

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.; revising student eligibility requirements for  
5 participation in the scholarship program; authorizing  
6 students who are eligible to enter kindergarten to receive  
7 a John M. McKay Scholarship; providing eligibility  
8 requirements for a student identified with a developmental  
9 delay; authorizing students who were enrolled and reported  
10 by a school district for funding during any prior year  
11 Florida Education Finance Program surveys to receive a  
12 John M. McKay Scholarship; defining the term "owner or  
13 operator"; authorizing the Commissioner of Education to  
14 deny, suspend, or revoke a private school's participation  
15 in the scholarship program for certain acts or omissions  
16 by an owner or operator of the private school; conforming  
17 cross-references; permitting students to receive  
18 instruction and services from a private school at a site  
19 other than the physical location of the private school  
20 under specified conditions; amending s. 1002.20, F.S.;  
21 conforming provisions; providing an effective date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
25 Section 1. Subsection (2), paragraph (h) of subsection  
26 (3), paragraph (a) of subsection (4), paragraph (a) of  
27 subsection (7), paragraph (d) of subsection (8), and paragraphs  
28 (a), (c), and (d) of subsection (10) of section 1002.39, Florida

29 Statutes, are amended, subsections (11), (12), and (13) are  
 30 renumbered as subsections (12), (13), and (14), respectively,  
 31 and a new subsection (11) is added to that section, to read:

32 1002.39 The John M. McKay Scholarships for Students with  
 33 Disabilities Program.—There is established a program that is  
 34 separate and distinct from the Opportunity Scholarship Program  
 35 and is named the John M. McKay Scholarships for Students with  
 36 Disabilities Program.

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

42 (a) The student:

43 1. Is eligible to enter kindergarten. A child identified  
 44 with a developmental delay who has received early intervention  
 45 services under the Voluntary Prekindergarten Education Program  
 46 must be reevaluated prior to entering kindergarten so that an  
 47 individual education plan shall be developed if he or she is  
 48 deemed eligible for the exceptional student education program;

49 or

50 2. Has attended ~~spent the prior school year in attendance~~  
 51 ~~at~~ a Florida public school or the Florida School for the Deaf  
 52 and the Blind. For purposes of this subparagraph, Prior school  
 53 ~~year in attendance~~ means that the student was:

54 1. ~~enrolled and reported by:~~

55 a. A school district for funding during any prior the  
 56 ~~preceding~~ October and February Florida Education Finance Program

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57 | surveys during the same school year in kindergarten through  
58 | grade 12, which shall include time spent in a Department of  
59 | Juvenile Justice commitment program if funded under the Florida  
60 | Education Finance Program; or

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

64 | ~~3. Enrolled and reported by a school district for funding~~  
65 | ~~during the preceding October and February Florida Education~~  
66 | ~~Finance Program surveys, was at least 4 years old when so~~  
67 | ~~enrolled and reported, and was eligible for services under s.~~  
68 | ~~1003.21(1)(c).~~

69

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

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

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

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

90 (4) TERM OF JOHN M. MCKAY SCHOLARSHIP.—

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

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

96 (a)1. The Commissioner of Education shall deny, suspend,  
 97 or revoke a private school's participation in the scholarship  
 98 program if it is determined that the private school has failed  
 99 to comply with the provisions of this section. However, in  
 100 instances in which the noncompliance is correctable within a  
 101 reasonable amount of time and in which the health, safety, or  
 102 welfare of the students is not threatened, the commissioner may  
 103 issue a notice of noncompliance which shall provide the private  
 104 school with a timeframe within which to provide evidence of  
 105 compliance prior to taking action to suspend or revoke the  
 106 private school's participation in the scholarship program.

107 2.a. For purposes of this subparagraph, the term "owner or  
 108 operator" includes an owner, operator, superintendent, or  
 109 principal of, or a person with equivalent decisionmaking  
 110 authority over, a private school participating in the  
 111 scholarship program.

112 b. The Commissioner of Education may deny, suspend, or

113 revoke a private school's participation in the scholarship  
 114 program if the commissioner determines that an owner or operator  
 115 of the private school is operating or has operated an  
 116 educational institution in this state or another state or  
 117 jurisdiction in a manner contrary to the health, safety, or  
 118 welfare of the public. In making this determination, the  
 119 commissioner may consider factors that include, but are not  
 120 limited to: acts or omissions by an owner or operator that led  
 121 to a previous denial or revocation of participation in an  
 122 education scholarship program; an owner's or operator's failure  
 123 to reimburse the Department of Education for scholarship funds  
 124 improperly received or retained by a school; imposition of a  
 125 prior criminal sanction related to an owner's or operator's  
 126 management or operation of an educational institution;  
 127 imposition of a civil fine or administrative fine, license  
 128 revocation or suspension, or program eligibility suspension,  
 129 termination, or revocation related to an owner's or operator's  
 130 management or operation of an educational institution; or other  
 131 types of criminal proceedings in which an owner or operator was  
 132 found guilty of, regardless of adjudication, or entered a plea  
 133 of nolo contendere or guilty to, any offense involving fraud,  
 134 deceit, dishonesty, or moral turpitude.

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

139 (d) ~~Maintain in this state~~ a physical location in this  
 140 state where a scholarship student regularly attends classes or

141 provide instruction and services pursuant to subsection (11).

142  
 143 The inability of a private school to meet the requirements of  
 144 this subsection shall constitute a basis for the ineligibility  
 145 of the private school to participate in the scholarship program  
 146 as determined by the department.

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

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

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

169 categorical funds as provided for such purposes in the General  
170 Appropriations Act.

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

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

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

188 2. For program participants who are eligible under sub-  
189 subparagraph (2) (a) 2.b. ~~subparagraph (2) (a) 2.~~, the school  
190 district that is used as the basis for the calculation of the  
191 scholarship amount as provided in subparagraph (a) 3. shall:

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

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

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

219 (11) ALTERNATIVE SITES FOR INSTRUCTION AND SERVICES.—A  
 220 student eligible for a scholarship under this section may  
 221 receive regular and direct instruction and services from a  
 222 private school at a site other than the physical location of the  
 223 school if the following criteria are met:

224 (a) The student's parent must provide a notarized



225 statement from an individual treating the student's disability  
 226 who is a physician licensed under chapter 458 or chapter 459 or  
 227 a psychologist licensed under chapter 490, which certifies that  
 228 the student's welfare or the welfare of other students in the  
 229 classroom will be jeopardized if the student is required to  
 230 regularly attend class at the physical location of the school.

231 The notarized statement must be:

232 1. Annually provided to the department at least 60 days  
 233 prior to the date of the first scholarship payment for each  
 234 school year.

235 2. Based on an annual review of the student's disability  
 236 by the physician or psychologist treating the student's  
 237 disability.

238 (b) The private school serving the student must:

239 1. Employ or contract with a case manager who coordinates  
 240 and monitors the student's instruction and services, reviews and  
 241 maintains the documentation submitted under subparagraph 2., and  
 242 provides the student's parent and the private school with  
 243 monthly reports on the student's progress.

244 2. Require private school employees or contracted  
 245 personnel who provide regular and direct instruction or services  
 246 to a student at a site other than the private school's physical  
 247 location to submit to the case manager documentation of the  
 248 instruction, services, and progress of the student.

249 3. Notify the department of each student receiving  
 250 services under this subsection.

251 Section 2. Paragraph (b) of subsection (6) of section  
 252 1002.20, Florida Statutes, is amended to read:

253 1002.20 K-12 student and parent rights.—Parents of public  
 254 school students must receive accurate and timely information  
 255 regarding their child's academic progress and must be informed  
 256 of ways they can help their child to succeed in school. K-12  
 257 students and their parents are afforded numerous statutory  
 258 rights including, but not limited to, the following:

259 (6) EDUCATIONAL CHOICE.—

260 (b) Private school choices.—Parents of public school  
 261 students may seek private school choice options under certain  
 262 programs.

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

267 2. Under the McKay Scholarships for Students with  
 268 Disabilities Program, the parent of a ~~public school~~ student with  
 269 a disability ~~who is dissatisfied with the student's progress~~ may  
 270 request and receive a McKay Scholarship for the student to  
 271 attend a private school in accordance with the provisions of s.  
 272 1002.39.

273 3. Under the Florida Tax Credit Scholarship Program, the  
 274 parent of a student who qualifies for free or reduced-price  
 275 school lunch may seek a scholarship from an eligible nonprofit  
 276 scholarship-funding organization in accordance with the  
 277 provisions of s. 220.187.

278 Section 3. This act shall take effect July 1, 2010.