or other types of criminal
106 proceedings in which an owner or operator was found guilty of,
107 regardless of adjudication, or entered a plea of nolo contendere
108 or guilty to, any offense involving fraud, deceit, dishonesty,
109 or moral turpitude.

110 b. For purposes of this subparagraph, the term "owner or
111 operator" includes an owner, operator, superintendent, or
112 principal of, or a person who has equivalent decisionmaking
113 authority over, a private school participating in the
114 scholarship program.

115 (10) JOHN M. MCKAY SCHOLARSHIP FUNDING AND PAYMENT.—

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

123 2. In addition, a share of the guaranteed allocation for
124 exceptional students shall be determined and added to the
125 ~~calculated~~ amount in subparagraph 1. The calculation shall be
126 based on the methodology and the data used to calculate the
127 guaranteed allocation for exceptional students for each district
128 in chapter 2000-166, Laws of Florida. Except as provided in
129 subparagraphs 3. and 4., the calculation shall be based on the



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130 student's grade, matrix level of services, and the difference
131 between the 2000-2001 basic program and the appropriate level of
132 services cost factor, multiplied by the 2000-2001 base student
133 allocation and the 2000-2001 district cost differential for the
134 sending district. ~~Also,~~ The calculated amount shall include the
135 per-student share of supplemental academic instruction funds,
136 instructional materials funds, technology funds, and other
137 categorical funds as provided ~~for such purposes~~ in the General
138 Appropriations Act.

139 3. The ~~calculated~~ scholarship amount for a student who is
140 eligible under sub-subparagraph (2) (a) 2.b. ~~subparagraph (2) (a) 2.~~
141 shall be calculated as provided in subparagraphs 1. and 2.
142 However, the calculation shall be based on the school district
143 in which the parent resides at the time of the scholarship
144 request.

145 4. Until the school district completes the matrix required
146 by paragraph (5) (b), the calculation shall be based on the
147 matrix that assigns the student to support level I of service as
148 it existed prior to the 2000-2001 school year. When the school
149 district completes the matrix, the amount of the payment shall
150 be adjusted as needed.

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

156 2. For program participants who are eligible under sub-
157 subparagraph (2) (a) 2.b. ~~subparagraph (2) (a) 2.~~, the school
158 district that is used as the basis for the calculation of the



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159 scholarship amount as provided in subparagraph (a)3. shall:
160 a. Report to the department all such students who are
161 attending a private school under this program.
162 b. Be held harmless for such students from the weighted
163 enrollment ceiling for group 2 programs in s. 1011.62(1)(d)3.b.
164 during the first school year in which the students are reported.
165 (d) Following notification on July 1, September 1, December
166 1, or February 1 of the number of program participants, the
167 department shall transfer, from General Revenue funds only, the
168 amount calculated under paragraph (b) from the school district's
169 total funding entitlement under the Florida Education Finance
170 Program and from authorized categorical accounts to a separate
171 account for the scholarship program for quarterly disbursement
172 to the parents of participating students. Funds may not be
173 transferred from any funding provided to the Florida School for
174 the Deaf and the Blind for program participants who are eligible
175 under sub-subparagraph (2)(a)2.b. ~~subparagraph (2)(a)2.~~ For a
176 student exiting a Department of Juvenile Justice commitment
177 program who chooses to participate in the scholarship program,
178 the amount of the John M. McKay Scholarship calculated pursuant
179 to paragraph (b) shall be transferred from the school district
180 in which the student last attended a public school before ~~prior~~
181 ~~to~~ commitment to the Department of Juvenile Justice. When a
182 student enters the scholarship program, the department must
183 receive all documentation required for the student's
184 participation, including the private school's and the student's
185 fee schedules, at least 30 days before the first quarterly
186 scholarship payment is made for the student.
187 Section 2. Present subsections (2) through (5) of section



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188 1002.51, Florida Statutes, are redesignated as subsections (4)
189 through (7), respectively, and new subsections (2) and (3) are
190 added to that section, to read:

191 1002.51 Definitions.—As used in this part, the term:

192 (2) "Disability" means any disability listed in the
193 definition of exceptional student in s. 1003.01.

194 (3) "Specialized instructional services provider" means a
195 provider delivering specialized instructional services under s.
196 1002.66.

197 Section 3. Subsections (1) and (3) of section 1002.53,
198 Florida Statutes, are amended to read:

199 1002.53 Voluntary Prekindergarten Education Program;
200 eligibility and enrollment.—

201 (1) ~~There is created~~ The Voluntary Prekindergarten
202 Education Program is created and. ~~The program shall take effect~~
203 ~~in each county at the beginning of the 2005-2006 school year and~~
204 shall be organized, designed, and delivered in accordance with
205 s. 1(b) and (c), Art. IX of the State Constitution.

206 (3) The parent of each child eligible under subsection (2)
207 may enroll the child in one of the following programs:

208 (a) A school-year prekindergarten program delivered by a
209 private prekindergarten provider under s. 1002.55;

210 (b) A summer prekindergarten program delivered by a public
211 school or private prekindergarten provider under s. 1002.61; ~~or~~

212 (c) A school-year prekindergarten program delivered by a
213 public school; or

214 (d) A specialized instructional services program for
215 children who have disabilities, if the child has been evaluated
216 and determined as eligible, has a current individual educational



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217 plan developed by the local school board, and is eligible for
218 the program under s. 1002.66.

219
220 Except as provided in s. 1002.71(4), a child may not enroll in
221 more than one of these programs.

222 Section 4. Section 1002.66, Florida Statutes, is created to
223 read:

224 1002.66 Specialized instructional services for children
225 with disabilities.—

226 (1) Beginning with the 2012-2013 school year, a child who
227 has a disability and enrolls with the early learning coalition
228 under s. 1002.53(3)(d) is eligible for specialized instructional
229 services if:

230 (a) The child is eligible for the Voluntary Prekindergarten
231 Education Program under s. 1002.53; and

232 (b) A current individual educational plan has been
233 developed for the child by the local school board in accordance
234 with rules of the State Board of Education.

235 (2) The parent of a child who is eligible for the
236 prekindergarten program for children with disabilities may
237 select one or more specialized instructional services that are
238 consistent with the child's individual educational plan. These
239 specialized instructional services may include, but are not
240 limited to:

241 (a) Applied behavior analysis as defined in ss. 627.6686
242 and 641.31098.

243 (b) Speech-language pathology as defined in s. 468.1125.

244 (c) Occupational therapy as defined in s. 468.203.

245 (d) Physical therapy as defined is s. 486.021.



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246 (3) The specialized instructional services provided for a
247 child under this section must be delivered according to
248 professionally accepted standards; must be in accordance with
249 the performance standards adopted by the department under s.
250 1002.67; and must address the age-appropriate progress of the
251 child in the development of the capabilities, capacities, and
252 skills required under s. 1(b), Art. IX of the State
253 Constitution.

254 (4) The department shall approve specialized instructional
255 service providers whose services meet the standards in
256 subsection (3), maintain a list of approved providers, and
257 notify each school district and early learning coalition of the
258 approved provider list. Upon the request of a child's parent,
259 the department may approve a specialized instructional service
260 provider that is not on the approved list if the provider's
261 services meet the standards in subsection (3) and the service is
262 consistent with the child's individual educational plan.

263 (5) The coalition shall reimburse an approved specialized
264 instructional service provider for authorized services provided
265 to an eligible child; however, the cumulative total of services
266 reimbursed for a child may not exceed the amount of the base
267 student allocation provided in the Voluntary Prekindergarten
268 Education Program in the General Appropriations Act. Providers
269 shall be reimbursed from funds allocated to the early learning
270 coalition for the Voluntary Prekindergarten Education Program.

271 Section 5. Paragraph (a) of subsection (4) of section
272 1002.71, Florida Statutes, is amended to read:

273 1002.71 Funding; financial and attendance reporting.-

274 (4) Notwithstanding s. 1002.53(3) and subsection (2):



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275 (a) A child who, for any of the prekindergarten programs
276 listed in s. 1002.53(3), has not completed more than 70 percent
277 of the hours authorized to be reported for funding under
278 subsection (2), or has not expended more than 70 percent of the
279 funds authorized for the child under s. 1002.66, may withdraw
280 from the program for good cause and reenroll in one of the
281 programs. The total funding for a child who reenrolls in one of
282 the programs for good cause may not exceed one full-time
283 equivalent student. Funding for a child who withdraws and
284 reenrolls in one of the programs for good cause shall be issued
285 in accordance with the agency's uniform attendance policy
286 adopted pursuant to paragraph (6) (d).

287
288 A child may reenroll only once in a prekindergarten program
289 under this section. A child who reenrolls in a prekindergarten
290 program under this subsection may not subsequently withdraw from
291 the program and reenroll. The Agency for Workforce Innovation
292 shall establish criteria specifying whether a good cause exists
293 for a child to withdraw from a program under paragraph (a),
294 whether a child has substantially completed a program under
295 paragraph (b), and whether an extreme hardship exists which is
296 beyond the child's or parent's control under paragraph (b).

297 Section 6. Subsection (2) of section 1002.73, Florida
298 Statutes, is amended to read:

299 1002.73 Department of Education; powers and duties;
300 accountability requirements.—

301 (2) The department shall adopt procedures for its ~~the~~
302 ~~department's~~:

303 (a) Approval of prekindergarten director credentials under



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304 ss. 1002.55 and 1002.57.

305 (b) Approval of emergent literacy training courses under
306 ss. 1002.55 and 1002.59.

307 (c) Administration of the statewide kindergarten screening
308 and calculation of kindergarten readiness rates under s.
309 1002.69.

310 (d) Approval of specialized instructional services
311 providers under s. 1002.66.

312 Section 7. Subsection (3) of section 1002.75, Florida
313 Statutes, is amended to read:

314 1002.75 Agency for Workforce Innovation; powers and duties;
315 operational requirements.—

316 (3) The Agency for Workforce Innovation shall adopt, in
317 consultation with and subject to approval by the department,
318 procedures governing the administration of the Voluntary
319 Prekindergarten Education Program by the early learning
320 coalitions and school districts for:

321 (a) Approving improvement plans of private prekindergarten
322 providers and public schools under s. 1002.67.

323 (b) Placing private prekindergarten providers and public
324 schools on probation and requiring corrective actions under s.
325 1002.67.

326 (c) Removing a private prekindergarten provider or public
327 school from eligibility to deliver the program due to the
328 provider's or school's remaining on probation beyond the time
329 permitted under s. 1002.67.

330 (d) Enrolling children in and determining the eligibility
331 of children for the Voluntary Prekindergarten Education Program
332 under s. 1002.66.



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333 (e) Paying specialized instructional services providers
334 under s. 1002.66.

335
336 ===== T I T L E A M E N D M E N T =====

337 And the title is amended as follows:

338 Delete lines 2 - 21

339 and insert:

340 An act relating to education programs for children
341 with disabilities; amending s. 1002.39, F.S.; revising
342 provisions relating to the John M. McKay Scholarships
343 for Students with Disabilities Program; authorizing
344 students who receive certain services under the
345 Voluntary Prekindergarten Education Program to receive
346 a John M. McKay Scholarship; authorizing the
347 Commissioner of Education to deny, suspend, or revoke
348 a private school's participation in the scholarship
349 program if the owner or operator of such school has
350 operated an educational institution in this state or
351 another in a manner contrary to the health, safety, or
352 welfare of the public; providing factors for the
353 commissioner to consider in making a determination;
354 providing a definition for the term "owner or
355 operator"; conforming cross-references; amending s.
356 1002.51, F.S.; providing definitions for the terms
357 "disability" and "specialized instructional services
358 provider" for purposes of the Voluntary
359 Prekindergarten Education Program; amending s.
360 1002.53, F.S.; providing that a parent may enroll his
361 or her child in a specialized instructional services



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362 program for children who have disabilities if the
363 child is eligible for the Voluntary Prekindergarten
364 Education Program; creating s. 1002.66, F.S.;
365 establishing specialized instructional services for
366 children with disabilities; providing eligibility
367 criteria for such services; requiring that such
368 services be delivered in accordance with certain
369 standards; requiring that the Department of Education
370 approve specialized instructional service providers;
371 authorizing the expenditure of funds for specialized
372 instructional services; amending s. 1002.71, F.S.;
373 revising provisions for the funding of a child
374 receiving specialized instructional services to
375 conform to changes made by the act; amending s.
376 1002.73, F.S.; requiring that the Department of
377 Education adopt procedures for approving specialized
378 instructional services providers; amending s. 1002.75,
379 F.S.; requiring that the Agency for Workforce
380 Innovation adopt procedures for enrolling children in
381 and determining the eligibility of children for the
382 Voluntary Prekindergarten Education Program and paying
383 specialized instructional services providers;
384 providing an effective date.