

By the Committee on Education Pre-K - 12; and Senator Gardiner

581-04934-10

20102746c1

1                                   A bill to be entitled  
2           An act relating to education programs for children  
3           with disabilities; amending s. 1002.39, F.S., relating  
4           to the John M. McKay Scholarships for Students with  
5           Disabilities Program; authorizing students who receive  
6           certain services under the Voluntary Prekindergarten  
7           Education Program to receive a John M. McKay  
8           Scholarship; authorizing the Commissioner of Education  
9           to deny, suspend, or revoke a school's participation  
10          in the scholarship program if the owner or operator of  
11          the school operates the school in a manner contrary to  
12          the health, safety, or welfare of the public;  
13          conforming cross-references; amending s. 1002.51,  
14          F.S.; revising definitions for the Voluntary  
15          Prekindergarten Education Program; amending s. 1002.53  
16          and creating s. 1002.66, F.S.; establishing a  
17          prekindergarten program option for children with  
18          disabilities; providing eligibility criteria for early  
19          intervention services; providing for the approval of  
20          early intervention service providers; authorizing the  
21          expenditure of funds for early intervention services;  
22          amending s. 1002.71, F.S.; authorizing a child  
23          participating in a prekindergarten program for  
24          children with disabilities to reenroll in another  
25          program option under certain conditions; amending s.  
26          1002.75, F.S.; revising the powers and duties of the  
27          Agency for Workforce Innovation for prekindergarten  
28          programs; providing an effective date.  
29

581-04934-10

20102746c1

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

31  
32 Section 1. Subsection (2), paragraph (a) of subsection (7),  
33 and paragraphs (a), (c), and (d) of subsection (10) of section  
34 1002.39, Florida Statutes, are amended 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.—The parent of a  
41 ~~public school~~ student with a disability ~~who is dissatisfied with~~  
42 ~~the student's progress~~ may request and receive from the state a  
43 John M. McKay Scholarship for the child to enroll in and attend  
44 a private school in accordance with this section if:

45 (a) The student has:

46 1. Received early intervention services under the Voluntary  
47 Prekindergarten Education Program pursuant to s. 1002.66 during  
48 the previous school year, and the student has a current  
49 individual educational plan developed in accordance with rules  
50 of the State Board of Education; or

51 2. Spent the prior school year in attendance at a Florida  
52 public school or the Florida School for the Deaf and the Blind.  
53 For purposes of this subparagraph, prior school year in  
54 attendance means that the student was

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

56 a. A school district for funding during the preceding  
57 October and February Florida Education Finance Program surveys  
58 in kindergarten through grade 12, which includes ~~shall include~~

581-04934-10

20102746c1

59 time spent in a Department of Juvenile Justice commitment  
60 program if funded under the Florida Education Finance Program;

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 ~~c.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)(e).

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 due to ~~pursuant to~~ a parent's  
73 permanent change of station orders is exempt from this paragraph  
74 but must meet all other eligibility requirements to participate  
75 in the program.

76 (b) The parent has obtained acceptance for admission of the  
77 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 before ~~prior to~~ the date of the  
80 first scholarship payment. The request must be communicated  
81 ~~through a communication~~ directly to the department in a manner  
82 that creates a written or electronic record of the request and  
83 the date of receipt of the request. The department ~~of Education~~  
84 must notify the district of the parent's intent upon receipt of  
85 the parent's request.

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

87 (a) The Commissioner of Education:

581-04934-10

20102746c1

88           1. Shall deny, suspend, or revoke a private school's  
89 participation in the scholarship program if it is determined  
90 that the private school has failed to comply with the provisions  
91 of this section. However, ~~if in instances in which~~ the  
92 noncompliance is correctable within a reasonable amount of time  
93 and ~~if in which~~ the health, safety, or welfare of the students  
94 is not threatened, the commissioner may issue a notice of  
95 noncompliance which provides ~~shall provide~~ the private school  
96 with a timeframe within which to provide evidence of compliance  
97 before ~~prior to~~ taking action to suspend or revoke the private  
98 school's participation in the scholarship program.

99           2. May deny, suspend, or revoke a private school's  
100 participation in the scholarship program if the commissioner  
101 determines that an owner or operator of the private school is  
102 operating or has operated an educational institution in this  
103 state or in another state or jurisdiction in a manner contrary  
104 to the health, safety, or welfare of the public.

105           a. In making such a determination, the commissioner may  
106 consider factors that include, but are not limited to, acts or  
107 omissions by an owner or operator which led to a previous denial  
108 or revocation of participation in an education scholarship  
109 program; an owner's or operator's failure to reimburse the  
110 Department of Education for scholarship funds improperly  
111 received or retained by a school; imposition of a prior criminal  
112 sanction related to an owner's or operator's management or  
113 operation of an educational institution; imposition of a civil  
114 fine or administrative fine, license revocation or suspension,  
115 or program eligibility suspension, termination, or revocation  
116 related to an owner's or operator's management or operation of

581-04934-10

20102746c1

117 an educational institution; or other types of criminal  
118 proceedings in which an owner or operator was found guilty of,  
119 regardless of adjudication, or entered a plea of nolo contendere  
120 or guilty to, any offense involving fraud, deceit, dishonesty,  
121 or moral turpitude.

122 b. For purposes of this subparagraph, the term "owner or  
123 operator" includes an owner, operator, superintendent, or  
124 principal of, or a person who has equivalent decisionmaking  
125 authority over, a private school participating in the  
126 scholarship program.

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

128 (a)1. The maximum scholarship granted for an eligible  
129 student with disabilities shall be ~~a calculated amount~~  
130 equivalent to the base student allocation in the Florida  
131 Education Finance Program multiplied by the appropriate cost  
132 factor for the educational program that would have been provided  
133 for the student in the district school to which he or she was  
134 assigned, multiplied by the district cost differential.

135 2. In addition, a share of the guaranteed allocation for  
136 exceptional students shall be determined and added to the  
137 ~~calculated amount~~ in subparagraph 1. The calculation shall be  
138 based on the methodology and the data used to calculate the  
139 guaranteed allocation for exceptional students for each district  
140 in chapter 2000-166, Laws of Florida. Except as provided in  
141 subparagraphs 3. and 4., the calculation shall be based on the  
142 student's grade, matrix level of services, and the difference  
143 between the 2000-2001 basic program and the appropriate level of  
144 services cost factor, multiplied by the 2000-2001 base student  
145 allocation and the 2000-2001 district cost differential for the

581-04934-10

20102746c1

146 sending district. ~~Also,~~ The calculated amount shall include the  
147 per-student share of supplemental academic instruction funds,  
148 instructional materials funds, technology funds, and other  
149 categorical funds as provided ~~for such purposes~~ in the General  
150 Appropriations Act.

151 3. The ~~calculated~~ scholarship amount for a student who is  
152 eligible under sub-subparagraph (2) (a) 2.b. ~~subparagraph (2) (a) 2.~~  
153 shall be calculated as provided in subparagraphs 1. and 2.  
154 However, the calculation shall be based on the school district  
155 in which the parent resides at the time of the scholarship  
156 request.

157 4. Until the school district completes the matrix required  
158 by paragraph (5) (b), the calculation shall be based on the  
159 matrix that assigns the student to support level I of service as  
160 it existed prior to the 2000-2001 school year. When the school  
161 district completes the matrix, the amount of the payment shall  
162 be adjusted as needed.

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

168 2. For program participants who are eligible under  
169 subparagraph (2) (a) 2.b. ~~subparagraph (2) (a) 2.~~, the school  
170 district that is used as the basis for the calculation of the  
171 scholarship amount as provided in subparagraph (a) 3. shall:

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

174 b. Be held harmless for such students from the weighted

581-04934-10

20102746c1

175 enrollment ceiling for group 2 programs in s. 1011.62(1)(d)3.b.  
176 during the first school year in which the students are reported.

177 (d) Following notification on July 1, September 1, December  
178 1, or February 1 of the number of program participants, the  
179 department shall transfer, from General Revenue funds only, the  
180 amount calculated under paragraph (b) from the school district's  
181 total funding entitlement under the Florida Education Finance  
182 Program and from authorized categorical accounts to a separate  
183 account for the scholarship program for quarterly disbursement  
184 to the parents of participating students. Funds may not be  
185 transferred from any funding provided to the Florida School for  
186 the Deaf and the Blind for program participants who are eligible  
187 under sub-subparagraph (2)(a)2.b. ~~subparagraph (2)(a)2.~~ For a  
188 student exiting a Department of Juvenile Justice commitment  
189 program who chooses to participate in the scholarship program,  
190 the amount of the John M. McKay Scholarship calculated pursuant  
191 to paragraph (b) shall be transferred from the school district  
192 in which the student last attended a public school before ~~prior~~  
193 ~~to~~ commitment to the Department of Juvenile Justice. When a  
194 student enters the scholarship program, the department must  
195 receive all documentation required for the student's  
196 participation, including the private school's and the student's  
197 fee schedules, at least 30 days before the first quarterly  
198 scholarship payment is made for the student.

199 Section 2. Present subsections (2) through (5) of section  
200 1002.51, Florida Statutes, are renumbered as subsections (4)  
201 through (7), respectively, and new subsections (2) and (3) are  
202 added to that section, to read:

203 1002.51 Definitions.—As used in this part, the term:

581-04934-10

20102746c1

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

206       (3) "Early intervention service provider" means a provider  
207 delivering early intervention services under s. 1002.66.

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

210       1002.53 Voluntary Prekindergarten Education Program;  
211 eligibility and enrollment.-

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

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

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

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

223       (c) A school-year prekindergarten program delivered by a  
224 public school; or

225       (d) A prekindergarten program for children who have  
226 disabilities, if the child has a disability and is eligible for  
227 the program under s. 1002.66.

228  
229 Except as provided in s. 1002.71(4), a child may not enroll in  
230 more than one of these programs.

231       Section 4. Section 1002.66, Florida Statutes, is created to  
232 read:



581-04934-10

20102746c1

233 1002.66 Prekindergarten program for children with  
234 disabilities.-

235 (1) Beginning with the 2012-2013 school year, a child who  
236 has a disability and enrolls with the early learning coalition  
237 under s. 1002.53(3)(d) is eligible for a prekindergarten program  
238 of early intervention services if:

239 (a) The child is eligible for the Voluntary Prekindergarten  
240 Education Program under s. 1002.53.

241 (b) A current individual educational plan has been  
242 developed for the child in accordance with rules of the State  
243 Board of Education.

244 (2) The parent of a child who is eligible for the  
245 prekindergarten program for children with disabilities may  
246 select one or more early intervention services that the child's  
247 individual educational plan indicates is appropriate for the  
248 child. These early intervention services may include, but are  
249 not limited to:

250 (a) Applied behavior analysis as defined in ss. 627.6686  
251 and 641.31098.

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

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

254 (d) Physical therapy as defined in s. 486.021.

255 (3) The early intervention services provided for a child  
256 under this section must be delivered according to professionally  
257 accepted standards and must, in accordance with the performance  
258 standards adopted by the department under s. 1002.67, address  
259 the age-appropriate progress of the child in the development of  
260 the capabilities, capacities, and skills required under s. 1(b),  
261 Art. IX of the State Constitution.

581-04934-10

20102746c1

262       (4) The department shall approve early intervention service  
263 providers whose services meet the standards in subsection (3),  
264 maintain a list of approved providers, and notify each school  
265 district and early learning coalition of the approved provider  
266 list. Upon the request of a child's parent, the department may  
267 approve an early intervention service provider that is not on  
268 the approved list if the provider's services meet the standards  
269 in subsection (3) and the child's individual educational plan  
270 indicates that the services are appropriate for the child.

271       (5) The coalition shall reimburse an approved early  
272 intervention service provider for authorized services provided  
273 to an eligible child; however, the cumulative total of services  
274 reimbursed for a child may not exceed the amount of the base  
275 student allocation provided in the Voluntary Prekindergarten  
276 Education Program in the General Appropriations Act. Providers  
277 shall be reimbursed from funds allocated to the early learning  
278 coalition for the Voluntary Prekindergarten Education Program.

279       Section 5. Paragraph (a) of subsection (4) of section  
280 1002.71, Florida Statutes, is amended to read:

281       1002.71 Funding; financial and attendance reporting.—

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

283       (a) A child who, for any of the prekindergarten programs  
284 listed in s. 1002.53(3), has not completed more than 70 percent  
285 of the hours authorized to be reported for funding under  
286 subsection (2), or has not expended more than 70 percent of the  
287 funds authorized for the child under s. 1002.66, may withdraw  
288 from the program for good cause and reenroll in one of the  
289 programs. The total funding for a child who reenrolls in one of  
290 the programs for good cause may not exceed one full-time

581-04934-10

20102746c1

291 equivalent student. Funding for a child who withdraws and  
292 reenrolls in one of the programs for good cause shall be issued  
293 in accordance with the agency's uniform attendance policy  
294 adopted pursuant to paragraph (6) (d).

295  
296 A child may reenroll only once in a prekindergarten program  
297 under this section. A child who reenrolls in a prekindergarten  
298 program under this subsection may not subsequently withdraw from  
299 the program and reenroll. The Agency for Workforce Innovation  
300 shall establish criteria specifying whether a good cause exists  
301 for a child to withdraw from a program under paragraph (a),  
302 whether a child has substantially completed a program under  
303 paragraph (b), and whether an extreme hardship exists which is  
304 beyond the child's or parent's control under paragraph (b).

305 Section 6. Paragraphs (a) and (f) of subsection (2) of  
306 section 1002.75, Florida Statutes, are amended to read:

307 1002.75 Agency for Workforce Innovation; powers and duties;  
308 operational requirements.—

309 (2) The Agency for Workforce Innovation shall adopt  
310 procedures governing the administration of the Voluntary  
311 Prekindergarten Education Program by the early learning  
312 coalitions and school districts for:

313 (a) Enrolling children in and determining the eligibility  
314 of children for the Voluntary Prekindergarten Education Program  
315 under ss. 1002.53 and 1002.66 ~~s. 1002.53~~.

316 (f) Paying private prekindergarten providers, and public  
317 schools, and early intervention service providers under ss.  
318 1002.66 and 1002.71 ~~s. 1002.71~~.

319 Section 7. This act shall take effect July 1, 2010.