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1 A bill to be entitled
2 An act relating to education programs for children with
3 disabilities; amending s. 1002.39, F.S.; revising
4 provisions relating to the John M. McKay Scholarships for
5 Students with Disabilities Program; authorizing students
6 who receive certain services under the Voluntary
7 Prekindergarten Education Program to receive a John M.
8 McKay Scholarship; authorizing the Commissioner of
9 Education to deny, suspend, or revoke a private school's
10 participation in the scholarship program if the owner or
11 operator of such school has operated an educational
12 institution in this state or another in a manner contrary
13 to the health, safety, or welfare of the public; providing
14 factors for the commissioner to consider in making a
15 determination; providing a definition for the term "owner
16 or operator"; conforming cross-references; amending s.
17 1002.51, F.S.; providing definitions for the terms
18 "disability" and "specialized instructional services
19 provider" for purposes of the Voluntary Prekindergarten
20 Education Program; amending s. 1002.53, F.S.; providing
21 that a parent may enroll his or her child in a specialized
22 instructional services program for children who have
23 disabilities if the child is eligible for the Voluntary
24 Prekindergarten Education Program; creating s. 1002.66,
25 F.S.; establishing specialized instructional services for
26 children with disabilities; providing eligibility criteria
27 for such services; requiring that such services be
28 delivered in accordance with certain standards; requiring

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29 that the Department of Education approve specialized
30 instructional service providers; authorizing the
31 expenditure of funds for specialized instructional
32 services; amending s. 1002.71, F.S.; revising provisions
33 for the funding of a child receiving specialized
34 instructional services to conform to changes made by the
35 act; amending s. 1002.73, F.S.; requiring that the
36 Department of Education adopt procedures for approving
37 specialized instructional services providers; amending s.
38 1002.75, F.S.; requiring that the Agency for Workforce
39 Innovation adopt procedures for enrolling children in and
40 determining the eligibility of children for the Voluntary
41 Prekindergarten Education Program and paying specialized
42 instructional services providers; providing an effective
43 date.

44
45 Be It Enacted by the Legislature of the State of Florida:

46
47 Section 1. Subsection (2), paragraph (a) of subsection
48 (7), and paragraphs (a), (c), and (d) of subsection (10) of
49 section 1002.39, Florida Statutes, are amended to read:

50 1002.39 The John M. McKay Scholarships for Students with
51 Disabilities Program.—There is established a program that is
52 separate and distinct from the Opportunity Scholarship Program
53 and is named the John M. McKay Scholarships for Students with
54 Disabilities Program.

55 (2) JOHN M. MCKAY SCHOLARSHIP ELIGIBILITY.—The parent of a
56 ~~public school~~ student with a disability ~~who is dissatisfied with~~

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57 ~~the student's progress~~ may request and receive from the state a
 58 John M. McKay Scholarship for the child to enroll in and attend
 59 a private school in accordance with this section if:

60 (a) The student has:

61 1. Received specialized instructional services under the
 62 Voluntary Prekindergarten Education Program pursuant to s.
 63 1002.66 during the previous school year and the student has a
 64 current individual educational plan developed by the local
 65 school board in accordance with rules of the State Board of
 66 Education for the John M. McKay Scholarships for Students with
 67 Disabilities Program;

68 2. Spent the prior school year in attendance at a Florida
 69 public school or the Florida School for the Deaf and the Blind.
 70 For purposes of this subparagraph, prior school year in
 71 attendance means that the student was+

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

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

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

81 ~~c.3. Enrolled and reported by~~ A school district for
 82 funding during the preceding October and February Florida
 83 Education Finance Program surveys, was at least 4 years of age
 84 ~~old~~ when so enrolled and reported, and was eligible for services

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85 under s. 1003.21(1)(e); ~~or-~~

86 3. Been enrolled and reported by a school district for
 87 funding, during the October and February Florida Education
 88 Finance Program surveys, in any of the 5 years prior to the
 89 2010-2011 fiscal year; has a current individualized educational
 90 plan developed by the district school board in accordance with
 91 rules of the State Board of Education for the John M. McKay
 92 Scholarship Program no later than June 30, 2011; and receives a
 93 first-time John M. McKay scholarship for the 2011-2012 school
 94 year. Upon request of the parent, the local school district
 95 shall complete a matrix of services as required in subparagraph
 96 (5)(b)1. for a student requesting a current individualized
 97 educational plan in accordance with the provisions of this
 98 subparagraph.

99
 100 However, a dependent child of a member of the United States
 101 Armed Forces who transfers to a school in this state from out of
 102 state or from a foreign country due to ~~pursuant to~~ a parent's
 103 permanent change of station orders is exempt from this paragraph
 104 but must meet all other eligibility requirements to participate
 105 in the program.

106 (b) The parent has obtained acceptance for admission of
 107 the student to a private school that is eligible for the program
 108 under subsection (8) and has requested from the department a
 109 scholarship at least 60 days before ~~prior to~~ the date of the
 110 first scholarship payment. The request must be communicated
 111 ~~through a communication~~ directly to the department in a manner
 112 that creates a written or electronic record of the request and

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113 the date of receipt of the request. The department ~~of Education~~
 114 must notify the district of the parent's intent upon receipt of
 115 the parent's request.

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

117 (a) The Commissioner of Education:

118 1. Shall deny, suspend, or revoke a private school's
 119 participation in the scholarship program if it is determined
 120 that the private school has failed to comply with the provisions
 121 of this section. However, ~~if in instances in which~~ the
 122 noncompliance is correctable within a reasonable amount of time
 123 and ~~if in which~~ the health, safety, or welfare of the students
 124 is not threatened, the commissioner may issue a notice of
 125 noncompliance which provides ~~shall provide~~ the private school
 126 with a timeframe within which to provide evidence of compliance
 127 before ~~prior to~~ taking action to suspend or revoke the private
 128 school's participation in the scholarship program.

129 2. May deny, suspend, or revoke a private school's
 130 participation in the scholarship program if the commissioner
 131 determines that an owner or operator of the private school is
 132 operating or has operated an educational institution in this
 133 state or in another state or jurisdiction in a manner contrary
 134 to the health, safety, or welfare of the public.

135 a. In making such a determination, the commissioner may
 136 consider factors that include, but are not limited to, acts or
 137 omissions by an owner or operator which led to a previous denial
 138 or revocation of participation in an education scholarship
 139 program; an owner's or operator's failure to reimburse the
 140 Department of Education for scholarship funds improperly

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141 received or retained by a school; imposition of a prior criminal
 142 sanction related to an owner's or operator's management or
 143 operation of an educational institution; imposition of a civil
 144 fine or administrative fine, license revocation or suspension,
 145 or program eligibility suspension, termination, or revocation
 146 related to an owner's or operator's management or operation of
 147 an educational institution; or other types of criminal
 148 proceedings in which an owner or operator was found guilty of,
 149 regardless of adjudication, or entered a plea of nolo contendere
 150 or guilty to, any offense involving fraud, deceit, dishonesty,
 151 or moral turpitude.

152 b. For purposes of this subparagraph, the term "owner or
 153 operator" includes an owner, operator, superintendent, or
 154 principal of, or a person who has equivalent decisionmaking
 155 authority over, a private school participating in the
 156 scholarship program.

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

158 (a)1. The maximum scholarship granted for an eligible
 159 student with disabilities shall be ~~a calculated amount~~
 160 equivalent to the base student allocation in the Florida
 161 Education Finance Program multiplied by the appropriate cost
 162 factor for the educational program that would have been provided
 163 for the student in the district school to which he or she was
 164 assigned, multiplied by the district cost differential.

165 2. In addition, a share of the guaranteed allocation for
 166 exceptional students shall be determined and added to the
 167 ~~calculated~~ amount in subparagraph 1. The calculation shall be
 168 based on the methodology and the data used to calculate the

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169 guaranteed allocation for exceptional students for each district
 170 in chapter 2000-166, Laws of Florida. Except as provided in
 171 subparagraphs 3. and 4., the calculation shall be based on the
 172 student's grade, matrix level of services, and the difference
 173 between the 2000-2001 basic program and the appropriate level of
 174 services cost factor, multiplied by the 2000-2001 base student
 175 allocation and the 2000-2001 district cost differential for the
 176 sending district. ~~Also,~~ The calculated amount shall include the
 177 per-student share of supplemental academic instruction funds,
 178 instructional materials funds, technology funds, and other
 179 categorical funds as provided ~~for such purposes~~ in the General
 180 Appropriations Act.

181 3. The ~~calculated~~ scholarship amount for a student who is
 182 eligible under sub-subparagraph (2) (a) 2.b. ~~subparagraph (2) (a) 2.~~
 183 shall be calculated as provided in subparagraphs 1. and 2.
 184 However, the calculation shall be based on the school district
 185 in which the parent resides at the time of the scholarship
 186 request.

187 4. Until the school district completes the matrix required
 188 by paragraph (5) (b), the calculation shall be based on the
 189 matrix that assigns the student to support level I of service as
 190 it existed prior to the 2000-2001 school year. When the school
 191 district completes the matrix, the amount of the payment shall
 192 be adjusted as needed.

193 (c)1. The school district shall report all students who
 194 are attending a private school under this program. The students
 195 with disabilities attending private schools on John M. McKay
 196 Scholarships shall be reported separately from other students

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197 | reported for purposes of the Florida Education Finance Program.

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

202 | a. Report to the department all such students who are
 203 | attending a private school under this program.

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

207 | (d) Following notification on July 1, September 1,
 208 | December 1, or February 1 of the number of program participants,
 209 | the department shall transfer, from General Revenue funds only,
 210 | the amount calculated under paragraph (b) from the school
 211 | district's total funding entitlement under the Florida Education
 212 | Finance Program and from authorized categorical accounts to a
 213 | separate account for the scholarship program for quarterly
 214 | disbursement to the parents of participating students. Funds may
 215 | not be transferred from any funding provided to the Florida
 216 | School for the Deaf and the Blind for program participants who
 217 | are eligible under sub-subparagraph (2) (a)2.b. ~~subparagraph~~
 218 | ~~(2) (a)2.~~ For a student exiting a Department of Juvenile Justice
 219 | commitment program who chooses to participate in the scholarship
 220 | program, the amount of the John M. McKay Scholarship calculated
 221 | pursuant to paragraph (b) shall be transferred from the school
 222 | district in which the student last attended a public school
 223 | before ~~prior to~~ commitment to the Department of Juvenile
 224 | Justice. When a student enters the scholarship program, the

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225 department must receive all documentation required for the
 226 student's participation, including the private school's and the
 227 student's fee schedules, at least 30 days before the first
 228 quarterly scholarship payment is made for the student.

229 Section 2. Present subsections (2) through (5) of section
 230 1002.51, Florida Statutes, are redesignated as subsections (4)
 231 through (7), respectively, and new subsections (2) and (3) are
 232 added to that section, to read:

233 1002.51 Definitions.—As used in this part, the term:

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

236 (3) "Specialized instructional services provider" means a
 237 provider delivering specialized instructional services under s.
 238 1002.66.

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

241 1002.53 Voluntary Prekindergarten Education Program;
 242 eligibility and enrollment.—

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

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

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

252 (b) A summer prekindergarten program delivered by a public

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253 school or private prekindergarten provider under s. 1002.61; ~~or~~

254 (c) A school-year prekindergarten program delivered by a
255 public school; or

256 (d) A specialized instructional services program for
257 children who have disabilities, if the child has been evaluated
258 and determined as eligible, has a current individual educational
259 plan developed by the local school board, and is eligible for
260 the program under s. 1002.66.

261
262 Except as provided in s. 1002.71(4), a child may not enroll in
263 more than one of these programs.

264 Section 4. Section 1002.66, Florida Statutes, is created
265 to read:

266 1002.66 Specialized instructional services for children
267 with disabilities.-

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

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

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

277 (2) The parent of a child who is eligible for the
278 prekindergarten program for children with disabilities may
279 select one or more specialized instructional services that are
280 consistent with the child's individual educational plan. These

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281 specialized instructional services may include, but are not
 282 limited to:

283 (a) Applied behavior analysis as defined in ss. 627.6686
 284 and 641.31098.

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

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

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

288 (3) The specialized instructional services provided for a
 289 child under this section must be delivered according to
 290 professionally accepted standards; must be in accordance with
 291 the performance standards adopted by the department under s.
 292 1002.67; and must address the age-appropriate progress of the
 293 child in the development of the capabilities, capacities, and
 294 skills required under s. 1(b), Art. IX of the State
 295 Constitution.

296 (4) The department shall approve specialized instructional
 297 service providers whose services meet the standards in
 298 subsection (3), maintain a list of approved providers, and
 299 notify each school district and early learning coalition of the
 300 approved provider list. Upon the request of a child's parent,
 301 the department may approve a specialized instructional service
 302 provider that is not on the approved list if the provider's
 303 services meet the standards in subsection (3) and the service is
 304 consistent with the child's individual educational plan.

305 (5) The coalition shall reimburse an approved specialized
 306 instructional service provider for authorized services provided
 307 to an eligible child; however, the cumulative total of services
 308 reimbursed for a child may not exceed the amount of the base

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309 student allocation provided in the Voluntary Prekindergarten
 310 Education Program in the General Appropriations Act. Providers
 311 shall be reimbursed from funds allocated to the early learning
 312 coalition for the Voluntary Prekindergarten Education Program.

313 Section 5. Paragraph (a) of subsection (4) of section
 314 1002.71, Florida Statutes, is amended to read:

315 1002.71 Funding; financial and attendance reporting.—

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

317 (a) A child who, for any of the prekindergarten programs
 318 listed in s. 1002.53(3), has not completed more than 70 percent
 319 of the hours authorized to be reported for funding under
 320 subsection (2), or has not expended more than 70 percent of the
 321 funds authorized for the child under s. 1002.66, may withdraw
 322 from the program for good cause and reenroll in one of the
 323 programs. The total funding for a child who reenrolls in one of
 324 the programs for good cause may not exceed one full-time
 325 equivalent student. Funding for a child who withdraws and
 326 reenrolls in one of the programs for good cause shall be issued
 327 in accordance with the agency's uniform attendance policy
 328 adopted pursuant to paragraph (6) (d).

329
 330 A child may reenroll only once in a prekindergarten program
 331 under this section. A child who reenrolls in a prekindergarten
 332 program under this subsection may not subsequently withdraw from
 333 the program and reenroll. The Agency for Workforce Innovation
 334 shall establish criteria specifying whether a good cause exists
 335 for a child to withdraw from a program under paragraph (a),
 336 whether a child has substantially completed a program under

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337 paragraph (b), and whether an extreme hardship exists which is
 338 beyond the child's or parent's control under paragraph (b).

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

341 1002.73 Department of Education; powers and duties;
 342 accountability requirements.—

343 (2) The department shall adopt procedures for its ~~the~~
 344 ~~department's~~:

345 (a) Approval of prekindergarten director credentials under
 346 ss. 1002.55 and 1002.57.

347 (b) Approval of emergent literacy training courses under
 348 ss. 1002.55 and 1002.59.

349 (c) Administration of the statewide kindergarten screening
 350 and calculation of kindergarten readiness rates under s.
 351 1002.69.

352 (d) Approval of specialized instructional services
 353 providers under s. 1002.66.

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

356 1002.75 Agency for Workforce Innovation; powers and
 357 duties; operational requirements.—

358 (3) The Agency for Workforce Innovation shall adopt, in
 359 consultation with and subject to approval by the department,
 360 procedures governing the administration of the Voluntary
 361 Prekindergarten Education Program by the early learning
 362 coalitions and school districts for:

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

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365 (b) Placing private prekindergarten providers and public
366 schools on probation and requiring corrective actions under s.
367 1002.67.

368 (c) Removing a private prekindergarten provider or public
369 school from eligibility to deliver the program due to the
370 provider's or school's remaining on probation beyond the time
371 permitted under s. 1002.67.

372 (d) Enrolling children in and determining the eligibility
373 of children for the Voluntary Prekindergarten Education Program
374 under s. 1002.66.

375 (e) Paying specialized instructional services providers
376 under s. 1002.66.

377 Section 8. This act shall take effect July 1, 2010.